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# ICAEW Legal Services Regulations

July 2016

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## 1 General

The Legal Services Act 2007 permits two methods by which a firm may undertake authorised legal services work:

- as an authorised firm in which case all of the principals (and shareholders in the case of a company) have to be individually authorised to undertake authorised legal services work;
- as a licensed firm if all the principals (and shareholders in the case of a company) are not individually authorised to undertake authorised legal services work. Additional requirements then apply.

Authorisation is by an approved regulator, licensing is by a licensing authority and ICAEW is both. Once a firm is authorised or licensed under these regulations it is an 'accredited legal services firm' and it has to comply with these regulations. Some regulations may only apply to a licensed firm, such as the requirement to appoint a Head of Finance and Administration and a Head of Legal Practice.

In addition to the regulatory requirements for probate work, a number of important regulatory provisions are applied to estate administration when carried out by a firm conducting probate work. 'Authorised probate work' for the purposes of these regulations includes estate administration.

As a licensing authority ICAEW has statutory powers to intervene in the business of firms which it has licensed. These powers and the types of default by a licensed firm (such as breaches of licence conditions or insolvency events) which trigger them are set out in schedule 14 of the Act. ICAEW uses similar powers and applies similar principles as an approved regulator in the case of authorised firms.

It is a requirement of the Act that in discharging its regulatory functions, ICAEW, as an approved regulator, must act in a way which is compatible with the regulatory objectives set out in section 1 of the Act, and in the way which it considers most appropriate for the purpose of meeting those objectives.

All individuals who are in charge of, or control the undertaking of, authorised legal services work in an accredited legal services firm must be individually authorised to do so under the Act.

ICAEW must be given full details of any non-authorised person who holds or is expected to hold a material interest (see regulation 6.2) in a licensed firm or a firm which applies to be licensed, or of any change in the holding of such an interest. Such a holding is subject to approval by ICAEW which may be granted unconditionally or subject to conditions.

In these regulations, regulations are in boxes with definitions underlined. Guidance, to assist firms, is not in boxes.

**1.1** These regulations are made by ICAEW's Council, pursuant to Clause 16 of the Supplemental Royal Charter of 1948. They come into force on [Date], and on this date, with immediate effect, they revoke the Probate Regulations, and anything done under the probate regulations is deemed to have been done under these regulations .

**1.2** These regulations only apply to authorised legal services work and/or authorised probate work in England and Wales.

The work that can be authorised by accreditation under these regulations, consists only of that defined as authorised legal services work. These regulations also impose some requirements on the conduct of estate administration when carried out by a firm conducting probate work defined in these regulations as 'authorised probate work'. The definition of authorised legal services work restricts the reserved legal activities of conduct of litigation work, rights of audience work, and reserved instruments work as defined in paragraph 1.6 of these regulations and Schedule 2, paragraphs 3,4, and 5 of the Act to services relating to taxation only. The definition of probate work restricts the reserved legal activity of probate work as defined in paragraph 1.6 of these regulations

and Schedule 2, paragraph 6 of the Act to non-contentious probate only. If a firm is asked to provide services relating to reserved legal activities which go beyond these restrictions imposed, then the client should be advised to seek the assistance of a suitably authorised person.

A firm cannot undertake authorised legal services work in Northern Ireland and Scotland unless specifically permitted to do so under the law of those countries.

**1.3** These [regulations](#) apply to [firms seeking accreditation](#) and to [accredited legal services firms authorised or licensed under these regulations](#). The [regulations](#) also apply to [principals and employees of the firm](#). In certain instances the [regulations](#) continue to apply even if [accreditation](#) has ceased.

**1.4** Any notice or document may be served on [ICAEW](#) by sending it to:

Professional Conduct Department  
ICAEW  
Metropolitan House  
321 Avebury Boulevard  
Milton Keynes  
MK9 2FZ

**1.5** Any notice, decision, order or other document which needs to be served on a [firm](#), [member](#), [legal services affiliate](#) or other person under these [regulations](#) will be delivered by hand, or sent by email, fax or post:

- a if it is delivered by hand to the addressee, service will take effect immediately;
- b if sent by email, it will be sent to the most recent email address given by the addressee and service will take effect immediately;
- c if sent by fax, it will be sent to the most recent fax number given by the addressee and service will take effect immediately; or
- d if sent by post, it will be sent to the latest address given by the addressee and service will take effect two [business days](#) after posting.

#### Definitions and interpretation

**1.6** The words listed below shall have the meanings given:

[Accountancy body](#)

- [ICAEW](#);
- Institute of Chartered Accountants of Scotland.

[Accreditation](#)

(includes accredited, accredit)

The process by which [ICAEW](#) authorises or licenses persons to undertake [authorised legal services work](#).

[Accredited legal services firm](#)

A [firm accredited](#) under these [regulations](#) to conduct [authorised legal services work](#).

[Act](#)

Legal Services Act 2007.

[Administration of oaths](#)

As defined in Schedule 2 paragraph 8 of the Act

[Appeal Tribunal](#)

The First-tier Tribunal established under the Tribunals, Courts and Enforcement Act 2007

|   |  |
|---|--|
| <a href="#"><u>Approved Regulator</u></a>             | A body designated under Schedule 4 of the <a href="#"><u>Act</u></a> in respect of one or more <a href="#"><u>reserved legal activities</u></a> .  |
| <a href="#"><u>Associate</u></a>                      | An associate is defined by <a href="#"><u>regulation 6.3</u></a> .   |
| <a href="#"><u>Authorised firm</u></a>                | A <a href="#"><u>firm</u></a> authorised under these <a href="#"><u>regulations</u></a> to conduct <a href="#"><u>authorised legal services work</u></a> .   |
| <a href="#"><u>Authorised individual</u></a>          | A <a href="#"><u>principal</u></a> or <a href="#"><u>employee</u></a> of an <a href="#"><u>accredited legal services firm</u></a> who is designated under section 4 of these <a href="#"><u>regulations</u></a> .  |
| <a href="#"><u>Authorised Legal Services work</u></a> | <p>Conduct of one or more of the following six activities:</p> <ul style="list-style-type: none"> <li>• <a href="#"><u>Rights of audience work</u></a> – as defined below</li> <li>• <a href="#"><u>Conduct of litigation work</u></a> – as defined below</li> <li>• <a href="#"><u>Reserved instrument work</u></a> – as defined below</li> <li>• <a href="#"><u>Probate work</u></a> – as defined below</li> <li>• <a href="#"><u>Notarial activities</u></a> – as defined below</li> <li>• <a href="#"><u>Administration of oaths</u></a> – as defined above</li> </ul>   |
| <a href="#"><u>Authorised person</u></a>              | A person or <a href="#"><u>firm</u></a> authorised or licensed by <a href="#"><u>ICAEW</u></a> in relation to <a href="#"><u>authorised legal services work</u></a> .  |
| <a href="#"><u>Authorised probate work</u></a>        | <ul style="list-style-type: none"> <li>• <a href="#"><u>Probate work</u></a></li> <li>• <b>Estate Administration:</b> Following a grant of probate or letters of administration, work undertaken in collecting in the assets of an estate, settling the liabilities and distributing the remainder in accordance with a will or letters of administration.</li> </ul>  |
| <a href="#"><u>Business day</u></a>                   | A day when banks are generally open for business (excluding weekends) in England or Wales (as appropriate).  |
| <a href="#"><u>Conduct of litigation work</u></a>     | <p>The conduct of litigation as defined in Schedule 2 paragraph 4 of the Act provided that the proceedings are commenced by a <a href="#"><u>Tax Authority</u></a> or other prosecuting agency or body, or against a <a href="#"><u>Tax Authority</u></a> and are or relate to:</p> <ol style="list-style-type: none"> <li>a. claims for the payment or recovery of <a href="#"><u>Tax</u></a> by a <a href="#"><u>Tax Authority</u></a> including insolvency proceedings commenced by a <a href="#"><u>Tax Authority</u></a> on account of the non-payment of Tax. [However, except for appeals against a winding-up or a bankruptcy order, such conduct of litigation work does not extend to proceedings relating to issues arising after a court has made an order of winding-up or a bankruptcy order];</li> <li>b. claims for the repayment or recovery of sums from a <a href="#"><u>Tax Authority</u></a> on account of liabilities or perceived liabilities for <a href="#"><u>Tax</u></a>, including related claims for interest, repayment supplements or for other compensation on account of a <a href="#"><u>Tax Authority</u></a> having the benefit of possession of money or the claimant suffering loss;</li> <li>c. decisions by a <a href="#"><u>Tax Authority</u></a> that relate to or are concerned with a <a href="#"><u>Tax</u></a> or which may directly or</li> </ol> |

indirectly impact on the existence of a [Tax](#) liability or criminal or civil penalty relating to [Tax](#) (this includes, in particular, challenges to decisions made by [Tax Authorities](#) by judicial review or as a defence to claims by a [Tax Authority](#) or claims for compensation against a [Tax Authority](#) relating to such decisions); or

- d. criminal proceedings relating to the non-payment of any [Taxes](#) or any other act or omission relating or otherwise connected to a liability to pay or account for [Tax](#) including proceedings arising under the Proceeds of Crime Act 2002 relating to [Tax](#) liabilities;

and including the conduct of appeals from decisions (including procedural decisions) of a tribunal or court relating to such proceedings and any other proceedings challenging such decisions by a tribunal or court.

#### [Contact partner](#)

An individual appointed by a [firm](#) to:

- ensure that it has procedures and practices that enable it to comply with its obligations under these [regulations](#);
- correspond with [ICAEW](#) in relation to the activities governed by these [regulations](#);
- give an annual declaration of the [firm's](#) compliance with its responsibilities under these [regulations](#) in the form from time to time determined by [ICAEW](#);
- from time to time supply [ICAEW](#) or its agents with information as required; and
- ensure that an annual compliance review is undertaken as required under [regulation 3.11](#).

The role of the contact partner is to be responsible for ensuring that the firm complies with these regulations. The contact partner should be of sufficient seniority and influence within the firm to ensure that others will act on their instructions.

If one or more of the principals of the firm is an individual, one of those individuals should be the contact partner and it is recommended that they also be an authorised individual.

If the firm is a sole practice, the sole practitioner is the contact partner. The Head of Legal Practice is the contact partner in a licensed firm.

#### [Disciplinary Committee](#)

The [Disciplinary Committee](#) appointed by [ICAEW](#) under the Schedule to its Disciplinary Bye-laws.

#### [Employee](#)

Anyone who carries out work for an [accredited legal services firm](#), but excluding a [principal](#), a subcontractor or a consultant.

#### [Firm](#)

A [firm](#) includes an individual, a partnership, a limited liability partnership or any other body corporate which is or seeks to be [accredited](#) under these [regulations](#) to conduct [legal services work](#).

[Head of Finance and Administration](#)

The individual appointed by a [licensed firm](#) who is responsible for taking all reasonable steps to ensure that the [firm](#) complies with the requirements in [regulation 3.8](#) (clients' assets) and who is not disqualified under the [Act](#) from acting as a [Head of Finance and Administration](#) and who must report any breach of those requirements to [ICAEW](#) as soon as reasonably practicable.

The Head of Finance and Administration (HoFA) should be of sufficient seniority and influence within the firm to ensure that others will act on their instructions. The HoFA should hold an appropriate qualification to enable the discharge of his duties with competence and skill.

[Head of Legal Practice](#)

The [authorised individual](#) appointed by a [licensed firm](#) who is responsible for taking all reasonable steps to ensure that:

- the [licensed firm](#) and its [principals](#) and [employees](#) comply with their duties under these [regulations](#) (other than [regulation 3.8](#)); and
- [non-authorised persons](#) do not do anything which causes or substantially contributes to any breach of these [regulations](#) by the [firm](#) or by any [authorised person](#) who is a [principal](#) or [employee](#) of the [firm](#);

and who is not disqualified under the [Act](#) from acting as a [Head of Legal Practice](#) and who must report any breach of those requirements to [ICAEW](#) as soon as reasonably practicable.

The Head of Legal Practice (HoLP) should be of sufficient seniority and influence within the firm to ensure that others will act on their instructions. They should also have sufficient independence to be able to report matters freely if necessary. The HoLP in a licensed firm is also the contact partner.

[ICAEW](#)

The Institute of Chartered Accountants in England and Wales.

[Investigation Committee](#)

The [Investigation Committee](#) appointed by [ICAEW](#) under the Schedule to its Disciplinary Bye-laws.

[Legal Ombudsman](#)

The body appointed by the Office of Legal Complaints under Part 6 of the [Act](#) to assist with resolving complaints.

[Legal Services Affiliate](#)

A person granted [legal services affiliate](#) status by [ICAEW](#) for the purpose of these [regulations](#).

[Legal Services Board](#)

The body established under Part 2 of the [Act](#).

[Legal Services Committee](#)

The [ICAEW](#) committee responsible for discharging [ICAEW's](#) functions as set out in these [regulations](#) or any sub-committee of that committee.

[Legal Services Compensation Scheme](#)

The scheme for the payment of grants made in accordance with the [Legal Services Compensation Scheme Regulations](#).

|  |   |
|--|---|
| <a href="#">Licensing authority</a>      | <b>A body designated under Part 1 of Schedule 10 of the <a href="#">Act</a> in respect of one or more <a href="#">reserved legal activities</a>.</b>  |
| <a href="#">Licensed firm</a>            | <b>A <a href="#">firm</a> licensed under these <a href="#">regulations</a> to conduct <a href="#">authorised legal services work</a>.</b>   |
| <a href="#">Material interest</a>        | <b>A <a href="#">material interest</a> is defined by <a href="#">regulation 6.2</a>.</b>  |
| <a href="#">Member</a>                   | <b>A <a href="#">member</a> of <a href="#">ICAEW</a> but not including a <a href="#">legal services affiliate</a>.</b>  |
| <a href="#">Notarial activities</a>      | <b>As defined in Schedule 2 paragraph 7 of the Act</b>  |
| <a href="#">Principal</a>                | <ul style="list-style-type: none"> <li>• an individual in sole practice (if the <a href="#">firm</a> is a sole practice);</li> <li>• a person who is a partner (including both salaried and equity partners) (if the <a href="#">firm</a> is a partnership);</li> <li>• a member of a limited liability partnership (if the <a href="#">firm</a> is a limited liability partnership);</li> <li>• a director (if the <a href="#">firm</a> is a company);</li> <li>• a member of the governing body (if the <a href="#">firm</a> is an unincorporated body, other than a partnership); or</li> <li>• any individual or person who is held out as being a director, partner, member, or member of the governing body.</li> </ul> <p>Corporate practices or limited liability partnerships may be principals in a firm.</p> |
| <a href="#">Probate work</a>             | <b>As defined in Schedule 2 paragraph 6 of the Act – but restricted by these regulations to non-contentious probate work.</b>   |
| <a href="#">Probate Regulations</a>      | <b>The regulations relating to <a href="#">probate work</a> made by ICAEW’s Council pursuant to clause 16 of the Supplemental Royal Charter of 1948 which came into force on 14 August 2014.</b>  |
| <a href="#">Register</a>                 | <b>The <a href="#">register of licensed firms</a> held by <a href="#">ICAEW</a> in accordance with section 87 of the <a href="#">Act</a>.</b>   |
| <a href="#">Regulations</a>              | <b>These Legal Services Regulations, as modified or amended from time to time.</b>  |
| <a href="#">Regulatory penalty</a>       | <b>An amount paid by an <a href="#">accredited legal services firm</a> by agreement for a breach of these <a href="#">regulations</a> which the <a href="#">accredited legal services firm</a> agrees has been committed.</b>   |
| <a href="#">Relevant person</a>          | <ul style="list-style-type: none"> <li>• an <a href="#">authorised individual</a>;</li> <li>• a <a href="#">Head of Finance and Administration</a>;</li> <li>• a <a href="#">Head of Legal Practice</a>; or</li> <li>• any other <a href="#">principal</a> or <a href="#">employee</a> of an <a href="#">accredited legal services firm</a>.</li> </ul>   |
| <a href="#">Reserved instrument work</a> | <b>Reserved instrument activities as defined in Schedule 2 paragraph 5 of the Act provided that such work:</b>  |

- a. relates to or is connected with the tax affairs of the client for whom the activities are carried out; and
- b. is not work on an instrument that transfers or charges real property, however this limitation on the reserved instrument work that can be undertaken does not extend to work on a declaration of trust or a deed of appointment or other trust instrument which purports to declare, vary or alter the trusts upon which property (which may be or include real property) is held by trustees.

Reserved legal activities

- the exercise of a right of audience;
- the conduct of litigation;
- reserved instrument activities;
- probate activities;
- notarial activities;
- the administration of oaths;

as defined in section 12(1) and Schedule 2 of the Act.

Review Committee

The committee appointed under ICAEW's bye-laws with responsibility for reviewing decisions made by ICAEW as specified in these regulations.

Rights of audience work

The exercise of rights of audience as defined in Schedule 2 paragraph 3 of the Act provided that the proceedings are commenced by a Tax Authority or other prosecuting agency or body, or against a Tax Authority and are or relate to:

- a. claims for the payment or recovery of Tax by a Tax Authority including insolvency proceedings commenced by a Tax Authority on account of the non-payment of Tax. [However, except for appeals against a winding-up or a bankruptcy order, such rights of audience work does not extend to proceedings relating to issues arising after a court has made an order of winding-up or a bankruptcy order];
- b. claims for the repayment or recovery of sums from a Tax Authority on account of liabilities or perceived liabilities for Tax, including related claims for interest, repayment supplements or for other compensation on account of a Tax Authority having the benefit of possession of money or the claimant suffering loss;
- c. decisions by a Tax Authority that relate to or are concerned with a Tax or which may directly or indirectly impact on the existence of a Tax liability or criminal or civil penalty relating to Tax including, in particular, to challenges of decisions made by Tax Authorities by judicial review or as a defence to claims by a Tax Authority or claims for compensation against a Tax Authority relating to such decisions; or



- d. criminal proceedings relating to the non-payment of any [Taxes](#) or any other act or omission relating or otherwise connected to a liability to pay or account for [Tax](#) including proceedings arising under the Proceeds of Crime Act 2002 relating to [Tax](#) liabilities.

including the exercise of rights of audience on appeals from the decisions (including procedural decisions) of a tribunal or court relating to such proceedings or the exercise of rights of audience in any other proceedings challenging such decisions by a tribunal or court.

#### [Tax Authority](#)

HM Revenue and Customs, the National Crime Agency, HM Treasury or any other authority or body or department where charged with the collection of [Tax](#) or the formulation of policy or decisions relating to [Tax](#) and the First-tier Tribunal and the Upper Tribunal when making decisions in proceedings relating to [Tax](#) or any other tribunal when making decisions in proceedings relating to [Tax](#) where a party to the proceedings is a [Tax Authority](#).

#### [Tax](#)

Any [Taxes](#), duties (including customs and excise duties), and like contributions (including in particular national insurance contributions) and levies (including the apprenticeship levy) whether in the United Kingdom or any part of the United Kingdom or in any other jurisdiction and including any interest, surcharges and penalties relating to such liabilities.

- 1.7 Words and expressions have the meanings given by the [Act](#) and the Interpretation Act 1978 unless defined above. The definitions in these [regulations](#) take precedence.
- 1.8 In these [regulations](#) words importing the singular include the plural and vice versa. Words importing the masculine gender include the feminine and neuter. Words importing the neuter gender include both the masculine and feminine genders. Headings do not affect the interpretation of these [regulations](#). These [regulations](#) will be governed by, and interpreted in accordance with, the laws of England and Wales.
- 1.9 Any references to legislation, regulations, requirements, bye-laws, rules or other documents will apply to any re-enactment, re-issue or amendment.



## 2 Eligibility, application, continuing obligations and cessation

### Applications

- 2.1 A [firm](#) that wishes to be accredited for any category of [authorised legal services work](#) (including, in the case of a [firm](#) which already holds [accreditation](#), any additional category for which accreditation is sought) under these [regulations](#) must apply in the manner decided by [ICAEW](#), on a prescribed form. The application must include the following:
- a any information that [ICAEW](#) may require to assess the ability of the [firm](#) to carry out [authorised legal services work](#) and/or [authorised probate work](#);
  - b a statement by the [firm](#) of how its [accreditation](#) will promote the objective of improving access to justice;
  - c information on the [firm](#)'s arrangements for diversity monitoring in relation to its [principals](#) and [employees](#) and existing data derived from diversity monitoring;
  - d a declaration by the [firm](#) that it agrees to be bound by these [regulations](#) and will ensure that it complies with them at all times;
  - e a declaration by the [firm](#) that it will deal with [ICAEW](#) in an open and cooperative manner and inform [ICAEW](#) promptly about anything concerning the [firm](#) as required by these [regulations](#);
  - f an acknowledgement by the [firm](#) that none of [ICAEW](#), its officers, staff, members of its Council or committees, their servants or agents can be held liable to the [firm](#) in damages for any act or omission arising out of the performance of any of their functions under the [Act](#), or connected with the granting of authorisation or a licence, the enforcement of these [regulations](#) or the monitoring of compliance with these [regulations](#) in any respect, unless the act or omission is shown to have been in bad faith;
  - g an acknowledgement that [ICAEW](#) may make enquiries of or about the [firm](#) as [ICAEW](#) deems necessary;
  - h an acknowledgement that [ICAEW](#) may publish, in such manner as it may determine, information about the [firm](#)'s status under these [regulations](#); and
  - i an acknowledgement that [ICAEW](#) may disclose information about the [firm](#) as set out in [regulation 2.26](#).

### Eligibility

- 2.2 [ICAEW](#) may authorise a [firm](#) only if:
- a each [principal](#) in the [firm](#) is an [authorised person](#) (or becomes an [authorised person](#) by decision of [ICAEW](#) at the same time as granting authorisation to the [firm](#)) and if another body is a [principal](#) in the [firm](#), [non-authorised persons](#) are entitled to exercise, or control the exercise of, less than 10% of the voting rights in that other body; and
  - b in the case of a corporate body (other than a limited liability partnership) each person who has an interest in the [firm](#) is an [authorised person](#) (authorised by [ICAEW](#) under these [regulations](#)) and if another body has an interest in the [firm](#), [non-authorised persons](#) are entitled to exercise, or control the exercise of, less than 10% of the voting rights in that other body; and
  - c at least one [authorised individual](#) is authorised under section 4 of these [regulations](#) to undertake or control the undertaking of each of the activities for which the [firm](#) is applying to be [accredited](#).

The above sets out who is required to be an authorised person under these regulations. Generally the principals and shareholders in the case of a company must all be authorised persons but

certain de-minimis holdings by non-authorised persons are allowed. A firm applying for authorisation may at the same time apply for approval of designation of its principals as authorised individuals as set out in section 4. If a firm is unsure of its eligibility to be authorised or licensed it should contact ICAEW. A person has an interest in a firm if the person holds shares in the body or is entitled to exercise, or control the exercise of, voting rights in the firm.

**2.3** If a firm does not meet the requirements of regulation 2.2 ICAEW may license the firm only if:

a. at least one principal in the firm is:

- i an authorised individual; or
  - ii authorised by ICAEW under regulation 2.2 or in relation to authorised legal services work;
- but in either case is not a licensed firm; and

b. at least one authorised individual is authorised under section 4 of these regulations to undertake or control the undertaking of each of the activities for which the firm is applying to be accredited.

**2.4** Having taken account of the objective of improving access to justice, ICAEW may accredit a firm only if it is satisfied that:

a the firm is fit and proper to be accredited for each of the activities for which the firm is applying to be accredited;

b each individual who will undertake, or control the undertaking of, authorised legal services work on behalf of the firm is an authorised individual and is fit and proper;

c the firm has appointed a contact partner whose name has been given to ICAEW;

d in the case of a firm applying to be licensed, the firm has appointed a Head of Finance and Administration and a Head of Legal Practice who have consented to act in these roles and whose appointment has been approved by ICAEW;

e the firm has at least one office in England and Wales from which it undertakes or will undertake authorised legal services work (unless it is a company or limited liability partnership whose registered office is in England or Wales);

f each principal who is not an accredited legal services firm, a registered auditor, a DPB-licensed firm, a member of ICAEW, a member of the Institute of Chartered Accountants of Scotland, a member of Chartered Accountants Ireland or another approved regulator holds affiliate status under these regulations, ICAEW's Audit Regulations, ICAEW's DPB Handbook, ICAEW's Insolvency Regulations or ICAEW's regulations governing the use of the description 'Chartered Accountants' and general affiliates;

g in the case of a firm applying to be licensed, any non-authorised person who holds a material interest in the firm is approved by ICAEW under section 6;

h in the case of a firm applying to be licensed, the firm has:

- informed all principals, employees and shareholders who are non-authorised persons of the duties imposed on them by sections 90 and 176 of the Act; and
- put in place procedures to prevent such persons from improperly influencing the independence and integrity of authorised legal services work; and

i the firm has professional indemnity insurance under ICAEW's PII Regulations with a minimum level of indemnity of £500,000 per claim.

Section 28 of the Act requires ICAEW to act in a way which is compatible with the regulatory objectives and which it considers most appropriate for the purpose of meeting those objectives.

Under section 1 of the Act the regulatory objectives include the objective of improving access to justice. The application form contains guidance to firms on how their application may promote this objective.

**2.5** [ICAEW](#) may:

- a** grant the application;
- b** reject the application;
- c** grant the application subject to restrictions or conditions; or
- d** postpone consideration of the application.

Under the Act, ICAEW has a period of six months (beginning when all the information required on the application form is received) to make a decision on an application. However, under regulation 2.5d, ICAEW may decide that it can only properly consider a firm's application after it has additional information about the firm. ICAEW may decide this is best achieved by a visit to the firm and a charge may be made for this. If it is necessary to seek additional information, ICAEW may, before the expiry of six months, issue an extension notice to the applicant extending the period of time taken to reach a decision to nine months. The extension notice must set out the reasons for the extension.

If ICAEW rejects or grants the application subject to restrictions or conditions, it must explain in writing to the applicant the reasons for its decision. Decisions will come into effect as set out in section 10.

A firm can apply for a review of a decision to reject accreditation or to grant it subject to restrictions or conditions. Details of the review process are in section 11.

**2.6** [ICAEW](#) may at any time vary or end a restriction or condition made under [regulation 2.5](#).

### Continuing obligations

**2.7** An [accredited legal services firm](#) and its [principals](#) and [employees](#) must at all times:

- a** comply with these [regulations](#), with any condition of the [firm's accreditation](#) and with any other relevant regulatory arrangements (and be able to satisfy [ICAEW](#) as to such compliance on request);
- b** not do or permit anything which causes or substantially contributes to any breach of these [regulations](#) by the [firm](#) or by any [authorised individual](#) who is a [principal](#) or [employee](#) of the [firm](#);
- c** comply with [ICAEW's](#) PII regulations;
- d** deal with [ICAEW](#) in an open and cooperative manner;
- e** if an [authorised firm](#), have a [contact partner](#) (in the case of a sole practitioner, that person will be the [contact partner](#));
- f** (if a [licensed firm](#)) have a [Head of Legal Practice](#) who is also the [contact partner](#);
- g** (if a [licensed firm](#)) have a [Head of Finance and Administration](#);
- h** ensure that each individual who undertakes, without supervision, or controls the undertaking of, [authorised legal services work](#) on behalf of the [firm](#) is an [authorised individual](#);
- i** have at least one office in England and Wales from which the [firm](#) undertakes [authorised legal services work](#) (unless it is a company or limited liability partnership whose registered office is in England or Wales);
- j** inform [ICAEW](#) as soon as practicable but not later than 10 [business days](#) after any change to the:

- i [accredited legal services firm's](#) registered address;
- ii name or trading names of the [accredited legal services firm](#);
- iii address(es) of the [accredited legal services firm's](#) offices;
- iv [accredited legal services firm's](#) principals;
- v name or principal business address of any of the [accredited legal services firm's](#) principals;
- vi name of the [contact partner](#);
- vii name of the [Head of Finance and Administration](#) who must be approved in that capacity by [ICAEW](#);
- viii name of the [Head of Legal Practice](#) who must be approved in that capacity by [ICAEW](#); or
- ix in the case of a body corporate (but excluding a limited liability partnership):
  - the name or address of any shareholder or anyone with any interest in the shares; and
  - the number of shares held by a shareholder or in the number of shares in which anyone has an interest.
- k inform [ICAEW](#) as soon as practicable but not later than 10 [business days](#) after any event affecting the [firm's](#) eligibility to be [accredited](#);
- l in the case of a [licensed firm](#), inform [ICAEW](#) as soon as practicable but not later than 10 [business days](#) after any non-[authorised person](#) acquires or ceases to hold, or increases or decreases a holding of, any interest in the [firm](#) which, either before or after the change, qualifies as a [material interest](#);
- m pay any of the charges required by [ICAEW](#) as set out in [regulations](#) 2.14, 2.15 and 2.16. Such charges may be levied at any time, including after the termination of [accreditation](#) provided they relate to a period before the date of termination;
- n respond, when required, to enquiries made by [ICAEW](#) (whether by writing, visiting the [accredited legal services firm's](#) offices or by any other method) about the [firm's](#) application or its activities as an [accredited legal services firm](#);
- o arrange for the provision of any information about the [firm](#) or its clients (and to allow access to the [firm's](#) systems and personnel) that [ICAEW](#) may request about the activities as an [accredited legal services firm](#), whether that information is held by:
  - i the [accredited legal services firm](#);
  - ii any [principal](#) or [employee](#) (or former [principal](#) or former [employee](#)) of the [accredited legal services firm](#);
  - iii any non-[authorised person](#) who holds shares in the [accredited legal services firm](#), or is entitled to exercise, or control the exercise of, voting rights in the [accredited legal services firm](#).
  - iv any non-[authorised person](#) who is entitled to exercise, or control the exercise of, at least 10% of the voting rights in 'A', where A is a [principal](#) of the [accredited legal services firm](#) or holds shares in the [accredited legal services firm](#), or is entitled to exercise, or control the exercise of, voting rights in the [accredited legal services firm](#);
- p provide [ICAEW](#) with a periodic return in relation to its activities as an [accredited legal services firm](#);

- q subject itself and all its [principals](#) to any monitoring, inspection or review process specified by [ICAEW](#), including its Practice Assurance scheme;
- r send any notice or other document to be served on [ICAEW](#) in the manner set out in [regulation 1.4](#), or as last notified to the [accredited legal services firm](#); and
- s monitor the diversity of the [accredited legal services firm's principals](#) and [employees](#), and publish the findings of the monitoring, in the manner and format prescribed by [ICAEW](#) from time to time.

2.8 An [accredited legal services firm](#) may not have as a [principal](#) or [employee](#) a person who is disqualified pursuant to section 99 of the [Act](#) from being a [principal](#) or [employee](#) of a body licensed under Part 5 of the [Act](#).

As is reflected in regulation 5.5, the Legal Services Board maintains a list of persons who have been disqualified from working in licensed firms by the approved regulators under section 99 of the Act. Firms are advised to refer to this list, which can be accessed on the LSB's website, before submitting their application for accreditation.

2.9 If an [accredited legal services firm](#) ceases to have any [principal](#) or [employee](#) who is an [authorised individual](#) in respect of one or more of the [authorised legal services work](#) activities which the firm has been accredited to carry out, the [firm](#) will immediately cease to undertake that [authorised legal services work](#) activity or activities until it has notified [ICAEW](#) of the name of another [principal](#) or [employee](#) who meets the requirements of section 4 in relation to that activity or activities.

#### Professional Indemnity Insurance and compensation

2.10 An [accredited legal services firm](#) shall only carry out [authorised legal services work](#) and/or [authorised probate work](#) if it has professional indemnity insurance under [ICAEW's PII Regulations](#) with a minimum level of indemnity of £500,000 per claim.

If any claim or estate to which authorised legal services work or authorised probate work relates has a financial value which is likely to exceed the level of the firm's own PII, firms must notify their clients in writing at the beginning of the engagement that their PII is capped and the level of cover.

2.11 An [accredited legal services firm](#) or [firm](#) that was previously [accredited](#) must comply with the regulations of [ICAEW's Legal Services Compensation Scheme](#).

#### Modification

2.12 An [accredited legal services firm](#) that wishes to modify the terms of its [accreditation](#) must apply in the manner decided by [ICAEW](#). The application must include the following:

- a the terms of the proposed modification;
- b the reasons for proposing the modification; and
- c any information that [ICAEW](#) may require in connection with the application.

2.13 [ICAEW](#) may:

- a modify the [accreditation](#) in the terms of the application;
- b modify the [accreditation](#) in such other terms as it considers appropriate;
- c reject the application; or
- d postpone consideration of the application.

If ICAEW rejects the application for modification, it will inform the accredited legal services firm of its reasons in writing within 10 business days. A firm can apply for a review of a decision to reject modification or to grant it subject to restrictions or conditions. Details of the review process are in section 11. A charge may be made for dealing with such an application. An accredited legal services firm which

wishes to seek accreditation for an additional category of authorised legal services work must apply under regulation 2.1 rather than regulation 2.12.

## Fees

**2.14** An [accredited legal services firm](#) must pay such registration fees (to include any costs that [ICAEW](#) is required or has agreed to pay to any other person or body exercising a regulatory or supervisory role in relation to it) as [ICAEW](#) determines, at the times and at the rates set by it. The first registration fee is due when a [firm](#) applies to be [accredited](#) under these [regulations](#) to conduct [authorised legal services work](#). An application fee is also payable with this first fee.

If a firm's application is not accepted, the first registration fee will be refunded.

**2.15** [ICAEW](#) may charge a [firm](#) or an [accredited legal services firm](#) a fee if [ICAEW](#) has performed additional work. The [Legal Services Committee](#) will decide how much the fee will be.

Additional work may be performed, for example in:

- obtaining information for or about the firm or accredited legal services firm;
- collecting any charges due under these regulations;
- responding to enquiries or complaints regarding the accredited legal services firm;
- reviewing the continuation of the firm's accreditation;
- visiting the accredited legal services firm where [ICAEW](#) has had to make a second or subsequent visit to the accredited legal services firm as a result of an earlier visit; or
- considering an application for modification under regulations 2.12 and 2.13.

**2.16** An [accredited legal services firm](#) must pay any levy for [ICAEW's Legal Services Compensation Scheme](#) (whether a periodic contribution or special levy) as [ICAEW](#) may decide from time to time. This includes levies raised after the [firm's accreditation](#) has ceased but excludes levies relating to claims in respect of services provided by any [firm](#) wholly after the date of termination of the [firm's accreditation](#).

**2.17** If an [accredited legal services firm](#) has not paid any amounts due under [regulations](#) 2.14, 2.15 or 2.16 within 60 days of the invoice date, [ICAEW](#) may withdraw its [accreditation](#).

**2.18** Any amounts unpaid under [regulations](#) 2.14, 2.15 or 2.16 may be recovered as a debt to [ICAEW](#).

## Dispensations

**2.19** The [accredited legal services firm](#) must inform [ICAEW](#) in writing within 10 [business days](#) of a situation arising that may indicate that the [accredited legal services firm](#) cannot, or expects not to be able to, comply with any of these [regulations](#). The notification must state what has happened and the action that the [accredited legal services firm](#) proposes to take.

**2.20** [ICAEW](#) may grant the [accredited legal services firm](#) a dispensation, of no more than 90 days, from the requirement to comply with a [regulation](#) where, in response to a written request, it considers it reasonable to do so having regard to the public interest and the interests of any client.

**2.21** If [ICAEW](#) rejects the application for a dispensation, it will inform the [accredited legal services firm](#) of its reasons in writing within 10 [business days](#). The [accredited legal services firm](#) will then be entitled to apply for a review of the decision in accordance with the procedures set out in section 11.



It is not expected that dispensations will be readily granted and any firm applying for a dispensation must clearly state why the dispensation is needed and what it is doing to remedy the situation.

### Cessation of accreditation

- 2.22 A firm will cease to be an accredited legal services firm if:**
- a ICAEW accepts an application from the firm to cancel its accreditation;**
  - b the firm becomes licensed by another licensing authority;**
  - c the firm ceases to exist; or**
  - d ICAEW withdraws accreditation under regulation 10.3.**

If a firm's accreditation is to be withdrawn, the firm may ask for a review of the decision under the procedures in section 11. Withdrawal at the firm's request, because the firm no longer exists or it becomes licensed by another licensing authority, cannot lead to a review. If a firm which is no longer accredited wishes to apply again it can do so in the normal manner.

- 2.23 If a firm is no longer an accredited legal services firm:**
- a it must still respond to enquiries (made in writing or by visiting a firm's office or offices) from ICAEW in connection with any circumstance that relates to these regulations during the time that the firm was accredited and must co-operate with the work of the Legal Ombudsman, including the provision of papers and the payment of any remedies ordered;**
  - b disciplinary action (including a regulatory penalty) may still be taken for:**
    - i any failure to comply with these regulations during the time it was accredited;**
    - ii any failure to comply with any regulation continuing to have effect notwithstanding that accreditation has ceased;**
    - iii any failure to keep confidential any information received in the course of authorised legal services work and/or authorised probate work.**

- 2.24 ICAEW's right to recover any amounts due from a firm under these regulations does not end when a firm is no longer accredited.**

The effect of regulation 2.23 is that a firm cannot escape disciplinary action by applying to have its accreditation withdrawn. If, in the process of withdrawing accreditation, ICAEW places a condition on a firm and that condition is broken then disciplinary action can be taken. There is a continuing obligation to deal with ICAEW's enquiries and requests for information under regulation 2.23. Finally, under regulation 2.24, applying to have accreditation withdrawn does not remove the firm's obligation to pay outstanding fees.

### Regulatory conflicts

- 2.25 If an accredited legal services firm is of the view that any other regulatory requirement to which it or an authorised individual is subject, including the requirements of another approved regulator, may cause it to cease complying with these regulations, it must inform ICAEW within 10 business days of becoming aware of the conflict.**

Firms should note that section 176 of the Act requires individuals conducting authorised legal services work to comply with the regulatory arrangements of the approved regulator by whom they are regulated. For example, in the case of a solicitor working within an accredited legal services firm this will be the Solicitors Regulation Authority (SRA).

- 2.26 ICAEW reserves the right to pass information (directly or indirectly) about an accredited legal services firm to any ICAEW committee or person or body undertaking regulatory, disciplinary, redress or law enforcement responsibilities for the purpose**

**of assisting that person or body to undertake those responsibilities or as otherwise required or allowed by law.**



### 3 Conduct of authorised legal services work and authorised probate work

- 3.1 An [accredited legal services firm](#) must act in accordance with the fundamental principles set out in the Code of Ethics issued by [ICAEW's](#) Council and must make arrangements so that it, its [principals](#) and [employees](#) comply with these [regulations](#) and the professional principles set out in the [Act](#) to:**
- a act with independence and integrity;**
  - b maintain proper standards of work;**
  - c act in the best interests of their clients; and**
  - d keep the affairs of clients confidential.**

Firms of different sizes and with different types of clients will adopt different procedures to comply with these regulations and to act in accordance with the fundamental principles set out in the Code of Ethics. However, all firms will be aiming to provide a high quality and cost effective service, which complies with these regulations. For most firms this means having procedures for doing [authorised legal services work](#) and/or [authorised probate work](#), and checks to make sure that the procedures are followed.

- 3.2 An [accredited legal services firm](#) shall only carry out [authorised legal services work](#) and/or [authorised probate work](#) which it is competent to perform.**
- 3.3 An [accredited legal services firm](#) must make sure that only [authorised individuals](#) undertake unsupervised, or control the undertaking of, [authorised legal services work](#) on behalf of the [firm](#).**
- 3.4 An [accredited legal services firm](#) must make sure that all [principals](#) and [employees](#) undertaking [authorised legal services work](#) and/or [authorised probate work](#) are, and continue to be, competent to carry out the [authorised legal services work](#) and/or [authorised probate work](#) for which they are responsible.**

The above places the responsibility on the firm to ensure that its principals and employees who undertake authorised legal services work and/or authorised probate work are suitably competent in doing this work and are up to date with current developments.

- 3.5 An [accredited legal services firm](#) must make arrangements to prevent anyone who is not an [authorised individual](#) in the [firm](#), or working under the supervision of that person, from having any influence which would be likely to affect the independence or integrity of [authorised legal services work](#).**

These arrangements need to include informing new principals, employees or shareholders who are non-authorised persons of the duties imposed on them by sections 90 and 176 of the Act.

- 3.6 An [accredited legal services firm](#) shall ensure that it is in full agreement with its clients as to the nature, scope and terms of the [authorised legal services work](#) and/or [authorised probate work](#) which is or may be provided and that it retains evidence of this agreement.**

The best way to obtain and record this agreement is by using an engagement letter. This could also deal with a firm's obligations under section 240 of the Code of Ethics to notify clients of the basis for charging fees. It could draw the client's attention to the arrangements for continuing the provision of authorised legal services work and/or authorised probate work (see regulation 3.12) and the complaints procedures established under section 7.

As a matter of best practice and in order to reduce the likelihood of future confusion and complaints, firms should also outline clearly for clients at the beginning of the engagement what is likely to occur and the nature and scope of the work that will be carried out, as well as the costs involved. They should also provide information to enable their clients actively to manage their costs, including being prepared to explain to clients aspects of their work as it progresses

and provide them with revised choices and costs estimates if the original estimates are likely to be exceeded.

The client should not be put under pressure by the firm to accept terms of engagement that may not be in accordance with their wishes.

**3.7 The [accredited legal services firm](#) shall ensure that clients are advised in writing of the compensation arrangements at the beginning of the engagement and the time scales for making applications to the [Legal Services Compensation Scheme](#).**

It is recommended that firms use the following paragraph:

'In the unlikely event that we cannot meet our liabilities to you, you may be able to seek a grant from ICAEW's Legal Services Compensation Scheme. Generally, applications for a grant must be made to ICAEW within 12 months of the time you became aware, or reasonably ought to have become aware, of the loss. Further information about the scheme and the circumstances in which grants may be made is available on ICAEW's website: [www.icaew.com/legal](http://www.icaew.com/legal) services.'

**3.8 If an [accredited legal services firm](#) receives any property in connection with [authorised legal services work](#) and/or [authorised probate work](#), details of the property received should be recorded. The [firm](#) should take all reasonable steps to ensure that such property is kept safely. Where the property is money this should be dealt with in accordance with [ICAEW's clients' money regulations](#), except that monies received in connection with [authorised legal services work](#) and/or [authorised probate work](#) must be kept separate from other clients' monies.**

**3.9 Any property held by an [accredited legal services firm](#) must only be released on the client's written instructions and a receipt obtained.**

Firms should consider carefully whether to hold property in connection with authorised legal services work and/or authorised probate work. It is often the case that the value of such property may be unclear but to safeguard it properly a firm should check that it has appropriate insurance cover. A receipt should be given when any property is received and transferred to a third party.

**3.10 An [accredited legal services firm](#) shall ensure that it has appropriate records of [authorised legal services work](#) and/or [authorised probate work](#) undertaken on behalf of clients.**

Records should evidence the work undertaken on behalf of clients under these regulations, plus any specific instructions from the client. The records do not have to be on paper but could be held on microfilm or on computers. Whatever method of storage is used, the firm must keep a mechanism for gaining access to those records.

It is likely that ICAEW will only be satisfied if the firm keeps records relating to work performed under these requirements for at least 6 years. Firms should bear in mind that some legislation requires records to be retained for longer.

**3.11 An [accredited legal services firm](#) must:**

- a confirm on request that it meets the requirements of these [regulations](#) and supply such evidence as [ICAEW](#) may require to support such confirmation; and**
- b ensure that it conducts a review, at least annually, to consider whether systems it has maintained have been adequate to enable it to:**
  - i comply with these [regulations](#) and to confirm its compliance with these [regulations](#) when requested by [ICAEW](#); and**
  - ii prepare any return required under [regulation 2.7p](#).**

The annual compliance review checks whether a firm has complied with these regulations.

**3.12 If an [accredited legal services firm](#) ceases to undertake [authorised legal services work](#) and/or [authorised probate work](#) then there must be arrangements in place to protect the interests of those clients for whom it is undertaking such work.**

Arrangements must be in place in case a firm ceases to undertake authorised legal services work and/or authorised probate work. These arrangements are to protect the interests of clients and the firm may need to make some arrangements on a contingency basis.

Where a firm is ceasing to conduct authorised legal services work and/or authorised probate work, an orderly wind down or transfer of work to an identified successor firm may be arranged. However, particularly where the firm is a sole practitioner, additional measures will need to be in place to protect the interest of clients in the event of the death or incapacity of the practitioner. This may simply be an arrangement for another person to access the firm's records and then make arrangements for the authorised legal services work and/or authorised probate work to be transferred to another practitioner(s) who is/are authorised to carry out the authorised legal service work and/or authorised probate work.

The firm should provide details of these arrangements within an engagement letter or similar. A suggested wording is:

'If, for any reason, I am unable to run my practice, I have made arrangements for the completion of any unfinished authorised legal services work and/or estate administration work to clients.  
[Add details of the person that the client can contact.]'

## 4 Authorised individuals, Heads of Finance and Administration and Heads of Legal Practice

All individuals who undertake, or control the undertaking of, authorised legal services work on behalf of an accredited legal services firm must be individually authorised to do so under the Act by ICAEW.

In an authorised firm, all the principals will need to be authorised persons. A sole practitioner must be an authorised individual and the firm's contact partner. In other authorised firms it is recommended that one of the principals be the contact partner.

A licensed firm must appoint a Head of Finance and Administration and Head of Legal Practice who have specific responsibilities and important duties as set out in regulation 1.6. The Head of Legal Practice must be an authorised individual and the firm's contact partner.

In all firms (including sole practices) the contact partner can designate appropriately qualified principals or employees as authorised individuals as set out in the following regulations.

### Authorisation and withdrawal of authorisation

**4.1 Subject to [regulation 4.4](#) the [contact partner](#) (or the person who is intended to be the [contact partner upon accreditation](#)) may designate as an [authorised individual](#) any of the [accredited legal services firm's principals or employees](#) (or any of the [principals or employees of a firm applying for accreditation](#)) who:**

- a. is a member of an [accountancy body](#) and has provided evidence to ICAEW that the individual is appropriately qualified to undertake the [authorised legal services work](#) activity or activities for which authorisation is being sought. This evidence should prove compliance with the qualification requirements for the conduct of such activity or activities which are set out in schedules 1 and 2 to these [regulations](#); or**
- b. has provided evidence that the individual holds a qualification issued or recognised by an [approved regulator](#) (other than ICAEW) which entitles the individual to undertake the [authorised legal services work](#) activity or activities for which authorisation is being sought and which complies with the qualification requirements for the conduct of such activity or activities which are set out in schedule 2 to these [regulations](#); or**
- c. has provided evidence that the individual is otherwise qualified to undertake the [authorised legal services work](#) activity or activities for which authorisation is being sought and is compliant with the qualification requirements for the conduct of such activity or activities which are set out in schedule 2 to these [regulations](#).**

Only principals and employees of a firm are eligible to become 'authorised individuals', not subcontractors or consultants.

For the purposes of regulation 4.1a, the qualification requirements set out in schedules 1 and 2 to these regulations require attendance on ICAEW approved courses and the passing of ICAEW approved assessments.

Applications in respect of individuals under regulation 4.1c will be decided on a case by case basis, having regard to the sufficiency of the individual's qualification to undertake authorised legal services work.

**4.2 Subject to [regulation 4.4](#) and with the agreement of the individual, a [licensed firm](#) must designate an [authorised individual](#) to be the [Head of Legal Practice](#).**

- 4.3 Subject to [regulation 4.4](#) and with the agreement of the individual, a [licensed firm](#) must designate an individual to be the [Head of Finance and Administration](#).
- 4.4 Any designation in accordance with [regulation 4.1](#), [4.2](#) or [4.3](#) shall not be effective until an application has been made to [ICAEW](#) in a form specified by it and the application has been approved and this may be approved with conditions or restrictions.

Where a firm wishes to be accredited, and any principals or employees are not authorised individuals, the applications by the firm for accreditation and for approval of designation of authorised individuals should be made (and will be dealt with) simultaneously.

- 4.5 [ICAEW](#) may only approve a person's status as an [authorised individual](#), [Head of Legal Practice](#) or [Head of Finance and Administration](#), if it is satisfied that that individual is a fit and proper person.
- 4.6 [ICAEW](#) may at any time vary or end a restriction or condition made under [regulation 4.4](#).

#### Cessation

- 4.7 [Authorised individual](#) status will cease if:
- a the [firm](#) in which the individual is an [authorised individual](#) ceases to be an [accredited legal services firm](#);
  - b the individual ceases to be a [principal](#) or [employee](#) in the [accredited legal services firm](#) to which the grant of [authorised individual](#) status related;
  - c an event occurs which under [ICAEW's](#) Charter, bye-laws or other regulations the individual would cease to be a [member](#) or an affiliate;
  - d the [contact partner](#) notifies [ICAEW](#) that the individual is no longer an [authorised individual](#); or
  - e [ICAEW](#) withdraws [authorised individual](#) status.

Firms are reminded to inform ICAEW of any changes to the authorised individuals of the firm.

- 4.8 [Authorised individual](#) status will not cease under [regulation 4.7a](#) or [4.7b](#) if:
- a the [accredited legal services firm](#) in which the [authorised individual](#) is a [principal](#) or [employee](#) merges with or is acquired by another [accredited legal services firm](#); or
  - b the [authorised individual](#) leaves the [accredited legal services firm](#) in which he is a [principal](#) or [employee](#) and immediately becomes a [principal](#) or [employee](#) in another [accredited legal services firm](#);
- provided that [ICAEW](#) is informed within 10 [business days](#) of the event. Otherwise, disciplinary action may be taken and [authorised individual](#) status withdrawn.

- 4.9 Status as a [Head of Legal Practice](#) or a [Head of Finance and Administration](#) will cease if:
- a the [firm](#) to which the status relates ceases to be an [accredited legal services firm](#);
  - b the individual ceases to be a [principal](#) or [employee](#) in the [accredited legal services firm](#) to which the status relates;
  - c an event occurs which under [ICAEW's](#) Charter, bye-laws or other regulations the individual would cease to be a [member](#) or an affiliate;
  - d the [firm](#) or individual notifies [ICAEW](#) that the individual no longer consents to hold that status; or
  - e [ICAEW](#) disqualifies the person from holding that status under [regulation 5.1](#).

**4.10 If an individual is no longer an [authorised individual](#), a [Head of Finance and Administration](#) or a [Head of Legal Practice](#) disciplinary action under section 12 (including the imposition of a [regulatory penalty](#)) may still be taken for any failure to comply with these [regulations](#).**

Decisions under this section will come into effect as set out in section 10. The person may request a review (with subsequent right of appeal) under section 11.

Section 12 applies ICAEW's disciplinary arrangements to breaches of these regulations by an authorised individual, a Head of Finance and Administration or a Head of Legal Practice. Regulation 4.10 provides that disciplinary action may be taken after a person has ceased to hold this status.

## 5 Disqualification

The following regulations set out the circumstances in which a person may be disqualified under section 99 of the Act from acting as a Head of Legal Practice or Head of Finance and Administration, or from being a principal or an employee of any licensed firm. This is liable to occur in specific situations identified in the Act as detailed below.

- 5.1** If both of the conditions set out in [regulations 5.2 and 5.3](#) are satisfied, [ICAEW](#) may disqualify a person from:
- a** acting as the [Head of Legal Practice](#) of any [licensed firm](#);
  - b** acting as the [Head of Finance and Administration](#) of any [licensed firm](#);
  - c** being a [principal](#) of any [licensed firm](#); or
  - d** being an [employee](#) of any [licensed firm](#).
- 5.2** The first condition referred to in [regulation 5.1](#) is that the person, intentionally or through neglect:
- a** has breached a duty to which the person is subject:
    - as a [Head of Legal Practice](#) by section 91 of the [Act](#);
    - as the [Head of Finance and Administration](#) by section 92 of the [Act](#);
    - as a regulated person by section 176 of the [Act](#) (within the meaning of that section); or
    - as a [non-authorised person](#) by section 90 of the [Act](#); or
  - b** has caused, or substantially contributed to, a significant breach of the [licensed firm's accreditation](#).
- 5.3** The second condition referred to in [regulation 5.1](#) is that [ICAEW](#) is satisfied that it is undesirable for the person to engage in the activity or activities referred to in [regulation 5.1](#).
- 5.4** Upon the application of any person so disqualified under [regulation 5.1](#), [ICAEW](#) may, if the second condition referred to in [regulation 5.3](#) is no longer satisfied, decide that a person's disqualification shall cease to be in force on a date specified in the decision.
- 5.5** [ICAEW](#) will notify the [Legal Services Board](#) within 7 days of any decision under [regulation 5.1](#) that a person should be disqualified, of the results of any review of such a decision under [regulation 11.3](#) and of any decision under [regulation 5.4](#) that a person's disqualification should cease to be in force.

If ICAEW disqualifies a person as set out above, the decision will come into effect as set out in regulation 10.10. The person may request a review (with subsequent right of appeal) under section 11.



## 6 Ownership of licensed firms

This section only applies to licensed firms.

The following regulations set out the requirements where any non-authorised person holds or proposes to hold a material interest in a licensed firm.

Firms applying to be licensed must provide full details of any non-authorised person who holds or is expected to hold a material interest, even if it becomes aware of this after submitting the application.

Licensed firms must also inform ICAEW if any non-authorised person acquires or is expected to acquire a material interest, or if there is any change in the extent to which any interest in the firm is held by a non-authorised person. ICAEW will need to approve any non-authorised persons holding or intending to hold a material interest, and changes to the firm's ownership structure may affect its eligibility to be licensed.

ICAEW will decide whether to grant approval of the holding under this section. Approval may be granted unconditionally or subject to conditions as set out in these regulations.

If ICAEW objects to a holding or decides to permit it subject to conditions, an applicant or the non-authorised person may request a review (with subsequent right of appeal) under section 11.

As set out in regulation 6.2 there are different kinds of material interest. If ICAEW has approved a non-authorised person to hold a specific kind of material interest and that person then acquires a different kind of material interest, this needs to be approved as set out above. No approval is needed if an existing material interest is increased or decreased but notification under regulation 2.71 is required.

**6.1** A non-authorised person may not hold a material interest in a licensed firm without a grant of approval by ICAEW.

**6.2** A person holds a material interest in a body (B) if the person:

- holds at least 10% of the shares in B;
- is able to exercise significant influence over B's management by virtue of the person's shareholding in B;
- holds at least 10% of the shares in a parent undertaking (P) of B;
- is able to exercise significant influence over P's management by virtue of the person's shareholding in P;
- is entitled to exercise, or control the exercise of, voting power in B which, if it consists of voting rights, constitutes at least 10% of the voting rights in B;
- is able to exercise significant influence over B's management by virtue of the person's entitlement to exercise, or control the exercise of, voting rights in B;
- is entitled to exercise, or control the exercise of, voting power in P which, if it consists of voting rights, constitutes at least 10% of the voting rights in P; or
- is able to exercise significant influence over P's management by virtue of the person's entitlement to exercise, or control the exercise of, voting rights in P.

Regulation 6.2 sets out the different kinds of material interest that require ICAEW's approval.

**6.3** For the purposes of this section, the interest held by a person in a firm will consist of the total of the interest held by the person and the interest held by any of his associates, and a person's associate is defined as:

- a the person's spouse or civil partner;
- b the person's child or stepchild if aged under 18;



- c the trustee of any settlement under which the person has a life interest in possession;
- d an undertaking of which the person is a director;
- e any employee of the person;
- f any partner in a firm (other than the [licensed firm](#)) of which the person is a partner;
- g if the person is an undertaking, any director or subsidiary undertaking or any director or employee of such subsidiary undertaking;
- h any person with whom the person has an agreement or arrangement regarding the acquisition, holding or disposal of any share or interest in the shareholding or voting rights referred to in [regulation 6.2](#); or
- i any person with whom the person has an agreement or arrangement to act together in exercising their voting power in relation to the shareholding or voting rights referred to in [regulation 6.2](#).

#### Acquisition of a material interest before a firm is licensed

- 6.4 A [firm](#) which applies to [ICAEW](#) to become a [licensed firm](#) must:
- a identify in the application any non-[authorised person](#) who holds, or is expected when the [firm](#) has been licensed to hold, an interest to which [regulation 6.1](#) applies;
  - b identify in the application the kind of interest which is so held or expected to be held;
  - c in any such case, inform the non-[authorised person](#) that [ICAEW](#) may require the person to provide [ICAEW](#) with documents and information and that failure to comply with such a requirement is a criminal offence; and
  - d inform [ICAEW](#) of any change in the identity of such non-[authorised person](#) or the kind of relevant interest so held or expected to be held occurring after the application but before the [firm](#) is licensed, such information to be given in writing within seven days of the occurrence of such change or, if later, the day on which the [firm](#) becomes aware of such change.

Firms must make any non-authorised person aware of the importance of the requirement to provide ICAEW with documents and information and ensure that the person understands that failure to comply would make them guilty of a criminal offence under paragraph 14 of schedule 13 to the Act, which is punishable by a fine and/or imprisonment.

An applicant who fails to comply with regulation 6.4c is also guilty of an offence under paragraph 13 of schedule 13 to the Act, which is punishable by a fine.

- 6.5 [ICAEW](#) will not license the [firm](#) unless it grants approval to the holding of the non-[authorised person](#) either unconditionally or subject to conditions.
- 6.6 In deciding whether to grant approval to the holding of the non-[authorised person](#), [ICAEW](#) may require the person to provide it with any documents or information and will have regard to all relevant circumstances including:
- a the probity and financial position of the person and any person listed in [regulation 6.3](#);
  - b whether the person and any person listed in [regulation 6.3](#) has been disqualified (by [ICAEW](#) under section 5 of these [regulations](#), or by any other [licensing authority](#)) from acting as a Head of Legal Practice, a Head of Finance and Administration, a principal or an employee of any licensed body; and

- c** whether the person or any person listed in [regulation 6.3](#) has been named in a list maintained by the [Legal Services Board](#) of persons in respect of whom a [licensing authority](#) has objected to or imposed conditions on the holding of a [material interest](#), or of persons who acquire a holding of a [material interest](#) exceeding a limit specified in the licensing rules of any [licensing authority](#).

In determining whether an applicant (together with their associates) is fit and proper, ICAEW will have regard to whether they have previously been disqualified under section 99 of the Act, and whether any other licensing authority has previously objected to, or imposed a condition on, their holding of a material (or other restricted) interest in a licensed body.

- 6.7** [ICAEW](#) may grant approval to the holding of the [non-authorised person](#) unconditionally if it is satisfied that:
- a** the person's holding of the [material interest](#) does not compromise the regulatory objectives set out in section 1 of the [Act](#);
  - b** the person's holding of the [material interest](#) does not compromise compliance by [authorised persons](#) or the [principals](#) or [employees](#) of the [firm](#) with these [regulations](#) or with any of [ICAEW](#)'s regulatory arrangements; and
  - c** the person is a fit and proper person to hold the [material interest](#).
- 6.8** If [ICAEW](#) is not satisfied as required by [regulation 6.7](#) it may:
- a** grant approval to the holding of the [non-authorised person](#) subject to conditions if it is satisfied that compliance with the conditions makes this appropriate; or
  - b** object to the holding.
- 6.9** Before deciding either to grant approval to the holding of the [non-authorised person](#) subject to conditions or to object to the holding, [ICAEW](#) will:
- a** give written notice of the proposed objection or conditions, with reasons for it, to the applicant for the licence and to the [non-authorised person](#), explaining the nature of any proposed conditions and stating that representations may be made to [ICAEW](#) within 28 days;
  - b** consider any representations if made within the time specified by paragraph (a) above; and
  - c** notify the applicant for the licence and the [non-authorised person](#) as soon as reasonably practicable of any objection or any conditions imposed, with reasons.

In all such cases the notice will explain the effect of ICAEW's enforcement powers under Part 5 of Schedule 13 of the Act.

#### Acquisition of material interest after issue of licence

These regulations impose duties on non-[authorised persons](#) who acquire or propose to acquire a material interest in a firm which is already licensed. A failure, with knowledge of the relevant facts, to comply with any of these duties to notify is a criminal offence punishable with a fine.

Licensed firms should ensure that any non-[authorised person](#) who acquires or proposes to acquire a material interest in the firm is aware of the obligation to provide such documents or information as ICAEW may require. Failure to comply with this obligation is a criminal offence punishable by a fine and/or imprisonment.

- 6.10** If a [non-authorised person](#) who proposes to take a step which would result in his acquiring a [material interest](#) in a [licensed firm](#) or, if he already has any [material interest](#) in the [firm](#), an additional kind of [material interest](#) in the [firm](#), then he must:
- a** give written notification of the proposal to the [licensed firm](#) and to [ICAEW](#); and

**b must not take the proposed step unless [ICAEW](#) has granted approval of his holding the [material interest](#).**

As set out in regulation 6.2 there are different kinds of material interest. If ICAEW has previously approved a non-authorized person to hold a specific type of material interest, and that person then acquires a different kind of material interest, this needs to be approved as set out above.

- 6.11 If a person only becomes aware of the notification requirements referred to in [regulation 6.10](#) after making such a proposal, he must give written notification of the proposal to the [licensed firm](#) and to [ICAEW](#) within 7 days of becoming aware of them and before taking the proposed step.**
- 6.12 A non-[authorised person](#) who acquires a [material interest](#) in a [licensed firm](#) without taking a step as referred to in regulation 6.10 must give written notification of the acquisition to the [licensed firm](#) and to [ICAEW](#) within 7 days of becoming aware of the acquisition.**
- 6.13 When [ICAEW](#) receives a notification under any of [regulations 6.10, 6.11 or 6.12](#), or if it becomes aware that a person has failed to comply with an obligation to make such a notification, it may require the person to provide it with any documents or information and, within 90 days of the notification, will decide whether to:**
- a approve the person's holding unconditionally;**
  - b warn the person that it proposes to approve the holding subject to conditions;**
  - c approve the holding subject to conditions;**
  - d warn the person that it proposes to object to the holding; or**
  - e object to the holding.**
- 6.14 [ICAEW](#) may grant approval to the holding of the non-[authorised person](#) unconditionally if it is satisfied of the matters specified in [regulation 6.7](#).**
- 6.15 If [ICAEW](#) is not satisfied as required by [regulation 6.14](#), it may exercise either of the powers referred to in [regulation 6.8](#).**
- 6.16 Subject to [regulation 6.17](#), before deciding either to grant approval to the holding of the non-[authorised person](#) subject to conditions or to object to the holding [ICAEW](#) will:**
- a give written notice of the proposed objection or conditions, with reasons for it, to the [licensed firm](#) and to the non-[authorised person](#), stating that representations may be made to [ICAEW](#) within 28 days;**
  - b consider any representations made within the time specified by paragraph (a) above; and**
  - c notify the [licensed firm](#) and the non-[authorised person](#) as soon as reasonably practicable of any objection or any conditions imposed, with reasons.**
- 6.17 [ICAEW](#) may approve the holding subject to conditions or may object to the holding without giving the notice referred to in [regulation 6.16](#) if it considers it necessary or desirable to do so for the purpose of protecting any of the regulatory objectives set out in section 1 of the [Act](#).**
- 6.18 Any approval granted by [ICAEW](#) under [regulations 6.14 or 6.15](#) is effective only if the [material interest](#) is acquired within such period as may be specified in the written notice by [ICAEW](#) of the approval or, if no period is specified, within one year of the date of the notice.**

The approval granted by ICAEW is subject to the material interest being acquired either within the period set out in the notice, or, if no period is given, within one year. If the interest is not acquired within this time, approval will need to be sought again.

## Powers of ICAEW in relation to existing material interests

ICAEW is empowered to give notice objecting to, or imposing conditions on, the holding of existing material interests where necessary.

A person who holds a material interest subject to any condition may apply to ICAEW for variation or cancellation of the condition.

**6.19** If at any time [ICAEW](#) ceases to be satisfied as required by [regulation 6.7](#), or if it is satisfied that a condition imposed by any of the [regulations](#) in this section has not been, or is not being, complied with, it may, within 90 days of becoming aware of the matters in question:

- a impose a condition on the holding; or
- b object to the holding.

**6.20** [Regulations 6.16](#) and [6.17](#) also apply to the exercise by [ICAEW](#) of the power referred to in [regulation 6.19](#).

**6.21** A condition imposed under any of the [regulations](#) in this section may be varied or cancelled by written notice by [ICAEW](#):

- a on the application of the person who holds the [material interest](#) ; or
- b on the initiative of [ICAEW](#).

## Enforcement of conditions and objections

Where a material interest is held in contravention of the regulations in this section, ICAEW may give notice restricting the rights attached to the holding and, subject to the procedural requirements imposed by the Act, may apply to the High Court for an order requiring a non-authorized person to sell shares.

Where a material interest is held in breach of a condition imposed under any of the regulations in this section, ICAEW may, subject to the procedural requirements imposed by the Act, apply to the High Court for an order securing compliance.

**6.22** If a person holds a [material interest](#) in breach of any condition imposed by [ICAEW](#) under any of the [regulations](#) in this section, [ICAEW](#) may:

- a give written notice to the person that it intends to apply to the High Court for an order securing compliance if the conditions are not complied with before the end of the period specified in the notice (at least 28 days); and
- b upon expiry of the period specified in the notice, apply to the High Court to make such order securing compliance as the High Court thinks fit.

The High Court will not make an order securing compliance with a condition until the end of the period in which the person can appeal against the imposition of the condition and, if an appeal is made, until the appeal has been determined or withdrawn.

**6.23** If a non-[authorised person](#), who holds a [material interest](#) by virtue of a shareholding in a [licensed firm](#), breaches:

- a [regulation 6.10b](#); or
- b any condition or objection imposed by [ICAEW](#) under any of the [regulations](#) in this section;

then [ICAEW](#) may:

- give a notice under [regulation 6.24](#); and
- apply to the High Court in accordance with paragraphs 43-45 of schedule 13 to the [Act](#) for an order requiring the sale of shares to secure that the non-[authorised](#)

person no longer holds a material interest in contravention of any of the regulations in this section.

- 6.24** A notice under this regulation is a written notice to the person holding the material interest directing that one or more of the following restrictions apply until further notice:
- a** any transfer of, or agreement to transfer, the shares, or the right to be issued with the shares, is void;
  - b** no voting rights are to be exercisable in respect of the shares;
  - c** no further shares are to be issued in right of the shares or in pursuance of any offer made to their holder; or
  - d** except in a liquidation, no payment is to be made of any sums due from the body corporate on the shares, whether in respect of capital or otherwise.

If ICAEW applies to the High Court for a divestiture order, it will at the same time give a restriction notice to the non-authorized person and send a copy of this notice to the firm.

- 6.25** A notice under regulation 6.24 ceases to have effect:
- a** if the High Court so orders under paragraph 45(4) of schedule 13 to the Act;
  - b** at the end of 90 days if ICAEW does not within that time make the application referred to in regulation 6.23; or
  - c** if the licensed firm ceases to be licensed by ICAEW.

Part 5 of Schedule 13 of the Act requires ICAEW to inform the Legal Services Board of decisions and actions taken under this section.

## 7 Complaints resolution

The following regulations detail how complaints should be dealt with. The Act requires that an accredited legal services firm has procedures for dealing with complaints. Firms should take care to notify their existing clients of their right to make a complaint. This should be done at the first appropriate opportunity (eg, if a client complains or at the beginning of the next engagement).

It is clearly to the benefit of clients and firms if any complaints that may arise are dealt with promptly and efficiently. Firms should bear in mind that this may be a particularly stressful time for the client.

**7.1 An [accredited legal services firm](#) must establish procedures to deal with complaints.**

**7.2 An [accredited legal services firm](#) must ensure that all clients are notified in writing at the beginning of the engagement of the name of the individual to be contacted in the event of a complaint and of their right to complain to the [Legal Ombudsman](#). This individual should be a [principal in an authorised firm](#) or the [Head of Legal Practice in a licensed firm](#).**

Details of the complaint resolution procedure can be included within the terms of engagement or in any other material supplied to the client at the beginning of the engagement. The following is a suggested paragraph for inclusion:

'If you would like to talk to us about how we could improve our service to you, or if you are unhappy with the service you are receiving, please let us know by contacting [state name of principal]. We will consider carefully any complaint you may make about our authorised legal services work or estate administration work as soon as we receive it and do all we can to resolve it. We will acknowledge your letter within five business days of its receipt and endeavour to deal with it within eight weeks. If we do not deal with your complaint in this time, or if you are unhappy with our response, you may of course take up the matter with the Legal Ombudsman.'

You must include the contact details for the Legal Ombudsman, which are:

- T 0300 555 0333
- Post Legal Ombudsman, PO Box 6806, Wolverhampton WV1 9WJ
- E [enquiries@legalombudsman.org.uk](mailto:enquiries@legalombudsman.org.uk)

You must also advise the client of the timescales for making a complaint to the Legal Ombudsman. Ordinarily, the following timescales apply:

- the act or omission, or when the complainant should reasonably have known there was cause for complaint, must have been after 5 October 2010; and
- the complainant must refer the complaint to the Legal Ombudsman no later than:
  - six years from the act/omission; or
  - three years from when the complainant should reasonably have known there was cause for complaint; and
- the complainant must refer the complaint to the Legal Ombudsman within six months of the date of your firm's written response.

As many complaints arise out of a misunderstanding of what services the firm has been retained to do, the progress in delivering those services and the cost involved, firms should ensure that they advise their clients in writing at the beginning of the engagement of the likely scope and nature of the intended work and the costs involved. Firms should ensure that their clients understand and agree to the process and these costs, and should keep their clients updated on matters as the engagements proceed.

Firms should also bear in mind the importance of learning from complaints. It is recommended that at the conclusion of the complaints process firms reflect on whether procedures and/or systems could be introduced or modified to avoid similar complaints arising in the future.



- 7.3 **If an [accredited legal services firm](#) receives a complaint from a client or a former client it must acknowledge the complaint within five [business days](#).**
- 7.4 **The [accredited legal services firm](#) must begin immediately to investigate the complaint in a fair, prompt, constructive and honest manner. The investigation should be conducted or supervised by the [Head of Legal Practice](#) in a [licensed firm](#), or by a [principal](#) in an [authorised firm](#).**

In the case of serious complaints, firms should bear in mind their obligations and duties under the firm's professional indemnity insurance. If cover is not to be affected, firms should notify insurers of matters that could give rise to a claim as soon as possible. However, the firm must still investigate the complaint and this does not affect the rights of the client to take the matter up with the Legal Ombudsman.

- 7.5 **The [accredited legal services firm](#) must keep a full record of the way in which the complaint has been handled. This documentation must be kept in a separate complaint file.**
- 7.6 **If following such an investigation the [accredited legal services firm](#) is of the opinion that the complaint is justified in whole or in part, it must do whatever is appropriate to resolve the complaint, whether by way of remedial work, apology, providing information, returning books or documents, reduction or repayment of fees, or otherwise.**
- 7.7 **When the [accredited legal services firm](#) notifies the client of its final response, which should be provided within 8 weeks of receiving the complaint, the client must be informed of their right to refer the matter to the [Legal Ombudsman](#).**

Once a firm has concluded its investigation of the complaint, it should notify the client in writing of the outcome and how, if appropriate, it intends to rectify the matter. This may lead to more discussions with the client. However, the firm should make it clear to the client when it has made its final response. At this stage the client should also be informed of their right to refer the matter to the Legal Ombudsman.

- 7.8 **If the complaint is not resolved within eight weeks of receipt of the complaint, the client must be informed in writing of their right to request that the [Legal Ombudsman](#) investigate the matter.**

If the complaint is not resolved within eight weeks, the client must be informed of their right to refer the matter to the Legal Ombudsman. This does not prevent a firm continuing to try to resolve the matter with the client, but the client could still request that the Legal Ombudsman look into the matter.

- 7.9 **The [accredited legal services firm](#) must cooperate with the [Legal Ombudsman](#).**
- 7.10 **The [accredited legal services firm](#) must comply with any decision that the [Legal Ombudsman](#) may make and promptly comply with any remedy ordered by the [Legal Ombudsman](#).**

The Legal Ombudsman may decide that a firm should pay the client compensation for any loss, inconvenience or distress caused to the client arising from the matter complained of. The decision may also include an apology, reimbursement of all or part of the firm's fees paid by the client, the requirement that the firm take remedial action to put the matter right or pay another firm to do so, or any other action which the Ombudsman deems necessary.

- 7.11 **The [accredited legal services firm](#) must provide [ICAEW](#) with such details of complaints as [ICAEW](#) may request (whether by writing, visiting the [firm's](#) offices or by any other method) within 20 [business days](#) of receiving such a request.**

## 8 Legal Services affiliates

ICAEW may accredit a firm which has a principal (an individual or a corporate body) who is not:

- a member;
- a member of one of the bodies listed below;
- an accredited probate firm;
- a registered auditor; or
- a DPB-licensed firm

and who, at the time of the proposed accreditation, is not an affiliate under the audit regulations, the DPB Handbook, the insolvency regulations or ICAEW's regulations governing the use of the description 'chartered accountant' and general affiliates, only if that principal is granted legal services affiliate status by ICAEW.

The bodies referred to above are:

- the Institute of Chartered Accountants of Scotland;
- Chartered Accountants Ireland; or
- another approved regulator.

Legal services affiliate status does not confer membership of ICAEW or entitle the individual or body corporate to use the title 'chartered accountant'. However, it does mean that a legal services affiliate is bound by the same rules and regulations that govern a member of ICAEW.

### Granting legal services affiliate status

- 8.1** Legal services affiliate status does not give the legal services affiliate any rights other than those contained in these regulations. Neither the legal services affiliate nor his accredited legal services firm shall make any public representation that the legal services affiliate has any rights other than those contained in these regulations.
- 8.2** A person must apply for legal services affiliate status in the manner decided by ICAEW. To carry out its responsibilities under these regulations, ICAEW may make any enquiries necessary to assess the eligibility of the applicant.
- 8.3** ICAEW may grant legal services affiliate status if it is satisfied that the applicant:
- a is a fit and proper person to be granted legal services affiliate status;
  - b has agreed to comply with these regulations;
  - c has agreed to observe and uphold ICAEW's Code of Ethics; and
  - d has agreed to provide ICAEW with all the information it needs.
- 8.4** ICAEW may, on receiving an application for legal services affiliate status:
- a grant legal services affiliate status;
  - b reject the application;
  - c grant legal services affiliate status with restrictions or conditions; or
  - d postpone consideration of the application.
- 8.5** ICAEW may at any time vary or end a restriction or condition made under regulation 8.4.

### Withdrawal of legal services affiliate status



- 8.6** [ICAEW](#) may in its sole discretion withdraw [legal services affiliate](#) status if the [legal services affiliate](#):
- a** is in the opinion of [ICAEW](#) no longer a fit and proper person;
  - b** fails to pay on time any fines or costs ordered by any committee or tribunal of [ICAEW](#);
  - c** has a disciplinary order made against him by any committee or tribunal of [ICAEW](#);
  - d** fails to pay the annual subscription within 30 days of the date of a notice to renew [legal services affiliate](#) status; or
  - e** fails or ceases to comply with any of these [regulations](#) and, in the circumstances, [ICAEW](#) considers that withdrawal is justified.

Decisions under regulations 8.4, 8.5 or 8.6 will come into effect as set out in section 10.

If a legal services affiliate is dissatisfied with a decision made by ICAEW under regulations 8.4, 8.5 or 8.6 it may apply for a review of the decision in accordance with the procedures set out in section 11.

#### Cessation of legal services affiliate status

- 8.7** [Legal services affiliate](#) status will cease if:
- a** subject to [regulation](#) 8.8, the [firm](#) in which the [legal services affiliate](#) is a [principal](#) ceases to be [accredited](#);
  - b** subject to [regulation](#) 8.8, the [legal services affiliate](#) ceases to be a [principal](#) in the [accredited legal services firm](#) to which the grant of [legal services affiliate](#) status related;
  - c** the [legal services affiliate](#) is an individual and has a bankruptcy order made against him;
  - d** the [legal services affiliate](#) is a body corporate which:
    - has been the subject of an effective resolution passed by the shareholders (or in the case of a limited liability partnership, by its members) for it to be wound up or has had a winding up order made against it on the grounds of insolvency;
    - has had an administration order made against it on grounds of insolvency; or
    - has had a receiver appointed by a creditor or by a court on the application of a creditor.
- 8.8** [Legal services affiliate](#) status will not cease under [regulation](#) 8.7a or 8.7b if:
- a** the [accredited legal services firm](#) in which the [legal services affiliate](#) is a [principal](#) merges with or is acquired by another [accredited legal services firm](#); or
  - b** the [legal services affiliate](#) leaves the [accredited legal services firm](#) in which he is a [principal](#) and immediately becomes a [principal](#) in another [accredited legal services firm](#);
- provided that [ICAEW](#) is informed within 10 [business days](#) of the event. Otherwise, disciplinary action may be taken and [legal services affiliate](#) status withdrawn.

#### Changes in circumstances

- 8.9** A [Legal services affiliate](#) or the [accredited legal services firm's contact partner](#) must inform [ICAEW](#) in writing within 10 [business days](#) of any changes relevant to matters considered by [ICAEW](#) under [regulation](#) 8.3.

#### Fees

- 8.10 [Legal Services affiliates](#) must pay a fee each year in addition to the [accredited legal services firm's](#) annual fee. The first annual fee for [legal services affiliate](#) status is due when an application is made for such status, together with any application fee.
- 8.11 The amount of the fees for [legal services affiliate](#) status will be determined by [ICAEW](#) from time to time.

#### Disciplinary arrangements

- 8.12 The disciplinary provisions of [ICAEW](#) that apply to a [member](#) also apply to a [legal services affiliate](#).
- 8.13 A [legal services affiliate](#) shall be liable to disciplinary action for any failure to observe and uphold any guidance issued by [ICAEW](#), including any ethical guidance.
- 8.14 A [legal services affiliate](#) will remain liable to disciplinary action under these [regulations](#) for any acts or omissions relating to the obligations in these [regulations](#) during the period in which [legal services affiliate](#) status was held, regardless of any subsequent cessation of such status.

## 9 Legal Services and other committees

This section describes the various committees involved in the regulatory process and their powers. Some, but not all, of the powers may be delegated by the Legal Services Committee to either sub-committees or staff.

A firm generally has the right to seek a review of a decision. Details are in section 11.

### Legal services Committee

#### 9.1 The [Legal Services Committee](#) must:

- a **comprise not fewer than twelve members of whom at least the required number must be lay members. The required number for this purpose is:**
  - i **one half of the total number of members of the Committee; or**
  - ii **if the total number of the number of members of the Committee is not divisible by two, one half of the first higher number that is so divisible;**
- b **at any meeting have a quorum of five members, a minimum of three of whom must be lay members; and**
- c **be chaired by a lay member of the Committee, who has a casting vote where required.**

A lay member is a person who has never qualified or practised as a professional accountant. Solicitors and persons with legal training are also unable to act as lay members on the committee.

Members of ICAEW's Council and Board are excluded from membership of this committee.

#### 9.2 The [Legal Services Committee](#) is responsible for discharging [ICAEW's functions as an approved regulator and licensing authority as set out in these regulations](#) and is also responsible for:

- a **reviewing the returns and reports made under these [regulations](#), and investigating failure to make returns or reports;**
- b **making appropriate enquiries into the eligibility of applicants for [accreditation](#); [authorised individual status](#); [Head of Legal Practice status](#); [Head of Finance and Administration status](#); or [legal services affiliate status](#) (by writing, visiting a [firm's](#) office or offices, or in any other way);**
- c **making appropriate enquiries into the eligibility of applicants for status as non-[authorised persons](#) who hold [material interests](#) in [licensed firms](#);**
- d **making appropriate enquiries to confirm that an [authorised person](#), [Head of Legal Practice](#), [Head of Finance and Administration](#) or [legal services affiliate](#) is complying with these [regulations](#) (by writing, visiting a [firm's](#) office or offices, using a periodic return, or in any other way);**
- e **making appropriate enquiries to confirm that a non-[authorised person](#) who holds a [material interest](#) in a [licensed firm](#) is complying with these [regulations](#) (by writing, visiting a [firm's](#) office or offices, using a periodic return, or in any other way);**
- f **publishing, in any manner it decides, its decisions if it considers this appropriate; and**
- g **compiling and maintaining a [register](#) of [licensed firms](#) and supplying information to the [Legal Services Board](#) as required.**

In discharging its functions the Legal Services Committee will have regard at all times to the public interest, and the requirements and regulatory objectives of the Act.

#### 9.3 The [Legal Services Committee](#) may delegate the following functions to sub-committees, [ICAEW's staff](#), or another duly appointed agent:

- granting applications for [accreditation](#) under [regulation 2.5a](#);
- granting applications for [accreditation](#) subject to conditions under [regulation 2.5c](#);
- varying or ending a condition or restriction under [regulation 2.6](#);
- granting applications for [authorised individual](#), [Head of Legal Practice](#) or [Head of Finance and Administration](#) status under [regulation 4.4](#);
- granting applications for [authorised individual](#), [Head of Legal Practice](#) or [Head of Finance and Administration](#) status subject to conditions under [regulation 4.4](#);
- varying or ending a condition or restriction under [regulation 4.6](#);
- granting approval to a holding of a [material interest](#) by a [non-authorised person](#) with or without conditions under [regulations 6.7, 6.8a, 6.14 or 6.15](#);
- deciding to vary or end a condition on the holding of a [material interest](#) by a [non-authorised person](#) under [regulation 6.21](#);
- granting applications for [legal services affiliate](#) status under [regulation 8.4a](#);
- granting applications for [legal services affiliate](#) status subject to conditions under [regulation 8.4c](#);
- varying or ending a condition or restriction under [regulation 8.5](#);
- withdrawing [legal services affiliate](#) status under [regulations](#):
  - 8.6b - failure to pay on time any fines or costs;
  - 8.6c - disciplinary order; or
  - 8.6d - failure to pay annual subscriptions;
- reviewing the returns and reports made under these [regulations](#), and investigating failure to make returns or reports;
- making appropriate enquiries into the eligibility of applicants for [accreditation](#); [authorised individual](#) status; [Head of Legal Practice](#) status; [Head of Finance and Administration](#) status; or [legal services affiliate](#) status (by writing, visiting a [firm's](#) office or offices, or in any other way);
- making appropriate enquiries into the eligibility of [non-authorised persons](#) who seek approval as holders of [material interests](#) in a [licensed firm](#);
- making appropriate enquiries to confirm that an [authorised person](#); [Head of Legal Practice](#); [Head of Finance and Administration](#); or [legal services affiliate](#) is complying with these [regulations](#) (by writing, visiting a [firm's](#) office or offices, using a periodic return, or in any other way);
- making appropriate enquiries to confirm that a [non-authorised person](#) who holds a [material interest](#) in a [licensed firm](#) is complying with these [regulations](#) (by writing, visiting a [firm's](#) office or offices, using a periodic return, or in any other way);
- publishing, in any manner it decides, its decisions if it considers this appropriate;
- compiling and maintaining a [register](#) of [licensed firms](#) and supplying information to the [Legal Services Board](#) as required;
- imposing a condition on [accreditation](#) under [regulation 10.1](#);
- varying or ending a condition or restriction under [regulation 10.2](#); or
- withdrawing [accreditation](#) under [regulations](#):
  - 10.3b - non-compliance with the PII [regulations](#);

- 10.3c - failure or delay in submitting a return or report;
- 10.3d - failure to pay amounts due;
- 10.3e - failure to pay costs awarded by the [Review Committee](#); or
- 10.3f - failure to pay fines or costs awarded by [ICAEW's disciplinary committees](#) or the [Appeal Tribunal](#).

**9.4** All information obtained under these [regulations](#) will be confidential but may be disclosed by [ICAEW](#) (directly or indirectly) to any person or body undertaking regulatory, redress, disciplinary or law enforcement responsibilities for the purpose of assisting that person or body to undertake those responsibilities or as otherwise required or allowed by law.

All information that ICAEW receives will remain confidential except in the above circumstances.

**9.5** In carrying out its responsibilities under these [regulations](#), [ICAEW](#), the [Legal Services Committee](#), the [Review Committee](#) and the [Appeal Tribunal](#) may consider any disciplinary findings, orders, ongoing investigations or any other information (including criminal and civil court judgments) concerning or affecting the [firm](#) or its [principals](#) or [employees](#), any non-[authorised persons](#) holding a [material interest](#) in a [firm](#) (either actual or proposed), an applicant for [authorised individual status](#), an [authorised individual](#), an applicant for [Head of Legal Practice status](#), a [Head of Legal Practice](#), an applicant for [Head of Finance and Administration status](#), a [Head of Finance and Administration](#), an applicant for [legal services affiliate status](#) or [legal services affiliate](#).

Regulation 9.5 allows consideration of any disciplinary or other matter that affects the firm.

#### Notification to committees

- 9.6** The [Legal Services Committee](#) must notify the [Investigation Committee](#) about any fact or matter which:
- a suggests that an [accredited legal services firm](#), an [authorised individual](#), a [Head of Legal Practice](#), a [Head of Finance and Administration](#), a [legal services affiliate](#) or any other person (including a non-[authorised person](#) holding a [material interest](#)) may be liable to disciplinary action under these [regulations](#) or other regulations or bye-laws of [ICAEW](#); and
  - b in the opinion of the [Legal Services Committee](#) needs to be investigated.
- 9.7** The [Investigation Committee](#) must inform the [Legal Services Committee](#) about any fact or matter which appears to it to be relevant to the powers and duties of the [Legal Services Committee](#) under these [regulations](#).

Under regulations 9.6 and 9.7 information may be exchanged between the ICAEW committees responsible for regulation and discipline.

## 10 Regulatory action

This section explains how ICAEW may take regulatory action against an accredited legal services firm, including withdrawal of accreditation if necessary.

Regulatory decisions come into effect as set out in regulations 10.9 to 10.11.

A firm may ask for a review of a decision and this is dealt with in section 11. A firm must apply for a review within 10 business days (or in some cases 28 days) of the decision being given to the firm.

### Restrictions and conditions

**10.1** ICAEW may impose restrictions or conditions on an accredited legal services firm if it considers that:

- a any of the circumstances mentioned in regulation 10.3a to 10.3j exist, or may exist, and the restrictions or conditions are justified;
- b the firm has not or may not have complied with these regulations in the past, and the restrictions or conditions are justified;
- c there is reason to believe that the firm may cease to comply with these regulations in the future and the restrictions or conditions are justified;
- d being accredited or continuing authorised legal services work without restrictions or conditions could adversely affect a client or any other person; or
- e it is appropriate to do so to ensure that authorised legal services work is undertaken, supervised and managed effectively.

**10.2** ICAEW may at any time vary or end a restriction or condition made under regulation 10.1.

ICAEW may place conditions on how an accredited legal services firm carries out or manages its legal services work. These could be that a firm should undertake specified training or change its procedures.

ICAEW may place restrictions on an accredited legal services firm such as:

- against the firm, for example that it cannot accept any new clients or legal services work;
- against a principal, for example that a particular principal may no longer be an authorised individual; or
- that an employee may no longer be involved in authorised legal services work.

If conditions or restrictions are imposed by ICAEW, a firm will have to undertake to comply with the terms of the restriction or condition. Any failure to deal with these matters is likely to be viewed extremely seriously.

As an alternative to regulatory action, ICAEW may accept a written undertaking from a firm that it will undertake a particular course of action.

### Withdrawal of accreditation

**10.3** ICAEW may withdraw a firm's accreditation if:

- a it considers that the firm no longer meets one or more of the eligibility requirements of regulations 2.2 or 2.3;
- b it considers that the firm is not complying with the PII regulations;
- c the firm is over 30 days late submitting the required returns or reports;
- d the firm has not paid the amounts due under regulations 2.14, 2.15 or 2.16 within 60 days of the date of an invoice under regulation 2.17;
- e the firm has not paid the costs in the time set by the Review Committee under regulation 11.4;

- f the [firm](#) has not paid in the time set any fines or costs ordered by the [Investigation Committee](#), the [Disciplinary Committee](#), or the [Appeal Tribunal](#);
- g it considers that the [firm](#) has not complied with any restriction or condition under [regulation 10.1](#) or any written undertaking that the [firm](#) has given to [ICAEW](#);
- h it considers that the [firm](#) or any of its [principals](#), [employees](#) and shareholders have not complied with any other [regulation](#) and, in the circumstances, withdrawal is justified;
- i it considers that the continued [accreditation](#) of the [firm](#) may adversely affect a client or any other person; or
- j in the case of a [licensed firm](#), a [non-authorised person](#) holds an interest in the [firm](#) as a result of which the [firm](#) has ceased to comply with any of the [regulations](#) in section 6.

## Suspension

- 10.4 [ICAEW](#) may suspend an [accredited legal services firm's accreditation](#) for a period if it considers that:
- a any of the circumstances mentioned in [regulation 10.3a](#) to [10.3g](#) or [10.3j](#) exists or may exist;
  - b the [firm](#) is not, or may no longer be, complying with these [regulations](#); or
  - c the continuation of the [firm's authorised legal services work](#) could adversely affect a client or any other person.
- 10.5 During a period of suspension an [accredited legal services firm](#):
- a may continue with any ongoing [authorised legal services work](#) with the permission of the [Legal Services Committee](#); but
  - b may not accept any new appointments for [authorised legal services work](#).
- 10.6 [ICAEW](#) may vary or end a suspension made under [regulation 10.4](#).

ICAEW can decide that a firm's accreditation is suspended rather than withdrawing accreditation. This allows ICAEW to consider further evidence while protecting the public interest.

## Urgent orders

- 10.7 [ICAEW](#) may impose restrictions or conditions on a [firm's accreditation](#) in the terms permitted by [regulation 10.1](#) by means of an urgent order if it considers that, in addition to the matters justifying the imposition under [regulation 10.1](#), there is:
- a a risk of loss to a client of the [firm](#) if an urgent order is not made, or
  - b another reason justifying the making of an urgent order.
- 10.8 [Regulation 10.7](#) is subject to [ICAEW](#) allowing the [accredited legal services firm](#) an opportunity to make oral or written representations within 10 [business days](#) of the urgent order being made. Having considered any representations [ICAEW](#) may:
- a end the order; or
  - b continue the order.

Regulation 10.7 allows ICAEW to take immediate regulatory action if the need arises. ICAEW may do this in the case of, for example, serious allegations or if there is a potential or actual loss of client money. As well as making immediate representations on the fact that an urgent order has been made, a firm can ask for a review under regulation 11.2 of any underlying decision made under regulation 10.1. The order comes into force when it is served on the firm (see regulation 10.9) and is not lifted if a review is requested.

## Implementation of decisions and orders



**10.9 A decision made under [regulations](#) 2.5, 2.6, 2.13, 2.20, 2.21, 4.4, 4.6, 5.4, 6.7, 6.8, 6.13, 6.19, 6.21, 8.4, 8.5, 10.2, 10.6, 10.7, or 11.7 will come into effect as soon as notice of it is served on the [firm](#).**

The regulations quoted in regulation 10.9 concern the following:

- the grant or refusal of an application for accreditation under regulation 2.5;
- the decision to vary or end a condition or restriction on accreditation under regulation 2.6;
- decisions on applications to modify accreditation under regulation 2.13;
- the grant or refusal of dispensations under regulations 2.20 and 2.21;
- the grant or refusal of authorised individual status, or status as a Head of Legal Practice or Head of Finance and Administration under regulation 4.4;
- the decision to vary or end a condition or restriction on a person's status as an authorised individual, Head of Legal Practice or Head of Finance and Administration under regulation 4.6;
- the decision to end a person's disqualification under regulation 5.4;
- the decision to approve a holding by a non-authorised person either unconditionally or subject to conditions, or to object to the holding, prior to the grant of a firm's accreditation under regulations 6.7 and 6.8;
- the decision to approve a holding by a non-authorised person either unconditionally or subject to conditions, or to object to a holding, following a firm's accreditation under regulation 6.13;
- the decision to approve a holding of a material interest by a non-authorised person subject to conditions, or to object to such a holding, following a firm's accreditation under regulation 6.15;
- the decision to impose conditions on a holding, or to object to a holding, of an existing material interest by a non-authorised person under regulation 6.19;
- the decision to vary or end a condition on a holding of a material interest by a non-authorised person under regulation 6.21;
- the grant or refusal of an application for legal services affiliate status under regulation 8.4;
- the decision to vary or end a condition or restriction on a person's status as a legal services affiliate under regulation 8.5;
- the decision to vary or end a condition or restriction on accreditation under regulation 10.2;
- the decision to vary or end a suspension on accreditation under regulation 10.6;
- orders in respect of restrictions or conditions on a firm's accreditation that are made on a urgent basis under regulation 10.7; and
- Appeal Tribunal decisions under regulation 11.7.

**10.10 A decision made under [regulations](#) 4.7e, 5.1, 8.6 or 10.1 will come into effect 10 [business days](#) after notice of it is served on the [firm](#) or any later time that [ICAEW](#) specifies, except:**

- a if a [firm](#) has applied for a review under [regulation](#) 11.2, the effect of the decision will be suspended pending a decision on the review under [regulation](#) 11.3 or the withdrawal of the request for a review; or**
- b if a [firm](#) has appealed under [regulation](#) 11.5, the effect of the decision will be suspended pending a decision of the [Appeal Tribunal](#) under [regulation](#) 11.7 or the withdrawal of the appeal.**

Decisions made under the regulations referred to in regulation 10.10 come into effect 10 business days after the firm has been given the decision. However, the decisions are postponed if an application for

review or appeal is made. The decision of the Review Committee or Appeal Tribunal is the one that will come into effect.

The regulations referred to in regulation 10.10 concern the following:

- withdrawal of status as an authorised individual under regulation 4.7e;
- disqualification from status as a Head of Legal Practice or Head of Finance and Administration or from being a principal or an employee of a licensed firm under regulation 5.1;
- withdrawal of status as a legal services affiliate under regulation 8.6; and
- the imposition of conditions or restrictions on an accredited legal services firm under regulation 10.1.

Regulation 1.5 details how decisions and orders are served on firms.

**10.11 A decision made under [regulations 10.3 or 10.4](#) will come into effect 28 days after notice of it is served on the [accredited legal services firm](#) or any later time that [ICAEW](#) specifies, except:**

- a if a [firm](#) has applied for a review under [regulation 11.2](#), the effect of the decision will be suspended pending a decision on the review under [regulation 11.3](#) or the withdrawal of the request for a review; or**
- b if a [firm](#) has appealed under [regulation 11.5](#), the effect of the decision will be suspended pending a decision of the [Appeal Tribunal](#) under [regulation 11.7](#) or the withdrawal of the appeal.**

Decisions made under the regulations referred to in regulation 10.11 come into effect 28 days (rather than business days) after the firm has been given the decision. However, the decisions are postponed if an application for review or appeal is made. The decision of the Review Committee or Appeal Tribunal is the one that will come into effect.

The regulations referred to in regulation 10.11 relate to the following:

- withdrawal of a firm's accreditation under regulation 10.3; and
- suspension of a firm's accreditation under regulation 10.4.

## 11 Review and appeal process

At the request of a firm or an accredited legal services firm, a decision to refuse an application, grant it with conditions, withdraw a firm's accreditation or only allow it to continue with conditions or restrictions may be reviewed by ICAEW using the following process.

The same process may be used against a decision to reject an application for authorised individual status, Head of Legal Practice status, Head of Finance and Administration status or legal services affiliate status. It may also be used against a decision to grant these applications with restrictions or conditions or to withdraw status altogether.

Similarly this process may be used against a decision to object to the holding or continued holding of a material interest or a decision to allow a holding subject to conditions.

### 11.1 In [regulations 11.2 to 11.8](#), 'affected party' means:

- a [firm](#);
- an [accredited legal services firm](#);
- an applicant for [authorised individual](#) status;
- an [authorised individual](#);
- an applicant for [Head of Legal Practice](#) status;
- a [Head of Legal Practice](#);
- an applicant for [Head of Finance and Administration](#) status;
- a [Head of Finance and Administration](#);
- an applicant for [legal services affiliate](#) status;
- a [legal services affiliate](#);
- a person seeking approval of the holding of a [material interest](#); or
- a person holding a [material interest](#) in a [licensed firm](#)  
which is affected by a decision of [ICAEW](#) under these [regulations](#).

### Review

11.2a An affected party may apply for a review in accordance with [regulations 11.2b](#) and [11.2c](#).

11.2b An application for review must be made in writing to [ICAEW](#) within 10 [business days](#) of service on the affected party of a decision made under:

[regulation 2.5b](#) refusing to grant a [firm accreditation](#) as an [authorised](#) or [licensed firm](#);

[regulation 2.5c](#) granting [accreditation](#) to a [firm](#) subject to conditions or restrictions;

[regulation 2.6](#) refusing to vary or end a condition or restriction on a [firm's accreditation](#) or varying a [firm's accreditation](#) in terms other than those sought in the [firm's](#) application;

[regulation 2.13](#) refusing to modify a [firm's accreditation](#) or modifying a [firm's accreditation](#) in terms other than those sought in the [firm's](#) application for modification;

[regulation 2.21](#) refusing to grant a dispensation from the [regulations](#);

[regulation 4.4](#) refusing to grant [authorised individual](#), [Head of Legal Practice](#) or [Head of Finance and Administration](#) status or granting such status subject to conditions or restrictions;

- [regulation 4.6](#) refusing to vary or end a condition or restriction on a person's [authorised individual](#), [Head of Legal Practice](#) or [Head of Finance and Administration](#) status, or varying the condition or restriction in terms other than those sought in the person's application;
  - [regulation 4.7e](#) withdrawing [authorised individual](#) status;
  - [regulation 5.1](#) disqualifying a person from acting as a [Head of Legal Practice](#) or [Head of Finance and Administration](#) or from being a [principal](#) or [employee](#) of any [licensed firm](#);
  - [regulation 5.4](#) refusing to order that a person's disqualification shall cease to be in force;
  - [regulation 6.8](#) objecting to the holding of a [material interest](#) or granting approval subject to conditions;
  - [regulation 6.15](#) objecting to a change in the holding of a [material interest](#) or granting approval subject to conditions;
  - [regulation 6.19](#) objecting to the continued holding of a [material interest](#) or imposing conditions on that holding;
  - [regulation 6.21](#) refusing to vary or end a condition on the holding of a [material interest](#) by a [non-authorised person](#), or varying the condition in terms other than those sought in the person's application;
  - [regulation 8.4b](#) refusing to grant [legal services affiliate](#) status;
  - [regulation 8.4c](#) granting [legal services affiliate](#) status subject to conditions or restrictions;
  - [regulation 8.5](#) refusing to vary or end a condition or restriction on a person's status as a [legal services affiliate](#), or varying the condition or restriction in terms other than those sought in the person's application;
  - [regulation 8.6](#) withdrawing [legal services affiliate](#) status; and
  - [regulation 10.1](#) imposing restrictions or conditions on [accreditation](#).
- 11.2c An application for review must be made in writing to [ICAEW](#) within 28 days of service on the affected party of a decision made under:
- [regulation 10.3](#) withdrawing an [accredited legal services firm's accreditation](#); or
  - [regulation 10.4](#) suspending an [accredited legal services firm's accreditation](#).
- 11.3 A meeting of the [Review Committee](#) will be arranged as soon as practicable after an affected party has applied under [regulation 11.2b](#) or [11.2c](#). The [Review Committee](#) will consider the matter afresh and will hear new material put forward by the affected party. The [Review Committee](#) may make any decision which [ICAEW](#) could have made.
- 11.4 The [Review Committee](#) may require an affected party to contribute to the costs of the review.

The Review Committee has the same powers as ICAEW when making decisions in relation to a firm, an accredited legal services firm, an applicant for authorised individual status, an authorised individual, an applicant for Head of Legal Practice status, a Head of Legal Practice, an applicant for Head of Finance and Administration status, a Head of Finance and Administration, an applicant for affiliate status or a legal services affiliate. It can also make decisions disqualifying persons from holding positions in licensed firms (as set out in section 5) or from holding material interests in those firms (as set out in section 6).

It can impose the same, more severe or less severe decisions. It can also award costs. Costs are likely to be awarded if, for example, the affected party fails to attend the review when it said it would, does not send in further material it has promised, or the application is frivolous.

## Appeal

A firm or person who is the subject of a decision of the Review Committee and is dissatisfied with that decision can appeal to the Appeal Tribunal.

Parties affected by decisions of the Review Committee will be notified in writing of the appropriate appeal process at the time notice of the decision of the Review Committee is sent.

The Appeal Tribunal can only consider an appeal on any of the grounds in regulation 11.5. On appeal, the decision of the Review Committee is postponed until the Appeal Tribunal confirms or varies the decision (see regulation 10.10 and 10.11).

Upon an appeal the Appeals Tribunal has the powers set out in regulation 11.7.

**11.5** Within 28 days of the date on which notice of the Review Committee's decision was sent to the affected party under [regulation 11.3](#), the affected party may appeal in writing to the [Appeal Tribunal](#) on one or more of the following grounds:

- a that the [Review Committee](#):
  - i was wrong in law; or
  - ii wrongly interpreted any relevant regulation, Bye-law, or associated guidance;
- b that the [Review Committee](#) made a decision which no tribunal, correctly applying the law to the facts before it and acting reasonably, would have made; or
- c that there was evidence which the [Review Committee](#) had not considered and which:
  - i could reasonably have led the [Review Committee](#) to make a different decision; and
  - ii could not have been put before the [Review Committee](#) even if those concerned had done their best to produce it.

Regulations 10.9 to 10.11 explain when decisions come into effect.

**11.6** An appeal to the [Appeal Tribunal](#) cannot be made if the appeal is only against the costs awarded by the [Review Committee](#).

**11.7** On hearing the appeal the [Appeal Tribunal](#) may:

- a affirm the [Review Committee](#)'s decision wholly or in part;
- b set aside the [Review Committee](#)'s decision wholly or in part;
- c substitute for all or part of the [Review Committee](#)'s decision a new decision which the [Review Committee](#) could have made;
- d send the matter back to the [Review Committee](#) to be considered again (generally, or in accordance with a finding made or direction given by the [Appeal Tribunal](#)); or
- e dismiss the appeal.

**11.8** If the [Appeal Tribunal](#) sends a matter back to the [Review Committee](#) under [regulation 11.7](#) then [regulation 11.3](#) will apply when the [Review Committee](#) reconsiders. The meeting of the [Review Committee](#) to reconsider the matter will be arranged as soon as is practicable.

## 12 Disciplinary arrangements

The Legal Services Committee does not have the power to apply the disciplinary arrangements of ICAEW to the firms that it accredits. Only the Disciplinary or Investigation Committees can do this. The bye-laws already provide a framework for disciplinary action to be taken against members or firms and the purpose of this section is to apply the disciplinary arrangements of ICAEW to the firms that it accredits. If the terms of these regulations differ from those of the bye-laws, these regulations prevail.

Any fine imposed by the tribunal in the exercise of ICAEW's powers as a licensing authority cannot exceed the amount(s) from time to time stipulated by the Legal Services Board under section 95 of the Act (currently £250m in the case of a firm or £50m in the case of an individual: see the Legal Services Act 2007 (Licensing Authorities) (Maximum Penalty) Rules 2011 (SI 1659/2011).

Under regulation 12.2 the Disciplinary Committee shares with the Legal Services Committee the power to withdraw status as an accredited legal services firm or authorised individual or to disqualify an individual from holding the status of Head of Legal Practice or Head of Finance and Administration or from being a principal of, or employed by, any licensed firm.

Appeals against decisions of the Disciplinary Committee are made to the Appeal Tribunal.

Parties affected by decisions of the Disciplinary Committee will be notified in writing of the appropriate appeal process at the time notice of the decision of the Disciplinary Committee is sent.

- 12.1 Save as provided below, the Disciplinary Bye-laws apply to breaches of these [regulations](#):**
- a as if references in those bye-laws to a firm, member firm, authorised firm, or contracted firm are construed as references to an [accredited legal services firm](#); and**
  - b as if references in those bye-laws to a member are construed as references to a [relevant person](#).**
- 12.2 In addition to the powers of a tribunal set out in the Disciplinary Bye-laws, if the [Disciplinary Committee](#) considers that a complaint brought by the [Investigation Committee](#) under this section is proved, it will make a finding to that effect. The [Disciplinary Committee](#) will take the seriousness, the type of complaint and any other relevant circumstances into account and may make any of the following orders:**
- a that the [accredited legal services firm](#) or [relevant person](#) be reprimanded or severely reprimanded;**
  - b that the [accredited legal services firm](#) or [relevant person](#) be fined;**
  - c that status as an [accredited legal services firm](#) or [authorised individual](#) be withdrawn; or**
  - d that an individual be disqualified under [regulation 5.1](#) from acting as the [Head of Legal Practice](#), as the [Head of Finance and Administration](#) or as a [principal](#) or [employee](#) of any [licensed firm](#).**
- 12.3 Within 28 days of the date on which notice of the [Disciplinary Committee's](#) decision is sent to the affected party, the affected party may appeal in writing to the [Appeal Tribunal](#).**
- 12.4 An appeal against a decision of the [Disciplinary Committee](#) under this section can only be made on one or more of the following grounds:**
- a that the [Disciplinary Committee](#):**
    - i was wrong in law; or**
    - ii wrongly interpreted any relevant regulation, bye-law, or associated guidance;**
  - b that the [Disciplinary Committee](#) made an order which no tribunal, correctly applying the law to the facts before it and acting reasonably, would have made; or**

- c that there was evidence which the [Disciplinary Committee](#) had not considered and which:
    - i could reasonably have led the [Disciplinary Committee](#) to make a different order; and
    - ii could not have been put before the [Disciplinary Committee](#) even if those concerned had done their best to produce it; and/or
  - d in the case of an appeal against the imposition of a fine:
    - i that the imposition of the fine is unreasonable in all the circumstances of the case;
    - ii that the amount of the fine is unreasonable; or
    - iii that it is unreasonable of the [Disciplinary Committee](#) to require the penalty imposed or any portion of it to be paid by the time or times by which it was required to be paid.
- 12.5 An appeal to the [Appeal Tribunal](#) cannot be made if the appeal is only against the costs awarded by the [Disciplinary Committee](#).
- 12.6 On hearing the appeal the [Appeal Tribunal](#) may:
- a affirm the [Disciplinary Committee](#)'s order wholly or in part;
  - b set aside the [Disciplinary Committee](#)'s order wholly or in part;
  - c substitute for all or part of the [Disciplinary Committee](#)'s order a new decision which the [Disciplinary Committee](#) could have made; or
  - d send the matter back to the [Disciplinary Committee](#) to be considered again (generally, or in accordance with a finding made or direction given by the [Appeal Tribunal](#)); or
  - e dismiss the appeal; and/or
  - f in the case of an appeal against the imposition of a fine:
    - i quash the fine;
    - ii substitute a fine of such lesser amount as it considers appropriate; or
    - iii change the time by which the fine is required to be paid.

### Regulatory penalties

ICAEW may decide that a referral to the Investigation Committee to investigate an apparent failure to comply with these regulations is not appropriate. Instead, with the agreement of the firm, ICAEW may propose a regulatory penalty. The following regulations explain this process.

- 12.7 [ICAEW](#) may propose a [regulatory penalty](#) to an [accredited legal services firm](#) subject to the following:
- a the [accredited legal services firm](#) must have agreed that the breach of these [regulations](#) has been committed;
  - b [ICAEW](#) will decide the amount of the penalty and when it is to be paid and will set this out in the letter to the [accredited legal services firm](#) proposing the penalty; and
  - c if the [accredited legal services firm](#) wishes to accept the terms on which the penalty is proposed, it must notify [ICAEW](#) within 10 [business days](#) of the date of service of the letter from [ICAEW](#) containing the proposal.
- 12.8 There are no rights of review or appeal against a [regulatory penalty](#).
- 12.9 [ICAEW](#) will take account of any comments an [accredited legal services firm](#) makes about the terms of the [regulatory penalty](#). It may then reduce the amount of the penalty.



- 12.10** If the [accredited legal services firm](#) accepts the penalty under [regulation 12.6c](#), [ICAEW](#), as soon as is practicable:
- a** will make a decision; and
  - b** may publish the decision in any way it decides.
- 12.11** Details of any penalty accepted, and the decision made, will be kept by [ICAEW](#) and it may, if it wishes, use that information in the future.
- 12.12** If an [accredited legal services firm](#) does not agree that the breach has been committed, or does not agree to the terms of the penalty proposed or fails to comply with the terms of the penalty, the matter may be dealt with under the **Disciplinary Bye-laws**.

Regulatory penalties are likely to be used, for example, if a firm has consistently been late in replying to letters from ICAEW, has failed to submit annual returns, has given incorrect information on the return, or has not honoured undertakings given to ICAEW.

There is no right of appeal, as a regulatory penalty can only be made with the firm's agreement. Once a matter has been settled by a regulatory penalty, there will be no further regulatory or disciplinary action against the firm on the matter. However, the details of the regulatory penalty will be put on the firm's record and may be taken into account in the future.

# SCHEDULE 1 - TO THE LEGAL SERVICES REGULATIONS

## ICAEW AUTHORISED LEGAL ACTIVITIES QUALIFICATION SYLLABUS

| <b>Civil Litigation Syllabus</b>   |
|--|
| <b>Civil litigation learning outcomes:</b>   |
| On completion of this course students will be able to: <ul style="list-style-type: none"><li>• Demonstrate knowledge and understanding of tax law</li><li>• Demonstrate knowledge and understanding of civil litigation</li><li>• Analyse and prepare a case in accordance to the client's instructions which is sustainable both legally and procedurally</li><li>• Be able to understand and apply the principles of good writing and drafting</li><li>• Be able to draft the appropriate letters and legal documents when required in various stages of proceedings</li><li>• Be able to identify when it is in a client's interests to settle and advise and act appropriately</li></ul> |
| <b>Module 1: English Legal System – civil</b>  |
| <ul style="list-style-type: none"><li>(a) Legislation and its interpretation</li><li>(b) The courts and tribunals and their jurisdictions and hierarchy</li><li>(c) The doctrine of judicial precedent</li></ul>   |
| <b>Module 2: Taxation</b>  |
| 1. Principles:   |
| <ul style="list-style-type: none"><li>(a) Ethics</li><li>(b) Introduction to taxation</li><li>(c) Introduction to income tax</li><li>(d) Employment income</li><li>(e) Trading profits</li><li>(f) Capital allowances</li><li>(g) Trading profits- basis of assessment</li><li>(h) National insurance contributions</li><li>(i) Capital gains tax – individuals</li><li>(j) Corporation tax</li><li>(k) Value added tax</li><li>(l) Administration of tax</li></ul>  |

## 2. Compliance:

- (a) Ethics
- (b) Income tax computation
- (c) Property income
- (d) Pensions
- (e) Employment income
- (f) Trading income
- (g) Capital allowances – plant and machinery
- (h) Partnerships
- (i) Cash basis of accounting
- (j) Income tax for trusts
- (k) Chargeable gains for individuals and trustees
- (l) Shares and securities
- (m) Leases
- (n) Overseas aspects of income tax and capital gains tax
- (o) National insurance and further administrative matters
- (p) Inheritance tax – basis principles
- (q) Inheritance tax – death estate and valuation
- (r) Inheritance tax – other aspects
- (s) Corporation tax
- (t) Chargeable gains for companies
- (u) Additional aspects of corporation tax
- (v) Value added tax
- (w) Stamp taxes

## **Module 3: Civil litigation**

### 1. Civil litigation

- (a) Limitation periods
- (b) Court forms
- (c) Civil procedure relating to debt actions in the county courts and High Court
- (d) Civil procedure for actions brought under the Proceeds of Crime Act 2002 Part 5 - brought by HMRC before the High Court or referred to the National Crime Agency to bring proceedings for recovery of proceeds of crime relating to 'VAT Carousel Fraud'
- (e) Civil evidence
- (f) Enforcement proceedings
- (g) Bankruptcy proceedings
- (h) Company Winding-up proceedings
- (i) Legal Professional Privilege

### 2. Drafting

- (a) Defence to debt action
- (b) Witness Statements
- (c) Affidavits
- (d) Instructions/Brief to counsel

## Criminal Litigation Syllabus

### Criminal litigation learning outcomes

On completion of this course students will be able to:

- Demonstrate knowledge and understanding of criminal law and be able to apply it in practice
- Demonstrate knowledge and understanding of the law of evidence and be able to apply it in practice
- Demonstrate a knowledge and understanding of legal advice privilege and litigation privilege
- Demonstrate knowledge and understanding of criminal procedure
- Analyse and prepare a case in accordance to the client's instructions which is sustainable both legally and procedurally
- Be able to demonstrate and understanding of and ability to apply the principles of good writing and drafting
- Be able to draft the appropriate letters and legal documents when required in various stages of proceedings

### Module 1: English Legal System

- (a) Legislation and its interpretation
- (b) The courts and tribunals and their jurisdictions and hierarchy
- (c) The doctrine of judicial precedent

### Module 2: Taxation

#### 1. Principles:

- (a) Ethics
- (b) Introduction to taxation
- (c) Introduction to income tax
- (d) Employment income
- (e) Trading profits
- (f) Capital allowances
- (g) Trading profits- basis of assessment
- (h) National insurance contributions
- (i) Capital gains tax – individuals
- (j) Corporation tax
- (k) Value added tax
- (l) Administration of tax

#### 2. Compliance:

- (a) Ethics
- (b) Income tax computation
- (c) Property income
- (d) Pensions
- (e) Employment income
- (f) Trading income

- (g) Capital allowances – plant and machinery
- (h) Partnerships
- (i) Cash basis of accounting
- (j) Income tax for trusts
- (k) Chargeable gains for individuals and trustees
- (l) Shares and securities
- (m) Leases
- (n) Overseas aspects of income tax and capital gains tax
- (o) National insurance and further administrative matters
- (p) Inheritance tax – basis principles
- (q) Inheritance tax – death estate and valuation
- (r) Inheritance tax – other aspects
- (s) Corporation tax
- (t) Chargeable gains for companies
- (u) Additional aspects of corporation tax
- (v) Value added tax
- (w) Stamp taxes

### **Module 3: Criminal law**

#### **1. The law - in the context of the common law and statutory tax offences**

- (a) The difference between common law and statutory offences
- (b) Actus reus
- (c) Mens rea
- (d) Strict liability
- (e) Parties to crime
- (f) Corporate liability
- (g) Inchoate offences
- (h) General defences
- (i) Dishonesty – definition and test

#### **2. Classification of offences and significance to mode of trial and sentencing powers**

#### **3. The law relating to tax offences**

- (a) The main common law and statutory offences relating to tax evasion – for example:
  - i. Cheating the public Revenue (common law)
  - ii. Fraudulent Evasion of VAT
  - iii. Fraudulent Evasion of Income Tax
  - iv. Furnishing False Information
  - v. Multiple offences under the VAT Act 1994
  - vi. Fraudulent Evasion of Duty
  - vii. Untrue Declarations
  - viii. Counterfeiting Documents
  - ix. Falsification of documents under the Taxes Management Act 1980
    - (b) Elements of offence
    - (c) What needs to be proved/actus reus/mens rea (what are the tests)
    - (d) Statutory defences
    - (e) Whether indictable, either way or summary only
    - (f) Sentencing powers

## **Module 4: Criminal Litigation**

### **1. Criminal Procedure and Evidence**

- (a) Criminal procedure relating to tax offences in the Magistrates' Courts and Crown Courts
- (b) Criminal evidence
- (c) Sentencing
- (d) Privilege

### **2. Police and HMRC Powers**

- (a) Investigative powers
- (b) Powers of arrest and detention
- (c) Search and seizure

## **Module 5: Drafting**

- (a) Defence statements
- (b) Proof of evidence
- (c) Witness statements
- (d) Instructions/brief to counsel

## **Advocacy in the Civil Courts Syllabus**

### **Advocacy in the civil courts learning outcomes**

On completion of this course students will be able to:

- Identify your client's goals
- Identify and analyse the relevant facts and issues
- Identify and understand relevant law and evidence
- Identify the strengths and weaknesses of a case
- Logically and coherently analyse and present factual information
- Analyse cases and make critical judgements and evaluations
- Demonstrate a knowledge and understanding of the rules of evidence in civil proceedings and apply them appropriately
- Draft a skeleton argument
- Draft a consent order
- Demonstration and understanding of the conventions and etiquette of advocacy
- Presentation and clear, logical, and understandable argument which is well structured, concise and persuasive
- Understand the fundamental duties to the court
- Deal appropriately with ethical and client care issues

Additionally, for trial advocacy you should be able to:

- Demonstrate an understanding of the purpose of an opening and closing speeches and be able to deliver them clearly and effectively
- Demonstrate an understanding of the purpose and techniques of examination-in-chief, cross-examination and re-examination and be able to use them competently and effectively when examining parties to proceedings and witnesses.

### **Module 1: Advocacy in Judge's room (chambers)**

- (a) Court etiquette and procedure in the county court
- (b) Court etiquette and procedure in the High Court
- (c) Applications in the county court
- (d) Applications in the High Court
- (e) Summary Judgment

### **Module 2: Advocacy in open court in the county court**

- (a) Court etiquette and procedure
- (b) Applications
- (c) Opening the case
- (d) Examination-in-chief
- (e) Cross Examination
- (f) Re-examination
- (g) Closing speeches

## **Advocacy in the Criminal Courts Syllabus**

### **Advocacy in the criminal courts learning outcomes**

At the end of the course you will be able to:

- Identify your client's objectives
- Identify and analyse the relevant facts and issues
- Identify and understand relevant law
- Identify the strengths and weaknesses of a case
- Logically and coherently analyse and present factual information
- Analyse cases and make critical judgements and evaluations
- Demonstrate a knowledge and understanding of the rules of evidence in criminal proceedings and apply them appropriately
- Demonstration and understanding of the conventions and etiquette of advocacy
- Presentation and clear, logical, and understandable argument which is well structured, concise and persuasive
- Understand the fundamental duties to the court
- Deal appropriately with ethical and client care issues

Additionally, for trial advocacy you should be able to:



- Demonstrate an understanding of the purpose and techniques of examination-in-chief, cross-examination and re-examination and be able to use them competently and effectively when examining parties to proceedings and witnesses.
- Demonstrate an understanding of the purpose of a closing speech and be able to deliver it clearly and effectively

### **Module 1. Advocacy in the magistrates' court**

- (a) Court etiquette and procedure
- (b) Bail applications
- (c) Plea before venue
- (d) Committal proceedings
- (e) Pre-trial review hearings
- (f) Summary trial:
  - i. Opening speech
  - ii. Examination-in-chief
  - iii. Introducing exhibits
  - iv. Cross-examination
  - v. Re-examination
  - vi. Closing speech
- (g) Sentencing – plea in mitigation
- (h) Crown Court advocacy (where magistrates' court advocate or any approved person in the same employment as them, appeared in the magistrates' court on behalf of the defendant in the matter):
  - i. Court etiquette
  - ii. Procedure for appeals against conviction from the magistrates' court to Crown Court
  - iii. Procedure for appeals against sentence from the magistrates' court to Crown Court
  - iv. Procedure for committal for sentence from the magistrates' court to the Crown Court

### **Taxation Related - Reserved Instrument Activities Syllabus**

#### **Taxation related Reserved Instruments Activities learning outcomes:**

On completion of this course students will be able to:

- Identify the need for and advise on deeds in relation to taxation matters
- Draft a deed
- Identify the need for and advise on the use of trusts in tax planning
- Appreciate the tax implications of creating and utilising trusts and the tax implications of assets entering or leaving trusts
- Draft a trust

|  |
|--|
| <b>Module 1: Deeds</b>   |
| 1. The Law   |
| <ul style="list-style-type: none"> <li>(a) What is a deed</li> <li>(b) Why use a deed</li> <li>(c) Validity and enforceability of a deed</li> </ul>  |
| <b>Module 2: Trusts</b>  |
| 1. The Law   |
| <ul style="list-style-type: none"> <li>(a) What are trusts</li> <li>(b) Why use trusts</li> <li>(c) Validity of trusts</li> <li>(d) Types of trusts used for tax planning</li> </ul>   |
| 2. Tax for trusts  |
| <ul style="list-style-type: none"> <li>(a) Using trusts <ul style="list-style-type: none"> <li>i. Will trusts</li> <li>ii. Lifetime trusts</li> </ul> </li> <li>(b) Income tax for trusts <ul style="list-style-type: none"> <li>i. Income tax for interest in possession trusts</li> <li>ii. Income tax for discretionary trusts</li> <li>iii. Income tax for bare trusts</li> </ul> </li> <li>(c) Inheritance tax for trusts <ul style="list-style-type: none"> <li>i. IHT for relevant property trusts</li> <li>ii. IHT for qualifying interest in possession trusts</li> </ul> </li> <li>(d) Capital gains tax for trusts <ul style="list-style-type: none"> <li>i. Actual disposals by trustees</li> <li>ii. CGT on gifts into and out of relevant property trusts</li> <li>iii. CGT on gifts into and out of interest in possession trusts</li> </ul> </li> <li>(e) Capital gains tax and bare trusts</li> </ul> |
| <b>Module 3: Preparing Instruments</b>   |
| 1. Drafting Instruments – general drafting skills  |
| <ul style="list-style-type: none"> <li>(a) The use of precedents</li> <li>(b) Drafting in plain English</li> <li>(c) Structure</li> <li>(d) Provisions to include</li> </ul>   |
| 2. Drafting Deeds and Trusts   |
| <ul style="list-style-type: none"> <li>(a) Drafting styles</li> <li>(b) Validity and enforceability of Deeds</li> <li>(c) The drafting and execution of deeds</li> </ul>   |

- (d) Contents of a Trust Deed
  - i. Terminology
  - ii. Basic structure of a Trust Deed
  - iii. Description, date and parties
  - iv. Recitals
  - v. Testatum or operative part
  - vi. Testimonium
  - vii. Schedules
  - viii. Signature
- (a) Constituting Trusts
- (b) Choice of Trustees
- (c) Trustee's duties and powers
- (d) Administrative duties

## Probate Activities Syllabus

### Probate Activities learning outcomes:

On completion of this course students will be able to:

- Advise on the relevant law and procedure
- Advise on the validity, format and content of wills
- Prepare probate papers and apply for a grant of probate or letters of administration
- Deal appropriately with vulnerable clients
- Advise on relevant tax issues
- Administer an estate

### Module 1:

#### 1. A General overview of:

- (a) The Legal Services Act 2007 and how it applies to probate work
- (b) The law of property, equity and trusts
- (c) Relevant taxation
- (d) Wills and intestacy
- (e) The validity, format and content of wills
- (f) Administration of Estates

#### 2. Knowledge and understanding of:

- (a) The types of personal representative, their appointment and options
- (b) The duties and responsibilities of a personal representative
- (c) The types of grant of representation and when one is needed
- (d) Who can apply for a grant of probate and letters of administration
- (e) The procedure and preparation of papers for applying for a grant
- (f) When a matter is or could potentially be contentious and what advice needs to be given and or action taken
- (g) Clients, letters of engagement and complaints procedures
- (h) How to deal appropriately with vulnerable clients
- (i) What makes a will valid and why it may fail

- (j) Rectification of defects in a will
- (k) Affidavit evidence
- (l) Caveats and citations
- (m) Revocation and alteration of wills
- (n) How defects in a will can be rectified
- (o) Types of Legacies and why these can fail
- (p) The intestacy rules and trust provisions
- (q) Guardianship issues
- (r) Taxation:
  - i. Income tax liability of the deceased up to the date of death
  - ii. An overview of the reporting for inheritance tax purposes and the principles relating to the charge to tax – on death; on immediately chargeable lifetime transfers; on gifts with the reservation of benefit
  - iii. IHT reliefs and exemptions
  - iv. Calculation of IHT
  - v. Payment of IHT
  - vi. Penalties
- (a) Identification of assets and liabilities and valuation of the estate
- (b) Excepted estates
- (c) Completion of IHT forms
- (d) Estates requiring an account
- (e) Administering the estate
  - i. Administrative duties and powers of personal representatives
  - ii. Registering the grant and collecting in the assets
  - iii. Receiving cash and paying debts
  - iv. Insolvent estates
  - v. Identifying beneficiaries
  - vi. Payment of legacies
  - vii. Income and interest
  - viii. Dealing with estate income during the period of administration
  - ix. Discharges
  - x. Variations and disclaimers
  - xi. Tax issues
  - xii. Requirements of a deed of variation
  - xiii. Reporting requirements
  - xiv. Finalising the estate and preparation of accounts

## Notarial Syllabus

An applicant must be a notary and either –

- (a) Has in force a practising certificate as a solicitor issued under the Solicitors Act 1974 (c.47), and is duly entered in the Court of Faculties of the Archbishop of Canterbury in accordance with rules made by the Master of Faculties, or
- (b) Has in force a practising certificate as a public notary issued by the said Court of Faculties in accordance with rules so made.

## Administration of Oaths Syllabus

### Administration of oaths learning outcomes:

On completion of this course students will be able to:

- Understand in what circumstances they can and cannot administer an oath or take an affidavit.
- Administer any oath or take any affidavit for the purposes of any court or matter in England and Wales, and matters relating to the registration of an instrument.

### Module 1: Administering oaths and taking affidavits

- (a) Definition of an oath
- (b) Definition of affidavit
- (c) Procedure for administering an oath
- (d) Procedure for taking an affidavit

## SCHEDULE 2 - TO THE LEGAL SERVICES REGULATIONS

| <b>ICAEW AUTHORISATION FRAMEWORK</b>  |  |  |  |  |
|---|--|--|--|--|
| <b>CONDUCT OF LITIGATION</b>  |  |  |  |  |
| <b>Authorisation awards</b>   | <b>Application regulations</b>                                 | <b>Qualifications required</b>   | <b>Exemptions</b>  | <b>Practice experience requirements</b>  |
| 1. The right to conduct litigation in all civil proceedings which relate to taxation matters    | Applications permitted under Regulations 4.4, 4.1a, 4.1b, 4.1c | Civil litigation syllabus: <ul style="list-style-type: none"> <li>• Module 1</li> <li>• Module 2</li> <li>• Module 3</li> </ul>  | <ul style="list-style-type: none"> <li>• Applicants with the ACA qualification are exempt from the qualification requirement:               <ul style="list-style-type: none"> <li>- Civil litigation - module 2</li> </ul> </li> <li>• Qualifications deemed equivalent in accordance with regulations 4.1b or 4.1c of these regulations</li> </ul> | Two years' practical experience of working in an accountancy or law firm one year of which must have involved working on matters relating to taxation investigations |
| 2. The right to conduct litigation in all criminal proceedings which relate to taxation matters | Applications permitted under Regulations 4.4, 4.1a, 4.1b, 4.1c | Criminal litigation syllabus: <ul style="list-style-type: none"> <li>• Module 1</li> <li>• Module 2</li> <li>• Module 3</li> <li>• Module 4</li> <li>• Module 5</li> </ul> | <ul style="list-style-type: none"> <li>• Applicants with the ACA qualification are exempt from the qualification requirement:               <ul style="list-style-type: none"> <li>- Criminal litigation - module 2</li> </ul> </li> <li>• Qualifications deemed equivalent in accordance with regulations</li> </ul>                                | Two years' practical experience of working in an accountancy or law firm one year of which must have involved working on matters relating to taxation investigations |

|   |  |  | 4.1b or 4.1c of these regulations  |  |
|---|--|--|--|--|
| <b>EXERCISE OF RIGHTS OF AUDIENCE IN THE CIVIL COURTS</b>   |  |  |  |  |
| <b>Authorisation awards:</b>  | <b>Applicants</b>  | <b>Qualifications required</b>   | <b>Exemptions</b>  | <b>Practice experience requirements</b>  |
| 1. To exercise rights of audience in Judge's room hearings (chambers) in the county courts and High Court in all taxation related civil proceedings | Applications permitted under Regulations 4.4, 4.1a, 4.1b, 4.1c | <ul style="list-style-type: none"> <li>• Civil litigation syllabus: <ul style="list-style-type: none"> <li>○ Module 1</li> <li>○ Module 2</li> <li>○ Module 3</li> </ul> </li> <li>• Advocacy in the civil courts syllabus: <ul style="list-style-type: none"> <li>○ Module 1</li> </ul> </li> </ul>                     | <ul style="list-style-type: none"> <li>• Applicants with the ACA qualification are exempt from the qualification requirement: <ul style="list-style-type: none"> <li>- Civil litigation module 2</li> </ul> </li> <li>• Qualifications deemed equivalent in accordance with regulations 4.1b or 4.1c of these regulations</li> </ul>   | Two years' practical experience of working in an accountancy or law firm one year of which must have involved working on matters relating to taxation investigations   |
| 2. To appear in open court in the county courts in all taxation related litigation matters (excluding family proceedings)                           | Applications permitted under Regulations 4.4, 4.1a, 4.1b, 4.1c | <ul style="list-style-type: none"> <li>• Civil litigation syllabus: <ul style="list-style-type: none"> <li>○ Module 1</li> <li>○ Module 2</li> <li>○ Module 3</li> </ul> </li> <li>• Advocacy in the civil courts syllabus: <ul style="list-style-type: none"> <li>○ Module 1</li> <li>○ Module 2</li> </ul> </li> </ul> | <ul style="list-style-type: none"> <li>• Applicants with the ACA qualification are exempt from the qualification requirement: <ul style="list-style-type: none"> <li>- Civil litigation - module 2</li> </ul> </li> <li>• Qualifications deemed equivalent in accordance with regulations 4.1b or 4.1c of these regulations</li> </ul> | <ul style="list-style-type: none"> <li>• Two years' practical experience in civil litigation and advocacy in the judge's room (chambers); or</li> <li>• Two years' experience appearing before the First-tier Tax Tribunal of the GRC</li> </ul> |



| Authorisation awards:  | Applicants                    | Qualifications required  | Exemptions   | Practice experience requirements |
|--|-------------------------------|--|--|----------------------------------|
| 3. To appear in open court in the High Court in all taxation related litigation matters      | Regulations 4.4 and 4.1b only | <ul style="list-style-type: none"> <li>• Civil litigation syllabus:               <ul style="list-style-type: none"> <li>○ Module 1</li> <li>○ Module 2</li> <li>○ Module 3</li> </ul> </li> <li>• A qualification awarded by a legal regulator (other than ICAEW) which grants rights of audience in the higher civil courts (<b>no exemption available</b>)</li> </ul> | <ul style="list-style-type: none"> <li>• Applicants with the ACA qualification are exempt from the qualification requirement:               <ul style="list-style-type: none"> <li>- Civil litigation - module 2</li> </ul> </li> <li>• Qualifications deemed equivalent in accordance with regulations 4.1b or 4.1c of these regulations</li> </ul> | Not applicable                   |
| 4. To appear in open court in the Court of Appeal in all taxation related litigation matters | Regulations 4.4 and 4.1b only | <ul style="list-style-type: none"> <li>• Civil litigation syllabus:               <ul style="list-style-type: none"> <li>• Module 1</li> <li>• Module 2</li> <li>• Module 3</li> </ul> </li> <li>• A qualification awarded by a legal regulator (other than ICAEW) which grants rights of audience in the higher civil courts (<b>no exemption available</b>)</li> </ul> | <ul style="list-style-type: none"> <li>• Applicants with the ACA qualification are exempt from the qualification requirement:               <ul style="list-style-type: none"> <li>- Civil litigation - module 2</li> </ul> </li> <li>• Qualifications deemed equivalent in accordance with regulations 4.1b or 4.1c of these regulations</li> </ul> | Not applicable                   |

| Authorisation awards  | Applicants                    | Qualifications required  | Exemptions   | Practice experience requirements |
|---|-------------------------------|--|--|----------------------------------|
| 5. To appear in open court in the Supreme Court of England and Wales in all taxation related litigation matters | Regulations 4.4 and 4.1b only | <ul style="list-style-type: none"> <li>• Civil litigation syllabus: <ul style="list-style-type: none"> <li>○ Module 1</li> <li>○ Module 2</li> <li>○ Module 3</li> </ul> </li> <li>• A qualification awarded by a legal regulator (other than ICAEW) which grants rights of audience in the higher civil courts (<b>no exemption available</b>)</li> </ul> | <ul style="list-style-type: none"> <li>• Applicants with the ACA qualification are exempt from the qualification requirement: <ul style="list-style-type: none"> <li>- Civil litigation module 2</li> </ul> </li> <li>• Qualifications deemed equivalent in accordance with regulations 4.1b or 4.1c of these regulations</li> </ul> | Not applicable                   |

#### EXERCISE OF RIGHTS OF AUDIENCE – CRIMINAL COURTS

| Authorisation awards   | Applicants   | Qualifications required  | Exemptions   | Practice experience requirements   |
|--|--|--|--|--|
| 1. To appear in the adult magistrates' courts before District Judges, Justices or Justices' Clerks in relation to all taxation related matters within that court's criminal jurisdiction | Applications permitted under Regulations 4.4, 4.1a, 4.1b, 4.1c | <ul style="list-style-type: none"> <li>• Criminal litigation syllabus: <ul style="list-style-type: none"> <li>○ Module 1</li> <li>○ Module 2</li> <li>○ Module 3</li> <li>○ Module 4</li> <li>○ Module 5</li> </ul> </li> <li>• Criminal advocacy syllabus: <ul style="list-style-type: none"> <li>○ Module 1</li> </ul> </li> </ul> | <ul style="list-style-type: none"> <li>• Applicants with the ACA qualification are exempt from the qualification requirement: <ul style="list-style-type: none"> <li>• Criminal lit – module 2</li> </ul> </li> <li>• Qualifications deemed equivalent in accordance with regulations 4.1b or 4.1c of these regulations</li> </ul> | <ul style="list-style-type: none"> <li>• Two years' practical experience in criminal litigation; <b>or</b></li> <li>• One years' practical experience in criminal litigation; <b>and</b></li> <li>• One years' experience appearing before the First-tier Tax Tribunal of the GRC</li> </ul> |

| Authorisation awards  | Applicants  | Qualifications required  | Exemptions  | Practice experience requirements   |
|---|---|--|---|--|
| <p>2. In relation to taxation cases only, to appear in the Crown Court or High Court before a judge in chambers to conduct bail applications</p>  | <p>Applications permitted under Regulations 4.4, 4.1a, 4.1b, 4.1c</p> | <ul style="list-style-type: none"> <li>• Criminal litigation syllabus: <ul style="list-style-type: none"> <li>○ Module 1</li> <li>○ Module 2</li> <li>○ Module 3</li> <li>○ Module 4</li> <li>○ Module 5</li> </ul> </li> <li>• Criminal advocacy syllabus: <ul style="list-style-type: none"> <li>○ Module 1</li> </ul> </li> </ul> | <ul style="list-style-type: none"> <li>• Applicants with the ACA qualification are exempt from the qualification requirement for criminal litigation: <ul style="list-style-type: none"> <li>- Criminal litigation - module 2</li> </ul> </li> <li>• Qualifications deemed equivalent in accordance with regulations 4.1b or 4.1c of these regulations</li> </ul> | <ul style="list-style-type: none"> <li>• Two year's criminal litigation experience; <b>or</b></li> <li>• One year's practical experience in criminal litigation and one year's experience appearing before the First-tier Tax Tribunal of the GRC</li> </ul> |
| <p>3. In relation to taxation cases only, to appear in the Crown Court on appeal from the magistrates' court or on committal of an adult for sentence - to be dealt with, if they, or any approved person in the same employment as them, appeared on behalf of the defendant in the magistrates' court</p> | <p>Applications permitted under Regulations 4.4, 4.1a, 4.1b, 4.1c</p> | <ul style="list-style-type: none"> <li>• Criminal litigation syllabus: <ul style="list-style-type: none"> <li>○ Module 1</li> <li>○ Module 2</li> <li>○ Module 3</li> <li>○ Module 4</li> <li>○ Module 5</li> </ul> </li> <li>• Criminal advocacy syllabus: <ul style="list-style-type: none"> <li>○ Module 1</li> </ul> </li> </ul> | <ul style="list-style-type: none"> <li>• Applicants with the ACA qualification are exempt from the qualification requirement for criminal litigation: <ul style="list-style-type: none"> <li>- Criminal litigation - module 2</li> </ul> </li> <li>• Qualifications deemed equivalent in accordance with regulations 4.1b or 4.1c of these regulations</li> </ul> | <ul style="list-style-type: none"> <li>• Two years' practical experience in criminal litigation; and</li> <li>• Two years' experience of appearing in the adult magistrates' courts before District Judges or Justices Clerks</li> </ul>                     |

| Authorisation awards   | Applicants   | Qualifications required  | Exemptions  | Practice experience requirements |
|--|--|--|---|----------------------------------|
| 4. To appear in the Crown Court in all taxation related cases                  | Applications permitted under Regulations 4.4 and 4.1b only | <ul style="list-style-type: none"> <li>• Criminal litigation syllabus:               <ul style="list-style-type: none"> <li>○ Module 1</li> <li>○ Module 2</li> <li>○ Module 3</li> <li>○ Module 4</li> <li>○ Module 5</li> </ul> </li> <li>• A qualification awarded by a legal regulator (other than ICAEW) which grants rights of audience in the higher criminal courts (<b>no exemption available</b>)</li> </ul> | <ul style="list-style-type: none"> <li>• Applicants with the ACA qualification are exempt from the qualification requirement for criminal litigation:               <ul style="list-style-type: none"> <li>- Criminal litigation - module 2</li> </ul> </li> <li>• Qualifications deemed equivalent in accordance with regulations 4.1b or 4.1c of these regulations</li> </ul> | Not applicable                   |
| 5. To appear in the Court of Appeal in all taxation related litigation matters | Applications permitted under Regulations 4.4 and 4.1b only | <ul style="list-style-type: none"> <li>• Criminal litigation syllabus:               <ul style="list-style-type: none"> <li>○ Module 1</li> <li>○ Module 2</li> <li>○ Module 3</li> <li>○ Module 4</li> <li>○ Module 5</li> </ul> </li> <li>• A qualification awarded by a legal regulator (other than ICAEW) which grants rights of audience in the higher criminal courts (<b>no exemption available</b>)</li> </ul> | <ul style="list-style-type: none"> <li>• Applicants with the ACA qualification are exempt from the qualification requirement for criminal litigation:               <ul style="list-style-type: none"> <li>- Criminal litigation - module 2</li> </ul> </li> <li>• Qualifications deemed equivalent in accordance with regulations 4.1b or 4.1c of these regulations</li> </ul> | Not applicable                   |

| <b>Authorisation awards</b>   | <b>Applicants</b>  | <b>Qualifications required</b>  | <b>Exemptions</b>   | <b>Practice experience requirements</b>   |
|---|--|---|---|---|
| 6. To appear in open court in the Supreme Court of England and Wales in all taxation related litigation matters (excluding family proceedings)                        | Applications permitted under Regulations 4.4 and 4.1b only     | <ul style="list-style-type: none"> <li>• Criminal litigation syllabus: <ul style="list-style-type: none"> <li>○ Module 1</li> <li>○ Module 2</li> <li>○ Module 3</li> <li>○ Module 4</li> <li>○ Module 5</li> </ul> </li> <li>• A qualification awarded by a legal regulator (other than ICAEW) which grants rights of audience in the higher civil courts (<b>no exemption available</b>)</li> </ul> | <ul style="list-style-type: none"> <li>• Applicants with the ACA qualification are exempt from the qualification requirement for criminal litigation: <ul style="list-style-type: none"> <li>- Criminal litigation - module 2</li> </ul> </li> <li>• Qualifications deemed equivalent in accordance with regulations 4.1b or 4.1c of these regulations</li> </ul> | Not applicable  |
| <b>RESERVED INSTRUMENT ACTIVITIES</b>   |  |   |   |   |
| <b>Authorisation awards</b>   | <b>Applicants</b>  | <b>Qualifications required</b>  | <b>Exemptions</b>   | <b>Practice experience requirements</b>   |
| 1. To carry out reserved instrument activities within the meaning of paragraph 5(1)(c) of Schedule 2 of the Legal Services Act 2007 relating to taxation matters only | Applications permitted under Regulations 4.4, 4.1a, 4.1b, 4.1c | Reserved Instrument Activities syllabus: <ul style="list-style-type: none"> <li>• Module 1</li> <li>• Module 2</li> </ul>   | <ul style="list-style-type: none"> <li>• Applicants with the ACA qualification are exempt from the qualification requirement: <ul style="list-style-type: none"> <li>- Module 1</li> </ul> </li> <li>• Qualifications deemed equivalent in accordance with regulations 4.1b or 4.1c of</li> </ul>   | Two years' practical experience of working in an accountancy or law firm one year of which must have involved working on taxation matters |

|   |  |   | these regulations   |                                  |
|---|--|---|---|----------------------------------|
| PROBATE ACTIVITIES  |  |   |   |                                  |
| Authorisation awards  | Applicants   | Qualifications required   | Exemptions  | Practice experience requirements |
| 1. To carry out probate activities within the meaning of paragraph 6 of Schedule 2 of the Legal Services Act 2007                 | Applications permitted under Regulations 4.4, 4.1a, 4.1b, 4.1c | Probate activities syllabus: <ul style="list-style-type: none"> <li>Module 1</li> </ul>     | <ul style="list-style-type: none"> <li>The STEP Diploma for Accountants and Tax Practitioners (Trusts and Estates) by passing exams set under the qualification's syllabus of 2010 onwards</li> <li>The STEP Diploma in Trusts and Estates (England &amp; Wales) by passing exams set under the qualification's syllabus of 2010 onwards</li> </ul> | None                             |
| NOTARIAL ACTIVITIES   |  |   |   |                                  |
| Authorisation awards  | Applicants   | Qualifications required   | Exemptions  | Practice experience requirements |
| 1. To carry out notarial activities within the meaning of paragraph 7(1) of Schedule 2 of the Legal Services Act 2007 relating to | Applications permitted under Regulations 4.4 and 4.1b only     | A 'duly certificated notary' within the meaning of paragraph 12(4) of Schedule 5 of the Act | None  | Not applicable                   |

| taxation matters only  |  |  |   |   |
|--|--|--|---|---|
| ADMINISTRATION OF OATHS  |  |  |   |   |
| Authorisation awards   | Applicants   | Qualifications required  | Exemptions  | Practice experience requirements  |
| 1. To carry out the administration of oaths within the meaning of paragraph 8 of Schedule 2 of the Legal Services Act 2007 | Applications permitted under Regulations 4.4, 4.1a, 4.1b, 4.1c | Administration of oaths syllabus: <ul style="list-style-type: none"> <li>Module 1</li> </ul> | Qualifications deemed equivalent in accordance with regulations 4.1b or 4.1c of these regulations | One year's practical experience working in an accountancy or legal firm |

## *Royal Charter of the 11th May 1880*

### **Victoria by the Grace of God**

of the United Kingdom of Great Britain and Ireland Queen Defender of the Faith

TO ALL TO WHOM THESE PRESENTS SHALL COME GREETING!

**Whereas** an Humble Petition has been presented to Us by the following Public Accountants namely William Turquand of Coleman Street in the City of London John Unwin Wing of Prideaux Chambers Sheffield Anthony Wigham Chalmers of 5 Fenwick Street Liverpool Henry Grosvenor Nicholson of 100 King Street Manchester Jarvis William Barber of Alliance Chambers George Street Sheffield and Charles Henry Wade and Edwin Guthrie both of Marsden Street Manchester setting forth (among other things) to the effect following:

That the Petitioner William Turquand is the President of a Society established in 1870 in London called the Institute of Accountants that the Petitioner John Unwin Wing is the President of a Society established in 1872 in London called the Society of Accountants in England that the Petitioner Anthony Wigham Chalmers is the President of a Society of Accountants established in 1870 at Liverpool that the Petitioner Henry Grosvenor Nicholson is the President of a Society of Accountants established in 1871 at Manchester that the Petitioner Jarvis William Barber is the President of a Society of Accountants established in 1877 at Sheffield and that the Petitioners Charles Henry Wade and Edwin Guthrie are Public Accountants at Manchester.

That the Profession of Public Accountants in England and Wales is a numerous one and their functions are of great and increasing importance in respect of their employment in the capacities of Liquidators acting in the winding-up of companies and of Receivers under decrees and of Trustees in bankruptcies or arrangements with creditors and in various positions of trust under Courts of Justice as also in the auditing of the accounts of public companies and of partnerships and otherwise.

That the aggregate number of members of the said societies exceeds 500 and in that number are comprised nearly all the leading Public Accountants of England and Wales.

That the said societies were not established for the purposes of gain nor do the members thereof derive or seek any pecuniary profit from their membership but the societies aim at the elevation of the profession of public accountants as a whole and the promotion of their efficiency and usefulness by compelling the observance of strict rules of conduct as a condition of membership and by setting up a high standard of professional and general education and knowledge and otherwise.

That in the judgement of the Petitioners it would greatly promote the objects for which the said societies have been instituted and would also be for the public benefit if the members thereof were incorporated as one body as besides other advantages such incorporation would be a public recognition of the importance of the profession and would tend to gradually raise its character and thus to secure for the community the existence of a class of persons well qualified to be employed in the responsible and difficult duties often devolving on Public Accountants.

That the Petitioners desire and propose that if incorporation by Charter is granted to them such conditions should be laid down as would require for the admission to membership of persons now already following the profession either long actual experience in the profession or service for a long time in the capacity of a Public Accountant's Clerk or else the passing of appropriate examinations under the supervision of the Corporation.

That with respect to the admission to membership of persons hereafter desirous of entering into the profession the Petitioners contemplate that subject to future determination by the Council or Governing Body of the Corporation a strict system of examination should be established including a preliminary examination to be held before the candidate for membership enters on service under articles an intermediate examination to be held in the course of his service and a final examination and that no person be allowed to present himself for the final examination unless he has served for five years at least or if he has graduated in any of the Universities of the United Kingdom then for three years at least under articles as a Public Accountant's Clerk.

That the examinations would (subject to future determination by the Governing Body of the Corporation) be of such a character as to test the knowledge of the candidates not only in bookkeeping and accounts but also in the principles of mercantile law and in the law and practice of bankruptcy and the winding-up of companies.

That the Petitioners believe that such a system would have an educational effect of a highly beneficial kind.

That the Petitioners further desire and propose that the Corporation should lay down such rules respecting admission to membership and exclusion therefrom as would prevent Public Accountants from mixing the pursuit of any other business with the discharge of the higher duties devolving on them as Public Accountants and as



would put an end to the practice which has been much objected to of the division of profits with persons in other professions or callings in the form of commission or the like.

That the Petitioners further desire that the members of the Corporation should be authorised to annex to their names distinctive letters indicative of their membership.

**And whereas** by the said Petition, the Petitioners on behalf of themselves and the other members of the said societies and of the profession generally most humbly prayed that We would be graciously pleased to grant our Royal Charter for incorporating under the title of the Incorporated Institute of Accountants in England and Wales or under such other title as to Us might seem fit and with all such powers and privileges as are mentioned in the Petition or such others as to Us might seem fit the Petitioners and the several persons who were then members of the said societies or of any of them and other Public Accountants who might thereafter become members of the Corporation in pursuance of the regulations thereof.

**Now therefore we** having taken the said Petition into Our Royal consideration and being satisfied that the intentions of the Petitioners are laudable and deserving of encouragement have constituted erected and incorporated and We by Our Prerogative Royal and of Our especial Grace certain knowledge and mere motion by these Presents for Us and Our Royal Successors do constitute erect and incorporate into one body politic and corporate by the name of THE INSTITUTE OF CHARTERED ACCOUNTANTS IN ENGLAND AND WALES the said William Turquand John Unwin Wing Anthony Wigham Chalmers Henry Grosvenor Nicholson Jarvis William Barber Charles Henry Wade and Edwin Guthrie and such other persons as are by this Our Charter made or declared to be members or as shall hereafter be admitted as members of the said body corporate with perpetual succession and a Common Seal and with power to alter and renew the same at discretion Willing and ordaining that the said body corporate (hereinafter referred to as the Institute) shall be capable in law to take and hold any personal property and also to take purchase and hold lands buildings and hereditaments for the purposes of the Institute with power to dispose thereof but so that the Institute shall apply its profits (if any) or other income in promoting its objects and shall not at any time pay any dividend to its Members.

**And we** do also will ordain and declare as follows (that is to say): *(Clauses 1 to 28 inclusive were revoked by clause 32 (now clause 18) of the Supplemental Charter of 21st December 1948.)*

**In Witness** whereof We have caused these Our Letters to be made Patent.

**Witness** Ourselves at our Palace of Westminster, the Eleventh day of May in the Forty third Year of Our Reign.

By Her Majesty's Command,

CARDEW.

## *Supplemental Charter of the 21st December 1948*

### **George the Sixth**

by the Grace of God, of Great Britain, Ireland and the British  
Dominions beyond the Seas King, Defender of the Faith

TO ALL TO WHOM THESE PRESENTS SHALL COME GREETING!

Whereas Our Royal Predecessor Queen Victoria in the year of Our Lord 1880 by Royal Charter dated 11th day of May in the forty-third year of Her Reign constituted the seven persons named therein a Body Politic and Corporate by the name of The Institute of Chartered Accountants in England and Wales with perpetual succession and a Common Seal.

And Whereas the said Institute of Chartered Accountants in England and Wales (hereafter referred to as 'the Institute') has presented a Humble Petition to Us setting forth to the effect following:

That the Institute since the grant of the said Royal Charter (hereinafter referred to as 'the Original Charter') has pursued the objects of the Original Charter and has aimed at the elevation of the accountancy profession as a whole and the promotion of its efficiency and usefulness by compelling the observance of strict rules of conduct as a condition of membership and by setting up a high standard of professional and general education and knowledge and has thereby secured for the community the existence of a class of persons well qualified to be employed in the responsible and difficult duties devolving on professional accountants.

That since the grant of the Original Charter the number of members of the Institute has greatly increased and is now about 14,000.

That since the grant of the Original Charter the duties and responsibilities of members of the Institute have been extended and widened as a result of the growth and development of industry and commerce and the increasing diversity and complexity of all forms of social and economic activity.

That it is the belief of the Institute that by reason of the foregoing the furtherance of the objects for which the Institute was originally constituted and incorporated has become increasingly desirable in the public interest and the responsibilities of the Institute have become of greater importance than at the date of the grant of the Original Charter.

That it is the belief of the Institute that the furtherance of the aforesaid objects would be facilitated and the public interest served if certain limits upon the operations of the Institute were extended and further powers and privileges granted to the Institute and if certain other variations were made in the Original Charter and if certain ordinances of the Original Charter with the aforesaid further powers and privileges and variations were restated in terms which would facilitate the management of the affairs of the Institute.

That the Institute being desirous of furthering the aforesaid objects and of serving the public interest desires that We should be graciously pleased to command that as from a date to be fixed by Us a new Royal Charter should be granted to the Institute supplemental to the Original Charter granting to the Institute certain additional powers and privileges and restating certain of the ordinances of the Original Charter with certain variations in the form and manner expressed in a document appended to the Petition but subject to any amendments and alterations which to Us may seem desirable.

That the Institute desires that it should be empowered to frame new bye-laws subject to confirmation by the Lords of Our Most Honourable Privy Council to give effect to the powers to be granted by such new Royal Charter but in the hope and humble expectation that We will be pleased to grant a new Royal Charter as aforesaid the members of the Institute at meetings held on the 21st April 1948 and the 5th May 1948 have approved the bye-laws appended to this Our Charter and signed by the President of the Institute and the Institute desires that We may be pleased to ordain that the said bye-laws shall become and be valid as the bye-laws of the Institute from the date fixed by Us as the date of the aforesaid new Royal Charter.

The Institute has by the said Petition most humbly prayed that We may be graciously pleased to grant to the Institute as from a date to be fixed by Us a new Royal Charter supplemental to the Original Charter granting to the Institute certain additional powers and privileges and restating with certain variations certain of the ordinances of the Original Charter in the manner hereinbefore expressed and empowering the Institute to frame new bye-laws subject to confirmation by the Lords of Our Most Honourable Privy Council to give effect to the powers to be granted by the said new Royal Charter and ordaining that the bye-laws appended to the Petition become and be valid from the said date as the bye-laws of the Institute.

Now therefore we having taken the said Petition into Our Royal consideration by virtue of Our Prerogative Royal and moved thereto by Our desire to further the objects of the Institute for Ourselves Our Heirs and Successors in addition to and notwithstanding anything to the contrary contained in the said Original Charter granted by Our Royal Predecessor Queen Victoria are graciously pleased to grant ordain and declare as follows namely:

### **Objects and powers**

**1** (a) The principal objects of the Institute are:

- (i) to advance the theory and practice of accountancy, finance, business and commerce in all their aspects, including in particular auditing, financial management and taxation;
- (ii) to recruit, educate and train a body of members skilled in these arts;
- (iii) to promote and safeguard the rights and interests of its members in all matters affecting the profession;
- (iv) to preserve at all times the professional independence of accountants in whatever capacities they may be serving;

- (v) to maintain high standards of practice and professional conduct by all its members; and
  - (vi) to do all such things as may advance the profession of accountancy in relation to all or any professional services which may be provided by its members or by persons or bodies comprised wholly or partly of members, whether in public practice, industry, commerce and the public service.
- (b) In furtherance of its principal objects the Institute shall have the following ancillary objects and powers, namely:
- (i) to borrow with or without security, to purchase, take on lease of hire or in any other way acquire any real or personal property and to sell, lease, mortgage or otherwise deal in any way with any such real or personal property;
  - (ii) to construct, alter and maintain any buildings considered necessary for the use of members and others or for any purposes of the Institute and to provide the same and any buildings and rooms in the occupation of the Institute with all proper and necessary fixtures, fittings, furniture and other equipment;
  - (iii) to maintain a library or libraries for the use of members and others;
  - (iv) to publish or distribute books pamphlets and journals relating to the affairs of the Institute or promoting and furthering the interests, usefulness and efficiency of members and others or of the accountancy profession generally;
  - (v) to make gifts or contributions for national, public, educational or charitable purposes;
  - (vi) to make grants to universities or other educational establishments, to provide finance and make grants for courses, lectures, classes or other tuition or for research and to establish scholarships or exhibitions and give prizes with a view to promoting or furthering the interests of members and prospective members of the Institute;
  - (vii) to organise, finance and maintain schemes for the granting of diplomas, certificates and other awards (with or without prior examination) with a view to promoting the principal objects of the Institute and to provide, if it thinks fit (whether in such scheme or otherwise) and subject to payment of such fee, subscription or other sums as may be prescribed by or pursuant to the bye-laws of the

Institute, for the use of designatory letters by persons granted such diplomas, certificates and awards; provided always that no such scheme shall become operative unless and until it shall have been approved by the Council of the Institute (in this Our Supplemental Charter referred to as 'the Council') and so that no designatory letters shall be used in connection with any such scheme unless such use shall have been expressly approved by the Lords of Our Most Honourable Privy Council; and provided also that no member shall in any circumstances be obliged to participate in any such scheme;

- (viiA) to organise, establish, finance (directly or indirectly), maintain and participate in, and agree to be subject to, alone or in conjunction with one or more other bodies, a body or bodies, independent of the Institute, having responsibility for providing independent oversight of the accountancy profession and any related matter, including (but without limitation): considering and reviewing the standard setting activities of the Institute and its systems of discipline, professional conduct and regulation; adopting and publishing professional and ethical standards relevant to the profession; and adopting a scheme or schemes providing for the investigation and discipline of persons and bodies subject to it which shall, if the Institute so agrees, include persons and bodies subject to discipline by the Institute;
- (viii) to make grants or other contributions to local or other societies having as their object the furtherance of the objects of the Institute;
- (viiiA) without prejudice to the generality of sub-clause (a)(iv) and sub-clause (b)(viiA) of this clause, the Institute shall have power to organise, finance and maintain alone or in conjunction with one or more other professional accountancy bodies (together in this sub-clause called 'the participants') a scheme for investigating and making findings as to the professional or business conduct, efficiency and competence of any member of any of the participants or of any firm which is or at any time has been composed in whole or in part of members of any of the participants who are in public practice in Our United Kingdom, where (in any such case) in the opinion of the participants (or as laid down in the scheme) the circumstances to be investigated give rise to or include questions of public concern; and if any such finding be adverse to any member or firm as aforesaid the scheme may provide for the making of an appropriate order or orders against such member or firm. Any such scheme shall be binding upon the Institute, its members and firms as aforesaid. If any such scheme contains any provision which enables the Council (alone or in conjunction with others) to alter or amend the scheme, the Council shall not permit any alteration or

amendment to be made which in the opinion of the Council would fundamentally alter the scheme as then in force, except with the further approval of the Institute in general meeting and of the Lords of Our Most Honourable Privy Council;

(viiiB) to organise, establish, finance and maintain a scheme, system or arrangements for Practice Assurance, consisting of the inspection, monitoring and review of the professional and business efficiency and competence of:

(a) any body corporate or partnership including a limited liability partnership which is wholly or partly composed of member engaged in public practice; or

(b) any member who holds a current practising certificate; or

(c) by agreement, any body corporate or partnership including a limited liability partnership or sole practitioner engaged in public practice as accountants;

and to levy such fee as is prescribed by or pursuant to the bye-laws from such body corporate, partnership, sole practitioner or member;

(viiiC) to perform any function which by virtue of, or for the purposes of, any statute or agreement may be performed by the Institute in relation to members, non-members or persons comprised wholly or partly of members or non-members;

(ix) to pay remuneration to and the reasonable expenses of officers and servants of the Institute and to pay pensions and gratuities to, or to make other provision for, former officers and servants of the Institute and their dependants;

(x) to pay such sums for the reasonable expenses of members of the Council as may be permitted by the bye-laws and to pay remuneration to and the reasonable expenses of any other persons (whether members of the Institute or not) who render services to the Institute;

(xi) to organise, finance and maintain alone or in conjunction with one or more other professional accountancy bodies (and to delegate to any other person or body the operation and performance of ) any schemes or arrangements for the compensation of loss, the monitoring of compliance, the investigation of complaints and discipline;

- (xii) to do, alone or in conjunction with others, the foregoing and all such other lawful things, in any manner whatsoever consistent with the provisions of this Our Supplemental Charter and the bye-laws of the Institute as from time to time in force (in this Our Supplemental Charter referred to as `the bye-laws'), as may be incidental or conducive to promoting, furthering or protecting the interests, usefulness and efficiency of the Institute and its members and of the accountancy profession.

### **The Council**

- 2 (a) There shall be a Council of the Institute and subject to the provisions of this Our Supplemental Charter and of the bye-laws, the management of the affairs and business of the Institute shall be vested in the Council which, in addition to the powers and authorities by this Our Supplemental Charter or otherwise expressly conferred on it, may exercise all such powers and do all such acts and things as may be exercised or done by the Institute as are not hereby or by the bye-laws required to be exercised or done by the Institute in general meeting but so that no addition to or rescission or variation of the bye-laws shall invalidate any prior act of the Council which would have been valid if the same had not been made.
- (b) Subject to the provisions of this our Supplemental Charter the Council may delegate any of its powers, authorities or discretions in accordance with the bye-laws.
- (c) The Council shall consist of such members and provisional members, with such qualifications and appointed or elected in such manner and holding office for such periods or on such terms as to re-appointment or re-election and otherwise, as may be prescribed by or pursuant to the bye-laws. The President, Deputy-President and Vice-President of the Institute shall also be the President, Deputy-President and Vice-President of the Council.

### **Classes of members**

- 3 The members of the Institute shall be divided into two classes to be styled respectively fellows and associates of the Institute with such practising rights as may be prescribed by the bye-laws. There shall in addition be a class to be styled honorary members of the Institute for whom the bye-laws and regulations shall make express provision, and who may use after their name the designation "FCA (Honorary)" (or such other letters as may be approved by the Privy Council). Save as so provided, the provisions of this Our Supplemental Charter and the bye-laws and regulations shall not apply to an honorary member of the Institute (but they shall apply to an honorary member who is or has been a member or an affiliate of the Institute to the same extent as to any other person who is or has been a member or an affiliate of the Institute). Provided always that honorary members shall not be members of the Institute and (save as aforesaid) may not use the designatory letters applicable to members for which clause 9 of this Our Supplemental Charter provides.

### **Continuance of existing members**

- 4 The persons who at the date of the grant of this Our Supplemental Charter are fellows or associates of the Institute shall continue to be fellows or associates of the Institute subject to the provisions of this Our Supplemental Charter and of the bye-laws of the Institute.

### **Admission as associate**

- 5 Any person who has satisfied such requirements as may from time to time be prescribed by or pursuant to the bye-laws in respect of training, examinations, fitness for membership or otherwise shall be entitled to be admitted an associate of the Institute.

### **Associate becoming a fellow**

- 6 On and after the first day of January 1960 an associate of the Institute shall become a fellow of the Institute on the first day of January next following the completion by him of ten years of membership of the Institute: save that an associate may become a fellow before that date on establishing to the satisfaction of the Council and in such manner as the Council may require that he has been continuously for at least five years a member of the Institute in practice as a public accountant as his main occupation on which the decision of the Council shall be final. For the purposes of this Clause membership of the Society of Incorporated Accountants prior to becoming a member of the Institute shall be counted as membership of the Institute.

### **Associate becoming a fellow revised provisions**

- 7 (a) The provisions of clause 6 of this Our Supplemental Charter shall cease to apply on the first day of January 1979. But until that date an associate shall become a fellow prior to the expiration of the qualifying period laid down in the said Clause 6 if he satisfies the Council in the prescribed manner as to his fitness to become a fellow.
- (b) As from and including the first day of January 1979:
- (i) an associate admitted to membership of the Institute prior to the first day of July 1978 shall automatically become a fellow on the first day of January next following the completion by him of five years of membership or on such earlier date on which he satisfies the Council in the prescribed manner as to his fitness to become a fellow;
  - (ii) an associate admitted to membership of the Institute on or after the first day of July 1978 shall become a fellow if but only if he satisfies the Council in the prescribed manner as to his fitness to become a fellow.
- (c) A person shall satisfy the Council in the prescribed manner as aforesaid if he complies with such requirements (which may include but need not be limited to the passing of oral or written tests or both and evidence of practical accountancy experience) as shall be prescribed in regulations made from time to time by the Council in its absolute discretion.



### **Fees and subscriptions**

- 8** Every person on his admission to be a member of the Institute shall pay such fee and every member shall pay such subscription or other sums as may be prescribed by or pursuant to the bye-laws of the Institute.

### **Description of members and distinctive letters**

- 9** A member of the Institute may describe himself as a Chartered Accountant and may use after his name in the case of a fellow the initials F.C.A. (representing the words "Fellow of the Institute of Chartered Accountants in England and Wales") and in the case of an associate the initials A.C.A. (representing the words `Associate of the Institute of Chartered Accountants in England and Wales').

### **Power to organise, finance and maintain a scheme for `Accounting Technicians'**

- 10** Without prejudice to the generality of the powers conferred upon the Institute by this Our Supplemental Charter, the Institute shall have power to organise, finance and maintain a scheme for the training and qualification of a body of persons to be known as `accounting technicians'. The powers conferred upon the Institute by this clause shall be exercisable by the Council and any such scheme shall be in such form as the Council may from time to time consider appropriate and in particular may include provision for adding to, rescinding or varying the scheme and any regulations made thereunder for the purpose of implementing the same.

Provided always that accounting technicians shall not be members of the Institute and that the Institute shall not be entitled to authorise the use of any designatory letters in connection with any such scheme.

### **Power to admit members of Scottish and Irish Institutes of Chartered Accountants**

- 11** Notwithstanding anything in this Our Supplemental Charter or the bye-laws contained, the Council shall have power in its absolute discretion to admit to membership of the Institute any qualified member of The Institute of Chartered Accountants of Scotland or of The Institute of Chartered Accountants in Ireland upon such terms and conditions as the Council from time to time considers appropriate provided that such terms and conditions are also approved by the Council of the other Institute in question.

### **Power to admit members of overseas accountancy bodies**

- 12** (a) Notwithstanding anything in this our Supplemental Charter or the bye-laws contained, the Council shall have power in its absolute discretion to admit to membership of the Institute any qualified member of any accountancy body or any individual authorised as an accountant by an appropriate authority outside the United Kingdom and the Republic of Ireland upon such terms and conditions as the Council from time to time considers appropriate provided that such accountancy body or, in the case of an authorising authority, the criteria upon which such individuals may be admitted to membership of the Institute, shall first have been approved by the Lords of Our Most Honourable Privy Council, but subject to paragraph (b) below.

- (b) Notwithstanding anything in this Our Supplemental Charter, the Council shall treat an application for membership of the Institute from a national of a member state of the European Union, or of a state in which the European Economic Area Agreement is in force, who holds a diploma in accountancy to which any Directive in the European Union (as adapted by the said Agreement) applies, in accordance with the said Directive, regulations made in pursuance thereof and, where appropriate, the said Agreement and the European Economic Area Act 1993.

#### **Affiliate status**

- 12A** (a) The Council shall have the power in its absolute discretion to grant affiliate status to persons not being members of the Institute upon such terms and conditions as the Council from time to time considers appropriate.
- (b) Every person on being granted affiliate status shall pay such fee and every affiliate shall pay such subscription or other sums as may be prescribed by or pursuant to the bye-laws of the Institute.
  - (c) An affiliate shall be subject to the provisions as to discipline set out in this Our Supplemental Charter and of the bye-laws of the Institute, including any scheme maintained under sub-paragraphs (viiA) or (viiiA) of Clause 1(b) hereof, and references to members in such provisions shall be taken to include references to affiliates.
  - (d) Provided always that affiliates shall not be members of the Institute and shall not be entitled to any of the rights of members (other than the rights of a member in disciplinary proceedings) and that the Institute shall not be entitled to authorise their use of any designatory letters.

#### **Examinations**

- 13** The Council shall from time to time cause examinations to be held of all persons seeking to become members of the Institute (or assessment to take place of such persons on such terms and conditions as the Council from time to time considers appropriate).

#### **Persons ceasing to be members to have no claim on funds or property**

- 14** If any person ceases for any cause whatever to be a member of the Institute he shall not nor shall his representatives have any interest in or claim against the funds or property of the Institute.

#### **Power to make bye-laws**

- 15** (a) The Institute may from time to time, by resolution passed by a majority of not less than two-thirds of the members present and voting (in person or by proxy) at a meeting specially convened for the purpose with at least twenty-one days' notice in writing (which expression shall be taken to mean written or produced by any substitute for writing or partly one and partly another, including in electronic form), make such bye-laws for regulating the affairs of the Institute as to the Institute seem fit and from time to time rescind or vary any of the bye-laws and make others in

their stead, but so that the bye-laws shall not be in any respect inconsistent with the express provisions of this Our Supplemental Charter.

- (b) No new bye-law and no rescission or variation of any bye-law shall have effect unless and until the same has been submitted to and allowed by the Lords of Our Most Honourable Privy Council, of which allowance a Certificate under the hand of the Clerk of Our said Council shall be conclusive.
- (c) Unless and until added to rescinded or varied, the bye-laws in force immediately upon the allowance of this clause by Us in Council shall constitute the bye-laws.

### **Power to make regulations**

**16** The Council may from time to time make such regulations as it thinks fit for any of the following purposes:

- (a) carrying into effect any provision of this Our Supplemental Charter or of the bye-laws or otherwise for regulating the affairs of the Institute; or
- (b) the Institute carrying out the functions of a designated professional body or a recognised professional body or a recognised supervisory body or a recognised qualifying body, under applicable legislation whether within the United Kingdom, the Isle of Man, the Channel Islands or the Republic of Ireland, or under equivalent legislation in other jurisdictions, or for the purpose of carrying out any other functions thereunder; or
- (c) without prejudice to the generality of the foregoing, the Institute carrying out any function which by virtue of, or for the purposes of, any statute or agreement may be performed by the Institute;

and may rescind, vary or add to any such regulations provided always that no such regulations shall be in any way inconsistent with the express provisions of this Our Supplemental Charter or of the bye-laws.

### **Power to amend Supplemental Charter**

**17** The Institute may from time to time by resolution passed by a majority of not less than two-thirds of the members present and voting (in person or by proxy) at a meeting specially convened for the purpose with at least twenty-one days' notice in writing (which expression shall be taken to mean written or produced by any substitute for writing or partly one and partly another, including in electronic form) alter amend or add to this Our Supplemental Charter and such alteration amendment or addition shall when allowed by Us in Council become effectual so that the said Original Charter and this Our Supplemental Charter shall thenceforth continue to operate as if they had originally been granted and made accordingly.

### **Revocation of Clauses 1-28 of the Original Charter**

**18** Clauses numbered 1-28 inclusive of the said Original Charter shall be revoked and be of no effect but all admissions elections appointments acts and things lawfully effected made or done under and in accordance with powers granted under any of the aforesaid clauses of the said Original Charter shall be deemed to have been effected made or done under powers

granted by this Our Supplemental Charter and shall operate and take effect from the date of such admission election appointment or act.

**Supplemental Charter and Original Charter to be read as one**

**19** As far as is consistent with the terms hereof this Our Supplemental Charter shall be read as one with the said Original Charter and henceforward shall operate as though it had been granted with the said Original Charter.

**Scheme of Integration**

**20** Notwithstanding anything hereinbefore in this Our Supplemental Charter contained, the Institute shall have power to carry into effect the Scheme of Integration dated the 5th day of December 1956 for the integration of the Society of Incorporated Accountants with the Institute (a copy of which Scheme is appended to this Our Supplemental Charter) and the provisions of such Scheme shall be binding upon the Institute and its members. Subject to clause 15 of this Our Supplemental Charter the Institute may make such bye-laws for the purpose of carrying the said Scheme into effect as to the Institute seem fit and may from time to time rescind or vary any such bye-laws and make others in their stead; and any such bye-law may empower the Council to issue regulations for the purpose aforesaid. The above mentioned Scheme of Integration shall be alterable in like manner and upon the like conditions as the bye-laws of the Institute and references in this Our Supplemental Charter and the bye-laws to the said Scheme shall be construed as references to such Scheme as from time to time in force.

In Witness whereof We have caused these Our Letters to be made Patent.

Witness Ourselves at Westminster this twenty-first day of December in the thirteenth year of Our Reign.

By Warrant under the King's Sign Manual.

NAPIER.

# ICAEW Annual Review 2013

ANNEX 3A



# Building a stronger profession worldwide

In 2013 we expanded our membership, student numbers and broadened our commercial income streams. The total number of students studying ICAEW qualifications reached an all-time high, although our ACA student intake was slightly below plan, reflecting the changing routes to the profession and economic downturn in some countries.

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## A stronger chartered accountant brand

We launched Chartered Accountants Worldwide, a new pan-chartered accountants group with five leading international chartered institutes which share our ethical approach and standards. The group will promote the value of the chartered accountancy brand to global organisations. We also worked hard to raise the profile of ICAEW as a leading commentator on business issues.

## Growth: new services and opportunities

As the global economy moves towards sustainable recovery, we have been developing new services for members in practice; including assurance and work on reserved legal services such as probate. We want to attract the best talent into the profession and we've increased access routes and doubled our schools business competition, BASE, in 2013–14, to reach 3,000 young people around the world.

And we've developed some exciting new ways to train students, including a one-year full-time ACA course. We made changes to our ACA qualification in 2013 to reflect changes in the business world and make it more flexible, responding to feedback from organisations training new ACAs, from high-street practices to global businesses. We also made it easier to train a new ACA, by introducing an authorised training principal scheme, allowing individual ICAEW Chartered Accountants to train people within their businesses.

## Leading the way on major issues for the profession after the financial crisis

Audit, tax, growth and public sector finances are still big issues for the profession, as we predicted last year, but cybersecurity is now recognised as a major concern.

## Audit decisions are in, ICAEW is working to transform audit for the 21<sup>st</sup> century

Several years on from audit becoming a major issue in Europe, we are finally approaching new legislation. The next challenge will be to ensure the law is implemented without too much disruption. ICAEW is working to ensure audit evolves to meet the changing needs of society with the successful first year of our Audit Futures programme, and to increase the value of audit to society through our new Audit Insights reports on sectors such as retail, cyber, and banking. We also examined the idea of 'reliability' in auditing.

## Aggressive business tax avoidance is an issue of public interest

In a year of intense scrutiny and challenge, we have continued to demonstrate the role chartered accountants play in making the tax system work. And we are supporting the OECD's Base Erosion and Profit Shifting (BEPS) programme to clarify corporate taxation and stamp out avoidance. We've helped ensure our members understand the UK's major tax changes this year, with Real Time Information, Universal Credit and a new tax agent strategy coming in. We have also been successful in making HMRC think about how these changes are implemented and improve its implementation plans.

## Setting the public sector agenda

The strength and resilience of public sector finances continue to dominate the agenda in Europe and to be important around the world, whether collecting taxes or spending them. Our paper, CFO at the Cabinet Table, recommended appointing a group finance director to oversee government departments. This was endorsed by the UK Treasury and has generated international interest.

## Highlighting cybersecurity as a leading business risk

This was the major concern at Davos last year and ICAEW has been very active in raising awareness and debating the issue. The IT Faculty has published guidance based on its interactions with members, boards, government and academia. It addressed parliamentarians twice on the issue and is working with UK Government Business Department BIS on the proposed new organisational standard for cybersecurity. In addition, the Corporate Finance Faculty has worked with the Cabinet Office and a number of other industry bodies to create a guide to cybersecurity in corporate finance.

## Other changes including UK GAAP and regulation

There have been a huge number of changes to the profession including a new UK GAAP regime – for many, the biggest change to accounting for a generation. We have worked to prepare members for changes to this and to consumer credit licensing in 2014. We continue to seek a level playing field on legal privilege for taxation advice.

## Supporting strong national institutes around the world

We worked with institutes and regulators around the world to build the profession, helping them to develop local audit quality and establish their own qualifications. Countries include the Gulf States, Myanmar and Nigeria.

In the annual review, we again looked at how to apply IIRC guidelines on Integrated Reporting (<IR>) this year. The <IR> framework was approved and released by the IIRC Council at Chartered Accountants' Hall in December.

Thank you to all those members who have given up their time to help us; and also to our staff.



Martyn Jones  
President



Michael Izza  
Chief Executive

# Building a stronger profession worldwide

We support, develop and promote over

**142,000**

chartered accountants  
in more than

**160**

countries  
worldwide

**83**

of the FTSE100 (the leading UK-listed companies) have an ICAEW Chartered Accountant on the board



Launched Chartered Accountants Worldwide with leading chartered bodies – NZICA, ICAA, ICAS, CAI, and SAICA to promote the value of chartered accountants

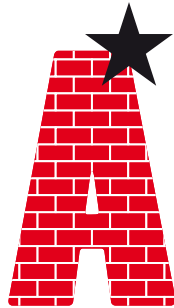
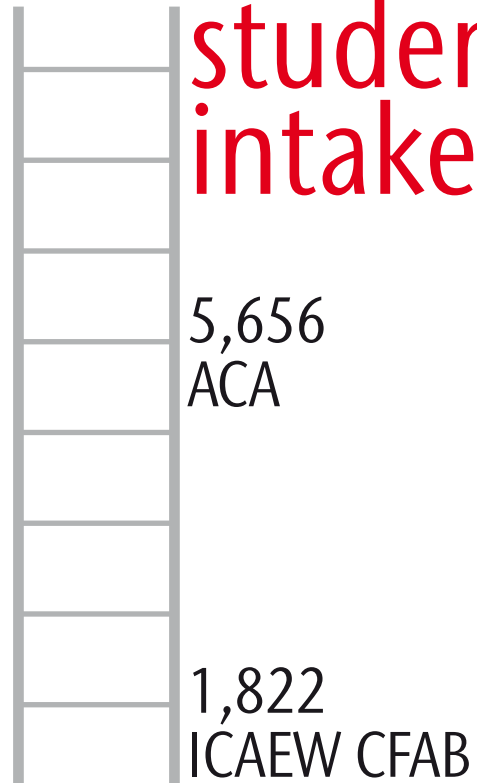


x5

International student membership has increased more than x5 (from 5% to 26%) over 7 years



7,478 Record student intake



We were rated A\* by DFID (DFID is the UK Department for International Development) for our capacity building work with the SEC in Nigeria

53%

of graduates going into accountancy and finance would choose the ICAEW Chartered Accountant qualification, ACA:

High Fliers research, 2013

97%

of the best global brands employ ICAEW Chartered Accountants:

ICAEW member data at January 2013, Interbrand Best Global Brands 2012



# Opportunities and risks

## Principal risks

The overriding principle behind our risk management approach is to protect the reputation of ICAEW as a world leader of the accountancy and finance profession.

Our strategy depends upon maintaining and enhancing the reputation of ICAEW. Our brand positions us as world leaders of the accountancy and finance profession, so we need to ensure that our reputation with key audiences reflects that position. Ultimately, all of our risks are risks to our reputation. If this is undermined it could have a fundamental impact on the ability of ICAEW to fulfil its strategic objectives and may threaten the financial model.

A Principal Risk is one that could have a fundamental effect on the ability of ICAEW as a whole to fulfil its strategic objectives.

External risks – These are principal risks that could happen to us. There is some chance to mitigate the likelihood, but more chance for us to mitigate the impact.

Internal risks – These are principal risks for which we can control both the likelihood and the impact.

### Key firms change their business models

**The risk** that a key firm (or combination of firms) move away from a core skill set of ACA-trained accountants.

**The scope** of this risk could include: regulatory changes, competitors' actions or market changes.

**Our activity** to mitigate this risk includes: active stakeholder management; intelligence and insight with firms, regulators, competitors and the market. We are working with firms to develop training solutions that ensure we are the professional body of choice across their international networks.

### The changing nature of the global competitive environment

**The risk** that external changes result in professional bodies losing relevance or ICAEW falling behind in the marketplace and being unable to execute strategy in the public interest.

**The scope** of this risk could include: legislative and regulatory changes; our products and partnerships; other regulatory and oversight bodies; our competitors; and market needs.

**Our activity** to mitigate this risk includes: actively influencing the debate about the future of the finance industry and developing innovative products and services for firms and members.

## Opportunities

### Our international work and capacity building

Over recent years we have developed our international activities from our regional offices and from our headquarters in the UK. Our programme of international capacity building consultancy with the World Bank and with other partners now totals 14 projects in countries as diverse as Myanmar, Botswana and Cyprus. These have generated goodwill, supported the growth of national professional bodies and regulators, built the ICAEW brand, and opened doors with other organisations where there are opportunities for the future.

### Economic improvements

The global economy improved considerably in 2013, with the US and UK, among other economies, growing faster than expected; though austerity continues to damage growth in many parts of Europe. In South East Asia and China growth has continued, but was more modest than expected; in the Gulf countries are still growing, but more slowly than the year before. In many places, therefore, we're optimistic about prospects for members, for students and for commercial opportunities.

### **A significant external event causes the public to lose trust in the profession**

**The risk** that a global financial crash, debt crisis or financial scandal causes the public to lose trust in the profession and finance institutions, reducing our ability to support members, undermining our disciplinary and regulatory roles and hampering our ability to act in the public interest.

**The scope** of this risk could include: high profile disciplinary cases; technical and public interest issues such as tax avoidance and audit quality.

**Our activity** to mitigate this risk includes: direct engagement with organisations and monitoring media, complaints and regulatory activities.

### **In-year cash-flow limitations and/or exceptional costs**

**The risk** that limitations on resources or exceptional in-year costs result in a significant impact on cash and therefore on operations and delivery of strategy.

The impact of this risk could affect our competitive position and potentially business operations.

**The scope** of this risk could include: calls for costs for public interest cases from the FRC; unforeseen capital costs to buildings or the poor performance of our investment strategy.

**Our activity** to mitigate this risk includes: close engagement with the FRC; regular reviews of financial and insurance positions; and active monitoring of case pipeline.

### **Data management**

**The risk** that data mismanagement events such as the handling of client/student data, or breakdown of ACA assessment process or procedure, or use of data relating to elections.

The resulting damage could be to our reputation, operations or both. The likelihood and potential impact of this risk grows as we expand internationally.

**The scope** of this risk could include: fraud or human error, technical failure relating to data systems or a breakdown in the assessment processes and procedures.

**Our activity** to mitigate this risk includes: Payment Card Industry (PCI) compliance; intensive test programmes and spot checks for systems and processes and a voice recognition system to reduce human intervention.

### **Data security**

**The risk** that there is a failure or breach of physical or cybersecurity systems (eg, as a result of a cyber-attack), resulting in damage to reputation and disruption to operations. The likelihood and impact of this risk grows as we expand internationally.

**The scope** of this risk could include: failure or breach of system security leading to unauthorised access to ICAEW systems and data, resulting in disruption to operations and reputational damage.

**Our activity** to mitigate this risk includes: audits to ensure staff have the appropriate application security access; system penetration tests undertaken by a specialist organisation; PCI compliance testing; and active monitoring of exam pass rates.



# Our strategy: leading the global finance and accountancy profession

Our strategic objective is for ICAEW to be a world leader of the finance and accountancy profession.

## Objectives

Our aim is to ensure that chartered accountants lead the profession in all key financial markets.

This means that:

- our members are recognised as leaders and occupy prominent positions in business, practice and the public sector in all key markets;
- the ACA qualification is recognised as premium, best in class for global organisations;
- we attract the brightest and best talent in the market from all backgrounds;
- we are regarded as the partner of choice and sought after by organisations working internationally;
- we are influential and play a leading role in shaping policies that impact business and the global profession; and
- we have the power to convene key decision makers, speakers and thinkers.

To achieve this, in 2013 we focused on:

- improving access to and diversity in the profession;
- maximising our influence on new legislation and standards;
- delivering relevant and high quality services to our members; and
- maintaining the highest standards, supporting our position as a premium brand.

These priorities are reflected in our key performance indicators (see Performance section). We track a range of financial and non-financial indicators relating to our qualifications, service by and for our members, and our reputation and influence.

We are selective in our approach but broad in outcomes. Our aim is to ensure the financial model can be sustained through our premium positioning, attracting and retaining members for the long term.

Sustainable economic growth needs people to be able to do business with confidence

**Premium positioning** – leading the way with our commitment to quality

**Focused growth** –strategically important markets, products and services

**Applied knowledge** – constantly advancing the global profession

**ACCESS** – We provide a variety of routes to our qualifications and professional development programmes

**INFLUENCE** –We share our knowledge, insight and technical expertise with key decision makers to shape policy

**MEMBERS** – We promote, develop and support our members throughout their careers

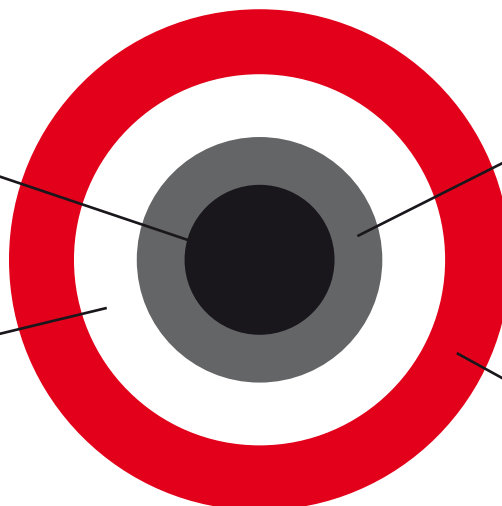
**STANDARDS** – We protect the quality and integrity of our profession by ensuring the highest professional and ethical standards

This benefits the public, our members and our firms

## Our stakeholders

**Members:** We are a membership organisation acting for individual members and member firms.

**Other stakeholders:** a huge range including: governments, regulators, standard setters, institutes, international accounting organisations, businesses (1.5m in the UK alone), charities, NGOs, public sector bodies, academic institutions, consumers.



**Students:** They are our future members.

**Public:** Our Royal Charter commits us to act in the public interest ahead of member interests where there is a conflict.



# We achieved six out of eight targets

This shows our start-of-year budget, and what we achieved in 2013 (compared to 2012), and our 2014 budget.

Some of our key metrics changed from last year: the percentage of students and members outside the UK are now embedded into our operations and we no longer target them specifically. Commercial performance is considered within overall financial performance.

We delivered a strong performance across most of our key measures of success. Our student intake was below the ambitious target set as the economic situation continued to weigh on recruitment in a number of significant markets. A number of developments in 2013 outlined in the Access section below, will provide us with tools to address this, together with a greater focus on developing recruitment to ICAEW qualifications. Despite this shortfall, the total number of students pursuing ICAEW qualifications reached an all-time high.

| Students   | Commentary on 2013   | 2012 Actual | 2013 Budget | 2013 Actual | 2014 Budget | Commentary on 2014  |
|--|--|-------------|-------------|-------------|-------------|---|
| <b>Total ICAEW Chartered Accountant (ACA) students</b> | Evolved ACA launched in 2013 to good feedback  | 20,037      | 20,095      | 20,121      | 21,142      | Continue to develop student base internationally  |
| <b>ACA student intake</b>                              | Below target as economy continued to see only partial recovery in UK and key international markets     | 6,201       | 6,535       | 5,656       | 6,170       | Growth anticipated in key international markets, supported by direct and partnership approaches to recruitment        |
| <b>CFAB intake (our entry qualification)</b>           | Doubled previous year to take total ICAEW students to record levels                                    | 903         | 1,992       | 1,822       | 2,190       | Growth based on investment in key markets   |
| Membership   |  | 2012 Actual | 2013 Budget | 2013 Actual | 2014 Budget |   |
| <b>Total membership</b>                                | Stronger admissions and retention, 1.3% growth   | 140,573     | 142,093     | 142,334     | 144,080     | We anticipate steady growth   |
| <b>New members admitted</b>                            | Above target with strong admissions performance  | 3,928       | 3,535       | 3,660       | 3,910       | We expect growth based on higher student base coming into membership  |
| Operations   |  | 2012 Actual | 2013 Budget | 2013 Actual | 2014 Budget |   |
| <b>Operating result (£m)</b>                           | A strong result operationally in delivering our strategy despite additional FRC case cost requirements | (1.2)       | 0.5         | 2.2         | 1.0         | We target a modest surplus to contribute to strategic development. The outcome will be dependent on FRC case outcomes |
| <b>Special Interest Group membership</b>               | Significant growth across the offerings  | 13,642      | 13,643      | 14,766      | 15,695      | Create new groups and continue to develop content and offerings   |
| <b>Faculty membership</b>                              | Growth achieved across new services  | 31,296      | 30,751      | 31,756      | 31,975      | Continued growth partly from new services   |



# Achievements

This year our work to build a stronger profession worldwide focused on four areas: access, influence, members and standards. Here are some of the key highlights of 2013.

## Access

Provide access to the profession through our qualifications and professional development programmes.

### Promoting business skills and chartered accountancy as a career

We launched our latest development of the ACA following widespread consultation. We carried out practical work to help young people gain employability skills and choose chartered accountancy and business as a career, for example through our BASE competition; and through the Apprentice Business Challenge. This year we also piloted a Higher Apprenticeships programme with PwC. With the ICAEW Foundation we were invited to take part in Tottenham Hotspur's Leadership Through Sport apprenticeships programme.

We worked on a new Professions Week in the UK to promote the value of chartered accountancy as a career, one part of a programme of work to attract more diverse applicants into the profession. We led the UK Internships Code working group at BIS which published an updated Internships Code this year, and increased our work on attracting more women into the profession through a series of targeted careers events.

As well as employability workshops, we provided new resources for students and we started to provide new commercial awareness sessions for universities and schools. Our work included a new Public Private Regional Centre for Training Excellence in Malaysia.

### New one-year route through ACA exams

We launched a full-time intensive ACA course for KPMG with BPP. This is a one-year study course which was launched in September with 60 students, responding to an employer need.



Gemma Page, former British army officer, studying for Intensive ACA with KPMG



From left to right: Rynnersing Ramlall, Kshesha Ramdoss, Maahjabeen Maudarbocus, Laetitia Curpanen, Siddanth Tulsidas. 2013 Mauritius prize-winners

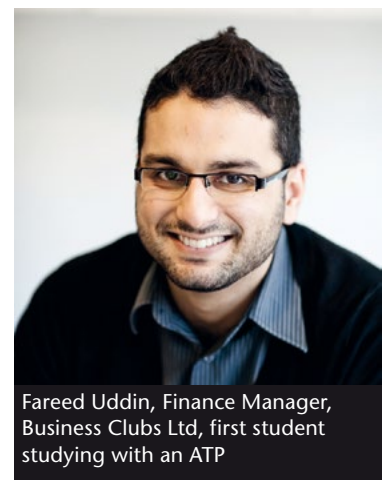
### Mauritius – growing a new student base

We have built up a strong base of students in Mauritius over the past two years. At the end of 2013 we had 173 ACA students across a range of employers, including practice firms, fund administrators and banks and around 250 members on the island, many of whom are in senior business positions.

ICAEW works closely with the Mauritius Institute of Professional Accountants (MIPA) to continually raise standards within the profession in Mauritius through, for example, joint technical events.

### Easier ways to train ACAs: attached to a Chartered Accountant or ATP

We revived a scheme to train new ACAs 'attached' to a chartered accountant known as an 'Authorised Training Principal'. Becoming an ATP is straightforward and free, and we think it will both save time and increase training opportunities especially in some markets or smaller organisations. We've reintroduced this method of becoming qualified because of international demand. The scheme launched in September 2013.



Fareed Uddin, Finance Manager, Business Clubs Ltd, first student studying with an ATP

### Refreshed ACA qualification

We successfully launched an evolved ICAEW Chartered Accountant qualification. This is a more flexible qualification which reflects what the marketplace wants and has ethics embedded in every part and a new online induction programme.



## Influence

Influence the future of the profession by sharing our knowledge, insight and technical expertise.

### Significant thought leadership work

In 2013 we worked to progress the key debates in our profession, providing input and ideas on tax, ethics, financial reporting standards and creating a new constructive debate about the future of audit.

Key to ICAEW's international influence is our unrivalled reputation for thought leadership.

Among our most well-received and significant work this year were three papers asking some big questions about Corporate Governance; a paper on financial disclosures suggesting that reports should be more selective; our Going Concern response to the FRC and a paper for the UK Government on why it should appoint a CFO to oversee government spending across departments and keep it in check. We also contributed to the public sector debate in Brussels. After Libor, our draft guidance for the performance of assurance work on benchmarks and indices has also been well-received by regulators around the world. For applicants listing on a UK market, we have published a technical release, Financial Prospects and Procedures to help directors of such companies as well as reporting accountants engaged to perform services in this area.

### Influencing debate on tax and Local Enterprise Partnerships

We also influenced the debate around Britain's G8 Presidency. In the build-up to the Lough Erne summit in June, we ran a campaign to defend the profession's vital role in tax compliance and to advocate reforming the international tax rules.

Given the leading role some of our members play in UK Local Enterprise Partnerships, we worked with the All Party Group on Local Growth, to publish a major new report on how they should be governed, scrutinised and financed. We also ran a series of events on business priorities for the 2015 UK General Election manifestos, which attracted over 100 policymakers and members at the Labour party conference in Brighton and the Conservative conference in Manchester.

### Making the news and contributing to the policy debate

We fed into nearly 200 consultations, provided evidence to 12 select committee and parliamentary group inquiries, advised policymakers on four major pieces of legislation, helped make the news and contributed to the policy debate. ICAEW was mentioned 65 times in the UK parliament this year.

### Aggressive Tax Avoidance: working with the OECD to change corporate tax

Responding to concerns about corporate tax avoidance, the OECD launched a project on corporate tax, Base Erosion and Profit Shifting, which ICAEW is supporting. We are working to ensure members fulfil their ethical obligations on tax and shared our approach with regulators and other GAA members.

In the UK we were asked to give evidence to the House of Lords Economic Affairs Enquiry into corporate tax and to be special advisers on tax to two parliamentary committees. In addition, we now represent the interests of SMEs on the UK's Tax Professionals Forum.



Will Morris, Director, Global Tax Policy, General Electric, speaks at our annual tax debate

### Audit: a clear path for Europe; but new Audit Futures project blooming

The audit question approached resolution in Europe, and the Competition Commission (UK) finally reported. The European position includes new obligations for public interest entities including a more stringent 'black list' of non-audit services and the introduction of mandatory rotation. Certainty will be better for business, and our members will now try to make this work.

However, our new Audit Futures project looking at how audit should evolve in future is gaining momentum. Expectations of audit are changing and we must too. Our Audit Insights stream, which started this year, aims to improve the value of audits to the public by sharing their conclusions.

At the same time, we are looking at how assurance can provide more certainty for funders and investors where the audit threshold has been raised. Promoting new thinking about reliability through the audit quality forum.

### Ethics: called to present our work on ethics at UN

In 2013 we continued to promote our practical ethics 'thought leadership programme' Real Integrity, and launched our popular ethics in financial services programme, Valuing Integrity. Harvard Business School is basing one of its internationally renowned case studies on ICAEW's work on ethics. We have worked with our international standard setter and with the CCAB Ethics Group, which will be publishing guidance on the use and implementation of codes of conduct.



Michael Izza, ICAEW Chief Executive, presenting our work on integrity to a UN conference

### A CFO at the Cabinet Table

With public debt still huge and big spending cuts looming after 2015 no matter who wins the election, our policy report on the need for a CFO at the Cabinet Table will help government strengthen financial management in Whitehall and turn the Treasury into a modern finance ministry, controlling value for money across government. It highlighted the value of professional accountancy skills at the highest levels in the public sector. It has been welcomed by politicians on all sides including Cabinet Office minister Francis Maude, Chief Secretary to the Treasury Danny Alexander and Shadow Chief Secretary Chris Leslie.

## Members

Promote, develop and support our members throughout their careers

We increased services for members in 2013 in and outside the UK, especially where changes around audit will affect them.

## Promoting the brand

We continue to keep the ICAEW brand in the public eye, so that people know ICAEW Chartered Accountants stand for quality. For example, we secured significant media and social media coverage for ICAEW's views, events and people in 2013, on issues like the global economy, and the UK's marriage tax allowance.

## Developing and supporting members

Our communities, where members meet online, continue to prosper, and the Excel Community has grown to more than 5,000 members from a standing start in 2011.

We launched a new directory of firms in 2013 and our job site, [icaewjobs.com](http://icaewjobs.com), goes from strength to strength and has become the number one market leader with a 33% increase in job postings in the year.

At the same time, ICAEW's commercial department has delivered a range of training services for members and their employers which includes leadership development, IFRS, UK GAAP and Anti-Money Laundering.

## Supporting business growth/economic growth

We engaged with high-level ministers on the business and economic growth agenda and continued to support growth through the UK Government's Business Finance Advice Scheme and our Business Advice Service (BAS). In BAS, members volunteer a free advice session to start-ups and growing companies. This generates around 150 enquiries a week. This year we held a month-long series of BAS promotions to raise the profile of our members' pro-bono work.

We also supported a vast number of other business events, including Startup Britain and The Pitch, where entrepreneurs pitch for investment, and get advice along the way.



Michael Fallon MP, Minister of State for Business and Enterprise speaking at our Parliamentary group on Business Finance and Accountancy



Chartered Accountants Worldwide launch

## Promoting the chartered accountant brand

We launched Chartered Accountants Worldwide in 2013 with a campaign called No Ordinary Business Minds. We also ran the No-one's Better Qualified advertising campaign in the UK and internationally. We hosted high-profile events like the Finance For the Future Awards, the Middle East Accountancy and Finance Excellence Awards to raise awareness of ICAEW, and sponsor conferences, like the FDs' Excellence Awards, First Woman Awards and the ICPAK Financial Services conference in Nairobi, which attracted 10,000 finance professionals.

## Helping members volunteer through [icaewvolunteers.com](http://icaewvolunteers.com)

We worked with the Chartered Accountants' Benevolent Association to make it easier for charities to find our members who are in high demand for volunteer positions in charities, third sector organisations and schools – and cover at least 45,000 voluntary positions. In 2013 610 roles were advertised on the new site [icaewvolunteers.com](http://icaewvolunteers.com)



Richard Cartwright, Everybody Counts winner who founded wheelchair rugby club Team Solent Sharks, with Vice President Andrew Ratcliffe

## First international members on council, more international roadshows; thought leadership webinars

We wanted to communicate better with members outside the UK, and to ensure that their concerns were getting the attention they deserved. We now have seven international members elected to our council. Webinars have been a great success story, with more than 8,000 members taking part in our technical webinars alone; and we organised over 37 international roadshows in 13 countries to widen the debate around our thought leadership.



## Standards

Ensure the highest professional standards to protect the quality and integrity of the profession

### New legal services regulation opportunities

Diversity, sustainability and consumer protection were in focus this year because of new areas of regulation such as the Legal Services Board approval of our application to be a regulator for probate (Parliamentary approval sought in 2014), and changes to consumer credit licensing.

It was an intense regulatory year in Brussels ahead of the 2014 European elections, with changes to financial reporting, audit, and the portability of professional qualifications in member states.

### Capacity building work in Nigeria rated A\*

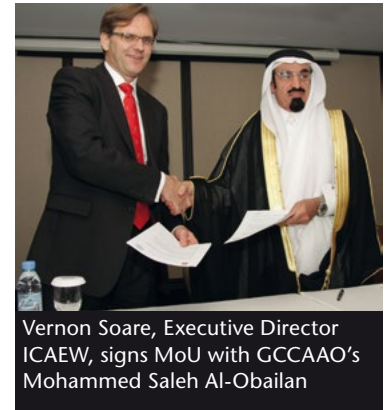
We have continued to build our capacity building work internationally, supporting a stronger profession in several countries including Myanmar, funded by the UK Government's FCO, which will help build a plan and strategy to revamp the Myanmar institute. Our UK Government (DFID)-funded capacity building work for the Nigeria Securities and Exchange Commission in 2013 was recently rated A\* by DFID.

### Disciplinary

We opened 2,766 new cases in 2013 of which around 70 came to Disciplinary Tribunal or Appeal Committee, and some 240 cases to Investigation Committee without the need for a hearing. We continue to support the FRC Conduct Committee disciplinary scheme for public interest cases which upheld three complaints, most notably for MG Rover; this case is subject to an appeal in 2014.

### Audit Monitoring with Gulf Co-operation Council Accounting and Auditing Organisation

We started to set up a Gulf Audit Monitoring unit after a landmark agreement with GCCAAO. This is one of several audit monitoring projects we are working on around the world in partnership with other bodies (eg, with Chartered Accountants Regulatory Board Ireland and AAT – to support a new Practice Assurance Scheme; with Sri Lanka trained 250+ auditors; worked with a team from Ghana and a technical head in Tanzania). As well as improving quality, it's helping raise awareness of ICAEW around the world.



### Accountancy profession strategic forum in Sofia and Russia/CIS

We ran our second Accountancy Profession Strategic Forum in Sofia and an event in London for Russia and the CIS. This forum was organised by ICAEW with the Bulgarian Institute and gathered 25 national bodies from 20 countries to share common challenges and strategic thinking, with input from the World Bank and European Commission.

### New local public audit role in UK

The draft local public audit bill was published in January 2013. Legislation is due in January 2014. ICAEW, as a potential Recognised Supervisory Body in this market, is working with government and other stakeholders to ensure a robust system is put into place. We hope to be able to offer this service to members in 2014.

### UK Insolvency Complaints Gateway work

As the UK's largest insolvency regulator, we worked to implement the new Insolvency Complaints Gateway which provides a transparent process for complaints and was launched in June 2013. Through discussions with the Insolvency Service, we ensured that the gateway project delivered an outcome which helps those who want to complain about a practitioner but also minimises the cost and impact of the changes to the profession.

# 2014: Progressing our international strategy, online learning offers more reach

The major global issues for accountancy in 2014 are likely to be the state of economic growth and the consolidation of the profession in a number of global institutes. European elections may make a difference to the outlook for the profession this year. We will also be considering how to develop training in an online world.

## International Strategy progressing

We continue to progress our international strategy with new international council members to support it, and with new staff taken on in South East Asia, and a new focus on Africa. Following the launch of Chartered Accountants Worldwide in 2013, we now want to strongly support the Chartered Accountant brand and the Chartered Accountant family.

There was some international consolidation with a number of professional bodies in 2013, and this may continue in 2014. However, ICAEW is driving a different path to support strong national institutes, which we believe is good for the profession.

We continue to work on reciprocal arrangements, for example through our Pathways scheme, and there will be more agreements in 2014.

## Opportunities to use new technology beckon

New technology is changing the way we work and how we communicate. Opportunities such as massive open online courses (MOOCs) are emerging. We will look at how this translates into the professional qualification environment and what it means for the way we provide services to members in future.

## Long-term, sustainable investments and a stable ethical profession are needed

With returning economic growth in the UK, US and eurozone, we're now interested in the nature of that growth and want to make sure it's sustainable. We want to see investment driving long-term value creation underpinned by a values-based approach to business and investment. From an economic perspective, both public finances and business investment continue to be of critical importance around the world.

## The battle for talent returns?

As the world economy heats up, so will pressures on member firms, which will face more competition to recruit and retain good staff. We will continue to encourage students from diverse backgrounds into the profession – and are doubling the BASE competition intake to 3,000 to help address this.

## Building a sustainable future

We will continue to work to improve audit, working in partnership with the Royal Society of Arts to look at the big issues in audit. And we have two new workstreams in 2014 asking what business and practice will look like in 2025. We will also be celebrating 10 years of our UK-based *ICAEW/Grant Thornton Business Confidence Monitor*, which has proved reliable at predicting the level of economic growth, and looking forward to what the next decade may hold.

We are also continuing to work with the Natural Capital Coalition, which we founded in 2012. This has secured a second round of funding from the World Bank's commercial arm, IFC, and the Gordon and Betty Moore Foundation, to develop a framework for valuing natural capital in decision making.

## Big events in 2014

We are expecting major changes in 2014 to financial reporting and regulation; to benefits and pensions and consumer credit licensing in the UK, and to audit regulation and company reporting in Europe. The OECD work to reduce corporate tax avoidance will continue, though is unlikely to come to fruition before 2015. There will also be the fourth money laundering directive in 2014 – and new rules on insolvency.

The four-yearly World Congress of Accountants in Rome, European Parliament elections and the appointment of new commissioners in Brussels, plus manifesto building for the UK General Election in 2015 will be a key focus for us.

## UK: New services for members

The big ticket changes for members in the UK include alternative business structures and probate, with UK firms to be allowed to cover those areas of business from mid-2014 under our regulation.

We will look at other areas of reserved legal services in 2014 to see whether there are other services members and their clients would like to be able to offer. We expect to start licensing, registering and monitoring our members for probate services in 2014 and will also develop a role as a public sector regulator.



# Financial review

ICAEW's financial statements for 2013 include the charitable trusts associated with ICAEW together with our international subsidiaries. The commentary below relates primarily to the operating activities of ICAEW.

## Results

Total income was £87.6m, £4.9m higher than in 2012. The retained surplus after tax for the year was £2.2m (2012: £1.2m deficit). This reflects membership income growth of £1.9m and income growth from our qualifications and regulatory areas, together with a tight control over our cost base. At the same time we have continued to invest in our strategy, including internationally. The result also includes the release of a provision of £1.8m made in 2012 in connection with uncertainty over outcomes of certain commercial matters resolved successfully in the year with revised terms. Fines and cost recoveries of £1.3m were received from the Financial Reporting Council (FRC) Conduct Committee, although the net FRC Conduct Committee case cost charge for 2013 was £2.8m (2012: £1.8m).

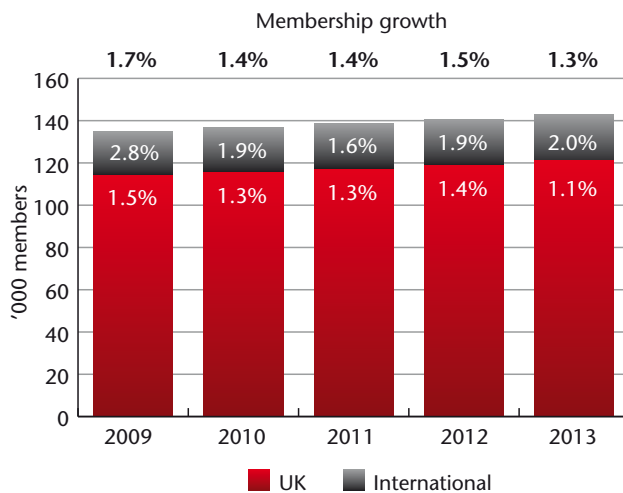
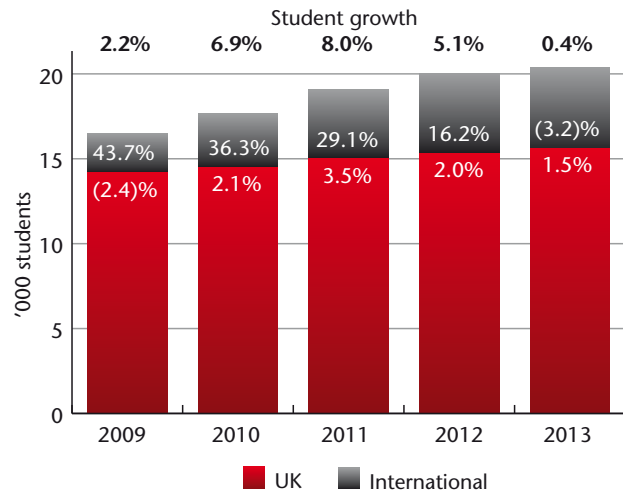
Net assets at 31 December 2013 were £27.4m, an increase of £7.2m over the 2012 net assets of £20.2m. Cash and cash equivalents ended the year at £4.3m, reflecting a net cash inflow of £0.9m in the year, after £4.8m contributions to reduce the pension scheme deficit. Total cash and investments stood at £38.6m at the end of the year, an increase of £4.0m on 2012.

The consolidated outcome for the year, including the results of ICAEW's charitable trusts, was a surplus after tax of £2.6m (2012: £0.9m deficit).

## Student and membership growth

2013 saw an ACA student intake of 5,656 – a reduction on our 2012 high point of 6,201 reflecting the challenging markets both in the UK and internationally. Total ACA student numbers at the end of 2013 stood at 20,121 (2012: 20,037). In addition 1,822 students signed up for our foundation level Certificate in Finance, Accounting and Business, which is more than double last year's intake of 903.

In the year, membership grew to 142,334, from admissions of newly-qualified students to membership, together with reciprocal and similar arrangements with members of other institutes.



## Income

Revenue from members' fees and subscriptions rose by 5% to £41.5m, reflecting the continued steady growth in membership and an improved mix of membership rates. Income from our qualifications increased by £0.5m, reflecting an increased student population actively taking exams, both ACA and CFAB, following our 20-year high intake in 2012 and record CFAB numbers this year.

Our commercial income streams were stable. Although we were unable to repeat the exceptional performance from some areas in 2012, we delivered growth in many lines including international development of leadership programmes.

Income from our new publishing arrangements with PCP since the launch of *economia* in 2012 has also held stable this year, despite a challenging advertising market.

We have continued to generate strong income from our capacity building programmes, with income nearly doubling in 2013 to £1.1m (offset by a matching increase in cost base). This reflects mostly overseas contracts, working with local institutes to strengthen the profession internationally.

Investment income increased to £1.5m, from £1.1m in 2012, reflecting the improved investment balances and a tight control over cash flows during the year.

## Expenditure

Operating expenditure increased to £85.4m, including the impact of higher FRC Conduct Committee case costs, but net of cost recoveries.

We launched the evolved ACA in 2013, resulting in dual running of exams; in addition, exam-related costs saw an increase, reflecting the increased number of exams being sat.

## FRC Conduct Committee Case Costs

During 2013 we charged costs of £5.7m to the income statement in relation to the FRC Conduct Committee provision (formerly AADB), an increase of £2.2m on 2012. This was partly offset by cost recoveries of £0.5m (2012: £0.1m) imposed by FRC tribunals and returned to ICAEW.

There was further growth in the year in the case load as well as increased activity on existing cases, giving rise to the additional charges. In the year, judgment was made against Deloitte and Touche in relation to the MG Rover case; fines were awarded of £14.2m, plus costs, however the judgment was subsequently appealed and we do not recognise any income until a decision is final.

Since its inception, FRC Conduct Committee case costs charged to the income statement have totalled £26.1m, with recoveries of £3.8m; total cash payments out are £17.6m over the 10-year period.

The FRC Conduct Committee carries out independent investigations of the work and conduct of chartered accountants, both in public practice and elsewhere, where this has given rise to public concern.

## Tax

The net corporation tax charge for the year was £nil (2012: £nil). As a mutual membership organisation, much of our income is exempt from corporation tax.

## Pensions

The IAS19 valuation at 31 December 2013 was a whole scheme surplus of £1.7m (2012: deficit £5.6m). The pension asset is recognised as ICAEW considers that any surplus arising would be recoverable, assuming the gradual settlement of scheme liabilities over time.

ICAEW's defined benefits pension scheme was closed to further member benefit accrual on 30 June 2010. Employees who participated in the scheme were invited to join ICAEW's defined contribution pension arrangements, with transitional enhanced employer contributions payable until June 2013. The triennial actuarial valuation was concluded in the year and showed a deficit of £24.9m at 31 March 2013. The trustee and ICAEW agreed deficit funding arrangements comprising annual payments of £1.8m from 1 January 2014 until the deficit is eliminated. With our support, the trustee has developed an investment strategy intended to make the scheme entirely self-sufficient by around 2025.

A charge remains over Chartered Accountants' Hall and the fund has an interest in up to £10.0m of our investment portfolio. The previous covenant agreement with various trigger points and remedies has ended.

The scheme valuation has again been subject to the volatility in the financial markets, most notably in respect to improved gilt yields. A desktop valuation of the funding position at 31 December 2013 estimated the scheme deficit at £9.5m, a reduction of £15.4m on the estimated valuation at December 2012 of £24.9m (on the previous valuation basis) and of £15.4m from the March 2013 valuation.

Further details are given in note 24 to the full financial statements.

## Financial position

Net assets at 31 December 2013 were £27.4m – an increase of £7.2m on the 2012 position. At the year end, while our pension value had increased by £7.0m, this is after input of £4.8m cash contributions in the year, a net growth of £2.2m.

During 2013, the market value of our long-term investments rose to £34.3m from £31.2m in 2012.

The value of Chartered Accountants' Hall increased to £9.7m as at 31 December 2013.

Trade and other payables were £34.5m (2012: £32.5m). This reflects a further increase in subscription income in advance. Trade and other receivables were £8.9m (2012: £9.6m).

We have provided £8.5m (2012: £8.1m) of costs relating to the FRC Conduct Committee at 31 December 2013, reflecting their current case load. Case costs are forecast on the basis of the available information on actual or prospective cases. The accuracy of this forecast depends on assumptions made about the progress of individual cases and is subject to a significant degree of judgement. We do not take account of any potential future income from fines or cost recoveries from FRC Conduct Committee cases.

## Cash flow

Cash balances at 31 December 2013 were £4.3m. Net cash inflow was £0.9m compared to a £1.7m outflow in 2012. Our cash profile fluctuates on an annual cycle, this year peaking at £39.2m in February and bottoming out at £1.6m in November.

Funding of the FRC Conduct Committee case costs saw a cash outflow of £5.3m (2012: £4.0m).

ICAEW provided £4.8m (2012: £6.0m) of deficit funding to the Staff Pensions Fund, in line with the current agreement.

Capital expenditure was £2.0m (2012: £3.8m). We expect to incur £2.6m of capital expenditure in 2014.

## Report of the auditor

The auditor's report on the full accounts for the year ended 31 December 2013 was unqualified.

## Further information

You can get full financial statements:

- online at [icaew.com/review](http://icaew.com/review)
- by emailing [fullaccounts@icaew.com](mailto:fullaccounts@icaew.com)
- by writing to Andrew Fagg, Finance Director

# Summary financial statements

## Summary group income statement

for the year ended 31 December 2013

|  | 2013        |               |            | 2012        |               |              |
|--|-------------|---------------|------------|-------------|---------------|--------------|
|  | Income      | Expenditure   | Net        | Income      | Expenditure   | Net          |
|  | £m          | £m            | £m         | £m          | £m            | £m           |
| Subscriptions and fees                         | 41.5        | -             | 41.5       | 39.6        | -             | 39.6         |
| Learning and professional development          | 10.2        | (14.8)        | (4.6)      | 9.7         | (14.0)        | (4.3)        |
| Professional standards                         | 15.4        | (14.2)        | 1.2        | 14.2        | (13.7)        | 0.5          |
| Commercial and shared services                 | 9.7         | (13.0)        | (3.3)      | 9.9         | (13.1)        | (3.2)        |
| Members  | 1.0         | (13.1)        | (12.1)     | 1.0         | (12.9)        | (11.9)       |
| Technical strategy                             | 4.0         | (9.0)         | (5.0)      | 3.9         | (9.2)         | (5.3)        |
| Central activities                             | 1.0         | (11.8)        | (10.8)     | 0.9         | (13.6)        | (12.7)       |
| Charitable trusts                              | 0.1         | (1.0)         | (0.9)      | 0.2         | (1.1)         | (0.9)        |
|  | 82.9        | (76.9)        | 6.0        | 79.4        | (77.6)        | 1.8          |
| FRC Conduct Committee                          | 2.4         | (5.2)         | (2.8)      | 1.6         | (3.4)         | (1.8)        |
| Other regulatory and professional associations | 0.9         | (3.1)         | (2.2)      | 0.8         | (2.9)         | (2.1)        |
|  | 3.3         | (8.3)         | (5.0)      | 2.4         | (6.3)         | (3.9)        |
| <b>Operating result</b>                        | <b>86.2</b> | <b>(85.2)</b> | <b>1.0</b> | <b>81.8</b> | <b>(83.9)</b> | <b>(2.1)</b> |
| Investment income                              | 1.7         | -             | 1.7        | 1.3         | -             | 1.3          |
| <b>Result before taxation</b>                  | <b>87.9</b> | <b>(85.2)</b> | <b>2.7</b> | <b>83.1</b> | <b>(83.9)</b> | <b>(0.8)</b> |
| Taxation                                       |             |               | (0.1)      |             |               | (0.1)        |
| <b>Net result after taxation for the year</b>  |             |               | <b>2.6</b> |             |               | <b>(0.9)</b> |

## Summary group statement of comprehensive income

|  | 2013       | 2012         |
|--|------------|--------------|
|  | £m         | £m           |
| Net result after taxation recognised in the income statement in the year | 2.6        | (0.9)        |
| Items that may be reclassified subsequently to profit or loss:           |            |              |
| Gains on revaluation of available for sale investments                   | 3.6        | 2.2          |
| Deferred tax   | (0.3)      | (0.4)        |
| Items that will not be reclassified subsequently to profit or loss:      |            |              |
| Gains/(losses) on revaluation of property, plant and equipment           | 1.1        | (0.6)        |
| Actuarial gains/(losses) recognised in the year                          | 2.6        | (4.8)        |
| Deferred tax   | (0.2)      | 0.1          |
| Other comprehensive income/(expense) in the year                         | 6.8        | (3.5)        |
| <b>Total comprehensive income/(expense) in the year</b>                  | <b>9.4</b> | <b>(4.4)</b> |

## Summary ICAEW income statement

for the year ended 31 December 2013

|  | 2013         |                   |            | 2012         |                   |              |
|--|--------------|-------------------|------------|--------------|-------------------|--------------|
|  | Income<br>£m | Expenditure<br>£m | Net<br>£m  | Income<br>£m | Expenditure<br>£m | Net<br>£m    |
| Subscriptions and fees                         | 41.5         | -                 | 41.5       | 39.6         | -                 | 39.6         |
| Learning and professional development          | 10.2         | (14.8)            | (4.6)      | 9.7          | (14.0)            | (4.3)        |
| Professional standards                         | 15.4         | (14.2)            | 1.2        | 14.2         | (13.7)            | 0.5          |
| Commercial and shared services                 | 9.7          | (13.0)            | (3.3)      | 9.9          | (13.1)            | (3.2)        |
| Members  | 1.0          | (13.1)            | (12.1)     | 1.0          | (12.9)            | (11.9)       |
| Technical strategy                             | 4.0          | (9.0)             | (5.0)      | 3.9          | (9.2)             | (5.3)        |
| Central activities                             | 1.0          | (11.2)            | (10.2)     | 0.9          | (13.1)            | (12.2)       |
|  | 82.8         | (75.3)            | 7.5        | 79.2         | (76.0)            | 3.2          |
| FRC Conduct Committee                          | 2.4          | (5.2)             | (2.8)      | 1.6          | (3.4)             | (1.8)        |
| Other regulatory and professional associations | 0.9          | (3.1)             | (2.2)      | 0.8          | (2.9)             | (2.1)        |
|  | 3.3          | (8.3)             | (5.0)      | 2.4          | (6.3)             | (3.9)        |
| Gift aid and library funding                   | -            | (1.8)             | (1.8)      | -            | (1.6)             | (1.6)        |
| <b>Operating result</b>                        | <b>86.1</b>  | <b>(85.4)</b>     | <b>0.7</b> | <b>81.6</b>  | <b>(83.9)</b>     | <b>(2.3)</b> |
| Investment income                              | 1.5          | -                 | 1.5        | 1.1          | -                 | 1.1          |
| <b>Result before taxation</b>                  | <b>87.6</b>  | <b>(85.4)</b>     | <b>2.2</b> | <b>82.7</b>  | <b>(83.9)</b>     | <b>(1.2)</b> |
| Taxation                                       |              |                   | -          |              |                   | -            |
| <b>Net result after taxation for the year</b>  |              |                   | <b>2.2</b> |              |                   | <b>(1.2)</b> |

## Summary ICAEW statement of comprehensive income

|  | 2013<br>£m | 2012<br>£m   |
|--|------------|--------------|
| Net result after taxation recognised in the income statement in the year | 2.2        | (1.2)        |
| Items that may be reclassified subsequently to profit or loss:           |            |              |
| Gains on revaluation of available for sale investments                   | 1.9        | 1.6          |
| Deferred tax   | (0.3)      | (0.3)        |
| Items that will not be reclassified subsequently to profit or loss:      |            |              |
| Gains/(losses) on revaluation of property, plant and equipment           | 1.1        | (0.6)        |
| Actuarial gains/(losses) recognised in the year                          | 2.5        | (4.6)        |
| Deferred tax   | (0.2)      | 0.1          |
| Other comprehensive income/(expense) in the year                         | 5.0        | (3.9)        |
| <b>Total comprehensive income/(expense) in the year</b>                  | <b>7.2</b> | <b>(5.1)</b> |

# Summary statements of financial position

as at 31 December 2013

|                                |      | 2013          | 2012          | Group<br>2011 | 2013          | 2012          | ICAEW<br>2011 |
|--------------------------------|------|---------------|---------------|---------------|---------------|---------------|---------------|
|                                | Note | £m            | £m            | £m            | £m            | £m            | £m            |
| <b>Assets</b>                  |      |               |               |               |               |               |               |
| Non-current assets             | 2    | 70.5          | 64.2          | 62.5          | 57.8          | 52.9          | 51.9          |
| Current assets                 |      | 15.0          | 14.7          | 19.1          | 13.9          | 13.8          | 18.3          |
| <b>Total assets</b>            |      | <b>85.5</b>   | <b>78.9</b>   | <b>81.6</b>   | <b>71.7</b>   | <b>66.7</b>   | <b>70.2</b>   |
| <b>Liabilities</b>             |      |               |               |               |               |               |               |
| Current liabilities            |      | (39.9)        | (38.2)        | (34.4)        | (39.6)        | (37.9)        | (34.1)        |
| Non-current liabilities        |      | (4.8)         | (9.3)         | (11.4)        | (4.7)         | (8.6)         | (10.8)        |
| <b>Total liabilities</b>       |      | <b>(44.7)</b> | <b>(47.5)</b> | <b>(45.8)</b> | <b>(44.3)</b> | <b>(46.5)</b> | <b>(44.9)</b> |
| <b>Total net assets</b>        |      | <b>40.8</b>   | <b>31.4</b>   | <b>35.8</b>   | <b>27.4</b>   | <b>20.2</b>   | <b>25.3</b>   |
| <b>Reserves</b>                |      |               |               |               |               |               |               |
| Revaluation reserve            |      | 6.5           | 5.4           | 5.9           | 6.5           | 5.4           | 5.9           |
| Investment revaluation reserve |      | 4.1           | 2.5           | 1.3           | 4.1           | 2.5           | 1.3           |
| Accumulated fund               |      | 12.3          | 7.9           | 14.0          | 11.6          | 7.3           | 13.6          |
| Other reserves                 |      | 5.2           | 5.0           | 4.5           | 5.2           | 5.0           | 4.5           |
| Charitable trusts              |      | 12.7          | 10.6          | 10.1          | -             | -             | -             |
|                                | 3    | 40.8          | 31.4          | 35.8          | 27.4          | 20.2          | 25.3          |

Approved on behalf of the council



**Martyn Jones**  
President  
18 March 2014



**Michael Izza**  
Chief Executive



## Summary statements of cash flows

for the year ended 31 December 2013

|   | Group      |              | ICAEW      |              |
|---|------------|--------------|------------|--------------|
|   | 2013<br>£m | 2012<br>£m   | 2013<br>£m | 2012<br>£m   |
| Cash generated from operating activities                                | 12.5       | 10.5         | 12.7       | 10.7         |
| Cash outflow on pension liabilities                                     | (4.8)      | (6.0)        | (4.8)      | (6.0)        |
| Cash outflow on FRC Conduct Committee                                   | (5.3)      | (4.0)        | (5.3)      | (4.0)        |
| Tax paid  | (0.1)      | (0.1)        | -          | -            |
| Purchase of property, plant and equipment                               | (0.8)      | (2.5)        | (0.8)      | (2.5)        |
| Purchase of intangible assets   | (1.2)      | (1.3)        | (1.2)      | (1.3)        |
| Net (disposal)/purchase of available for sale investments               | (0.7)      | 0.3          | (0.6)      | 0.4          |
| Investment income received  | 1.2        | 1.3          | 0.9        | 1.0          |
| <b>Net increase/(decrease) in cash and cash equivalents in the year</b> | <b>0.8</b> | <b>(1.8)</b> | <b>0.9</b> | <b>(1.7)</b> |
| Net cash and cash equivalents at 1 January                              | 3.9        | 5.7          | 3.4        | 5.1          |
| <b>Net cash and cash equivalents at 31 December</b>                     | <b>4.7</b> | <b>3.9</b>   | <b>4.3</b> | <b>3.4</b>   |

## Notes to the summary financial statements

for the year ended 31 December 2013

### 1 Basis of preparation

The summary financial statements have been extracted from ICAEW's full financial statements for the year ended 31 December 2013, which have been prepared in accordance with International Financial Reporting Standards, and under the historical cost convention as modified by the revaluation of properties and available for sale investments.

### 2 Non-current assets

|  | Group       |             |             | ICAEW       |             |             |
|--|-------------|-------------|-------------|-------------|-------------|-------------|
|  | 2013<br>£m  | 2012<br>£m  | 2011<br>£m  | 2013<br>£m  | 2012<br>£m  | 2011<br>£m  |
| Carrying amounts                       |             |             |             |             |             |             |
| Property, plant and equipment          | 18.6        | 18.8        | 19.2        | 18.6        | 18.8        | 19.2        |
| Intangible assets                      | 2.8         | 2.7         | 2.6         | 2.8         | 2.7         | 2.6         |
| Investments in associated undertakings | 0.1         | 0.1         | 0.1         | -           | -           | -           |
| Available for sale investments         | 47.3        | 42.4        | 40.4        | 34.3        | 31.2        | 29.9        |
| Pension asset                          | 1.7         | -           | -           | 2.1         | -           | -           |
| Deferred tax asset                     | -           | 0.2         | 0.2         | -           | 0.2         | 0.2         |
|  | <b>70.5</b> | <b>64.2</b> | <b>62.5</b> | <b>57.8</b> | <b>52.9</b> | <b>51.9</b> |

### 3 Reserves

| Group  | Revaluation reserve<br>£m | Investment revaluation reserve<br>£m | Accumulated fund<br>£m | Other reserves<br>£m | Charitable trusts<br>£m | Total<br>£m |
|--|---------------------------|--------------------------------------|------------------------|----------------------|-------------------------|-------------|
| <b>Reserves at 1 January 2013</b>                                    | <b>5.4</b>                | <b>2.5</b>                           | <b>7.9</b>             | <b>5.0</b>           | <b>10.6</b>             | <b>31.4</b> |
| Net result after taxation  | -                         | -                                    | 2.1                    | 0.2                  | 0.3                     | 2.6         |
| Increase in valuation of property, plant and equipment               | 1.1                       | -                                    | -                      | -                    | -                       | 1.1         |
| Net change in market value of long-term investments over cost        | -                         | 1.9                                  | -                      | -                    | 1.7                     | 3.6         |
| Actuarial gains recognised in year on defined benefit pension scheme | -                         | -                                    | 2.5                    | -                    | 0.1                     | 2.6         |
| Deferred tax attributable to above                                   | -                         | (0.3)                                | (0.2)                  | -                    | -                       | (0.5)       |
| Total other comprehensive income in the year                         | 1.1                       | 1.6                                  | 2.3                    | -                    | 1.8                     | 6.8         |
| Total comprehensive income in the year                               | 1.1                       | 1.6                                  | 4.4                    | 0.2                  | 2.1                     | 9.4         |
| <b>Reserves at 31 December 2013</b>                                  | <b>6.5</b>                | <b>4.1</b>                           | <b>12.3</b>            | <b>5.2</b>           | <b>12.7</b>             | <b>40.8</b> |

| ICAEW  | Revaluation reserve<br>£m | Investment revaluation reserve<br>£m | Accumulated fund<br>£m | Other reserves<br>£m | Total<br>£m |
|--|---------------------------|--------------------------------------|------------------------|----------------------|-------------|
| <b>Reserves at 1 January 2013</b>                                    | <b>5.4</b>                | <b>2.5</b>                           | <b>7.3</b>             | <b>5.0</b>           | <b>20.2</b> |
| Net result after taxation  | -                         | -                                    | 2.0                    | 0.2                  | 2.2         |
| Increase in valuation of property, plant and equipment               | 1.1                       | -                                    | -                      | -                    | 1.1         |
| Net change in market value of long-term investments over cost        | -                         | 1.9                                  | -                      | -                    | 1.9         |
| Actuarial gains recognised in year on defined benefit pension scheme | -                         | -                                    | 2.5                    | -                    | 2.5         |
| Deferred tax attributable to above                                   | -                         | (0.3)                                | (0.2)                  | -                    | (0.5)       |
| Total other comprehensive income in the year                         | 1.1                       | 1.6                                  | 2.3                    | -                    | 5.0         |
| Total comprehensive income in the year                               | 1.1                       | 1.6                                  | 4.3                    | 0.2                  | 7.2         |
| <b>Reserves at 31 December 2013</b>                                  | <b>6.5</b>                | <b>4.1</b>                           | <b>11.6</b>            | <b>5.2</b>           | <b>27.4</b> |

## Summary corporate governance statement

The council has adopted the provisions of section 1 of the UK Corporate Governance Code (September 2012) prepared by the committee on corporate governance, to the extent appropriate. During the year the council has monitored and assessed key risks in compliance with the guidance *Internal control: guidance for directors on the combined code*. The full corporate governance statement is set out in the financial statements for the year ended 31 December 2013.

## Independent auditor's statement to the members of The Institute of Chartered Accountants in England and Wales

We have examined the summary financial statements of The Institute of Chartered Accountants in England and Wales (ICAEW) for the year ended 31 December 2013, which comprise the summary group income statement, summary ICAEW income statement, summary statements of financial position, summary statements of cash flows and notes to the summary financial statements.

This report is made solely to ICAEW's members, as a body. Our work has been undertaken so that we might state to ICAEW's members those matters we are required to state to them in an auditor's report and for no other purpose. To the fullest extent permitted by law, we do not accept or assume responsibility to anyone other than ICAEW and ICAEW's members as a body, for our audit work, for this report, or for the opinions we have formed.

### Respective responsibilities of the council and auditors

The council is responsible for preparing the annual review.

Our responsibility is to report to you our opinion on the consistency of the summary financial statements within the annual review with the full annual report and financial statements.

We also read the other information contained in the annual review and consider the implications for our report if we become aware of any apparent misstatements or material inconsistencies with the summary financial statements.

### Basis of opinion

We conducted our work in accordance with Bulletin 2008/3 *The Auditors' Statement on the Summary Financial Statement in the United Kingdom* issued by the Auditing Practices Board. Our report on ICAEW's full annual financial statements describes the basis of our audit opinion on those financial statements.

### Opinion

In our opinion, the summary financial statements are consistent with the full annual financial statements of ICAEW for the year ended 31 December 2013.

Grant Thornton UK LLP

**Grant Thornton UK LLP**  
Statutory Auditor  
Chartered Accountants  
Milton Keynes  
18 March 2014

ICAEW is a world leading professional membership organisation that promotes, develops and supports over 142,000 chartered accountants worldwide. We provide qualifications and professional development, share our knowledge, insight and technical expertise, and protect the quality and integrity of the accountancy and finance profession.

As leaders in accountancy, finance and business our members have the knowledge, skills and commitment to maintain the highest professional standards and integrity. Together we contribute to the success of individuals, organisations, communities and economies around the world.

**Because of us, people can do business with confidence.**

ICAEW is a founder member of Chartered Accountants Worldwide and the Global Accounting Alliance.  
[www.charteredaccountantsworldwide.com](http://www.charteredaccountantsworldwide.com)  
[www.globalaccountingalliance.com](http://www.globalaccountingalliance.com)

#### ICAEW


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# ICAEW Financial Statements 2013





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The role of ICAEW Chartered Accountants in the world's economies has never been more important. People making financial decisions need knowledge and guidance based on the highest technical and ethical standards.

Our members provide this better than anyone. They challenge people and organisations to think and act differently, to provide clarity and rigour, and so help create and sustain prosperity.

As their institute, we create the environment in which those skills are constantly developed, recognised and valued. We shape opinion, understanding and delivery, to ensure the highest standards in business and in the public interest.

Because of us, people can do business with confidence.

These financial statements should be read in conjunction with ICAEW's annual review 2013.

# Financial review

ICAEW's financial statements for 2013 include the charitable trusts associated with ICAEW together with our international subsidiaries. The commentary below relates primarily to the operating activities of ICAEW.

## RESULTS

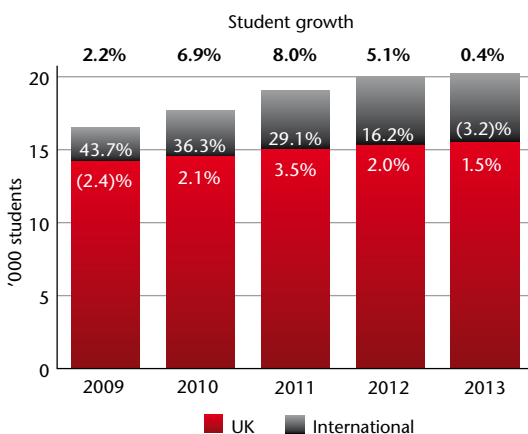
Total income was £87.6m, £4.9m higher than in 2012. The retained surplus after tax for the year was £2.2m (2012: £1.2m deficit). This reflects membership income growth of £1.9m and income growth from our qualifications and regulatory areas, together with a tight control over our cost base. At the same time, we have continued to invest in our strategy, including internationally. The result also includes the release of a provision of £1.8m made in 2012 in connection with uncertainty over outcomes of certain commercial matters resolved successfully in the year with revised terms. Fines and cost recoveries of £1.3m were received from the Financial Reporting Council (FRC) Conduct Committee, although the net FRC Conduct Committee case cost charge for 2013 was £2.8m (2012: £1.8m).

Net assets at 31 December 2013 were £27.4m, an increase of £7.2m over the 2012 net assets of £20.2m. Cash and cash equivalents ended the year at £4.3m, reflecting a net cash inflow of £0.9m in the year, after £4.8m contributions to reduce the pension scheme deficit. Total cash and investments stood at £38.6m at the end of the year, an increase of £4.0m on 2012.

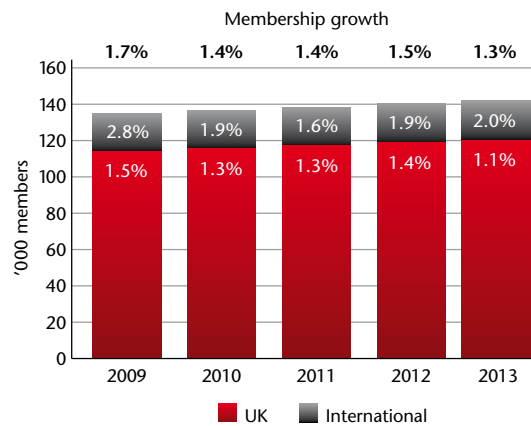
The consolidated outcome for the year, including the results of ICAEW's charitable trusts, was a surplus after tax of £2.6m (2012: £0.9m deficit).

## STUDENT AND MEMBERSHIP GROWTH

2013 saw ACA student intake of 5,656 – a reduction on our 2012 high point of 6,201 reflecting the challenging markets both in the UK and internationally. Total ACA student numbers at the end of 2013 stood at 20,121 (2012: 20,037). In addition 1,822 students signed up for our foundation level Certificate in Finance, Accounting and Business, which is more than double last year's intake of 903.



In the year, membership grew to 142,334, from admissions of newly-qualified students to membership, together with reciprocal and similar arrangements with members of other institutes.



## INCOME

Revenue from members' fees and subscriptions rose by 5% to £41.5m, reflecting the continued steady growth in membership and an improved mix of membership rates. Income from our qualifications increased by £0.5m, reflecting an increased student population actively taking exams, both ACA and CFAB, following our 20-year high intake in 2012 and record CFAB numbers this year.

Our commercial income streams were stable. Although we were unable to repeat the exceptional performance from some areas in 2012, we delivered growth in many lines including the international development of our leadership programmes.

Income from our new publishing arrangements with PCP since the launch of *economia* in 2012 has also held stable this year, despite a challenging advertising market.

We have continued to generate strong income from our capacity building programmes, with income nearly doubling in 2013 to £1.1m (offset by a matching increase in cost base). This reflects mostly overseas contracts, working with local institutes to strengthen the profession internationally.

Investment income increased to £1.5m, from £1.1m in 2012, reflecting the improved investment balances and a tight control over cash flows during the year.

## EXPENDITURE

Operating expenditure increased to £85.4m, including the impact of higher FRC Conduct Committee case costs, but net of cost recoveries.

We launched the evolved ACA in 2013, resulting in dual running of exams; in addition, exam-related costs saw an increase, reflecting the increased number of exams being sat.

## FRC CONDUCT COMMITTEE CASE COSTS

During 2013 we charged costs of £5.7m to the income statement in relation to the FRC Conduct Committee provision (formerly AADB), an increase of £2.2m on 2012. This was partly offset by cost recoveries of £0.5m (2012: £0.1m) imposed by FRC tribunals and returned to ICAEW.



There was further growth in the year in the case load as well as increased activity on existing cases, giving rise to the additional charges. In the year, judgment was made against Deloitte and Touche in relation to the MG Rover case; fines were awarded of £14.2m, plus costs, however the judgment was subsequently appealed and we do not recognise any income until a decision is final.

Since its inception, FRC Conduct Committee case costs charged to the income statement have totalled £26.1m, with recoveries of £3.8m; total cash payments out are £17.6m over the 10-year period.

The FRC Conduct Committee carries out independent investigations of the work and conduct of chartered accountants, both in public practice and elsewhere, where this has given rise to public concern.

## TAX

The net corporation tax charge for the year was £nil (2012: £nil). As a mutual membership organisation, much of our income is exempt from corporation tax.

## PENSIONS

The IAS19 valuation at 31 December 2013 was a whole scheme surplus of £1.7m (2012: deficit £5.6m). The pension asset is recognised as ICAEW considers that any surplus arising would be recoverable, assuming the gradual settlement of scheme liabilities over time.

ICAEW's defined benefits pension scheme was closed to further member benefit accrual on 30 June 2010. Employees who participated in the scheme were invited to join ICAEW's defined contribution pension arrangements, with transitional enhanced employer contributions payable until June 2013. The triennial actuarial valuation was concluded in the year and showed a deficit of £24.9m at 31 March 2013. The trustee and ICAEW agreed deficit funding arrangements comprising annual payments of £1.8m from 1 January 2014 until the deficit is eliminated. With our support, the trustee has developed an investment strategy intended to make the scheme entirely self-sufficient by around 2025.

A charge remains over Chartered Accountants' Hall and the fund has an interest in up to £10.0m of our investment portfolio. The previous covenant agreement with various trigger points and remedies has ended.

The scheme valuation has again been subject to the volatility in the financial markets, most notably in respect to improved gilt yields. A desktop valuation of the funding position at 31 December 2013 estimated the scheme deficit at £9.5m, a reduction of £15.4m on the estimated valuation at December 2012 of £24.9m (on the previous valuation basis) and of £15.4m from the March 2013 valuation.

Further details are given in note 24 to the financial statements.

## FINANCIAL POSITION

Net assets at 31 December 2013 were £27.4m – an increase of £7.2m on the 2012 position. At the year end, while our pension value had increased by £7.0m, this is after input of £4.8m cash contributions in the year, a net growth of £2.2m.

During 2013, the market value of our long-term investments rose to £34.3m from £31.2m in 2012.

The value of Chartered Accountants' Hall increased to £9.7m as at 31 December 2013.

Trade and other payables were £34.5m (2012: £32.5m). This reflects a further increase in subscription income in

advance. Trade and other receivables were £8.9m (2012: £9.6m).

We have provided £8.5m (2012: £8.1m) of costs relating to the FRC Conduct Committee at 31 December 2013, reflecting their current case load. Case costs are forecast on the basis of the available information on actual or prospective cases. The accuracy of this forecast depends on assumptions made about the progress of individual cases and is subject to a significant degree of judgement. We do not take account of any potential future income from fines or cost recoveries from FRC Conduct Committee cases.

## CASH FLOW

Cash balances at 31 December 2013 were £4.3m. Net cash inflow was £0.9m compared to a £1.7m outflow in 2012. Our cash profile fluctuates on an annual cycle, this year peaking at £39.2m in February and bottoming out at £1.6m in November.

Funding of the FRC Conduct Committee case costs saw a cash outflow of £5.3m (2012: £4.0m).

ICAEW provided £4.8m (2012: £6.0m) of deficit funding to the Staff Pensions Fund, in line with the current agreement.

Capital expenditure was £2.0m (2012: £3.8m). We expect to incur £2.6m of capital expenditure in 2014.

## RESERVES POLICIES

Our agreed reserves policies ensure that reserves are set at a level sufficient to cover both short-term requirements and longer term investment needs:

- reserves should be set at a level equivalent to between three and six months of expenditure through the income statement; and
- cash and investment balances should be at least sufficient to cover between three and six months of annual budgeted/forecast gross cash expenditure.

## CHARITABLE TRUSTS

The difference between the result of ICAEW and that of the group is mainly a result of donations received by ICAEW Foundation in the year together with investment income received by the trusts during the year.

During the year we made donations under gift aid to our charitable trusts amounting to £1.8m (2012: £1.6m). ICAEW's charitable trusts continued to run the Library and Information Service and also approved grants in the year of £0.1m (2012: £0.1m).

## CREDITOR PAYMENT POLICY

It is our policy to agree and communicate clearly the terms of payment as part of the commercial arrangements negotiated with suppliers. We then pay according to those terms based upon the timely receipt of an accurate invoice. Trade creditor days at 31 December 2013 were 24 days (2012: 20 days).

## POLITICAL DONATIONS

During the year, as part of its policy engagement, ICAEW supported a number of activities for political and politically affiliated organisations. This included the All Party Parliamentary Group on Business, Finance and Accountancy and a number of business policy events; costs associated with these activities totalled £35,000.

## OUR SUSTAINABILITY COMMITMENT

As a professional membership organisation, we represent a common voice for our members and the profession. We believe that the successful business of the future will be a sustainable business. As a profession we support economic development and prosperity, and as an organisation our vision is to have a net positive impact on the economy, society and environment.

There are three main ways in which we implement this.

- **Economy** – the provision of accurate, trusted information is central to the success of an economic system and this is what the profession does. We bring people together to share their views, are involved in research, and produce guidance for the wider business community on sustainability. This work helps us to support business to deliver long-term sustainable economic value and people to do business with confidence.
- **Society** – we recognise the impact we make on society. We believe that financial capability, social mobility and fundraising are essential to long-term economic success. We engage in various activities and programmes which support staff, individuals, organisations and communities around the world.
- **Environment** – we recognise that business has a significant impact on the environment, and although ICAEW does not operate in a business sector which causes significant pollution, we aim to promote and follow environmental practices, and reduce the negative impacts of our activities. On an international scale, we convene the debate on natural capital policy in government forums and financial institutions.

You can find more information about our commitment to corporate responsibility in our annual review 2013, including our work on developing access to the profession, diversity and our public interest focus.

## GOING CONCERN

The financial statements have been prepared on a going concern basis. The council has a reasonable expectation that ICAEW has adequate resources to continue in operational existence for the foreseeable future. The council receives and approves a three-year operational plan each year, which comprises forecast income statements, cash flow summaries, statements of financial position and key non-financial indicators. These are the basis of the monthly management accounts which are reviewed by the board.

ICAEW's business activities, together with the factors likely to affect its future development, performance and position are set out above, as well as in our annual review 2013. The financial position of ICAEW, its cash flows and liquidity position are described in the financial review above. In addition the accounting policies include ICAEW's objectives, policies and processes for managing its reserves, its financial risk management objectives, details of its hedging activities and its exposure to liquidity risk.

The council believes that ICAEW has adequate financial resources and is well placed to manage its business risks successfully despite the current economic outlook and market conditions and possible short-term funding needs, such as FRC Conduct Committee case costs. As a result, the going concern basis is considered appropriate.

## INTERNAL CONTROL

The council is responsible for ICAEW's system of internal control and for reviewing its effectiveness. The audit committee, on behalf of the council, reviews the effectiveness of the system and reports to council thereon. This is done on the basis of information and regular reports provided by management, internal audit and the external auditors. The system of internal control is designed to manage rather than eliminate the risk of failure to achieve business objectives. It can only provide reasonable, but not absolute, assurance against material misstatement or loss. It includes all controls including financial, operational, compliance and risk management.

The key elements of the system of internal control are listed below.

### Risk management

The council, through the board, audit committee, chief executive and executive directors, has an established and continuous process for identifying, evaluating and managing the significant risks faced by ICAEW. This process has been in place for the whole of 2013 and has continued up to the date on which this document was approved.

Each department identifies and reviews the risks faced by ICAEW, assessing both the controls in place and key actions required to manage the significant risks. These assessments are reported regularly to the audit committee, board and the council. Directors also report regularly to the board on any changes in risks and key risk highlights. The board considers at each meeting any issues arising in respect of the principal risks, any emerging or new reputational risks, and the velocity of any current or new risks and issues.

The assessment of risk is linked with the evolving ICAEW strategy in compliance with the guidance Internal Control: Guidance for Directors on the Combined Code (October 2005).

Annually the council undertakes a review to consider:

- the application of the risk management processes;
- reports on risk and internal control from the board;
- reports on internal control from the audit committee; and
- how the risks have changed over the period under review and any significant issues.

The board formally reviews risk twice a year and management puts in place the appropriate mitigation strategies. In reviewing the risks, the board considers whether management has appropriately assessed the risk by challenging the risk rating, whether the action taken to address and mitigate the risk is effective, and whether the timescales are appropriate. The board also considers whether there are other risks that should be reviewed and advises management accordingly. Over the year the board has considered a diverse range of risks and mitigation strategies, including the following principal risks.

### Risk – Key firms change their business models

Key firms move away from a core skill set of ACA-trained accountants. The scope of this risk could include: regulatory changes, competitors' actions or market changes.

Our activity to mitigate this risk includes: active stakeholder management; intelligence and insight with firms, regulators, competitors and the market. We are working with firms to develop training solutions that

ensure we are the professional body of choice across their international networks.

#### **Risk – The changing nature of the global competitive environment**

External changes result in professional bodies losing relevance or ICAEW falling behind in the marketplace and being unable to execute strategy in the public interest. The scope of this risk could include: legislative and regulatory changes; our products and partnerships; other regulatory and oversight bodies; our competitors; and market needs.

Our activity to mitigate this risk includes: actively influencing the debate about the future of the finance industry and developing innovative products and services for firms and members.

#### **Risk – A significant external event causes a loss of trust in the profession**

A global financial crash, debt crisis or financial scandal causes the public to lose trust in the profession and finance institutions, reducing our ability to support members, undermining our disciplinary and regulatory roles and hampering our ability to act in the public interest. The scope of this risk could include: high profile disciplinary cases; technical and public interest issues such as tax avoidance and audit quality.

Our activity to mitigate this risk includes: direct engagement with various third party organisations; monitoring media, complaints and regulatory activities.

#### **Risk – In-year cash flow limitations and/or exceptional costs**

Limitations on resources or exceptional in-year costs result in a significant impact on cash and therefore on operations and delivery of strategy. The impact of this risk could affect our competitive position and potentially our business operations. The scope of this risk could include: calls for costs for public interest cases from the FRC Conduct Committee; unforeseen capital costs to buildings or the poor performance of our investment strategy.

Our activity to mitigate this risk includes: close engagement with the FRC; regular reviews of financial and insurance positions; and active monitoring of the case pipeline.

#### **Risk – Data management**

Risk of damage to our reputation, operations or both, from data mismanagement events, such as the handling of client/student data, breakdown of ACA assessment process or procedure, or use of data relating to elections. The likelihood and impact of this risk grows as we expand internationally. The scope of this risk could include: fraud or human error; technical failure relating to data systems; or breakdown in the assessment processes and procedures.

Our activity to mitigate this risk includes: Payment Card Industry (PCI) compliance; intensive test programmes and spot checks for systems and processes and a voice recognition system to reduce human intervention.

#### **Risk – Data security**

There is a failure or breach of physical or cyber-security systems (eg as a result of a cyber-attack or breakdown of processes), resulting in damage to reputation and disruption to operations. The likelihood and impact of this risk grows as we expand internationally. The scope of this risk could include: failure or breach of system security leading to unauthorised access to ICAEW systems and data.

Our activity to mitigate this risk includes: audits to ensure staff have the appropriate application security access; system penetration tests undertaken by a specialist organisation; PCI compliance testing; and active monitoring of exam pass rates.

#### **Delegation**

We have a clear organisational structure, detailing lines of authority and control responsibilities. There are defined revenue and capital spend authorisation limits in place.

#### **Business plans and budgets**

Staff prepare detailed business plans and budgets for the board and the council to approve. We have agreed key performance targets and monitor achievement against these on a monthly basis. Actual results are compared to approved budgets or latest forecasts on a monthly basis and reported to each meeting of the board and the council. We also prepare revised annual forecasts and report on these three times a year. We post a summary of the monthly results and forecast reviews to the council members' website.

#### **Internal audit**

Internal audit provides assurance that risk management processes are addressing the significant risks faced by ICAEW and assesses the controls in place. It ensures that management takes appropriate remedial action if control weaknesses are identified. Internal audit reports formally to the audit committee and has direct access to the chairman of the committee. The committee also receives reports from the staff and the external auditors on important control matters.

#### **Review**

The council, through the reports it receives from the board and through the audit committee, has reviewed the effectiveness of ICAEW's system of internal control in operation during 2013. Where control weaknesses have been identified, remedial action was, or is being taken. None of these weaknesses resulted in any material losses, contingencies or uncertainties that would require disclosure in the financial statements or annual review.

# Corporate governance statement

## Our approach to governance

ICAEW is a chartered corporation and operates under the terms of its Royal Charter, bye-laws and regulations. Nonetheless, we choose to measure our governance against the UK Corporate Governance Code. We believe that we adopt the approach in the Code and comply with relevant provisions. As the Code acknowledges, some of its provisions may be disproportionate or less relevant to smaller entities. We recognise that parts of the Code do not relate precisely to the governance of a professional and membership body. The underlying principle is that our governance must support the delivery of our strategy. Members of council, board and the principal committees noted in these financial statements are drawn from our membership. We operate within regulatory oversight of the FRC and other regulators, as a Recognised Supervisory Body, a Recognised Qualifying Body, a Designated Professional Body and as a licenser of insolvency practitioners.

## ICAEW meetings

The Charter and bye-laws reserve certain matters to ICAEW members in general meeting. This includes consideration of the annual review and the financial statements with the report of the auditor.

## ICAEW council

Council considers, reviews and approves strategy, operational plans and budgets proposed by the board. It represents and articulates the views of members on all these matters and otherwise delegates the powers and authorities conferred on it by the Charter and bye-laws to the board, the departmental boards and to the chief executive, within an overall framework of financial approval limits.

In 2013, council met six times. As at 31 December 2013, it comprised 88 members. The majority of council members are directly elected by ICAEW members, with the remainder co-opted or ex officio. Council elects its chairman annually from among its members. You will find brief details of each council member, including their status and record of attendance at council meetings in 2013, in the online annual review 2013.

Council members do not receive remuneration. They are reimbursed for travel and subsistence costs incurred on ICAEW business. They may receive other payments, on a normal commercial basis, particularly in connection with lecturing and writing. Each member of council declares any interests which might lead to conflict and updates the declaration at least annually. Members of council and the board are also asked to identify and declare any potential conflicts of interest at each meeting.

## The office-holders and chief executive

The ICAEW office-holders have no formal personal powers other than the procedural matters specified in the principal bye-laws. They have an ambassadorial role, meeting members and stakeholders and promoting ICAEW. They represent the views of the council and the wider membership within ICAEW and ensure that these are taken into account in the development of ICAEW strategy and policies. They counsel and advise the chief executive. The president chairs the annual and special meetings of members and the ICAEW board. All office-holders (and council members) are non-executives. The office-holders during the year are set out in the board membership table.

The president serves a one-year term with council electing a vice-president annually to succeed the deputy-president and 'in turn' president. The nature of the organisation will mean that the office-holders will sometimes have a connection with member firms and groups. Any potential conflict is identified and declared as outlined above.

The chief executive (Michael Izza) operates within the framework of delegations approved by the council. Reporting to the president, he is responsible for the overall management of ICAEW, for the development and implementation of strategy, and for ensuring that ICAEW operates economically, efficiently and effectively. He also has a representational role, building effective relationships with members and with governments, regulators, other public bodies, and the media.

## Diversity

ICAEW has a diversity policy in relation to council, board and committee membership. The overall aim of this policy is to represent broadly within the membership of council, boards and committees the diversity, including gender, of the ICAEW membership as a whole. Moreover, the membership of council, boards and committees should have the appropriate balance of skills, experience, independence and knowledge to enable them to discharge their respective duties and responsibilities effectively, while ensuring the engagement of the best person for the job.

## The board

The board is responsible for monitoring the development and implementation of ICAEW strategy, including review of risk. The chief executive reports: monthly to the board on principal risks and on key activities; quarterly to the board on implementation of the operational plan; and, formally, twice a year on the management of risk. The executive directors report to each board meeting on performance against departmental plans. The finance director reports to each meeting on financial performance. The board reports on its activities to each council meeting.

The board comprises non-executives, principally council members ex officio, and senior executives. The council elects two of its members directly to the board for a two-year term. The elected members fulfil the role of 'senior independent director'. In 2013, the board met 10 times.

The chief executive and executive directors are appointed on permanent contracts, following appointment by a senior staff appointments committee comprising senior council members and advisers. They are not subject to annual or three-yearly election. Nonetheless, their performance is reviewed annually by the remuneration committee, which reports to the board accordingly.

## Review procedures

The board undertook a review of its own effectiveness in December 2013. This showed that, overall, the board works well. The review raised a small number of detailed issues about the operation of the board which it is addressing, including developing further the diversity of its membership. The board considered a variety of governance issues during the year, including its own composition and governance arrangements in the regulatory area. In the light of potential change, it agreed to undertake the review in-house. It will consider again in 2014 whether the review should be externally facilitated.

The audit committee performed an externally-facilitated effectiveness review in 2011.

The members of the board (for whom you can find brief biographical details on the ICAEW website at [Home/Who we are/Governance/ICAEW Board](#)) during 2013 were:

|                   | Position   | Appointed | Retired | Attendance |
|-------------------|--|-----------|---------|------------|
| Andrew Baigent*   | chairman, learning and professional development board; director group financial management improvement, Department of Health               |           |         | 9/10       |
| Arthur Bailey*    | vice-president (to 5 June), deputy-president (from 5 June); consultant, Begbies Traynor group & Kingston Smith, and non-executive director |           |         | 10/10      |
| Ian Davies*       | elected by council; senior independent director, Harvey Nash plc   |           | 31 Dec  | 9/10       |
| Robin Fieth**     | executive director, members and operations   |           | 30 Nov  | 9/9        |
| Howard Gross*     | chairman, members board; chief executive, Gross Klein  |           |         | 10/10      |
| Sharron Gunn      | executive director, commercial   |           |         | 9/10       |
| Richard Harwood*  | chairman, professional standards board; principal, Harwoods  |           | 5 June  | 3/4        |
| Robert Hodgkinson | executive director, technical strategy   |           |         | 9/10       |
| Michael Izza      | chief executive  |           |         | 10/10      |
| Jeremy Jennings*  | co-opted member; partner – regulatory & public policy leader, EMEA, Ernst & Young LLP, Brussels  |           | 5 June  | 2/4        |
| Martyn Jones*     | deputy-president (to 5 June); president and chairman (from 5 June); consultant, Deloitte LLP   |           |         | 10/10      |
| Hilary Lindsay*   | elected by council; lecturer, the Open University Business School  |           |         | 9/10       |
| David Matthews*   | chairman, technical strategy board; head of quality and risk management, KPMG LLP  | 5 June    |         | 5/6        |
| Mark Protherough  | executive director, learning and professional development  |           |         | 10/10      |
| Andrew Ratcliffe* | chairman, technical strategy board (to 5 June); vice-president (from 5 June); partner, PricewaterhouseCoopers LLP                          |           |         | 8/10       |
| Vernon Soare      | executive director, professional standards   |           |         | 9/10       |
| Mark Spofforth*   | president and chairman (to 5 June); partner, Spofforths  |           | 5 June  | 4/4        |
| Fiona Wilkinson*  | chairman, professional standards board; director, Fiona Wilkinson Ltd  | 5 June    |         | 6/6        |

\* council member \*\* resigned from ICAEW, 30 November 2013

Note: Nick Parker, (tax partner, Baker Tilly, and council member) joined the board as an elected member with effect from 1 January 2014; Liz Rylatt joined the board as executive director, finance, operations and members with effect from 8 January 2014.

### Audit committee

The audit committee is responsible, on behalf of the council, for ensuring that all significant activities of ICAEW are subject to independent review and audit; monitoring ICAEW's relationship with its auditors; reviewing internal controls; and assessments of risk. The audit committee met four times in 2013. Both the internal and external auditors attend its meetings and have direct access to its chairman. The external auditors attend at least one meeting (or part of a meeting) each year without ICAEW management present.

The members of the audit committee during 2013 were:

|                     | Position   | Appointed | Retired | Attendance |
|---------------------|--|-----------|---------|------------|
| Penny Bickerstaff   | independent management consultant                  |           | 10 Dec  | 2/4        |
| Richard Bint        | audit partner, BDO LLP                             | 5 June    |         | 3/3        |
| Stuart Bridges      | chief financial officer, Hiscox Ltd                |           |         | 4/4        |
| John Cain           | audit partner, KPMG LLP                            |           | 5 June  | 1/1        |
| David Canning-Jones | audit partner, EY LLP                              | 5 June    |         | 3/3        |
| Ian Cherry*         | chairman; chief executive, A I Cherry Ltd          |           |         | 4/4        |
| David Chitty*       | partner, Crowe Clark Whitehill LLP                 |           |         | 4/4        |
| Mary Hardy          | independent director                               |           |         | 4/4        |
| Neeraj Kapur*       | chief financial officer, Secure Trust Bank plc     |           | 5 June  | 1/1        |
| Nick Parker*        | tax partner, Baker Tilly                           | 5 June    |         | 3/3        |
| George Quigley*     | partner, BDO LLP                                   | 5 June    |         | 3/3        |
| Andrew Ratcliffe*   | vice-chairman; partner, PricewaterhouseCoopers LLP |           |         | 4/4        |

\* council member



The chairman of the audit committee reports annually to council. The audit committee provides a summary report of its proceedings to council after each meeting and makes the minutes of its meetings available to the board.

During the year the audit committee has:

- reviewed the financial statements and principal judgements, having received a report from the external auditors on their review and audit;
- considered the output of the procedures used to manage risk within ICAEW;
- reviewed the effectiveness of ICAEW's internal controls and risk management systems;
- agreed the fees and terms of appointment of the external auditors, including their quality and effectiveness; and
- agreed the work plan of internal audit and reviewed the resulting output from that plan.

The committee has helped council to assess the adequacy of the internal audit plan. The committee has received reports on the work carried out by internal audit and the results of their investigations including management responses, their adequacy and timeliness. It is satisfied that recommendations made by internal audit and external auditors receive due attention and action.

Over the course of the year the audit committee considered many components of business performance in order to ensure it has a full understanding of the operations of ICAEW. These reviews have allowed for the fact that some committee members are not on ICAEW's board or council and hence have less involvement in strategic matters than other members. Examples of processes it uses include:

- reviews of the processes undertaken in determining the position adopted in key judgement areas, including FRC Conduct Committee case costs, pension provisions and commercial arrangements;
- 'deep dives' into certain risk areas as described below;
- receipt of regular strategy reports from the chief executive and operational reports from the executive director, members and operations;
- requesting members of management to attend audit committee meetings to provide updates on operational and strategic matters; and
- a review of the budget and operational plan.

Significant areas of review by the audit committee in the year included 'deep dives' into certain principal and other corporate risks, including pensions, FRC Conduct Committee case cost provisions, commercial strategy, regulatory changes for audit and legal services and reviews of significant control matters as they arose.

Through these processes and its monitoring of the effectiveness of controls, internal audit and risk management, the audit committee is able to maintain a good understanding of business performance, key areas of judgement and decision-making processes within the organisation.

As a result of its work during the year, the committee has concluded that it has acted in accordance with its terms of reference and has ensured (as far as possible) the independence of the external auditors.

### Auditors

The auditors were first appointed in 2006 and re-appointed following a tender in 2010. The auditor periodically changes its audit partner in accordance with professional and regulatory standards in order to protect independence and objectivity, most recently in 2012. The

committee agrees with the audit firm staff rotation policies in relation to ICAEW's audit. Current ICAEW policy is to tender the external audit every five years.

The audit committee annually reviews and considers the quality, effectiveness and independence of the external auditors. This includes a review of safeguards in place in relation to non-audit services, and a review of the partners and directors of the audit firm who sit on ICAEW committees. To ensure appropriate levels of independence, a firm cannot be ICAEW's auditor if any partner or employee of the firm is a member of council during the period of tenure. ICAEW also has a policy regarding non-audit work by the audit firm. The general principle is that the audit firm should not be asked to carry out non-audit services where it may, in the future, be required to give an audit opinion. Audit committee approval is required for such services after considering appropriate independence safeguards including staff segregation.

To assess the effectiveness of the auditors the committee reviewed:

- the external auditors' fulfilment of the agreed audit plan and variations from it;
- the auditor's report of major issues arising during the course of the audit; and
- the most recent report on the auditors from the FRC's Audit Quality Review Team.

The audit committee is satisfied with the auditors' effectiveness and has recommended to council that Grant Thornton UK LLP be proposed for reappointment for 2014 at the annual meeting.

### Review of financial statements

Through discussion with management and the external auditor, the audit committee determined that the key judgements with risk of misstatement of ICAEW's financial statements related to provisions for FRC Conduct Committee case costs and the assumptions relating to pension fund liabilities, in particular the treatment of any pension scheme asset arising and the treatment of ICAEW's funding commitments to the scheme.

These issues were discussed with management during the year and with the auditor when reviewing and agreeing the audit plan and also at the conclusion of the audit of the financial statements.

The processes for establishing the FRC Conduct Committee provision were reviewed with regard to the supply of information available from the FRC, history of past cases and estimates of future progress. Management assumptions were reviewed and challenged in reaching the outcome presented.

The judgement relating to the pension scheme asset was reviewed with regard to the process adopted to interpret the scheme deed and rules with regard to the relevant accounting standards, together with supporting legal advice.

After reviewing the presentations and reports from management and consulting with the auditors, the audit committee is satisfied that the financial statements appropriately address the critical judgements and key estimates, both in respect to the amounts reported and the disclosures. The committee is also satisfied that the significant assumptions used for determining the value of assets and liabilities have been appropriately scrutinised, challenged and are sufficiently robust.

## Nominating committee

The nominating committee is responsible for making recommendations to the council for co-options, for the appointment of committee chairmen and for honorary membership of ICAEW. It also has direct responsibility for all other committee appointments. The committee makes recommendations and appointments on the basis of the best person for the job and against agreed profiles with regard to the diversity policy. The committee deals with much of its business by correspondence and meets only as required.

The members of the nominating committee during 2013 were:

|                   | Position   | Appointed | Retired | Attendance |
|-------------------|--|-----------|---------|------------|
| Arthur Bailey*    | vice-president (to 5 June), deputy-president (from 5 June); consultant, Begbies Traynor group & Kingston Smith, and non-executive director                                   |           |         | 5/6        |
| Susan Field*      | elected by council; sole practitioner  |           |         | 6/6        |
| Michael Izza      | chief executive  |           |         | 5/6        |
| Peter Jenkins*    | elected by council; finance director, The Prince's Regeneration Trust  | 1 Nov     |         | 1/1        |
| Martyn Jones*     | deputy-president (to 5 June), president and chairman (from 5 June); consultant, Deloitte LLP   |           |         | 5/6        |
| Sheilagh Moffat*  | elected by council; partner, Moffat Gilbert  |           |         | 5/6        |
| Clive Parritt*    | past-president; chairman Baronsmead VCT 2 plc; DiGiCo Europe Ltd; BG Consulting Group Ltd and non-executive director, London & Associated Properties plc and other companies |           |         | 2/6        |
| Andrew Ratcliffe* | vice-president (from 5 June); partner, PricewaterhouseCoopers LLP  | 5 June    |         | 2/2        |
| Gerald Russell*   | past-president; consultant   |           | 5 June  | 2/4        |
| Mark Spofforth*   | president and chairman (to 5 June), past-president (from 5 June); partner, Spofforths  |           |         | 4/6        |
| Jan Weber*        | elected by council; finance director, DIAM International   |           | 5 June  | 4/4        |

\* council member

## Remuneration committee

The remuneration committee keeps under review, on behalf of the board, the elements of the remuneration package provided for ICAEW staff, including the chief executive and executive directors. Staff are remunerated with reference to their annual performance rating and benchmark market salaries. The committee also monitors office-holder expenses. The chairman of the remuneration committee reports at least annually to the board.

The members of the remuneration committee during 2013 were:

|                  | Position   | Appointed | Retired | Attendance |
|------------------|--|-----------|---------|------------|
| Arthur Bailey*   | vice-president (to 5 June), deputy-president (from 5 June); consultant, Begbies Traynor group & Kingston Smith, and non-executive director |           |         | 3/4        |
| Ian Davies*      | chairman (from 5 June); senior independent director, Harvey Nash plc   |           |         | 4/4        |
| Frank Edwards*   | consultant   |           |         | 4/4        |
| Richard Harwood* | principal, Harwoods  | 5 June    |         | 1/1        |
| Peter Jenkins*   | chairman (to 5 June); finance director, The Prince's Regeneration Trust  |           | 5 June  | 3/3        |
| Sean O'Hare      | partner, PwC Human Resources Services  |           |         | 4/4        |

\* council member

### Senior staff appointments committee

The senior staff appointments committee is responsible for all matters relating to the recruitment and appointment of the chief executive and executive directors. For the appointment of the chief executive, the committee comprises the president or one other office-holder (chairman), the chairman of council and three members of council appointed by the nominating committee. For the appointment of an executive director, the committee comprises the president or one other office-holder (chairman), the chairman of council, one member of council appointed by the nominating committee, the chairman of the relevant departmental board and the chief executive.

The committee met in 2013 to consider candidates for the post of executive director, finance, operations and members following the resignation of Robin Fieth. Liz Rylatt was appointed to the role and joined ICAEW on 8 January 2014. The committee comprised Andrew Ratcliffe (vice-president), Nick Parker (chairman of council), Peter Jenkins (council member), Howard Gross (chairman of members board) and Michael Izza (chief executive).

### Departmental boards

Five departmental boards steered the development of policy for ICAEW's key activities in 2013: commercial; learning and professional development; members; professional standards; and technical strategy. These boards also exercise a general oversight of the work programmes of the departments.

You can find the terms of reference for the key ICAEW committees on the ICAEW website at [Home/who we are/committees](#)

### Employees

ICAEW aims to create a working environment that is based on a number of key principles including fairness, equality of opportunity, respect and dignity, flexibility, transparency and work-life balance. We believe that these key principles enable staff to enjoy work, develop as individuals and provide the best possible service to members, clients and the public, which contributes to the continued success of the organisation.

ICAEW is committed to the core values of acting responsibly, integrity, effective partnerships and the highest standards. It is our policy to treat all staff fairly and equally regardless of race, sex, sexual orientation, gender re-assignment, marital status or disability. Should existing staff suffer a disability, we will do all we can to accommodate this and to help the member of staff to continue their career in their existing role where possible, or in an alternative position in the organisation.

Periodically, ICAEW conducts staff surveys to give us the opportunity to get insight into changes in staff perception, attitudes, behaviours and engagement. The most recent staff survey results showed that staff are broadly content with working life at ICAEW and remain positive about the future of ICAEW. There is strong support for what ICAEW is trying to achieve and a good understanding of how departmental activity contributes to this. The survey was very positive about our line management and understanding of our brand values.

ICAEW has a well-established performance management process and training and development policy. Staff can discuss their development needs at 'one-to-ones' with their manager or as part of the annual performance management process. We hold regular strategy updates for all staff and have dedicated communications channels, including an intranet and weekly email updates.

### Financial responsibilities of the council

Bye-law 12(a) requires the council to prepare financial statements for each financial year which give a true and fair view of the state of affairs of ICAEW and of the result for ICAEW for that year.

The council has delegated these responsibilities to the board. In preparing these financial statements on behalf of the council, the board has:

- prepared the financial statements in accordance with applicable law and IFRS as adopted by the EU;
- selected suitable accounting policies and applied them consistently;
- made judgements and estimates that are reasonable and prudent;
- followed applicable accounting standards;
- prepared the financial statements on a going concern basis; and
- considered and confirmed that the financial statements and annual review together are fair, balanced and understandable.

The council is responsible for ensuring that proper accounting records are kept which disclose with reasonable accuracy the financial position of ICAEW. It is also responsible for safeguarding the assets of ICAEW and hence for taking reasonable steps for the prevention and detection of fraud and other irregularities.

### Directors' confirmation

As far as each of the directors is aware:

- there is no relevant audit information of which ICAEW's auditors are unaware; and
- the directors have taken all steps that they ought to have taken to make themselves aware of any relevant audit information and to establish that ICAEW's auditors are aware of that information.

For the purposes of this declaration, all members of the board are deemed directors.



# ICAEW five-year summary

|  | 2013<br>£m     | 2012<br>£m     | 2011<br>£m     | 2010<br>£m     | 2009<br>£m     |
|--|----------------|----------------|----------------|----------------|----------------|
| <b>Income statement</b>  |                |                |                |                |                |
| Operating income   | 87.6           | 82.7           | 82.4           | 76.4           | 73.7           |
| ICAEW services   | (75.3)         | (76.0)         | (72.4)         | (67.1)         | (66.0)         |
| Funding of regulatory and other professional associations                | (8.3)          | (6.3)          | (4.7)          | (5.8)          | (5.3)          |
| Gift aid and library funding   | (1.8)          | (1.6)          | (1.7)          | (1.6)          | (1.8)          |
| <b>Result before taxation</b>  | <b>2.2</b>     | <b>(1.2)</b>   | <b>3.6</b>     | <b>1.9</b>     | <b>0.6</b>     |
| Taxation   | -              | -              | -              | (0.1)          | 0.1            |
| <b>Net result after taxation</b>   | <b>2.2</b>     | <b>(1.2)</b>   | <b>3.6</b>     | <b>1.8</b>     | <b>0.7</b>     |
| <b>Net assets</b>  |                |                |                |                |                |
| Non-current assets excluding Staff Pensions Fund                         | 55.7           | 52.9           | 51.9           | 53.2           | 49.9           |
| Current assets   | 13.9           | 13.8           | 18.3           | 19.8           | 19.1           |
| Current liabilities  | (39.6)         | (37.9)         | (34.1)         | (33.6)         | (30.4)         |
| Non-current liabilities excluding Staff Pensions Fund                    | (4.7)          | (3.7)          | (4.8)          | (4.7)          | (3.0)          |
| Non-current assets/(liabilities) – Staff Pensions Fund asset/(liability) | 2.1            | (4.9)          | (6.0)          | (5.4)          | (14.2)         |
| <b>Total net assets</b>  | <b>27.4</b>    | <b>20.2</b>    | <b>25.3</b>    | <b>29.3</b>    | <b>21.4</b>    |
|  | <b>2013</b>    | <b>2012</b>    | <b>2011</b>    | <b>2010</b>    | <b>2009</b>    |
| <b>Member and student numbers</b>  |                |                |                |                |                |
| Members  | 142,334        | 140,573        | 138,464        | 136,615        | 134,698        |
| ACA students   | 20,121         | 20,037         | 19,073         | 17,653         | 16,517         |
|  | <b>162,455</b> | <b>160,610</b> | <b>157,537</b> | <b>154,268</b> | <b>151,215</b> |

# Independent auditor's report

## TO THE MEMBERS OF THE INSTITUTE OF CHARTERED ACCOUNTANTS IN ENGLAND AND WALES FOR THE YEAR ENDED 31 DECEMBER 2013

We have audited the group financial statements of The Institute of Chartered Accountants in England and Wales (ICAEW) for the year ended 31 December 2013 which comprise the group and ICAEW income statements, the group and ICAEW statements of comprehensive income, the group and ICAEW statements of changes to reserves, the group and ICAEW statements of financial position, the group and ICAEW statements of cash flow and the related notes. The financial reporting framework that has been applied in their preparation is applicable law and International Financial Reporting Standards (IFRS) as adopted by the European Union.

This report is made solely to ICAEW's members, as a body. Our audit work has been undertaken so that we might state to ICAEW's members those matters we are required to state to them in an auditor's report and for no other purpose. To the fullest extent permitted by law, we do not accept or assume responsibility to anyone other than ICAEW and ICAEW's members as a body, for our audit work, for this report, or for the opinions we have formed.

### Respective responsibilities of the council and auditor

As explained more fully in the corporate governance statement set out on page 10, the council is responsible for the preparation of the financial statements and for being satisfied that they give a true and fair view. Our responsibility is to audit and express an opinion on the financial statements in accordance with applicable law and International Standards on Auditing (UK and Ireland). Those standards require us to comply with the Auditing Practices Board's (APB's) Ethical Standards for Auditors.

### Scope of the audit of the financial statements

A description of the scope of an audit of financial statements is provided on the APB's website at [www.frc.org.uk/apb/scope/private.cfm](http://www.frc.org.uk/apb/scope/private.cfm)

### Auditor commentary

#### An overview of the scope of the audit

Our scope included an audit of the financial statements of the group and ICAEW and for the purposes of the group audit we carried out targeted audit work on the ICAEW Foundation, whose investments are material to the group financial statements. We performed analytical review on the financial statements of the other subsidiaries which were not considered to be individually significant to the group or included risks which were not considered to be material to the group financial statements. We carried out a risk assessment to identify financial statement risks, including communication with the Audit Committee. We undertook an interim visit in November 2013 to evaluate the internal controls over those risk areas we identified as being relevant to our audit. During our subsequent audit we undertook substantive testing on significant transactions, balances and disclosures, the extent of which was based on various factors such as our overall assessment of the control environment, the effectiveness of controls and the management of specific risk.

#### Our application of materiality

We apply the concept of materiality in planning and performing our audit, in evaluating the effect of any identified misstatements and in forming our opinion. For the purpose of determining whether the financial statements are free from material misstatement we

define materiality as the magnitude of a misstatement or an omission from the financial statements or related disclosures that would make it probable that the judgement of a reasonable person relying on the information would have been changed by the misstatement or omission. For the group audit, we established a planning materiality for the group financial statements as a whole of £1.7m, which is 2% of revenue. For the financial information of the subsidiary undertakings, we set our materiality based on a proportion of group materiality appropriate to the relative sizes of the entities.

We determined the threshold at which we will communicate misstatements to the Audit Committee to be £50,000. In addition we will communicate misstatements below that threshold that, in our view, warrant reporting on qualitative grounds.

#### Our assessment of risk

Without modifying our opinion, we highlight the following matters that are, in our judgement, likely to be most important to the users' understanding of our audit. Our audit procedures relating to these matters were designed in the context of our audit of the consolidated financial statements as a whole, and not to express an opinion on individual transactions, account balances or disclosures.

#### FRC Conduct Committee provision

Included in the Group and ICAEW Statements of Financial Position, the FRC Conduct Committee total provision of £8.5m represents the estimated present obligation of ICAEW in respect of the investigations by the FRC Conduct Committee for disciplinary cases arising from past events up to 31 December 2013. The process to measure the provision is highly judgemental, and is based on information provided by the FRC and a review by ICAEW of potential cost estimates on a case-by-case basis. We therefore identified the FRC Conduct Committee provision as a significant risk requiring special audit consideration.

Our audit work included, but was not restricted to, an evaluation of the detail of the FRC's estimate of costs, a comparison of prior estimates to actual outcomes and a review of correspondence with FRC regarding ongoing cases. We compared the provision to our expectations based on historical evidence and challenged management assumptions. The accounting policy and disclosures regarding this provision are included in notes 1(IV) and 23 to the financial statements.

#### Pension asset

ICAEW has a pension asset of £1.7m and £2.1m on the Group and ICAEW Statements of Financial Position respectively. The pension scheme is accounted for under IAS19 (Revised) – Employee Benefits and IFRIC 14 – The Limit on a Defined Benefit Asset, Minimum Funding Requirements and their Interaction. The process to recognise and measure the amount of the pension asset, including the determination of the appropriate timing of recognition, involves significant judgement as the existence and valuation is subject to the interpretation of the scheme's rules, to determine whether an unconditional right to the surplus exists in accordance with IFRIC 14, and complex actuarial assumptions. We therefore identified the defined benefit pension scheme asset as a significant risk requiring special audit consideration.

Our audit work included but was not restricted to our evaluation of management's judgements in respect of their interpretation of IFRIC 14 and the related legal advice regarding the determination of an unconditional right to a surplus. We also reviewed the appropriateness of management's application of IAS19 valuation methodology; agreeing asset values to underlying investment manager statements and checking the valuation of those assets. We involved our own actuarial specialists in challenging management's assumptions. The accounting policy and disclosures regarding this provision are included in notes 1(XIII) and 24 to the financial statements.

#### **Management override of financial control**

Under ISAs (UK & Ireland), for all our audits we are required to consider the risk of management override of financial controls. Due to the unpredictable nature of this risk we are required to assess it as a significant risk requiring special audit consideration.

Our audit work included but was not restricted to, consideration of the overall control environment of the group, including interviewing senior management and the head of internal audit, to assess the level of the risk. We performed the specific procedures relating to this risk that are required by ISA 240 'The Auditor's Responsibilities relating to Fraud in an audit of the financial statements'. This includes tests of journal entries, the evaluation of judgements and assumptions in management's estimates and tests of significant transactions outside the normal course of business. In addition, we also reviewed the arrangements for the staff to 'whistle-blow' inappropriate management actions and findings from internal audit's reports.

#### **Opinion on financial statements**

In our opinion the financial statements:

- give a true and fair view of the state of the group's and of ICAEW's affairs as at 31 December 2013 and of the group's and ICAEW's result for the year then ended; and
- have been properly prepared in accordance with IFRS as adopted by the European Union.

#### **Other reporting responsibilities**

We have nothing to report in respect of the following:

Under the ISAs (UK & Ireland), we are required to report to you if, in our opinion, information in the annual report is:

- materially inconsistent with the information in the audited financial statements; or
- apparently materially incorrect based on, or materially inconsistent with, our knowledge of the group acquired in the course of performing our audit; or
- is otherwise misleading.

In particular, we are required to consider whether we have identified any inconsistencies between our knowledge acquired during the audit and the council's statement that they consider the annual report is fair, balanced and understandable and whether the annual report appropriately discloses those matters that were communicated to the audit committee which we consider should have been disclosed.



Grant Thornton UK LLP  
Statutory Auditor  
Chartered Accountants

Milton Keynes  
18 March 2014

# Group income statement

for the year ended 31 December 2013

|  | Note      | 2013         |                   |              | 2012         |                   |              |
|--|-----------|--------------|-------------------|--------------|--------------|-------------------|--------------|
|  |           | Income<br>£m | Expenditure<br>£m | Net<br>£m    | Income<br>£m | Expenditure<br>£m | Net<br>£m    |
| Subscriptions and fees                         |           | 41.5         | -                 | 41.5         | 39.6         | -                 | 39.6         |
| Learning and professional development          | 1         | 10.2         | (14.8)            | (4.6)        | 9.7          | (14.0)            | (4.3)        |
| Professional standards                         | 2         | 15.4         | (14.2)            | 1.2          | 14.2         | (13.7)            | 0.5          |
| Commercial and shared services                 | 3         | 9.7          | (13.0)            | (3.3)        | 9.9          | (13.1)            | (3.2)        |
| Members  | 4         | 1.0          | (13.1)            | (12.1)       | 1.0          | (12.9)            | (11.9)       |
| Technical strategy                             | 5         | 4.0          | (9.0)             | (5.0)        | 3.9          | (9.2)             | (5.3)        |
| Central activities                             | 6         | 1.0          | (11.8)            | (10.8)       | 0.9          | (13.6)            | (12.7)       |
| Charitable trusts                              | 7         | 0.1          | (1.0)             | (0.9)        | 0.2          | (1.1)             | (0.9)        |
|  |           | <u>82.9</u>  | <u>(76.9)</u>     | <u>6.0</u>   | <u>79.4</u>  | <u>(77.6)</u>     | <u>1.8</u>   |
| FRC Conduct Committee                          | 8         | 2.4          | (5.2)             | (2.8)        | 1.6          | (3.4)             | (1.8)        |
| Other regulatory and professional associations | 9         | 0.9          | (3.1)             | (2.2)        | 0.8          | (2.9)             | (2.1)        |
|  |           | <u>3.3</u>   | <u>(8.3)</u>      | <u>(5.0)</u> | <u>2.4</u>   | <u>(6.3)</u>      | <u>(3.9)</u> |
| <b>Operating result</b>                        | <b>11</b> | <b>86.2</b>  | <b>(85.2)</b>     | <b>1.0</b>   | <b>81.8</b>  | <b>(83.9)</b>     | <b>(2.1)</b> |
| Investment income                              | 12        | 1.7          | -                 | 1.7          | 1.3          | -                 | 1.3          |
| <b>Result before taxation</b>                  |           | <b>87.9</b>  | <b>(85.2)</b>     | <b>2.7</b>   | <b>83.1</b>  | <b>(83.9)</b>     | <b>(0.8)</b> |
| Taxation                                       | 13        |              |                   | (0.1)        |              |                   | (0.1)        |
| <b>Net result after taxation for the year</b>  |           |              |                   | <b>2.6</b>   |              |                   | <b>(0.9)</b> |

# ICAEW income statement

for the year ended 31 December 2013

|  | Note      | 2013         |                   |              | 2012         |                   |              |
|--|-----------|--------------|-------------------|--------------|--------------|-------------------|--------------|
|  |           | Income<br>£m | Expenditure<br>£m | Net<br>£m    | Income<br>£m | Expenditure<br>£m | Net<br>£m    |
| Subscriptions and fees                         |           | 41.5         | -                 | 41.5         | 39.6         | -                 | 39.6         |
| Learning and professional development          | 1         | 10.2         | (14.8)            | (4.6)        | 9.7          | (14.0)            | (4.3)        |
| Professional standards                         | 2         | 15.4         | (14.2)            | 1.2          | 14.2         | (13.7)            | 0.5          |
| Commercial and shared services                 | 3         | 9.7          | (13.0)            | (3.3)        | 9.9          | (13.1)            | (3.2)        |
| Members  | 4         | 1.0          | (13.1)            | (12.1)       | 1.0          | (12.9)            | (11.9)       |
| Technical strategy                             | 5         | 4.0          | (9.0)             | (5.0)        | 3.9          | (9.2)             | (5.3)        |
| Central activities                             | 6         | 1.0          | (11.2)            | (10.2)       | 0.9          | (13.1)            | (12.2)       |
|  |           | <b>82.8</b>  | <b>(75.3)</b>     | <b>7.5</b>   | <b>79.2</b>  | <b>(76.0)</b>     | <b>3.2</b>   |
| FRC Conduct Committee                          | 8         | 2.4          | (5.2)             | (2.8)        | 1.6          | (3.4)             | (1.8)        |
| Other regulatory and professional associations | 9         | 0.9          | (3.1)             | (2.2)        | 0.8          | (2.9)             | (2.1)        |
|  |           | <b>3.3</b>   | <b>(8.3)</b>      | <b>(5.0)</b> | <b>2.4</b>   | <b>(6.3)</b>      | <b>(3.9)</b> |
| Gift aid and library funding                   | 10        | -            | (1.8)             | (1.8)        | -            | (1.6)             | (1.6)        |
| <b>Operating result</b>                        | <b>11</b> | <b>86.1</b>  | <b>(85.4)</b>     | <b>0.7</b>   | <b>81.6</b>  | <b>(83.9)</b>     | <b>(2.3)</b> |
| Investment income                              | 12        | 1.5          | -                 | 1.5          | 1.1          | -                 | 1.1          |
| <b>Result before taxation</b>                  |           | <b>87.6</b>  | <b>(85.4)</b>     | <b>2.2</b>   | <b>82.7</b>  | <b>(83.9)</b>     | <b>(1.2)</b> |
| Taxation                                       | 13        |              |                   | -            |              |                   | -            |
| <b>Net result after taxation for the year</b>  |           |              |                   | <b>2.2</b>   |              |                   | <b>(1.2)</b> |

# Group and ICAEW statements of comprehensive income

for the year ended 31 December 2013

|  | Note | Group      |              | ICAEW      |              |
|--|------|------------|--------------|------------|--------------|
|  |      | 2013       | 2012         | 2013       | 2012         |
|  |      | £m         | £m           | £m         | £m           |
| Net result after taxation recognised in the income statement in the year |      | 2.6        | (0.9)        | 2.2        | (1.2)        |
| Items that may be reclassified subsequently to profit or loss:           |      |            |              |            |              |
| Gains on revaluation of available for sale investments                   | 17   | 3.6        | 2.2          | 1.9        | 1.6          |
| Deferred tax   | 18   | (0.3)      | (0.4)        | (0.3)      | (0.4)        |
| Items that will not be reclassified subsequently to profit or loss:      |      |            |              |            |              |
| Gains/(losses) on revaluation of property, plant and equipment           | 14   | 1.1        | (0.6)        | 1.1        | (0.6)        |
| Actuarial gains/(losses) recognised in the year                          | 24   | 2.6        | (4.8)        | 2.5        | (4.6)        |
| Deferred tax   | 18   | (0.2)      | 0.1          | (0.2)      | 0.1          |
| Other comprehensive income/(expense) in the year                         |      | 6.8        | (3.5)        | 5.0        | (3.9)        |
| <b>Total comprehensive income/(expense) in the year</b>                  |      | <b>9.4</b> | <b>(4.4)</b> | <b>7.2</b> | <b>(5.1)</b> |

# Group statement of changes to reserves

for the year ended 31 December 2013

|   | Revaluation<br>reserve<br>£m | Investment<br>revaluation<br>reserve<br>£m | Accumulated<br>fund<br>£m | Other<br>reserves<br>£m | Charitable<br>trusts<br>£m | Total<br>£m |
|---|------------------------------|--|---------------------------|-------------------------|----------------------------|-------------|
| <b>Reserves at 1 January 2012</b>                                     | <b>5.9</b>                   | <b>1.3</b>                                 | <b>14.0</b>               | <b>4.5</b>              | <b>10.1</b>                | <b>35.8</b> |
| Net result after taxation   | -                            | -  | (1.6)                     | 0.6                     | 0.1                        | (0.9)       |
| Decrease in valuation of property, plant and equipment                | (0.6)                        | -  | -                         | -                       | -                          | (0.6)       |
| Net change in market value of long-term investments over cost         | -                            | 1.6  | -                         | -                       | 0.6                        | 2.2         |
| Actuarial losses recognised in year on defined benefit pension scheme | -                            | -  | (4.5)                     | (0.1)                   | (0.2)                      | (4.8)       |
| Deferred tax attributable to above                                    | 0.1                          | (0.4)                                      | -                         | -                       | -                          | (0.3)       |
| Total other comprehensive (expense)/income in the year                | (0.5)                        | 1.2  | (4.5)                     | (0.1)                   | 0.4                        | (3.5)       |
| Total comprehensive (expense)/income in the year                      | (0.5)                        | 1.2  | (6.1)                     | 0.5                     | 0.5                        | (4.4)       |
| <b>Reserves at 1 January 2013</b>                                     | <b>5.4</b>                   | <b>2.5</b>                                 | <b>7.9</b>                | <b>5.0</b>              | <b>10.6</b>                | <b>31.4</b> |
| Net result after taxation   | -                            | -  | 2.1                       | 0.2                     | 0.3                        | 2.6         |
| Increase in valuation of property, plant and equipment                | 1.1                          | -  | -                         | -                       | -                          | 1.1         |
| Net change in market value of long-term investments over cost         | -                            | 1.9  | -                         | -                       | 1.7                        | 3.6         |
| Actuarial gains recognised in year on defined benefit pension scheme  | -                            | -  | 2.5                       | -                       | 0.1                        | 2.6         |
| Deferred tax attributable to above                                    | -                            | (0.3)                                      | (0.2)                     | -                       | -                          | (0.5)       |
| Total other comprehensive income in the year                          | 1.1                          | 1.6  | 2.3                       | -                       | 1.8                        | 6.8         |
| Total comprehensive income in the year                                | 1.1                          | 1.6  | 4.4                       | 0.2                     | 2.1                        | 9.4         |
| <b>Reserves at 31 December 2013</b>                                   | <b>6.5</b>                   | <b>4.1</b>                                 | <b>12.3</b>               | <b>5.2</b>              | <b>12.7</b>                | <b>40.8</b> |

# ICAEW statement of changes to reserves

for the year ended 31 December 2013

|   | Revaluation<br>reserve<br>£m | Investment<br>revaluation<br>reserve<br>£m | Accumulated<br>fund<br>£m | Other<br>reserves<br>£m | Total<br>£m |
|---|------------------------------|--|---------------------------|-------------------------|-------------|
| <b>Reserves at 1 January 2012</b>                                     | <b>5.9</b>                   | <b>1.3</b>                                 | <b>13.6</b>               | <b>4.5</b>              | <b>25.3</b> |
| Net result after taxation   | -                            | -  | (1.8)                     | 0.6                     | (1.2)       |
| Decrease in valuation of property, plant and equipment                | (0.6)                        | -  | -                         | -                       | (0.6)       |
| Net change in market value of long-term investments over cost         | -                            | 1.6  | -                         | -                       | 1.6         |
| Actuarial losses recognised in year on defined benefit pension scheme | -                            | -  | (4.5)                     | (0.1)                   | (4.6)       |
| Deferred tax attributable to above                                    | 0.1                          | (0.4)                                      | -                         | -                       | (0.3)       |
| Total other comprehensive (expense)/income in the year                | (0.5)                        | 1.2  | (4.5)                     | (0.1)                   | (3.9)       |
| Total comprehensive (expense)/income in the year                      | (0.5)                        | 1.2  | (6.3)                     | 0.5                     | (5.1)       |
| <b>Reserves at 1 January 2013</b>                                     | <b>5.4</b>                   | <b>2.5</b>                                 | <b>7.3</b>                | <b>5.0</b>              | <b>20.2</b> |
| Net result after taxation   | -                            | -  | 2.0                       | 0.2                     | 2.2         |
| Increase in valuation of property, plant and equipment                | 1.1                          | -  | -                         | -                       | 1.1         |
| Net change in market value of long-term investments over cost         | -                            | 1.9  | -                         | -                       | 1.9         |
| Actuarial gains recognised in year on defined benefit pension scheme  | -                            | -  | 2.5                       | -                       | 2.5         |
| Deferred tax attributable to above                                    | -                            | (0.3)                                      | (0.2)                     | -                       | (0.5)       |
| Total other comprehensive income in the year                          | 1.1                          | 1.6  | 2.3                       | -                       | 5.0         |
| Total comprehensive income in the year                                | 1.1                          | 1.6  | 4.3                       | 0.2                     | 7.2         |
| <b>Reserves at 31 December 2013</b>                                   | <b>6.5</b>                   | <b>4.1</b>                                 | <b>11.6</b>               | <b>5.2</b>              | <b>27.4</b> |



# Group and ICAEW statements of financial position

as at 31 December 2013

|  | Note | 2013<br>£m    | 2012<br>£m    | Group<br>2011<br>£m | 2013<br>£m    | 2012<br>£m    | ICAEW<br>2011<br>£m |
|--|------|---------------|---------------|---------------------|---------------|---------------|---------------------|
| <b>Assets</b>                                    |      |               |               |                     |               |               |                     |
| <b>Non-current assets</b>                        |      |               |               |                     |               |               |                     |
| Property, plant and equipment                    | 14   | 18.6          | 18.8          | 19.2                | 18.6          | 18.8          | 19.2                |
| Intangible assets                                | 15   | 2.8           | 2.7           | 2.6                 | 2.8           | 2.7           | 2.6                 |
| Investments in subsidiaries and associates       | 16   | 0.1           | 0.1           | 0.1                 | -             | -             | -                   |
| Financial assets: Available for sale investments | 17   | 47.3          | 42.4          | 40.4                | 34.3          | 31.2          | 29.9                |
| Pension asset                                    | 24   | 1.7           | -             | -                   | 2.1           | -             | -                   |
| Deferred tax asset                               | 18   | -             | 0.2           | 0.2                 | -             | 0.2           | 0.2                 |
|  |      | <b>70.5</b>   | <b>64.2</b>   | <b>62.5</b>         | <b>57.8</b>   | <b>52.9</b>   | <b>51.9</b>         |
| <b>Current assets</b>                            |      |               |               |                     |               |               |                     |
| Inventories                                      | 19   | 0.7           | 0.8           | 0.8                 | 0.7           | 0.8           | 0.8                 |
| Trade and other receivables                      | 20   | 9.6           | 10.0          | 12.6                | 8.9           | 9.6           | 12.4                |
| Cash and cash equivalents                        | 21   | 4.7           | 3.9           | 5.7                 | 4.3           | 3.4           | 5.1                 |
|  |      | <b>15.0</b>   | <b>14.7</b>   | <b>19.1</b>         | <b>13.9</b>   | <b>13.8</b>   | <b>18.3</b>         |
| <b>Total assets</b>                              |      | <b>85.5</b>   | <b>78.9</b>   | <b>81.6</b>         | <b>71.7</b>   | <b>66.7</b>   | <b>70.2</b>         |
| <b>Liabilities</b>                               |      |               |               |                     |               |               |                     |
| <b>Current liabilities</b>                       |      |               |               |                     |               |               |                     |
| Trade and other payables                         | 22   | (34.8)        | (32.8)        | (29.9)              | (34.5)        | (32.5)        | (29.6)              |
| Current tax liabilities                          |      | (0.1)         | (0.1)         | (0.1)               | (0.1)         | (0.1)         | (0.1)               |
| FRC Conduct Committee provision                  | 23   | (5.0)         | (5.3)         | (4.4)               | (5.0)         | (5.3)         | (4.4)               |
|  |      | <b>(39.9)</b> | <b>(38.2)</b> | <b>(34.4)</b>       | <b>(39.6)</b> | <b>(37.9)</b> | <b>(34.1)</b>       |
| <b>Non-current liabilities</b>                   |      |               |               |                     |               |               |                     |
| Grants payable after more than one year          |      | (0.1)         | -             | -                   | -             | -             | -                   |
| Pension liabilities                              | 24   | -             | (5.6)         | (6.6)               | -             | (4.9)         | (6.0)               |
| FRC Conduct Committee provision                  | 23   | (3.5)         | (2.8)         | (4.2)               | (3.5)         | (2.8)         | (4.2)               |
| Deferred tax liability                           | 18   | (1.2)         | (0.9)         | (0.6)               | (1.2)         | (0.9)         | (0.6)               |
|  |      | <b>(4.8)</b>  | <b>(9.3)</b>  | <b>(11.4)</b>       | <b>(4.7)</b>  | <b>(8.6)</b>  | <b>(10.8)</b>       |
| <b>Total liabilities</b>                         |      | <b>(44.7)</b> | <b>(47.5)</b> | <b>(45.8)</b>       | <b>(44.3)</b> | <b>(46.5)</b> | <b>(44.9)</b>       |
| <b>Total net assets</b>                          |      | <b>40.8</b>   | <b>31.4</b>   | <b>35.8</b>         | <b>27.4</b>   | <b>20.2</b>   | <b>25.3</b>         |
| <b>Reserves</b>                                  |      |               |               |                     |               |               |                     |
| Revaluation reserve                              |      | 6.5           | 5.4           | 5.9                 | 6.5           | 5.4           | 5.9                 |
| Investment revaluation reserve                   |      | 4.1           | 2.5           | 1.3                 | 4.1           | 2.5           | 1.3                 |
| Accumulated fund                                 |      | 12.3          | 7.9           | 14.0                | 11.6          | 7.3           | 13.6                |
| Other reserves                                   |      | 5.2           | 5.0           | 4.5                 | 5.2           | 5.0           | 4.5                 |
| Charitable trust funds                           |      | 12.7          | 10.6          | 10.1                | -             | -             | -                   |
|  |      | <b>40.8</b>   | <b>31.4</b>   | <b>35.8</b>         | <b>27.4</b>   | <b>20.2</b>   | <b>25.3</b>         |

Approved on behalf of the council 18 March 2014



Martyn Jones  
President



Michael Izza  
Chief Executive

# Group and ICAEW statements of cash flows

for the year ended 31 December 2013

|  |              | Group        |              | ICAEW        |  |
|--|--------------|--------------|--------------|--------------|--|
| Note   | 2013<br>£m   | 2012<br>£m   | 2013<br>£m   | 2012<br>£m   |  |
| <b>Cash flows from operating activities <sup>1</sup></b>                           |              |              |              |              |  |
| <b>Result before taxation</b>  | <b>2.7</b>   | <b>(0.8)</b> | <b>2.2</b>   | <b>(1.2)</b> |  |
| Adjustments for:   |              |              |              |              |  |
| Depreciation and amortisation  | 3.1          | 3.1          | 3.1          | 3.1          |  |
| Investment income  | 12 (1.7)     | (1.3)        | (1.5)        | (1.1)        |  |
| Non-cash movement in provisions  | 5.8          | 3.6          | 6.1          | 3.8          |  |
| <b>Cash flows from operating activities before movements in working capital</b>    | <b>9.9</b>   | <b>4.6</b>   | <b>9.9</b>   | <b>4.6</b>   |  |
| <b>Movements in working capital</b>  |              |              |              |              |  |
| Decrease in inventories  | 0.1          | -            | 0.1          | -            |  |
| Decrease in trade and other receivables  | 0.4          | 2.5          | 0.7          | 2.8          |  |
| Increase in trade and other payables   | 2.1          | 3.4          | 2.0          | 3.3          |  |
| <b>Cash generated from operating activities after movements in working capital</b> | <b>12.5</b>  | <b>10.5</b>  | <b>12.7</b>  | <b>10.7</b>  |  |
| <b>Cash flows on provisions</b>  |              |              |              |              |  |
| Tax paid   | (0.1)        | (0.1)        | -            | -            |  |
| Cash outflow on pension liabilities  | (4.8)        | (6.0)        | (4.8)        | (6.0)        |  |
| Cash outflow on FRC Conduct Committee provision                                    | (5.3)        | (4.0)        | (5.3)        | (4.0)        |  |
| <b>Net cash generated from operating activities</b>                                | <b>2.3</b>   | <b>0.4</b>   | <b>2.6</b>   | <b>0.7</b>   |  |
| <b>Cash flows from investing activities</b>  |              |              |              |              |  |
| Purchase of property, plant and equipment  | (0.8)        | (2.5)        | (0.8)        | (2.5)        |  |
| Purchase of intangible assets  | (1.2)        | (1.3)        | (1.2)        | (1.3)        |  |
| Purchase of available for sale investments   | (28.3)       | (19.0)       | (18.3)       | (11.9)       |  |
| Disposal of available for sale investments   | 27.6         | 19.3         | 17.7         | 12.3         |  |
| Investment income received   | 1.2          | 1.3          | 0.9          | 1.0          |  |
| <b>Net cash outflow from investing activities</b>                                  | <b>(1.5)</b> | <b>(2.2)</b> | <b>(1.7)</b> | <b>(2.4)</b> |  |
| <b>Net increase/(decrease) in cash and cash equivalents in the year</b>            | <b>0.8</b>   | <b>(1.8)</b> | <b>0.9</b>   | <b>(1.7)</b> |  |
| Net cash and cash equivalents at 1 January   | 3.9          | 5.7          | 3.4          | 5.1          |  |
| <b>Net cash and cash equivalents at 31 December</b>                                | <b>4.7</b>   | <b>3.9</b>   | <b>4.3</b>   | <b>3.4</b>   |  |
|  | 21           |              |              |              |  |

<sup>1</sup> Fines and cost recoveries from disciplinary cases including the FRC Conduct Committee are included within operational cash flows and included in the result before taxation above. Amounts levied on firms as contributions towards FRC Conduct Committee costs are similarly included in operational income. Payments to the FRC Conduct Committee from amounts previously provided are included separately in the cash movement on provisions above.

# Accounting policies

## I Basis of preparation

ICAEW is a body incorporated by Royal Charter. The financial statements have been prepared in accordance with IFRS as adopted by the EU, and under the historical cost convention as modified by the revaluation of properties and available for sale investments. Consolidated financial statements have been prepared which comprise ICAEW and all its subsidiary undertakings.

Subsidiaries are all entities over which ICAEW has the power to control the financial and operating policies. All subsidiaries have a reporting date of 31 December. All transactions and balances between group entities are eliminated on consolidation.

Investments in associates are accounted for using the equity method. ICAEW's interest in the net assets of associates is included in investment in associates in the consolidated statement of financial position, and its interest in their results, in the income statement below the operating result. Associates are those entities over which ICAEW has significant influence to participate in, but not control over, the financial and operating policies of the companies.

ICAEW has adopted all relevant standards effective for accounting periods beginning on or after 1 January 2013. The first-time application of these standards has not resulted in any prior period adjustments of cash flows, net income or statement of financial position line items.

At the date of authorisation of these financial statements, the following standards and interpretations were in issue, but not yet effective:

| Standard or interpretation<br>(red = not yet EU adopted)        | Effective<br>from years<br>commencing: |
|---|--|
| IFRS 10 – Consolidated Financial Statements                     | 1 January 2014                         |
| IFRS 11 – Joint Arrangements                                    | 1 January 2014                         |
| IFRS 12 – Disclosure of Interests in Other Entities             | 1 January 2014                         |
| IAS 27 (revised) – Separate Financial Statements                | 1 January 2014                         |
| IAS 28 (revised) – Investments in Associates and Joint Ventures | 1 January 2014                         |
| IAS 32 – Financial instruments: Presentation                    | 1 January 2014                         |
| IAS 36 – Impairment of Assets                                   | 1 January 2014                         |
| Annual Improvements 2010–2012 Cycle                             | 1 July 2014                            |
| Annual Improvements 2011–2013 Cycle                             | 1 July 2014                            |

## II Critical accounting judgements and key sources of estimation

To be able to prepare financial statements according to generally accepted accounting principles, the board must make estimates and assumptions that affect the recorded asset and liability items as well as other information, such as that provided on FRC Conduct Committee provisions

and pensions (notes 23-24) as well as operational matters. These estimates are based on historical experience and various other assumptions that the board believes are reasonable under the circumstances. The results of these form the basis for making judgements about the carrying values of assets and liabilities that are not readily apparent from other sources. Actual results may differ from these estimates under different assumptions or conditions. Further details in relation to specific areas are included in the accounting policies below, or in the notes to the financial statements.

The defined benefit pension scheme rules and funding arrangements were reviewed and with supporting legal advice, ICAEW considers that it has an unconditional right to a refund assuming the gradual settlement of the scheme liabilities over time until all members have left the scheme. Accordingly any surplus arising on valuation is recognised as a scheme asset.

## III Income

Income from fees and subscriptions is recognised in the accounting period to which the services covered by those subscriptions relate, and is stated net of VAT where applicable. Fees and subscriptions received in advance are included within trade and other payables. Income as presented in the income statements is revenue as defined under IAS 18 Revenue.

Income associated with professional conduct (disciplinary fines) is recognised on receipt. Income in association with FRC Conduct Committee cases is recognised when receivable ie, when the tribunal judgement has been made and the decision is final. Other income, including licence fees, exam fees and income from consulting services is recognised in the period in which the services are provided.

## IV Professional Conduct and FRC Conduct Committee

Provision is made for the estimated future external costs of disciplinary cases relating to events which occurred before the year end. Case costs are forecast on the basis of the available information on actual or prospective cases. However, the accuracy of the forecast will depend on assumptions made about the progress of cases and is subject to a significant degree of judgement. In setting the provision, no account is taken of any potential fines or cost recoveries potentially due to ICAEW from tribunals not yet completed.

## V Property, plant and equipment, and depreciation

### Freehold properties

Freehold properties are considered to be level 2 assets as defined by IFRS 13 – Fair Value Measurement and are revalued annually at open market value by independent, professionally qualified valuers. They are included in the statements of financial position at their revalued amounts derived from observable market data of comparative buildings in a similar location. The valuation was carried out using a market approach which reflected observed prices for recent market transactions. Surpluses on revaluations are transferred to the revaluation reserve. Deficits on revaluations are charged against the revaluation reserve to the extent that there are available surpluses relating to the same asset and are otherwise charged to the income statement.

Certain major items of fixed plant and equipment are identified separately and are depreciated over their individual estimated useful economic lives.

Depreciation is not charged on freehold land. Depreciation is charged on the revalued amount of freehold buildings at 2% per year.

#### **Leasehold improvements**

Improvements to leasehold properties are capitalised at cost and are depreciated on a straight line basis over the shorter of their estimated useful economic lives and the remaining lease term.

#### **Historic collections**

ICAEW's collections of silver, rare books, period furniture, pictures and sculptures are considered to be level 2 assets as defined by IFRS 13 – Fair Value Measurement and are revalued annually by independent, professionally qualified valuers. They are stated at estimated open market values derived from observable market data. In view of the nature of these assets, the estimated residual value is equal to the carrying amount and no depreciation is provided. Surpluses on revaluation, including surpluses arising from donations of items to the collections, are transferred to the revaluation reserve. Deficits on revaluation are charged against the revaluation reserve to the extent that there are available surpluses relating to the same asset and are otherwise charged to the income statement.

#### **Other plant and equipment**

Other plant and equipment is capitalised at cost. Depreciation is charged on a straight line basis over the estimated useful economic lives of the assets ranging from two to ten years.

The impairment of property, plant and equipment is considered annually or whenever events or changes in circumstances indicate that the carrying amount may not be recoverable, and provisions are made where necessary.

### **VI Intangible assets**

Intangible assets comprise computer software and are stated at cost. Amortisation is charged on a straight line basis over the estimated useful economic life of the software (from two to five years). The impairment of intangible assets is considered whenever events or changes in circumstances indicate that the carrying amount may not be recoverable, and provisions are made where necessary.

### **VII Investments**

Interest-bearing investments, equities and unit trusts held for the purposes of generating long-term investment income are considered to be level 1 assets as defined by IFRS 13 – Fair Value Measurement and are treated as non-current available for sale investments. They are included at mid-price market value at the year-end date. Gains and losses on re-measurement are taken to the investment revaluation reserve initially and are recognised in the statement of comprehensive income. On disposal, the cumulative gain or loss previously recognised in reserves is reclassified to profit or loss.

At each year-end date, an assessment is made as to whether there is objective evidence that an available for sale equity instrument is impaired. A significant or prolonged decline in the fair value of the security below its cost is considered in determining whether the asset is impaired. Judgement is used in determining what a significant or prolonged decline is. Impairment charges are recognised in the income statement.

### **VIII Cash and cash equivalents**

Cash and cash equivalents comprise cash in hand, balances with banks and investments in money market instruments representing short-term, highly liquid investments that are readily convertible to known amounts of cash, which are subject to an insignificant risk of changes in value.

### **IX Inventories**

Inventories are stated at the lower of cost, using the first in first out basis, and net realisable value. Using information available at the year-end date, ICAEW makes judgements based on experience on the level of provision required to account for potential unsaleable inventories.

### **X Trade and other receivables**

Trade and other receivables are stated at cost less allowances made for doubtful receivables after initial recognition, which approximates fair value. Using information available at the year-end date, provision against trade receivables is made when there is objective evidence that ICAEW will not be able to collect all amounts due to it in accordance with the original terms of those receivables. The amount of the write-down is determined as the difference between the carrying amount and the present value of estimated future cash flows discounted at the original effective interest rate.

### **XI Leases**

Costs of operating leases are charged to the income statement on a straight line basis over the period of the relevant agreement. For property leases, where a rent-free period is agreed, this is spread over the life of the lease.

### **XII Grants**

Revenue grants receivable are recognised in the relevant period to match with the related costs which they are intended to compensate.

### **XIII Pensions**

#### **Defined benefit scheme**

Retirement benefits are accounted for under IAS 19 – Employee Benefits (revised). This standard was adopted early during 2012. Scheme assets are measured at fair value. Scheme liabilities are measured by qualified actuaries on an actuarial basis using the projected unit credit method, and are discounted at appropriate high-quality corporate bond rates that have terms to maturity which approximate to the terms of the related liability. Past service cost is recognised as an expense on a straight line basis over the average period until benefits become vested. Net interest on the net deficit/surplus is recognised in the income statement. Actuarial gains and losses are recognised in full in the statement of comprehensive income as they arise.

The scheme closed to future accrual on 30 June 2010. The quantification of the pension valuation is based on actuarial assumptions made by the board, in conjunction with the scheme's actuary, relating to discount rate, expected return on the plan's assets, inflation and future price increases. These assumptions, the details of which for the current financial year are included in note 24, are reviewed in the context of the economic climate.

- The discount rate is determined with reference to the market rate of over 15 year AA rated bonds at the year-end date, allowing for the anticipated maturity of the scheme's projected benefit cash flow profile.
- The discount rate is used for calculating the expected returns on both the assets and the liabilities of the scheme.
- The assumption for long-term inflation is based on market expectation of long-term future inflation at the year end, as measured by the difference between yields on fixed interest and index-linked government bonds.
- The assumptions relating to the mortality of current and future pensioners are based on bespoke data using up-to-date pooled experience from occupational pension schemes and taking into account the characteristics of each individual member that are known to affect life expectancy. Allowance is made for future mortality improvements in line with the projection model issued

by the Institute and Faculty of Actuaries. Improvements are assumed to have peaked and decline at older ages. This is consistent with the assumption used in the most recent actuarial valuation.

Because of changing market and economic conditions, the expenses and liabilities actually arising under the scheme in the future may differ materially from the estimates made on the basis of these actuarial assumptions. The effects of any change to these assumptions are accounted for in the next financial year as other comprehensive income. The calculation of any charge relating to retirement benefits is clearly dependent on the assumptions used, which reflects the exercise of judgement.

#### **Defined contribution schemes**

Contributions under defined contribution schemes are charged to the income statement as they become due and payable.

### **XIV Taxation**

#### **Current tax**

Current tax is the tax currently payable based on taxable profit for the year and is recognised as a component of tax expense in the income statement.

#### **Deferred tax**

Deferred tax is recognised on all taxable temporary differences. However, deferred tax is not provided on initial recognition of an asset or liability unless the related transaction affects tax or accounting profit. In addition, a deferred tax asset is recognised for all deductible temporary differences to the extent that it is probable that taxable profit will be available against which the deductible temporary difference can be used. Deferred tax assets and liabilities are measured at the tax rates that are expected to apply to the period when the asset is realised or the liability is settled based on tax rates and laws that have been enacted, or substantively enacted by the end of the reporting period. Measurement is also based on the tax consequences of recovering or settling the carrying amount of assets and liabilities. Changes in deferred tax assets or liabilities are recognised as a component of tax expense in the income statement, except where they relate to items that are recognised in other comprehensive income, in which case the related deferred tax is also recognised in other comprehensive income.

### **XV Financial risk management**

Senior management directly controls day-to-day policies and operations. Financial risk management issues are covered by ICAEW's risk management process as set out in the financial review section. Board and council members are regularly updated on any significant issues relating to financial risk management. Financial risks to which ICAEW is exposed are summarised below.

#### **Currency risk**

The majority of ICAEW's transactions are carried out in sterling. In addition, ICAEW holds accounts in US dollars and euros. To the extent possible, ICAEW uses the income received from services provided in these currencies to hedge any exposures on payments made. In other cases forward purchases are used where possible to hedge against currency movements on known foreign exchange requirements.

#### **Credit risk**

Working capital and longer term funds are held in interest-bearing investments and in listed equity securities for investment purposes through independent custodians.

The credit risk for cash and cash equivalents is monitored regularly. In the current economic climate, extra attention has been given to the agreed limited list of counterparties, which are all reputable banks with a high-quality external

credit rating of at least AA- or which have been judged to have systemic importance.

In respect of trade and other receivables, ICAEW is not exposed to any significant credit risk to any single counterparty or group of counterparties. The majority of ICAEW's counterparties are members or member firms which are not considered to be a credit risk to ICAEW. ICAEW continuously monitors defaults of counterparties and incorporates this information into its credit risk controls relating to non-member customers.

The maximum exposure to credit risk at the year-end date is represented by the carrying value of financial instruments and management considers that all the financial assets not impaired or past due are of good credit quality.

#### **Liquidity and interest rate risk**

ICAEW policy is to maintain a strong statement of financial position with cash or cash equivalent balances and therefore it does not have significant exposure to liquidity risk. ICAEW manages its liquidity risk by monitoring its net cash and cash equivalent flows. Liquidity needs are monitored on a day-to-day and monthly basis for short-term needs. Excess funds are invested as appropriate, depending on the forecast working capital cash flow needs, on short-term interest-bearing accounts or certificates of deposit. As a result of its holding of certificates of deposit with financial institutions, ICAEW does have exposure to interest rate fluctuations. These investments are invested by our agents in high-quality, liquid deposits, with a range of counterparties in such a way as to avoid an excessive concentration of our investment with any specific counterparty, and are monitored on a regular basis.

#### **Going concern**

The financial statements have been prepared on a going concern basis; the conclusions of council's going concern review are set out in the financial review section.

### **XVI Reserves**

Reserves are set at a level equivalent to between three and six months of expenditure through the income statement and for cash and investment balances to be at least sufficient to cover between three and six months of annual budgeted/forecast gross cash expenditure.

Reserves comprise the following:

#### **Revaluation reserve**

Represents the excess of the open market valuation over the depreciated historical cost of ICAEW's historic collections and properties, net of deferred tax.

#### **Investment revaluation reserve**

Represents unrealised gains and losses arising from the revaluation of available for sale investments over their historical cost.

#### **Accumulated fund and other reserves**

Represents the retained result of ICAEW and ICAEW group activities and comprises the accumulated fund, faculties, Chartered Accountants' Compensation Scheme and charitable trust reserve funds. In calculating the result to be taken to these reserves, account has been taken of a share of central activities costs and other indirect costs and an allocation of investment income where appropriate.

# Notes to the financial statements

for the year ended 31 December 2013

## 1 Learning and professional development

|                                | Group and ICAEW      |                           |                   | Group and ICAEW      |                           |                   |
|--------------------------------|----------------------|---------------------------|-------------------|----------------------|---------------------------|-------------------|
|                                | 2013<br>Income<br>£m | 2013<br>Expenditure<br>£m | 2013<br>Net<br>£m | 2012<br>Income<br>£m | 2012<br>Expenditure<br>£m | 2012<br>Net<br>£m |
| Qualifications                 | 10.2                 | (9.4)                     | 0.8               | 9.7                  | (8.9)                     | 0.8               |
| Business development           | -                    | (4.6)                     | (4.6)             | -                    | (4.3)                     | (4.3)             |
| Executive, policy and strategy | -                    | (0.8)                     | (0.8)             | -                    | (0.8)                     | (0.8)             |
|                                | 10.2                 | (14.8)                    | (4.6)             | 9.7                  | (14.0)                    | (4.3)             |

## 2 Professional standards

|                                      | Group and ICAEW      |                           |                   | Group and ICAEW      |                           |                   |
|--------------------------------------|----------------------|---------------------------|-------------------|----------------------|---------------------------|-------------------|
|                                      | 2013<br>Income<br>£m | 2013<br>Expenditure<br>£m | 2013<br>Net<br>£m | 2012<br>Income<br>£m | 2012<br>Expenditure<br>£m | 2012<br>Net<br>£m |
| Disciplinary                         | 0.8                  | (2.7)                     | (1.9)             | 0.7                  | (3.0)                     | (2.3)             |
| Authorisation of investment business | 1.8                  | (1.6)                     | 0.2               | 1.8                  | (1.6)                     | 0.2               |
| Practice regulation and assurance    | 11.7                 | (8.9)                     | 2.8               | 11.1                 | (8.5)                     | 2.6               |
| Capacity building                    | 1.1                  | (1.0)                     | 0.1               | 0.6                  | (0.6)                     | -                 |
|                                      | 15.4                 | (14.2)                    | 1.2               | 14.2                 | (13.7)                    | 0.5               |

## 3 Commercial and shared services

|                 | Group and ICAEW      |                           |                   | Group and ICAEW      |                           |                   |
|-----------------|----------------------|---------------------------|-------------------|----------------------|---------------------------|-------------------|
|                 | 2013<br>Income<br>£m | 2013<br>Expenditure<br>£m | 2013<br>Net<br>£m | 2012<br>Income<br>£m | 2012<br>Expenditure<br>£m | 2012<br>Net<br>£m |
| Commercial      | 9.5                  | (8.3)                     | 1.2               | 8.9                  | (8.1)                     | 0.8               |
| Shared services | 0.2                  | (4.7)                     | (4.5)             | 1.0                  | (5.0)                     | (4.0)             |
|                 | 9.7                  | (13.0)                    | (3.3)             | 9.9                  | (13.1)                    | (3.2)             |

During 2013, a restructure was carried out within the department, with a re-alignment of income streams within commercial and shared services.

## 4 Members

|                                   | Group and ICAEW      |                           |                   | Group and ICAEW      |                           |                   |
|-----------------------------------|----------------------|---------------------------|-------------------|----------------------|---------------------------|-------------------|
|                                   | 2013<br>Income<br>£m | 2013<br>Expenditure<br>£m | 2013<br>Net<br>£m | 2012<br>Income<br>£m | 2012<br>Expenditure<br>£m | 2012<br>Net<br>£m |
| Members – special interest groups | 0.7                  | (0.6)                     | 0.1               | 0.6                  | (0.7)                     | (0.1)             |
| Member services                   | 0.1                  | (3.2)                     | (3.1)             | 0.1                  | (3.1)                     | (3.0)             |
| UK regions                        | -                    | (4.7)                     | (4.7)             | -                    | (4.7)                     | (4.7)             |
| International regions             | 0.2                  | (4.6)                     | (4.4)             | 0.3                  | (4.4)                     | (4.1)             |
|                                   | 1.0                  | (13.1)                    | (12.1)            | 1.0                  | (12.9)                    | (11.9)            |

## 5 Technical strategy

|                                 | Group and ICAEW      |                           |                   | Group and ICAEW      |                           |                   |
|---------------------------------|----------------------|---------------------------|-------------------|----------------------|---------------------------|-------------------|
|                                 | 2013<br>Income<br>£m | 2013<br>Expenditure<br>£m | 2013<br>Net<br>£m | 2012<br>Income<br>£m | 2012<br>Expenditure<br>£m | 2012<br>Net<br>£m |
| ICAEW-funded faculty activities | -                    | (2.8)                     | (2.8)             | -                    | (2.8)                     | (2.8)             |
| Technical departments           | -                    | (1.2)                     | (1.2)             | 0.2                  | (2.1)                     | (1.9)             |
| Audit and Assurance Faculty     | 1.0                  | (0.7)                     | 0.3               | 0.9                  | (0.6)                     | 0.3               |
| Corporate Finance Faculty       | 0.5                  | (0.5)                     | -                 | 0.5                  | (0.5)                     | -                 |
| Finance and Management Faculty  | 0.6                  | (0.6)                     | -                 | 0.6                  | (0.4)                     | 0.2               |
| Financial Reporting Faculty     | 0.3                  | (0.4)                     | (0.1)             | 0.3                  | (0.4)                     | (0.1)             |
| Financial Services Faculty      | 0.4                  | (0.4)                     | -                 | 0.3                  | (0.4)                     | (0.1)             |
| Information Technology Faculty  | 0.4                  | (0.4)                     | -                 | 0.3                  | (0.4)                     | (0.1)             |
| Tax Faculty                     | 0.8                  | (0.7)                     | 0.1               | 0.8                  | (0.6)                     | 0.2               |
| Administration                  | -                    | (1.3)                     | (1.3)             | -                    | (1.0)                     | (1.0)             |
|                                 | 4.0                  | (9.0)                     | (5.0)             | 3.9                  | (9.2)                     | (5.3)             |

## 6 Central activities

|   | Group                |                           |                   | Group                |                           |                   |
|---|----------------------|---------------------------|-------------------|----------------------|---------------------------|-------------------|
|   | 2013<br>Income<br>£m | 2013<br>Expenditure<br>£m | 2013<br>Net<br>£m | 2012<br>Income<br>£m | 2012<br>Expenditure<br>£m | 2012<br>Net<br>£m |
| Infrastructure  | -                    | (10.6)                    | (10.6)            | -                    | (10.0)                    | (10.0)            |
| Marketing and communications  | 1.0                  | (8.8)                     | (7.8)             | 0.9                  | (9.8)                     | (8.9)             |
| Finance and administration  | -                    | (6.5)                     | (6.5)             | -                    | (7.9)                     | (7.9)             |
|   | 1.0                  | (25.9)                    | (24.9)            | 0.9                  | (27.7)                    | (26.8)            |
| Less: allocated to other activities or recovered from outside bodies (including notional rent of £1.3m (2012: £1.2m)) | -                    | 14.1                      | 14.1              | -                    | 14.1                      | 14.1              |
|   | 1.0                  | (11.8)                    | (10.8)            | 0.9                  | (13.6)                    | (12.7)            |

|   | ICAEW                |                           |                   | ICAEW                |                           |                   |
|---|----------------------|---------------------------|-------------------|----------------------|---------------------------|-------------------|
|   | 2013<br>Income<br>£m | 2013<br>Expenditure<br>£m | 2013<br>Net<br>£m | 2012<br>Income<br>£m | 2012<br>Expenditure<br>£m | 2012<br>Net<br>£m |
| Infrastructure  | -                    | (10.6)                    | (10.6)            | -                    | (10.0)                    | (10.0)            |
| Marketing and communications  | 1.0                  | (8.8)                     | (7.8)             | 0.9                  | (9.8)                     | (8.9)             |
| Finance and administration  | -                    | (6.5)                     | (6.5)             | -                    | (7.9)                     | (7.9)             |
|   | 1.0                  | (25.9)                    | (24.9)            | 0.9                  | (27.7)                    | (26.8)            |
| Less: allocated to other activities or recovered from outside bodies (including notional rent of £1.3m (2012: £1.2m)) | -                    | 14.7                      | 14.7              | -                    | 14.6                      | 14.6              |
|   | 1.0                  | (11.2)                    | (10.2)            | 0.9                  | (13.1)                    | (12.2)            |

## 7 Charitable trusts

|                                | Group                |                           |                   | Group                |                           |                   |
|--------------------------------|----------------------|---------------------------|-------------------|----------------------|---------------------------|-------------------|
|                                | 2013<br>Income<br>£m | 2013<br>Expenditure<br>£m | 2013<br>Net<br>£m | 2012<br>Income<br>£m | 2012<br>Expenditure<br>£m | 2012<br>Net<br>£m |
| External research grants       | -                    | (0.1)                     | (0.1)             | -                    | (0.1)                     | (0.1)             |
| Library income and expenditure | -                    | (0.9)                     | (0.9)             | -                    | (1.0)                     | (1.0)             |
| Other income and expenditure   | 0.1                  | -                         | 0.1               | 0.2                  | -                         | 0.2               |
|                                | 0.1                  | (1.0)                     | (0.9)             | 0.2                  | (1.1)                     | (0.9)             |



## 8 FRC Conduct Committee

|                 | Group and ICAEW      |                           |                   | Group and ICAEW      |                           |                   |
|-----------------|----------------------|---------------------------|-------------------|----------------------|---------------------------|-------------------|
|                 | 2013<br>Income<br>£m | 2013<br>Expenditure<br>£m | 2013<br>Net<br>£m | 2012<br>Income<br>£m | 2012<br>Expenditure<br>£m | 2012<br>Net<br>£m |
| Fines           | 0.8                  | -                         | 0.8               | -                    | -                         | -                 |
| Other income    | 1.6                  | -                         | 1.6               | 1.6                  | -                         | 1.6               |
| Cost recoveries | -                    | 0.5                       | 0.5               | -                    | 0.1                       | 0.1               |
| Costs           | -                    | (5.7)                     | (5.7)             | -                    | (3.5)                     | (3.5)             |
|                 | 2.4                  | (5.2)                     | (2.8)             | 1.6                  | (3.4)                     | (1.8)             |

Total ICAEW cash receipts from fines and cost recoveries were £1.3m (2012: £0.1m). Other income relates to a direct levy on regulated firms.

## 9 Other regulatory and professional associations

|  | Group and ICAEW      |                           |                   | Group and ICAEW      |                           |                   |
|--|----------------------|---------------------------|-------------------|----------------------|---------------------------|-------------------|
|  | 2013<br>Income<br>£m | 2013<br>Expenditure<br>£m | 2013<br>Net<br>£m | 2012<br>Income<br>£m | 2012<br>Expenditure<br>£m | 2012<br>Net<br>£m |
| Financial Reporting Council                  | 0.9                  | (1.8)                     | (0.9)             | 0.8                  | (1.8)                     | (1.0)             |
| Consultative Committee of Accountancy Bodies | -                    | (0.5)                     | (0.5)             | -                    | (0.5)                     | (0.5)             |
| International Federation of Accountants      | -                    | (0.7)                     | (0.7)             | -                    | (0.6)                     | (0.6)             |
| Other  | -                    | (0.1)                     | (0.1)             | -                    | -                         | -                 |
|  | 0.9                  | (3.1)                     | (2.2)             | 0.8                  | (2.9)                     | (2.1)             |

Income relates to a direct levy on regulated firms.

## 10 Gift aid and library funding

ICAEW made payments of £1.8m (2012: £1.6m) in the year under gift aid to the Chartered Accountants' Trust for Education and Research (CATER), which funds the ICAEW library and education in the field of accountancy and related subjects.

## 11 Operating result

The group and ICAEW operating result is stated after charging:

|   | Group      |            | ICAEW      |                        |
|---|------------|------------|------------|------------------------|
|   | 2013<br>£m | 2012<br>£m | 2013<br>£m | 2012<br>restated<br>£m |
| Staff costs   | 38.8       | 38.3       | 36.3       | 36.3                   |
| Depreciation on owned property, plant and equipment                       | 2.0        | 2.0        | 2.0        | 2.0                    |
| Amortisation of intangible assets   | 1.1        | 1.1        | 1.1        | 1.1                    |
| Cost of inventories recognised as an expense                              | 1.1        | 0.8        | 1.1        | 0.8                    |
| Amounts payable under operating leases:                                   |            |            |            |                        |
| Plant and machinery   | 0.1        | 0.1        | 0.1        | 0.1                    |
| Other   | 0.9        | 0.8        | 0.7        | 0.6                    |
| Fees payable to ICAEW's auditor for the audit of the financial statements | 0.1        | 0.1        | 0.1        | 0.1                    |

The group and ICAEW operating results include reimbursement of members' expenses on ICAEW activities and payments on a normal commercial basis to members and member firms for services, particularly in connection with lecturing and writing. In 2013 these payments in aggregate amounted to £1.6m (2012: £1.8m). Of this, £36,000 (2012: £64,000) was paid for services to member firms which have a partner or employee who is a member of the council. The amounts paid to individual council members for services was £6,000 (2012: £8,000) in total.

Fees payable to ICAEW's auditor for consultancy work were £18,000 (2012: £18,000). Fees were also payable to the auditor for the audit of the Staff Pensions Fund of £6,350 (2012: £6,200). Fees payable to associates of ICAEW's auditor for the local audits of the international subsidiaries were £30,000 (2012: £27,000).

ICAEW 2012 staff costs have been restated to better reflect the split of staff between the UK and our overseas companies as set out in note 27.



## 12 Net investment income

|  | Group      |            | ICAEW      |            |
|--|------------|------------|------------|------------|
|  | 2013<br>£m | 2012<br>£m | 2013<br>£m | 2012<br>£m |
| Interest receivable from investment deposits | 0.3        | 0.4        | 0.1        | 0.2        |
| Returns on multi-asset portfolio             | 0.8        | 0.8        | 0.8        | 0.8        |
| Realised gains from equities                 | 0.6        | 0.1        | 0.6        | 0.1        |
|  | <u>1.7</u> | <u>1.3</u> | <u>1.5</u> | <u>1.1</u> |

## 13 Taxation

|   | Group      |            | ICAEW      |            |
|---|------------|------------|------------|------------|
|   | 2013<br>£m | 2012<br>£m | 2013<br>£m | 2012<br>£m |
| Current tax – current period tax charge on operating result | 0.1        | 0.1        | -          | -          |

ICAEW is chargeable to corporation tax on investment income and gains and on net surpluses arising from certain services to the extent that they relate to transactions with non-members. The liability has been reduced by payments made under gift aid to CATER. The charitable trusts fall outside the scope of corporation tax and accordingly there is no liability for their activities. The subsidiary companies pay local tax based on their country of operation and this has been included in the current tax calculations. The ICAEW net corporation tax charge for the year was £nil (2012: £nil).

Factors affecting the tax charge for the year:

|  | Group        |              | ICAEW      |            |
|--|--------------|--------------|------------|------------|
|  | 2013<br>£m   | 2012<br>£m   | 2013<br>£m | 2012<br>£m |
| Net result before taxation   | 2.7          | (0.8)        | 2.2        | (1.2)      |
| Add back: result on transactions with members                                      | (3.1)        | 0.4          | (2.0)      | 1.2        |
| Net result before taxation on transactions with non-members                        | <u>(0.4)</u> | <u>(0.4)</u> | <u>0.2</u> | <u>-</u>   |
| Net result above at the standard rate of corporation tax in the UK of 23.25%/24.5% | (0.1)        | (0.1)        | -          | -          |
| Effects of:  |              |              |            |            |
| Items not chargeable/deductible for tax purposes                                   | 0.4          | 0.4          | 0.4        | 0.4        |
| Unutilised tax losses  | (0.4)        | (0.4)        | (0.4)      | (0.4)      |
|  | <u>(0.1)</u> | <u>(0.1)</u> | <u>-</u>   | <u>-</u>   |

ICAEW anticipates that tax charges in future years may be affected by continued donations under gift aid to CATER.

## 14 Property, plant and equipment

The freehold property, Chartered Accountants' Hall, London, was revalued by CB Richard Ellis Ltd, independent chartered surveyors, at 31 December 2013 at open market value, in accordance with the appraisal and valuation manual of the Royal Institution of Chartered Surveyors.

The historical cost of ICAEW's silver collection and antiques represents only the cost of items bought by ICAEW. The valuations of these collections also include substantial donations and bequests. ICAEW's historic collections were revalued at open market value at 31 December 2013 by William Walter Antiques Limited (the Benney silver collection and other silver), John Drury Rare Books (rare books) and Ritchie Associates (period furniture, pictures and sculptures).

The revaluations during the year ended 31 December 2013 resulted in a valuation increase of £1.1m (2012: reduction of £0.6m). Depreciation is provided on the plant and equipment elements within the freehold property. At 31 December 2013 there were no contracts for capital expenditure not provided for in these financial statements (2012: £nil).

There is a charge over Chartered Accountants' Hall in favour of the trustee of ICAEW's defined benefit pension scheme (see note 24).

|                                  | Group and ICAEW      |                                |                                      |  |             |
|----------------------------------|----------------------|--------------------------------|--------------------------------------|--|-------------|
|                                  | Freehold<br>property | Short<br>leasehold<br>property | Silver<br>collection<br>and antiques | Furniture,<br>computer<br>hardware<br>and<br>equipment | Total       |
|                                  | £m                   | £m                             | £m                                   | £m   | £m          |
| <b>Cost or valuation</b>         |                      |                                |                                      |  |             |
| <b>At 1 January 2011</b>         | <b>10.0</b>          | <b>2.4</b>                     | <b>4.3</b>                           | <b>8.5</b>   | <b>25.2</b> |
| Additions                        | 0.1                  | -                              | -                                    | 1.4  | 1.5         |
| Disposals at cost or valuation   | -                    | -                              | -                                    | (0.4)  | (0.4)       |
| Surplus on revaluation           | 0.5                  | -                              | -                                    | -  | 0.5         |
| <b>At 1 January 2012</b>         | <b>10.6</b>          | <b>2.4</b>                     | <b>4.3</b>                           | <b>9.5</b>   | <b>26.8</b> |
| Additions                        | 1.1                  | 0.4                            | -                                    | 0.8  | 2.3         |
| Disposals at cost or valuation   | -                    | -                              | -                                    | (0.9)  | (0.9)       |
| Deficit on revaluation           | (0.6)                | -                              | (0.1)                                | -  | (0.7)       |
| <b>At 1 January 2013</b>         | <b>11.1</b>          | <b>2.8</b>                     | <b>4.2</b>                           | <b>9.4</b>   | <b>27.5</b> |
| Additions                        | 0.1                  | -                              | -                                    | 0.8  | 0.9         |
| Disposals at cost or valuation   | (0.1)                | -                              | -                                    | (0.2)  | (0.3)       |
| Surplus/(deficit) on revaluation | 1.1                  | -                              | (0.1)                                | -  | 1.0         |
| <b>At 31 December 2013</b>       | <b>12.2</b>          | <b>2.8</b>                     | <b>4.1</b>                           | <b>10.0</b>  | <b>29.1</b> |
| <b>Accumulated depreciation</b>  |                      |                                |                                      |  |             |
| <b>At 1 January 2011</b>         | <b>1.1</b>           | <b>0.5</b>                     | <b>-</b>                             | <b>4.6</b>   | <b>6.2</b>  |
| Depreciation for the year        | 0.5                  | 0.2                            | -                                    | 1.2  | 1.9         |
| Depreciation on disposals        | -                    | -                              | -                                    | (0.4)  | (0.4)       |
| Adjustment on revaluation        | (0.1)                | -                              | -                                    | -  | (0.1)       |
| <b>At 1 January 2012</b>         | <b>1.5</b>           | <b>0.7</b>                     | <b>-</b>                             | <b>5.4</b>   | <b>7.6</b>  |
| Depreciation for the year        | 0.6                  | 0.2                            | -                                    | 1.2  | 2.0         |
| Depreciation on disposals        | -                    | -                              | -                                    | (0.8)  | (0.8)       |
| Adjustment on revaluation        | (0.1)                | -                              | -                                    | -  | (0.1)       |
| <b>At 1 January 2013</b>         | <b>2.0</b>           | <b>0.9</b>                     | <b>-</b>                             | <b>5.8</b>   | <b>8.7</b>  |
| Depreciation for the year        | 0.6                  | 0.2                            | -                                    | 1.2  | 2.0         |
| Depreciation on disposals        | -                    | -                              | -                                    | (0.1)  | (0.1)       |
| Adjustment on revaluation        | (0.1)                | -                              | -                                    | -  | (0.1)       |
| <b>At 31 December 2013</b>       | <b>2.5</b>           | <b>1.1</b>                     | <b>-</b>                             | <b>6.9</b>   | <b>10.5</b> |
| <b>Carrying amount</b>           |                      |                                |                                      |  |             |
| At 31 December 2011              | 9.1                  | 1.7                            | 4.3                                  | 4.1  | 19.2        |
| At 31 December 2012              | 9.1                  | 1.9                            | 4.2                                  | 3.6  | 18.8        |
| <b>At 31 December 2013</b>       | <b>9.7</b>           | <b>1.7</b>                     | <b>4.1</b>                           | <b>3.1</b>   | <b>18.6</b> |

## 14 Property, plant and equipment (continued)

|  | Group and ICAEW   |                          |                                |  |             |
|--|-------------------|--------------------------|--------------------------------|--|-------------|
|  | Freehold property | Short leasehold property | Silver collection and antiques | Furniture, computer hardware and equipment | Total       |
|  | £m                | £m                       | £m                             | £m   | £m          |
| On an historical cost basis the comparable amounts of property, plant and equipment are: |                   |                          |                                |  |             |
| Cost   | 13.3              | 2.8                      | 0.2                            | 10.0                                       | 26.3        |
| Accumulated depreciation   | 6.6               | 1.1                      | -                              | 6.9  | 14.6        |
| Net historical cost at 31 December 2013  | <b>6.7</b>        | <b>1.7</b>               | <b>0.2</b>                     | <b>3.1</b>                                 | <b>11.7</b> |
| Net historical cost at 31 December 2012  | 7.3               | 1.9                      | 0.2                            | 3.5  | 12.9        |
| Net historical cost at 31 December 2011  | 6.8               | 1.7                      | 0.2                            | 4.0  | 12.7        |

## 15 Intangible assets

|                                       | Group and ICAEW |            |            |
|---------------------------------------|-----------------|------------|------------|
|                                       | 2013            | 2012       | 2011       |
|                                       | £m              | £m         | £m         |
| <b>Cost</b>                           |                 |            |            |
| At 1 January                          | 9.4             | 8.2        | 7.2        |
| Additions at cost                     | 1.3             | 1.2        | 1.0        |
| Disposals at cost                     | (0.4)           | -          | -          |
| <b>At 31 December</b>                 | <b>10.3</b>     | <b>9.4</b> | <b>8.2</b> |
| <b>Accumulated amortisation</b>       |                 |            |            |
| At 1 January                          | 6.7             | 5.6        | 4.5        |
| Amortisation for the year             | 1.1             | 1.1        | 1.1        |
| Amortisation on disposals             | (0.3)           | -          | -          |
| <b>At 31 December</b>                 | <b>7.5</b>      | <b>6.7</b> | <b>5.6</b> |
| <b>Carrying amount at 31 December</b> | <b>2.8</b>      | <b>2.7</b> | <b>2.6</b> |

Amortisation charges are allocated to departments on the basis of use of ICAEW's systems through the overhead allocation.

## 16 Investments in subsidiaries and associates

The following entities, all registered in England, have been treated as subsidiaries on the basis that ICAEW, through its nominating committee, controls the appointment of trustee directors:

|   | Activity   |
|---|--|
| ICAEW Foundation  | Makes charitable donations of particular interest to ICAEW   |
| PD Leake Trust  | Provides grants for accountancy research, conferences and publications                                     |
| Chartered Accountants' Permanent Education Trust        | Provides examination prizes  |
| Chartered Accountants' Trust for Education and Research | Owns and operates the ICAEW library. Provides grants for accounting research, conferences and publications |
| Chartered Accountants' Library Limited                  | Trading subsidiary of Chartered Accountants' Trust for Education and Research                              |
| Chartered Accountants' Charitable Investment Pool       | Common investment fund managing the investments of the other charitable trusts                             |

There is an agreement between the above trusts and ICAEW to provide administrative services to the trusts. The total value of the transactions amounted to £0.6m (2012: £0.5m). At the year end, the trusts owed ICAEW £0.1m (2012: £0.1m).

## 16 Investments in subsidiaries and associates (continued)

The following entities, all registered in England, have been treated as subsidiaries on the basis that ICAEW holds all the shares in each entity:

|                           | Shareholding | 2013 cost<br>£m | 2012 cost<br>£m | 2011 cost<br>£m | Activity   |
|---------------------------|--------------|-----------------|-----------------|-----------------|--|
| ICAEW Malaysia Limited    | 100%         | -               | -               | -               | Representative office for ICAEW in Malaysia        |
| ICAEW China Limited       | 100%         | -               | -               | -               | Representative office for ICAEW in China           |
| ICAEW Middle East Limited | 100%         | -               | -               | -               | Representative office for ICAEW in the Middle East |
| ICAEW SEA Limited         | 100%         | -               | -               | -               | Representative office for ICAEW in South East Asia |
| ICAEW Europe Limited      | 100%         | -               | -               | -               | Representative office for ICAEW in Europe          |
| ICAEW Ltd                 | 100%         | -               | -               | -               | Holding company for the above companies            |
| Dormant companies         | 100%         | -               | -               | -               | Dormant  |

The above companies provide marketing services for ICAEW. The value of these services during 2013 was £3.9m (2012: £3.4m). At the year end £0.1m (2012: £0.1m) was owed to ICAEW.

The following related companies, all with their principal place of business in the UK, have been treated as associates. In each case, and notwithstanding the majority ownership of CCAB Limited and the Chartered Accountants' Compensation Scheme Limited, ICAEW has significant influence to participate in, but not govern, the financial and operating policies of the companies.

|   | Shareholding<br>(ordinary shares) | 2013 cost<br>£m | 2012 cost<br>£m | 2011 cost<br>£m | Activity  |
|---|-----------------------------------|-----------------|-----------------|-----------------|---|
| The Joint Insolvency Examination Board (a company limited by guarantee) | -                                 | -               | -               | -               | Conducts examinations in insolvency practice to meet the education requirements of the Insolvency Act 1986. ICAEW is one of seven subscribers, each of whom has guaranteed £1 in the event of the company being wound up.   |
| Fraud Advisory Panel (a company limited by guarantee)                   | -                                 | -               | -               | -               | Registered charity which carries out research into, and education in, all aspects of fraud prevention, detection, prosecution and deterrence. ICAEW has the right to appoint up to one third of the directors of the company.   |
| CCAB Limited  | 60.5%                             | -               | -               | -               | CCAB Limited undertakes activities of mutual interest to five major accountancy bodies in the British Isles. ICAEW is the majority shareholder. It does not have the majority of voting shares on the board and therefore does not control the company.   |
| Chartered Accountants' Compensation Scheme Limited                      | 80.0%                             | -               | -               | -               | Evaluates and administers claims for compensation arising from the obligations of ICAEW, the Institute of Chartered Accountants of Scotland and the Institute of Chartered Accountants in Ireland as recognised professional bodies under the Financial Services Act 1986 and as designated professional bodies under the Financial Services and Markets Act 2000. The company is not treated as a subsidiary as a result of the rights of the other shareholders to nominate directors such that no party has a majority of the board. |

The companies all operate on a not-for-profit basis. There is a full list of subsidiaries and associates at [icaew.com/review](http://icaew.com/review)

Financial information relating to the associates is summarised below:

|   | The Joint<br>Insolvency<br>Examination<br>Board | Fraud<br>Advisory<br>Panel | CCAB<br>Limited | Chartered<br>Accountants'<br>Compensation<br>Scheme Limited | Total        | Total      | Total      |
|---|---|----------------------------|-----------------|---|--------------|------------|------------|
|   | 2013<br>£m                                      | 2013<br>£m                 | 2013<br>£m      | 2013<br>£m  | 2013<br>£m   | 2012<br>£m | 2011<br>£m |
| Assets  | 0.3   | 0.2                        | 0.1             | 0.2   | <b>0.8</b>   | 1.6        | 1.6        |
| Liabilities                                       | (0.1)   | (0.1)                      | (0.1)           | (0.2)   | <b>(0.5)</b> | (1.3)      | (1.4)      |
| Net assets  | 0.2   | 0.1                        | -               | -   | <b>0.3</b>   | 0.3        | 0.2        |
| Revenue   | 0.1   | 0.1                        | 5.0             | 0.1   | <b>5.3</b>   | 5.2        | 5.7        |
| Net result  | -   | -                          | -               | -   | -            | -          | -          |
| Balances due from associates<br>as at 31 December | -   | -                          | -               | 0.2   | <b>0.2</b>   | 0.1        | 0.1        |
| Balances due to associates<br>as at 31 December   | -   | -                          | (0.1)           | -   | <b>(0.1)</b> | (0.1)      | (0.5)      |
| Group share of net assets<br>as at 31 December    | -   | 0.1                        | -               | -   | <b>0.1</b>   | 0.1        | 0.1        |

## 17 Financial assets: available for sale investments

|  | Group                        |                          |             |                              |                          |             |                              |                          |             |
|--|------------------------------|--------------------------|-------------|------------------------------|--------------------------|-------------|------------------------------|--------------------------|-------------|
|  | Interest-bearing investments | Equities and unit trusts | Total       | Interest-bearing investments | Equities and unit trusts | Total       | Interest-bearing investments | Equities and unit trusts | Total       |
|  | 2013                         | 2013                     | 2013        | 2012                         | 2012                     | 2012        | 2011                         | 2011                     | 2011        |
|  | £m                           | £m                       | £m          | £m                           | £m                       | £m          | £m                           | £m                       | £m          |
| <b>Fair value</b>  |                              |                          |             |                              |                          |             |                              |                          |             |
| At 1 January   | 7.9                          | 34.5                     | 42.4        | 8.0                          | 32.4                     | 40.4        | 8.2                          | 33.8                     | 42.0        |
| Additions  | 21.1                         | 7.2                      | 28.3        | 16.8                         | 2.2                      | 19.0        | 14.5                         | 9.3                      | 23.8        |
| Disposals  | (21.0)                       | (6.6)                    | (27.6)      | (16.9)                       | (2.4)                    | (19.3)      | (14.7)                       | (8.6)                    | (23.3)      |
| Reclassification adjustment – gains on disposal                        | -                            | 0.6                      | 0.6         | -                            | 0.1                      | 0.1         | -                            | 0.4                      | 0.4         |
| Change in market value of investments:                                 |                              |                          |             |                              |                          |             |                              |                          |             |
| Recognised as other comprehensive income/(expense)                     | -                            | 3.6                      | 3.6         | -                            | 2.2                      | 2.2         | -                            | (2.5)                    | (2.5)       |
| <b>At 31 December</b>  | <b>8.0</b>                   | <b>39.3</b>              | <b>47.3</b> | <b>7.9</b>                   | <b>34.5</b>              | <b>42.4</b> | <b>8.0</b>                   | <b>32.4</b>              | <b>40.4</b> |
| On an historical cost basis the comparable amounts of investments are: |                              |                          |             |                              |                          |             |                              |                          |             |
| At 31 December   | 8.1                          | 32.0                     | 40.1        | 8.0                          | 30.7                     | 38.7        | 8.1                          | 30.8                     | 38.9        |

|  | ICAEW                        |                          |             |                              |                          |             |                              |                          |             |
|--|------------------------------|--------------------------|-------------|------------------------------|--------------------------|-------------|------------------------------|--------------------------|-------------|
|  | Interest-bearing investments | Equities and unit trusts | Total       | Interest-bearing investments | Equities and unit trusts | Total       | Interest-bearing investments | Equities and unit trusts | Total       |
|  | 2013                         | 2013                     | 2013        | 2012                         | 2012                     | 2012        | 2011                         | 2011                     | 2011        |
|  | £m                           | £m                       | £m          | £m                           | £m                       | £m          | £m                           | £m                       | £m          |
| <b>Fair value</b>  |                              |                          |             |                              |                          |             |                              |                          |             |
| At 1 January   | 5.0                          | 26.2                     | 31.2        | 5.0                          | 24.9                     | 29.9        | 5.0                          | 25.8                     | 30.8        |
| Additions  | 11.1                         | 7.2                      | 18.3        | 9.9                          | 2.0                      | 11.9        | 6.0                          | 9.1                      | 15.1        |
| Disposals  | (11.1)                       | (6.6)                    | (17.7)      | (9.9)                        | (2.4)                    | (12.3)      | (6.0)                        | (8.5)                    | (14.5)      |
| Reclassification adjustment – gains on disposal                        | -                            | 0.6                      | 0.6         | -                            | 0.1                      | 0.1         | -                            | 0.4                      | 0.4         |
| Change in market value of investments:                                 |                              |                          |             |                              |                          |             |                              |                          |             |
| Recognised as other comprehensive income/(expense)                     | -                            | 1.9                      | 1.9         | -                            | 1.6                      | 1.6         | -                            | (1.9)                    | (1.9)       |
| <b>At 31 December</b>  | <b>5.0</b>                   | <b>29.3</b>              | <b>34.3</b> | <b>5.0</b>                   | <b>26.2</b>              | <b>31.2</b> | <b>5.0</b>                   | <b>24.9</b>              | <b>29.9</b> |
| On an historical cost basis the comparable amounts of investments are: |                              |                          |             |                              |                          |             |                              |                          |             |
| At 31 December   | 5.0                          | 24.1                     | 29.1        | 5.0                          | 22.9                     | 27.9        | 5.0                          | 23.1                     | 28.1        |

Within group investments are charitable funds of £13.0m (2012: £11.3m) which are maintained independently of ICAEW, and for which the trustee sets investment policies and monitors performance. ICAEW investments include cash balances of £6.4m (2012: £6.6m).

All the investments are publicly traded in the UK or on other major capital markets (level 1 hierarchy under IFRS 13) and the substantial majority are denominated in sterling. Fair values have been determined by reference to their quoted mid prices at the reporting date. The methods and valuation techniques used to measure fair value are unchanged compared to the previous year.

The trustee of ICAEW's defined benefit pension scheme has an interest noted in up to £10.0m of the investment portfolio of ICAEW (see note 24).

## 18 Deferred tax

|  | Group and ICAEW |              |              |
|--|-----------------|--------------|--------------|
|  | 2013<br>£m      | 2012<br>£m   | 2011<br>£m   |
| The provision for deferred tax comprises:          |                 |              |              |
| Revaluation of available for sale investments      | (1.0)           | (0.7)        | (0.3)        |
| Revaluation of properties and historic collections | (0.2)           | (0.2)        | (0.3)        |
| Deferred tax liability                             | (1.2)           | (0.9)        | (0.6)        |
| Defined benefit pension scheme                     | -               | 0.2          | 0.2          |
| Deferred tax asset                                 | -               | 0.2          | 0.2          |
| <b>Net deferred tax liability</b>                  | <b>(1.2)</b>    | <b>(0.7)</b> | <b>(0.4)</b> |

Movements in the net deferred tax liability are summarised as follows:

|  | Group and ICAEW   |   |   |              |
|--|---|---|---|--------------|
|  | Revaluation of<br>available for sale<br>investments<br>£m | Revaluation<br>of properties<br>and historic<br>collections<br>£m | Defined benefit<br>pension scheme<br>£m | Net<br>£m    |
| (Liability)/asset at 1 January 2011                        | (0.9)   | (0.3)   | 0.2                                     | (1.0)        |
| Movement in year: Recognised as other comprehensive income | 0.6   | -   | -                                       | 0.6          |
| (Liability)/asset at 1 January 2012                        | <b>(0.3)</b>  | <b>(0.3)</b>  | <b>0.2</b>                              | <b>(0.4)</b> |
| Movement in year: Recognised as other comprehensive income | (0.4)   | 0.1   | -                                       | (0.3)        |
| (Liability)/asset at 1 January 2013                        | <b>(0.7)</b>  | <b>(0.2)</b>  | <b>0.2</b>                              | <b>(0.7)</b> |
| Movement in year: Recognised as other comprehensive income | (0.3)   | -   | (0.2)                                   | (0.5)        |
| <b>Liability at 31 December 2013</b>                       | <b>(1.0)</b>  | <b>(0.2)</b>  | -                                       | <b>(1.2)</b> |

## 19 Inventories

|                    | Group and ICAEW |            |            |
|--------------------|-----------------|------------|------------|
|                    | 2013<br>£m      | 2012<br>£m | 2011<br>£m |
| Learning materials | 0.7             | 0.8        | 0.8        |

There was no provision against learning materials at the year end (2012: £nil, 2011: £nil).

## 20 Trade and other receivables – current

|   | Group      |            |            | ICAEW      |            |            |
|---|------------|------------|------------|------------|------------|------------|
|   | 2013<br>£m | 2012<br>£m | 2011<br>£m | 2013<br>£m | 2012<br>£m | 2011<br>£m |
| Trade receivables and other receivables                       | 5.5        | 5.8        | 6.8        | 4.6        | 5.1        | 6.1        |
| Amounts owed by subsidiaries                                  | -          | -          | -          | 0.2        | 0.3        | 0.5        |
| Amounts owed by associates                                    | 0.2        | 0.1        | 0.1        | 0.2        | 0.1        | 0.1        |
| Deferred consideration receivable                             | -          | -          | 0.5        | -          | -          | 0.5        |
| Prepayments   | 1.9        | 2.2        | 2.3        | 1.9        | 2.2        | 2.3        |
| Accrued income  | 2.4        | 2.3        | 3.3        | 2.4        | 2.3        | 3.3        |
|   | 10.0       | 10.4       | 13.0       | 9.3        | 10.0       | 12.8       |
| Less: provision for impairment of trade and other receivables | (0.4)      | (0.4)      | (0.4)      | (0.4)      | (0.4)      | (0.4)      |
|   | 9.6        | 10.0       | 12.6       | 8.9        | 9.6        | 12.4       |

Trade receivables and other receivables are categorised as loans and receivables as required by IAS 39. The principal component of trade and other receivables is amounts due from ICAEW's members and member firms, and in the case of disciplinary fines and costs, certain former members, and are short term. The carrying value of trade receivables is considered a reasonable approximation of fair value. It is considered that all the above financial assets which are not impaired or past due are of good credit quality.

All receivables have been reviewed for indicators of impairment. Certain trade receivables, principally in relation to disciplinary fines and costs from members, member firms and former members, were found to be impaired, and a provision of £0.4m (2012: £0.4m, 2011: £0.4m) has been made. The movement in the provision for trade and other receivables can be reconciled as follows:

## 20 Trade and other receivables – current (continued)

|                                     | Group      |            |            | ICAEW      |            |            |
|-------------------------------------|------------|------------|------------|------------|------------|------------|
|                                     | 2013<br>£m | 2012<br>£m | 2011<br>£m | 2013<br>£m | 2012<br>£m | 2011<br>£m |
| Balance at 1 January                | 0.4        | 0.4        | 0.6        | 0.4        | 0.4        | 0.6        |
| Amounts written off (uncollectable) | (0.2)      | (0.1)      | (0.2)      | (0.2)      | (0.1)      | (0.2)      |
| Impairment losses                   | 0.2        | 0.2        | 0.1        | 0.2        | 0.2        | 0.1        |
| Impairment losses reversed          | -          | (0.1)      | (0.1)      | -          | (0.1)      | (0.1)      |
|                                     | 0.4        | 0.4        | 0.4        | 0.4        | 0.4        | 0.4        |

In addition, some of the unimpaired trade receivables are past due as at the reporting date. The age of financial assets past due but not impaired is as follows:

|  | Group      |            |            | ICAEW      |            |            |
|--|------------|------------|------------|------------|------------|------------|
|  | 2013<br>£m | 2012<br>£m | 2011<br>£m | 2013<br>£m | 2012<br>£m | 2011<br>£m |
| More than one month but not more than three months | 0.8        | 0.4        | 0.3        | 0.8        | 0.4        | 0.3        |
| More than three months                             | 0.7        | 0.9        | 0.7        | 0.7        | 0.9        | 0.7        |
|  | 1.5        | 1.3        | 1.0        | 1.5        | 1.3        | 1.0        |

## 21 Cash and cash equivalents

Cash and cash equivalents are categorised as loans and receivables as required by IAS 39. Cash and cash equivalents consist of current balances with banks and money market deposits. They do not include interest-bearing investments held for the long term.

Forward contracts are used to cover known foreign currency exposures. No forward contracts were in place at the year end (2012: £nil, 2011: £nil).

The effect of a 0.25% change in the average market interest rate on current cash and equivalents, and cash balances within the available for sale portfolio, held at the reporting date that are sensitive to changes in interest rates, would be £27,000 (2012: £25,000, 2011: £28,000). All other variables are held constant.

## 22 Trade and other payables

|   | Group      |            |            | ICAEW      |            |            |
|---|------------|------------|------------|------------|------------|------------|
|   | 2013<br>£m | 2012<br>£m | 2011<br>£m | 2013<br>£m | 2012<br>£m | 2011<br>£m |
| Subscriptions and admission fees in advance | 13.9       | 12.6       | 11.2       | 13.9       | 12.6       | 11.2       |
| Amounts owed to subsidiaries                | -          | -          | -          | 0.2        | -          | -          |
| Amounts owed to associates                  | 0.1        | 0.1        | 0.5        | 0.1        | 0.2        | 0.5        |
| Other income in advance                     | 8.0        | 6.7        | 5.9        | 8.0        | 6.7        | 5.9        |
| Trade payables                              | 3.9        | 3.3        | 3.6        | 3.9        | 3.3        | 3.6        |
| Other payables                              | 1.6        | 1.3        | 1.6        | 1.1        | 0.9        | 1.3        |
| Income tax and social security payables     | 0.9        | 1.1        | 1.1        | 0.9        | 1.1        | 1.1        |
| Accruals                                    | 6.4        | 7.7        | 6.0        | 6.4        | 7.7        | 6.0        |
|   | 34.8       | 32.8       | 29.9       | 34.5       | 32.5       | 29.6       |

Trade and other payables are categorised as current financial liabilities measured at amortised cost as required by IAS 39. All the above trade and other payables are short term and are payable within one month. Subscriptions, admission fees and other income in advance relate to income received during 2013 but relating to 2014 annual subscriptions and fees. The carrying values are considered to be a reasonable approximation of fair value.

## 23 FRC Conduct Committee provision

|  | Group and ICAEW |            |            |
|--|-----------------|------------|------------|
|  | 2013<br>£m      | 2012<br>£m | 2011<br>£m |
| Balance at 1 January                                   | 8.1             | 8.6        | 8.8        |
| Charge to income statement                             | 5.7             | 3.5        | 2.7        |
| Amounts paid   | (5.3)           | (4.0)      | (2.9)      |
| Balance at 31 December                                 | 8.5             | 8.1        | 8.6        |
| Provision expected to be used within one year          | 5.0             | 5.3        | 4.4        |
| Provision expected to be used after more than one year | 3.5             | 2.8        | 4.2        |
|  | 8.5             | 8.1        | 8.6        |

## 23 FRC Conduct Committee provision (continued)

The FRC Conduct Committee is part of the FRC and is responsible for operating and administering an independent disciplinary scheme (the Accountancy Scheme) covering members of ICAEW and the following participating institutes: the Association of Chartered Certified Accountants, the Chartered Institute of Management Accountants, the Chartered Institute of Public Finance and Accountancy, the Institute of Chartered Accountants in Ireland and the Institute of Chartered Accountants of Scotland. The FRC Conduct Committee also operates and administers a separate independent disciplinary scheme (the Actuarial Scheme) covering members of the Institute and Faculty of Actuaries

The amount provided is based on the estimated present obligation to ICAEW of investigations by the Conduct Committee for cases arising from past events up to 31 December 2013. The provision is expected to be used over the next five years. ICAEW reviews the adequacy of the provision through a review of past case cost estimates and discussions of current cases with relevant individuals. However, the accuracy of both the provision and the forecast of the period over which it will be used will depend on assumptions made about the progress of individual cases and judgements on information provided by the FRC, and is subject to a significant degree of judgement. The provision covers a total of 19 investigations involving ICAEW members and member firms (2012: 15).

## 24 Pension asset/liabilities

### DEFINED BENEFIT SCHEME

Until 30 June 2010, ICAEW operated a defined benefit staff pension scheme (the scheme) which provided participating members of staff with retirement benefits based on their final pensionable salary. Following consultation during 2009, the scheme was closed to future accrual of member benefits on 30 June 2010. The assets of the scheme continue to be held by a separate trustee-administered fund.

The most recent completed valuation of the scheme was carried out by Hyman Robertson LLP as at 31 March 2013 on the projected unit credit method, taking into account the closure of the scheme to future accrual from 30 June 2010. At the valuation date, the market value of the assets of the scheme was £149.9m, which represented 86% of the value of the benefits that had accrued to members, after allowing for expected future increases in inflation.

A recovery plan has been agreed with the trustee whereby ICAEW has undertaken to make monthly payments of £0.15m (£1.8m per year) until the deficit is eliminated, to be reviewed at the next triennial valuation, together with additional payments for enhanced early retirements at the next valuation. Total payments by ICAEW to the scheme during 2013 for past service costs amounted to £4.8m (2012: £6.0m, 2011: £6.4m). Contributions to the scheme in 2014 are therefore estimated at £1.8m, plus contributions in kind in relation to the administration costs of the scheme. The next triennial review will be as at 31 March 2016.

In conjunction with the 2013 valuation of the scheme, ICAEW agreed to continue with a charge being made over Chartered Accountants' Hall and the trustee having an interest noted in up to £10.0m of the investment portfolio of ICAEW. The covenant agreement with trigger mechanisms and remedies previously in use has ended.

### Desktop actuarial valuation

The actuary has provided a desktop actuarial update on the scheme's financial position as at 31 December 2013. This review estimated that the deficit, based on assumptions consistent with the 2013 triennial valuation, was £9.5m (2012: £24.9m on assumptions consistent with the 2010 triennial valuation).

The following table summarises the key assumptions used in preparing the desktop actuarial valuation:

|                              | 2013        | 2012        | 2011        |
|------------------------------|-------------|-------------|-------------|
| Pre-retirement discount rate | 4.47%       | 4.03%       | 4.63%       |
| Inflation                    | 3.25%       | 2.69%       | 2.85%       |
| Life expectancy              | Long cohort | Long cohort | Long cohort |

The main reason for the difference between this desktop actuarial valuation and the IAS19 valuation relates to the post-retirement discount rates applied.

The sensitivities of the liabilities in the above desktop actuarial valuation to changes in these assumptions are summarised below:

|                   | Change in assumption            | Effect on value of liabilities |      |
|-------------------|---------------------------------|--------------------------------|------|
|                   |                                 | %                              | £m   |
| Discount rate     | Increase/(decrease) by 0.5% pa  | (Decrease)/increase by 8.6%    | 12.8 |
| Rate of inflation | Increase/(decrease) by 0.25% pa | Increase/(decrease) by 3.1%    | 5.0  |
| Longevity         | Increase by 1 year              | Increase by 2.4%               | 3.9  |

### IAS 19 valuation

The scheme's actuary provides a separate report for IAS 19 Employee Benefits purposes at each year end. The assumptions made at 31 December 2013 by the board on the advice of the scheme's actuary were:

|                   | 2013  | 2012  | 2011  |
|-------------------|-------|-------|-------|
| Discount rate     | 4.35% | 4.20% | 4.70% |
| Rate of inflation | 3.30% | 2.70% | 2.85% |



## 24 Pension asset/liabilities (continued)

ICAEW adopted IAS 19 (revised) for the year ended 31 December 2012. Net interest is therefore determined by applying the discount rate to both the liability and asset calculations. In addition, scheme administration costs, which are paid directly by ICAEW, are included in the defined benefit obligation, offset by a corresponding non-cash increase in contributions by the employer.

ICAEW has reviewed the funding commitment outlined above and the scheme rules and with legal advice considers that the rules enable a surplus to be recognised as an asset as ICAEW has an unconditional right to a refund assuming the gradual settlement of the scheme liabilities over time until all members have left the scheme.

IAS 19 (revised) states that the discount rate used should have regard to returns on high quality corporate bonds of a term consistent with the term of the post-employment benefit obligations. A yield curve of iBoxx AA bonds has been used to estimate an appropriate discount rate for the scheme's liabilities, which are estimated to have a weighted average term of 17 years. This is a change to the previous year, developed in consultation with independent actuaries. Previously the discount rate was set with regard to the yields available on the government bonds (where longer maturity yields are available) plus a suitable increment to reflect the typical credit spreads between AA rated corporate bonds and similarly dated government bonds.

The mortality tables used to calculate the pension liabilities imply an expected future life expectancy of current pensioners at age 65 of 23.0 years (men) and 25.2 years (women); and for current non-pensioners of 25.2 years (men) and 27.7 years (women). These assumptions are in line with the actuarial valuation as at 31 March 2013.

The table below summarises the split of defined benefit obligation between deferred members and pensioners. There are no active members.

|                        | Number of members | Liability split | Duration – years |
|------------------------|-------------------|-----------------|------------------|
| Deferred members       | 372               | 47.6%           | 21.7             |
| Pensioners             | 384               | 52.4%           | 13.4             |
| Total/weighted average | 756               | 100.0%          | 17.3             |

The scheme actuary has confirmed that the assumptions adopted by management are within their acceptable range for the purposes of the IAS 19 valuation, and have calculated the sensitivity of the liabilities as at 31 December 2013 to certain key assumptions as follows:

|                   | Change in assumption            | Effect on value of liabilities |      |
|-------------------|---------------------------------|--------------------------------|------|
|                   |                                 | %                              | £m   |
| Discount rate     | Increase/(decrease) by 0.5% pa  | (Decrease)/increase by 7.5%    | 11.2 |
| Rate of inflation | Increase/(decrease) by 0.25% pa | Increase/(decrease) by 4.0%    | 6.0  |
| Longevity         | Increase by 1 year              | Increase by 2.6%               | 3.9  |

The following table summarises the results of the IAS 19 valuation of the fund:

|   | Group      |            |            | ICAEW      |            |            |
|---|------------|------------|------------|------------|------------|------------|
|   | 2013<br>£m | 2012<br>£m | 2011<br>£m | 2013<br>£m | 2012<br>£m | 2011<br>£m |
| Present value of funded obligations     | (149.3)    | (143.6)    | (134.1)    | (149.3)    | (143.6)    | (134.1)    |
| Fair value of plan assets               | 151.0      | 138.0      | 127.5      | 151.0      | 138.0      | 127.5      |
| Whole scheme surplus/(deficit)          | 1.7        | (5.6)      | (6.6)      | 1.7        | (5.6)      | (6.6)      |
| Less: relating to other group companies | -          | -          | -          | 0.4        | 0.7        | 0.6        |
| Scheme surplus/(deficit)                | 1.7        | (5.6)      | (6.6)      | 2.1        | (4.9)      | (6.0)      |

### Reconciliation of defined benefit obligation – whole scheme

|  | 2013<br>£m | 2012<br>£m | 2011<br>£m |
|--|------------|------------|------------|
| Opening defined benefit obligation                             | 143.6      | 134.1      | 125.0      |
| Administration cost  | 0.4        | 0.4        | 0.4        |
| Interest on obligation   | 5.9        | 6.2        | 6.5        |
| Actuarial losses arising from changes in financial assumptions | 4.8        | 7.7        | 7.2        |
| Benefits and expenses paid                                     | (5.4)      | (4.8)      | (5.0)      |
| Closing defined benefit obligation                             | 149.3      | 143.6      | 134.1      |

The administration costs of the scheme are paid directly by ICAEW.

## 24 Pension asset/liabilities (continued)

### Reconciliation of fair value of plan assets – whole scheme

|   | 2013<br>£m | 2012<br>£m | 2011<br>£m |
|---|------------|------------|------------|
| Opening fair value of plan assets   | 138.0      | 127.5      | 119.3      |
| Net interest income on plan assets  | 5.8        | 6.0        | 6.4        |
| Contributions by the employer   | 5.2        | 6.4        | 6.8        |
| Actuarial gains arising from return on assets, excluding amounts included in net interest | 7.4        | 2.9        | -          |
| Benefits and expenses paid  | (5.4)      | (4.8)      | (5.0)      |
| Closing fair value of plan assets   | 151.0      | 138.0      | 127.5      |
| Actual return on assets   | 13.2       | 8.9        | 6.4        |

Contributions by the employer include deficit funding payments, together with contributions in kind in relation to administration costs paid directly.

The major categories of plan assets as a percentage of total plan assets are as follows:

|                                    | 2013 | 2012 | 2011 |
|------------------------------------|------|------|------|
| Equities                           | 43%  | 44%  | 44%  |
| Debt securities – Government bonds | 15%  | 32%  | 44%  |
| Debt securities – Corporate bonds  | 28%  | 9%   | 8%   |
| Cash and cash equivalents          | 14%  | 15%  | 4%   |
|                                    | 100% | 100% | 100% |

The scheme trustee intends to shift the weight of the portfolio towards bonds over a period of time, with the aim of creating a bond portfolio where the value of the assets moves in a similar way to the liabilities when there is a change in inflation or interest rates.

In terms of setting long-term objectives for the scheme, the key elements agreed between the trustee and ICAEW are as follows:

- the long-term objective is for the scheme to be self-sufficient, based on the scheme's current funding position and the agreed recovery plan, in 10–15 years; and
- the interim target is to be fully funded on the technical provisions basis by 2023.

The modelling carried out as part of the 2013 valuation helped the trustee identify funding and investment strategies that would provide a good chance of meeting their long-term target while taking an acceptable level of risk that ICAEW could underwrite. Given the agreed contribution payments and the strength of ICAEW's covenant, the current asset allocation was identified as appropriate although it will be regularly reviewed in light of emerging changes to the scheme, the wider economy and general market conditions.

The trustee had previously agreed to implement a plan to reduce the risks in the scheme as it moves progressively closer towards the objective of self-sufficiency through a series of 'triggers' to reduce risk as the funding position reached certain points. The process aims to give the trustee an ability to capture good investment performance as and when the right opportunities arise. The default option is to disinvest from equities in order to invest in bonds but sufficient flexibility has been built into the process to allow investment in alternative assets if market conditions do not support the default option. The progression of de-risking the portfolio is under review following the 2013 valuation and subsequent investment actions.

Under the procedures described above a trigger point was reached in September 2013 as a result of improvements in gilt yields. As a consequence the equity proportion of the fund is being reduced to 40%.

As part of the continued process to manage scheme volatility the trustee has agreed a 'buy-in' policy with Just Retirement which will provide funding for the liabilities of a portion of the largest pension liabilities. This policy was completed in February 2014.

The fair values of the main asset categories can be summarised as follows:

|                           | Quoted | Unquoted | Total |
|---------------------------|--------|----------|-------|
| Equities                  | 64.6   | -        | 64.6  |
| Debt securities           | 57.9   | 7.5      | 65.4  |
| Cash and cash equivalents | 21.0   | -        | 21.0  |
|                           | 143.5  | 7.5      | 151.0 |

## 24 Pension asset/liabilities (continued)

Amounts recognised in the income statement within staff costs are as follows:

|                                    | Group      |            |            | ICAEW      |            |            |
|------------------------------------|------------|------------|------------|------------|------------|------------|
|                                    | 2013<br>£m | 2012<br>£m | 2011<br>£m | 2013<br>£m | 2012<br>£m | 2011<br>£m |
| Administration cost                | (0.4)      | (0.4)      | (0.4)      | (0.4)      | (0.4)      | (0.4)      |
| Net interest income on plan assets | 5.8        | 6.0        | 6.4        | 5.8        | 6.0        | 6.4        |
| Interest on obligation             | (5.9)      | (6.2)      | (6.6)      | (5.9)      | (6.2)      | (6.6)      |
|                                    | (0.5)      | (0.6)      | (0.6)      | (0.5)      | (0.6)      | (0.6)      |

Amounts recognised as other comprehensive income:

|   | Group      |            |            | ICAEW      |            |            |
|---|------------|------------|------------|------------|------------|------------|
|   | 2013<br>£m | 2012<br>£m | 2011<br>£m | 2013<br>£m | 2012<br>£m | 2011<br>£m |
| Actuarial gain on plan assets                             | 7.4        | 2.9        | -          | 7.4        | 2.9        | -          |
| Actuarial loss on obligation                              | (4.8)      | (7.7)      | (7.2)      | (4.8)      | (7.7)      | (7.2)      |
| Actuarial gain/(loss) – whole scheme                      | 2.6        | (4.8)      | (7.2)      | 2.6        | (4.8)      | (7.2)      |
| Less: relating to other group companies within the scheme | -          | -          | -          | (0.1)      | 0.2        | 0.3        |
|   | 2.6        | (4.8)      | (7.2)      | 2.5        | (4.6)      | (6.9)      |

The cumulative amount of actuarial losses recognised in other comprehensive income since the date of transition to IFRS is £5.3m (2012: £7.9m).

Amounts for the current and previous periods are as follows:

|   | 2013<br>£m | 2012<br>£m | 2011<br>£m | 2010<br>£m | 2009<br>£m |
|---|------------|------------|------------|------------|------------|
| Defined benefit obligation              | (149.3)    | (143.6)    | (134.1)    | (125.0)    | (120.4)    |
| Plan assets                             | 151.0      | 138.0      | 127.5      | 119.3      | 105.6      |
| Whole scheme deficit                    | 1.7        | (5.6)      | (6.6)      | (5.7)      | (14.8)     |
| Actuarial gain on plan assets           | 7.4        | 2.9        | -          | 6.3        | 7.9        |
| Actuarial loss on obligation            | (4.8)      | (7.7)      | (7.2)      | (2.3)      | (16.2)     |
| Experience gains/(losses) on obligation | 3.0        | -          | -          | (0.7)      | -          |

### DEFINED CONTRIBUTION SCHEME

ICAEW also operates a defined contribution scheme for employees. This provides benefits based upon contributions made and investment returns achieved. The assets of the scheme are held in a separate trustee fund. ICAEW contributes 9% of pensionable earnings for participating employees. Employees contribute a minimum of 4%. Transitional arrangements over three years, including enhanced ICAEW contributions, were in place for participating employees transferring from the defined benefit scheme.

The amount charged to the income statement during the year for these schemes was £2.2m (2012: £2.3m). There were no contributions payable to the scheme at the year-end date (2012: £nil).

## 25 Reserves

Included within reserves is £3.3m relating to the Chartered Accountants' Compensation Scheme. In accordance with investment business regulations ICAEW is required to maintain a compensation scheme, funded by levies on firms authorised for investment business. This compensation scheme exists to deal with claims received about work carried out by authorised firms under both the Recognised Professional Body (RPB pre-2001) and Designated Professional Body (DPB post-2001) regimes. ICAEW maintains a reserve to meet anticipated future claims. A levy was made in 2013 on licensed firms under the DPB regime. ICAEW has reserved the right to make further levies on firms authorised under the RPB regime before 1 December 2001 should additional funds be required.

## 26 Leasing commitments – operating leases

At 31 December the group and ICAEW had the following total future minimum lease payments under non-cancellable operating leases:

|                                | Group              |                     | Group              |                     |
|--------------------------------|--------------------|---------------------|--------------------|---------------------|
|                                | Land and buildings | Plant and machinery | Land and buildings | Plant and machinery |
|                                | 2013<br>£m         | 2013<br>£m          | 2012<br>£m         | 2012<br>£m          |
| Minimum lease payments due:    |                    |                     |                    |                     |
| Within one year                | 0.2                | -                   | 0.1                | -                   |
| In two to five years inclusive | 0.2                | 0.2                 | 0.4                | 0.3                 |
| After five years               | 5.4                | -                   | 6.0                | -                   |
|                                | <b>5.8</b>         | <b>0.2</b>          | <b>6.5</b>         | <b>0.3</b>          |

|                                | ICAEW              |                     | ICAEW              |                     |
|--------------------------------|--------------------|---------------------|--------------------|---------------------|
|                                | Land and buildings | Plant and machinery | Land and buildings | Plant and machinery |
|                                | 2013<br>£m         | 2013<br>£m          | 2012<br>£m         | 2012<br>£m          |
| Minimum lease payments due:    |                    |                     |                    |                     |
| In two to five years inclusive | -                  | 0.2                 | 0.1                | 0.3                 |
| After five years               | 5.4                | -                   | 6.0                | -                   |
|                                | <b>5.4</b>         | <b>0.2</b>          | <b>6.1</b>         | <b>0.3</b>          |

## 27 Staff costs

Average number of staff employed during the year

|                       | Group |      | ICAEW |                  |
|-----------------------|-------|------|-------|------------------|
|                       | 2013  | 2012 | 2013  | 2012<br>restated |
| Total employees       | 701   | 705  | 657   | 660              |
| Full-time equivalents | 665   | 672  | 622   | 629              |

| Employment costs                 | Group       |             | ICAEW       |                  |
|----------------------------------|-------------|-------------|-------------|------------------|
|                                  | 2013        | 2012        | 2013        | 2012<br>restated |
|                                  | £m          | £m          | £m          | £m               |
| Wages and salaries               | 32.6        | 32.0        | 30.4        | 30.2             |
| Employer's social security costs | 3.3         | 3.3         | 3.2         | 3.3              |
| Employer's pension costs         | 2.9         | 3.0         | 2.7         | 2.8              |
|                                  | <b>38.8</b> | <b>38.3</b> | <b>36.3</b> | <b>36.3</b>      |

The figures above do not include two members of staff whose employment costs are borne by the Fraud Advisory Panel (2012: two). The charitable trust employees' employment costs are borne by CATER although they have contracts of employment with ICAEW. ICAEW 2012 staff numbers and costs have been restated to reflect the split of staff between our overseas companies and the UK, with the effect of reducing total employees by 24, full time equivalents by 23 and staff costs by £1.2m. There is no change to the reported result arising from this change.

## 28 Key management compensation – executive directors

|                   | Group and ICAEW      |   |                     | Group and ICAEW      |   |                     |
|-------------------|----------------------|---|---------------------|----------------------|---|---------------------|
|                   | Salary 2013<br>£'000 | Deferred<br>variable pay<br>2013<br>£'000 | Total 2013<br>£'000 | Salary 2012<br>£'000 | Deferred<br>variable pay<br>2012<br>£'000 | Total 2012<br>£'000 |
| Robin Fieth       | 180                  | 39  | 219                 | 194                  | 28  | 222                 |
| Sharron Gunn      | 196                  | 41  | 237                 | 191                  | 34  | 225                 |
| Robert Hodgkinson | 252                  | 50  | 302                 | 249                  | 45  | 294                 |
| Michael Izza      | 403                  | 123                                       | 526                 | 396                  | 105                                       | 501                 |
| Mark Protherough  | 197                  | 41  | 238                 | 194                  | 29  | 223                 |
| Vernon Soare      | 197                  | 51  | 248                 | 194                  | 44  | 238                 |
|                   | 1,425                | 345                                       | 1,770               | 1,418                | 285                                       | 1,703               |

The executive directors are remunerated on a total-package basis. This means that they may elect to take all of their remuneration in the form of salary or they may opt to commute a portion of their salary towards ICAEW benefits such as pension scheme membership, health insurance or a car. Deferred variable pay is payable to executive directors on the basis of performance and is agreed by the remuneration committee. Robin Fieth resigned as executive director, members and operations from 30 November 2013. Liz Rylatt has been appointed as executive director, finance, operations and members, from 8 January 2014. In addition to the above salaries, employer's national insurance contributions totalled £240,000 (2012: £229,000).

Non-executive directors are not remunerated.

## 29 Contingent liabilities and guarantees

ICAEW has undertakings to Chartered Accountants' Compensation Scheme Limited for its agreed proportion of claims for compensation and administration costs, of amounts up to but not exceeding £10.0m in any one year. Payments for individual claims are limited to a maximum of £50,000. ICAEW's share of the costs of the scheme is recovered from those firms licensed by ICAEW under the Financial Services and Markets Act 2000 and those firms previously authorised by ICAEW under the Financial Services Act 1986 as appropriate.





ICAEW is a world leading professional membership organisation that promotes, develops and supports over 142,000 chartered accountants worldwide. We provide qualifications and professional development, share our knowledge, insight and technical expertise, and protect the quality and integrity of the accountancy and finance profession.

As leaders in accountancy, finance and business our members have the knowledge, skills and commitment to maintain the highest professional standards and integrity. Together we contribute to the success of individuals, organisations, communities and economies around the world.




**Because of us, people can do business with confidence.**

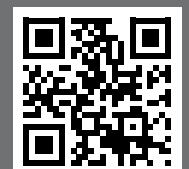
ICAEW is a founder member of Chartered Accountants Worldwide and the Global Accounting Alliance.  
[www.charteredaccountantsworldwide.com](http://www.charteredaccountantsworldwide.com)  
[www.globalaccountingalliance.com](http://www.globalaccountingalliance.com)

#### ICAEW

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 [facebook.com/icaew](https://facebook.com/icaew)  
 [twitter.com/icaew](https://twitter.com/icaew)  
 [linkedin.com](https://linkedin.com) – find ICAEW








# Inspiring Confidence Annual Review 2014



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# 1 Letter to members: Inspiring confidence

---

In 2014 we helped members build confidence around the world and across economic sectors through the organisations they lead, advise and run.

---



Although there was continued global economic slowdown, we made good progress in the UK and some international markets.

We achieved record student numbers with 10,441 students training for our ACA and ICAEW CFAB qualifications combined. We're happy to report that ICAEW is on a healthy financial footing with revenue growing to £91.5m. We made a £2.4m surplus, which we are reinvesting in our operations and member services. We also met 8 out of our 10 KPIs.

Debates on tax avoidance and corporate behaviour continue to affect the profession. Our response has been to work on solutions with and beyond the profession.

We equip our members with the skills, experience and rigour of thought to tackle some of the most important challenges in business and society. We measure our success through our reputation, which is based on the quality of our membership, the strength of our relationships and the impact of our thinking.

## Our people

Our members are our most important assets. We believe it's in the public interest for the public and businesses to understand what they do and why it matters.

This year we promoted the profession through advertising campaigns and media work which secured good coverage, increasing confidence in ICAEW Chartered Accountants.

We built a strong pipeline of the best new students from a broad range of backgrounds to continue to grow our membership in future. We introduced new services for members and made many member services accessible online. We were also granted the right to regulate some legal services in the UK such as probate, extending the services our member firms can offer and opening up the market for the consumer.

Because they are integral to our success, you will also hear about our volunteers and staff. Both do a huge amount of work that benefits our members; for example, our district societies in the UK now have more business representatives to align us with business concerns, and we have council members from all our international regions to represent our global members. Our focus in 2015 is to see more diverse and international voices on our committees to reflect our broad membership.

We're very pleased that Harvard Business School has been developing a case study around how we support our members on ethics.





## Our relationships

Our relationships are another important asset for ICAEW. This year we continued to build and extend our connections over the world, especially with other professional bodies, through initiatives such as the Warsaw Accountancy Profession Strategic Forum; the Rome World Congress of Accountants; and Chartered Accountants Worldwide.

In the UK, we also built relationships with politicians of all parties. For example in December we hosted a keynote speech on the UK public finances by the leader of the Labour Party, Ed Miliband. We built relationships through thought leadership and at events such as the International Festival of Business in Liverpool. We celebrated 20 years of working with the EU institutions in Brussels, where we were the first professional accountancy body to have an office. We also worked with the UK Government on cyber security and on the Direct Recovery of Debt proposals.

Among our work encouraging and supporting strong national bodies, we entered into a joint professional qualification programme with the Botswana Institute of Chartered Accountants.

## Our thinking

We worked with members to advance the profession around the world, and to address some of the key problems and challenges facing the financial system through our thought leadership.

Among our achievements this year, we wrote guidance on providing assurance on market benchmarks, to address problems around LIBOR; and started work on providing assurance on risk weighted assets for bank capital. We developed radical new thinking on corporate governance. We looked to re-imagine tax through our Tax Assembly, supported the OECD's Base Erosion and Profit Shifting project, and published updated guidance on professional conduct in relation to tax.

To address changes in technology and other future challenges affecting our members, we developed the BusinessFutures, Tomorrow's Practice and Small Business Matters initiatives. We also set up a business department to better support our business members.

In this review we have progressed our adoption of Integrated Reporting <IR> route, explaining better how we create and preserve value.

Our success in 2014 would not have been possible without our members and staff. Thank you for all your work.

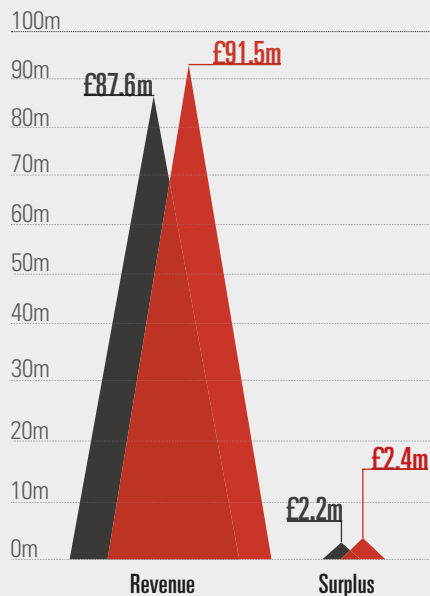
**Arthur Bailey**  
President

**Michael Izza**  
Chief Executive

# ICAEW in 2014

## REVENUE Change over two years

2013 2014



REVENUE ↑ BY

4.5%

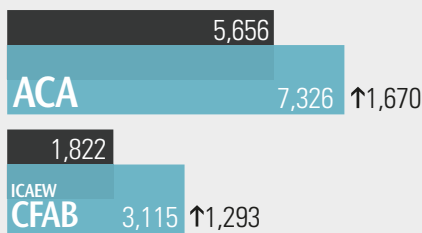
SURPLUS ↑ BY

9.1%

## STUDENT GROWTH ACA, ICAEW CFAB A record number of new students studied for the ACA and ICAEW CFAB qualifications

10,441

2013 2014



### KPIs

We also achieved 8 out of our 10 KPIs

80%



58 MINUTES

Members spent an average of 58 minutes reading each issue of our magazine *economia*



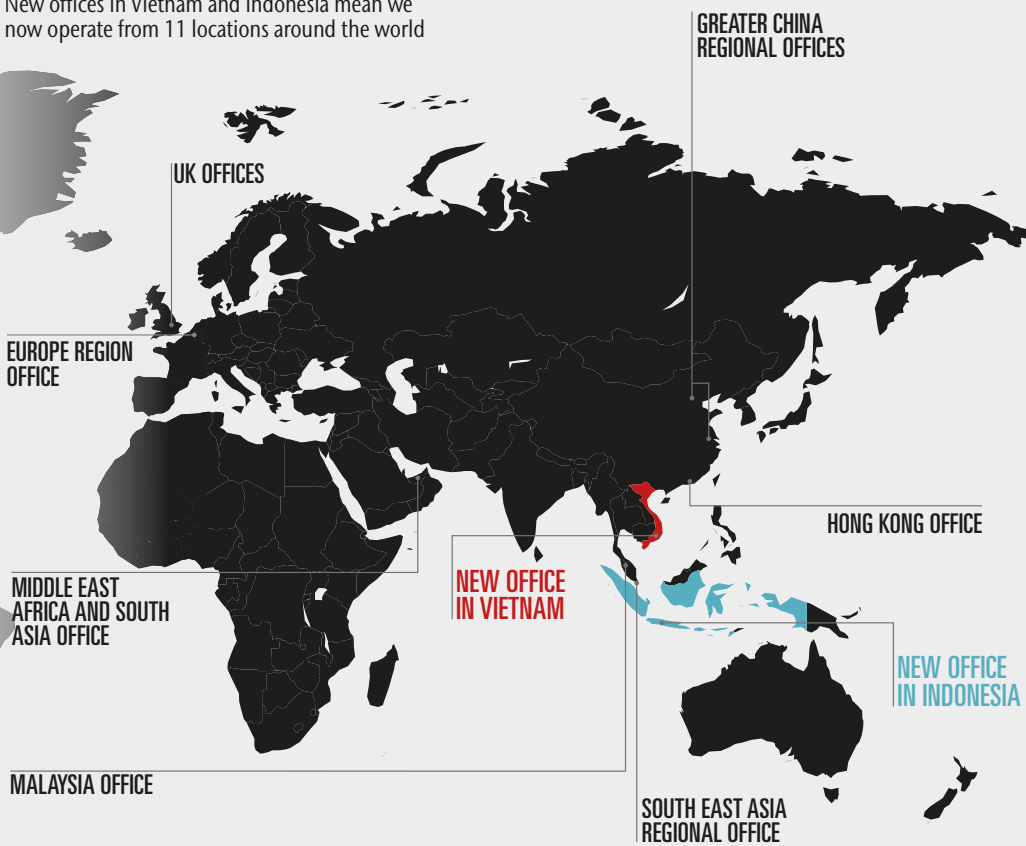
WE MADE HISTORY AS THE FIRST NON-LEGAL BODY TO BE GRANTED THE RIGHT TO AUTHORISE SOME LEGAL SERVICES IN THE UK, STARTING WITH PROBATE



2014 was a successful year for ICAEW, measured against KPIs around our people, relationships and thinking – the key ways in which we create value. ICAEW has a Royal Charter that commits us to act in the public interest as well as in member interests.

**GLOBAL REACH**

New offices in Vietnam and Indonesia mean we now operate from 11 locations around the world



**MEMBER APP**



**6,300**  
DOWNLOADS

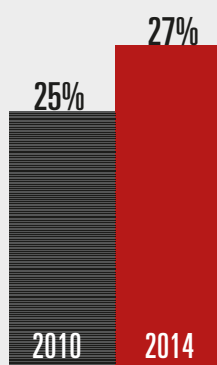
**MEMBER SEARCH**

Online member search boosted enquiries from under 600 to 14,000 a month

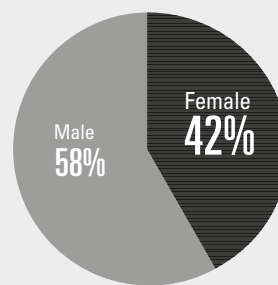


**FEMALE MEMBERS**

The proportion of women in membership is growing



FROM TOTAL 10,441 STUDENT INTAKE IN 2014...



WE RESPONDED TO

**154,407**

MEMBER ENQUIRIES







# 3 Who we are, what we do

---

We support over 144,000 ICAEW Chartered Accountants around the world through our London headquarters and 9 international offices. Through our technical knowledge, skills and expertise, we provide insight and leadership to the global accountancy and finance profession. Our reputation relies on our people, our relationships and our thinking.

---



|               | What we do   | How we create value   |
|---------------|--|---|
| People        | We train people as ICAEW Chartered Accountants, support and develop members.   | We provide members with a qualification and life-long learning and membership which helps them make a living. Our continuous professional development is mandatory. |
| Relationships | We engage and bring people together in the public interest. The profession came into being because people needed to be able to trust the businesses in which they were investing. That trust was, and still is, built on reliable, high quality financial information and business advice, both provided by ICAEW Chartered Accountants. | Our relationships help advance the chartered accountant brand, the profession and the public interest.  |
| Thinking      | We create top quality thought leadership and practical guidance for the profession and wider stakeholders.   | Our thinking supports members and businesses and informs policymakers.  |





## Financial model

Our financial model is based on developing sustainable membership income from individuals and firms:

- to gain access to membership – fees for training, exams, and admission;
- to secure continued membership and support;
- to practise as an ICAEW Chartered Accountant; and
- to obtain specialist technical knowledge and support from faculties and special interest groups.

We also generate income through commercial activities relevant to the needs of members and businesses.

## Business structure

ICAEW is headed by its chief executive and has five operating departments which:

- develop and assess ICAEW qualifications and employers training our students (Learning & Professional Development);
- support members and the running of ICAEW (Finance, Operations & Members);
- provide confidence that our members uphold the highest professional and ethical standards, investigating and, if necessary, disciplining those who don't (Professional Standards);
- research, influence and develop guidance on best practice and policy in the activities in which our members typically work (Technical Strategy); and
- develop our commercial operations (Commercial and Shared Services).

The structure is overseen by our council, main board and departmental boards which include a mixture of members and senior staff (see Governance section). In 2014 we had an average of 716 staff (685 full-time equivalent) across the ICAEW group.

### Communities of chartered accountants

We are indebted to the work and expertise of our members as volunteers on our committees, and in our local district societies and member groups all over the world. Our key contact members across the globe and our active members work with us to both create and support our strategy.



# 4 Governance

---

ICAEW is a chartered body and operates in the public interest under the terms of our Royal Charter.

---



We choose to measure our governance against the UK Corporate Governance Code, whose underlying principle is that our governance must support the delivery of our strategy. We are regulated by the Financial Reporting Council (FRC) and other regulators, and we are statutory regulators for audit, insolvency, investment business and now the reserved legal service of probate. In 2014 key governance developments included the approval of changes to our regulatory governance structure and the appointment of two independent (ie, non-chartered accountant) members to our board.

We are a membership body with a member-elected council and board that represents the diversity of the profession, and an executive team led by a chief executive. Our 90 council members are volunteers. You can read more about how we apply the Code and our governance structure within the financial statements and at [icaew.com/review](http://icaew.com/review)

## Council

The attendance record at meetings of council members as at 31 December 2014 is shown alongside each member (actual/possible).





Hilary Lindsay **6/6**  
Vice-President  
Ex officio

Michael Izza **6/6**  
Chief Executive

John Tiernay **6/6**  
Chairman  
Elected, Liverpool

Arthur Bailey **6/6**  
President  
Ex officio

Andrew Ratcliffe **6/6**  
Deputy-President  
Ex officio

Mark Spofforth **6/6**  
Ex officio

Richard Harwood **6/6**  
Elected, Birmingham & W Midlands

Nick Parker **6/6**  
Elected, Southern

Ian Cherry **5/6**  
Elected, North West

Peter Mitchell **2/6**  
Elected, Beds, Bucks & Herts

Andrew Baigent **5/6**  
Co-opted

Jan Weber **5/6**  
Elected, London

Ian Hayes **4/6**  
Elected, London

David McBride **5/6**  
Elected, London

Jat Wasu **5/6**  
Elected, London

Tony Bennewith **5/6**  
Elected, South Eastern

Sheilagh Moffat **6/6**  
Elected, Birmingham & W Midlands

Martyn Jones **6/6**  
Ex officio

Howard Gross **6/6**  
Elected, London

Philip Pawson **5/6**  
Elected, West Yorkshire

Peter Jenkins **6/6**  
Elected, London

Malcolm Bacchus **6/6**  
Elected, London

Neeraj Kapur **4/6**  
Ex officio

Carl Bayley **6/6**  
Elected, Scotland

Susan Field **6/6**  
Elected, London

Graeme Gordon **6/6**  
Elected, Thames Valley

Barry Mathews **6/6**  
Elected, Birmingham & W Midlands

Nathan Steinberg **6/6**  
Elected, London

Chris Spokes **4/6**  
Elected, East Anglian

Constantine Ioannou **4/6**  
Elected, London

Richard Frost **5/6**  
Elected, Sheffield & District

Frank Edwards **6/6**  
Elected, South Wales

Paul Aplin **5/6**  
Co-opted

Owen Finn **4/6**  
Elected, Humberside & District

Fiona Wilkinson **6/6**  
Elected, South Western

Marion Hodgkiss **5/6**  
Elected, Liverpool

Robert Millea **5/6**  
Elected, East Anglian

Peter Tucker **6/6**  
Elected, Beds, Bucks & Herts

Heather Cheesman **5/6**  
Elected, South Eastern

Evie Bowyer **4/6**  
Elected, London

David Matthews **4/6**  
Co-opted

Edward Chow **6/6**  
Co-opted

Andrew Batty **6/6**  
Elected, London

Ray Burton **5/6**  
Elected, West of England

Alex Spofforth **5/6**  
Elected, South Eastern

Lee Aston **5/6**  
Elected, West of England

Rob Barrigan **6/6**  
Elected, Northern

Mark Coles **6/6**  
Elected, USA

Jacky Savage **6/6**  
Elected, Croydon

Clive Stevens **6/6**  
Elected, South Eastern

Jeffrey Smith **6/6**  
Elected, Thames Valley

Michael Cox **6/6**  
Elected, Notts Derby & Lincs

Clara Bewsher **6/6**  
Elected, Oceania

Peter Hollis **6/6**  
Ex officio

John Cox **6/6**  
Elected, Staffs, Salop & Wolverhampton

Graham Durgan **4/6**  
Elected, Thames Valley

Will Brooks **6/6**  
Elected, London

Iain Lowson **4/6**  
Co-opted

Jan Babiak **5/6**  
Co-opted

George Kourris **5/6**  
Elected, Europe

Ian Davies **6/6**  
Elected, Southern

Joe Smoczynski **6/6**  
Elected, Europe

Wilma Teviotdale **5/6**  
Elected, West Yorkshire

Rebecca Benneyworth **6/6**  
Ex officio

Stephanie Henshaw **5/6**  
Ex officio

Vivek Ahuja **4/6**  
Co-opted

David Lim **6/6**  
Co-opted

Richard Nunn **6/6**  
Co-opted

Jane Green **5/6**  
Co-opted

Ben Cairns **5/6**  
Co-opted

Angela Caldara **6/6**  
Elected, London

Julia Penny **6/6**  
Elected, London

Anthony Woodings **5/6**  
Elected, Manchester

Alan Hyams **6/6**  
Elected, Manchester

Kathryn Britten **5/6**  
Elected, London

Eddie Ouko **3/6**  
Co-opted

Anis Sadek **6/6**  
Co-opted

David Mellor **2/6**  
Co-opted

Pam Kaur **4/6**  
Co-opted

George Quigley **5/6**  
Ex officio

Giles Derry **4/6**  
Ex officio

Paul Rolison **5/6**  
Elected, South Essex

John Howarth **5/5**  
ICAEW Student Council representative

Roger Merchant **3/4**  
Elected, Leicester & Northants

William Touche **2/4**  
Ex officio

Noel Clehane **4/4**  
Co-opted

Gilly Lord **4/4**  
Co-opted

Prof. Jeffrey Unerman **3/4**  
Co-opted

Robert Thompson **1/2**  
Ex officio

Tristan Price **1/2**  
Ex officio

Derek Blair **2/2**  
Elected, Beds, Bucks & Herts

The following were also members of council during 2014

Charles Bowman **2/2**  
Ex officio

Carla Edgley **2/2**  
Co-opted

Jeremy Jennings **1/2**  
Co-opted

Maureen Lamburn **1/2**  
Elected, Beds, Bucks & Herts

Clive Parritt **2/2**  
Ex officio

Michael Roberts **2/2**  
Ex officio

Philip Smith **2/4**  
Ex officio





## 5 Our strategy: leading the global accountancy and finance profession

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Our strategic objective is for ICAEW to be a world leader of the accountancy and finance profession. We want to build a strong chartered accountancy profession and see chartered accountants leading the profession in all key financial markets, in order to promote sustainable economic growth and build business confidence. We want to ensure that the ACA continues to be regarded as a premium, sought-after qualification so that we attract and retain members in the long term.

---

This means that:

- our members are recognised as leaders and occupy prominent positions in business, practice and the public sector in all key markets;
- the ACA qualification is recognised as the best for global organisations;
- we attract the brightest and best talent in the market from all backgrounds;
- we are regarded as the partner of choice and sought after by organisations working internationally;
- we are influential and play a leading role in shaping policies that impact business and the global profession; and
- we have the power to convene key decision makers, speakers and thinkers.

To achieve this, in 2014 we focused on:

- promoting **our people and our qualification**, and delivering relevant and high quality services to them;
- developing constructive **relationships** in the profession, with regulators, governments and businesses all over the world, to improve standards; and
- developing **our thinking** with the help of our members and volunteers in the public interest.

We track a range of financial and non-financial measures relating to our business model and identify various outcomes that relate to qualifications, service by and for our members, and our reputation and influence.



**Public:** Our Royal Charter commits us to acting in the public interest, even if there is a short-term conflict with member interests.

**Members of ICAEW:** We are a membership organisation working for members and member firms.

**Students:** They are our future.

**Other stakeholders:** A huge range including: governments, regulators, standard setters, other institutes, international accounting organisations, businesses, charities, NGOs, public sector bodies, academic institutions, consumers.







## 6 Opportunities and risks

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We are a risk-conscious organisation but not risk averse. We understand, explore and manage risk in order to deliver our strategy. We recognise that every activity that we engage in must uphold and promote our reputation. Our reputation and that of our members is what matters to us most.

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# Managing risk

Council, through board, audit committee, chief executive and executive directors, has processes to identify, evaluate and manage the risks faced by ICAEW.

We regularly assess both the controls in place and actions required to manage risks – and take strategic choices accordingly. You can read about the full process in the financial statements.

Over the year board has considered a diverse range of risks and mitigation strategies, recognising the following principal risks:

## Our principal risks



### Key firms change their business models

The risk that a key firm (or combination of firms) moves away from a core skill set of ACA-trained accountants.

**Our activity to mitigate this risk includes:** active stakeholder management; intelligence and insight with firms, regulators, competitors and the market. We are working with firms to develop training solutions that ensure we are the professional body of choice across their international networks.

### The changing nature of the global competitive environment/increased competitor activity in strategic areas

Competitor organisations increase activity (eg, student recruitment, thought leadership), combine to gain market share or develop other designations which erode the premium standing of the chartered accountant designation and results in damage to member profile, ICAEW’s market position or ability to develop new markets.

**Our activity to mitigate this risk includes:** actively influencing the debate about the future of the finance industry and developing innovative products and services for firms and members.

### A significant external event causes the public to lose trust in the profession

The risk that a global financial crash, debt crisis or financial scandal causes the public to lose trust in the profession and finance institutions, reducing our ability to support members, undermining our disciplinary and regulatory roles and hampering our ability to act in the public interest.

**Our activity to mitigate this risk includes:** ongoing and direct engagement with organisations such as the Prudential Regulation Authority, FRC and firms, and monitoring media, complaints and regulatory activities.





### Loss of key ICAEW regulatory functions

The risk that UK implementation of the EU Audit Regulation and Directive results in the loss of key regulatory functions for ICAEW.

**Our activity to mitigate this risk includes:** close engagement with the FRC and BIS; developing robust arguments in support of the role of ICAEW as a regulator in the public interest; developing alliances in support of the ICAEW position.



### Data security

The risk that there is a failure or breach of physical or cyber security systems (eg, as a result of a cyber-attack), resulting in damage to reputation and disruption to operations.

**Our activity to mitigate this risk includes:** Payment Card Industry (PCI) compliance; intensive test programmes and spot checks for systems and processes and a voice recognition system to reduce human intervention.



### Data management

The risk of data mismanagement events such as the handling of client/student data, or breakdown of ACA assessment process or procedure, or use of data relating to elections.

**Our activity to mitigate this risk includes:** audits to ensure staff have the appropriate application security access; system penetration tests undertaken by a specialist organisation; PCI compliance testing; and active monitoring of exam pass rates.

## Opportunities

We consider opportunities alongside our risks. In particular we look for ways to develop our business model. We are looking to enhance the ACA so that it is the business qualification of choice. We are also working to transform our digital presence so that we may work with members and stakeholders better. These will be supported by infrastructure investments which will secure our buildings and IT assets for many years to come. This is described further in section 8, Future Outlook.





7 KPIs – our achievements.  
We achieved 8 out of 10  
targets



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We work to build a stronger profession worldwide focused on our people and qualification, our relationships and our thinking. What follows describes how we preserve and build our resources.

---

## Our people, our qualification

Our people are our greatest asset, and we maintain and grow our members' value by attracting the best talent and then through continuing professional development and monitoring. We also benefit from attracting and retaining committed volunteers, who give us so much, and of course our staff.

|   | Goal   | Why this is important  | What we achieved  | Where we planned to achieve more  | What we do next   |
|---|--|--|---|---|---|
|    | Grow our membership to 144,080 (from 142,334 in 2013); net membership growth 1,860 (1,761 in 2013) | Providing a compelling offer to members which retains them, and converts students into members                                       | Membership exceeded target at 144,167, we achieved 1,833 net membership growth                                    | Net growth in the year was slightly behind target, partly a result of accelerated growth in the previous year | Continued steady growth to 145,890; net member growth of 1,810 in 2015  |
|   | Provide new and improved services to members   | As a members' organisation we must continue to reflect on and enhance the services our members need to maintain our leading position | Many new services including probate regulation; enhanced digital services; webinars; faculties online, Member App |   | More and better online services; applying for local public audit regulation and additional new legal services |
|  | ACA intake – take 6,170 students into training (from 5,656 in 2013)                                | Providing the qualification that employers and students want, accessible in a variety of ways, and securing our future membership    | Our highest ever intake of 7,326 with a strong performance in the UK  | Growth in some international markets was slower than planned  | Our 2015 target is to maintain our progress with 6,645 students   |
|  | CFAB intake – admit 2,190 students into study (compared to 1,822 in 2013)                          | Provide an entry qualification with the option to convert to ACA   | Our intake was a record 3,115 with increasing rates of conversion to ACA training                                 |   | We target continued development across a range of markets with 2,825 new students                             |



## Promoting ICAEW Chartered Accountants

One of our main aims at ICAEW is to ensure that chartered accountants are at the forefront of people's minds in business and practice.

We ran a major advertising campaign across the UK, Middle East and South East Asia to raise awareness of chartered accountants, particularly among future finance leaders. By advertising in media outlets like the *Economist*, and the *Financial Times* we were able to target senior financial decision makers in the largest companies. The campaign also used digital media and networks such as the *Financial Times* iPad app, Yahoo's Finance network, Inmobi and Adzouk in the Middle East, and CaféBiz in Vietnam.

Collectively this brought over 66,000 new users to ICAEW's website to find out about ICAEW Chartered Accountants and boosted positive sentiment about our brand across the targeted countries.

We also continued to work with Chartered Accountants Worldwide to raise the profile of the chartered accountant brand. We were delighted that professional bodies in Singapore, Indonesia and Malawi chose to become 'chartered', emphasising the reputation of the brand. We also promoted it by taking part in the World Congress of Accountants, in addition to brand-building events and sponsorships in each of our key markets. And the Business Advice Service continues to promote the value of using ICAEW Chartered Accountants to SMEs, producing thousands of leads for member firms in the UK – as well as a valuable resource for the public.

We supported members working around the world, for example through new reciprocal agreements. Several universities, including Prince Sultan University in Saudi Arabia, have incorporated our syllabus, enabling students to have their prior learning recognised if they move on to the ACA.



Branding at the entrance to World Congress of Accountants in Rome.





BASE final day

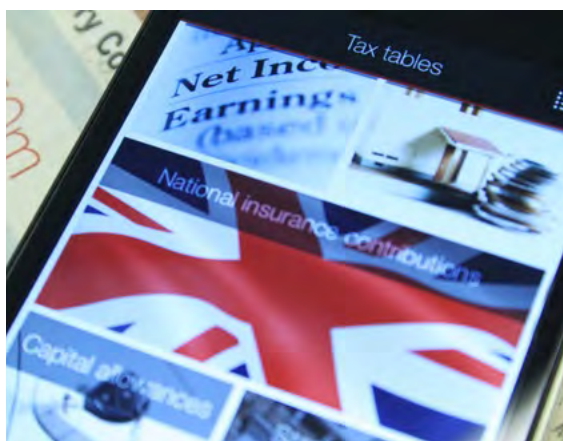
A key way we promote our members and raise awareness of the profession among young people is through our Business and Accounting competition, BASE. In 2014 it involved 2,700 students.

We worked to improve social mobility into the profession. A highlight of 2014 was Access Accountancy, a pan-professional UK scheme administered by the Sutton Trust which will help 3,750 disadvantaged young people get work experience at accountancy practices over five years.



## New and improved services for members

We're always looking for ways to better serve our members. In 2014 we worked on improved, easier-to-access digital services. More than 1,000 members signed up to a Tax Faculty webinar on changes to VAT. No fewer than 17,000 read our CEO's blog on preparing for the new UK GAAP. We launched Faculties Online, offering all the ICAEW faculties in a single package; an online annual return, making the return easier to process; and an online member search facility responding to popular demand, which has seen enquiries skyrocket from 500+ a month to around 14,000 a month. We also went mobile, launching our Member App for the iPhone and iPad, which allows members to connect with each other, offers access to events and to *economia*. The Android version will launch in 2015 following the successful launch of the app. We also made most of our online and in-person library research services at Chartered Accountants' Hall free for members. The library allows members access to databases, credit checks and research.



Member App

The largest proportion of our members work in business, so we also set up a new business department to look after enterprises of all shapes and sizes. One of the first things the team has done is establish business representatives at district society level to allow us to connect better with members in business.

This year we created two new Special Interest Groups, in Energy and Natural Resources and in Manufacturing. We continued to expand our offer to members working around the world. We introduced a new local representative in Vietnam, while our Middle East office now covers the Africa and South Asia markets.

We also gained new rights for ICAEW members, allowing them to provide legal services, which for hundreds of years were the sole preserve of solicitors. This means our members can now run their firms as Alternative Business Structures and deliver probate services in the UK which is expected to push down the cost to the consumer. ICAEW is the first new body to license people to practise legal services of any kind. We developed a replacement for the group consumer credit licence in England, easing the transition for firms affected by the change, and we applied to become a Recognised Supervisory Body for Local Public Audit in the UK. And we are now recognised by the Tax Practitioner Board in Australia.

## **Working with our volunteers**

As a professional membership body, we rely heavily on more than 1,500 volunteers, who work on council, on our many committees, and in district societies. They help to run our popular BASE competition for schools, deliver personal finance workshops to young people, and also deliver services to members including direct one-to-one support through the Support Member scheme. Our Active Member programme supports many of those volunteers with information and updates. We ran a campaign for new volunteers in 2014–15. In 2015 we will be working to improve the overall member experience of volunteering with ICAEW.

## **Getting the best out of our staff**

In addition to fostering the best talent in the profession, we actively work to foster the best talent in our staff. Our 716 employees are one of our most valuable assets. We work to ensure they are engaged with our strategy and the future of ICAEW, and we are strong advocates of work-life balance. Our staff are supported through 5,759 hours of training courses, 214 professional memberships and around 100 paid sustainability days where staff can volunteer their time for social or charitable causes. We strive to be among the best employers, benchmarking ourselves in the Stonewall best employer guide each year. We pay at least the living wage. You can read about pay in the financial statements.



## Case study – Support Members 20<sup>th</sup> anniversary

# Carol Warburton

volunteer at the Support Member scheme

This year we celebrated the 20<sup>th</sup> anniversary of the Support Member scheme which allows peer-to-peer, confidential support on issues faced by our members. Carol Warburton is one of those members. She works in practice, so most of the queries she gets tend to be around regulatory areas. 'Sometimes the problem is about a client. The caller may be embarrassed to raise the issue directly with ICAEW. But we have that special dispensation that allows us to be a father confessor; we take the matter on board and the caller knows it will go no further.'

'Conversations can be intense or light, but we are ready for that,' says Warburton 'We're not expected to be psychologists or analysts. We're expected to have common sense and experience.'

Most enquiries in 2014 were about employment or periods of unemployment, and the second top issue was complaints and

disciplinary issues. When the Investigation Committee sends a letter to a member telling them that they might be the subject of an investigation, it refers them to the Support Members scheme, which prompts many of these calls. Some queries come not from members but from their families, for example the daughter of a sole practitioner who had died, leaving payrolls and open files to be dealt with.

Warburton believes confidential enquiries are a much needed respite for those seeking advice. 'Talking about their problems can be very cathartic for them,' she says. 'Being a Support Member is about having the confidence to listen to people, to reflect, to consider and be ready with the tools we have available to us.'








52 members act as voluntary Support Members each year. They field around 1,800 enquiries a year.

## Our relationships

Our relationships help to create value for our members, for the profession, and for wider society by fostering trust and business confidence.

|   | Goal   | Why this is important   | What we achieved  | Where we planned to achieve more   | What we do next   |
|---|--|---|---|--|---|
|    | Working with others to support the wider public interest   | Strong and sustainable economies are supported by trustworthy financial information and individuals who act to the highest professional and ethical standards   | We built and maintained strong relationships and improved our visibility with our work on sustainability, future of audit, tax and personal finance   |  | More targeted engagement, including working through the Natural Capital Coalition to develop valuation protocols for natural resources  |
|   | Supporting a stronger profession worldwide with Chartered Accountants Worldwide and other engagement | Capacity building projects to strengthen the profession around the world  | We completed capacity building projects in seven countries and won seven more   | We wanted a wider range of funding partners for our capacity building contracts; progress on existing projects was slower than desired | Working on identifying a wider range of funding partners for international capacity building projects and growing the Chartered Accountants Worldwide family  |
|  | Deepening our relationships to promote the profession with business, policymakers and firms          | We are uniquely positioned to advance the profession and act in the public interest – we have relationships with firms, businesses, policymakers and individuals. We work with key stakeholders as a critical adviser | Extensive political engagements including party conferences. Good stakeholder research results, 40 mentions in UK and devolved parliaments. HMRC amended direct recovery of debt proposals and BIS extended the e-consultation period on the Accounting Directive |  | Work closely with government and regulators to reduce the risk of gold-plating in the implementation of the EU Statutory Audit Regulation and Directive; on our UK general election manifesto, and the IFS Green Budget |



## Capacity building for a stronger profession worldwide

One of the ways we act in the public interest is through our 'capacity building' work. ICAEW uses its expertise to help other professional bodies, whether that's improving audit quality or helping create a new national qualification. This is about trade not aid. Our capacity building initiatives aim to strengthen the professional organisations we work with, making them sustainable for the long term and able to grow and evolve independently.

In 2014 we completed projects in seven countries and won seven more.

Most of these projects are revenue neutral, but build relationships and the profession in ways that we think will serve the needs of wider society, encouraging business confidence and investment as well as promoting our members and the chartered brand over the long term. For example, we helped create a new qualification in Malawi this year and the institute in Malawi chose to re-brand as the Institute of Chartered Accountants in Malawi. We also saw the benefits of earlier investment when Botswana students became eligible for ICAEW recognition under a joint qualification programme.

## Fostering political engagement

Our UK manifesto and our Polaroid stand which asked party conference goers 'what did you want to do when you grew up?' opened up 150 conversations for ICAEW at the main UK party political conferences. We engaged with politicians of all parties in Brussels too through our European election manifesto and hustings. We launched an All Party Parliamentary Group on Maths and Numeracy in the UK to help the UK adopt best practice on maths education, and took part in the All Party Parliamentary Group on Early Years to help shape government education policy. ICAEW was mentioned 40 times in the UK and devolved parliaments.



## Developing relationships for international impact

We took a leading role at the four-yearly World Congress of Accountants, raising the profile of ICAEW and our members among the global profession with the overall theme of Building Strong National Bodies. ICAEW was invited to deliver a thought leadership session on AuditFutures, and we ran a total of eight events during the Congress, including a summit on capacity building. We ran our third Accountancy Profession Strategic Forum in Warsaw, with input from the World Bank and European Commission. This brought together professional bodies from across Europe to share common challenges and strategic thinking.

Finally we took part in the American Accounting Association annual meeting – the largest gathering of accounting educators and researchers in the world, participating in eight panels and sharing our thought leadership with an audience that included academics, businesses and regulators.

## Becoming a go-to adviser

We are meeting the Bank of England more regularly and were asked by senior officials to develop a paper on assurance on bank capital ratios and risk-weighted assets calculations, to explore whether this could strengthen banks' controls in this area. And we held export roundtable events with the UK Minister for Trade and Investment and chief executives of UKTI and UK Export Finance.

We ran a successful campaign on the Direct Recovery of Debt (DRD) in the UK and we were really pleased that this resulted in HMRC amending its proposals to collect debts directly from people's bank accounts so that it included better safeguards. We worked on this campaign with Liberty and many other organisations, gaining significant press coverage, for example in the *Daily Mail*, the *Telegraph* and *Financial Times*.

As a result of our asking for a legal opinion on the UK's Charity Commission guidance on distributable profits, the Charity Commission altered this guidance.



Our Executive Director Robert Hodgkinson speaking at the World Congress of Accountants





AuditFutures programme

### Engaging with wider society

Our relationship-making with wider society gathered pace in 2014. We took on the Natural Capital Coalition as project-hosts, which we co-founded with leaders from business, governments and NGOs to study and standardise methods for natural capital accounting to enable its valuation and reporting in business. We created the Finance Foundry, a campaign lab for economic justice campaigners. We connected with civil society at a number of party conference events, on the future of audit through our AuditFutures programme, and on the future of tax through Tax Assembly and other events. The stand-out events were the Royal College of Art projects to re-design audit, and a Charity Tax Alliance series of events at party conferences with CAFOD, Action Aid and Christian Aid on

'Tackling Tax Avoidance: A Race to the Top in 2015'. In the context of public concerns about tax avoidance, ICAEW was brave to engage on public platforms with the NGO community, and was applauded for its clear and professional voice on a very controversial issue.

Our personal finance work has led us to work with the Money Advice Service, Student Loans England and the Tottenham Hotspur Foundation. We have continued to work with pfeg on increasing the numbers of member volunteers going into schools. We have developed new personal finance lesson plans and resources for our members to deliver to students. There are now 13 lesson plans and we have over 100 members signed up to deliver financial education in schools.



Tax Assembly



## Case study: Twinning with Malawi for a new professional qualification

# Evelyn Mwapasa

CEO Institute of Chartered Accountants in Malawi

ICAEW worked with the Institute of Chartered Accountants in Malawi (ICAM, formerly Society of Accountants of Malawi – SOCAM) on a twinning project funded by the World Bank to strengthen the accountancy profession in Malawi, which concluded this year.

At the end of the project the institute rebranded, deciding to become a chartered accountant organisation, and launched its own national professional qualification this year. The twinning arrangement involved close cooperation to deliver a strategic plan and roadmap, and a national professional qualification. We also worked closely to strengthen audit regulation and deliver training and workshops on international standards, audit quality assurance and professional ethics.

‘The journey to the launch involved close working between ICAM and ICAEW,’ said CEO Evelyn Mwapasa. ‘It was a journey that has helped us to strengthen our professional body, the wider accounting profession in Malawi and our presence internationally. We believe the project has been a success. The twinning arrangement has ensured not only a close working relationship with ICAEW over the duration of the project but it will continue on as we look to the future.’



The first ICAM professional qualification examinations took place in 2014 and ICAM held an international conference to launch ICAM in July 2014, supported by the European Commission, ICAEW, the World Bank and IFAC.





## Our thinking

Our thinking helps create value for the profession and wider society, at the same time contributing to the value that ICAEW membership brings. In 2014, we wrote 170 consultation submissions, and published some 40+ thought leadership reports across our key areas of interest.

|   | Goal   | Why this is important  | What we achieved  | Where we planned to achieve more  | What we do next  |
|---|--|--|---|---|--|
|    | Thinking in the public interest to further our Royal Charter obligations and produce practical thought leadership that makes a difference                        | We have a responsibility to provide direct and relevant material on issues that need addressing, especially after the financial crisis   | Many pieces of work being put to use, including assurance on Libor; corporate governance challenges; cyber security. Charity Commission guidance on profit distribution changed |   | New work will include more on the public sector, policy challenges after the UK general election, sustainability, the G20, COP21, the European Capital Markets Union, cyber security, Risk Weighted Assets |
|  | Grow our technical communities to 31,975 faculty members (from 31,756 in 2013) and grow Special Interest Group (SIG) memberships to 15,695 (from 14,766 in 2013) | One of our primary functions is to provide technical services that help our members to lead the profession, add value to their clients and customers, and add value to society | Paid faculty members grew by 7% to 33,945 and SIG members grew by 14% to 16,822. Two new SIGs launched and comprehensive Faculties Online product                               |   | In 2015 our targets are 34,429 faculty members and 16,947 SIG members; to increase engagement with Faculties Online and the brand new Tax in Business service offering from the tax faculty                |
|  | Media coverage for our thinking. ICAEW is a respected business commentator internationally   | Get our thinking to a wider audience through media   | Good coverage for Business Confidence Monitor, Economic Insight series, UK GAAP, IFRS and more  | Although Tax Assembly and work with OECD on BEPS were positive, general media coverage on tax is still negative | More coverage of our 2015 campaigns leading to policy change, including developing partnerships in key sectors   |



### **Thinking in the public interest**

We finalised our guidance on assurance on market benchmarks, published in draft in 2013 to address issues around LIBOR, after extensive stakeholder engagement to address a wider range of benchmarks, including oil price reports. This has generated significant interest from regulators and benchmark providers around the world, with assurance seen as an effective way of restoring trust in systemically important market indices. We also worked this year on assurance for Risk-Weighted Assets (Bank Capital) and Master Trusts (Pensions) and on a well-received paper on the impact of IFRS adoption in the EU.

As well as these papers, we produced 'So What is Economic Success?' which considers the limits of GDP and profit to measure economic success, and its alternatives. And our continuing work on corporate governance looked at its wider implications – how diversity of belief can improve company performance, and how companies need to consider wider stakeholders, not just their shareholders.

### **Re-thinking the future of audit, tax, business and practice**

We had four major thought leadership projects in 2014, looking at how our work should develop in future to meet the needs of society and our members.

AuditFutures looked at re-designing audit for the 21st century; Tax Assembly looked at what kind of tax system we want; BusinessFutures engaged younger members with the changing business environment a couple of decades from now, to help them re-imagine their strategies. And Tomorrow's Practice looked at how practice must evolve to meet the needs of the next generation. All these projects will continue in 2015.

On tax, we also contributed to the OECD's Base Erosion and Profit-Shifting work, engaging with key European policymakers and stakeholders through our related seminar series in Brussels, and we took part in a G20 tax event in Tokyo. We have engaged more closely with the Public Accounts Committee and Margaret Hodge, as well as NGOs.

## Knowing what business wants

We launched a programme on SMEs, 'Small Business Matters' to look at what they need from practice. The first report gave some very useful pointers as to what businesses will pay for and really need, and it was encouraging to learn that accountants are viewed as the number one business adviser in the UK.

## Gaining recognition for our thinking

We're proud of the reception our thinking has received and the impact it has made.

We made news headlines all over the world in 2014, gaining more recognition for our members, in media ranging from the *Financial Times* and the BBC to *The National*, Sky News and Al Jazeera. We celebrated the 10th anniversary of our Business Confidence Monitor, which is now recognised as a leading indicator for the UK economy. This is complemented by our quarterly UK Economic Forecast and our Economic Insights which are published in three international regions. And we dominated the media coverage on many professional issues including IFRS 9 and the future of UK GAAP.

ICAEW devised and published the Business Finance Guide, launched by Business Minister Vince Cable MP at the House of Commons in June 2014. The guide was supported by the government's new British Business Bank and 17 professional organisations, representing more than a million members. The guide provides businesses from start-up to growing mid-sized companies with a comprehensive overview of sources of finance and advice, including ICAEW Chartered Accountants. Its total print run has already topped 80,000 and it has been distributed electronically to more than 600,000 businesses by the British Business Bank. [icaew.com/bfg](http://icaew.com/bfg)

We also secured amendments to the Serious Crime Bill that will protect our members.

We continue to support the Natural Capital Coalition, which we co-founded in 2012, which is developing a framework for valuing natural capital in business decision making. We also still support the Prince of Wales' Accounting For Sustainability, which celebrated 10 years in 2014, through activities such as our Finance for the Future Awards.



Vince Cable MP at the launch of the Business Finance Guide





## Case study: Building a leading position in cyber security

# George Quigley

IT Faculty chair

Cyber security was identified as a major issue by businesses in 2014, and it was a big year for our work in this area – which combined high-level political engagement to influence policy with practical help for members and business.

The year started with the launch of the 'Cyber Security in Corporate Finance' guide, with Francis Maude MP at Chartered Accountants' Hall to mark the occasion. This work secured a change in policy by the Association for Financial Markets in Europe (AFME), so that a cyber security review will now be part of the due diligence report for all M&A transactions. The IT Faculty continued the political engagement by supporting the development of the government's Cyber Essentials scheme. This was marked by another ministerial launch at Chartered Accountants' Hall in June, this time with David Willetts MP. Next came the development of a new e-learning package on Cyber Security for Professionals, in conjunction with BIS, the Solicitors' Regulatory Authority and the Law Society. This training is freely available to all members at [icaew.com/cybertraining](http://icaew.com/cybertraining)

We had the opportunity to talk to members in smaller businesses and practices about cyber risks, and highlight the resources available to them, through a series of roundtable discussions around the UK.

In October, we launched our update to Audit Insights: Cyber Security with a panel session at the Parliament and Internet Conference and a front page story in the *Financial Times*. The report concluded that although businesses have improved their cyber security management, criminals are getting even more sophisticated in their attacks. As a result, there is no room for complacency and businesses need to do much more to close the gap with the attackers. We closed the year with another ministerial visit to Chartered Accountants' Hall, as Francis Maude MP marked the third anniversary of the government's cyber security strategy.



Our member engagement extended to our international regions, with events on cyber security in Africa and Asia, as well as a free webinar for all members. A panel at the American Accounting Association gave us a perspective from the US. All of these conversations enabled us to feed substantial insights into the National Audit Office enquiry on cyber security, highlighting in particular the continuing challenges for smaller organisations in this area.









## 8 Future outlook: 2015 and beyond

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Creating value with our people, relationships  
and thinking: in business, the public sector and  
internationally.

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2015 looks set to be a busy year, particularly with the implementation of the 2014 Audit Regulation and Directive in the EU which will affect businesses, auditors, our qualification and the role that we play as an organisation. The UK Government may opt for a single audit regulator, where currently professional bodies play a key role. And it will have a knock-on impact on other countries which may copy or go further than the UK.

The global economy is faltering in places, and this could see our non-UK student growth projections underperform. Over the longer term, three major forces – urbanisation, globalisation and digitisation – will present challenges as well as opportunities to create more value through and for our members.

After the final outcome of the MG Rover case, we will be working on guidance on our members' ethical responsibilities around the public interest and fees.

## Promoting our people and our qualification

In 2015 we will continue to promote our members as the best choice for individuals and businesses, with a major advertising campaign and through Chartered Accountants Worldwide, a coalition of like-minded professional bodies. We will also continue to use the UK's Business Advice Service to promote our members to SMEs in the interests of the public, and will use the Business Confidence Monitor and Economic Insights to promote our brand all over the world. With concerns about corporations profit-shifting to avoid tax, and with public finances, we will demonstrate that our people are part of the solution to help governments bring in the right tax and spend it wisely.

We will be implementing recommendations from our Regulatory Governance Review to our professional standards governance. We want to ensure that our regulatory function continues to reflect best practice for the regulation of a profession by a professional body. The enhancements we will introduce as part of this review will see more lay people on our regulatory and disciplinary committees, and our professional standards activities overseen by a regulatory board with significant lay membership.



### **1 Transforming digitally to meet member needs**

We will continue to use new technology to transform how we work with members, students and our stakeholders. We will enhance our digital services, from Android apps to more accessible webinars, to online exams so that members in every part of the world and the UK, however remote, and however busy they are, can get what they need, when they need it.

### **2 New services in the UK**

After the success of our ABS/probate application in the UK we are considering applying for further reserved areas and are currently consulting on this.

### **3 Strategy review**

We will also be starting work on ICAEW's 2017 strategy review in 2015, consulting with our members, volunteers and staff to help shape the direction ICAEW will take over the next few years and beyond.

## **Creating value through our relationships**

In 2014 our Middle East Office became the hub of our Middle East, Africa and South Asia region and in 2015 we will take this work forward, building our presence in key markets in Sub-Saharan Africa including Botswana, Nigeria and Mauritius.

To continue strengthening the ethics, standards, and integrity of the profession, we will be working closely with professional bodies through Chartered Accountants Worldwide, IFAC and one-to-one relationships and capacity building projects. And to the same end we will work with the Fraud Advisory Panel and CCAB (the UK collective of accountancy bodies) – and the FRC (our regulator). We will continue to work with professional accountancy bodies on issues that matter to society, such as targeting disadvantaged young people to do work experience, and on scholarship schemes.

In 2015, we'll build on our dialogue with wider society, working with WWF-UK through the Finance Innovation Lab which will be set up as an independent charity; as well as projects like AuditFutures and Tax Assembly, Natural Capital Coalition and Accounting for Sustainability. Though challenging, this work stays true to our Royal Charter by further aligning us with the public interest.

# Creating value through our thinking

Another way we create value in the public interest is through our thought leadership and in 2015 there will be no let-up in its progress.

Internationally, low oil prices at the end of 2014 could mean a tricky year ahead for some industries and countries – and a bumper year for others. In the UK we have a general election, possibly followed by a referendum on our membership of the EU, creating significant political uncertainty.

In view of these pressures, we are planning to focus our work in 2015 on five key areas.

## **1 A corporate governance code for the 21<sup>st</sup> century**

Our work to restore trust in business and strengthen economies will look at new systems of corporate governance in 2015. We believe that compliance is increasingly treated as a box-ticking exercise. As a result many boards and other business leaders are failing to respond effectively to legitimate public concerns about business behaviour. It's time to rethink the purpose of business and these principles.

## **2 Stronger economies with more sustainable businesses**

We want to see more sustainable businesses develop, and we will be working in 2015 with the Natural Capital Coalition and others to see that happen. We'd like to see private sector-led growth across the economies where our members work. In the UK we will continue to work on growing exports and we will work internationally on better cyber security for business.

Our members in business will be a key focus and our BusinessFutures project will concentrate on public spending, energy and urbanisation.

## **3 Skills for growth**

Skills will be critical as well. We know that many economies have a skills gap – whether a shortage of qualified accountants, or in specific areas like construction and IT. We want to see business and industry work more closely with the profession and government to create pathways to those shortage areas, better careers advice and mandatory work experience.

We want to keep our student base growing in 2015 and to make incremental changes to the ACA to ensure ICAEW Chartered Accountants are equipped with the necessary skills for today and for the future.


## **4 Stronger public sector financial management**

Good financial management in the public sector is vital to national economies. In 2014 we worked more with the public sector to tackle issues around cyber security. Further work included a series of debates about the public finances in Brussels with PwC, and practical work, such as monitoring the audit quality of a sample of NHS trusts in the UK. We want to do even more in this sector in 2015 and key initiatives will be working with the UK Government to introduce a corporate finance qualification in government and work on cyber security in the public sector and the IFS Green Budget.

## **5 Simpler tax systems for growth**

A good tax system needs to be simple, certain and constant. We will be working in 2015 to encourage countries to adopt simple tax systems that work for entrepreneurs, businesses and individuals. In the UK, for example, we'd like to see a 'red tape challenge' applied to the tax code, and for HMRC to agree to minimum service standards with independent oversight.





Finally, we will be investing in our physical capital, our building, and business systems in 2015

In 2015 we begin a major building and IT refurbishment plan, replacing ageing plant and refurbishing areas of Chartered Accountants' Hall installed in 1970, and replacing core IT systems to ensure we're fit for the future.







## 9 Financial review and summary financial statements

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ICAEW's financial statements for 2014 include the charitable trusts associated with ICAEW together with our international subsidiaries. The commentary below relates primarily to the operating activities of ICAEW.

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## Results

Total income was £91.5m, £3.9m higher than in 2013. The retained surplus after tax for the year was £2.4m (2013: £2.2m). Membership income growth was £1.8m and was supplemented by growth in our commercial activities, enabling us to continue to invest in our strategy in the UK and internationally. Fines and cost recoveries of £2.4m were received from the FRC Conduct Committee, contributing to a net FRC Conduct Committee case cost charge for 2014 of £0.9m (2013: £2.8m).

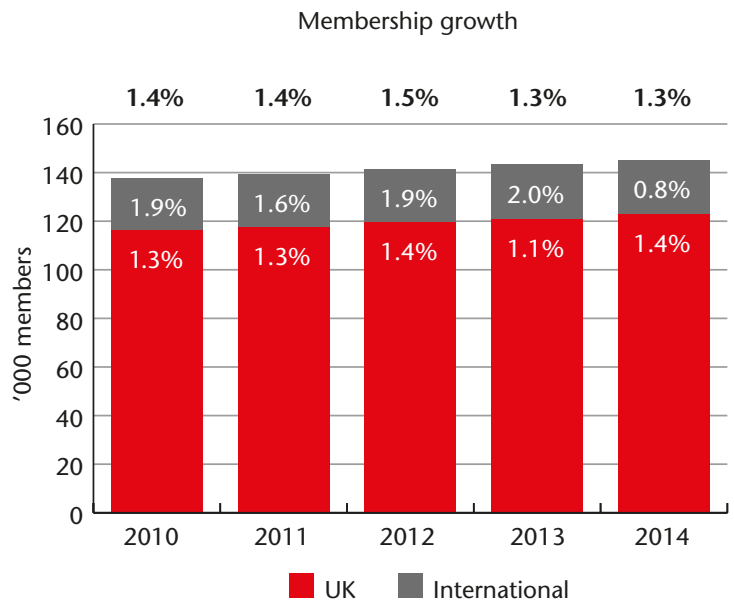
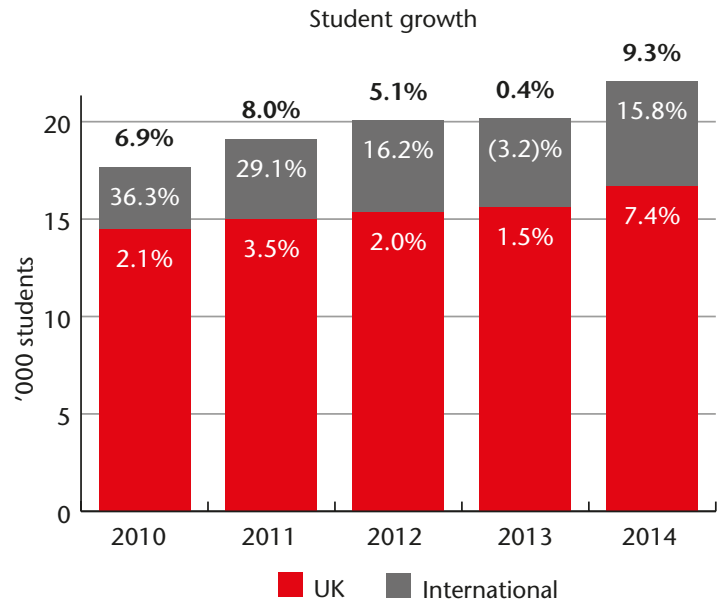
Net assets at 31 December 2014 were £32.3m, an increase of £4.9m over the 2013 net assets of £27.4m. Cash and cash equivalents ended the year at £4.9m, reflecting a net cash inflow of £0.6m in the year, after £1.9m contributions to reduce the pension scheme deficit and £5.1m cash contributions to FRC case costs. Total cash and investments stood at £40.3m at the end of the year, an increase of £1.7m on 2013.

The consolidated outcome for the year, including the results of ICAEW's charitable trusts, was a surplus after tax of £2.7m (2013: £2.6m).

### Student and membership growth

2014 saw a record ACA student intake of 7,326 – an increase of 1,670 on our 2013 intake of 5,656. Total ACA student numbers at the end of 2014 stood at 22,001 (2013: 20,121). In addition 3,115 students signed up for our foundation level Certificate in Finance, Accounting and Business (CFAB), a further increase on last year's intake of 1,822.

In the year, membership grew to 144,167, from admissions of newly-qualified students to membership, together with reciprocal and similar arrangements with members of other institutes.



## Income

Revenue from members' fees and subscriptions rose by 4% to £43.3m, reflecting the continued steady growth in membership and an improved mix of membership rates. Income from our qualifications increased by £0.2m, with the record ACA and CFAB intake offsetting the impact of the reduced intake in 2013.

Our commercial income streams increased to £10.7m, from £9.7m in 2013, resulting from improved performance in our leadership programmes, catering and publishing arrangements after a difficult 2013 in these areas.

## Expenditure

Operating expenditure increased to £89.1m, including the impact of FRC Conduct Committee case costs, but net of cost recoveries, described below.

We launched the evolved ACA in 2013, resulting in dual running of exams and learning materials into 2014; in addition, there was increased investment in business development activities which has already delivered increased student intake.

2014 also saw an increase in our investment in member services, with a greater focus on business members and also supporting smaller practices.

The net operational expenditure increase includes the impact of a provision of £1.8m released in 2013 from certain commercial matters resolved successfully in that year with revised terms.

## FRC Conduct Committee case costs

During 2014 we charged costs of £5.5m to the income statement in relation to the FRC Conduct Committee case cost provision, a reduction of £0.2m on 2013. This was partly offset by fines of £1.0m (2013: £0.8m) and cost recoveries of £1.4m (2013: £0.5m) imposed by FRC tribunals and returned to ICAEW.

There was increased activity on existing cases and some substantial new cases taken on, giving rise to the additional charges.

In September an appeal tribunal heard an appeal by Deloitte and Touche against the findings of a disciplinary tribunal held in 2013. This had levied total fines of £14.2m, plus costs in relation to alleged misconduct in their handling of the sale of MG Rover. The appeal tribunal findings were announced in January 2015 and allowed the appeal against 8 of the 13 findings and upheld the remaining 5 charges of misconduct. Separate hearings will determine sanctions on these charges, which are likely to be reduced from the original award. We have not recognised any potential income or cost recovery while this remains uncertain.

Since its inception, FRC Conduct Committee case costs provided have totaled £31.8m and ICAEW has made cash payments of £22.7m over the 11-year period. Fines and cost recoveries are £6.2m.

The FRC Conduct Committee carries out independent investigations of the work and conduct of chartered accountants, both in public practice and elsewhere, where this has given rise to public concern.

## Tax

The net corporation tax charge for the year was £nil (2013: £nil). As a mutual membership organisation, much of our income is exempt from corporation tax.

## Pensions

The IAS19 valuation at 31 December 2014 was a whole scheme surplus of £2.8m (2013: £1.7m). The pension asset is recognised as ICAEW considers that any surplus arising would be recoverable, assuming the gradual settlement of scheme liabilities over time.

ICAEW's defined benefits pension scheme was closed to further member benefit accrual on 30 June 2010. Employees who participated in the scheme were invited to join ICAEW's defined contribution pension arrangements, with transitional enhanced employer contributions payable until June 2013. The most recent triennial actuarial valuation showed a deficit of £24.9m at 31 March 2013. The trustee and ICAEW agreed deficit funding arrangements comprising annual payments of £1.8m from 1 January 2014 until the deficit is eliminated. With our support, the trustee has developed an investment strategy intended to make the scheme entirely self-sufficient by around 2025.

A charge remains over Chartered Accountants' Hall and the fund has an interest in up to £10.0m of our investment portfolio.

The scheme valuation has again been subject to the volatility in the financial markets, most notably improved gilt yields. A desktop valuation of the technical funding position at 31 December 2014 estimated the scheme deficit at £17.8m, an increase of £8.3m on the estimated valuation at December 2013 of £9.5m and a reduction of £7.1m from the March 2013 valuation. In the year, as part of its de-risking strategy, the Trustee purchased a buy-in annuity to match a subset of pensioner liabilities.

## Financial position

Net assets at 31 December 2014 were £32.3m – an increase of £4.9m on the 2013 position.

During 2014, the market value of our long-term investments rose to £35.4m from £34.3m in 2013.

The value of Chartered Accountants' Hall increased to £12.7m as at 31 December 2014.

Trade and other payables were £34.3m (2013: £34.5m). Trade and other receivables were £9.1m (2013: £8.9m).

We have provided £9.1m (2013: £8.5m) of costs relating to the FRC Conduct Committee at 31 December 2014, reflecting their current case load. Case costs are forecast on the basis of the available information on actual or prospective cases. The accuracy of this forecast depends on assumptions made about the progress of individual cases and is subject to a significant degree of judgement. We do not take account of any potential future income from fines or cost recoveries from FRC Conduct Committee cases.

## Cash flow

Cash balances at 31 December 2014 were £4.9m. Net cash inflow was £0.6m compared to a £0.9m inflow in 2013. Our cash profile fluctuates on an annual cycle, this year peaking at £41.7m in March and bottoming out at £2.5m in early December.

Funding of the FRC Conduct Committee case costs saw a cash outflow of £5.1m (2013: £5.3m).

ICAEW paid £1.9m (2013: £4.8m) of deficit funding to the Staff Pensions Fund, in line with the current agreement.

Capital expenditure was £2.6m (2013: £2.0m). We expect to incur £11.1m of capital expenditure in 2015, reflecting investment in Chartered Accountants' Hall and our business systems.

## Report of the auditor

The auditor's report on the full accounts for the year ended 31 December 2014 was unqualified.

## Further information

The annual review is only part of ICAEW's annual accounts and reports, you can get full financial statements:

- online at [icaew.com/review](http://icaew.com/review);
- by emailing [fullaccounts@icaew.com](mailto:fullaccounts@icaew.com) or by writing to Andrew Fagg, Finance Director.

# Summary financial statements

## Summary group income statement

For the year ended 31 December 2014

|  | 2014         |                   |            | 2013         |                   |            |
|--|--------------|-------------------|------------|--------------|-------------------|------------|
|  | Income<br>£m | Expenditure<br>£m | Net<br>£m  | Income<br>£m | Expenditure<br>£m | Net<br>£m  |
| Subscriptions and fees                         | 43.3         | –                 | 43.3       | 41.5         | –                 | 41.5       |
| Learning and professional development          | 10.4         | (15.6)            | (5.2)      | 10.2         | (14.8)            | (4.6)      |
| Professional standards                         | 15.5         | (14.7)            | 0.8        | 15.4         | (14.2)            | 1.2        |
| Commercial and shared services                 | 10.7         | (13.6)            | (2.9)      | 9.7          | (13.0)            | (3.3)      |
| Members  | 1.1          | (14.0)            | (12.9)     | 1.0          | (13.1)            | (12.1)     |
| Technical strategy                             | 4.3          | (9.1)             | (4.8)      | 4.0          | (9.0)             | (5.0)      |
| Central activities                             | 0.7          | (14.0)            | (13.3)     | 1.0          | (11.8)            | (10.8)     |
| Charitable trusts                              | 0.2          | (1.0)             | (0.8)      | 0.1          | (1.0)             | (0.9)      |
|  | 86.2         | (82.0)            | 4.2        | 82.9         | (76.9)            | 6.0        |
| FRC Conduct Committee                          | 3.2          | (4.1)             | (0.9)      | 2.4          | (5.2)             | (2.8)      |
| Other regulatory and professional associations | 1.0          | (3.0)             | (2.0)      | 0.9          | (3.1)             | (2.2)      |
|  | 4.2          | (7.1)             | (2.9)      | 3.3          | (8.3)             | (5.0)      |
| <b>Operating result</b>                        | <b>90.4</b>  | <b>(89.1)</b>     | <b>1.3</b> | <b>86.2</b>  | <b>(85.2)</b>     | <b>1.0</b> |
| Investment income                              | 1.5          | –                 | 1.5        | 1.7          | –                 | 1.7        |
| <b>Result before taxation</b>                  | <b>91.9</b>  | <b>(89.1)</b>     | <b>2.8</b> | <b>87.9</b>  | <b>(85.2)</b>     | <b>2.7</b> |
| Taxation                                       |              |                   | (0.1)      |              |                   | (0.1)      |
| <b>Net result after taxation for the year</b>  |              |                   | <b>2.7</b> |              |                   | <b>2.6</b> |

## Summary group statement of comprehensive income

|  | 2014       | 2013       |
|--|------------|------------|
|  | £m         | £m         |
| Net result after taxation recognised in the income statement in the year | 2.7        | 2.6        |
| Items that may be reclassified subsequently to profit or loss:           |            |            |
| Gains on revaluation of available for sale investments                   | 0.1        | 3.2        |
| Gains reclassified on disposal   | 0.5        | 0.4        |
| Deferred tax   | –          | (0.3)      |
| Items that will not be reclassified subsequently to profit or loss:      |            |            |
| Gains on revaluation of property, plant and equipment                    | 3.3        | 1.1        |
| Actuarial (losses)/gains recognised in the year                          | (0.8)      | 2.6        |
| Deferred tax   | (0.1)      | (0.2)      |
| Other comprehensive income in the year                                   | 3.0        | 6.8        |
| <b>Total comprehensive income in the year</b>                            | <b>5.7</b> | <b>9.4</b> |

## Summary ICAEW income statement

For the year ended 31 December 2014

|  | 2014         |                   |            | 2013         |                   |            |
|--|--------------|-------------------|------------|--------------|-------------------|------------|
|  | Income<br>£m | Expenditure<br>£m | Net<br>£m  | Income<br>£m | Expenditure<br>£m | Net<br>£m  |
| Subscriptions and fees                         | 43.3         | –                 | 43.3       | 41.5         | –                 | 41.5       |
| Learning and professional development          | 10.4         | (15.6)            | (5.2)      | 10.2         | (14.8)            | (4.6)      |
| Professional standards                         | 15.5         | (14.7)            | 0.8        | 15.4         | (14.2)            | 1.2        |
| Commercial and shared services                 | 10.7         | (13.6)            | (2.9)      | 9.7          | (13.0)            | (3.3)      |
| Members  | 1.1          | (14.0)            | (12.9)     | 1.0          | (13.1)            | (12.1)     |
| Technical strategy                             | 4.3          | (9.1)             | (4.8)      | 4.0          | (9.0)             | (5.0)      |
| Central activities                             | 0.7          | (13.5)            | (12.8)     | 1.0          | (11.2)            | (10.2)     |
|  | 86.0         | (80.5)            | 5.5        | 82.8         | (75.3)            | 7.5        |
| FRC Conduct Committee                          | 3.2          | (4.1)             | (0.9)      | 2.4          | (5.2)             | (2.8)      |
| Other regulatory and professional associations | 1.0          | (3.0)             | (2.0)      | 0.9          | (3.1)             | (2.2)      |
|  | 4.2          | (7.1)             | (2.9)      | 3.3          | (8.3)             | (5.0)      |
| Gift aid and library funding                   | –            | (1.5)             | (1.5)      | –            | (1.8)             | (1.8)      |
| <b>Operating result</b>                        | <b>90.2</b>  | <b>(89.1)</b>     | <b>1.1</b> | <b>86.1</b>  | <b>(85.4)</b>     | <b>0.7</b> |
| Investment income                              | 1.3          | –                 | 1.3        | 1.5          | –                 | 1.5        |
| <b>Result before taxation</b>                  | <b>91.5</b>  | <b>(89.1)</b>     | <b>2.4</b> | <b>87.6</b>  | <b>(85.4)</b>     | <b>2.2</b> |
| Taxation                                       |              |                   | –          |              |                   | –          |
| <b>Net result after taxation for the year</b>  |              |                   | <b>2.4</b> |              |                   | <b>2.2</b> |

## Summary ICAEW statement of comprehensive income

|  | 2014       | 2013       |
|--|------------|------------|
|  | £m         | £m         |
| Net result after taxation recognised in the income statement in the year | 2.4        | 2.2        |
| Items that may be reclassified subsequently to profit or loss:           |            |            |
| Gains/(losses) on revaluation of available for sale investments          | (0.4)      | 1.5        |
| Gains reclassified on disposal   | 0.5        | 0.4        |
| Deferred tax   | –          | (0.3)      |
| Items that will not be reclassified subsequently to profit or loss:      |            |            |
| Gains on revaluation of property, plant and equipment                    | 3.3        | 1.1        |
| Actuarial (losses)/gains recognised in the year                          | (0.8)      | 2.5        |
| Deferred tax   | (0.1)      | (0.2)      |
| Other comprehensive income in the year                                   | 2.5        | 5.0        |
| <b>Total comprehensive income in the year</b>                            | <b>4.9</b> | <b>7.2</b> |



## Summary statements of financial position

For the year ended 31 December 2014

|                                | Note | Group         |               | ICAEW         |               |
|--------------------------------|------|---------------|---------------|---------------|---------------|
|                                |      | 2014<br>£m    | 2013<br>£m    | 2014<br>£m    | 2013<br>£m    |
| <b>Assets</b>                  |      |               |               |               |               |
| Non-current assets             | 2    | 76.3          | 70.5          | 63.0          | 57.8          |
| Current assets                 |      | 16.2          | 15.0          | 14.7          | 13.9          |
| <b>Total assets</b>            |      | <b>92.5</b>   | <b>85.5</b>   | <b>77.7</b>   | <b>71.7</b>   |
| <b>Liabilities</b>             |      |               |               |               |               |
| Current liabilities            |      | (39.9)        | (39.9)        | (39.4)        | (39.6)        |
| Non-current liabilities        |      | (6.1)         | (4.8)         | (6.0)         | (4.7)         |
| <b>Total liabilities</b>       |      | <b>(46.0)</b> | <b>(44.7)</b> | <b>(45.4)</b> | <b>(44.3)</b> |
| <b>Total net assets</b>        |      | <b>46.5</b>   | <b>40.8</b>   | <b>32.3</b>   | <b>27.4</b>   |
| <b>Reserves</b>                |      |               |               |               |               |
| Revaluation reserve            |      | 9.7           | 6.5           | 9.7           | 6.5           |
| Investment revaluation reserve |      | 4.2           | 4.1           | 4.2           | 4.1           |
| Accumulated fund               |      | 13.9          | 12.3          | 13.0          | 11.6          |
| Other reserves                 |      | 5.4           | 5.2           | 5.4           | 5.2           |
| Charitable trusts              |      | 13.3          | 12.7          | –             | –             |
|                                | 3    | <b>46.5</b>   | <b>40.8</b>   | <b>32.3</b>   | <b>27.4</b>   |

Approved on behalf of council



**Arthur Bailey**  
President



**Michael Izza**  
Chief Executive

23 March 2015

## Summary statements of cash flows

For the year ended 31 December 2014

|  | Group      |            | ICAEW      |            |
|--|------------|------------|------------|------------|
|  | 2014<br>£m | 2013<br>£m | 2014<br>£m | 2013<br>£m |
| Cash generated from operating activities                     | 9.9        | 12.5       | 10.0       | 12.7       |
| Cash outflow on pension liabilities                          | (1.9)      | (4.8)      | (1.9)      | (4.8)      |
| Cash outflow on FRC Conduct Committee                        | (5.1)      | (5.3)      | (5.1)      | (5.3)      |
| Tax paid   | (0.1)      | (0.1)      | –          | –          |
| Purchase of property, plant and equipment                    | (1.4)      | (0.8)      | (1.4)      | (0.8)      |
| Purchase of intangible assets                                | (1.2)      | (1.2)      | (1.2)      | (1.2)      |
| Net disposal of available for sale investments               | (0.7)      | (0.7)      | (0.7)      | (0.6)      |
| Investment income received                                   | 1.1        | 1.2        | 0.9        | 0.9        |
| <b>Net increase in cash and cash equivalents in the year</b> | <b>0.6</b> | <b>0.8</b> | <b>0.6</b> | <b>0.9</b> |
| Net cash and cash equivalents at 1 January                   | 4.7        | 3.9        | 4.3        | 3.4        |
| <b>Net cash and cash equivalents at 31 December</b>          | <b>5.3</b> | <b>4.7</b> | <b>4.9</b> | <b>4.3</b> |

## Notes to the summary financial statements

For the year ended 31 December 2014

### 1 Basis of preparation

The summary financial statements have been extracted from ICAEW's full financial statements for the year ended 31 December 2014, which have been prepared in accordance with International Financial Reporting Standards, and under the historical cost convention as modified by the revaluation of properties and available for sale investments.

### 2 Non-current assets

|  | Group       |             | ICAEW       |             |
|--|-------------|-------------|-------------|-------------|
|  | 2014<br>£m  | 2013<br>£m  | 2014<br>£m  | 2013<br>£m  |
| Carrying amounts                       |             |             |             |             |
| Property, plant and equipment          | 21.3        | 18.6        | 21.3        | 18.6        |
| Intangible assets                      | 3.2         | 2.8         | 3.2         | 2.8         |
| Investments in associated undertakings | 0.1         | 0.1         | –           | –           |
| Available for sale investments         | 48.9        | 47.3        | 35.4        | 34.3        |
| Pension asset                          | 2.8         | 1.7         | 3.1         | 2.1         |
|  | <b>76.3</b> | <b>70.5</b> | <b>63.0</b> | <b>57.8</b> |

### 3 Reserves

| Group   | Revaluation reserve<br>£m | Investment revaluation reserve<br>£m | Accumulated fund<br>£m | Other reserves<br>£m | Charitable trusts<br>£m | Total<br>£m |
|---|---------------------------|--------------------------------------|------------------------|----------------------|-------------------------|-------------|
| <b>Reserves at 1 January 2014</b>                                     | <b>6.5</b>                | <b>4.1</b>                           | <b>12.3</b>            | <b>5.2</b>           | <b>12.7</b>             | <b>40.8</b> |
| Net result after taxation   | –                         | –                                    | 2.4                    | 0.2                  | 0.1                     | 2.7         |
| Increase in valuation of property, plant and equipment                | 3.3                       | –                                    | –                      | –                    | –                       | 3.3         |
| Net change in market value of long-term investments over cost         | –                         | 0.1                                  | –                      | –                    | 0.5                     | 0.6         |
| Actuarial losses recognised in year on defined benefit pension scheme | –                         | –                                    | (0.8)                  | –                    | –                       | (0.8)       |
| Deferred tax attributable to above                                    | (0.1)                     | –                                    | –                      | –                    | –                       | (0.1)       |
| Total other comprehensive income in the year                          | 3.2                       | 0.1                                  | (0.8)                  | –                    | 0.5                     | 3.0         |
| Total comprehensive income in the year                                | 3.2                       | 0.1                                  | 1.6                    | 0.2                  | 0.6                     | 5.7         |
| Reserves at 31 December 2014  | <b>9.7</b>                | <b>4.2</b>                           | <b>13.9</b>            | <b>5.4</b>           | <b>13.3</b>             | <b>46.5</b> |

| ICAEW   | Revaluation reserve<br>£m | Investment revaluation reserve<br>£m | Accumulated fund<br>£m | Other reserves<br>£m | Total<br>£m |
|---|---------------------------|--------------------------------------|------------------------|----------------------|-------------|
| <b>Reserves at 1 January 2014</b>                                     | <b>6.5</b>                | <b>4.1</b>                           | <b>11.6</b>            | <b>5.2</b>           | <b>27.4</b> |
| Net result after taxation   | –                         | –                                    | 2.2                    | 0.2                  | 2.4         |
| Increase in valuation of property, plant and equipment                | 3.3                       | –                                    | –                      | –                    | 3.3         |
| Net change in market value of long-term investments over cost         | –                         | 0.1                                  | –                      | –                    | 0.1         |
| Actuarial losses recognised in year on defined benefit pension scheme | –                         | –                                    | (0.8)                  | –                    | (0.8)       |
| Deferred tax attributable to above                                    | (0.1)                     | –                                    | –                      | –                    | (0.1)       |
| Total other comprehensive income in the year                          | 3.2                       | 0.1                                  | (0.8)                  | –                    | 2.5         |
| Total comprehensive income in the year                                | 3.2                       | 0.1                                  | 1.4                    | 0.2                  | 4.9         |
| Reserves at 31 December 2014  | <b>9.7</b>                | <b>4.2</b>                           | <b>13.0</b>            | <b>5.4</b>           | <b>32.3</b> |

### Summary corporate governance statement

Council has adopted the provisions of section 1 of the UK Corporate Governance Code (September 2012) prepared by the committee on corporate governance, to the extent appropriate. During the year council has monitored and assessed key risks in compliance with the guidance *Internal control: guidance for directors on the combined code*. The full corporate governance statement is set out in the financial statements for the year ended 31 December 2014.







ICAEW is a world leading professional membership organisation that promotes, develops and supports over 144,000 chartered accountants worldwide. We provide qualifications and professional development, share our knowledge, insight and technical expertise, and protect the quality and integrity of the accountancy and finance profession.

As leaders in accountancy, finance and business our members have the knowledge, skills and commitment to maintain the highest professional standards and integrity. Together we contribute to the success of individuals, organisations, communities and economies around the world.

**Because of us, people can do business with confidence.**

ICAEW is a founder member of Chartered Accountants Worldwide and the Global Accounting Alliance.

[www.charteredaccountantsworldwide.com](http://www.charteredaccountantsworldwide.com)  
[www.globalaccountingalliance.com](http://www.globalaccountingalliance.com)

#### ICAEW


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# Inspiring Confidence Financial Statements 2014



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The role of ICAEW Chartered Accountants in the world's economies has never been more important. People making financial decisions need knowledge and guidance based on the highest technical and ethical standards.

Our members provide this better than anyone. They challenge people and organisations to think and act differently, to provide clarity and rigour, and so help create and sustain prosperity.

As their institute, we create the environment in which those skills are constantly developed, recognised and valued. We shape opinion, understanding and delivery, to ensure the highest standards in business and in the public interest.

Because of us, people can do business with confidence.

These financial statements should be read in conjunction with ICAEW's annual review 2014.

# Financial review

ICAEW's financial statements for 2014 include the charitable trusts associated with ICAEW together with our international subsidiaries. The commentary below relates primarily to the operating activities of ICAEW.

## Results

Total income was £91.5m, £3.9m higher than in 2013. The retained surplus after tax for the year was £2.4m (2013: £2.2m). Membership income growth was £1.8m and was supplemented by growth in our commercial activities, enabling us to continue to invest in our strategy in the UK and internationally. Fines and cost recoveries of £2.4m were received from the Financial Reporting Council (FRC) Conduct Committee, contributing to a net FRC Conduct Committee case cost charge for 2014 of £0.9m (2013: £2.8m).

Net assets at 31 December 2014 were £32.3m, an increase of £4.9m over the 2013 net assets of £27.4m. Cash and cash equivalents ended the year at £4.9m, reflecting a net cash inflow of £0.6m in the year, after £1.9m contributions to reduce the pension scheme deficit and £5.1m cash contributions to FRC case costs. Total cash and investments stood at £40.3m at the end of the year, an increase of £1.7m on 2013.

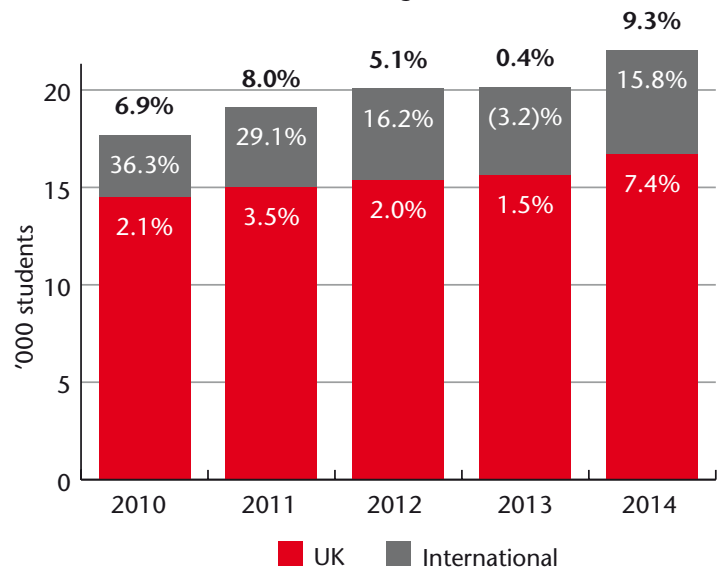
The consolidated outcome for the year, including the results of ICAEW's charitable trusts, was a surplus after tax of £2.7m (2013: £2.6m).

## Student and membership growth

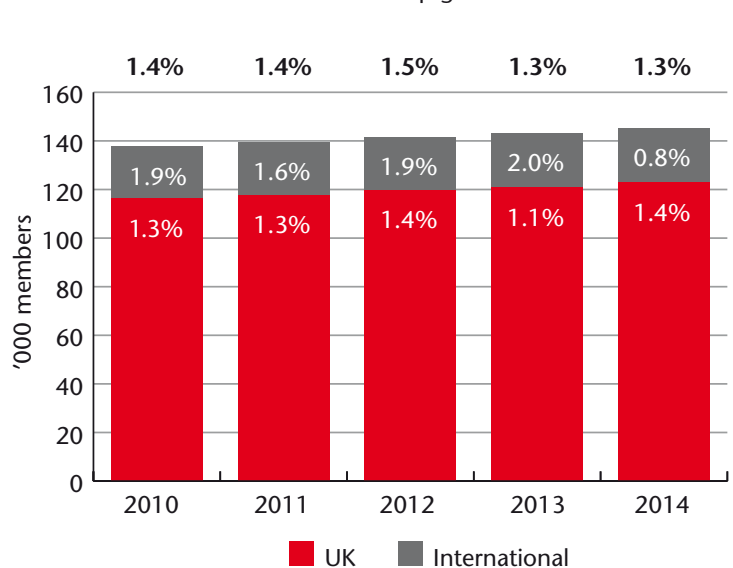
2014 saw a record ACA student intake of 7,326 – an increase of 1,670 on our 2013 intake of 5,656. Total ACA student numbers at the end of 2014 stood at 22,001 (2013: 20,121). In addition 3,115 students signed up for our foundation level Certificate in Finance, Accounting and Business (CFAB), a further increase on last year's intake of 1,822.

In the year, membership grew to 144,167, from admissions of newly-qualified students to membership, together with reciprocal and similar arrangements with members of other institutes.

Student growth



Membership growth



## Income

Revenue from members' fees and subscriptions rose by 4% to £43.3m, reflecting the continued steady growth in membership and an improved mix of membership rates. Income from our qualifications increased by £0.2m, with the record ACA and CFAB intake offsetting the impact of the reduced intake in 2013.

Our commercial income streams increased to £10.7m, from £9.7m in 2013, resulting from improved performance in our leadership programmes, catering and publishing arrangements after a difficult 2013 in these areas.

## Expenditure

Operating expenditure increased to £89.1m, including the impact of FRC Conduct Committee case costs, but net of cost recoveries, described below.

We launched the evolved ACA in 2013, resulting in dual running of exams and learning materials into 2014; in addition, there was increased investment in business development activities which has already delivered increased student intake.

2014 also saw an increase in our investment in member services, with a greater focus on business members and also supporting smaller practices.

The net operational expenditure increase includes the impact of a provision of £1.8m released in 2013 from certain commercial matters resolved successfully in that year with revised terms.

## FRC Conduct Committee case costs

During 2014 we charged costs of £5.5m to the income statement in relation to the FRC Conduct Committee case cost provision, a reduction of £0.2m on 2013. This was partly offset by fines of £1.0m (2013: £0.8m) and cost recoveries of £1.4m (2013: £0.5m) imposed by FRC tribunals and returned to ICAEW.

There was increased activity on existing cases and some substantial new cases taken on, giving rise to the additional charges.

In September an appeal tribunal heard an appeal by Deloitte and Touche against the findings of a disciplinary tribunal held in 2013. This had levied total fines of £14.2m, plus costs in relation to alleged misconduct in their handling of the sale of MG Rover. The appeal tribunal findings were announced in January 2015 and allowed the appeal against 8 of the 13 findings and upheld the remaining 5 charges of misconduct. Separate hearings will determine sanctions on these charges, which are likely to be reduced from the original award. We have not recognised any potential income or cost recovery while this remains uncertain.

Since its inception, FRC Conduct Committee case costs provided have totalled £31.8m and ICAEW has made cash payments of £22.7m over the 11-year period. Fines and cost recoveries are £6.2m.

The FRC Conduct Committee carries out independent investigations of the work and conduct of chartered accountants, both in public practice and elsewhere, where this has given rise to public concern.

## Tax

The net corporation tax charge for the year was £nil (2013: £nil). As a mutual membership organisation, much of our income is exempt from corporation tax.

## Pensions

The IAS19 valuation at 31 December 2014 was a whole scheme surplus of £2.8m (2013: £1.7m). The pension asset is recognised as ICAEW considers that any surplus arising would be recoverable, assuming the gradual settlement of scheme liabilities over time.

ICAEW's defined benefits pension scheme was closed to further member benefit accrual on 30 June 2010. Employees who participated in the scheme were invited to join ICAEW's defined contribution pension arrangements, with transitional enhanced employer contributions payable until June 2013. The most recent triennial actuarial valuation showed a deficit of £24.9m at 31 March 2013. The trustee and ICAEW agreed deficit funding arrangements comprising annual payments of £1.8m from 1 January 2014 until the deficit is eliminated. With our support, the trustee has developed an investment strategy intended to make the scheme entirely self-sufficient by around 2025.

A charge remains over Chartered Accountants' Hall and the fund has an interest in up to £10.0m of our investment portfolio.

The scheme valuation has again been subject to the volatility in the financial markets, most notably improved gilt yields. A desktop valuation of the technical funding position at 31 December 2014 estimated the scheme deficit at £17.8m, an increase of £8.3m on the estimated valuation at December 2013 of £9.5m and a reduction of £7.1m from the March 2013 valuation. In the year, as part of its de-risking strategy, the Trustee purchased a buy-in annuity to match a subset of pensioner liabilities.

Further details are given in note 25 to the financial statements.

## Financial position

Net assets at 31 December 2014 were £32.3m – an increase of £4.9m on the 2013 position.

During 2014, the market value of our long-term investments rose to £35.4m from £34.3m in 2013.

The value of Chartered Accountants' Hall increased to £12.7m as at 31 December 2014.

Trade and other payables were £34.3m (2013: £34.5m). Trade and other receivables were £9.1m (2013: £8.9m).

We have provided £9.1m (2013: £8.5m) of costs relating to the FRC Conduct Committee at 31 December 2014, reflecting their current case load. Case costs are forecast on the basis of the available information on actual or prospective cases. The accuracy of this forecast depends on assumptions made about the progress of individual cases and is subject to a significant degree of judgement. We do not take account of any potential future income from fines or cost recoveries from FRC Conduct Committee cases.

## Cash flow

Cash balances at 31 December 2014 were £4.9m. Net cash inflow was £0.6m compared to a £0.9m inflow in 2013. Our cash profile fluctuates on an annual cycle, this year peaking at £41.7m in March and bottoming out at £2.5m in early December.

Funding of the FRC Conduct Committee case costs saw a cash outflow of £5.1m (2013: £5.3m).

ICAEW paid £1.9m (2013: £4.8m) of deficit funding to the Staff Pensions Fund, in line with the current agreement.

Capital expenditure was £2.6m (2013: £2.0m). We expect to incur £11.1m of capital expenditure in 2015, reflecting investment in Chartered Accountants' Hall and our business systems.

## Reserves policies

Our agreed reserves policies ensure that ICAEW reserves are set at a level sufficient to cover both short-term requirements and longer term investment needs:

- reserves should be set at a level equivalent to between three and six months of expenditure through the income statement; and
- cash and investment balances should be at least sufficient to cover between three and six months of annual budgeted/forecast gross cash expenditure.

## Charitable trusts

The difference between the result of ICAEW and that of the group is mainly a result of donations received by ICAEW Foundation in the year together with investment income received by the trusts during the year.

During the year we made donations under gift aid to our charitable trusts amounting to £1.5m (2013: £1.8m). ICAEW's charitable trusts continued to run the Library and Information Service and also approved grants in the year of £0.2m (2013: £0.1m).

## Creditor payment policy

It is our policy to agree and communicate clearly the terms of payment as part of the commercial arrangements negotiated with suppliers. We then pay according to those terms based upon the timely receipt of an accurate invoice. Trade creditor days at 31 December 2014 were 15 days (2013: 24 days).

## Political donations

During the year, as part of its policy engagement, ICAEW supported a number of activities with political and politically affiliated organisations. This included a small number of events for political parties and a number of business and party conference events including hosting roundtables; costs, including donations in kind, associated with these activities totalled £51,000.

## Our sustainability commitment

As a professional membership organisation, we represent a common voice for our members and the profession. We believe that the successful business of the future will be a sustainable business. As a profession we support economic development and prosperity, and as an organisation our vision is to have a net positive impact on the economy, society and environment.

There are three main ways in which we implement this.

- **Economy** – the provision of accurate, trusted information is central to the success of an economic system and this is what the profession does. We bring people together to share their views, are involved in research, and produce guidance for the wider business community on sustainability. This work helps us to support business to deliver long-term sustainable economic value and people to do business with confidence.
- **Society** – we recognise the impact we make on society. We believe that financial capability, social mobility and fundraising are essential to long-term economic success. We engage in various activities and programmes which support staff, individuals, organisations and communities around the world.
- **Environment** – we recognise that business has a significant impact on the environment, and although ICAEW does not operate in a business sector which causes significant pollution, we aim to promote and follow environmental practices, and reduce the negative impacts of our activities. On an international scale, we convene the debate on natural capital policy in government forums and financial institutions.

You can find more information about our commitment to corporate responsibility in our annual review 2014.

## Going concern

The financial statements have been prepared on a going concern basis. The council has a reasonable expectation that ICAEW has adequate resources to continue in operational existence for the foreseeable future. The council receives and approves a three-year operational plan each year, which comprises forecast income statements, cash flow summaries, statements of financial position and key non-financial indicators. These are the basis of the monthly management accounts which are reviewed by the board.

ICAEW's business activities, together with the factors likely to affect its future development, performance and position are set out above, as well as in our annual review 2014. The financial position of ICAEW, its cash flows and liquidity position are described in the financial review above. In addition the accounting policies include ICAEW's objectives, policies and processes for managing its reserves, its financial risk management objectives, details of its hedging activities and its exposure to liquidity risk.

Council believes that ICAEW has adequate financial resources and is well placed to manage its business risks successfully having regard to the current economic outlook and market conditions and possible short-term funding needs, such as FRC Conduct Committee case costs. As a result, the going concern basis is considered appropriate.

## Internal control

Council is responsible for ICAEW's system of internal control and for reviewing its effectiveness. The audit committee, on behalf of the council, reviews the effectiveness of the system and reports to council thereon. This is done on the basis of information and regular reports provided by management, internal audit and the external auditors. The system of internal control is designed to manage rather than eliminate the risk of failure to achieve business objectives. It can provide only reasonable, but not absolute, assurance against material misstatement or loss. It includes all controls including financial, operational, compliance and risk management.

The key elements of the system of internal control are listed below.



## Risk management

The council, through the board, audit committee, chief executive and executive directors, has an established and continuous process for identifying, evaluating and managing the significant risks faced by ICAEW. This process has been in place for the whole of 2014 and has continued up to the date on which this document was approved.

Each department identifies and reviews the risks faced by ICAEW, assessing both the controls in place and key actions required to manage the significant risks. These assessments are reviewed twice a year by the audit committee and the board.

In reviewing the risks, the board considers whether management has appropriately assessed the risk by challenging the risk rating, whether the action taken to address and mitigate the risk is effective, and whether the timescales are appropriate. The board also considers whether there are other risks that should be reviewed and advises management accordingly.

The chief executive and executive directors also report regularly to the board on any changes in risks and key risk highlights. The board considers at each meeting any issues arising in respect of the principal risks, any emerging or new reputational risks, and the velocity of any current or new risks and issues. The audit committee undertakes reviews on specific principal risks in detail at its meetings.

Annually in March, the council undertakes a review to consider:

- the application of the risk management processes;
- reports on risk and internal control from the board;
- reports on internal control from the audit committee; and
- how the risks have changed over the period under review and any significant issues.

The assessment of risk is linked with the evolving ICAEW strategy in compliance with the guidance Internal Control: Revised Guidance for Directors on the Combined Code (October 2005).

As a result of the board's review and monitoring of risk management and internal control systems over the year, the board has identified the following principal risks. Principal risks are those with the potential to affect significantly our ability to fulfill our strategic objectives.

### Key firms change their business models

The risk that a key firm (or combination of firms) move away from a core skill set of ACA-trained accountants.

Our activity to mitigate this risk includes: active stakeholder management; intelligence and insight with firms, regulators, competitors and the market. We are working with firms to develop training solutions that ensure we are the professional body of choice across their international networks.

### The changing nature of the global competitive environment/increased competitor activity in strategic areas

Competitor organisations increase activity (eg student recruitment, thought leadership), combine to gain market share or develop other designations which erode the premium standing of the Chartered Accountant designation and results in damage to member profile, ICAEW's market position or ability to develop new markets.

Our activity to mitigate this risk includes: actively influencing the debate about the future of the finance industry and developing innovative products and services for firms and members.

### A significant external event causes the public to lose trust in the profession

The risk that a global financial crash, debt crisis or financial scandal causes the public to lose trust in the profession and financial institutions, reducing our ability to support members, undermining our disciplinary and regulatory roles and hampering our ability to act in the public interest.

Our activity to mitigate this risk includes: ongoing and direct engagement with organisations such as the Prudential Regulation Authority, FRC and firms, and monitoring media, complaints and regulatory activities.

### Loss of key ICAEW regulatory functions

The risk that UK implementation of the EU audit regulation and directive results in the loss of key regulatory functions for ICAEW.

Our activity to mitigate this risk includes: close engagement with the FRC and BIS; developing robust arguments in support of the role of ICAEW as a regulator in the public interest; developing alliances in support of the ICAEW position.

### Data security

The risk that there is a failure or breach of physical or cyber security systems (eg as a result of a cyber-attack), resulting in damage to reputation and disruption to operations.

Our activity to mitigate this risk includes: Payment Card Industry (PCI) compliance; intensive test programmes and spot checks for systems and processes and a voice recognition system to reduce human intervention.

### Data management

The risk of data mismanagement events such as the handling of client/student data, or breakdown of ACA assessment process or procedure, or use of data relating to elections.

Our activity to mitigate this risk includes: audits to ensure staff have the appropriate application security access; system penetration tests undertaken by a specialist organisation; PCI compliance testing; and active monitoring of exam pass rates.

# Corporate governance statement

## Our approach to governance

We are a chartered corporation and operate under the terms of our Royal Charter, bye-laws and regulations. We choose to measure our governance against the UK Corporate Governance Code. The Code is a guide to effective board practice and is based on the principles of good governance, accountability, transparency and probity. We recognise that parts of the Code do not relate precisely to the governance of a professional and membership body; however, it provides a focus for the sustainable success of ICAEW over the longer term, the underlying principle is that our governance must support the delivery of our strategy. We operate within regulatory oversight of the FRC and other regulators, as a Recognised Supervisory Body, a Recognised Qualifying Body, a Designated Professional Body, and as a licensor of insolvency practitioners. On 15 July 2014, we gained parliamentary approval to regulate probate services and license alternative business structures.

On 18 December 2014 council agreed changes to our regulatory governance structure, these changes will be implemented in 2015.

## Our structure

Our governance structure is designed to safeguard our future, enhance its prosperity and ensure its integrity. The board operates through a series of delegated authorities from council and assurance mechanisms, while ensuring that the views of members are heard.

## AGM and member meetings

The Charter and bye-laws reserve certain matters to members. This includes consideration of the annual review and the financial statements with the report of the auditor.

## Council

Council is the ultimate governing body of ICAEW. Council considers, reviews and approves strategy, operational plans and budgets proposed by the board. It represents and articulates the views of members on all these matters and otherwise delegates the powers and authorities conferred on it by the Charter and bye-laws to the board, the departmental boards and to the chief executive, within an overall framework of financial approval limits.

In 2014, council met six times. As at 31 December 2014, it comprised 90 members. The majority of council members are directly elected by our members, with the remainder co-opted or ex officio. Council elects its chair annually from among its members. Brief details of each council member, including their status and record of attendance at council meetings in 2014, can be found in the annual review.

Council members do not receive remuneration. They are reimbursed for travel and subsistence costs incurred on ICAEW business. They may receive other payments, on a normal commercial basis, particularly in connection with lecturing and writing. Each member of council declares any interests which might lead to conflict and updates the declaration at least annually. Members of council and the board are also invited to identify and declare any potential conflicts of interest at each meeting.

## The office-holders and chief executive

The office-holders, President: Martyn Jones (to 4 June), Arthur Bailey (from 4 June); Deputy-President: Arthur Bailey (to 4 June), Andrew Ratcliffe (from 4 June); Vice-

President: Andrew Ratcliffe (to 4 June), Hilary Lindsay (from 4 June), have no formal personal powers other than the procedural matters specified in the principal bye-laws. They have an ambassadorial role, meeting members and stakeholders and promoting ICAEW. They represent the views of council and the wider membership within ICAEW and ensure that these are taken into account in the development of our strategy and policies. They counsel and advise the chief executive. The president chairs the annual and special meetings of members and the board. All office-holders (and council members) are non-executives.

The president serves a one-year term with council electing a vice-president annually to succeed the deputy-president and, in turn, president. The nature of the organisation will mean that the office-holders will sometimes have a connection with member firms and groups. Any potential conflict is identified and declared as outlined above.

The Chief Executive, Michael Izza, operates within the framework of delegations approved by council. Reporting to the president, he is responsible for the overall management of ICAEW, for the development and implementation of strategy, and for ensuring that we operate economically, efficiently and effectively. He also has a representational role, building effective relationships with members and with governments, regulators, other public bodies, and the media.

## Diversity

We give a voice to all members and are committed to equality and diversity with the aim to represent the membership as a whole. Moreover, the membership of council, boards and committees should have the appropriate balance of skills, experience, independence and knowledge to enable them to discharge their respective duties and responsibilities effectively, while ensuring the engagement of the best person for the job.

## Our board

Our board is responsible for monitoring the development and implementation of our strategy, including review of risk. The chief executive reports monthly to the board on principal risks and on key activities; quarterly to the board on implementation of the operational plan; and, formally twice a year on the management of risk. The executive directors report to each board meeting on performance against departmental plans. The finance director reports to each meeting on financial performance. The board reports on its activities to each council meeting.

The board comprises non-executives, principally council members ex officio, and senior executives. Council elects two of its members directly to the board for a two-year term. The elected members fulfil the role of 'senior independent director'. Council on the 7 May 2014 approved the appointment of two independent (ie non-chartered accountant) members to the board. The recruitment process began in 2014 with appointments effective from the annual meeting in 2015. In 2014, the board engaged Board Intelligence to undertake an external evaluation of the performance of the board with any outputs from this evaluation taken forward in 2015. In 2014, the board met eight times.

A senior staff appointments committee comprising senior council members and advisers appoint the chief executive and executive directors. They are not subject to annual or three-yearly election. Nonetheless, their performance is reviewed annually by the remuneration committee, which reports to the board accordingly.

The members of the board (for whom brief biographical details can be found on the ICAEW website at [Home > About us > Who we are > Governance > ICAEW Board](#)) during 2014 were:

|                   | Position  | Appointed | Retired | Attendance |
|-------------------|---|-----------|---------|------------|
| Andrew Baigent*   | chair, learning and professional development board<br>director, group financial management, Department of Health  |           |         | 7/8        |
| Arthur Bailey*    | deputy-president (to 4 June), president and chair (from 4 June)<br>consultant, Begbies Traynor Group and Kingston Smith LLP                                   |           |         | 8/8        |
| Ian Davies*       | elected by council<br>deputy chairman, BMT Group Limited and senior independent<br>director, Harvey Nash plc  | 4 June    |         | 4/4        |
| Howard Gross*     | chair, members board<br>chief executive, Gross Klein  |           |         | 8/8        |
| Sharron Gunn      | executive director, commercial  |           |         | 8/8        |
| Robert Hodgkinson | executive director, technical strategy  |           |         | 7/8        |
| Michael Izza      | chief executive   |           |         | 8/8        |
| Martyn Jones      | president and chair (to 4 June)<br>consultant, Deloitte LLP and chair, advisory board to the<br>department of economics and finance, Brunel University London |           | 4 June  | 4/4        |
| Hilary Lindsay*   | vice-president (from 4 June)<br>researcher, The Open University   |           |         | 8/8        |
| David Matthews*   | chair, technical strategy board<br>head of quality and risk management, KPMG LLP  |           |         | 6/8        |
| Nick Parker*      | elected by council<br>tax partner, Baker Tilly  | 1 January |         | 8/8        |
| Mark Protherough  | executive director, learning and professional development   |           |         | 7/8        |
| Andrew Ratcliffe* | vice-president (to 4 June), deputy-president (from 4 June)<br>partner, PricewaterhouseCoopers LLP   |           |         | 7/8        |
| Liz Rylatt        | executive director, finance, operations and members   | 8 January |         | 8/8        |
| Vernon Soare      | executive director, professional standards  |           |         | 8/8        |
| Fiona Wilkinson*  | chair, professional standards board   |           |         | 8/8        |

\* council member

## Audit committee

The audit committee is responsible, on behalf of council, for ensuring that all significant activities of ICAEW are subject to independent review and audit; monitoring our relationship with our auditors; reviewing internal controls; and assessments of risk. The audit committee met four times in 2014. Both the internal and external auditors attend its meetings and have direct access to its chair. The external auditors attend at least one meeting (or part of a meeting) each year without management present.

The members of the audit committee during 2014 were:

|                     | Position  | Appointed | Retired | Attendance |
|---------------------|---|-----------|---------|------------|
| Richard Bint        | audit partner, BDO LLP  |           |         | 4/4        |
| Stuart Bridges      | chief financial officer, Hiscox Ltd   |           |         | 2/4        |
| David Canning-Jones | audit partner, EY LLP   |           |         | 4/4        |
| Ian Cherry*         | chair (to 4 June)<br>chief executive, A I Cherry Ltd  |           | 4 June  | 1/1        |
| David Chitty        | international accounting & audit director, Crowe Horwath<br>International                         |           |         | 4/4        |
| Mary Hardy          | independent director  |           |         | 3/4        |
| Nick Parker*        | chair (from 4 June)<br>tax partner, Baker Tilly   |           |         | 4/4        |
| George Quigley*     | partner, BDO LLP  |           |         | 4/4        |
| Andrew Ratcliffe*   | vice-president (to 4 June), deputy-president (from 4 June)<br>partner, PricewaterhouseCoopers LLP |           |         | 3/4        |
| Clare Worley        | global head of operations internal audit, Barclays PLC  | 4 June    |         | 3/3        |

\* council member

The chair of the audit committee reports annually to council. The audit committee provides a summary report of its proceedings to council after each meeting and makes the minutes of its meetings available to the board.

During the year, the audit committee has:

- reviewed the financial statements, having received a report from the external auditors on their review and audit;
- considered the output of the procedures used to manage risk within ICAEW;
- reviewed the effectiveness of our internal controls;
- considered the management letter from the external auditors on their review of the effectiveness of internal controls;
- agreed the fees and terms of appointment of the external auditors, including their quality and effectiveness;
- agreed the work plan of internal audit and reviewed the resulting output from that plan; and
- considered an annual report on our whistleblowing arrangements and complied with the Whistleblowing Commission's Code of Practice.

The committee has helped council to assess the adequacy of the internal audit plan. The committee has received reports on the work carried out by internal audit and the results of their investigations including management responses, their adequacy and timeliness.

Significant areas of review by the audit committee in the year included 'deep dives' into principal risks, including data security and data management, the changing nature of the competitive environment, changes in firms' business models and cash-flow limitations and/or exceptional costs, as well as significant control matters as they arose. The committee also reviewed accounting policies, the application of the Corporate Governance Code 2014 and key judgement areas in the financial statements including FRC costs and pension provisions.

## Auditors

The auditors were first appointed in 2006 and re-appointed following a tender in 2010. The auditor periodically changes its audit partner in accordance with professional and regulatory standards in order to protect independence and objectivity. Rotation of the audit partner last took place during 2012. The committee agrees with the audit firm staff rotation policies in relation to our audit. Current policy is to tender the external audit at least every ten years with the next tender taking place in 2015.

The audit committee annually reviews and considers the quality, effectiveness and independence of the external auditors. This includes a review of safeguards in place in relation to non-audit services, and a review of the partners and directors of the audit firm who sit on our committees. To ensure appropriate levels of independence, a firm cannot be our auditor if any partner or employee of the firm is a member of council during the period of tenure. We also have a policy regarding non-audit work by the audit firm. The general principle is that the audit firm should not be asked to carry out non-audit services where it may, in the future, be required to give an audit opinion. Audit committee approval is required for such services.

To assess the effectiveness of the auditors the committee reviewed:

- the external auditors fulfilment of the agreed audit plan and variations from it;
- the auditor's report of major issues arising during the course of the audit; and
- the auditor's most recent transparency report and AQR report.

## Financial reporting

Over the course of the year the audit committee considered many components of business performance in order to ensure it has a full understanding of the operations of ICAEW. This has particular regard to the mix of audit committee members, whereby not all members are also on council or the board. Examples of processes it uses include:

- reviews of the processes undertaken in determining the position adopted in key judgement areas including FRC costs and pension provisions;
- 'deep dives' into risk areas as described above;
- receipt of regular strategy reports from the chief executive and operational reports from the executive director, finance, operations and members;
- requesting members of management to attend audit committee meetings to provide updates on operational and strategic matters; and
- a review of the budget and operational plan.

Through these processes and its monitoring of the effectiveness of controls, internal audit and risk management the audit committee is able to maintain a good understanding of business performance, key areas of judgement and decision-making processes within the organisation and the consequences for financial reporting.

## Review of financial statements

The committee's review is based on the processes outlined above to assess the financial reporting environment.

Through discussion with management and the external auditor, the audit committee determined that the key judgements with risk of misstatement of our financial statements related to provisions for FRC costs and management override of controls.

These issues were discussed with management during the year and with the auditor when reviewing and agreeing the audit plan and also at the conclusion of the audit of the financial statements.

The committee has reviewed the basis for monitoring and forecasting FRC case costs, assessed the sources of information available to management (including historic data and forecasts from the FRC) and considered the review processes performed by management and the external auditor. This recognised the confidential nature of such information but the committee were able to obtain the necessary understanding and satisfaction. With regard to management override of controls the committee considered the overall control environment as well as receiving detailed reports from the external auditor and management on the use of journals and key assumptions and estimates.

The committee also reviewed key judgements made in the previous financial year relating to pension scheme assumptions and confirmed that those judgements remain valid for the 2014 financial year also.

After reviewing the presentations and reports from management and consulting with the auditors the audit committee is satisfied that the financial statements appropriately address the critical judgements and key estimates, both for the amounts reported and the disclosures. The committee is also satisfied that the significant assumptions used for determining the value of assets and liabilities have been appropriately scrutinised, challenged and are sufficiently robust.

As a result of its work during the year, the committee has concluded that it has acted in accordance with its terms of reference and has ensured (as far as it can) the independence of the external auditors.

## Nominating committee

The nominating committee is responsible for making recommendations to council for co-options, for the appointment of committee chairs and for honorary membership of ICAEW. It also has direct responsibility for all other committee appointments. The committee makes recommendations and appointments on the basis of the best person for the job and against agreed profiles. The nominating committee met five times in 2014.

The members of the nominating committee during 2014 were:

|                   | Position  | Appointed  | Retired    | Attendance |
|-------------------|---|------------|------------|------------|
| Arthur Bailey*    | deputy-president (to 4 June), president and chair (from 4 June)<br>consultant, Begbies Traynor Group and Kingston Smith LLP   |            |            | 4/5        |
| Ian Davies*       | elected by council<br>deputy chairman, BMT Group Limited and senior independent<br>director, Harvey Nash plc  | 30 October |            | 1/1        |
| Susan Field*      | elected by council<br>sole practitioner   |            | 30 October | 3/4        |
| Michael Izza      | chief executive   |            |            | 5/5        |
| Peter Jenkins*    | elected by council<br>finance director, The Prince's Regeneration Trust   |            |            | 5/5        |
| Martyn Jones*     | president and chair (to 4 June), past-president (from 4 June)<br>consultant, Deloitte LLP and chair, advisory board to the<br>department of economics and finance, Brunel University London |            |            | 5/5        |
| Hilary Lindsay*   | vice-president (from 4 June)<br>researcher, The Open University   | 4 June     |            | 2/2        |
| Sheilagh Moffat*  | elected by council (re-elected 30 October)<br>partner, Moffat Gilbert   |            |            | 5/5        |
| Clive Parritt*    | past-president<br>chair, Baronsmead VCT 2 plc; DiGiCo Europe Ltd; BG Consulting<br>Group Ltd and non-executive director, London & Associated<br>Properties plc and other companies          |            | 4 June     | 3/3        |
| Andrew Ratcliffe* | vice-president (to 4 June), deputy-president (from 4 June)<br>partner, PricewaterhouseCoopers LLP   |            |            | 5/5        |
| Mark Spofforth*   | past-president<br>partner Spofforths  |            |            | 5/5        |

\* council member

## Remuneration committee

The remuneration committee keeps under review, on behalf of the board, the elements of the remuneration package provided for staff, including the chief executive and executive directors. Staff are remunerated with reference to their annual performance rating and benchmark market salaries. The committee also monitors office-holder expenses.

The members of the remuneration committee during 2014 were:

|                  | Position  | Appointed | Retired      | Attendance |
|------------------|---|-----------|--------------|------------|
| Arthur Bailey*   | deputy-president (to 4 June)<br>consultant, Begbies Traynor Group and Kingston Smith LLP        |           | 4 June       | 2/3        |
| Ian Davies*      | chair<br>deputy chairman, BMT Group Limited and senior independent<br>director, Harvey Nash plc |           |              | 4/4        |
| Nicki Demby      | partner, executive compensation consulting, Deloitte  | 4 June    |              | 1/1        |
| Frank Edwards*   | consultant  |           |              | 4/4        |
| Richard Harwood* | principal, Harwoods   |           |              | 4/4        |
| Hilary Lindsay*  | vice-president (from 4 June)<br>researcher, The Open University                                 | 4 June    |              | 1/1        |
| Sean O'Hare      | consultant  |           | 24 September | 4/4        |

\* council member

The chair of the remuneration committee reports at least annually to the board.

## Senior staff appointments committee

The senior staff appointments committee is responsible for all matters relating to the recruitment and appointment of the chief executive and executive directors. Liz Rylatt was appointed to the role of executive director, finance, operations and members on 8 January 2014.

## Departmental boards

Five departmental boards steered the development of policy for our key activities in 2014: commercial; learning and professional development; members; professional standards; and technical strategy. These boards also exercise a general oversight of the work programmes of the departments.

You can find the terms of reference for the key committees on the ICAEW website at Home/About us/Who we are/Committees.

## Employees

We aim to create a working environment that is based on a number of key principles including fairness, equality of opportunity, respect and dignity, flexibility, transparency and work-life balance. We believe that these key principles enable staff to enjoy work, develop as individuals and provide the best possible service to members, clients and the public, which contributes to the continued success of the organisation.

We are committed to the core values of acting responsibly, integrity, effective partnerships and the highest standards. It is our policy to treat all staff fairly and equally regardless of race, sex, sexual orientation, gender re-assignment, marital status or disability. Should existing staff suffer a disability, we will do all we can to accommodate this and to help the member of staff to continue their career in their existing role where possible, or in an alternative position in the organisation.

We regularly carry out a staff survey to ensure staff are engaged with our strategy and have a well-established performance management process and training and development policy. Staff can discuss their development needs at 'one-to-ones' with their manager or as part of the annual performance management process. We hold regular strategy updates for all staff and have dedicated communications channels, including an intranet and weekly email updates.

## Financial responsibilities of the council

Bye-law 12(a) requires the council to prepare financial statements for each financial year which give a true and fair view of the state of affairs of ICAEW and of the result for ICAEW for that year.

The council has delegated these responsibilities to the board. In preparing these financial statements on behalf of the council, the board has:

- prepared the financial statements in accordance with applicable law and IFRSs as adopted for use in the EU;
- selected suitable accounting policies and applied them consistently;
- made judgements and estimates that are reasonable and prudent;
- followed applicable accounting standards;
- prepared the financial statements on a going concern basis; and
- considered and confirmed that the financial statements and annual review together are fair, balanced and understandable.

The council is responsible for ensuring that proper accounting records are kept which disclose with reasonable accuracy the financial position of ICAEW. It is also responsible for safeguarding the assets of ICAEW and hence for taking reasonable steps for the prevention and detection of fraud and other irregularities.

## Directors' confirmation

As far as each of the directors is aware:

- there is no relevant audit information of which our auditors are unaware; and
- the directors have taken all steps necessary to make themselves aware of any relevant audit information and to establish that our auditors are aware of that information.

For the purposes of this declaration, all members of the board are deemed directors.



# ICAEW five-year summary

|  | 2014<br>£m     | 2013<br>£m     | 2012<br>£m     | 2011<br>£m     | 2010<br>£m     |
|--|----------------|----------------|----------------|----------------|----------------|
| <b>Income statement</b>  |                |                |                |                |                |
| Operating income   | 91.5           | 87.6           | 82.7           | 82.4           | 76.4           |
| ICAEW services   | (80.5)         | (75.3)         | (76.0)         | (72.4)         | (67.1)         |
| Funding of regulatory and other professional associations                | (7.1)          | (8.3)          | (6.3)          | (4.7)          | (5.8)          |
| Gift aid and library funding   | (1.5)          | (1.8)          | (1.6)          | (1.7)          | (1.6)          |
| <b>Result before taxation</b>  | <b>2.4</b>     | <b>2.2</b>     | <b>(1.2)</b>   | <b>3.6</b>     | <b>1.9</b>     |
| Taxation   | -              | -              | -              | -              | (0.1)          |
| <b>Net result after taxation</b>   | <b>2.4</b>     | <b>2.2</b>     | <b>(1.2)</b>   | <b>3.6</b>     | <b>1.8</b>     |
| <b>Net assets</b>  |                |                |                |                |                |
| Non-current assets excluding Staff Pensions Fund                         | 59.9           | 55.7           | 52.9           | 51.9           | 53.2           |
| Current assets   | 14.7           | 13.9           | 13.8           | 18.3           | 19.8           |
| Current liabilities  | (39.4)         | (39.6)         | (37.9)         | (34.1)         | (33.6)         |
| Non-current liabilities excluding Staff Pensions Fund                    | (6.0)          | (4.7)          | (3.7)          | (4.8)          | (4.7)          |
| Non-current assets/(liabilities) - Staff Pensions Fund asset/(liability) | 3.1            | 2.1            | (4.9)          | (6.0)          | (5.4)          |
| <b>Total net assets</b>  | <b>32.3</b>    | <b>27.4</b>    | <b>20.2</b>    | <b>25.3</b>    | <b>29.3</b>    |
| <b>Member and student numbers</b>  |                |                |                |                |                |
| Members  | 144,167        | 142,334        | 140,573        | 138,464        | 136,615        |
| ACA students   | 22,001         | 20,121         | 20,037         | 19,073         | 17,653         |
|  | <b>166,168</b> | <b>162,455</b> | <b>160,610</b> | <b>157,537</b> | <b>154,268</b> |

# Independent auditor's report to the members of The Institute of Chartered Accountants in England and Wales for the year ended 31 December 2014

## Our opinion on the financial statements is unmodified

In our opinion the financial statements:

- give a true and fair view of the state of the group's and of ICAEW's affairs as at 31 December 2014 and of the group's and ICAEW's result for the year then ended; and
- have been properly prepared in accordance with International Financial Reporting Standards (IFRSs) as adopted by the European Union.

## What we have audited

The ICAEW's financial statements comprise the group and ICAEW income statements, the group and ICAEW statements of comprehensive income, the group and ICAEW statements of changes to reserves, the group and ICAEW statements of financial position, the group and ICAEW statements of cash flow and the related notes.

The financial reporting framework that has been applied in their preparation is applicable law and IFRSs as adopted by the European Union.

## Our assessment of risk

Without modifying our opinion, we highlight the following matters that are, in our judgement, likely to be most important to the users' understanding of our audit. Our audit procedures relating to these matters were designed in the context of our audit of the consolidated financial statements as a whole, and not to express an opinion on individual transactions, account balances or disclosures.

## FRC Conduct Committee provision

**The risk:** Included in the group and ICAEW statements of financial position, the FRC Conduct Committee total provision of £9.1m represents the estimated present obligation of ICAEW in respect of the investigations by the FRC Conduct Committee for disciplinary cases arising from past events up to 31 December 2014. The process to measure the provision is highly judgemental, and is based on information provided by the FRC and a review by ICAEW of potential cost estimates on a case-by-case basis. We therefore identified the FRC Conduct Committee provision as a significant risk requiring special audit consideration.

**Our response:** Our audit work included, but was not restricted to, an evaluation of the detail of the FRC's estimate of costs, a comparison of prior estimates to actual outcomes and a review of correspondence with the FRC regarding ongoing cases. We compared the provision to our expectations based on historical evidence and challenged management assumptions. The accounting policy and disclosures regarding this provision are included in the critical accounting judgements and key sources of estimation on page 21 and note 23 to the financial statements.

## Management override of financial control

**The risk:** Under ISAs (UK & Ireland), for all our audits we are required to consider the risk of management override of financial controls. Due to the unpredictable nature of this risk we are required to assess it as a significant risk requiring special audit consideration.

**Our response:** Our audit work included but was not restricted to, consideration of the overall control environment of the group, including interviewing senior management and the head of internal audit, to assess the level of the risk. We performed the specific procedures relating to this risk that are required by ISA (UK & Ireland) 240 'The Auditor's Responsibilities relating to Fraud in an audit of the financial statements'. This includes tests of journal entries, the evaluation of judgements and assumptions in management's estimates and tests of significant transactions outside the normal course of business. In addition, we also reviewed the arrangements for the staff to 'whistle-blow' inappropriate management actions and findings from internal audit's reports.

## Our application of materiality and an overview of the scope of our audit

### Materiality

We apply the concept of materiality in planning and performing our audit, in evaluating the effect of any identified misstatements and in forming our opinion. For the purpose of determining whether the financial statements are free from material misstatement we define materiality as the magnitude of a misstatement or an omission from the financial statements or related disclosures that would make it probable that the judgement of a reasonable person relying on the information would have been changed by the misstatement or omission. For the group audit, we established a planning materiality for the group financial statements as a whole of £1.8m, which is 2% of revenue. For the financial information of the subsidiary undertakings, we set our materiality based on a proportion of group materiality appropriate to the relative sizes of the entities.

We determined the threshold at which we will communicate misstatements to the audit committee to be £50,000. In addition we will communicate misstatements below that threshold that, in our view, warrant reporting on qualitative grounds.

## Overview of the scope of the audit

Our scope included an audit of the financial statements of the group and ICAEW and for the purposes of the group audit we carried out targeted audit work on the ICAEW Foundation, whose investments are material to the group financial statements. We performed analytical review on the financial statements of the other subsidiaries which were not considered to be individually significant to the group or included risks which were not considered to be material to the group financial statements. We carried

out a risk assessment to identify financial statement risks, including communication with the audit committee. We undertook an interim visit in November 2014 to evaluate the internal controls over those risk areas we identified as being relevant to our audit. During our subsequent audit we undertook substantive testing on significant transactions, balances and disclosures, the extent of which was based on various factors such as our overall assessment of the control environment, the effectiveness of controls and the management of specific risk.

## **Matters on which we are required to report by exception**

We have nothing to report in respect of the following:

**Under the ISAs (UK & Ireland), we are required to report to you if, in our opinion, information in the annual report is:**

- materially inconsistent with the information in the audited financial statements; or
- apparently materially incorrect based on, or materially inconsistent with, our knowledge of the group acquired in the course of performing our audit; or
- is otherwise misleading.

**In particular, we are required to report to you if:**

- we have identified any inconsistencies between our knowledge acquired during the audit and the council's statement that they consider the annual report is fair, balanced and understandable; and
- the annual report does not appropriately disclose those matters that were communicated to the audit committee which we consider should have been disclosed.

## **Responsibilities for the financial statements and the audit**

**What an audit of financial statements involves:**

A description of the scope of an audit of financial statements is provided on the FRC's website at [frc.org.uk/auditscopeukprivate](http://frc.org.uk/auditscopeukprivate)

**What the council is responsible for:**

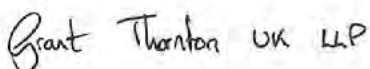
As explained more fully in the corporate governance statement set out on pages 6 to 10, the council is responsible for the preparation of the financial statements and for being satisfied that they give a true and fair view.

**What we are responsible for:**

Our responsibility is to audit and express an opinion on the financial statements in accordance with applicable law and International Standards on Auditing (UK & Ireland). Those standards require us to comply with the Auditing Practices Board's Ethical Standards for Auditors.

**Who we are reporting to:**

This report is made solely to ICAEW's members, as a body. Our audit work has been undertaken so that we might state to ICAEW's members those matters we are required to state to them in an auditor's report and for no other purpose. To the fullest extent permitted by law, we do not accept or assume responsibility to anyone other than ICAEW and ICAEW's members as a body, for our audit work, for this report, or for the opinions we have formed.



Grant Thornton UK LLP  
Statutory Auditor, Chartered Accountants  
Milton Keynes

23 March 2015

# Group income statement

for the year ended 31 December 2014

|  |       | 2014         |                   |              | 2013         |                   |              |
|--|-------|--------------|-------------------|--------------|--------------|-------------------|--------------|
|  | Notes | Income<br>£m | Expenditure<br>£m | Net<br>£m    | Income<br>£m | Expenditure<br>£m | Net<br>£m    |
| Subscriptions and fees                         |       | 43.3         | –                 | 43.3         | 41.5         | –                 | 41.5         |
| Learning and professional development          | 1     | 10.4         | (15.6)            | (5.2)        | 10.2         | (14.8)            | (4.6)        |
| Professional standards                         | 2     | 15.5         | (14.7)            | 0.8          | 15.4         | (14.2)            | 1.2          |
| Commercial and shared services                 | 3     | 10.7         | (13.6)            | (2.9)        | 9.7          | (13.0)            | (3.3)        |
| Members  | 4     | 1.1          | (14.0)            | (12.9)       | 1.0          | (13.1)            | (12.1)       |
| Technical strategy                             | 5     | 4.3          | (9.1)             | (4.8)        | 4.0          | (9.0)             | (5.0)        |
| Central activities                             | 6     | 0.7          | (14.0)            | (13.3)       | 1.0          | (11.8)            | (10.8)       |
| Charitable trusts                              | 7     | 0.2          | (1.0)             | (0.8)        | 0.1          | (1.0)             | (0.9)        |
|  |       | <b>86.2</b>  | <b>(82.0)</b>     | <b>4.2</b>   | <b>82.9</b>  | <b>(76.9)</b>     | <b>6.0</b>   |
| FRC Conduct Committee                          | 8     | 3.2          | (4.1)             | (0.9)        | 2.4          | (5.2)             | (2.8)        |
| Other regulatory and professional associations | 9     | 1.0          | (3.0)             | (2.0)        | 0.9          | (3.1)             | (2.2)        |
|  |       | <b>4.2</b>   | <b>(7.1)</b>      | <b>(2.9)</b> | <b>3.3</b>   | <b>(8.3)</b>      | <b>(5.0)</b> |
| <b>Operating result</b>                        | 11    | <b>90.4</b>  | <b>(89.1)</b>     | <b>1.3</b>   | <b>86.2</b>  | <b>(85.2)</b>     | <b>1.0</b>   |
| Investment income                              | 12    | 1.5          | –                 | 1.5          | 1.7          | –                 | 1.7          |
| <b>Result before taxation</b>                  |       | <b>91.9</b>  | <b>(89.1)</b>     | <b>2.8</b>   | <b>87.9</b>  | <b>(85.2)</b>     | <b>2.7</b>   |
| Taxation                                       | 13    |              |                   | (0.1)        |              |                   | (0.1)        |
| <b>Net result after taxation for the year</b>  |       |              |                   | <b>2.7</b>   |              |                   | <b>2.6</b>   |

# ICAEW income statement

for the year ended 31 December 2014

|  |       | 2014         |                   |              | 2013         |                   |              |
|--|-------|--------------|-------------------|--------------|--------------|-------------------|--------------|
|  | Notes | Income<br>£m | Expenditure<br>£m | Net<br>£m    | Income<br>£m | Expenditure<br>£m | Net<br>£m    |
| Subscriptions and fees                         |       | 43.3         | –                 | 43.3         | 41.5         | –                 | 41.5         |
| Learning and professional development          | 1     | 10.4         | (15.6)            | (5.2)        | 10.2         | (14.8)            | (4.6)        |
| Professional standards                         | 2     | 15.5         | (14.7)            | 0.8          | 15.4         | (14.2)            | 1.2          |
| Commercial and shared services                 | 3     | 10.7         | (13.6)            | (2.9)        | 9.7          | (13.0)            | (3.3)        |
| Members  | 4     | 1.1          | (14.0)            | (12.9)       | 1.0          | (13.1)            | (12.1)       |
| Technical strategy                             | 5     | 4.3          | (9.1)             | (4.8)        | 4.0          | (9.0)             | (5.0)        |
| Central activities                             | 6     | 0.7          | (13.5)            | (12.8)       | 1.0          | (11.2)            | (10.2)       |
|  |       | <b>86.0</b>  | <b>(80.5)</b>     | <b>5.5</b>   | <b>82.8</b>  | <b>(75.3)</b>     | <b>7.5</b>   |
| FRC Conduct Committee                          | 8     | 3.2          | (4.1)             | (0.9)        | 2.4          | (5.2)             | (2.8)        |
| Other regulatory and professional associations | 9     | 1.0          | (3.0)             | (2.0)        | 0.9          | (3.1)             | (2.2)        |
|  |       | <b>4.2</b>   | <b>(7.1)</b>      | <b>(2.9)</b> | <b>3.3</b>   | <b>(8.3)</b>      | <b>(5.0)</b> |
| Gift aid and library funding                   | 10    | –            | (1.5)             | (1.5)        | –            | (1.8)             | (1.8)        |
| <b>Operating result</b>                        | 11    | <b>90.2</b>  | <b>(89.1)</b>     | <b>1.1</b>   | <b>86.1</b>  | <b>(85.4)</b>     | <b>0.7</b>   |
| Investment income                              | 12    | 1.3          | –                 | 1.3          | 1.5          | –                 | 1.5          |
| <b>Result before taxation</b>                  |       | <b>91.5</b>  | <b>(89.1)</b>     | <b>2.4</b>   | <b>87.6</b>  | <b>(85.4)</b>     | <b>2.2</b>   |
| Taxation                                       | 13    |              |                   | –            |              |                   | –            |
| <b>Net result after taxation for the year</b>  |       |              |                   | <b>2.4</b>   |              |                   | <b>2.2</b>   |

# Group and ICAEW statements of comprehensive income

for the year ended 31 December 2014

|  |      | Group      |            | ICAEW      |            |
|--|------|------------|------------|------------|------------|
|  | Note | 2014<br>£m | 2013<br>£m | 2014<br>£m | 2013<br>£m |
| Net result after taxation recognised in the income statement in the year |      | 2.7        | 2.6        | 2.4        | 2.2        |
| Items that may be reclassified subsequently to profit or loss:           |      |            |            |            |            |
| Gains/(losses) on revaluation of available for sale investments          | 17   | 0.1        | 3.2        | (0.4)      | 1.5        |
| Gains reclassified on disposal   | 17   | 0.5        | 0.4        | 0.5        | 0.4        |
| Deferred tax   | 18   | –          | (0.3)      | –          | (0.3)      |
| Items that will not be reclassified subsequently to profit or loss:      |      |            |            |            |            |
| Gains on revaluation of property, plant and equipment                    | 14   | 3.3        | 1.1        | 3.3        | 1.1        |
| Actuarial (losses)/gains recognised in the year                          | 25   | (0.8)      | 2.6        | (0.8)      | 2.5        |
| Deferred tax   | 18   | (0.1)      | (0.2)      | (0.1)      | (0.2)      |
| Other comprehensive income in the year                                   |      | <b>3.0</b> | <b>6.8</b> | <b>2.5</b> | <b>5.0</b> |
| <b>Total comprehensive income in the year</b>                            |      | <b>5.7</b> | <b>9.4</b> | <b>4.9</b> | <b>7.2</b> |



# Group statement of changes to reserves

for the year ended 31 December 2014

|  | Revaluation<br>reserve<br>£m | Investment<br>revaluation<br>reserve<br>£m | Accumulated<br>fund<br>£m | Other<br>reserves<br>£m | Charitable trusts<br>£m | Total<br>£m |
|--|------------------------------|--|---------------------------|-------------------------|-------------------------|-------------|
| <b>Reserves at 1 January 2013</b>  | <b>5.4</b>                   | <b>2.5</b>                                 | <b>7.9</b>                | <b>5.0</b>              | <b>10.6</b>             | <b>31.4</b> |
| Net result after taxation  | –                            | –  | 2.1                       | 0.2                     | 0.3                     | 2.6         |
| Increase in valuation of property, plant<br>and equipment                | 1.1                          | –  | –                         | –                       | –                       | 1.1         |
| Net change in market value of long-term<br>investments over cost         | –                            | 1.9  | –                         | –                       | 1.7                     | 3.6         |
| Actuarial gains recognised in year on<br>defined benefit pension scheme  | –                            | –  | 2.5                       | –                       | 0.1                     | 2.6         |
| Deferred tax attributable to above                                       | –                            | (0.3)                                      | (0.2)                     | –                       | –                       | (0.5)       |
| <b>Total other comprehensive income in the<br/>year</b>                  | <b>1.1</b>                   | <b>1.6</b>                                 | <b>2.3</b>                | <b>–</b>                | <b>1.8</b>              | <b>6.8</b>  |
| <b>Total comprehensive income in the year</b>                            | <b>1.1</b>                   | <b>1.6</b>                                 | <b>4.4</b>                | <b>0.2</b>              | <b>2.1</b>              | <b>9.4</b>  |
| <b>Reserves at 1 January 2014</b>  | <b>6.5</b>                   | <b>4.1</b>                                 | <b>12.3</b>               | <b>5.2</b>              | <b>12.7</b>             | <b>40.8</b> |
| Net result after taxation  | –                            | –  | 2.4                       | 0.2                     | 0.1                     | 2.7         |
| Increase in valuation of property, plant<br>and equipment                | 3.3                          | –  | –                         | –                       | –                       | 3.3         |
| Net change in market value of long-term<br>investments over cost         | –                            | 0.1  | –                         | –                       | 0.5                     | 0.6         |
| Actuarial losses recognised in year on<br>defined benefit pension scheme | –                            | –  | (0.8)                     | –                       | –                       | (0.8)       |
| Deferred tax attributable to above                                       | (0.1)                        | –  | –                         | –                       | –                       | (0.1)       |
| <b>Total other comprehensive income/<br/>(expense) in the year</b>       | <b>3.2</b>                   | <b>0.1</b>                                 | <b>(0.8)</b>              | <b>–</b>                | <b>0.5</b>              | <b>3.0</b>  |
| <b>Total comprehensive income in the year</b>                            | <b>3.2</b>                   | <b>0.1</b>                                 | <b>1.6</b>                | <b>0.2</b>              | <b>0.6</b>              | <b>5.7</b>  |
| <b>Reserves at 31 December 2014</b>                                      | <b>9.7</b>                   | <b>4.2</b>                                 | <b>13.9</b>               | <b>5.4</b>              | <b>13.3</b>             | <b>46.5</b> |

# ICAEW statement of changes to reserves

for the year ended 31 December 2014

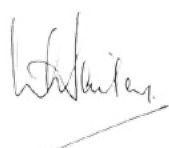
|   | Revaluation<br>reserve<br>£m | Investment<br>revaluation<br>reserve<br>£m | Accumulated<br>fund<br>£m | Other<br>reserves<br>£m | Total<br>£m |
|---|------------------------------|--|---------------------------|-------------------------|-------------|
| <b>Reserves at 1 January 2013</b>                                     | <b>5.4</b>                   | <b>2.5</b>                                 | <b>7.3</b>                | <b>5.0</b>              | <b>20.2</b> |
| Net result after taxation   | –                            | –  | 2.0                       | 0.2                     | 2.2         |
| Increase in valuation of property, plant and equipment                | 1.1                          | –  | –                         | –                       | 1.1         |
| Net change in market value of long-term investments over cost         | –                            | 1.9  | –                         | –                       | 1.9         |
| Actuarial gains recognised in year on defined benefit pension scheme  | –                            | –  | 2.5                       | –                       | 2.5         |
| Deferred tax attributable to above                                    | –                            | (0.3)                                      | (0.2)                     | –                       | (0.5)       |
| <b>Total other comprehensive income in the year</b>                   | <b>1.1</b>                   | <b>1.6</b>                                 | <b>2.3</b>                | <b>–</b>                | <b>5.0</b>  |
| Total comprehensive income in the year                                | 1.1                          | 1.6  | 4.3                       | 0.2                     | 7.2         |
| <b>Reserves at 1 January 2014</b>                                     | <b>6.5</b>                   | <b>4.1</b>                                 | <b>11.6</b>               | <b>5.2</b>              | <b>27.4</b> |
| Net result after taxation   | –                            | –  | 2.2                       | 0.2                     | 2.4         |
| Increase in valuation of property, plant and equipment                | 3.3                          | –  | –                         | –                       | 3.3         |
| Net change in market value of long-term investments over cost         | –                            | 0.1  | –                         | –                       | 0.1         |
| Actuarial losses recognised in year on defined benefit pension scheme | –                            | –  | (0.8)                     | –                       | (0.8)       |
| Deferred tax attributable to above                                    | (0.1)                        | –  | –                         | –                       | (0.1)       |
| <b>Total other comprehensive income/(expense) in the year</b>         | <b>3.2</b>                   | <b>0.1</b>                                 | <b>(0.8)</b>              | <b>–</b>                | <b>2.5</b>  |
| Total comprehensive income in the year                                | 3.2                          | 0.1  | 1.4                       | 0.2                     | 4.9         |
| <b>Reserves at 31 December 2014</b>                                   | <b>9.7</b>                   | <b>4.2</b>                                 | <b>13.0</b>               | <b>5.4</b>              | <b>32.3</b> |

# Group and ICAEW statements of financial position

as at 31 December 2014

|  | Note | Group         |               | ICAEW         |               |
|--|------|---------------|---------------|---------------|---------------|
|  |      | 2014<br>£m    | 2013<br>£m    | 2014<br>£m    | 2013<br>£m    |
| <b>Assets</b>                                    |      |               |               |               |               |
| <b>Non-current assets</b>                        |      |               |               |               |               |
| Property, plant and equipment                    | 14   | 21.3          | 18.6          | 21.3          | 18.6          |
| Intangible assets                                | 15   | 3.2           | 2.8           | 3.2           | 2.8           |
| Investments in subsidiaries and associates       | 16   | 0.1           | 0.1           | –             | –             |
| Financial assets: Available for sale investments | 17   | 48.9          | 47.3          | 35.4          | 34.3          |
| Pension asset                                    | 25   | 2.8           | 1.7           | 3.1           | 2.1           |
|  |      | <b>76.3</b>   | <b>70.5</b>   | <b>63.0</b>   | <b>57.8</b>   |
| <b>Current assets</b>                            |      |               |               |               |               |
| Inventories                                      | 19   | 0.7           | 0.7           | 0.7           | 0.7           |
| Trade and other receivables                      | 20   | 10.2          | 9.6           | 9.1           | 8.9           |
| Cash and cash equivalents                        | 21   | 5.3           | 4.7           | 4.9           | 4.3           |
|  |      | <b>16.2</b>   | <b>15.0</b>   | <b>14.7</b>   | <b>13.9</b>   |
| <b>Total assets</b>                              |      | <b>92.5</b>   | <b>85.5</b>   | <b>77.7</b>   | <b>71.7</b>   |
| <b>Liabilities</b>                               |      |               |               |               |               |
| <b>Current liabilities</b>                       |      |               |               |               |               |
| Trade and other payables                         | 22   | (34.8)        | (34.8)        | (34.3)        | (34.5)        |
| Current tax liabilities                          |      | (0.1)         | (0.1)         | (0.1)         | (0.1)         |
| FRC Conduct Committee provision                  | 23   | (5.0)         | (5.0)         | (5.0)         | (5.0)         |
|  |      | <b>(39.9)</b> | <b>(39.9)</b> | <b>(39.4)</b> | <b>(39.6)</b> |
| <b>Non-current liabilities</b>                   |      |               |               |               |               |
| Grants payable after more than one year          |      | (0.1)         | (0.1)         | –             | –             |
| Provisions                                       | 24   | (0.6)         | –             | (0.6)         | –             |
| FRC Conduct Committee provision                  | 23   | (4.1)         | (3.5)         | (4.1)         | (3.5)         |
| Deferred tax liability                           | 18   | (1.3)         | (1.2)         | (1.3)         | (1.2)         |
|  |      | <b>(6.1)</b>  | <b>(4.8)</b>  | <b>(6.0)</b>  | <b>(4.7)</b>  |
| <b>Total liabilities</b>                         |      | <b>(46.0)</b> | <b>(44.7)</b> | <b>(45.4)</b> | <b>(44.3)</b> |
| <b>Total net assets</b>                          |      | <b>46.5</b>   | <b>40.8</b>   | <b>32.3</b>   | <b>27.4</b>   |
| <b>Reserves</b>                                  |      |               |               |               |               |
| Revaluation reserve                              |      | 9.7           | 6.5           | 9.7           | 6.5           |
| Investment revaluation reserve                   |      | 4.2           | 4.1           | 4.2           | 4.1           |
| Accumulated fund                                 |      | 13.9          | 12.3          | 13.0          | 11.6          |
| Other reserves                                   |      | 5.4           | 5.2           | 5.4           | 5.2           |
| Charitable trust funds                           |      | 13.3          | 12.7          | –             | –             |
|  |      | <b>46.5</b>   | <b>40.8</b>   | <b>32.3</b>   | <b>27.4</b>   |

Approved on behalf of the council



**Arthur Bailey**  
President

23 March 2015



**Michael Izza**  
Chief Executive

# Group and ICAEW statements of cash flows

for the year ended 31 December 2014

|  | Note | Group        |              | ICAEW        |              |
|--|------|--------------|--------------|--------------|--------------|
|  |      | 2014<br>£m   | 2013<br>£m   | 2014<br>£m   | 2013<br>£m   |
| <b>Cash flows from operating activities<sup>1</sup></b>                            |      |              |              |              |              |
| <b>Result before taxation</b>  |      | <b>2.8</b>   | <b>2.7</b>   | <b>2.4</b>   | <b>2.2</b>   |
| Adjustments for:   |      |              |              |              |              |
| Depreciation and amortisation  |      | 3.2          | 3.1          | 3.2          | 3.1          |
| Investment income  | 12   | (1.5)        | (1.7)        | (1.3)        | (1.5)        |
| Non-cash movement in provisions  |      | 6.3          | 5.8          | 6.3          | 6.1          |
| <b>Cash flows from operating activities before movements in working capital</b>    |      | <b>10.8</b>  | <b>9.9</b>   | <b>10.6</b>  | <b>9.9</b>   |
| <b>Movements in working capital</b>  |      |              |              |              |              |
| Decrease in inventories  |      | -            | 0.1          | -            | 0.1          |
| (Increase)/decrease in trade and other receivables                                 |      | (0.6)        | 0.4          | (0.2)        | 0.7          |
| (Decrease)/increase in trade and other payables                                    |      | (0.3)        | 2.1          | (0.4)        | 2.0          |
| <b>Cash generated from operating activities after movements in working capital</b> |      | <b>9.9</b>   | <b>12.5</b>  | <b>10.0</b>  | <b>12.7</b>  |
| <b>Cash flows on provisions</b>  |      |              |              |              |              |
| Tax paid   |      | (0.1)        | (0.1)        | -            | -            |
| Cash outflow on pension liabilities  |      | (1.9)        | (4.8)        | (1.9)        | (4.8)        |
| Cash outflow on FRC Conduct Committee provision                                    |      | (5.1)        | (5.3)        | (5.1)        | (5.3)        |
| <b>Net cash generated from operating activities</b>                                |      | <b>2.8</b>   | <b>2.3</b>   | <b>3.0</b>   | <b>2.6</b>   |
| <b>Cash flows from investing activities</b>  |      |              |              |              |              |
| Purchase of property, plant and equipment  |      | (1.4)        | (0.8)        | (1.4)        | (0.8)        |
| Purchase of intangible assets  |      | (1.2)        | (1.2)        | (1.2)        | (1.2)        |
| Purchase of available for sale investments   |      | (33.3)       | (28.3)       | (26.3)       | (18.3)       |
| Disposal of available for sale investments   |      | 32.6         | 27.6         | 25.6         | 17.7         |
| Investment income received   |      | 1.1          | 1.2          | 0.9          | 0.9          |
| <b>Net cash outflow from investing activities</b>                                  |      | <b>(2.2)</b> | <b>(1.5)</b> | <b>(2.4)</b> | <b>(1.7)</b> |
| <b>Net increase in cash and cash equivalents in the year</b>                       |      | <b>0.6</b>   | <b>0.8</b>   | <b>0.6</b>   | <b>0.9</b>   |
| Net cash and cash equivalents at 1 January   |      | 4.7          | 3.9          | 4.3          | 3.4          |
| <b>Net cash and cash equivalents at 31 December</b>                                | 21   | <b>5.3</b>   | <b>4.7</b>   | <b>4.9</b>   | <b>4.3</b>   |

<sup>1</sup> Fines and cost recoveries from disciplinary cases including the FRC Conduct Committee are included within operational cash flows and included in the result before taxation above. Amounts levied on firms as contributions towards FRC Conduct Committee costs are similarly included in operational income. Payments to the FRC Conduct Committee from amounts previously provided are included separately in the cash movement on provisions above.

# Notes to the financial statements

for the year ended 31 December 2014

## Basis of preparation

ICAEW is a body incorporated by Royal Charter. The financial statements have been prepared in accordance with IFRS as adopted by the EU, and under the historical cost convention as modified by the revaluation of properties and available for sale investments. Consolidated financial statements have been prepared which comprise ICAEW and all its subsidiary undertakings.

Subsidiaries are all entities over which ICAEW is exposed to, or has rights to, variable returns from its involvement, and has the ability to affect those returns through its power over the subsidiary in accordance with IFRS 10 – Consolidated Financial Statements. All subsidiaries have a reporting date of 31 December. All transactions and balances between group entities are eliminated on consolidation.

Investments in associates are accounted for using the equity method. ICAEW's interest in the net assets of associates is included in investment in associates in the consolidated statement of financial position, and its interest in their results, in the income statement below the operating result. Associates are those entities over which ICAEW has significant influence to participate in, but not control over, the financial and operating policies of the companies.

ICAEW has adopted all relevant standards effective for accounting periods beginning on or after 1 January 2014. The first-time application of these standards has not resulted in any prior period adjustments of cash flows, net income or statement of financial position line items.

At the date of authorisation of these financial statements, the following standards and interpretations were in issue, but not yet effective:

| Standard or interpretation                      | Effective from years commencing:            |
|---|---|
| IFRS 9 – Financial Instruments (2014)           | 1 January 2018 (not yet endorsed by the EU) |
| IFRS 15 – Revenue from Contracts with Customers | 1 January 2017 (not yet endorsed by the EU) |
| Amendments to IFRS 11 Joint Arrangements        | 1 January 2016 (not yet endorsed by the EU) |

## Critical accounting judgements and key sources of estimation

To be able to prepare financial statements according to generally accepted accounting principles, the board must make estimates and assumptions that affect the recorded asset and liability items as well as other information, such as that provided on FRC Conduct Committee provisions and pensions as well as valuations of our freehold property and historic collections and operational matters. These estimates are based on historical experience and various other assumptions that the board believes are reasonable under the circumstances. The results of these form the basis for making judgements about the carrying values of assets and liabilities that are not readily apparent from other sources. Actual results may differ from these estimates under different assumptions or conditions. Further details in relation to specific areas are included below:

## Professional Conduct and FRC Conduct Committee

Provision is made for the estimated future external costs of disciplinary cases relating to events which occurred before the year end. Case costs are forecast on the basis of the available information on actual or prospective cases. However, the accuracy of the forecast will depend on assumptions made about the progress of cases and is subject to a significant degree of judgement. In setting the provision, no account is taken of any potential fines or cost recoveries potentially due to ICAEW from tribunals not yet completed. The financial outcome arising from these assumptions for the current year is included in note 23.

## Retirement benefits and IFRIC 14

Retirement benefits are accounted for under IAS 19 - Employee Benefits (revised).

The quantification of the pension valuation is based on actuarial assumptions made by the board, in conjunction with the scheme's actuary, relating to discount rate, expected return on the plan's assets, inflation and future price increases. These assumptions, the details of which for the current financial year are included in note 25, are reviewed in the context of the economic climate.

- The discount rate is determined with reference to high quality corporate bonds that have terms to maturity approximating the terms of the related pension obligation.
- The discount rate is used for calculating the expected returns on both the assets and the liabilities of the scheme.
- The assumption for long-term inflation is based on market expectation of long-term future inflation at the year end, as measured by the difference between yields on fixed interest and index-linked government bonds.
- The assumptions relating to the mortality of current and future pensioners are based on bespoke data using up-to-date pooled experience from occupational pension schemes and taking into account the characteristics of each individual member that are known to affect life expectancy. Allowance is made for future mortality improvements in line with the projection model issued by the Institute and Faculty of Actuaries. Improvements are assumed to have peaked and decline at older ages. This is consistent with the assumption used in the most recent actuarial valuation.

Because of changing market and economic conditions, the expenses and liabilities actually arising under the scheme in the future may differ materially from the estimates made on the basis of the actuarial assumptions. The effects of any change to these assumptions are accounted for in the next financial year as other comprehensive income. The calculation of any charge relating to retirement benefits is clearly dependent on the assumptions used, which reflects the exercise of judgement.

In accordance with IFRIC 14, the defined benefit pension scheme rules and funding arrangements were reviewed and with supporting legal advice, ICAEW considers that it has an unconditional right to a refund assuming the gradual settlement of the scheme liabilities over time until all members have left the scheme. Accordingly any surplus arising on valuation is recognised as a scheme asset.

## Valuations of property plant and equipment

### Freehold properties

Freehold properties are revalued at open market value by independent, professionally qualified valuers. Valuations are carried out using a market approach which reflects observed prices for recent market transactions. Because of changing market and economic conditions, the estimated value of our freehold property in the future may differ materially from the estimates made on the basis of these external valuations. The valuations arising from these assumptions for the current year are included in note 14 for both freehold properties and our historic collections.

### Historic collections

ICAEW's collections of silver, rare books, period furniture, pictures and sculptures are revalued annually by independent, professionally qualified valuers. They are stated at estimated open market values derived from observed prices for recent market transactions. Because of changing market and economic conditions, the estimated value of these collections in the future may differ materially from the estimates made on the basis of these external valuations

## Accounting policies

### I Income

Income from subscriptions and fees, including subscriptions from membership, special interest groups and faculties, and fees from practice regulation and assurance and authorisation of investment business, is recognised in the accounting period to which the services covered by those subscriptions relate, and is stated net of VAT where applicable. Subscriptions and fees received in advance are included within trade and other payables. Income as presented in the income statements is revenue as defined under IAS 18 - Revenue.

Income from qualifications represents predominantly examination income and is recognised in the period in which the exam was sat.

Income associated with professional conduct (disciplinary fines) is recognised on receipt.

Income in association with FRC Conduct Committee cases is recognised when receivable ie, when the tribunal judgement has been made and the decision is final.

Other income, including commercial income and income from consulting services, including capacity building contracts is recognised in the period in which the services are provided. For long term capacity building contracts, income is recognised by reference to stage of completion of the individual contract

### II Property, plant and equipment, and depreciation

Freehold properties which comprise our offices are considered to be level 2 assets as defined by IFRS 13 – Fair Value Measurement and are revalued regularly, at least every five years, at open market value by independent, professionally qualified valuers. They are included in the statements of financial position at their revalued amounts derived from observable market data of comparative buildings in a similar location. Surpluses on revaluations are transferred to the revaluation reserve. Deficits on revaluations are charged against the revaluation reserve to the extent that there are available surpluses relating to the same asset and are otherwise charged to the income statement.

Certain major items of fixed plant and equipment are identified separately and are depreciated over their individual estimated useful economic lives. Depreciation is not charged on freehold land. Depreciation is charged on the revalued amount of freehold buildings at 2% per year.

### Leasehold improvements

Improvements to leasehold properties are capitalised at cost and are depreciated on a straight line basis over the shorter of their estimated useful economic lives and the remaining lease term.

In accordance with IAS 37 – Provisions, Contingent Liabilities and Contingent Assets, provision is made for an estimate of dilapidations costs on the leasehold property in relation to both repairs and reinstatement relating to conditions in place at the reporting date. The reinstatement provision is matched by an asset which is depreciated over the remaining lease term.

### Historic collections

ICAEW's collections of silver, rare books, period furniture, pictures and sculptures are considered to be level 2 assets as defined by IFRS 13 – Fair Value Measurement and are revalued annually by independent, professionally qualified valuers. They are stated at estimated open market values derived from observed prices for recent market transactions. In view of the nature of these assets, the estimated residual value is equal to the carrying amount and no depreciation is provided. Surpluses on revaluation, including surpluses arising from donations of items to the collections, are transferred to the revaluation reserve. Deficits on revaluation are charged against the revaluation reserve to the extent that there are available surpluses relating to the same asset and are otherwise charged to the income statement.

### Other plant and equipment

Other plant and equipment is capitalised at cost. Depreciation is charged on a straight line basis over the estimated useful economic lives of the assets ranging from two to ten years.

The impairment of property, plant and equipment is considered annually or whenever events or changes in circumstances indicate that the carrying amount may not be recoverable, and provisions are made where necessary.

### III Intangible assets

Intangible assets comprise computer software and are stated at cost. Amortisation is charged on a straight line basis over the estimated useful economic life of the software (from two to five years). The impairment of intangible assets is considered whenever events or changes in circumstances indicate that the carrying amount may not be recoverable, and provisions are made where necessary.

### IV Investments

Interest-bearing investments, equities and unit trusts held for the purposes of generating long-term investment income are considered to be level 1 assets as defined by IFRS 13 – Fair Value Measurement and are treated as non-current available for sale investments. They are included at mid-price market value at the year-end date. Gains and losses on re-measurement are taken to the investment revaluation reserve initially and are recognised in other comprehensive income. On disposal, the cumulative gain or loss previously recognised in reserves is reclassified to profit or loss.

At each year-end date, an assessment is made as to whether there is objective evidence that an available for sale equity instrument is impaired. A significant or



prolonged decline in the fair value of the security below its cost is considered in determining whether the asset is impaired. Judgement is used in determining what a significant or prolonged decline is. Impairment charges are recognised in the income statement.

## V Cash and cash equivalents

Cash and cash equivalents comprise cash in hand, balances with banks and investments in money market instruments representing short-term, highly liquid investments that are readily convertible to known amounts of cash, which are subject to an insignificant risk of changes in value.

## VI Inventories

Inventories are stated at the lower of cost, using the first in first out basis, and net realisable value. Using information available at the year-end date, ICAEW makes judgements based on experience on the level of provision required to account for potential unsaleable inventories.

## VII Trade and other receivables

Trade and other receivables are stated at cost less allowances made for doubtful receivables after initial recognition, which approximates fair value. Using information available at the year-end date, provision against trade receivables is made when there is objective evidence that ICAEW will not be able to collect all amounts due to it in accordance with the original terms of those receivables. The amount of the write-down is determined as the difference between the carrying amount and the present value of estimated future cash flows discounted at the original effective interest rate.

## VIII Leases

Costs of operating leases are charged to the income statement on a straight line basis over the period of the relevant agreement. For property leases, where a rent-free period is agreed, this is spread over the life of the lease.

## IX Grants

Revenue grants receivable are recognised in the relevant period to match with the related costs which they are intended to compensate.

## X Pensions

### Defined benefit scheme

Retirement benefits are accounted for under IAS 19 - Employee Benefits (revised). Scheme assets which are held in a separate trustee administered fund are measured at fair value. Scheme assets may include equities, securities and cash together with qualifying insurance policies. Scheme liabilities are measured by qualified actuaries on an actuarial basis using the projected unit credit method, and are discounted at appropriate high-quality corporate bond rates that have terms to maturity which approximate to the terms of the related liability. Past service cost is recognised as an expense on a straight line basis over the average period until benefits become vested. Net interest on the net deficit/surplus is recognised in the income statement. Actuarial gains and losses are recognised in full in other comprehensive income as they arise.

### Defined contribution schemes

Contributions under defined contribution schemes are charged to the income statement as they become due and payable.

## XI Taxation

### Current tax

Current tax is the tax currently payable based on taxable profit for the year and is recognised as a component of tax expense in the income statement.

### Deferred tax

Deferred tax is recognised on all taxable temporary differences. However, deferred tax is not provided on initial recognition of an asset or liability unless the related transaction affects tax or accounting profit. In addition, a deferred tax asset is recognised for all deductible temporary differences to the extent that it is probable that taxable profit will be available against which the deductible temporary difference can be used. Deferred tax assets and liabilities are measured at the tax rates that are expected to apply to the period when the asset is realised or the liability is settled based on tax rates and laws that have been enacted, or substantively enacted by the end of the reporting period. Measurement is also based on the tax consequences of recovering or settling the carrying amount of assets and liabilities. Changes in deferred tax assets or liabilities are recognised as a component of tax expense in the income statement, except where they relate to items that are recognised in other comprehensive income, in which case the related deferred tax is also recognised in other comprehensive income.

## XII Foreign currencies

Transactions in foreign currencies are converted into sterling, the presentational currency of the group, at exchange rates at the date of the transaction. Financial assets, including the financial statements of non-UK subsidiary undertakings, are translated at the rate of exchange at the reporting date. Income and expenses are translated at the average exchange rate for the period.

## Financial risk management

### Financial risk factors

Senior management directly controls day-to-day policies and operations. Financial risk management issues are covered by ICAEW's risk management process as set out in the financial review section. Board and council members are regularly updated on any significant issues relating to financial risk management. Financial risks to which ICAEW is exposed are summarised below.

#### Currency risk

The majority of ICAEW's transactions are carried out in sterling. In addition, ICAEW holds accounts in US dollars and euros. To the extent possible, ICAEW uses the income received from services provided in these currencies to hedge any exposures on payments made. ICAEW operates international regional offices and is exposed to foreign currency exchange risk on the transfer of foreign currency to its international offices. Where appropriate, forward purchases are used to hedge against currency movements on known foreign exchange requirements.

#### Credit risk

Working capital and longer term funds are held in interest-bearing investments and in listed equity securities for investment purposes through independent custodians.

The credit risk for cash and cash equivalents is monitored regularly. In the current economic climate, extra attention has been given to the agreed limited list of counterparties, which are all reputable banks with a high-quality external credit rating of at least AA- or which have been judged to have systemic importance.

In respect of trade and other receivables, ICAEW is not exposed to any significant credit risk to any single counterparty or group of counterparties. The majority of ICAEW's counterparties are members or member firms which are not considered to be a credit risk to ICAEW. ICAEW continuously monitors defaults of counterparties and incorporates this information into its credit risk controls relating to non-member customers.

The maximum exposure to credit risk at the year-end date is represented by the carrying value of financial instruments and management considers that all the financial assets not impaired or past due are of good credit quality.

#### **Liquidity and interest rate risk**

ICAEW policy is to maintain a strong statement of financial position with cash or cash equivalent balances and therefore it does not have significant exposure to liquidity risk. ICAEW manages its liquidity risk by monitoring its net cash and cash equivalent flows. Liquidity needs are monitored on a day-to-day and monthly basis for short-term needs. Excess funds are invested as appropriate, depending on the forecast working capital cash flow needs, on short-term interest-bearing accounts or certificates of deposit. As a result of its holding of certificates of deposit with financial institutions, ICAEW does have exposure to interest rate fluctuations. These investments are invested by our agents in high-quality, liquid deposits, with a range of counterparties in such a way as to avoid an excessive concentration of our investment with any specific counterparty, and are monitored on a regular basis.

#### **Going concern**

The financial statements have been prepared on a going concern basis; the conclusions of council's going concern review are set out in the financial review section.

### **Reserves**

ICAEW reserves are set at a level equivalent to between three and six months of expenditure through the income statement and for cash and investment balances to be at least sufficient to cover between three and six months of annual budgeted/forecast gross cash expenditure.

Reserves comprise the following:

#### **Revaluation reserve**

Represents the excess of the open market valuation over the depreciated historical cost of ICAEW's historic collections and properties, net of deferred tax.

#### **Investment revaluation reserve**

Represents unrealised gains and losses arising from the revaluation of available for sale investments over their historical cost.

#### **Accumulated fund and other reserves**

Represents the retained result of ICAEW and ICAEW group activities and comprises the accumulated fund, faculties, Chartered Accountants' Compensation Scheme and charitable trust reserve funds. In calculating the result to be taken to these reserves, account has been taken of a share of central activities costs and other indirect costs and an allocation of investment income where appropriate.

| 1 Learning and professional development | Group and ICAEW      |                           |                   | Group and ICAEW      |                                       |                               |
|---|----------------------|---------------------------|-------------------|----------------------|---------------------------------------|-------------------------------|
|   | 2014<br>Income<br>£m | 2014<br>Expenditure<br>£m | 2014<br>Net<br>£m | 2013<br>Income<br>£m | 2013<br>Expenditure<br>£m             | 2013<br>Net<br>£m             |
| Qualifications                          | 10.4                 | (9.6)                     | 0.8               | 10.2                 | (9.4)                                 | 0.8                           |
| Business development                    | –                    | (5.1)                     | (5.1)             | –                    | (4.6)                                 | (4.6)                         |
| Executive, policy and strategy          | –                    | (0.9)                     | (0.9)             | –                    | (0.8)                                 | (0.8)                         |
|   | <b>10.4</b>          | <b>(15.6)</b>             | <b>(5.2)</b>      | <b>10.2</b>          | <b>(14.8)</b>                         | <b>(4.6)</b>                  |
| 2 Professional standards                | Group and ICAEW      |                           |                   | Group and ICAEW      |                                       |                               |
|   | 2014<br>Income<br>£m | 2014<br>Expenditure<br>£m | 2014<br>Net<br>£m | 2013<br>Income<br>£m | 2013<br>Expenditure<br>£m             | 2013<br>Net<br>£m             |
| Disciplinary                            | 0.9                  | (2.8)                     | (1.9)             | 0.8                  | (2.7)                                 | (1.9)                         |
| Authorisation of investment business    | 1.9                  | (1.8)                     | 0.1               | 1.8                  | (1.6)                                 | 0.2                           |
| Practice regulation and assurance       | 12.0                 | (9.3)                     | 2.7               | 11.7                 | (8.9)                                 | 2.8                           |
| Capacity building                       | 0.7                  | (0.8)                     | (0.1)             | 1.1                  | (1.0)                                 | 0.1                           |
|   | <b>15.5</b>          | <b>(14.7)</b>             | <b>0.8</b>        | <b>15.4</b>          | <b>(14.2)</b>                         | <b>1.2</b>                    |
| 3 Commercial and shared services        | Group and ICAEW      |                           |                   | Group and ICAEW      |                                       |                               |
|   | 2014<br>Income<br>£m | 2014<br>Expenditure<br>£m | 2014<br>Net<br>£m | 2013<br>Income<br>£m | 2013<br>Expenditure<br>£m             | 2013<br>Net<br>£m             |
| Commercial                              | 10.6                 | (8.5)                     | 2.1               | 9.5                  | (8.3)                                 | 1.2                           |
| Shared services                         | 0.1                  | (5.1)                     | (5.0)             | 0.2                  | (4.7)                                 | (4.5)                         |
|   | <b>10.7</b>          | <b>(13.6)</b>             | <b>(2.9)</b>      | <b>9.7</b>           | <b>(13.0)</b>                         | <b>(3.3)</b>                  |
| 4 Members                               | Group and ICAEW      |                           |                   | Group and ICAEW      |                                       |                               |
|   | 2014<br>Income<br>£m | 2014<br>Expenditure<br>£m | 2014<br>Net<br>£m | 2013<br>Income<br>£m | 2013<br>restated<br>Expenditure<br>£m | 2013<br>restated<br>Net<br>£m |
| Members – special interest groups       | 0.7                  | (0.7)                     | –                 | 0.7                  | (0.6)                                 | 0.1                           |
| Member services                         | 0.1                  | (4.2)                     | (4.1)             | 0.1                  | (3.2)                                 | (3.1)                         |
| UK regions                              | –                    | (3.7)                     | (3.7)             | –                    | (4.1)                                 | (4.1)                         |
| International regions                   | 0.3                  | (5.4)                     | (5.1)             | 0.2                  | (5.2)                                 | (5.0)                         |
|   | <b>1.1</b>           | <b>(14.0)</b>             | <b>(12.9)</b>     | <b>1.0</b>           | <b>(13.1)</b>                         | <b>(12.1)</b>                 |

The 2013 note has been restated, to better reflect the split of costs between our UK and international regions; the overall total is unchanged.

## 5 Technical strategy

|                                 | Group and ICAEW      |                           |                   | Group and ICAEW      |                           |                   |
|---------------------------------|----------------------|---------------------------|-------------------|----------------------|---------------------------|-------------------|
|                                 | 2014<br>Income<br>£m | 2014<br>Expenditure<br>£m | 2014<br>Net<br>£m | 2013<br>Income<br>£m | 2013<br>Expenditure<br>£m | 2013<br>Net<br>£m |
| ICAEW-funded faculty activities | 0.1                  | (2.7)                     | (2.6)             | –                    | (2.8)                     | (2.8)             |
| Technical departments           | –                    | (1.1)                     | (1.1)             | –                    | (1.2)                     | (1.2)             |
| Audit and Assurance Faculty     | 1.0                  | (0.8)                     | 0.2               | 1.0                  | (0.7)                     | 0.3               |
| Corporate Finance Faculty       | 0.5                  | (0.6)                     | (0.1)             | 0.5                  | (0.5)                     | –                 |
| Finance and Management Faculty  | 0.6                  | (0.7)                     | (0.1)             | 0.6                  | (0.6)                     | –                 |
| Financial Reporting Faculty     | 0.4                  | (0.4)                     | –                 | 0.3                  | (0.4)                     | (0.1)             |
| Financial Services Faculty      | 0.3                  | (0.4)                     | (0.1)             | 0.4                  | (0.4)                     | –                 |
| Information Technology Faculty  | 0.6                  | (0.4)                     | 0.2               | 0.4                  | (0.4)                     | –                 |
| Tax Faculty                     | 0.8                  | (0.8)                     | –                 | 0.8                  | (0.7)                     | 0.1               |
| Administration                  | –                    | (1.2)                     | (1.2)             | –                    | (1.3)                     | (1.3)             |
|                                 | <b>4.3</b>           | <b>(9.1)</b>              | <b>(4.8)</b>      | <b>4.0</b>           | <b>(9.0)</b>              | <b>(5.0)</b>      |

## 6 Central activities

|   | Group                |                           |                   | Group                |                           |                   |
|---|----------------------|---------------------------|-------------------|----------------------|---------------------------|-------------------|
|   | 2014<br>Income<br>£m | 2014<br>Expenditure<br>£m | 2014<br>Net<br>£m | 2013<br>Income<br>£m | 2013<br>Expenditure<br>£m | 2013<br>Net<br>£m |
| Infrastructure  | –                    | (11.1)                    | (11.1)            | –                    | (10.6)                    | (10.6)            |
| Marketing and communications  | 0.7                  | (9.6)                     | (8.9)             | 1.0                  | (8.8)                     | (7.8)             |
| Finance and administration  | –                    | (9.4)                     | (9.4)             | –                    | (6.5)                     | (6.5)             |
|   | 0.7                  | (30.1)                    | (29.4)            | 1.0                  | (25.9)                    | (24.9)            |
| Less: allocated to other activities or recovered from outside bodies (including notional rent of £1.1m (2013: £1.3m)) | –                    | 16.1                      | 16.1              | –                    | 14.1                      | 14.1              |
|   | <b>0.7</b>           | <b>(14.0)</b>             | <b>(13.3)</b>     | <b>1.0</b>           | <b>(11.8)</b>             | <b>(10.8)</b>     |

|   | ICAEW                |                           |                   | ICAEW                |                           |                   |
|---|----------------------|---------------------------|-------------------|----------------------|---------------------------|-------------------|
|   | 2014<br>Income<br>£m | 2014<br>Expenditure<br>£m | 2014<br>Net<br>£m | 2013<br>Income<br>£m | 2013<br>Expenditure<br>£m | 2013<br>Net<br>£m |
| Infrastructure  | –                    | (11.1)                    | (11.1)            | –                    | (10.6)                    | (10.6)            |
| Marketing and communications  | 0.7                  | (9.6)                     | (8.9)             | 1.0                  | (8.8)                     | (7.8)             |
| Finance and administration  | –                    | (9.4)                     | (9.4)             | –                    | (6.5)                     | (6.5)             |
|   | 0.7                  | (30.1)                    | (29.4)            | 1.0                  | (25.9)                    | (24.9)            |
| Less: allocated to other activities or recovered from outside bodies (including notional rent of £1.1m (2013: £1.3m)) | –                    | 16.6                      | 16.6              | –                    | 14.7                      | 14.7              |
|   | <b>0.7</b>           | <b>(13.5)</b>             | <b>(12.8)</b>     | <b>1.0</b>           | <b>(11.2)</b>             | <b>(10.2)</b>     |

| 7 Charitable trusts            | Group                |                           |                   | Group                |                           |                   |
|--------------------------------|----------------------|---------------------------|-------------------|----------------------|---------------------------|-------------------|
|                                | 2014<br>Income<br>£m | 2014<br>Expenditure<br>£m | 2014<br>Net<br>£m | 2013<br>Income<br>£m | 2013<br>Expenditure<br>£m | 2013<br>Net<br>£m |
| External research grants       | –                    | (0.2)                     | (0.2)             | –                    | (0.1)                     | (0.1)             |
| Library income and expenditure | –                    | (0.8)                     | (0.8)             | –                    | (0.9)                     | (0.9)             |
| Other income and expenditure   | 0.2                  | –                         | 0.2               | 0.1                  | –                         | 0.1               |
|                                | <b>0.2</b>           | <b>(1.0)</b>              | <b>(0.8)</b>      | <b>0.1</b>           | <b>(1.0)</b>              | <b>(0.9)</b>      |

| 8 FRC Conduct Committee | Group and ICAEW      |                           |                   | Group and ICAEW      |                           |                   |
|-------------------------|----------------------|---------------------------|-------------------|----------------------|---------------------------|-------------------|
|                         | 2014<br>Income<br>£m | 2014<br>Expenditure<br>£m | 2014<br>Net<br>£m | 2013<br>Income<br>£m | 2013<br>Expenditure<br>£m | 2013<br>Net<br>£m |
| Fines                   | 1.0                  | –                         | 1.0               | 0.8                  | –                         | 0.8               |
| Other income            | 2.2                  | –                         | 2.2               | 1.6                  | –                         | 1.6               |
| Cost recoveries         | –                    | 1.4                       | 1.4               | –                    | 0.5                       | 0.5               |
| Costs                   | –                    | (5.5)                     | (5.5)             | –                    | (5.7)                     | (5.7)             |
|                         | <b>3.2</b>           | <b>(4.1)</b>              | <b>(0.9)</b>      | <b>2.4</b>           | <b>(5.2)</b>              | <b>(2.8)</b>      |

Total ICAEW cash receipts from fines and cost recoveries were £2.4m (2013: £1.3m). Other income relates to a direct levy on regulated firms.

| 9 Other regulatory and professional associations | Group and ICAEW      |                           |                   | Group and ICAEW      |                           |                   |
|--|----------------------|---------------------------|-------------------|----------------------|---------------------------|-------------------|
|  | 2014<br>Income<br>£m | 2014<br>Expenditure<br>£m | 2014<br>Net<br>£m | 2013<br>Income<br>£m | 2013<br>Expenditure<br>£m | 2013<br>Net<br>£m |
| Financial Reporting Council                      | 1.0                  | (1.8)                     | (0.8)             | 0.9                  | (1.8)                     | (0.9)             |
| Consultative Committee of Accountancy Bodies     | –                    | (0.5)                     | (0.5)             | –                    | (0.5)                     | (0.5)             |
| International Federation of Accountants          | –                    | (0.6)                     | (0.6)             | –                    | (0.7)                     | (0.7)             |
| Other  | –                    | (0.1)                     | (0.1)             | –                    | (0.1)                     | (0.1)             |
|  | <b>1.0</b>           | <b>(3.0)</b>              | <b>(2.0)</b>      | <b>0.9</b>           | <b>(3.1)</b>              | <b>(2.2)</b>      |

Income relates to a direct levy on regulated firms.

#### 10 Gift aid and library funding

ICAEW made payments of £1.5m (2013: £1.8m) in the year under gift aid to the Chartered Accountants' Trust for Education and Research (CATER), which funds the ICAEW library and education in the field of accountancy and related subjects.

## 11 Operating result

The group and ICAEW operating result is stated after charging:

|   | Group      |            | ICAEW      |            |
|---|------------|------------|------------|------------|
|   | 2014<br>£m | 2013<br>£m | 2014<br>£m | 2013<br>£m |
| Staff costs   | 40.3       | 38.8       | 37.9       | 36.3       |
| Depreciation on owned property, plant and equipment                       | 2.3        | 2.0        | 2.3        | 2.0        |
| Amortisation of intangible assets   | 0.9        | 1.1        | 0.9        | 1.1        |
| Cost of inventories recognised as an expense                              | 1.2        | 1.1        | 1.2        | 1.1        |
| Amounts payable under operating leases:                                   |            |            |            |            |
| Plant and machinery   | 0.1        | 0.1        | 0.1        | 0.1        |
| Other   | 0.9        | 0.9        | 0.7        | 0.7        |
| Fees payable to ICAEW's auditor for the audit of the financial statements | 0.1        | 0.1        | 0.1        | 0.1        |

The group and ICAEW operating results include reimbursement of members' expenses on ICAEW activities and payments on a normal commercial basis to members and member firms for services, particularly in connection with lecturing and writing. In 2014 these payments in aggregate amounted to £1.7m (2013: £1.6m). Of this, £30,000 (2013: £36,000) was paid for services to member firms which have a partner or employee who is a member of council. The amounts paid to individual council members for services was £6,000 (2013: £6,000) in total.

Fees payable to ICAEW's auditor for consultancy work were £17,000 (2013: £18,000). Fees were also payable to the auditor for the audit of the Staff Pensions Fund of £7,000 (2013: £6,350). Fees payable to associates of ICAEW's auditor for the local audits of the international subsidiaries were £35,000 (2013: £30,000).

## 12 Net investment income

The group and ICAEW operating result is stated after charging:

|  | Group      |            | ICAEW      |            |
|--|------------|------------|------------|------------|
|  | 2014<br>£m | 2013<br>£m | 2014<br>£m | 2013<br>£m |
| Interest receivable from investment deposits | 0.3        | 0.3        | 0.1        | 0.1        |
| Returns on multi-asset portfolio             | 0.8        | 0.8        | 0.8        | 0.8        |
| Net realised gains from equities             | 0.4        | 0.6        | 0.4        | 0.6        |
|  | <b>1.5</b> | <b>1.7</b> | <b>1.3</b> | <b>1.5</b> |



### 13 Taxation

|   | Group      |            | ICAEW      |            |
|---|------------|------------|------------|------------|
|   | 2014<br>£m | 2013<br>£m | 2014<br>£m | 2013<br>£m |
| Current tax – current period tax charge on operating result | <b>0.1</b> | <b>0.1</b> | -          | -          |

ICAEW is chargeable to corporation tax on investment income and gains and on net surpluses arising from certain services to the extent that they relate to transactions with non-members. The liability has been reduced by payments made under gift aid to CATER. The charitable trusts fall outside the scope of corporation tax and accordingly there is no liability for their activities. The subsidiary companies pay local tax based on their country of operation and this has been included in the current tax calculations. The ICAEW net corporation tax charge for the year was £nil (2013: £nil).

Factors affecting the tax charge for the year:

|   | Group        |                        | ICAEW      |                        |
|---|--------------|------------------------|------------|------------------------|
|   | 2014<br>£m   | 2013<br>restated<br>£m | 2014<br>£m | 2013<br>restated<br>£m |
| Net result before taxation  | 2.8          | 2.7                    | 2.4        | 2.2                    |
| Add back: result on transactions with members                                       | (0.7)        | (0.9)                  | (1.2)      | (1.2)                  |
| Net result before taxation on transactions with non-members                         | <b>2.1</b>   | <b>1.8</b>             | <b>1.2</b> | <b>1.0</b>             |
| Net result above at the standard rate of corporation tax in the UK of 21.50%/23.25% | (0.4)        | (0.4)                  | (0.3)      | (0.2)                  |
| Effects of:   |              |                        |            |                        |
| Items not chargeable/deductible for tax purposes                                    | 0.4          | 0.5                    | 0.4        | 0.4                    |
| Unutilised tax losses   | (0.1)        | (0.2)                  | (0.1)      | (0.2)                  |
| Tax on operating surplus for the year   | <b>(0.1)</b> | <b>(0.1)</b>           | -          | -                      |

ICAEW anticipates that tax charges in future years may be affected by continued donations under gift aid to CATER. The 2013 tax note has been restated to better reflect the effects of non-taxable elements; the tax on operating surplus for the year is unchanged.

## 14 Property, plant and equipment

The freehold property, Chartered Accountants' Hall, London, was revalued by CB Richard Ellis Ltd, independent chartered surveyors, at 31 December 2014 at open market value, in accordance with the appraisal and valuation manual of the Royal Institution of Chartered Surveyors.

The historical cost of ICAEW's silver collection and antiques represents only the cost of items bought by ICAEW. The valuations of these collections also include substantial donations and bequests. ICAEW's historic collections were revalued at open market value at 31 December 2014 by William Walter Antiques Limited (the Benney silver collection and other silver), John Drury Rare Books (rare books) and Ritchie Associates (period furniture, pictures and sculptures).

The revaluations during the year ended 31 December 2014 resulted in a valuation increase of £3.3m (2013: £1.1m). Depreciation is provided on the plant and equipment elements within the freehold property. At 31 December 2014 there were no contracts for capital expenditure not provided for in these financial statements (2013: £nil).

There is a charge over Chartered Accountants' Hall in favour of the trustee of ICAEW's defined benefit pension scheme (see note 25).

|  | Group and ICAEW            |                                   |   |   |             |
|--|----------------------------|-----------------------------------|---|---|-------------|
|  | Freehold<br>property<br>£m | Short leasehold<br>property<br>£m | Silver collection<br>and antiques<br>£m | Furniture,<br>computer<br>hardware and<br>equipment<br>£m | Total<br>£m |
| <b>Cost or valuation</b>   |                            |                                   |   |   |             |
| <b>At 1 January 2013</b>   | <b>11.1</b>                | <b>2.8</b>                        | <b>4.2</b>                              | <b>9.4</b>  | <b>27.5</b> |
| Additions  | 0.1                        | –                                 | –                                       | 0.8   | 0.9         |
| Disposals at cost or valuation   | (0.1)                      | –                                 | –                                       | (0.2)   | (0.3)       |
| Surplus/(deficit) on revaluation   | 1.1                        | –                                 | (0.1)                                   | –   | 1.0         |
| <b>At 1 January 2014</b>   | <b>12.2</b>                | <b>2.8</b>                        | <b>4.1</b>                              | <b>10.0</b>   | <b>29.1</b> |
| Additions  | 0.6                        | 0.4                               | –                                       | 0.7   | 1.7         |
| Disposals at cost or valuation   | (0.6)                      | –                                 | –                                       | (0.5)   | (1.1)       |
| Surplus on revaluation   | 3.1                        | –                                 | 0.1                                     | –   | 3.2         |
| <b>At 31 December 2014</b>   | <b>15.3</b>                | <b>3.2</b>                        | <b>4.2</b>                              | <b>10.2</b>   | <b>32.9</b> |
| <b>Accumulated depreciation</b>  |                            |                                   |   |   |             |
| <b>At 1 January 2013</b>   | <b>2.0</b>                 | <b>0.9</b>                        | <b>–</b>                                | <b>5.8</b>  | <b>8.7</b>  |
| Depreciation for the year  | 0.6                        | 0.2                               | –                                       | 1.2   | 2.0         |
| Depreciation on disposals  | –                          | –                                 | –                                       | (0.1)   | (0.1)       |
| Adjustment on revaluation  | (0.1)                      | –                                 | –                                       | –   | (0.1)       |
| <b>At 1 January 2014</b>   | <b>2.5</b>                 | <b>1.1</b>                        | <b>–</b>                                | <b>6.9</b>  | <b>10.5</b> |
| Depreciation for the year  | 0.7                        | 0.4                               | –                                       | 1.1   | 2.2         |
| Depreciation on disposals  | (0.5)                      | –                                 | –                                       | (0.5)   | (1.0)       |
| Adjustment on revaluation  | (0.1)                      | –                                 | –                                       | –   | (0.1)       |
| <b>At 31 December 2014</b>   | <b>2.6</b>                 | <b>1.5</b>                        | <b>–</b>                                | <b>7.5</b>  | <b>11.6</b> |
| <b>Carrying amount</b>   |                            |                                   |   |   |             |
| At 31 December 2013  | 9.7                        | 1.7                               | 4.1                                     | 3.1   | 18.6        |
| <b>At 31 December 2014</b>   | <b>12.7</b>                | <b>1.7</b>                        | <b>4.2</b>                              | <b>2.7</b>  | <b>21.3</b> |
| On an historical cost basis the comparable amounts of property, plant and equipment are: |                            |                                   |   |   |             |
| Cost   | 13.4                       | 3.2                               | 0.2                                     | 10.2  | 27.0        |
| Accumulated depreciation   | 7.5                        | 1.5                               | –                                       | 7.5   | 16.5        |
| <b>Net historical cost at 31 December 2014</b>   | <b>5.9</b>                 | <b>1.7</b>                        | <b>0.2</b>                              | <b>2.7</b>  | <b>10.5</b> |
| Net historical cost at 31 December 2013  | 6.7                        | 1.7                               | 0.2                                     | 3.1   | 11.7        |

## 15 Intangible assets

|                                       | Group and ICAEW<br>Computer software |             |
|---------------------------------------|--------------------------------------|-------------|
|                                       | 2014<br>£m                           | 2013<br>£m  |
| <b>Cost</b>                           |                                      |             |
| At 1 January                          | 10.3                                 | 9.4         |
| Additions at cost                     | 1.3                                  | 1.3         |
| Disposals at cost                     | (0.1)                                | (0.4)       |
| <b>At 31 December</b>                 | <b>11.5</b>                          | <b>10.3</b> |
| <b>Accumulated amortisation</b>       |                                      |             |
| At 1 January                          | 7.5                                  | 6.7         |
| Amortisation for the year             | 0.9                                  | 1.1         |
| Amortisation on disposals             | (0.1)                                | (0.3)       |
| <b>At 31 December</b>                 | <b>8.3</b>                           | <b>7.5</b>  |
| <b>Carrying amount at 31 December</b> | <b>3.2</b>                           | <b>2.8</b>  |

Amortisation charges are allocated to departments on the basis of use of ICAEW's systems through the overhead allocation.

## 16 Investments in subsidiaries and associates

The following entities, all registered in England, have been treated as subsidiaries on the basis that ICAEW has control as it is exposed to, or has rights to, variable returns from its involvement with the subsidiary and has the ability to affect those returns:

|   | Activity   |
|---|--|
| ICAEW Foundation  | Makes charitable donations of particular interest to ICAEW   |
| PD Leake Trust  | Provides grants for accountancy research, conferences and publications                                     |
| Chartered Accountants' Permanent Education Trust        | Provides examination prizes  |
| Chartered Accountants' Trust for Education and Research | Owns and operates the ICAEW library. Provides grants for accounting research, conferences and publications |
| Chartered Accountants' Library Limited                  | Trading subsidiary of Chartered Accountants' Trust for Education and Research                              |
| Chartered Accountants' Charitable Investment Pool       | Common investment fund managing the investments of the other charitable trusts                             |

The trusts, although separately administered, are accounted for as a single charity under the authority of a uniting direction from the Charity Commission. There is an agreement between the above trusts and ICAEW to provide administrative services to the trusts. The total value of the transactions amounted to £0.5m (2013: £0.6m). At the year end, the trusts owed ICAEW £0.1m (2013: £0.1m).

## 16 Investments in subsidiaries and associates (continued)

The following entities, all registered in England, have been treated as subsidiaries on the basis that ICAEW holds all the shares in each entity and therefore is exposed to, or has rights to, variable returns from its involvement with the subsidiary and has the ability to affect those returns:

|                           | Shareholding | 2014<br>cost<br>£m | 2013<br>cost<br>£m | Activity   |
|---------------------------|--------------|--------------------|--------------------|--|
| ICAEW Malaysia Limited    | 100%         | –                  | –                  | Representative office for ICAEW in Malaysia        |
| ICAEW China Limited       | 100%         | –                  | –                  | Representative office for ICAEW in China           |
| ICAEW Middle East Limited | 100%         | –                  | –                  | Representative office for ICAEW in the Middle East |
| ICAEW SEA Limited         | 100%         | –                  | –                  | Representative office for ICAEW in South East Asia |
| ICAEW Europe Limited      | 100%         | –                  | –                  | Representative office for ICAEW in Europe          |
| ICAEW Ltd                 | 100%         | –                  | –                  | Holding company for the above companies            |

The above companies provide marketing services for ICAEW. The value of these services during 2014 was £4.4m (2013: £3.9m). At the year end £nil (2013: £0.1m) was owed to ICAEW.

The following related companies, all with their principal place of business in the UK, have been treated as associates. In each case, and notwithstanding the majority ownership of CCAB Limited and the Chartered Accountants' Compensation Scheme Limited, ICAEW exercises significant influence through its power to participate in the financial and operating policy decisions through its representation on the board of directors; participation in the policy-making process; and through the existence of material transactions between the company and ICAEW, but ICAEW does not control the companies.

|   | Shareholding<br>(ordinary shares) | 2014<br>cost<br>£m | 2013<br>cost<br>£m | Activity   |
|---|-----------------------------------|--------------------|--------------------|--|
| The Joint Insolvency Examination Board (a company limited by guarantee) | –                                 | –                  | –                  | Conducts examinations in insolvency practice to meet the education requirements of the Insolvency Act 1986. ICAEW is one of seven subscribers, each of whom has guaranteed £1 in the event of the company being wound up.  |
| Fraud Advisory Panel (a company limited by guarantee)                   | –                                 | –                  | –                  | Registered charity which carries out research into, and education in, all aspects of fraud prevention, detection, prosecution and deterrence. ICAEW has the right to appoint up to one third of the directors of the company.  |
| CCAB Limited  | 60.5%                             | –                  | –                  | CCAB Limited undertakes activities of mutual interest to five major accountancy bodies in the British Isles. ICAEW is the majority shareholder but does not have the majority of voting shares on the board.   |
| Chartered Accountants' Compensation Scheme Limited                      | 80.0%                             | –                  | –                  | Evaluates and administers claims for compensation arising from the obligations of ICAEW, the Institute of Chartered Accountants of Scotland and the Institute of Chartered Accountants in Ireland as recognised professional bodies under the Financial Services Act 1986 and as designated professional bodies under the Financial Services and Markets Act 2000. |

The companies all operate on a not-for-profit basis. There is a full list of subsidiaries and associates at [icaew.com/review](http://icaew.com/review)

## 16 Investments in subsidiaries and associates (continued)

Financial information relating to the associates is summarised below:

|  | The Joint<br>Insolvency<br>Examination<br>Board<br>2014<br>£m | Fraud Advisory<br>Panel<br>2014<br>£m | CCAB Limited<br>2014<br>£m | Chartered<br>Accountants'<br>Compensation<br>Scheme Limited<br>2014<br>£m | Total<br>2014<br>£m | Total<br>2013<br>£m |
|--|---|---------------------------------------|----------------------------|---|---------------------|---------------------|
| Assets   | 0.2   | 0.2                                   | 1.1                        | 0.2   | 1.7                 | 0.8                 |
| Liabilities  | (0.1)   | (0.1)                                 | (1.1)                      | (0.2)   | (1.5)               | (0.5)               |
| Net assets   | 0.1   | 0.1                                   | –                          | –   | 0.2                 | 0.3                 |
| Other comprehensive income and total<br>comprehensive income | 0.1   | 0.1                                   | 5.2                        | 0.1   | 5.5                 | 5.3                 |
| Result from continuing operations                            | –   | –                                     | –                          | –   | –                   | –                   |
| Balances due from associates as at 31<br>December            | –   | –                                     | –                          | 0.2   | 0.2                 | 0.2                 |
| Balances due to associates as at 31<br>December              | –   | –                                     | (0.7)                      | –   | (0.7)               | (0.1)               |
| Group share of net assets as at 31<br>December               | –   | 0.1                                   | –                          | –   | 0.1                 | 0.1                 |

None of the above companies had any discontinuing operations in the year or previous year.

## 17 Financial assets: available for sale investments

|  | Interest–bearing<br>investments<br>2014<br>£m | Equities and unit<br>trusts<br>2014<br>£m | Total<br>2014<br>£m | Interest–bearing<br>investments<br>2013<br>£m | Equities and unit<br>trusts<br>2013<br>£m | Total<br>2013<br>£m |
|--|---|---|---------------------|---|---|---------------------|
| <b>Fair value</b>  |   |   |                     |   |   |                     |
| At 1 January   | 8.0   | 39.3                                      | 47.3                | 7.9   | 34.5                                      | 42.4                |
| Additions  | 24.6  | 8.7                                       | 33.3                | 21.1  | 7.2                                       | 28.3                |
| Disposals  | (25.6)  | (7.0)                                     | (32.6)              | (21.0)  | (6.6)                                     | (27.6)              |
| Gains on disposal  | –   | 0.3                                       | 0.3                 | –   | 0.6                                       | 0.6                 |
| Change in market value of investments:                                 |   |   |                     |   |   |                     |
| Recognised in other<br>comprehensive income                            | –   | 0.6                                       | 0.6                 | –   | 3.6                                       | 3.6                 |
| <b>At 31 December</b>  | <b>7.0</b>                                    | <b>41.9</b>                               | <b>48.9</b>         | <b>8.0</b>                                    | <b>39.3</b>                               | <b>47.3</b>         |
| On an historical cost basis the comparable amounts of investments are: |   |   |                     |   |   |                     |
| At 31 December   | 7.0   | 33.1                                      | 40.1                | 8.1   | 32.0                                      | 40.1                |

## 17 Financial assets: available for sale investments (continued)

|  |   |   |                     | ICAEW   |   |                     |
|--|---|---|---------------------|---|---|---------------------|
|  | Interest-bearing<br>investments<br>2014<br>£m | Equities and unit<br>trusts<br>2014<br>£m | Total<br>2014<br>£m | Interest-bearing<br>investments<br>2013<br>£m | Equities and unit<br>trusts<br>2013<br>£m | Total<br>2013<br>£m |
| <b>Fair value</b>  |   |   |                     |   |   |                     |
| At 1 January   | 5.0   | 29.3                                      | 34.3                | 5.0   | 26.2                                      | 31.2                |
| Additions  | 18.6  | 7.7                                       | 26.3                | 11.1  | 7.2                                       | 18.3                |
| Disposals  | (18.6)  | (7.0)                                     | (25.6)              | (11.1)  | (6.6)                                     | (17.7)              |
| Gains on disposal  | –   | 0.3                                       | 0.3                 | –   | 0.6                                       | 0.6                 |
| Change in market value of investments:                                 |   |   |                     |   |   |                     |
| Recognised in other<br>comprehensive income                            | –   | 0.1                                       | 0.1                 | –   | 1.9                                       | 1.9                 |
| <b>At 31 December</b>  | <b>5.0</b>                                    | <b>30.4</b>                               | <b>35.4</b>         | <b>5.0</b>                                    | <b>29.3</b>                               | <b>34.3</b>         |
| On an historical cost basis the comparable amounts of investments are: |   |   |                     |   |   |                     |
| At 31 December   | 5.0   | 25.1                                      | 30.1                | 5.0   | 24.1                                      | 29.1                |

Within group investments are charitable funds of £13.5m (2013: £13.0m) which are maintained independently of ICAEW, and for which the trustee sets investment policies and monitors performance. ICAEW investments include cash balances of £4.0m (2013: £6.4m).

All the investments are publicly traded in the UK or on other major capital markets (level 1 hierarchy under IFRS 13) and the substantial majority are denominated in sterling. Fair values have been determined by reference to their quoted mid prices at the reporting date. The methods and valuation techniques used to measure fair value are unchanged compared to the previous year.

The trustee of ICAEW's defined benefit pension scheme has an interest noted in up to £10.0m of the investment portfolio of ICAEW (see note 25).

## 18 Deferred tax

|  | Group and ICAEW |              |
|--|-----------------|--------------|
|  | 2014<br>£m      | 2013<br>£m   |
| The provision for deferred tax comprises:          |                 |              |
| Revaluation of available for sale investments      | (1.0)           | (1.0)        |
| Revaluation of properties and historic collections | (0.3)           | (0.2)        |
| <b>Deferred tax liability</b>                      | <b>(1.3)</b>    | <b>(1.2)</b> |

Movements in the net deferred tax liability are summarised as follows:

|   | Group and ICAEW   |   |   |              |
|---|---|---|---|--------------|
|   | Revaluation of<br>available for sale<br>investments<br>£m | Revaluation<br>of properties<br>and historic<br>collections<br>£m | Defined benefit<br>pension scheme<br>£m | Net<br>£m    |
| (Liability)/asset at 1 January 2013                           | (0.7)   | (0.2)   | 0.2                                     | (0.7)        |
| Movement in year: Recognised as other comprehensive<br>income | (0.3)   | –   | (0.2)                                   | (0.5)        |
| Liability at 1 January 2014                                   | (1.0)   | (0.2)   | –                                       | (1.2)        |
| Movement in year: Recognised as other comprehensive<br>income | –   | (0.1)   | –                                       | (0.1)        |
| <b>Liability at 31 December 2014</b>                          | <b>(1.0)</b>  | <b>(0.3)</b>  | <b>–</b>                                | <b>(1.3)</b> |



## 19 Inventories

|                    | Group and ICAEW |            |
|--------------------|-----------------|------------|
|                    | 2014<br>£m      | 2013<br>£m |
| Learning materials | <b>0.7</b>      | <b>0.7</b> |

There was no provision against learning materials at the year end (2013: £nil).

## 20 Trade and other receivables – current

|   | Group       |             | ICAEW      |            |
|---|-------------|-------------|------------|------------|
|   | 2014<br>£m  | 2013<br>£m  | 2014<br>£m | 2013<br>£m |
| Trade receivables and other receivables                       | 4.9         | 5.5         | 3.7        | 4.6        |
| Amounts owed by subsidiaries                                  | –           | –           | 0.2        | 0.2        |
| Amounts owed by associates                                    | 0.2         | 0.2         | 0.2        | 0.2        |
| Prepayments   | 2.6         | 1.9         | 2.5        | 1.9        |
| Accrued income  | 2.8         | 2.4         | 2.8        | 2.4        |
|   | <b>10.5</b> | <b>10.0</b> | <b>9.4</b> | <b>9.3</b> |
| Less: provision for impairment of trade and other receivables | (0.3)       | (0.4)       | (0.3)      | (0.4)      |
|   | <b>10.2</b> | <b>9.6</b>  | <b>9.1</b> | <b>8.9</b> |

Trade receivables and other receivables are categorised as loans and receivables as required by IAS 39. The principal component of trade and other receivables is amounts due from ICAEW's members and member firms, and in the case of disciplinary fines and costs, certain former members, and are short term. The carrying value of trade receivables is considered a reasonable approximation of fair value. It is considered that all the above financial assets which are not impaired or past due are of good credit quality.

All receivables have been reviewed for indicators of impairment. Certain trade receivables, principally in relation to disciplinary fines and costs from members, member firms and former members, were found to be impaired, and a provision of £0.3m (2013: £0.4m) has been made. The movement in the provision for trade and other receivables can be reconciled as follows:

|                                     | Group      |            | ICAEW      |            |
|-------------------------------------|------------|------------|------------|------------|
|                                     | 2014<br>£m | 2013<br>£m | 2014<br>£m | 2013<br>£m |
| Balance at 1 January                | 0.4        | 0.4        | 0.4        | 0.4        |
| Amounts written off (uncollectable) | (0.1)      | (0.2)      | (0.1)      | (0.2)      |
| Impairment losses                   | 0.2        | 0.2        | 0.2        | 0.2        |
| Impairment losses reversed          | (0.2)      | –          | (0.2)      | –          |
|                                     | <b>0.3</b> | <b>0.4</b> | <b>0.3</b> | <b>0.4</b> |

In addition, some of the unimpaired trade receivables are past due as at the reporting date. The age of financial assets past due but not impaired is as follows:

|  | Group      |            | ICAEW      |            |
|--|------------|------------|------------|------------|
|  | 2014<br>£m | 2013<br>£m | 2014<br>£m | 2013<br>£m |
| More than one month but not more than three months | 1.1        | 0.8        | 1.1        | 0.8        |
| More than three months                             | 0.4        | 0.7        | 0.4        | 0.7        |
|  | <b>1.5</b> | <b>1.5</b> | <b>1.5</b> | <b>1.5</b> |

## 21 Cash and cash equivalents

Cash and cash equivalents are categorised as loans and receivables as required by IAS 39. Cash and cash equivalents consist of current balances with banks and money market deposits. They do not include interest-bearing investments held for the long term.

Forward contracts are used to cover known foreign currency exposures. No forward contracts were in place at the year end (2013: £nil). US dollar and euro bank accounts stood at £0.5m (2013: £0.5m) equating to 10% of cash and cash equivalent balances.

The effect of a 0.25% change in the average market interest rate on current cash and equivalents, and cash balances within the available for sale portfolio, held at the reporting date that are sensitive to changes in interest rates, would be £22,000 (2013: £27,000). All other variables are held constant.

## 22 Trade and other payables

|   | Group       |             | ICAEW       |             |
|---|-------------|-------------|-------------|-------------|
|   | 2014<br>£m  | 2013<br>£m  | 2014<br>£m  | 2013<br>£m  |
| Subscriptions and admission fees in advance | 13.8        | 13.9        | 13.8        | 13.9        |
| Amounts owed to subsidiaries                | –           | –           | 0.1         | 0.2         |
| Amounts owed to associates                  | 0.7         | 0.1         | 0.7         | 0.1         |
| Other income in advance                     | 7.4         | 8.0         | 7.4         | 8.0         |
| Trade payables                              | 3.0         | 3.9         | 3.0         | 3.9         |
| Other payables                              | 1.6         | 1.6         | 1.0         | 1.1         |
| Income tax and social security payables     | 1.0         | 0.9         | 1.0         | 0.9         |
| Accruals                                    | 7.3         | 6.4         | 7.3         | 6.4         |
|   | <b>34.8</b> | <b>34.8</b> | <b>34.3</b> | <b>34.5</b> |

Trade and other payables are categorised as current financial liabilities measured at amortised cost as required by IAS 39. All the above trade and other payables are short term and are payable within one month. Subscriptions, admission fees and other income in advance relate to income received during 2014 but relating to 2015 annual subscriptions and fees. The carrying values are considered to be a reasonable approximation of fair value.

## 23 FRC Conduct Committee provision

|  | Group and ICAEW |            |
|--|-----------------|------------|
|  | 2014<br>£m      | 2013<br>£m |
| Balance at 1 January                                   | 8.5             | 8.1        |
| Charge to income statement                             | 5.5             | 5.7        |
| Other income in advance                                | 0.2             | –          |
| Amounts paid   | (5.1)           | (5.3)      |
| Balance at 31 December                                 | <b>9.1</b>      | <b>8.5</b> |
| Provision expected to be used within one year          | 5.0             | 5.0        |
| Provision expected to be used after more than one year | 4.1             | 3.5        |
|  | <b>9.1</b>      | <b>8.5</b> |

The FRC Conduct Committee is part of the FRC and is responsible for operating and administering an independent disciplinary scheme (the Accountancy Scheme) covering members of ICAEW and the following participating institutes: the Association of Chartered Certified Accountants, the Chartered Institute of Management Accountants, the Chartered Institute of Public Finance and Accountancy, the Institute of Chartered Accountants in Ireland and the Institute of Chartered Accountants of Scotland. The FRC Conduct Committee also operates and administers a separate independent disciplinary scheme (the Actuarial Scheme) covering members of the Institute and Faculty of Actuaries.

The amount provided is based on the estimated present obligation to ICAEW of investigations by the Conduct Committee for cases arising from past events up to 31 December 2014. The provision is expected to be used over the next five years. ICAEW reviews the adequacy of the provision through a review of past case cost estimates and discussions of current cases with relevant individuals. However, the accuracy of both the provision and the forecast of the period over which it will be used will depend on assumptions made about the progress of individual cases and judgements on information provided by the FRC, and is subject to a significant degree of judgement. The provision covers a total of 20 investigations involving ICAEW members and member firms (2013: 19).

## 24 Provisions for future liabilities

In accordance with IAS 37 – Provisions, Contingent Liabilities and Contingent Assets, provision is made for an estimate of dilapidations costs on the leasehold property in relation to both repairs and reinstatement relating to conditions in place at the reporting date. The reinstatement provision is matched by an asset which is being depreciated over the remaining lease term. This provision is expected to be used on termination of the lease in 2023; the actual outflows will vary dependent upon agreement with the landlord at that time.

|   | Group and ICAEW |            |
|---|-----------------|------------|
|   | 2014<br>£m      | 2013<br>£m |
| Balance at 1 January                            | -               | -          |
| Provision relating to repairs obligations       | 0.2             | -          |
| Provision relating to reinstatement obligations | 0.4             | -          |
| Balance at 31 December                          | <b>0.6</b>      | -          |

## 25 Pension asset/liabilities

### Defined benefit scheme

Until 30 June 2010, ICAEW operated a defined benefit staff pension scheme (the scheme) which provided participating members of staff with retirement benefits based on their final pensionable salary. Following consultation during 2009, the scheme was closed to future accrual of member benefits on 30 June 2010. The assets of the scheme continue to be held by a separate trustee-administered fund.

The most recent completed valuation of the scheme was carried out by Hymans Robertson LLP as at 31 March 2013 on the projected unit credit method, taking into account the closure of the scheme to future accrual from 30 June 2010. At the valuation date, the market value of the assets of the scheme was £149.9m, which represented 86% of the value of the benefits that had accrued to members, after allowing for expected future increases in inflation.

A recovery plan has been agreed with the trustee whereby ICAEW has undertaken to make monthly payments of £0.15m (£1.8m per year) until the deficit is eliminated, to be reviewed at the next triennial valuation, together with additional payments for enhanced early retirements at the next valuation. Total payments by ICAEW to the scheme during 2014 for past service costs amounted to £1.9m (2013: £4.8m). Contributions to the scheme in 2015 are therefore estimated at £1.8m, together with contributions in kind in relation to the administration costs of the scheme. The next triennial review will be as at 31 March 2016.

In conjunction with the 2013 valuation of the scheme, ICAEW agreed to continue with a charge being made over Chartered Accountants' Hall and the trustee having an interest noted in up to £10.0m of the investment portfolio of ICAEW.

### Desktop actuarial valuation

The actuary has provided a desktop actuarial update on the scheme's financial position as at 31 December 2014. This review estimated that the deficit, based on assumptions consistent with the 2013 triennial valuation, was £17.8m, reflecting a funding level of 90% (2013: £9.5m).

The desktop actuarial valuation is prepared using the following key assumptions:

- Pre-retirement discount rate – Bank of England gilt curve plus 1.25% pa (varies by term)
- Inflation – Bank of England gilt inflation curve (varies by term)
- Life expectancy – bespoke mortality base tables with future improvements underpinned at broadly one year per decade, reflecting the characteristics of the fund's membership

The main reason for the difference between this desktop actuarial valuation and the IAS19 valuation relates to the discount rates applied.

The following table highlights the sensitivities of the funding level in the above desktop actuarial valuation to changes in each of these assumptions individually; the effect of changing more than one assumption would not necessarily be equal to the sum of the two individual changes. As a result of the purchase of the buy in annuity in the year which is discussed below, the change in assumptions affects both the liabilities and assets of the scheme.

|                   | Change in assumption            | Effect on funding level % | Net effect on deficit £m |
|-------------------|---------------------------------|---------------------------|--------------------------|
| Discount rate     | Increase/(decrease) by 0.5% pa  | Increase/(decrease) by 7% | 13.4                     |
| Rate of inflation | Increase/(decrease) by 0.25% pa | (Decrease)/increase by 3% | 6.8                      |
| Longevity         | Increase by 1 year              | Decrease by 2%            | 4.3                      |

### IAS 19 valuation

The scheme's actuary provides a separate report for IAS 19 Employee Benefits purposes at each year end. The assumptions made at 31 December 2014 by the board on the advice of the scheme's actuary were:

|                   | 2014<br>£m | 2013<br>£m |
|-------------------|------------|------------|
| Discount rate     | 3.50%      | 4.35%      |
| Rate of inflation | 2.95%      | 3.30%      |

## 25 Pension asset/liabilities (continued)

Net interest is determined by applying the discount rate to both the liability and asset calculations. In addition, scheme administration costs, which are paid directly by ICAEW, are included in the defined benefit obligation, offset by a corresponding non-cash increase in contributions by the employer.

In accordance with IFRIC 14, ICAEW has reviewed the funding commitment outlined above and the scheme rules and with legal advice considers that the rules enable a surplus to be recognised as an asset as ICAEW has an unconditional right to a refund assuming the gradual settlement of the scheme liabilities over time until all members have left the scheme.

IAS 19 (revised) states that the discount rate used should have regard to returns on high quality corporate bonds of a term consistent with the term of the post-employment benefit obligations. A yield curve of iBoxx AA bonds has been used to estimate an appropriate discount rate for the scheme's liabilities, which are estimated to have a weighted average term of 17 years.

The mortality tables used to calculate the pension liabilities imply an expected future life expectancy of current pensioners at age 65 of 23.0 years (men) and 25.3 years (women); and for current non-pensioners of 25.5 years (men) and 28.3 years (women). These assumptions are in line with the actuarial valuation as at 31 March 2013.

The table below summarises the split of defined benefit obligation between deferred members and pensioners. There are no active members.

|                               | Number of members | Liability split | Duration – years |
|-------------------------------|-------------------|-----------------|------------------|
| Deferred members              | 355               | 49.6%           | 20.9             |
| Pensioners                    | 393               | 50.4%           | 12.9             |
| <b>Total/weighted average</b> | <b>748</b>        | <b>100.0%</b>   | <b>16.9</b>      |

The scheme actuary has confirmed that the assumptions adopted by management are within their acceptable range for the purposes of the IAS 19 valuation. The following table highlights the sensitivities of the funding level in the IAS 19 valuation, as calculated by the actuary, to changes in each of the assumptions individually; the effect of changing more than one assumption would not necessarily be equal to the sum of the two individual changes. As a result of the purchase of the buy in annuity in the year which is discussed below, the change in assumptions affects both the liabilities and assets of the scheme.

|                   | Change in assumption            | Effect on funding level %   | Net effect on deficit £m |
|-------------------|---------------------------------|-----------------------------|--------------------------|
| Discount rate     | Increase/(decrease) by 0.5% pa  | Increase/(decrease) by 7.6% | 11.2                     |
| Rate of inflation | Increase/(decrease) by 0.25% pa | (Decrease)/increase by 4.3% | 6.2                      |
| Longevity         | Increase by 1 year              | Decrease by 2.6%            | 3.7                      |

The following table summarises the results of the IAS 19 valuation of the fund:

|   | Group      |            | ICAEW      |            |
|---|------------|------------|------------|------------|
|   | 2014<br>£m | 2013<br>£m | 2014<br>£m | 2013<br>£m |
| Present value of funded obligations     | (163.2)    | (149.3)    | (163.2)    | (149.3)    |
| Fair value of plan assets               | 166.0      | 151.0      | 166.0      | 151.0      |
| Whole scheme surplus                    | 2.8        | 1.7        | 2.8        | 1.7        |
| Less: relating to other group companies | –          | –          | 0.3        | 0.4        |
| <b>Scheme surplus</b>                   | <b>2.8</b> | <b>1.7</b> | <b>3.1</b> | <b>2.1</b> |

### Reconciliation of defined benefit obligation – whole scheme

|  | 2014<br>£m   | 2013<br>£m   |
|--|--------------|--------------|
| Opening defined benefit obligation                             | 149.3        | 143.6        |
| Administration cost  | 0.4          | 0.4          |
| Interest on obligation   | 6.5          | 5.9          |
| Actuarial losses arising from changes in financial assumptions | 11.9         | 4.8          |
| Benefits and expenses paid                                     | (4.9)        | (5.4)        |
| <b>Closing defined benefit obligation</b>                      | <b>163.2</b> | <b>149.3</b> |

## 25 Pension asset/liabilities (continued)

The administration costs of the scheme are paid directly by ICAEW.

### Reconciliation of fair value of plan assets – whole scheme

|   | 2014<br>£m   | 2013<br>£m   |
|---|--------------|--------------|
| Opening fair value of plan assets   | 151.0        | 138.0        |
| Net interest income on plan assets  | 6.5          | 5.8          |
| Contributions by the employer   | 2.3          | 5.2          |
| Actuarial gains arising from return on assets, excluding amounts included in net interest | 11.1         | 7.4          |
| Benefits and expenses paid  | (4.9)        | (5.4)        |
| <b>Closing fair value of plan assets</b>  | <b>166.0</b> | <b>151.0</b> |
| Actual return on assets   | 17.6         | 13.2         |

Contributions by the employer include deficit funding payments, together with contributions in kind of £0.4m (2013: £0.4m) in relation to administration costs paid directly.

The major categories of plan assets as a percentage of total plan assets are as follows:

|                                    | 2014        | 2013        |
|------------------------------------|-------------|-------------|
| Equities                           | 42%         | 43%         |
| Debt securities - Government bonds | 9%          | 15%         |
| Debt securities - Corporate bonds  | 26%         | 28%         |
| Insurance contracts                | 12%         | –           |
| Cash and cash equivalents          | 11%         | 14%         |
|                                    | <b>100%</b> | <b>100%</b> |

The scheme trustee intends to shift the weight of the portfolio towards bonds over a period of time, with the aim of creating a bond portfolio where the value of the assets moves in a similar way to the liabilities when there is a change in inflation or interest rates.

In terms of setting long-term objectives for the scheme, the key elements agreed between the trustee and ICAEW are as follows:

- the long-term objective is for the scheme to be self-sufficient, based on the scheme's current funding position and the agreed recovery plan, in 10-15 years; and
- the interim target is to be fully funded on the technical provisions basis by 2023.

The modelling carried out as part of the 2013 valuation helped the trustee identify funding and investment strategies that would provide a reasonable probability of meeting their long-term target while taking an acceptable level of risk that ICAEW could tolerate. Given the agreed contribution payments and the strength of ICAEW's covenant, the current asset allocation was identified as appropriate although it will be regularly reviewed in light of emerging changes to the scheme, the wider economy and general market conditions.

The trustee had previously agreed to implement a plan to reduce the risks in the scheme as it moves progressively closer towards the objective of self-sufficiency. The process aims to give the trustee the ability to capture good investment performance as and when the right opportunities arise. The default option is to disinvest from equities in order to invest in bonds but sufficient flexibility has been built into the process to allow investment in alternative assets if market conditions do not support the default option.

As part of the continued process to manage scheme volatility the trustee purchased a buy-in annuity with Just Retirement to provide funding for the liabilities of a portion of the largest pension liabilities. This policy was completed in February 2014. The annuity is in the name of the trustee and is an asset of the fund and the corresponding pensioner obligations also remain as liabilities of the fund. The policy has been valued by the scheme actuary on a basis to value the underlying liabilities secured by the policy. It assumes that the fair value of the asset is equal to this liability value which is determined and is consistent with the scheme's ongoing funding basis. The asset is included as insurance contracts elsewhere in this note.

The fair values of the main asset categories can be summarised as follows:

|                           | Quoted<br>£m | Unquoted<br>£m | Total<br>£m  |
|---------------------------|--------------|----------------|--------------|
| Equities                  | 69.6         | –              | 69.6         |
| Debt securities           | 43.3         | 15.2           | 58.5         |
| Insurance contracts       | –            | 20.4           | 20.4         |
| Cash and cash equivalents | 17.5         | –              | 17.5         |
|                           | <b>130.4</b> | <b>35.6</b>    | <b>166.0</b> |

## 25 Pension asset/liabilities (continued)

Amounts recognised in the income statement within staff costs are as follows:

|                                    | Group        |              | ICAEW        |              |
|------------------------------------|--------------|--------------|--------------|--------------|
|                                    | 2014<br>£m   | 2013<br>£m   | 2014<br>£m   | 2013<br>£m   |
| Administration cost                | (0.4)        | (0.4)        | (0.4)        | (0.4)        |
| Net interest income on plan assets | 6.5          | 5.8          | 6.5          | 5.8          |
| Interest on obligation             | (6.5)        | (5.9)        | (6.5)        | (5.9)        |
|                                    | <b>(0.4)</b> | <b>(0.5)</b> | <b>(0.4)</b> | <b>(0.5)</b> |

Amounts recognised as other comprehensive income:

|   | Group        |            | ICAEW        |            |
|---|--------------|------------|--------------|------------|
|   | 2014<br>£m   | 2013<br>£m | 2014<br>£m   | 2013<br>£m |
| Actuarial gain on plan assets                             | 11.1         | 7.4        | 11.1         | 7.4        |
| Actuarial loss on obligation                              | (11.9)       | (4.8)      | (11.9)       | (4.8)      |
| Actuarial (loss)/gain – whole scheme                      | (0.8)        | 2.6        | (0.8)        | 2.6        |
| Less: relating to other group companies within the scheme | –            | –          | –            | (0.1)      |
|   | <b>(0.8)</b> | <b>2.6</b> | <b>(0.8)</b> | <b>2.5</b> |

The cumulative amount of actuarial losses recognised in other comprehensive income since the date of transition to IFRS is £6.1m (2013: £5.3m).

Amounts for the current and previous periods are as follows:

|   | 2014<br>£m | 2013<br>£m | 2012<br>£m   | 2011<br>£m   | 2010<br>£m   |
|---|------------|------------|--------------|--------------|--------------|
| Defined benefit obligation              | (163.2)    | (149.3)    | (143.6)      | (134.1)      | (125.0)      |
| Plan assets                             | 166.0      | 151.0      | 138.0        | 127.5        | 119.3        |
| <b>Whole scheme surplus/(deficit)</b>   | <b>2.8</b> | <b>1.7</b> | <b>(5.6)</b> | <b>(6.6)</b> | <b>(5.7)</b> |
| Actuarial gain on plan assets           | 11.1       | 7.4        | 2.9          | –            | 6.3          |
| Actuarial loss on obligation            | (11.9)     | (4.8)      | (7.7)        | (7.2)        | (2.3)        |
| Experience gains/(losses) on obligation | –          | 3.0        | –            | –            | (0.7)        |

### Defined contribution scheme

ICAEW also operates a defined contribution scheme for employees. This provides benefits based upon contributions made and investment returns achieved. The assets of the scheme are held in a separate trustee fund. ICAEW contributes 9% of pensionable earnings for participating employees. Employees contribute a minimum of 4%. Transitional arrangements over three years, including enhanced ICAEW contributions, were in place for participating employees transferring from the defined benefit scheme.

The amount charged to the income statement during the year for these schemes was £2.3m (2013: £2.2m). There were no contributions payable to the scheme at the year-end date (2013: £nil).

## 26 Reserves

Included within reserves is £3.3m relating to the Chartered Accountants' Compensation Scheme. In accordance with investment business regulations ICAEW is required to maintain a compensation scheme, funded by levies on firms authorised for investment business. This compensation scheme exists to deal with claims received about work carried out by authorised firms under both the Recognised Professional Body (RPB pre-2001) and Designated Professional Body (DPB post-2001) regimes. ICAEW maintains a reserve to meet anticipated future claims. A levy was made in 2014 on licensed firms under the DPB regime. ICAEW has reserved the right to make further levies on firms authorised under the RPB regime before 1 December 2001 should additional funds be required.



## 27 Leasing commitments – operating leases

At 31 December the group and ICAEW had the following total future minimum lease payments under non-cancellable operating leases:

|                                | Group                            |                                   | Group                            |                                   |
|--------------------------------|----------------------------------|-----------------------------------|----------------------------------|-----------------------------------|
|                                | Land and buildings<br>2014<br>£m | Plant and machinery<br>2014<br>£m | Land and buildings<br>2013<br>£m | Plant and machinery<br>2013<br>£m |
| Minimum lease payments due:    |                                  |                                   |                                  |                                   |
| Within one year                | 0.3                              | –                                 | 0.2                              | –                                 |
| In two to five years inclusive | 0.2                              | 0.2                               | 0.2                              | 0.2                               |
| After five years               | 4.8                              | –                                 | 5.4                              | –                                 |
|                                | <b>5.3</b>                       | <b>0.2</b>                        | <b>5.8</b>                       | <b>0.2</b>                        |
|                                |                                  |                                   |                                  |                                   |
|                                | ICAEW                            |                                   | ICAEW                            |                                   |
|                                | Land and buildings<br>2014<br>£m | Plant and machinery<br>2014<br>£m | Land and buildings<br>2013<br>£m | Plant and machinery<br>2013<br>£m |
| Minimum lease payments due:    |                                  |                                   |                                  |                                   |
| In two to five years inclusive | –                                | 0.2                               | –                                | 0.2                               |
| After five years               | 4.8                              | –                                 | 5.4                              | –                                 |
|                                | <b>4.8</b>                       | <b>0.2</b>                        | <b>5.4</b>                       | <b>0.2</b>                        |

## 28 Staff costs

Average number of staff employed during the year

|                                  | Group       |             | ICAEW       |             |
|----------------------------------|-------------|-------------|-------------|-------------|
|                                  | 2014        | 2013        | 2014        | 2013        |
| Total employees                  | 716         | 701         | 669         | 657         |
| Full-time equivalents            | 685         | 665         | 639         | 622         |
|                                  |             |             |             |             |
|                                  | Group       |             | ICAEW       |             |
|                                  | 2014<br>£m  | 2013<br>£m  | 2014<br>£m  | 2013<br>£m  |
| Wages and salaries               | 34.1        | 32.6        | 32.0        | 30.4        |
| Employer's social security costs | 3.5         | 3.3         | 3.4         | 3.2         |
| Employer's pension costs         | 2.7         | 2.9         | 2.5         | 2.7         |
|                                  | <b>40.3</b> | <b>38.8</b> | <b>37.9</b> | <b>36.3</b> |

The figures above do not include two members of staff whose employment costs are borne by the Fraud Advisory Panel (2013: two). The charitable trust employees' employment costs are borne by CATER although they have contracts of employment with ICAEW.

## 29 Key management compensation – executive directors

|                           | Group and ICAEW         |   |                        | Group and ICAEW         |   |                        |
|---------------------------|-------------------------|---|------------------------|-------------------------|---|------------------------|
|                           | Salary<br>2014<br>£'000 | Deferred<br>variable pay<br>2014<br>£'000 | Total<br>2014<br>£'000 | Salary<br>2013<br>£'000 | Deferred<br>variable pay<br>2013<br>£'000 | Total<br>2013<br>£'000 |
| Sharron Gunn              | 200                     | 51  | 251                    | 196                     | 41  | 237                    |
| Robert Hodgkinson         | 257                     | 63  | 320                    | 252                     | 50  | 302                    |
| Michael Izza              | 411                     | 134                                       | 545                    | 403                     | 123                                       | 526                    |
| Mark Protherough          | 200                     | 50  | 250                    | 197                     | 41  | 238                    |
| Liz Rylatt                | 197                     | 44  | 241                    | –                       | –   | –                      |
| Vernon Soare              | 209                     | 55  | 264                    | 197                     | 51  | 248                    |
| Former executive director | –                       | –   | –                      | 180                     | 39  | 219                    |
|                           | <b>1,474</b>            | <b>397</b>                                | <b>1,871</b>           | <b>1,425</b>            | <b>345</b>                                | <b>1,770</b>           |

The executive directors are remunerated on a total-package basis. This means that they may elect to take all of their remuneration in the form of salary or they may opt to commute a portion of their salary towards ICAEW benefits such as pension scheme membership, health insurance or a car. Deferred variable pay is payable to executive directors on the basis of performance and is agreed by the remuneration committee. In addition to the above salaries, employer's national insurance contributions totalled £232,000 (2013: £240,000). Liz Rylatt was appointed as Executive Director, finance, operations and members, from 8 January 2014.

Non-executive directors are not remunerated.

## 30 Contingent liabilities and guarantees

ICAEW has undertakings to Chartered Accountants' Compensation Scheme Limited for its agreed proportion of claims for compensation and administration costs, of amounts up to but not exceeding £10.0m in any one year. Payments for individual claims are limited to a maximum of £50,000. ICAEW's share of the costs of the scheme is recovered from those firms licensed by ICAEW under the Financial Services and Markets Act 2000 and those firms previously authorised by ICAEW under the Financial Services Act 1986 as appropriate.









ICAEW is a world leading professional membership organisation that promotes, develops and supports over 144,000 chartered accountants worldwide. We provide qualifications and professional development, share our knowledge, insight and technical expertise, and protect the quality and integrity of the accountancy and finance profession.

As leaders in accountancy, finance and business our members have the knowledge, skills and commitment to maintain the highest professional standards and integrity. Together we contribute to the success of individuals, organisations, communities and economies around the world.

**Because of us, people can do business with confidence.**

ICAEW is a founder member of Chartered Accountants Worldwide and the Global Accounting Alliance.

[www.charteredaccountantsworldwide.com](http://www.charteredaccountantsworldwide.com)

[www.globalaccountingalliance.com](http://www.globalaccountingalliance.com)

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Annex 3C

# Building the accountancy profession of the future

Annual Review 2015

[icaew.com/review](http://icaew.com/review)

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# 01

## Letter to members Building the accountancy profession of the future

---

2015 saw ICAEW grow and prosper in a world full of challenges and uncertainty.

“ We continued to deliver and win capacity-building projects working with partners such as the World Bank.

### Increasing the diversity and inclusiveness of our people

We set a new record for student growth, with our intake climbing to 8,256, and we increased the variety of routes into the profession. We worked through Careers that Count, Access Accountancy and with many others to encourage a diverse range of students into the profession. Our ICAEW CFAB intake grew. And our **BASE competition** continued to promote the profession to young people.

### Supporting members

We developed the services and resources available to support our members, for example, as a legal services regulator for probate. We ran a major national and regional advertising campaign in the UK to promote the benefits of using an ICAEW Chartered Accountant. Our helplines, technical resources and courses were again very widely used.

### Building communities all over the world

We extended and strengthened our relationships with national professional bodies, governments and regulators around the world to advance the profession and to help sustainable economic development. We continued to deliver and win capacity-building projects working with partners such as the World Bank.





## Using our thinking to demonstrate the profession's relevance

During the year, we engaged on a range of public policy issues encompassing economic growth, skills, public finances and tax. We have increased our profile and engagement on these issues with senior politicians, through support of parliamentary groups, our new relationship with the Institute of Fiscal Studies and regular meetings with ministers and other policymakers. The culmination of all this work was the visit by the UK Prime Minister to Chartered Accountants' Hall to launch his Small Business Manifesto during the general election campaign.

Among our thought leadership programmes, we have undertaken a project on assurance of bank capital ratios, responding to concerns of financial services regulators. We have also provided support to the Natural Capital Coalition, a framework for reporting natural capital as part of our work on sustainability and corporate responsibility.

## Investing for the future

In 2015, we started a review of our strategy looking ahead to the role that we want ICAEW and the profession to play over the next 25 years. We began a two-year programme to refurbish and redevelop Chartered Accountants' Hall, enlarging the space available for members and commercial use.

We generated an operational surplus of £0.3m and an income of £101.6m. We achieved nearly all of what we set out in the future outlook section of our 2014 annual review. The one exception was the delay in launching computer-based exams as a result of the intended acquisition of our preferred supplier.

We are very pleased with the performance of ICAEW in 2015. If you have any thoughts about ICAEW, the direction you want to see our strategy take, or our annual review, please write to us at [president@icaew.com](mailto:president@icaew.com) or come to our annual meeting. We would love to hear from you.

Andrew Ratcliffe  
President

Michael Izza  
Chief Executive

# Some numbers from 2015

**80%** of readers feel *economia* magazine makes them feel connected



## Free Excel training

Students get free Excel Community access and 1,429 students completed 31,325 modules of Excel training, boosting their average 'Excel IQ' by 9 points



## ICAEW Foundation



**35** new bursaries awarded in 2015 for talented but financially disadvantaged students, the highest ever

## More about us

More than **3,000** people attended our international roadshows

We responded to more than

**134,700**

**member enquiries** - this equates to one member enquiry every minute



More than **350,000** searches on the online member search



There were a total of **11,955** web chats, accounting for **9%** of all enquiries

## Chartered Accountants' Hall

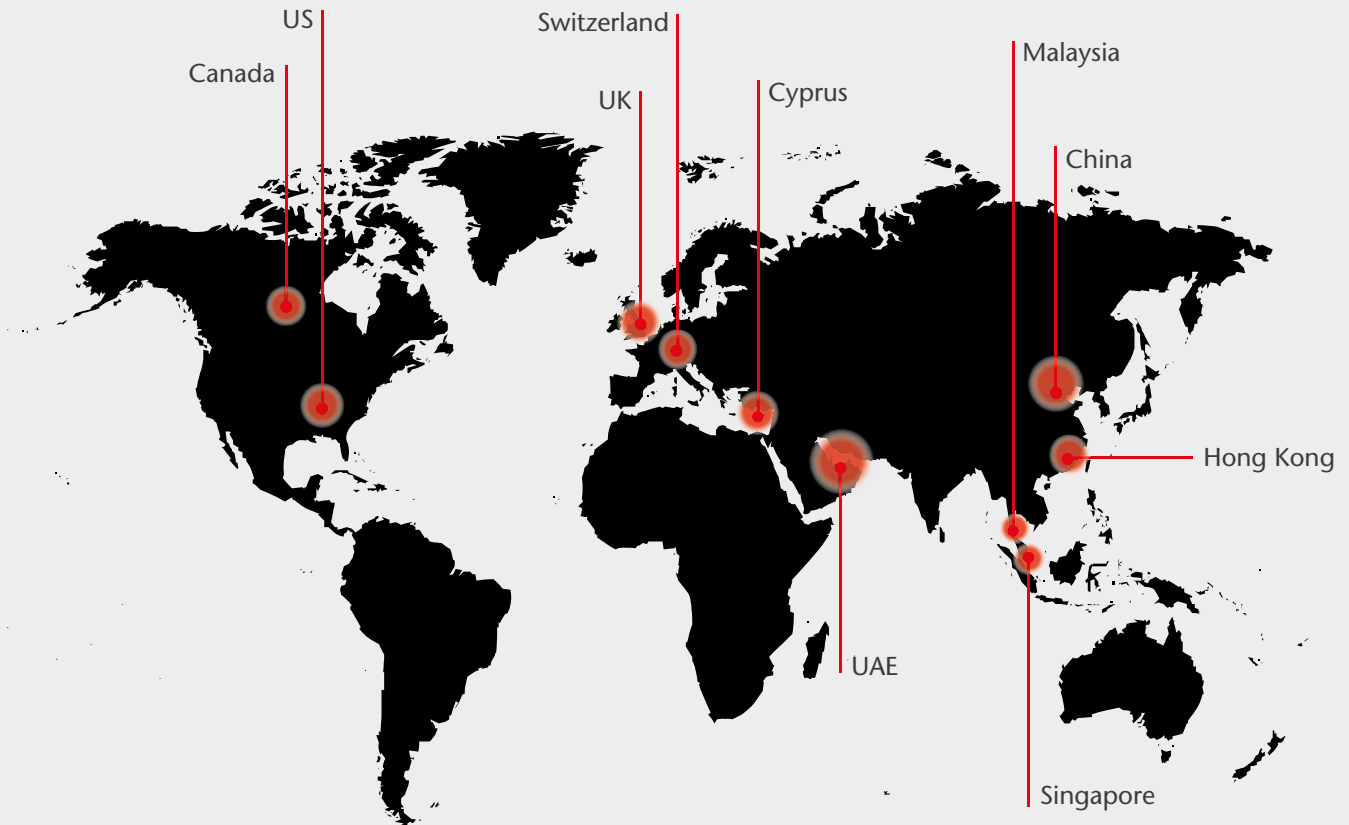
**12%** extra member/commercial space. An increase from 1,615m<sup>2</sup> to 1,809m<sup>2</sup>

External meetings: **108,932** attendees



## A global view

We now have over **145,000** members in **155** countries



The top 10 countries where we have most members are: **UK, China (including Hong Kong SAR), Australia, US, Cyprus, Canada, Malaysia, Singapore, Switzerland** and **UAE**

## At the business centre

There were

**12,000**

visits to the business centre by members

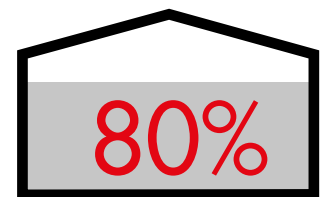


More than

**20,000**

cups of coffee purchased

Approximate occupancy of business centre:





# 02

## Who we are, what we do

'I am really glad I took part in BASE and am now training to be an ICAEW Chartered Accountant'

---

### Florentyne Barrett

Took part in ICAEW's **BASE competition** in 2012-13, and is now in the third year of the EY School Leaver programme.

I am really glad I took part in BASE. I was aware of chartered accountancy before but not about what was involved and the opportunities it presents. BASE really helped open my eyes to what the world of accountancy entails. It's also a thoroughly enjoyable event. You learn and develop lots of new skills and create a large network of contacts. It helped me meet like-minded students at school and employers who could give me the advice and help I needed to get into my career. It cemented the idea that I wanted to become an ICAEW Chartered Accountant and gave me all the information I needed to plan my career path.

I applied for the EY School Leaver programme and by the second time I attended BASE I had accepted a place on it! I was able to share this experience with other students interested in a career in chartered accountancy when I spoke at the awards ceremony of the BASE 2015 national final and I'm looking forward to being a mentor and judge in the future.

I am now in my third year of the programme and have completed ICAEW CFAB and progressed onto the ACA. I thoroughly enjoy my job, from the challenges to the new knowledge each day has to offer.



## Creating future business and finance leaders and helping people do business with confidence

We support over 145,000 ICAEW Chartered Accountants around the world. Through our technical knowledge, skills and expertise, we provide insight and leadership to the global accountancy and finance profession. Our reputation relies on our people, communities and thinking.

|                                 | What we do   | How we create value   |
|---------------------------------|--|---|
| <b>People and qualification</b> | We provide the professional framework to enable people to qualify as ICAEW Chartered Accountants and to support and develop members.   | We provide members with a qualification and life-long learning and membership which supports them throughout their careers.                                   |
| <b>Communities</b>              | <p>We engage and bring people together in the public interest. The profession was created because people needed to be able to trust the businesses in which they were investing.</p> <p>That trust was, and still is, built on reliable, high quality financial information and business advice, both provided by ICAEW Chartered Accountants.</p> | Our members contribute to building trust and generating sustainable economic growth. Our relationships enable us to facilitate and promote this contribution. |
| <b>Thinking</b>                 | We create top quality thought leadership and practical guidance for the profession and wider stakeholders.   | Our thinking supports members and businesses and informs policymakers, helping them support business and sustainable economic growth.                         |



## Sustainable financial growth

| We engage these groups                              | So they can   | For which we receive                            |
|---|---|---|
| Students, their employers and training providers    | Gain access to membership and a rewarding career            | Fees for training, exams and admission          |
| Our members   | Benefit from long-term career support                       | Membership fees                                 |
| Practitioners – members and firms and other persons | Practise as an ICAEW Chartered Accountant or firm           | Registration fees                               |
| Stakeholders requiring leading technical support    | Obtain specific knowledge and support to perform their work | Fees from faculties and special interest groups |

We also generate income through commercial activities relevant to the needs of members and businesses.

The performance of this model is reviewed using a number of core performance measures which are shown in section 5 of this report.

## Organisation structure

ICAEW is headed by its chief executive and has five operating departments which:

- develop and assess ICAEW qualifications and employers training our students (Learning & Professional Development);
- support members and the running of ICAEW (Finance, Operations & Members);
- provide confidence that our members uphold the highest professional and ethical standards, investigating and, if necessary, disciplining those who don't (Professional Standards);

- research, influence and develop guidance on best practice and policy in the activities in which our members typically work (Technical Strategy); and
- develop our commercial operations (Commercial and Shared Services).

The structure is overseen by our council, main board and departmental boards which include a mixture of members and senior staff (see Governance section). In 2015 we had an average of 711 staff (full-time equivalent) across ICAEW.

## Our volunteers

We are indebted to the work and expertise of our members as volunteers on our committees and in our local district societies and member groups all over the world. Our key contact members across the globe and our Active Members work with us to both create and support our strategy and to support our members.



# 03

## Our strategy: World leader of the global accountancy and finance profession

‘The ACA course has given me the courage to dream!’

### Maggie Ji (JI Xuechen)

Studied at Dongfang College in China, where she had USS/ACA embedded in her major in Accounting, and is now working at State Street, a global financial services company.

I started to study CFAB courses at Dongfang College mainly because I planned to get a Masters degree abroad when I graduated and wanted an internationally-recognised accounting qualification. I also wanted to differentiate myself from other students in China. It was hard, particularly explaining complex accounting treatments to deadlines in English when you draft an accounting report – but mainly I was a very busy student!

After I studied CFAB and passed all six exams I felt more confident about my accounting knowledge. That kind of confidence really helped me find a job.

And when I entered State Street on an internship, the solid accounting knowledge base helped me understand what to do and find the best way to

do it more quickly. It also proved I had technical capability and was willing to learn. I was then offered a full-time job.

The ACA really broadened my career path with its wide study syllabus including accounting, taxation, law, management and business strategy. I know I’m not only capable of simple bookkeeping but also tax planning, auditing and more. I met incredible people and learnt from them. I think the most valuable thing the ACA course has given me is the courage to dream: I now know what’s possible if I work hard.

I will encourage students to study the ACA, especially those who want to get a job abroad.



Our strategic objective is for ICAEW to be a world leader of the accountancy and finance profession. We want to build a strong chartered accountancy profession and see chartered accountants leading the profession in all key financial markets, to promote sustainable economic growth and build business confidence. We want to ensure that chartered accountants and our [ACA](#) in particular continue to be regarded as the premium, sought-after qualification so that we attract and retain members in the long term.

This means that:

- our members are recognised as leaders and occupy prominent positions in business, practice and the public sector in all key markets;
- the [ACA](#) qualification is recognised as the best for global organisations;
- we attract the brightest and best talent in the market from all backgrounds;
- we are regarded as the partner of choice and sought after by organisations working internationally;
- we are influential and play a leading role in shaping policies that impact business and the global profession; and
- we have the power to convene key decision makers, speakers and thinkers.

To achieve this, in 2015 we focused on:

- promoting our people and their qualification, and delivering relevant and high quality services to them;
- developing constructive communities in the profession, through relationships with regulators, governments and businesses all over the world, to improve standards; and
- developing our thinking in the public interest with the help of our members and volunteers.

We track a range of financial and non-financial measures relating to our business model and identify various outcomes that relate to qualifications, service by and for our members, and our reputation and influence. You will find details of our progress against these strategic objectives in section 5 of this report.





**Public:** Our **Royal Charter** commits us to acting in the public interest.

**Members of ICAEW:** We are a membership organisation working for members and member firms.

**Students:** We want a diverse range of young people to join the profession and to train to become ICAEW Chartered Accountants.

**Other stakeholders:** A huge range including: governments, regulators, standard setters, other institutes, international accounting organisations, businesses, charities, NGOs, public sector bodies, academic institutions, consumers, students, employers, and tutors.



# 04

## Opportunities and risks

‘We want to grow our probate business to £800,000 a year’

---

### Clive Stevens

Executive Chairman, Kreston Reeves. The firm was licensed by ICAEW to do non-contentious probate work in November 2014 and plans to grow that part of the business to £800,000 a year.

Kreston Reeves is a Top 30 firm with over £21m of fee turnover. Over the years, some of our firm’s partners acted as executors for clients but we wanted to develop a more formal specialism that could become a real fee generator for the future alongside our existing personal tax, trust and wealth management expertise.

We think there are many advantages to clients, too, who want to work with a firm of advisers that they already trust and, of course, we have much of the detailed information about assets, insurance and pensions that you need for probate.

So we were one of the first firms to sign up to do

probate work with ICAEW. We have now trained 16 in our team to cover probate and three partners have taken the formal assessment. We see it as a core service for the future working alongside our existing personal tax, trust and wealth management expertise.

Within a year of becoming licensed we were dealing with 35 active probate cases and we have over 100 clients who have appointed us as their executor in future. We believe that this part of the business will grow and grow and we are targeting to deal with 75-100 cases a year, which could be worth as much as £800,000 a year to our business.

# Managing risk

The council, through the board, audit committee, chief executive and executive directors, identifies, evaluates and manages the risks faced by ICAEW.

We regularly assess both the controls in place and actions required to manage risks – and take strategic choices accordingly. You can read about the full process in the financial statements.

We are a risk-conscious organisation but not risk averse. We understand, explore and manage risk in order to deliver our strategy. We recognise that every activity

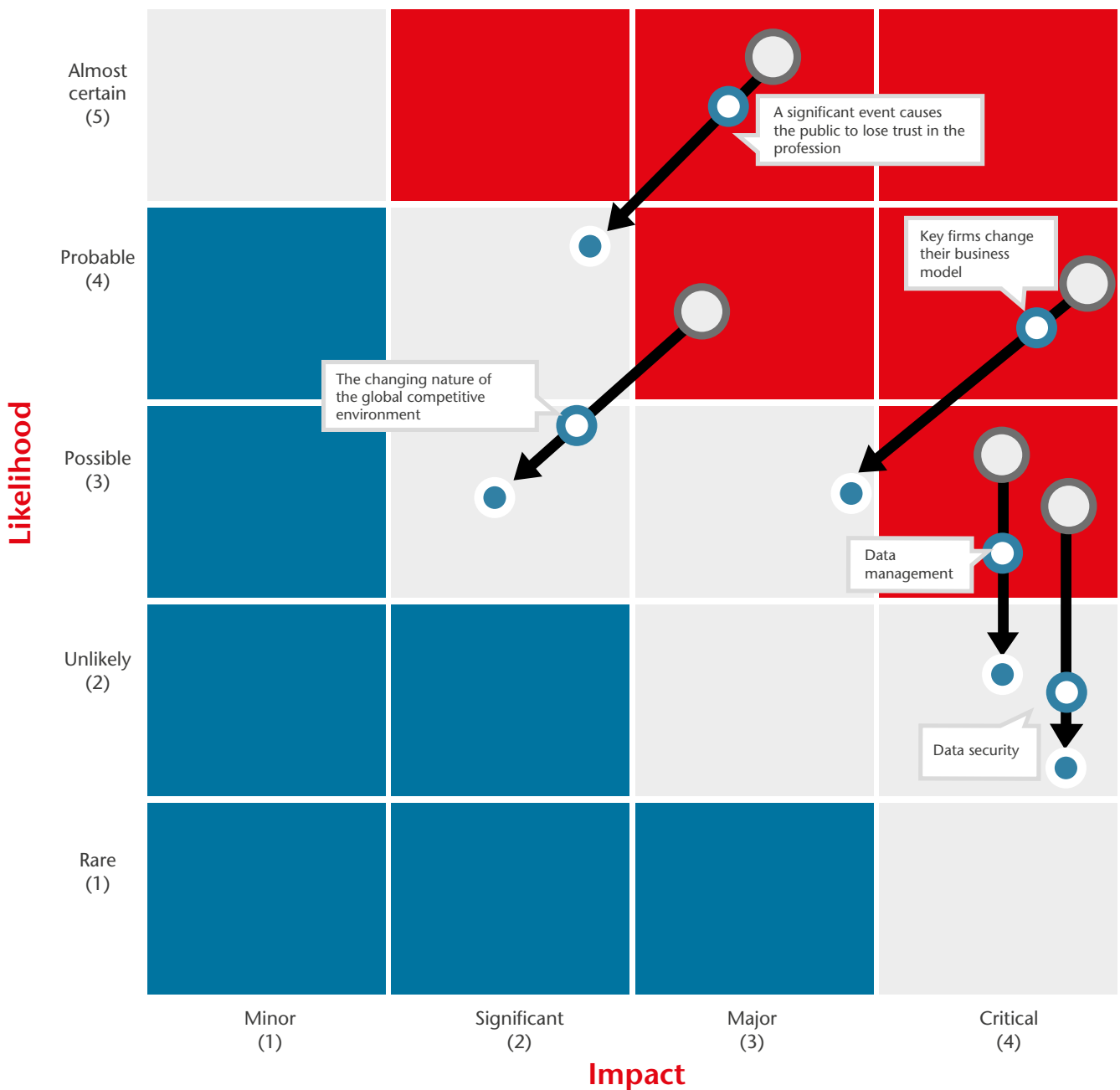
that we engage in must uphold and promote our reputation. Our reputation and that of our members is what matters to us most.

Over the year the board has recognised the principal risks listed in the matrix below.

A more detailed description of the principal risks can be found in the accompanying financial statements on page 9.

This matrix shows the inherent risk, the net risk after our current activities are taken into consideration, and the net planned risk after our future mitigating actions are taken into account.

## Risk matrix



- Inherent risk - before management
- Current net risk – current exposure
- Planned net risk – future exposure

## Opportunities

We consider opportunities alongside our risks.

### People and qualification

We want to make the [ACA](#) the business qualification of choice with new routes to the qualification for business planning, banking and insurance. We will also develop accountancy apprenticeships. Our Massive Open Online Courses ([MOOC](#)) have seized the opportunity provided by online learning to promote our qualification and members to an audience of nearly 12,000 as well as educating them in business and finance; and our Certificate in Finance, Accounting and Business ([ICAEW CFAB](#)) is growing especially fast with a dedicated student base.

### Communities

We are working to transform our digital presence so that we may work better with members and stakeholders. We are taking a digital first approach with our publications, products and services, harnessing the power of technology to make them more accessible and available to members and stakeholders around the world.

### Thinking

This year we reviewed our strategy and looked at the future of the profession through our key initiatives, [BusinessFutures](#) and [Tomorrow's Practice](#), alongside thought leadership work on technology, [IFRS](#), [tax](#) and [AuditFutures](#). We believe the profession has significant opportunities, from big data and cyber security to assurance and, in the UK, reserved legal services such as probate. Clients are increasingly looking to their accountants to provide a one-stop-shop service so there are opportunities for our members to build effective referral networks to support their clients or specialise in a particular sector.



# 05

## Our performance

‘The ACA has built a solid foundation for my career’

### Mohammad Zamani

One of the first scholars in ICAEW’s Emirati Scholarship scheme in 2010, now on a two-year secondment to KPMG’s London office as an Assistant Manager in Banking.

I applied to ICAEW to join the first batch of the Emiratisation Scheme around November 2010. Given the exclusivity of the programme, I was still at the American University of Sharjah and had to sit for tests and an interview after which I was accepted for the scheme. I joined KPMG Dubai through the scheme right after I graduated in March 2011.

The ACA qualification has made a solid foundation for my career and given me a sound knowledge of many subjects, such as business in investments, financial reporting and tax. It gives me the opportunity to participate in high-level conversations in different areas and challenge clients’ assumptions which would result in delivering an effective audit in an efficient way.

When I qualified, I felt a big sense of accomplishment given I knew the value of the qualification in my field and the amount of opportunities that it will provide.

I would encourage new graduates to apply for ICAEW’s Emiratisation scheme to pursue the ACA qualification. It provides opportunities in the business sector, and it is definitely one of the most valued and prestigious qualifications in the banking industry worldwide. It has certainly helped me on my way to my current job in London!

## Achievements

Our work to build a stronger profession worldwide focused on our people and qualification, our communities and our thinking. What follows describes how we preserved and built our resources. The KPIs reflect the performance of our financial model, supported by delivery of our key strategic objectives.

### Our core performance measures

| Goal   | Why this is important   | What we achieved   | Where we planned to achieve more   | What we plan to do next  |
|--|---|--|--|--|
| Income target: £94.8m<br><br>Up from £91.5m in 2014          | Sustainable income growth provides funds for our continued development                        | We achieved an income of £101.6m. Underlying growth, excluding fine income, was £5.5m based on the increased student intake in 2014 and 2015 and better than expected member growth.   | All areas achieved targets   | Continuing underlying growth target of £99.0m  |
| Net result target: £0.7m (surplus) compared to £2.4m in 2014 | Modest surplus is targeted for investment in services and to meet cash funding needs          | Our underlying result was £0.3m, reflecting student growth, cost efficiencies and higher than expected support for future FRC case costs. The retained result includes £6.6m fines and cost recoveries which could not be anticipated, resulting from ICAEW's participation in the FRC's Accountancy Scheme. | Our international operations continue to develop steadily                  | We return to more stable expectations of £0.5m. Costs of our major projects are absorbed through operational efficiencies. |
| Net member growth of 1,810 compared to 1,833 in 2014         | Ensuring continued vibrancy of ICAEW by adding more members than are lost                     | This was an exceptionally strong year for managed growth due to the highest student admissions since 1993 and good member retention  | Net growth was restricted to 1,579 by higher than expected reported deaths | We expect a reduction in net growth in 2016 due to a lower student intake in 2012-13                                       |
| Grow our membership to 145,890 (up from 144,167 in 2014)     | Providing a compelling offer to members which retains them and converts students into members | Our closing membership was 145,746. Growth was lower than targeted because of a higher than expected number of reported deaths.  |  | Continued steady growth to 147,620   |

| Goal  | Why this is important   | What we achieved   | Where we planned to achieve more   | What we plan to do next  |
|---|---|--|--|--|
| ACA intake – we targeted 6,645 students entering training (down from the record 7,326 in 2014)                                | Providing the qualification that employers and students want, accessible in a variety of ways, and securing our future membership                 | We achieved a new record of 8,256. This was due in part to the performance of the UK economy, the growth of professional services and more employers using the ACA in preference to other qualifications.      |  | Our 2016 target is 7,500 to maintain our progress with students. We will be introducing alternative modules for financial reporting and business planning for banking and insurance for the ACA in 2016. |
| CFAB intake targeted was 2,825 students (compared to 3,115 in 2014)   | Provide an entry qualification with the option to convert to ACA  | 5,542 students enrolled on the CFAB path as a result of whole university departments registering with us in the UK and South East Asia   |  | Target in 2016 is 4,205  |
| Growing our commercial business to reduce reliance on the membership fee. Target was revenue growth 6% and margin growth 18%. | Maximising our revenues should allow us to generate surpluses to improve services to members and make use of our physical and intellectual assets | Revenue growth was below target at 3%, reflecting the reduction in commercial space due to the impact of our refurbishment work. However, cost efficiencies delivered higher than target margin growth at 23%. | As well as the building works, growth was lower than expected in training and publishing as a result of the very competitive marketplace | Our revenue growth target is 6%  |



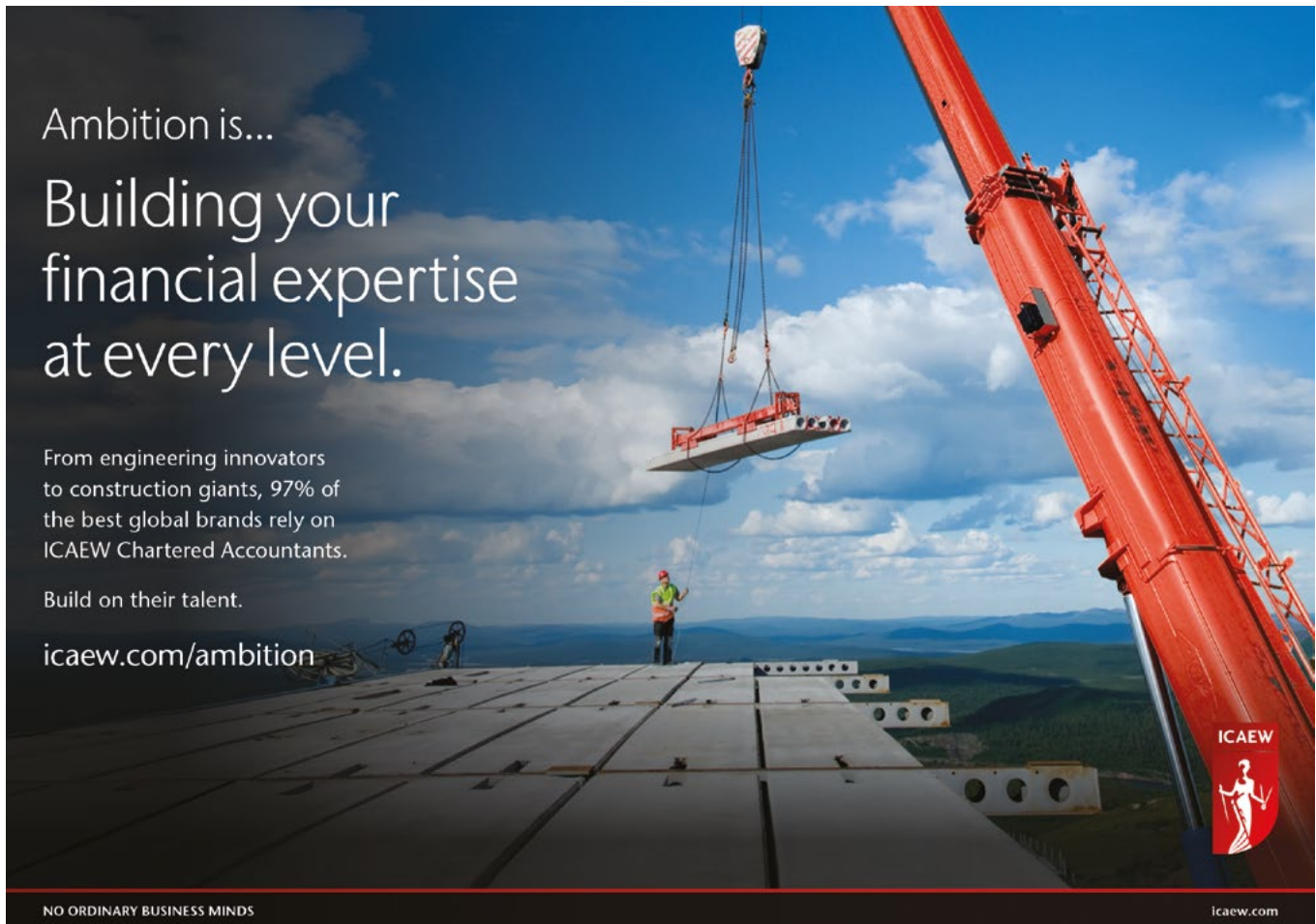
## Progress against our strategic objectives

Our strategic objectives work in three key areas: our people and qualification; our communities; and our thinking. We maintain and grow our members' value by attracting the best talent and then through continuous professional development and monitoring. We also benefit from attracting and retaining committed volunteers and staff, who together give us so much.

| Goal  | Why this is important   | What we achieved  | Where we planned to achieve more  | What we plan to do next  |
|---|---|---|---|--|
| Support for the chartered accountant brand      | Building our brand profile and reputation helps us to develop, promote and support ICAEW, our members and our work around the world | <p>We completed a 360° brand review among our key audiences providing insights on our ICAEW, ACA and chartered accountant brands. This work, together with stakeholder research conducted at the beginning of 2015, has identified how we are currently perceived and is being used to help guide our evolving brand strategy.</p> <p>We also ran several brand promotion campaigns reaching 19.5m adults in the UK as well as profile-raising events and promotions in international markets</p>   | Due to work being done on evolving our brand, we did not undertake a brand survey at the end of 2015                                  | Evolving our brand in 2016, ensuring it is aligned with our new strategy. In 2016 we will launch an annual brand survey that will be used to measure the success of our brand in future. |
| Increase access and diversity of the profession | Our membership should reflect the communities our members serve   | <p>We ran a campaign to promote the many ways to ICAEW Chartered Accountancy, showcasing five main routes in</p> <p>Other work included new Trailblazer apprenticeships at level 4 and 7, embedding our qualification in university courses, the first business competition (BASE) heats in Northern Ireland, and the second year supporting work experience placements through Access Accountancy</p> <p>35 students were financially supported in their studies by the ICAEW Foundation. We also worked on Careers that Count, helping London students from schools in areas of social need to learn about careers in business and accountancy.</p> | Too early to tell. We started to measure social mobility and diversity in our new student base in 2015 and will report on it in 2016. | In 2016 we will engage with governments on social mobility and continue to embed our qualifications in university programmes   |



| Goal                                  | Why this is important   | What we achieved   | Where we planned to achieve more | What we plan to do next  |
|---------------------------------------|---|--|----------------------------------|--|
| <p>Focused growth in ASEAN region</p> | <p>The economic potential, its location as a significant financial centre coupled with the existing membership base makes ASEAN a key international market for us</p> | <p>We exceeded our target with ACA intake and made huge strides with CFAB registrations. Our <i>Economic Insight</i> report helps promote us in these markets, as has a CFO Roundtable with <i>The Economist</i> in Singapore; and we are strengthening relationships through roadshows, capacity-building projects and more.</p> <p>We opened offices in Vietnam and Indonesia and ran mock exams in Indonesia to enable students to get a taste for ICAEW training</p> |                                  | <p>Targeting further student growth in all countries supported, building our influence and developing member support</p> |



Ambition is...  
**Building your  
 financial expertise  
 at every level.**

From engineering innovators to construction giants, 97% of the best global brands rely on ICAEW Chartered Accountants.

Build on their talent.

[icaew.com/ambition](http://icaew.com/ambition)

NO ORDINARY BUSINESS MINDS

icaew.com

No Ordinary Business Minds campaign advert

## Promoting ICAEW Chartered Accountants

In 2015 we took advantage of new ways of learning and marketing, to reach prospective students and clients through a first MOOC, The Importance of Money in Business organised with Leeds University Business School and FutureLearn. We reached 12,000 students, with 5,000 completing it. We continued to market our profession to students through careers fairs and our business game, BASE, which reached 3,000 students in 2015.

We ran three major brand promotion campaigns in 2015.

- ‘Your business is in safe hands with a chartered accountant’ advertising campaign ran in the UK targeting SMEs, reaching an audience of 19.5m adults across national radio, national and regional print and Google Adwords. The campaign raised awareness of the value of a chartered accountant, encouraging businesses to search for and use a local chartered accountant. Traffic nearly doubled to Find a Chartered Accountant on the previous period (but was up nearly three times on the year before).

- ‘No ordinary business minds’ campaign demonstrated the benefits of the ACA qualification and the leadership, quality and impact of our members. It centred around the ambitions and future aspirations of our millennial members, helping employers respond to these. It ran internationally across South East Asia, the Middle East and the UK and featured an on-demand webinar debate produced in partnership with the *FT*.
- ‘A career with limitless possibilities’ – a brand campaign for students – was placed across key markets worldwide, and was included in careers/university guides for *The Guardian*, *The Independent*, and UCAS Clearing in *The Telegraph*.

## New and improved services for members and students

A significant element of building the profession of the future is appreciating how it is changing through the creation of new value-added services at the expense of compliance work. We have developed new services for members and assistance on changes in three key areas to enable them to take advantage of a career full of opportunity, mobility and flexibility.



We offered students automatic entry into the Excel Community (to the end of 2017); 1,429 students completed 31,325 modules of Excel training.

Our status as a regulator for probate has enabled over 100 member firms to be licensed to offer probate services.

We ran a series of roadshows around the UK to talk to firms about how they can work better with advisers to help clients with their personal financial planning.

### **Saving time and reducing risk**

In response to feedback from members, we brought back our client screening service to check individuals or entities against global risk and compliance data, combined with other research enquiries to create a due diligence service ([icaew.com/duediligence](http://icaew.com/duediligence)).

Premium databases are now included as part of the library service to members, including Westlaw, Legal News, Directors Briefings, Start Up Briefings, Bloomsbury online, PwC inform (international) and EBSCO.

We also provide free volunteering professional liability insurance for members of the Charity and Voluntary Special Interest Group doing pro bono or charity work in the UK.

We supported members around the implementation of the EU accounting directive and the new UK GAAP – particularly on practical issues involved in adopting FRS 102.

We launched a new licensed practitioners scheme to monitor ATOL reporting accountants, introduced by the Civil Aviation Authority.

### **Making life easier**

We produced a traffic light guide to personal financial planning opportunities which helps show practitioners what advice they can give when holding a practising certificate, a Designated Professional Body licence, or operating under FCA regulation.

As a result of the Local Audit and Accountability Act 2014, ICAEW is now responsible for the licensing, registering and monitoring of auditors who wish to carry out audits of local public bodies in the UK, making it easier for members who want to register for this.

Our monthly magazine *economia* provides intelligence and insight for members. Our reader research,

undertaken every year, shows that members spend an average of 53 minutes reading it compared to 15 minutes for similar business publications.

## **Evolving the qualification**

We introduced a further route for the joint scheme with the Chartered Institute of Taxation. Students can now register for the Taxation of Owner Managed Businesses stream, which will now sit alongside the existing Indirect Taxation and the Taxation of Major Corporates routes.

To ensure that the ACA syllabus remains relevant, we have developed alternative modules for financial reporting and business planning in banking and insurance. These are in response to employer requirements, changing business models and the skills needed of staff and will be introduced in 2016.

## **Getting the best out of our staff**

We are committed to nurturing the talent of all our employees, ensuring they are contributing to the delivery of our strategy and the future of ICAEW. Our staff are supported through 10,060 hours of training courses, 265 professional memberships and some 60 paid sustainability days where staff chose to volunteer their time for social or charitable causes. In 2015, we introduced a work experience scheme for pupils in state schools in Greenwich, starting with eight students. We also strive to be among the best employers and are strong advocates of work-life balance. We benchmark ourselves in the Stonewall best employer guide each year. We pay at least the living wage.



Higher Education Conference

## Our communities

Our communities help to create value for our members, for the profession, and for wider society by fostering trust and business confidence.

| Goal   | Why this is important   | What we achieved  | Where we planned to achieve more  | What we plan to do next   |
|--|---|---|---|---|
| Growing our profile and impact in Africa through our own work and by supporting local bodies to create a stronger profession | We see strong professional bodies in the region as key to sustainable economic growth | <p>We have built relationships with five professional accountancy organisations, through capacity-building projects</p> <p>ACA and ICAEW CFAB intakes were both above target</p> <p>We launched <i>the Economic Insight Africa</i> report series in Q2 gaining interviews on CNBC Africa for example, and by the end of the year media was coming to us for comment</p> | As this is a new market for ICAEW, we have deliberately concentrated our efforts on a limited number of countries in Africa | We will continue to concentrate on 15 countries in Africa in 2016 |

## **Working with others to support the public interest**

We are part of a global profession and many of our members pursue their careers in countries around the world. We are members of, and contribute to, a number of pan-professional bodies including the Consultative Committee of Accountancy Bodies in the UK, the Global Accounting Alliance, the Pan African Federation of Accountants, the Africa Congress of Accountants, and the World Forum for Ethics in Business.

We are part of the Prince of Wales' Accounting for Sustainability project and support the Natural Capital Coalition, which is currently developing a framework to value natural resources like water and fish stocks. With our partners WWF-UK we established the Finance Innovation Lab as an independent charity this year and retain an interest in its development.

Our members work as volunteers with schools on personal finance and our staff volunteer time for projects, including working with Highbury Grove School in London to build Personal, Social, Health and Economics education including finance into their curriculum, training six teachers.

## **Supporting a stronger profession**

We continued to work on the future of the European accountancy profession with accountancy bodies in Central and South Eastern Europe, for example, developing a project to improve quality assurance with the Western Balkans, and a network for audit quality monitoring [icaew.com/strategicforum](http://icaew.com/strategicforum)

Through Chartered Accountants Worldwide, we are helping to grow the chartered accountant family. The Institute of Singapore Chartered Accountants became a chartered body and joined Chartered Accountants Worldwide as its first associate member in June.

## **Maintaining our regulatory role**

Our key focus in 2015 was on achieving a satisfactory outcome for ICAEW and its member firms under the EU Statutory Audit Regulation and Directive. Our responsibilities as a recognised supervisory body could have been restricted but are expected to grow in scope to include the auditors of large private companies, charities and parts of the AIM market. The FRC will now be responsible for the auditors of public interest entities.

## **Capacity building**

In 2015, we continued our capacity-building projects, winning new projects with organisations such as the

UK's Foreign and Commonwealth Office, Department for International Development, IFAC (International Federation of Accountants) and Asian Development Bank. We also won a contract in Russia with the Audit Qualification Commission as partner of choice to develop the audit licence.

## **Deepening our relationships with business, policymakers and firms**

We maintained our role as a critical friend to the UK Government through our strong relationships with ministers and our engagement with parliamentarians. We meet regularly with David Gauke MP, financial secretary to the Treasury and minister with responsibility for tax on issues including HMRC service standards and Making Tax Digital. Then Secretary of State for Business, Vince Cable MP and current minister for the profession, Baroness Neville-Rolfe have spoken at Audit Quality Forum events. Culture minister, Ed Vaisey MP spoke at the launch of our Corporate Finance Faculty report on *Creative Industries – Routes to Finance*. We have also met with ministers including Lord Maude on the role our members play in helping businesses to export and Business Secretary Sajid Javid MP on what can be done to improve UK productivity.

Current Prime Minister David Cameron and former Prime Minister, Tony Blair both made speeches at Chartered Accountants' Hall during the year. We also welcomed US Securities and Exchange Commissioner Kara Stein who used our City headquarters to speak about the effects of digital disruption on capital markets.

Other key relationships include the chair of the 100 Group of Finance Directors, who we meet to discuss issues faced by the UK's largest businesses. Our regular dialogue with Andrew Bailey, Deputy Governor for Prudential Regulation at the Bank of England led to the Risk-Weighted Asset Project, for instance.

We work closely with business groups like Enterprise Nation, business department BIS, and the major political parties in the UK. We ran special events at Conservative and Labour party conferences, with a stand asking MPs for the best piece of careers advice they could give young people. We reconstituted the All Party groups on Maths and Numeracy, and on Business Finance Accountancy, as well as making submissions to the productivity and export reviews undertaken by the BIS Select Committee.



## Our thinking

Our thinking helps create value for the profession and wider society, at the same time contributing to the value that ICAEW membership brings. In 2015, we wrote 179 consultation submissions, and published some 33 thought leadership reports across our key areas of interest.

| Goal   | Why this is important  | What we achieved   | Where we planned to achieve more  | What we plan to do next  |
|--|--|--|---|--|
| Increasing our impact in the international public sector   | We have many members working in the public sector which accounts for a significant amount of national expenditure in many economies  | <p>Our chapter on Whole of Government Accounts in the Institute of Fiscal Studies' Green Budget raised our profile with the Treasury and the Office for Budget Responsibility. The report was downloaded 250,000 times.</p> <p>We became a regulator for local public audit in the UK. We re-launched the Public Sector Special Interest Group which is free to members.</p> <p>We appointed a new Director of Public Sector to lead our activity in this area and to build our capabilities to support members and governments around the world</p> | We would have liked to have seen more media recognition of our analysis of the Whole of Government Accounts | <p>Next year we will engage more closely with IPSAS. We will publish the second paper in our Better Government Series on A Modern Finance Ministry.</p> <p>We will continue to support the IFS Green Budget, contributing two chapters on the Whole of Government Accounts and on infrastructure</p> |
| Supporting economic growth   | We continue to underline the importance of promoting and supporting enterprise with the UK and EU governments. We have a responsibility to provide direct and relevant material on issues that need addressing, especially after the financial crisis. | <p>Among our key pieces of work was our UK general election manifesto which resonated in terms of issues politicians were interested in and helped open conversations with all the UK political parties and senior politicians; and our <i>Creative Industries: Routes to Finance</i> paper</p> <p>There is global interest in much of our thought leadership work, for example our work on bank capital ratios and cyber security</p>   |   | We will continue to work with governments to support economic growth, but it may be affected by the big uncertainties ahead: the EU referendum and potential global economic slowdown  |
| ICAEW is a respected business commentator internationally, measured by being known by the right people in our chosen markets | Get our thinking to a wider audience by getting it covered in the media, leading to policy change  | Good coverage for HMRC Service Standards, Direct Recovery of Debt, <i>ICAEW/Grant Thornton Business Confidence Monitor</i> , Economic Forecasts and Insights which have secured broadcast and print/digital coverage all over the world  |   | We will continue to pursue public policy themes on the economy and skills, creating platforms that bring together business leaders and policymakers  |

## Thinking for the future

Our future thinking has centred on the *Tomorrow's Practice* and BusinessFutures programmes this year, which looked at how the profession is likely to change over the years to come. *BusinessFutures* focused this year on public spending, energy and urbanisation.

Another key focus has been the digital transformation of our businesses, with the paper *Providing Leadership in a Digital World* looking at three major opportunities for ICAEW Chartered Accountants.

Our IT Faculty organised and took part in a parliament and internet conference panel on the challenges faced by SMEs getting to grips with big data. Our 20 Principles for Good Spreadsheet Practice work was promoted through a video with Microsoft.

Our paper *IFRS Reporting: Seven Lessons Learned from the European Experience* provided feedback to standard setters and policymakers in Europe and across the world, exciting interest for example in Japan, Vietnam and Indonesia.

We joined with the Accountancy Bodies Network representing 1m accountants in calling for binding change at the climate talks in Paris, COP 21, as well as hosting over 100 business, civil society and policy leaders to discuss the implications ahead of the talks.

The Natural Capital Coalition, which has been supported by ICAEW for 3 years along with 30 others now, published its draft protocol to develop a standard framework for business to measure its impact on natural resources, and the first two sector guides on Apparel and Food & Beverage. It is being piloted by 10 companies including Coca Cola, Dow Chemical and Shell, and Colombia is looking at whether government can use the protocol. Peter Bakker, president of the World Business Council for Sustainable Development said: 'the Natural Capital Coalition is the best example of collaboration in the world today.'

Our paper about banks' risk-weighted assets, *Reporting on regulatory capital: choices for assurance* was published with the support of the UK Prudential Regulation Authority and has got onto the agenda of bank boards. We are looking at feedback to see whether we should develop a framework to allow banks to get assurance consistent with other banks.

We supported the UK's creative industries with a *Routes to Finance* guide – supporting this key sector worth nearly 9% of UK GDP. This was endorsed by 52 organisations including the British Business Bank and Arts Council.

Helping improve audit standards, ICAEW has created its first training film to provide firms with high quality training material to help audit staff identify issues before these arise. *False Assurance* is available as a licensed training tool for audit firms and to date 6 of the largest 10 firms by revenue have agreed licences, 3 of them for their international networks. There is also strong interest from universities and business schools as well as from overseas.

## Our thinking on tax

Internationally we have been closely involved in the Base Erosion and Profit-Shifting project which aims to stop corporates shifting tax from jurisdiction to jurisdiction and running down corporate tax rates. Its action plan will start in 2016. We have also been holding a series of seminars with senior international and EU policymakers in Brussels throughout the year.

The UK Government's 19 March paper challenged the profession on the role of members in advising on ways to avoid tax. We are working with the government and HMRC about how to strengthen our pan-professional guidance on professional conduct in relation to tax to respond to this challenge.

The response to our work on income tax and national insurance in the UK, *Hard Choices*, part of a series of papers focused on improving the future UK tax system, showed that many don't really understand where their taxes go. It was our best ever social media campaign with over 5% engagement.

We have been keeping up the pressure on HMRC service standards, with two surveys we commissioned in 2015 (the second published early in 2016) showing that, with businesses waiting for as much as an hour to get through by phone, poor service standards are a huge burden on them.

## Thinking about the public sector

On the public sector finances, we took part in the IFS Green Budget (UK), writing a chapter on a balance sheet analysis of the Whole of Government Accounts, which shows that the UK's real financial situation is about twice as bad as national statistics suggest.

# 06

## ICAEW in 2016

'We'll be working more on bank capital ratios and risk-weighted assets'

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### Mike Lloyd

Banking audit partner at Deloitte. Volunteers his time for ICAEW as Chair of the Banking Committee and on the Financial Services Faculty Board.

I have been working for the FS Faculty Banking Committee and board as a volunteer since 2005. I also represent ICAEW on the banks' working group of the Fédération des Experts Comptables Européens (FEE), the representative organisation for the accountancy profession in Europe.

ICAEW is well respected in the wider business community, with accounting standard setters, industry regulators, governmental organisations and the public because it has a public interest mandate at the heart of its Charter. The respect it has means it has more ability to influence debates and make positive changes than individual professional firms or companies. For example,

one of our key pieces of work in 2015 was an assessment of post-financial crisis progress in our *Audit of banks: 5 years on* report, a follow up to *Audit of banks: lessons from the crisis*. It also sets out what we should look at next. For me, this work has sparked a debate as to whether trust has been restored in financial services, and what remains to be done.

One area the faculty will be looking at in future is more work on bank capital ratios and risk-weighted assets, which we published a (consultation) paper on in 2015, *Reporting on regulatory capital: choices for assurance*.





Against a backdrop of many legislative changes and a faltering global economy, we will be continuing to build the profession of the future in 2016 through our three key capitals – our people, communities and thinking. At the same time, we will be finalising our new strategy for the next 25 years by the middle of 2016. Our strategic objectives remain relevant for our work while we shape this strategy and we will continue to report on them.

We plan to support the UN's Sustainable Development Goals which last until 2030. The global accountancy profession has a critical role in helping achieve these goals and meeting the ambitions of countries around the world to end all forms of poverty, fight inequalities and tackle climate change, while ensuring that no one is left behind. ICAEW will also declare its support for the 10 principles of the UN Global Compact about human rights, labour, environment and anti-corruption.

Our new ICAEW Regulatory Board, created following a review of our regulatory governance in 2014, took up its responsibilities in January 2016. It is chaired by Michael Caplan QC. We will also work with the FRC in the transition to its new role as the UK Competent Authority for audit and the implementation of the EU Audit Directive and Regulation which will see ICAEW take on delegated responsibility for monitoring audits of AIM and private companies.

## Our people and qualifications

We will ensure our qualifications continue to meet the needs of business and practice. Our new Level 4 apprenticeships are rolling out and we will also be

working on Level 7 apprenticeships with employers for introduction later next year. We will introduce new alternative modules for financial reporting and business planning in banking and insurance.

We want to continue to grow a diverse profession, supporting Access Accountancy and running our **BASE** competition for school pupils across the UK. We will be launching a new ICAEW Strategic Degree programme with Prince Sultan University (Saudi Arabia) and next year, a Masters in Professional Accountancy.

To help our members in practice grow their practices we will be taking forward our **Tomorrow's Practice** initiative.

We will continue to support our members involved in the implementation of the new UK GAAP, which from 2016 encompasses small companies.

We will continue with the **No Ordinary Business Minds** major advertising campaigns in 2016 and launch an international promotional campaign with Chartered Accountants Worldwide, while making better use of the network for members relocating internationally.

We will be evolving ICAEW's brand to ensure it continues to be relevant and stands out in today's multi-media world.

We will aim to offer faster and better customer service, events, and professional development to members, responding to feedback. We will be moving to computer-based exams for the whole **ACA** between 2016 and 2018.



## Our communities

We will continue to strengthen our relationships with professional accountancy bodies in key target markets in ASEAN and in target African economies, through Chartered Accountants Worldwide and with pan-professional bodies including the GAA, CAPA and PAFA.

In the UK we will continue to be a critical friend to regulators, policymakers and think tanks of all political persuasions, contributing to debates on issues in the public interest from devolution to the EU referendum. We will focus our activities on issues relating to economic growth, skills, public sector financial management and tax, using platforms such as the Budget and Autumn Statement to promote our policy proposals.

## Our thinking

We continue to prioritise thinking to support business and economic growth, the international public sector, and a fairer tax system.

Accountancy is being automated rapidly – and with less compliance work members will have to offer more value-added services and strategic insight. One of the key shifts for both business and practice is preparing not retrospective, or even real-time, but forward-looking financial information. ‘Prospective financial information’ is becoming increasingly important and we will be chairing a taskforce involving accountancy firms and all our faculties on this issue.

Our BusinessFutures project will continue into its third year, focusing on the ‘new’ themes of infrastructure,

culture, media and sport. We will continue to work closely with local government structures as the UK devolution agenda develops. Specifically, we will work on advising the Welsh Government on the emerging tax structures for devolved powers and we will work with the Institute for Public Policy Research looking at the issues that affect growth as part of the emerging Northern Powerhouse. Another focus will be the EU’s Capital Markets Union work.

We will seek to inform the debate on the UK’s relationship with the EU in advance of the referendum being held on 23 June 2016.

At the same time, we will be looking at the future of professional services firms, the skills accountants will need, the use of Blockchain in financial technology, and the future of regulation in financial services with the FRC.

## Our assets

The refurbishment of Chartered Accountants’ Hall is making significant progress with a new auditorium and member space due to open in May 2016. The whole project is scheduled to be complete by the end of 2017.

And of course we continue to invest in our people to ensure they can deliver the services and support expected by our members, firms, customers and stakeholders.



# 07

## Governance

‘We are working with ICAEW to build a strong national accountancy body and profession in Myanmar’

### U Kyaw Tin

Chairman of Myanmar Institute of Certified Public Accountants (MICPA). Since 2013 ICAEW has been working with MICPA, Myanmar Accountancy Council (MAC) and the Office of the Auditor General (OAG) on a joint project to strengthen the accountancy profession, funded by the UK Foreign and Commonwealth Office (FCO).

In 2003 we started MICPA as an NGO and professional body. In recent years, rapidly growing investment in Myanmar has highlighted the need for more professional accountants and for strengthening the capacity of MICPA and across the accountancy profession.

MICPA has worked closely with ICAEW since 2013 with funding from the FCO. The first stage was to develop a strategic plan to strengthen the accountancy profession in Myanmar. Soon after the project provided training and workshops in international standards in financial reporting, audit quality and professional ethics.

The second project funded by the FCO was to bring the national professional accounting qualification

(PQ) in line with international benchmarks, to improve the quality of training for students and the level of technical support and training for members.

We are working with ICAEW to build a strong national accountancy body and profession. Our joint working has been further strengthened through an MOU and together with ICAEW we developed a three-year strategic plan. On the back of this, MICPA and MAC are now working to build a strong national PQ to help build up the future accountants of Myanmar.

It has been a very productive time and we look forward to further synergies and partnership working with ICAEW.





ICAEW is a chartered body and operates under the terms of its Royal Charter, bye-laws and regulations.

We are committed to the highest standards of corporate governance as set out in the UK Corporate Governance Code as revised by the Financial Reporting Council (FRC) in September 2014. ICAEW complies with the UK Corporate Governance Code on a 'comply or explain' basis.

We are a professional body. The majority of council members are directly elected by ICAEW members, with the remainder co-opted or ex officio. You can read more about our governance and how we apply the Code in the financial statements.

Nick Parker **5/5**  
Vice-President  
Ex officio

Michael Izza **5/5**  
Chief Executive  
(in attendance)

John Tiernay **5/5**  
Chairman  
Elected, Liverpool

Andrew Ratcliffe **5/5**  
President  
Ex officio

Hilary Lindsay **5/5**  
Deputy-President  
Ex officio

The following  
were also  
members of  
council during  
2015

Jat Wasu **1/1**  
Elected, London

Giles Derry **0/1**  
Ex officio

Ian Hayes **1/1**  
Elected, London

Marion Hodgkiss **1/1**  
Elected, Liverpool

Mark Spofforth **1/1**  
Ex officio

Christopher Spokes **1/1**  
Elected, East Anglian

Richard Frost **1/1**  
Elected, Sheffield & District

Barry Matthews **1/1**  
Elected, Birmingham & W Midlands

Andrew Baigent **1/1**  
Co-opted

Ray Burton **1/1**  
Elected, West of England

John Howarth **1/1**  
Ex officio, ICAEW Student Council Representative

Phillip Pawson **1/1**  
Elected, West Yorkshire

Frank Edwards **1/1**  
Elected, South Wales

Vivek Ahuja **0/1**  
Co-opted

Christopher Blunn **1/1**  
Ex officio, ICAEW Student Council representative

Peter Mitchell **0/1**  
Elected, Beds, Bucks & Herts

Paul Aplin **5/5**  
Co-opted

Nicola Arnold **3/4**  
Elected, London

Lee Aston **3/5**  
Elected, West of England

Jan Babiak **4/5**  
Co-opted

Malcolm Bacchus **5/5**  
Elected, London

Arthur Bailey **4/5**  
Ex officio

Rob Barrigan **4/5**  
Elected, Northern

Andrew Batty **5/5**  
Elected, London

Carl Bayley **5/5**  
Elected, Scotland

Tony Bennewith **4/5**  
Elected, South Eastern

Rebecca Benneyworth **4/5**  
Elected, West of England

Clare Bewsher **5/5**  
Elected, Oceania

David Blair **4/4**  
Elected, East Anglia

Derek Blair **5/5**  
Elected, Bed, Bucks & Herts

Evie Bowyer **5/5**  
Elected, London

Helen Brennan **4/4**  
Elected, London

Kathryn Britten **5/5**  
Elected, London

Will Brooks **5/5**  
Elected, London

Ben Cairns **5/5**  
Co-opted

Angela Caldara **5/5**  
Elected, London

Richard Cartwright **3/4**  
Elected, Southern

Heather Cheesman **2/5**  
Elected, South Eastern

Ian Cherry **5/5**  
Elected, North West

Edward Chow **5/5**  
Co-opted

Noel Clehane **5/5**  
Co-opted

Mark Coles **3/5**  
Elected, US

John Cox **5/5**  
Elected, Staffs, Salop and Wolv

Michael Cox **5/5**  
Elected, Notts, Derby & Lincs

Ian Davies **5/5**  
Elected, Southern

Graham Durgan **4/5**  
Elected, Thames Valley

Lydia Ebdon **4/4**  
Elected, West Yorkshire

Jonathan Eddy **4/4**  
Elected, South Wales

Susan Field **5/5**  
Elected, London

Owen Finn **5/5**  
Elected, Humberside & District

Dato' Gan **1/1**  
Co-opted

Graeme Gordon **5/5**  
Elected, Thames Valley

Jane Green **3/5**  
Co-opted

Howard Gross **4/5**  
Elected, London

Oliver Grundy **1/1**  
Co-opted

Richard Harwood **5/5**  
Elected, Birmingham and W Midlands

Peter Hartland **2/2**  
Co-opted

Stephanie Henshaw **3/5**  
Ex officio

Peter Hollis **5/5**  
Elected, Sheffield

Richard Hopkins-Burton **3/4**  
Elected, Birmingham & W Midlands

Nigel Hughes **4/4**  
Elected, Beds, Bucks & Herts

Alan Hyams **4/5**  
Elected, Manchester

Constantine Ioannou **5/5**  
Elected, London

Peter Jenkins **2/5**  
Elected, London

Martyn Jones **5/5**  
Ex officio

Neeraj Kapur **5/5**  
Ex officio

Pam Kaur **3/5**  
Co-opted

George Kourris **4/5**  
Elected, Europe

David Lim **4/5**  
Co-opted

Gilly Lord **4/5**  
Co-opted

Iain Lowson **3/5**  
Co-opted

John Malthouse **3/4**  
Elected, Liverpool

Simone Masterson **3/3**  
Ex officio, ICAEW Student Council representative

Kate Mathers **1/1**  
Co-opted

David Matthews **4/5**  
Co-opted

David McBride **4/5**  
Elected, London

David Mellor **3/5**  
Co-opted

Roger Merchant **4/5**  
Elected, Leicester & Northants

Robert Millea **5/5**  
Elected, East Anglian

Sheilagh Moffat **5/5**  
Elected, Birmingham & W Midlands

Richard Nunn **5/5**  
Co-opted

Eddie Ouko **3/5**  
Co-opted

Mark Pacitti **2/4**  
Ex officio

Julia Penny **5/5**  
Elected, London

Tristan Price **3/5**  
Ex officio

George Quigley **4/5**  
Ex-officio

Paul Rolison **4/5**  
Elected, South Essex

Samantha Russell **2/4**  
Elected, London

Anis Sadek **5/5**  
Co-opted

Jacky Savage **5/5**  
Elected, Croydon

Jeffrey Smith **5/5**  
Elected, Thames Valley

Joe Smoczynski **4/5**  
Elected, Europe

Alex Spofforth **4/5**  
Elected, South Eastern

Nathan Steinberg **5/5**  
Elected, London

Clive Stevens **3/5**  
Elected, South Eastern

Wilma Teviotdale **3/5**  
Elected, West Yorkshire

Rob Thompson **4/5**  
Ex officio

John Tiernay **5/5**  
Chair of Council, Elected, Liverpool

William Touche **2/5**  
Ex officio

Peter Tucker **4/5**  
Elected, Beds, Bucks & Herts

Jeffrey Unerman **5/5**  
Co-opted

Jan Weber **2/5**  
Elected, London

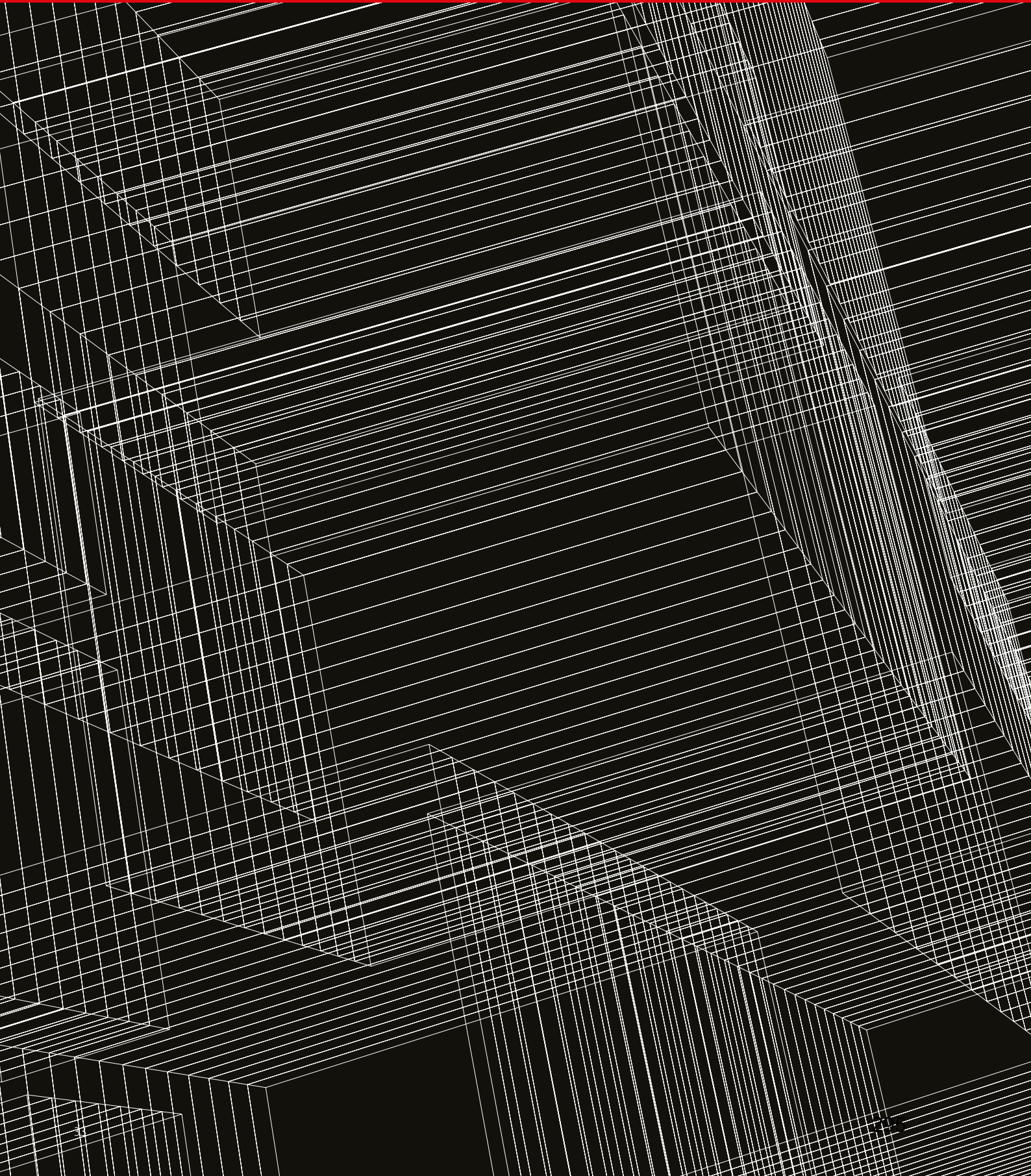
Fiona Wilkinson **5/5**  
Elected, South Western

Anthony Woodings **5/5**  
Elected, Manchester

ICAEW is a chartered body and operates in the public interest under the terms of our Royal Charter. We choose to measure our governance against the UK Corporate Governance Code, whose underlying principle is that our governance must support the delivery of our strategy. We are regulated by the FRC and other regulators, and we are statutory regulators for audit, insolvency, investment business and now the reserved legal service of probate. During 2015, a review of the relationship between council and the board was carried out with actions taken forward into 2016. We are a professional body with a member-elected council of 91 volunteers that represents the diversity of the profession. Our executive team is led by our chief executive Michael Izza. You can read more about how we apply the Code and our governance structure within the financial statements and at [icaew.com/review](http://icaew.com/review)

08

Financial review and  
summary financial  
statements





ICAEW's financial statements for 2015 include the charitable trusts associated with ICAEW together with our international subsidiaries. The commentary below relates primarily to the operating activities of ICAEW.

## Results

Total income was £101.6m, £10.1m higher than in 2014. Of this, £4.7m arose from Financial Reporting Council (FRC) fines; like for like operational income, excluding fines was £96.9m, up £6.4m on the same basis in 2014. Our operational surplus was £0.3m (2014: £nil) and the retained surplus after tax and FRC fines and cost recoveries for the year was £6.9m (2014: £2.4m).

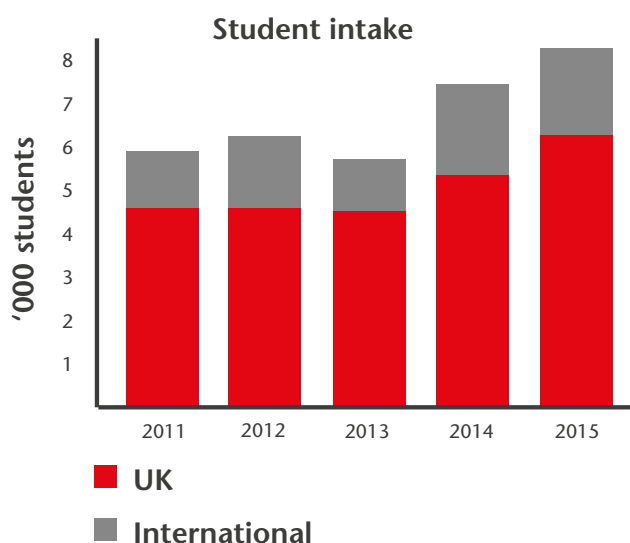
Membership income growth was £1.9m and was supplemented by growth in our student-related income and our commercial activities, enabling us to continue to invest in our strategy in the UK and internationally. Fines and cost recoveries of £6.6m were received from the FRC Conduct Committee (2014: £2.4m), contributing to a net FRC case cost surplus in the year of £3.3m (2014: charge £0.9m). This is the first such surplus to have arisen and despite these recoveries, the scheme remains a significant commitment for ICAEW. Since its inception, FRC Conduct Committee case costs provided have totalled £38.9m and ICAEW has made cash payments of £27.0m over the 12-year period. Fines and cost recoveries are £12.8m.

Net assets at 31 December 2015 were £43.2m, an increase of £10.9m over the 2014 net assets of £32.3m. Cash and cash equivalents ended the year at £10.3m, reflecting a net cash inflow of £5.4m in the year, after £1.8m contributions to reduce the pension scheme deficit and £4.3m cash contributions to FRC case costs. Total cash and investments stood at £47.0m at the end of the year, an increase of £6.7m on 2014.

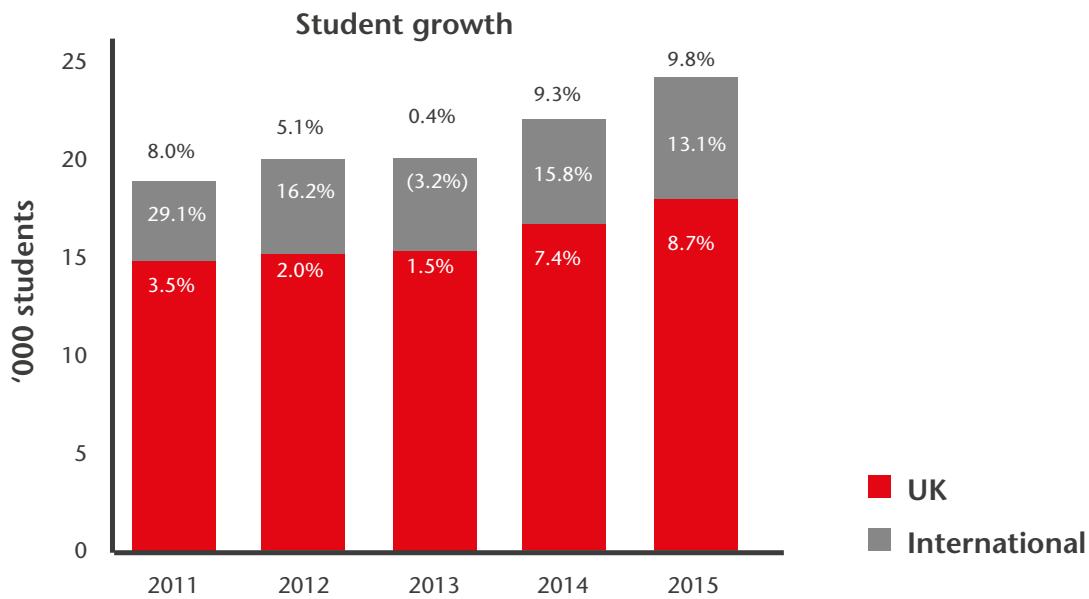
The consolidated outcome for the year, including the results of ICAEW's charitable trusts, was a surplus after tax of £7.2m (2014: £2.7m).

## Student and membership growth

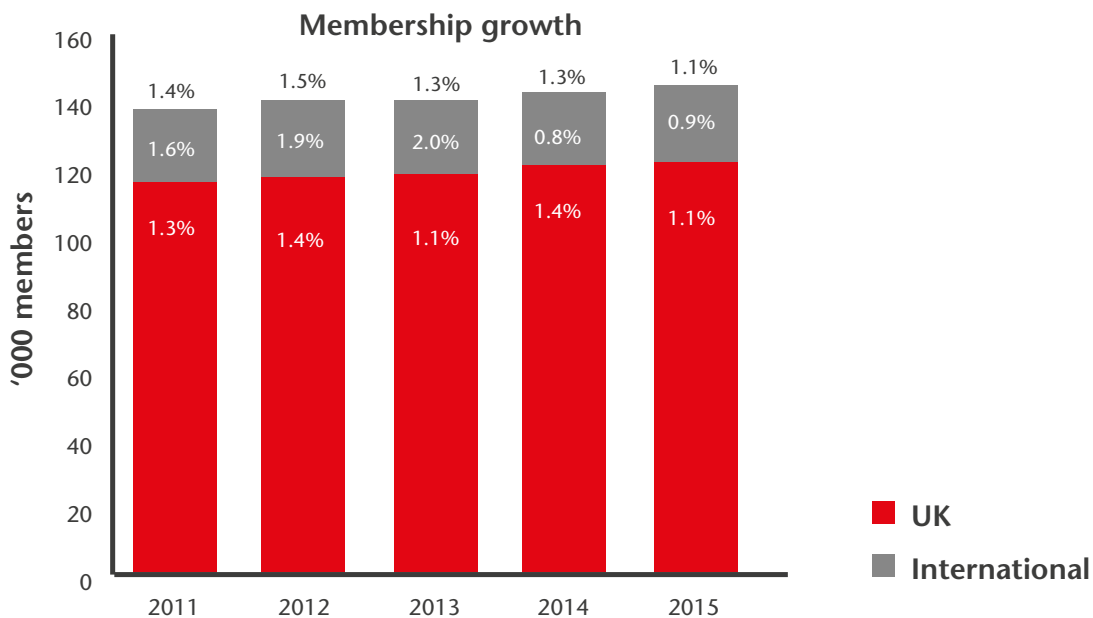
2015 saw another record ACA student intake of 8,256 – an increase of 930 on our previous record intake of 7,326 in 2014.



Total ACA student numbers at the end of 2015 stood at 24,149 (2014: 22,001). In addition 5,542 students signed up for our foundation level Certificate in Finance, Accounting and Business (CFAB) and University Scholarship Schemes, a further increase on last year's intake of 3,115.



In the year, membership grew to 145,746, from admissions of newly-qualified students to membership, together with reciprocal and similar arrangements with members of other institutes.



## Income

Revenue from members' fees and subscriptions rose by 4% to £45.2m, reflecting the continued steady growth in membership and membership rates. Income from our qualifications increased by £0.9m, reflecting the record ACA and CFAB intakes in 2015 and 2014.

Our regulatory income rose by £0.9m, reflecting the impact of our new regulatory areas. Our commercial income increased to £11.0m, (up £0.3m on 2014) with improved publication sales offsetting reduced income from our catering and room hire business, as a result of our Chartered Accountants' Hall refurbishment project and a difficult year for our leadership programmes.

## Expenditure

Operating expenditure increased to £94.7m, including the impact of FRC Conduct Committee case costs, and net of cost recoveries, described below.

The increase in student numbers resulted in an increase in student-related direct costs, including exams. We have continued to invest in our qualification, with the launch of alternative modules in 2016 and computer-based exams under development.

2015 also saw a further increase in our investment in member services, particularly internationally. We also saw an increase in depreciation and asset write offs as a direct consequence of our capital programme.

## FRC Conduct Committee case costs

During 2015 we charged costs of £7.1m to the income statement in relation to the FRC Conduct Committee case cost provision. This was offset by fines of £4.7m (2014: £1.0m) and cost recoveries of £1.9m (2014: £1.4m) imposed by FRC tribunals and returned to ICAEW, plus levy income of £3.8m. We expect to spend in the region of £5.0m in 2016.

The increased charge reflects the complexity of existing cases and their stage of development as well as initiation of new cases.

The fines and cost recoveries arose from six cases after lengthy processes and costs. The largest receipt was for the complaint against Deloitte and Touche in relation to alleged misconduct in their handling of the sale of MG Rover, resulting in fines of £3.2m and cost recoveries of £1.5m.

The FRC Conduct Committee carries out independent investigations of the work and conduct of chartered accountants, both in public practice and elsewhere, where this has given rise to public concern.

## Tax

The net corporation tax charge for the year was £nil (2014: £nil). As a mutual membership organisation, much of our income is exempt from corporation tax.

## Pensions

The IAS19 valuation at 31 December 2015 was a whole scheme surplus of £9.3m (2014: £2.8m). The pension asset is recognised as ICAEW considers that any surplus arising would be recoverable, assuming the gradual settlement of scheme liabilities over time.

ICAEW's defined benefits pension scheme was closed to further member benefit accrual in 2010. Employees in the scheme were invited to join ICAEW's defined contribution pension arrangements. The most recent triennial actuarial valuation showed a deficit of £24.9m at 31 March 2013. The trustee and ICAEW agreed deficit funding arrangements comprising annual payments of £1.8m from 1 January 2014 until the deficit is eliminated. With our support, the trustee has developed an investment strategy intended to make the scheme entirely self-sufficient by around 2025.

A charge remains over Chartered Accountants' Hall and the fund has an interest in up to £10.0m of our investment portfolio.

The scheme valuation has again been subject to the volatility in the financial markets. A desktop valuation of the technical funding position at 31 December 2015 estimated the scheme deficit at £11.0m, a reduction of £6.8m on the estimated valuation at December 2014 of £17.8m and a reduction of £13.9m from the March 2013 valuation. In the year, as part of its de-risking strategy, the trustee purchased a further buy-in annuity to match a subset of pensioner liabilities with ICAEW support. The next triennial valuation is due as at 31 March 2016.

## Financial position

Net assets at 31 December 2015 were £43.2m – an increase of £10.9m on the 2014 position.

During 2015, the market value of our long-term investments rose to £36.7m from £35.4m in 2014.



Trade and other payables were £37.8m (2014: £34.3m).  
Trade and other receivables were £10.4m (2014: £9.1m).

We have provided £11.9m (2014: £9.1m) of costs relating to the FRC Conduct Committee at 31 December 2015, reflecting their current case load. Case costs are forecast on the basis of the available information on actual or prospective cases. The accuracy of this forecast depends on assumptions made about the progress of individual cases and is subject to a significant degree of judgement. We do not take account of any potential future income from fines or cost recoveries from FRC Conduct Committee cases.

Other changes in net assets arose from the movements in the IAS 19 pension asset and a net cash inflow.

## Cash flow

Cash balances at 31 December 2015 were £10.3m. Net cash inflow was £5.4m compared to £0.6m in 2014. Our cash profile fluctuates on an annual cycle, this year peaking at £45.2m in February and bottoming out at £8.1m in November.

Funding of the FRC Conduct Committee case costs saw a cash outflow of £4.3m (2014: £5.1m).

ICAEW paid £1.8m (2014: £1.9m) of deficit funding to the Staff Pensions Fund, in line with the current agreement.

Capital expenditure increased to £6.7m (2014: £2.6m) reflecting the start of our programme to refurbish Chartered Accountants' Hall. We expect to incur £7.6m of capital expenditure in 2016, reflecting the continued investment in Chartered Accountants' Hall and our business systems.

## Report of the auditor

The auditor's report on the full accounts for the year ended 31 December 2015 was unqualified.

## Further information

The annual review is only part of ICAEW's annual accounts and reports; you can get full financial statements:

- online at [icaew.com/review](http://icaew.com/review);
- by emailing [fullaccounts@icaew.com](mailto:fullaccounts@icaew.com);
- or by writing to Andrew Fagg, Finance Director.

## Summary financial statements

### Summary group income statement

#### For the year ended 31 December 2015

|  | 2015         |                   |            | 2014         |                   |              |
|--|--------------|-------------------|------------|--------------|-------------------|--------------|
|  | Income<br>£m | Expenditure<br>£m | Net<br>£m  | Income<br>£m | Expenditure<br>£m | Net<br>£m    |
| Subscriptions and fees                         | 45.2         | -                 | 45.2       | 43.3         | -                 | 43.3         |
| Learning and professional development          | 11.3         | (17.4)            | (6.1)      | 10.4         | (15.6)            | (5.2)        |
| Professional standards                         | 16.4         | (15.1)            | 1.3        | 15.5         | (14.7)            | 0.8          |
| Commercial and shared services                 | 11.0         | (13.7)            | (2.7)      | 10.7         | (13.6)            | (2.9)        |
| Members  | 1.0          | (15.3)            | (14.3)     | 1.1          | (14.0)            | (12.9)       |
| Technical strategy                             | 4.7          | (9.4)             | (4.7)      | 4.3          | (9.1)             | (4.8)        |
| Central activities                             | 0.7          | (14.6)            | (13.9)     | 0.7          | (14.0)            | (13.3)       |
| Charitable trusts                              | 0.2          | (1.0)             | (0.8)      | 0.2          | (1.0)             | (0.8)        |
|  | <b>90.5</b>  | <b>(86.5)</b>     | <b>4.0</b> | <b>86.2</b>  | <b>(82.0)</b>     | <b>4.2</b>   |
| FRC Conduct Committee                          | 8.5          | (5.2)             | 3.3        | 3.2          | (4.1)             | (0.9)        |
| Other regulatory and professional associations | 1.1          | (3.0)             | (1.9)      | 1.0          | (3.0)             | (2.0)        |
|  | <b>9.6</b>   | <b>(8.2)</b>      | <b>1.4</b> | <b>4.2</b>   | <b>(7.1)</b>      | <b>(2.9)</b> |
| <b>Operating result</b>                        | <b>100.1</b> | <b>(94.7)</b>     | <b>5.4</b> | <b>90.4</b>  | <b>(89.1)</b>     | <b>1.3</b>   |
| Investment income                              | 1.9          | -                 | 1.9        | 1.5          | -                 | 1.5          |
| <b>Result before taxation</b>                  | <b>102.0</b> | <b>(94.7)</b>     | <b>7.3</b> | <b>91.9</b>  | <b>(89.1)</b>     | <b>2.8</b>   |
| Taxation                                       |              |                   | (0.1)      |              |                   | (0.1)        |
| <b>Net result after taxation for the year</b>  |              |                   | <b>7.2</b> |              |                   | <b>2.7</b>   |

#### Net result comprises:

|   |              |               |            |             |               |            |
|---|--------------|---------------|------------|-------------|---------------|------------|
| FRC fines and cost recoveries                 | 4.7          | 1.9           | 6.6        | 1.0         | 1.4           | 2.4        |
| Operational result                            | 97.3         | (96.7)        | 0.6        | 90.9        | (90.6)        | 0.3        |
| <b>Net result after taxation for the year</b> | <b>102.0</b> | <b>(94.8)</b> | <b>7.2</b> | <b>91.9</b> | <b>(89.2)</b> | <b>2.7</b> |

## Summary group statement of comprehensive income

|  | 2015               | 2014              |
|--|--------------------|-------------------|
|  | £m                 | £m                |
| Net result after taxation recognised in the income statement in the year | <u>7.2</u>         | <u>2.7</u>        |
| Items that may be reclassified subsequently to profit or loss:           |                    |                   |
| (Losses)/gains on revaluation of available for sale investments          | (1.2)              | 0.1               |
| Gains reclassified on disposal   | 0.9                | 0.5               |
| Items that will not be reclassified subsequently to profit or loss:      |                    |                   |
| Gains on revaluation of property, plant and equipment                    | -                  | 3.3               |
| Actuarial gains/(losses) recognised in the year                          | 4.6                | (0.8)             |
| Deferred tax   | <u>(0.2)</u>       | <u>(0.1)</u>      |
| Other comprehensive income in the year                                   | <b>4.1</b>         | <b>3.0</b>        |
| <b>Total comprehensive income in the year</b>                            | <b><u>11.3</u></b> | <b><u>5.7</u></b> |

## Summary ICAEW income statement for the year ended 31 December 2015

|  | 2015         |                   |            | 2014         |                   |              |
|--|--------------|-------------------|------------|--------------|-------------------|--------------|
|  | Income<br>£m | Expenditure<br>£m | Net<br>£m  | Income<br>£m | Expenditure<br>£m | Net<br>£m    |
| Subscriptions and fees                         | 45.2         | -                 | 45.2       | 43.3         | -                 | 43.3         |
| Learning and professional development          | 11.3         | (17.4)            | (6.1)      | 10.4         | (15.6)            | (5.2)        |
| Professional standards                         | 16.4         | (15.1)            | 1.3        | 15.5         | (14.7)            | 0.8          |
| Commercial and shared services                 | 11.0         | (13.7)            | (2.7)      | 10.7         | (13.6)            | (2.9)        |
| Members  | 1.0          | (15.3)            | (14.3)     | 1.1          | (14.0)            | (12.9)       |
| Technical strategy                             | 4.7          | (9.4)             | (4.7)      | 4.3          | (9.1)             | (4.8)        |
| Central activities                             | 0.7          | (14.1)            | (13.4)     | 0.7          | (13.5)            | (12.8)       |
|  | <b>90.3</b>  | <b>(85.0)</b>     | <b>5.3</b> | <b>86.0</b>  | <b>(80.5)</b>     | <b>5.5</b>   |
| FRC Conduct Committee                          | 8.5          | (5.2)             | 3.3        | 3.2          | (4.1)             | (0.9)        |
| Other regulatory and professional associations | 1.1          | (3.0)             | (1.9)      | 1.0          | (3.0)             | (2.0)        |
|  | <b>9.6</b>   | <b>(8.2)</b>      | <b>1.4</b> | <b>4.2</b>   | <b>(7.1)</b>      | <b>(2.9)</b> |
| Gift aid and library funding                   | -            | (1.5)             | (1.5)      | -            | (1.5)             | (1.5)        |
| <b>Operating result</b>                        | <b>99.9</b>  | <b>(94.7)</b>     | <b>5.2</b> | <b>90.2</b>  | <b>(89.1)</b>     | <b>1.1</b>   |
| Investment income                              | 1.7          | -                 | 1.7        | 1.3          | -                 | 1.3          |
| <b>Result before taxation</b>                  | <b>101.6</b> | <b>(94.7)</b>     | <b>6.9</b> | <b>91.5</b>  | <b>(89.1)</b>     | <b>2.4</b>   |
| Taxation                                       |              |                   | -          |              |                   | -            |
| <b>Net result after taxation for the year</b>  |              |                   | <b>6.9</b> |              |                   | <b>2.4</b>   |
| <b>Net result comprises:</b>                   |              |                   |            |              |                   |              |
| FRC fines and cost recoveries                  | 4.7          | 1.9               | 6.6        | 1.0          | 1.4               | 2.4          |
| Operational result                             | 96.9         | (96.6)            | 0.3        | 90.5         | (90.5)            | -            |
| <b>Net result after taxation for the year</b>  | <b>101.6</b> | <b>(94.7)</b>     | <b>6.9</b> | <b>91.5</b>  | <b>(89.1)</b>     | <b>2.4</b>   |

## Summary ICAEW statement of comprehensive income

|  | 2015<br>£m  | 2014<br>£m |
|--|-------------|------------|
| Net result after taxation recognised in the income statement in the year | 6.9         | 2.4        |
| Items that may be reclassified subsequently to profit or loss:           |             |            |
| Losses on revaluation of available for sale investments                  | (1.1)       | (0.4)      |
| Gains reclassified on disposal   | 0.9         | 0.5        |
| Items that will not be reclassified subsequently to profit or loss:      |             |            |
| Gains on revaluation of property, plant and equipment                    | -           | 3.3        |
| Actuarial gains/(losses) recognised in the year                          | 4.4         | (0.8)      |
| Deferred tax   | (0.2)       | (0.1)      |
| Other comprehensive income in the year                                   | <b>4.0</b>  | <b>2.5</b> |
| <b>Total comprehensive income in the year</b>                            | <b>10.9</b> | <b>4.9</b> |

## Summary statements of financial position as at 31 December 2015

|                                | Note | Group         |               | ICAEW         |               |
|--------------------------------|------|---------------|---------------|---------------|---------------|
|                                |      | 2015<br>£m    | 2014<br>£m    | 2015<br>£m    | 2014<br>£m    |
| Assets                         |      |               |               |               |               |
| Non-current assets             |      |               |               |               |               |
| Current assets                 | 2    | 87.3          | 76.3          | 73.7          | 63.0          |
| Total assets                   |      | 23.3          | 16.2          | 21.4          | 14.7          |
| Liabilities                    |      | <b>110.6</b>  | <b>92.5</b>   | <b>95.1</b>   | <b>77.7</b>   |
| Current liabilities            |      |               |               |               |               |
| Non-current liabilities        |      | (43.7)        | (39.9)        | (42.9)        | (39.4)        |
| Total liabilities              |      | (9.1)         | (6.1)         | (9.0)         | (6.0)         |
|                                |      | <b>(52.8)</b> | <b>(46.0)</b> | <b>(51.9)</b> | <b>(45.4)</b> |
| Total net assets               |      | <b>57.8</b>   | <b>46.5</b>   | <b>43.2</b>   | <b>32.3</b>   |
| Reserves                       |      |               |               |               |               |
| Revaluation reserve            |      |               |               |               |               |
| Investment revaluation reserve |      | 9.7           | 9.7           | 9.7           | 9.7           |
| Accumulated fund               |      | 4.0           | 4.2           | 4.0           | 4.2           |
| Other reserves                 |      | 25.1          | 13.9          | 24.0          | 13.0          |
| Charitable trusts              |      | 5.5           | 5.4           | 5.5           | 5.4           |
|                                |      | 13.5          | 13.3          | -             | -             |
|                                | 3    | <b>57.8</b>   | <b>46.5</b>   | <b>43.2</b>   | <b>32.3</b>   |

Approved on behalf of the council

*Andrew Ratcliffe*

Andrew Ratcliffe  
President  
12 April 2016

*Michael Izza*

Michael Izza  
Chief Executive  
12 April 2016

## Summary statements of cash flows for the year ended 31 December 2015

|  | Group       |            | ICAEW       |            |
|--|-------------|------------|-------------|------------|
|  | 2015<br>£m  | 2014<br>£m | 2015<br>£m  | 2014<br>£m |
| Cash generated from operating activities                     | 18.0        | 9.9        | 18.0        | 10.0       |
| Cash outflow on pension liabilities                          | (1.8)       | (1.9)      | (1.8)       | (1.9)      |
| Cash outflow on FRC Conduct Committee                        | (4.3)       | (5.1)      | (4.3)       | (5.1)      |
| Tax paid   | (0.1)       | (0.1)      | -           | -          |
| Purchase of property, plant and equipment                    | (4.6)       | (1.4)      | (4.6)       | (1.4)      |
| Purchase of intangible assets                                | (2.1)       | (1.2)      | (2.1)       | (1.2)      |
| Net disposal of available for sale investments               | (0.8)       | (0.7)      | (0.7)       | (0.7)      |
| Investment income received                                   | 1.2         | 1.1        | 0.9         | 0.9        |
| <b>Net increase in cash and cash equivalents in the year</b> | <b>5.5</b>  | <b>0.6</b> | <b>5.4</b>  | <b>0.6</b> |
| Net cash and cash equivalents at 1 January                   | 5.3         | 4.7        | 4.9         | 4.3        |
| <b>Net cash and cash equivalents at 31 December</b>          | <b>10.8</b> | <b>5.3</b> | <b>10.3</b> | <b>4.9</b> |

## Notes to the summary financial statements for the year ended 31 December 2015

### 1. Basis of preparation

The summary financial statements have been extracted from ICAEW's full financial statements for the year ended 31 December 2015, which have been prepared in accordance with International Financial Reporting Standards, and under the historical cost convention as modified by the revaluation of properties and available for sale investments.

### 2. Non-current assets

|  | Group       |             | ICAEW       |             |
|--|-------------|-------------|-------------|-------------|
|  | 2015<br>£m  | 2014<br>£m  | 2015<br>£m  | 2014<br>£m  |
| Carrying amounts                       |             |             |             |             |
| Property, plant and equipment          | 23.7        | 21.3        | 23.7        | 21.3        |
| Intangible assets                      | 4.0         | 3.2         | 4.0         | 3.2         |
| Investments in associated undertakings | 0.1         | 0.1         | -           | -           |
| Available for sale investments         | 50.2        | 48.9        | 36.7        | 35.4        |
| Pension asset                          | 9.3         | 2.8         | 9.3         | 3.1         |
|  | <b>87.3</b> | <b>76.3</b> | <b>73.7</b> | <b>63.0</b> |

### 3. Reserves

#### Group

|   | Revaluation<br>reserve<br>£m | Investment<br>revaluation<br>reserve<br>£m | Accumulated<br>fund<br>£m | Other<br>reserves<br>£m | Charitable<br>trusts<br>£m | Total<br>£m |
|---|------------------------------|--|---------------------------|-------------------------|----------------------------|-------------|
| <b>Reserves at 1 January 2015</b>                                       | <b>9.7</b>                   | <b>4.2</b>                                 | <b>13.9</b>               | <b>5.4</b>              | <b>13.3</b>                | <b>46.5</b> |
| Net result after taxation   | -                            | -  | 7.1                       | -                       | 0.1                        | 7.2         |
| Net change in market value of long-term<br>investments over cost        | -                            | (0.2)                                      | -                         | -                       | (0.1)                      | (0.3)       |
| Actuarial gains recognised in year on defined<br>benefit pension scheme | -                            | -  | 4.3                       | 0.1                     | 0.2                        | 4.6         |
| Deferred tax attributable to above                                      | -                            | -  | (0.2)                     | -                       | -                          | (0.2)       |
| Total other comprehensive income in the year                            | -                            | (0.2)                                      | 4.1                       | 0.1                     | 0.1                        | 4.1         |
| Total comprehensive income in the year                                  | -                            | (0.2)                                      | 11.2                      | 0.1                     | 0.2                        | 11.3        |
| <b>Reserves at 31 December 2015</b>                                     | <b>9.7</b>                   | <b>4.0</b>                                 | <b>25.1</b>               | <b>5.5</b>              | <b>13.5</b>                | <b>57.8</b> |

#### ICAEW

|   | Revaluation<br>reserve<br>£m | Investment<br>revaluation<br>reserve<br>£m | Accumulated<br>fund<br>£m | Other<br>reserves<br>£m | Total<br>£m |
|---|------------------------------|--|---------------------------|-------------------------|-------------|
| <b>Reserves at 1 January 2015</b>                                       | <b>9.7</b>                   | <b>4.2</b>                                 | <b>13.0</b>               | <b>5.4</b>              | <b>32.3</b> |
| Net result after taxation   | -                            | -  | 6.9                       | -                       | 6.9         |
| Net change in market value of long-term<br>investments over cost        | -                            | (0.2)                                      | -                         | -                       | (0.2)       |
| Actuarial gains recognised in year on defined<br>benefit pension scheme | -                            | -  | 4.3                       | 0.1                     | 4.4         |
| Deferred tax attributable to above                                      | -                            | -  | (0.2)                     | -                       | (0.2)       |
| Total other comprehensive income in the year                            | -                            | (0.2)                                      | 4.1                       | -                       | 4.0         |
| Total comprehensive income in the year                                  | -                            | (0.2)                                      | 11.0                      | 0.1                     | 10.9        |
| <b>Reserves at 31 December 2015</b>                                     | <b>9.7</b>                   | <b>4.0</b>                                 | <b>24.0</b>               | <b>5.5</b>              | <b>43.2</b> |

### Summary corporate governance statement

The council has adopted the provisions of section 1 of the UK Corporate Governance Code (September 2012) prepared by the committee on corporate governance, to the extent appropriate. During the year the council has monitored and assessed key risks in compliance with the guidance Internal control: guidance for directors on the combined code. The full corporate governance statement is set out in the financial statements for the year ended 31 December 2015.



ICAEW is a world leading professional membership organisation that promotes, develops and supports over 145,000 chartered accountants worldwide. We provide qualifications and professional development, share our knowledge, insight and technical expertise, and protect the quality and integrity of the accountancy and finance profession.

As leaders in accountancy, finance and business our members have the knowledge, skills and commitment to maintain the highest professional standards and integrity. Together we contribute to the success of individuals, organisations, communities and economies around the world.

**Because of us, people can do business with confidence.**

ICAEW is a founder member of Chartered Accountants Worldwide and the Global Accounting Alliance.

[www.charteredaccountantsworldwide.com](http://www.charteredaccountantsworldwide.com)  
[www.globalaccountingalliance.com](http://www.globalaccountingalliance.com)


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# Building the accountancy profession of the future

Financial statements 2015

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**The role of ICAEW Chartered Accountants in the world's economies has never been more important. People making financial decisions need knowledge and guidance based on the highest technical and ethical standards.**

**Our members provide this better than anyone. They challenge people and organisations to think and act differently, to provide clarity and rigour, and so help create and sustain prosperity.**

**As their institute, we create the environment in which those skills are constantly developed, recognised and valued. We shape opinion, understanding and delivery, to ensure the highest standards in business and in the public interest.**

**Because of us, people can do business with confidence.**

These financial statements should be read in conjunction with ICAEW's annual review 2015



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# 01 Financial review

ICAEW's financial statements for 2015 include the charitable trusts associated with ICAEW together with our international subsidiaries. The commentary below relates primarily to the operating activities of ICAEW.

## Results

Total income was £101.6m, £10.1m higher than in 2014. Of this, £4.7m arose from Financial Reporting Council (FRC) fines; like for like operational income, excluding fines was £96.9m, up £6.4m on the same basis in 2014. Our operational surplus was £0.3m (2014: £nil) and the retained surplus after tax and FRC fines and cost recoveries for the year was £6.9m (2014: £2.4m).

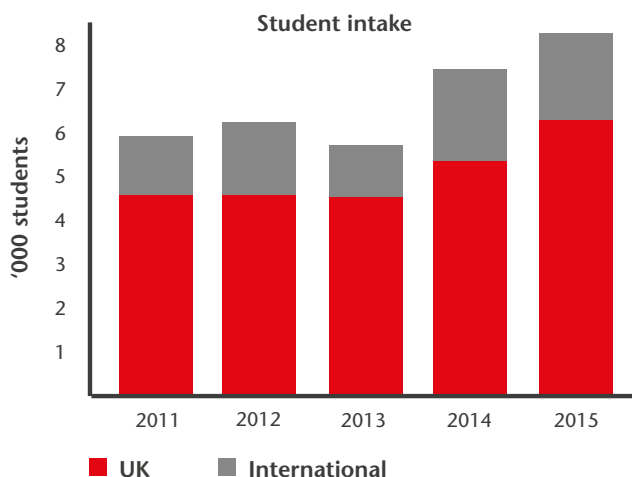
Membership income growth was £1.9m and was supplemented by growth in our student-related income and our commercial activities, enabling us to continue to invest in our strategy in the UK and internationally. Fines and cost recoveries of £6.6m were received from the FRC Conduct Committee (2014: £2.4m), contributing to a net FRC case cost surplus in the year of £3.3m (2014: charge £0.9m). This is the first such surplus to have arisen and despite these recoveries, the scheme remains a significant commitment for ICAEW. Since its inception, FRC Conduct Committee case costs provided have totalled £38.9m and ICAEW has made cash payments of £27.0m over the 12-year period. Fines and cost recoveries are £12.8m.

Net assets at 31 December 2015 were £43.2m, an increase of £10.9m over the 2014 net assets of £32.3m. Cash and cash equivalents ended the year at £10.3m, reflecting a net cash inflow of £5.4m in the year, after £1.8m contributions to reduce the pension scheme deficit and £4.3m cash contributions to FRC case costs. Total cash and investments stood at £47.0m at the end of the year, an increase of £6.7m on 2014.

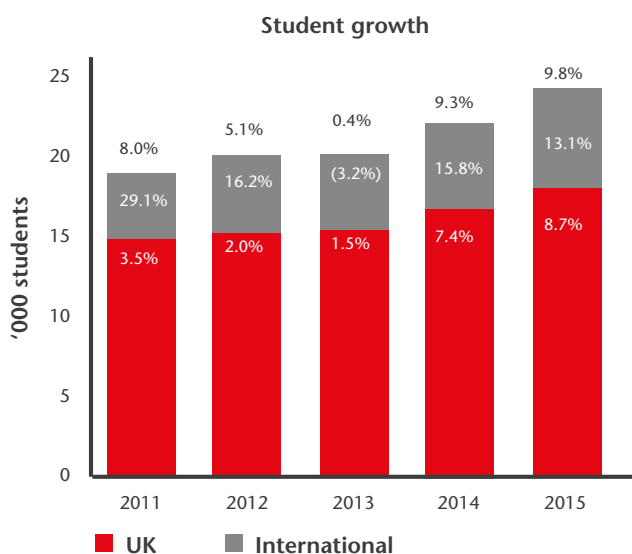
The consolidated outcome for the year, including the results of ICAEW's charitable trusts, was a surplus after tax of £7.2m (2014: £2.7m).

## Student and membership growth

2015 saw another record ACA student intake of 8,256 – an increase of 930 on our previous record intake of 7,326 in 2014.



Total ACA student numbers at the end of 2015 stood at 24,149 (2014: 22,001). In addition 5,542 students signed up for our foundation level Certificate in Finance, Accounting and Business (CFAB) and University Scholarship Schemes, a further increase on last year's intake of 3,115.



In the year, membership grew to 145,746, from admissions of newly-qualified students to membership, together with reciprocal and similar arrangements with members of other institutes.



## Income

Revenue from members' fees and subscriptions rose by 4% to £45.2m, reflecting the continued steady growth in membership and membership rates. Income from our qualifications increased by £0.9m, reflecting the record ACA and CFAB intakes in 2015 and 2014.

Our regulatory income rose by £0.9m, reflecting the impact of our new regulatory areas. Our commercial income increased to £11.0m, (up £0.3m on 2014) with improved publication sales offsetting reduced income from our catering and room hire business, as a result of our Chartered Accountants' Hall refurbishment project and a difficult year for our leadership programmes.

## Expenditure

Operating expenditure increased to £94.7m, including the impact of FRC Conduct Committee case costs, and net of cost recoveries, described below.

The increase in student numbers resulted in an increase in student-related direct costs, including exams. We have continued to invest in our qualification, with the launch of alternative modules in 2016 and computer-based exams under development.

2015 also saw a further increase in our investment in member services, particularly internationally. We also

saw an increase in depreciation and asset write offs as a direct consequence of our capital programme.

## FRC Conduct Committee case costs

During 2015 we charged costs of £7.1m to the income statement in relation to the FRC Conduct Committee case cost provision. This was offset by fines of £4.7m (2014: £1.0m) and cost recoveries of £1.9m (2014: £1.4m) imposed by FRC tribunals and returned to ICAEW, plus levy income of £3.8m. We expect to spend in the region of £5.0m in 2016.

The increased charge reflects the complexity of existing cases and their stage of development as well as initiation of new cases.

The fines and cost recoveries arose from six cases after lengthy processes and costs. The largest receipt was for the complaint against Deloitte and Touche in relation to alleged misconduct in their handling of the sale of MG Rover, resulting in fines of £3.2m and cost recoveries of £1.5m.

The FRC Conduct Committee carries out independent investigations of the work and conduct of chartered accountants, both in public practice and elsewhere, where this has given rise to public concern.

## Tax

The net corporation tax charge for the year was £nil (2014: £nil). As a mutual membership organisation, much of our income is exempt from corporation tax.

## Pensions

The IAS 19 valuation at 31 December 2015 was a whole scheme surplus of £9.3m (2014: £2.8m). The pension asset is recognised as ICAEW considers that any surplus arising would be recoverable, assuming the gradual settlement of scheme liabilities over time.

ICAEW's defined benefits pension scheme was closed to further member benefit accrual in 2010. Employees in the scheme were invited to join ICAEW's defined contribution pension arrangements. The most recent triennial actuarial valuation showed a deficit of £24.9m at 31 March 2013. The trustee and ICAEW agreed deficit funding arrangements comprising annual payments of £1.8m from 1 January 2014 until the



deficit is eliminated. With our support, the trustee has developed an investment strategy intended to make the scheme entirely self-sufficient by around 2025.

A charge remains over Chartered Accountants' Hall and the fund has an interest in up to £10.0m of our investment portfolio.

The scheme valuation has again been subject to the volatility in the financial markets. A desktop valuation of the technical funding position at 31 December 2015 estimated the scheme deficit at £11.0m, a reduction of £6.8m on the estimated valuation at December 2014 of £17.8m and a reduction of £13.9m from the March 2013 valuation. In the year, as part of its de-risking strategy, the trustee purchased a further buy-in annuity to match a subset of pensioner liabilities with ICAEW support. The next triennial valuation is due as at 31 March 2016.

Further details are given in note 28 to the financial statements including details of the different bases for the actuarial valuation and IAS 19 valuation.

## Financial position

Net assets at 31 December 2015 were £43.2m – an increase of £10.9m on the 2014 position.

During 2015, the market value of our long-term investments rose to £36.7m from £35.4m in 2014.

Trade and other payables were £37.8m (2014: £34.3m). Trade and other receivables were £10.4m (2014: £9.1m).

We have provided £11.9m (2014: £9.1m) of costs relating to the FRC Conduct Committee at 31 December 2015, reflecting their current case load. Case costs are forecast on the basis of the available information on actual or prospective cases. The accuracy of this forecast depends on assumptions made about the progress of individual cases and is subject to a significant degree of judgement. We do not take account of any potential future income from fines or cost recoveries from FRC Conduct Committee cases.

Other changes in net assets arose from the movements in the IAS 19 pension asset and a net cash inflow.

## Cash flow

Cash balances at 31 December 2015 were £10.3m. Net cash inflow was £5.4m compared to £0.6m in 2014. Our cash profile fluctuates on an annual cycle, this year peaking at £45.2m in February and bottoming out at £8.1m in November.

Funding of the FRC Conduct Committee case costs saw a cash outflow of £4.3m (2014: £5.1m).

ICAEW paid £1.8m (2014: £1.9m) of deficit funding to the Staff Pensions Fund, in line with the current agreement.

Capital expenditure increased to £6.7m (2014: £2.6m) reflecting the start of our programme to refurbish Chartered Accountants' Hall. We expect to incur £7.6m of capital expenditure in 2016, reflecting the continued investment in Chartered Accountants' Hall and our business systems.

## Reserves policies

Our agreed reserves policies ensure that ICAEW reserves are set at a level sufficient to cover both short-term requirements and longer term investment needs:

- reserves should be set at a level equivalent to between three and six months of expenditure through the income statement; and
- cash and investment balances should be at least sufficient to cover between three and six months of annual budgeted/forecast gross cash expenditure.

We are managing our capital investment programme, our pension commitments and our financial position in order to maintain these reserve needs and mitigate any impact on members and member services.

## Charitable trusts

The difference between the result of ICAEW and that of the group is mainly a result of donations received by ICAEW Foundation in the year together with investment income received by the trusts during the year.

During the year we made donations under gift aid to our charitable trusts amounting to £1.5m (2014: £1.5m). ICAEW's charitable trusts continued to run the Library and Information Service and also approved grants in the year of £0.2m (2014: £0.2m).

## Political donations

During the year, as part of its policy engagement, ICAEW supported a number of activities with political and politically affiliated organisations. This included a small number of events for political parties and a number of business and party conference events including hosting roundtables; costs, including donations in kind, associated with these activities totalled £57,000.

## Our sustainability commitment

As a professional membership organisation, we represent a common voice for our members and the profession. We believe that the successful business of the future will be a sustainable business. As a profession we support economic development and prosperity, and as an organisation our vision is to have a net positive impact on the economy, society and environment.

There are three main ways in which we implement this.

- Economy – the provision of accurate, trusted information is central to the success of an economic system and this is what the profession does. We bring people together to share their views, are involved in research, and produce guidance for the wider business community on sustainability. This work helps us to support business to deliver long-term sustainable economic value and people to do business with confidence.
- Society – we recognise the impact we make on society. We believe that financial capability, social mobility and fundraising are essential to long-term economic success. We engage in various activities and programmes which support staff, individuals, organisations and communities around the world.
- Environment – we recognise that business has a significant impact on the environment, and although ICAEW does not operate in a business sector which causes significant pollution, we aim to promote and follow environmental practices, and reduce the negative impacts of our activities. On an international scale, we convene the debate on natural capital policy in government forums and financial institutions.

## Going concern and long-term viability

The financial statements have been prepared on a going concern basis.

In addition to the shorter-term going concern review, council has assessed the viability of ICAEW over a three-year period. Council receives and approves a three-year operational plan each year, which comprises forecast income statements, cash flow summaries, statements of financial position and key non-financial indicators. The operational plan includes both medium and long-term planning (including our reserves strategy which looks forward for c20 years at high level). However, the focus is on the three-year planning horizon which carries a greater confidence level.

Income visibility is relatively strong as a result of the long-term nature of membership and the time taken for students to qualify and enter membership. Cash and investment reserves are held to provide protection against unexpected significant changes in the operating environment.

The plan is prepared by management and reviewed by board and council, taking into account our latest risk assessment, key sensitivities and strategic priorities. This plan forms the basis of the monthly management accounts, the quarterly forecasts and the quarterly strategic reports which are reviewed by board and council.

ICAEW's business activities, together with the factors likely to affect its future development, performance and position are set out above, as well as in our annual review 2015. Principal risks which may affect future development are set out below. The financial position of ICAEW, its cash flows and liquidity position are described in the financial review above. In addition the accounting policies include ICAEW's objectives, policies and processes for managing its reserves, its financial risk management objectives, details of its hedging activities and its exposure to liquidity risk.

Council believes that ICAEW has adequate financial resources and is well placed to manage its business risks successfully having regard to the current economic outlook and market conditions and possible short-term funding needs, such as FRC Conduct Committee case costs. As a result, the going concern basis is considered appropriate. Council also has a reasonable expectation that ICAEW has adequate

resources to be able to continue in operation and meet its liabilities as they fall due for the three years to 31 December 2018.

## Internal control

Council is responsible for ICAEW's system of internal control and for reviewing its effectiveness. The audit committee, on behalf of council, reviews the effectiveness of the system and reports to council thereon. This is done on the basis of information and regular reports provided by management, internal audit and the external auditors. The system of internal control is designed to manage rather than eliminate the risk of failure to achieve business objectives. It can provide only reasonable, but not absolute, assurance against material misstatement or loss. It includes all controls including financial, operational, compliance and risk management.

The key elements of the system of internal control are listed below.

### Risk management

The council, through the board, audit committee, chief executive and executive directors, has an established and continuous process for identifying, evaluating and managing the significant risks faced by ICAEW. This process has been in place for the whole of 2015 and has continued up to the date on which this document was approved.

Each department identifies and reviews the risks faced by ICAEW, assessing both the controls in place and key actions required to manage the significant risks. These assessments are reported regularly to the audit committee, board and council. Directors also report regularly to the board on any changes in risks and key risk highlights. The board considers at each meeting any issues arising in respect of the principal risks, any emerging or new reputational risks, and the velocity of any current or new risks and issues.

The assessment of risk is linked with the evolving ICAEW strategy in compliance with the Guidance on Risk Management, Internal Control and Related Financial and Business Reporting (September 2014).

Annually in March, the council undertakes a review to consider:

- the application of the risk management processes;
- reports on risk and internal control from the board;

- reports on internal control from the audit committee; and
- how the risks have changed over the period under review and any significant issues.

The board formally reviews risk twice a year. Management puts in place the appropriate mitigation strategies. In reviewing the risks, the board considers whether management has appropriately assessed the risk by challenging the risk rating, whether the action taken to address and mitigate the risk is effective, and whether the timescales are appropriate. The board also considers whether there are other risks that should be reviewed and advises management accordingly. Over the year the board has considered a diverse range of risks and mitigation strategies, including the following principal risks.

## Principal risks

| Risk   | Gross risk | Current risk management activity  | Net current risk | Planned risk management activity   |
|--|------------|---|------------------|--|
| <p><b>Our relevance to firms and demand for future skills</b></p> <p>The risk that a key firm (or combination of firms) move away from business models that are resourced by a core set of ACA-trained accountants, or that they develop an externally-recognised qualification.</p> <p>The scope of this risk could include: regulatory changes, competitors' actions or market changes.</p>  | High       | Our activity to mitigate this risk includes: active stakeholder management; intelligence and insight with firms, regulators, competitors and the market. We are working with firms to develop training solutions that ensure we are the professional body of choice across their international networks.  | High             | Further development of qualifications and designations to meet market demand.  |
| <p><b>The changing nature of the global competitive environment</b></p> <p>The risk that external changes result in professional bodies losing relevance or ICAEW falling behind in the marketplace and being unable to execute strategy in the public interest.</p> <p>The scope of this risk could include: legislative and regulatory changes (including legal services); our products and partnerships; competitors' mergers and innovations.</p>  | High       | <p>Our activity to mitigate this risk includes: actively influencing the debate about the future of the finance industry, developing wider regulatory offerings and offering further services for firms and members.</p> <p>Our activity to mitigate this risk includes: developing the IRB, close engagement with the FRC, BIS, Ministry of Justice and dialogue with the Legal Services Board; developing robust arguments in support of the role of ICAEW as a regulator in the public interest; developing alliances in support of the ICAEW position.</p> <p>Maintaining close relationships with partner and competitor bodies.</p> | Medium           | <p>Complete IRB set up in 2016.</p> <p>Further services to spread risk.</p>  |
| <p><b>The loss of public trust</b></p> <p>The risk that a global financial crash, debt crisis or financial scandal causes the public to lose trust in the profession and finance institutions, reducing our ability to support members, undermining our disciplinary and regulatory roles and hampering our ability to act in the public interest.</p> <p>The scope of this risk includes: high profile disciplinary cases; technical and public interest issues.</p>  | High       | While the promotion of ethics in our members and good corporate behaviour generally is undoubtedly a positive, at a macro level there is little we can realistically do to substantially mitigate the likelihood of the next big financial crisis or corporate scandal. Therefore our actions are focused on mitigating impact on ICAEW, chartered accountants and the profession.  | High             | Our activity to mitigate this risk includes: ongoing and direct engagement with organisations such as the PRA, FRC and firms, and monitoring media, complaints and regulatory activities.  |
| <p><b>Data management</b></p> <p>The risk of data mismanagement events such as the handling of client/student data, or breakdown of ACA assessment process or procedure, or use of data relating to elections.</p> <p>The resulting damage could be to our reputation, operations or both. The likelihood and potential impact of this risk grows as we expand internationally.</p> <p>The scope of this risk could include: fraud or human error, technical failure relating to data systems or a breakdown in the assessment processes and procedures.</p> | High       | Our activity to mitigate this risk includes: Payment Card Industry (PCI) compliance; intensive test programmes and spot checks for systems and processes and a voice recognition system to reduce human intervention.   | High             | The business systems project will reduce the reliance on spreadsheets and offline data handling.   |
| <p><b>Data security</b></p> <p>The risk that there is a failure or breach of physical or cyber security systems (eg, as a result of a cyber-attack), resulting in damage to reputation and disruption to operations. The likelihood and impact of this risk grows as we expand internationally.</p> <p>The scope of this risk could include: failure or breach of system security leading to unauthorised access to ICAEW.</p>   | High       | <p>Our activity to mitigate this risk includes: audits to ensure staff have the appropriate application security access; system penetration tests undertaken by a specialist organisation; PCI compliance testing; and active monitoring of exam pass rates.</p> <p>Information security assessment is now mandatory in the process for new supplier and contract approval.</p>   | Medium           | <p>We will use the business systems transformation project as an opportunity to review and improve implementation of the security policy for internal applications. This will include a formal register of information assets.</p> <p>The information security policy which is currently based on ISO27001:2005 will be updated to be consistent with the latest ISO27001:2013 standard.</p> |

**Principal risks** are owned by executive directors and delivery of mitigating actions is built into our strategy and operational plan. They are reviewed by the board at every board meeting. The board's assessment of the impact of risk management is shown in the annual review.

We confirm that there have been no significant failings or weaknesses in our internal controls in 2015.

# 02 Corporate governance statement

## Our approach to governance

ICAEW is a chartered body and operates under the terms of its Royal Charter, bye-laws and regulations. We are committed to the highest standards of corporate governance as set out in the UK Corporate Governance Code as revised by the Financial Reporting Council (FRC) in September 2014.

ICAEW confirms that it complies with the UK Corporate Governance Code on a 'comply or explain' basis. We operate within regulatory oversight of the FRC, as a Recognised Supervisory Body, a Recognised Qualifying Body, a Designated Professional Body, and as a Licensor of Insolvency Practitioners. We are also regulated for reserved legal activities by the Legal Services Board.

## Our structure

Our governance structure is designed to safeguard our future, enhance its prosperity and ensure its integrity. Council delegates to the board and committees through a series of delegated authorities and assurance mechanisms, while ensuring that the views of the profession are heard. Council continues to review regularly the roles, responsibilities and effectiveness of council, the board and committees to ensure that they remain fit for purpose. During 2015, a review of the relationship between council and the board was carried out with actions taken forward into 2016.

## AGM and member meetings

The Charter and bye-laws reserve certain matters to members. This includes consideration of the annual review and the financial statements with the report of the auditor.

## ICAEW council

Council considers reviews and approves strategy, operational plans and budgets proposed by the board. It represents and articulates the views of members on all these matters and otherwise delegates the powers and authorities conferred on it by the Charter and bye-laws to boards and committees and to the chief executive, within an overall framework of financial approval limits.

In 2015, council met five times. The majority of council members are directly elected by ICAEW members, with the remainder co-opted or ex officio. Council

elects its chairman annually from among its members. You will find brief details of each council member, including their status and record of attendance at council meetings in 2015, in the annual review. As at 31 December 2015, it comprised 91 members.

## Council, board and committee induction

All newly-elected and appointed council and board members attend an initial induction session, usually arranged around the AGM. The induction session gives new members the chance to find out more about the structure of ICAEW, the development of its strategy, and any key issues which are currently before council. The session is chaired by the president, and new members have the opportunity to ask questions of the office-holders, the chief executive and senior staff. Each standing committee is also asked to organise, as early as possible in the council year, a training session for its members on key areas falling within the remit of the committee. Council has adopted a values statement for members of council, our boards and committees that provides a framework of duties in recognition of their collective responsibilities to further the strategic aims of the organisation.

## Council member interests

Council members do not receive remuneration. They are reimbursed for travel and subsistence costs incurred on ICAEW business. They may receive other payments, on a normal commercial basis, particularly in connection with lecturing and writing. Each member of council declares any interests which might lead to conflict and updates the declaration at least annually. Members of council, the board and all our committees are also invited to identify and declare any potential conflicts of interest at each meeting.

## The board

Our board is responsible for monitoring the development and implementation of our strategy, including review of risk. The chief executive reports monthly to the board on principal risks and on key activities; quarterly to the board on implementation of the operational plan; and, formally twice a year on the management of risk. The executive directors report to each board meeting on performance against departmental plans. The finance director reports to each meeting on financial performance. The board

reports on its activities to each council meeting. In 2014, the board carried out an independent external evaluation of its performance, with actions taken in 2015 around board priorities and structure.

The board comprises principally council members ex officio, and senior executives. Council elects three of its members directly to the board for a two-year term. The elected members fulfil the role of ‘senior independent director’. The board also welcomed Michael Stewart and Jill May, two independent, non-chartered accountants to the board on 29 June 2015. Members of the board bring a wide range of stakeholder views as a result of their involvement with departmental boards or the general membership.

### The office-holders

|                         | To 3 June        | From 3 June      |
|-------------------------|------------------|------------------|
| <b>President</b>        | Arthur Bailey    | Andrew Ratcliffe |
| <b>Deputy-President</b> | Andrew Ratcliffe | Hilary Lindsay   |
| <b>Vice-President</b>   | Hilary Lindsay   | Nick Parker      |

The office-holders have no formal personal powers other than the procedural matters specified in the principal bye-laws. They have an ambassadorial role, meeting members and stakeholders and promoting ICAEW. They represent the views of council and the wider accountancy profession and ensure that these are taken into account in the development of ICAEW strategy and policies.

They counsel and advise the chief executive. The president chairs the annual and special meetings of members and the ICAEW board. All office-holders (and council members) are non-executives.

The president serves a one-year term with council electing a vice-president annually to succeed the deputy-president and, in turn, president. The nature of the organisation will mean that the office-holders will sometimes have a connection with member firms and groups. Any potential conflict is identified and declared as outlined above.

### The chief executive

The chief executive, Michael Izza, operates within the framework of delegations approved by council.

Reporting to the president, he is responsible for the overall management of ICAEW, for the development and implementation of strategy, and for ensuring that ICAEW operates economically, efficiently and effectively. He also has a representational role, building effective relationships with members and with governments, regulators, other public bodies and the media.

The chief executive and executive directors are appointed on permanent contracts following appointment by a senior staff appointments committee comprising senior council members and advisers. They are not subject to regular election by members. Nonetheless, their performance is reviewed annually by the remuneration committee, which reports to the board accordingly.

### Diversity

We give a voice to all members and are committed to equality and diversity with the aim to represent the profession as a whole. Moreover, the membership of council, boards and committees should have the appropriate balance of skills, experience, independence and knowledge to enable them to discharge their respective duties and responsibilities effectively, while ensuring the engagement of the best person for the job.



## ICAEW board

The members of the board (for whom you can find brief biographical details on the ICAEW website at [Home/Who we are/Governance/ICAEW board](#)) during 2015 were:

|                          | Position  | Appointed | Retired | Attendance |
|--------------------------|---|-----------|---------|------------|
| <b>Paul Aplin*</b>       | elected by council<br>partner, A C Mole & Sons  | 26 June   |         | 3/4        |
| <b>Andrew Baigent*</b>   | chair, learning and professional development board director,<br>group financial management, Department of Health                                    |           | 3 June  | 4/4        |
| <b>Arthur Bailey*</b>    | president (to 3 June), past president (from 3 June)<br>consultant, Begbies Traynor group and non-executive<br>director consultant to Kingston Smith |           | 3 June  | 4/4        |
| <b>Ian Davies*</b>       | elected by council<br>deputy chair, BMT Group Limited<br>senior independent director, Harvey Nash plc   |           |         | 8/8        |
| <b>Howard Gross*</b>     | chair, members board<br>chief executive, Gross Klein  |           |         | 8/8        |
| <b>Sharron Gunn</b>      | executive director, commercial  |           |         | 8/8        |
| <b>Robert Hodgkinson</b> | executive director, technical strategy  |           |         | 8/8        |
| <b>Michael Izza</b>      | chief executive   |           |         | 8/8        |
| <b>Hilary Lindsay*</b>   | vice-president (to 3 June), deputy-president (from 3 June)<br>researcher, The Open University   |           |         | 7/8        |
| <b>Jill May</b>          | panel member, non-executive director, Competition and<br>Markets Authority  | 29 June   |         | 3/4        |
| <b>David Matthews*</b>   | chair, technical strategy board<br>head of quality and risk management, KPMG LLP  |           |         | 7/8        |
| <b>Nick Parker*</b>      | vice-president (from 3 June)<br>tax partner, RSM Tax & Advisory Services LLP  |           |         | 7/8        |
| <b>Mark Protherough</b>  | executive director, learning and professional development   |           |         | 6/8        |
| <b>Andrew Ratcliffe*</b> | deputy-president (to 3 June), president and chair (from 3<br>June)  |           |         | 8/8        |
| <b>Samantha Russell*</b> | chair, learning and professional development board<br>partner, Mazars   | 3 June    |         | 4/4        |
| <b>Liz Rylatt</b>        | executive director, finance, operations and members   |           |         | 8/8        |
| <b>Vernon Soare</b>      | executive director, professional standards  |           |         | 8/8        |
| <b>Michael Stewart</b>   | chief executive officer, Endelman Europe & CIS  | 29 June   |         | 1/4        |
| <b>Fiona Wilkinson*</b>  | chair, professional standards board   |           |         | 8/8        |

\* council member

Liz Rylatt resigned with effect from 5 February 2016. Will Brooks (elected by council) was appointed from 1 January 2016.

## Audit committee

The audit committee is responsible, on behalf of council, for ensuring that all significant activities of ICAEW are subject to independent review and audit; monitoring ICAEW's relationship with its auditors; reviewing internal controls; and assessments of risk. The audit committee met four times in 2015. Both the internal and external auditors attend its meetings and have direct access to its chairman. The external auditors attend at least one meeting (or part of a meeting) each year without ICAEW management present.

The members of the audit committee during 2015 were:

|                            | Position   | Appointed | Retired | Attendance |
|----------------------------|--|-----------|---------|------------|
| <b>Richard Bint</b>        | non-executive director   |           |         | 4/4        |
| <b>Stuart Bridges</b>      | group finance director, ICAP plc                                       |           |         | 2/4        |
| <b>Kathryn Britten*</b>    | chair (from 3 June)<br>partner, KPMG                                   | 3 June    |         | 3/3        |
| <b>David Canning-Jones</b> | partner, EY  |           |         | 4/4        |
| <b>David Chitty</b>        | international accounting & audit director, Crowe Horwath International |           | 3 June  | 0/1        |
| <b>Mary Hardy</b>          | independent director   |           | 3 June  | 1/1        |
| <b>Nick Parker*</b>        | chair (to 3 June)<br>tax partner, RSM Tax & Advisory Services LLP      |           |         | 3/4        |
| <b>George Quigley*</b>     | partner, KPMG  |           |         | 4/4        |
| <b>Andrew Ratcliffe*</b>   | deputy-president (to 3 June), president (from 3 June)                  |           | 3 June  | 1/1        |
| <b>Clare Worley</b>        | director, internal audit, Barclays PLC                                 |           |         | 4/4        |

\* council member

The chair of the audit committee reports annually to council. The audit committee provides a summary report of its proceedings to council after each meeting and makes the minutes of its meetings available to the board.

During the year, the audit committee has:

- reviewed the financial statements, having received a report from the external auditors on their review and audit;
- considered the output of the procedures used to manage risk within ICAEW;
- reviewed the effectiveness of our internal controls;
- considered the management letter from the external auditors on their review of the effectiveness of internal controls;
- agreed the fees and terms of appointment of

the external auditors, including their quality and effectiveness;

- agreed the work plan of internal audit and reviewed the resulting output from that plan;
- considered an annual report on our whistleblowing arrangements and complied with the Whistleblowing Commission's Code of Practice; and
- tendered the external audit.

The committee has helped council to assess the adequacy of the internal audit plan. The committee has received reports on the work carried out by internal audit and the results of their investigations including management responses, their adequacy and timeliness.

Significant areas of review by the audit committee in the year included 'deep dives' into principal risks and mission critical projects such as the Chartered Accountants' Hall refurbishment programme, data management and data security as well as examining reputation management. The committee also carried out a review of our internal audit function.

## Auditors

The auditors were first appointed in 2006 and re-appointed following a tender in 2010. The auditor periodically changes its audit partner in accordance with professional and regulatory standards in order to protect independence and objectivity. Rotation of the audit partner last took place during 2012. The committee agrees with the audit firm staff rotation policies in relation to our audit. Current policy is to tender the external audit at least every 10 years.

During the year the audit committee undertook a tender exercise for the external audit for the 2016 financial year. A proposal, supported by council, will be put to the members at the 2016 annual meeting for approval.

The audit committee annually reviews and considers the quality, effectiveness and independence of the external auditors. This includes a review of safeguards in place in relation to non-audit services, and a review of the partners and directors of the audit firm who sit on our committees. To ensure appropriate levels of independence, a firm cannot be our auditor if any partner or employee of the firm is a member of council during the period of tenure. We also have a policy regarding non-audit work by the audit firm. The general principle is that the audit firm should not be asked to carry out non-audit services where it may, in the future, be required to give an audit opinion. Audit committee approval is required for such services.

To assess the effectiveness of the auditors the committee reviewed:

- the external auditor's fulfilment of the agreed audit plan and variations from it;
- the auditor's report of major issues arising during the course of the audit; and
- the auditor's most recent transparency report and AQR report.

## Financial reporting

Over the course of the year the audit committee considered many components of business performance in order to ensure it has a full understanding of the operations of ICAEW, recognising

that not all of its members are also on the council or board. Examples of processes it uses include:

- reviews of the processes undertaken in determining the position adopted in key judgement areas including FRC costs and pension provisions;
- 'deep dives' into risk areas as described above;
- receipt of regular strategy reports (written and oral) from the chief executive and operational reports from the executive director, finance, operations and members;
- requesting members of management to attend audit committee meetings to provide updates on strategic and key operational matters; and
- a review of the budget and operational plan.

Through these processes and its monitoring of the effectiveness of controls, internal audit and risk management the audit committee is able to maintain a good understanding of business performance, key areas of judgement and decision-making processes within the organisation and the consequences for financial reporting.

## Review of financial statements

The committee's review is based on the processes outlined above to assess the financial reporting environment.

Through discussion with management and the external auditor, the audit committee determined that the key judgements with risk of misstatement of our financial statements related to provisions for FRC disciplinary case costs and management override of controls.

These issues were discussed with management during the year and with the auditor when reviewing and agreeing the audit plan and also at the conclusion of the audit of the financial statements.

The committee has reviewed the basis for monitoring and forecasting FRC case costs, assessed the sources of information available to management (including historic data and forecasts from the FRC) and considered the review processes performed by management and the external auditor. This recognised the confidential nature of such information but the committee was able to obtain the necessary understanding and satisfaction. With regard to management override of controls the committee considered the overall control environment as well as receiving reports from the external auditor and management on the use of journals and key assumptions and estimates.

The committee also reviewed key judgements made in the previous financial year relating to pension scheme assumptions and confirmed that those judgements remain valid for the 2015 financial year also.

After reviewing the presentations and reports from management and consulting with the auditors, the audit committee is satisfied that the financial statements appropriately address the critical judgements and key estimates, both for the amounts reported and the disclosures. The committee is also satisfied that the significant assumptions used for determining the value of assets and liabilities have been appropriately scrutinised, challenged and are sufficiently robust.

As a result of its work during the year, the committee has concluded that it has acted in accordance with its terms of reference and has ensured (as far as it can) the independence of the external auditors.

## Nominating committee

The nominating committee is responsible for making recommendations to the council for co-options, for the appointment of committee chairs and for honorary membership of ICAEW. It also has direct responsibility for all other committee appointments. The committee makes recommendations and appointments on the basis of the best person for the job and against agreed profiles. The nominating committee met five times in 2015.

The members of the nominating committee during 2015 were:

|                          | Position  | Appointed | Retired | Attendance |
|--------------------------|---|-----------|---------|------------|
| <b>Arthur Bailey*</b>    | president and chair (to 3 June), past president (from 3 June)<br>consultant, Begbies Traynor group and non-executive<br>director consultant to Kingston Smith |           |         | 5/5        |
| <b>Ian Davies*</b>       | elected by council<br>deputy chair, BMT Group Limited<br>senior independent director, Harvey Nash plc   |           |         | 5/5        |
| <b>Graeme Gordon*</b>    | elected by council<br>executive director/CEO, Praxity-Global Alliance Limited   | 1 Nov     |         | 1/1        |
| <b>Michael Izza</b>      | chief executive   |           |         | 4/5        |
| <b>Peter Jenkins*</b>    | elected by council<br>finance director, The Prince's Regeneration Trust   |           | 1 Nov   | 1/4        |
| <b>Martyn Jones*</b>     | past president<br>chair, advisory board to the department of economics and<br>finance, Brunel University London   |           |         | 4/5        |
| <b>Hilary Lindsay*</b>   | vice-president (to 3 June), deputy-president (from 3 June)<br>researcher, The Open University   |           |         | 5/5        |
| <b>Sheilagh Moffat*</b>  | elected by council<br>partner, Moffat Gilbert   |           |         | 5/5        |
| <b>Nick Parker*</b>      | vice-president (from 3 June)<br>tax partner, RSM Tax & Advisory Services LLP  | 3 June    |         | 2/3        |
| <b>Andrew Ratcliffe*</b> | deputy president (to 3 June), president and chair (from 3 June)   |           |         | 4/5        |
| <b>Mark Spofforth*</b>   | past president<br>partner, Spofforths   |           | 3 June  | 1/2        |

\* council member

## Remuneration committee

The remuneration committee keeps under review, on behalf of the board, the elements of the remuneration package provided for ICAEW staff, including the chief executive and executive directors. Staff are remunerated with reference to their annual performance rating and benchmark market salaries. The committee also monitors office-holder expenses.

The members of the remuneration committee during 2015 were:

|                         | Position  | Appointed | Retired | Attendance |
|-------------------------|---|-----------|---------|------------|
| <b>Ian Davies*</b>      | chair<br>deputy chair, BMT Group Limited<br>senior independent director, Harvey Nash plc      |           |         | 4/4        |
| <b>Nicki Demby</b>      | partner, executive compensation consulting, Deloitte  |           |         | 3/4        |
| <b>Frank Edwards*</b>   | consultant  |           |         | 4/4        |
| <b>Richard Harwood*</b> | principal, Harwoods   |           |         | 3/4        |
| <b>Hilary Lindsay*</b>  | vice-president (to 3 June), deputy-president (from 3 June)<br>researcher, The Open University |           |         | 3/4        |

\* council member

The chairman of the remuneration committee reports at least annually to the board.

## Senior staff appointments committee

This committee is responsible for all matters relating to the recruitment and appointment of the chief executive and executive directors.

## Departmental boards

Five departmental boards steered the development of policy for ICAEW's key activities in 2015: commercial; learning and professional development; members; professional standards; and technical strategy. These boards also exercise a general oversight of the work programmes of the departments.

You can find the terms of reference for the key ICAEW committees on the ICAEW website at [Home/who we are/committees](#)

## Employees

ICAEW aims to create a working environment that is based on a number of key principles including fairness, equality of opportunity, respect and dignity, flexibility, transparency and work-life balance. We believe that these key principles enable staff to enjoy work, develop as individuals and provide the best possible service to members, clients and the public, which contributes to the continued success of the organisation.

ICAEW is committed to the core values of acting responsibly, integrity, effective partnerships and the

highest standards. It is our policy to treat all staff fairly and equally regardless of race, sex, sexual orientation, gender re-assignment, marital status or disability. Should existing staff suffer a disability, we will do all we can to accommodate this and to help the member of staff to continue their career in their existing role where possible, or in an alternative position in the organisation.

ICAEW regularly carries out a staff survey to ensure staff are engaged with our strategy and the organisation has a well-established performance management process and training and development policy. Staff can discuss their development needs at 'one-to-ones' with their manager or as part of the annual performance management process. We hold regular strategy updates for all staff and have dedicated communications channels, including an intranet and weekly email updates.

## Financial responsibilities of the council

Bye-law 12(a) requires the council to prepare financial statements for each financial year which give a true and fair view of the state of affairs of ICAEW and of the result for ICAEW for that year.

The council has delegated these responsibilities to the board. In preparing these financial statements on behalf of the council, the board has:

- prepared the financial statements in accordance with applicable law and IFRSs as adopted for use in the EU;
- selected suitable accounting policies and applied them consistently;
- made judgements and estimates that are reasonable and prudent;
- followed applicable accounting standards;
- prepared the financial statements on a going concern basis; and
- considered and confirmed that the financial statements and annual review together are fair, balanced and understandable.

The council is responsible for ensuring that proper accounting records are kept which disclose with reasonable accuracy the financial position of ICAEW. It is also responsible for safeguarding the assets of ICAEW and hence for taking reasonable steps for the prevention and detection of fraud and other irregularities.

### **Directors' confirmation**

As far as each of the directors is aware:

- there is no relevant audit information of which ICAEW's auditors are unaware; and
- the directors have taken all steps that they ought to have taken to make themselves aware of any relevant audit information and to establish that ICAEW's auditors are aware of that information.

For the purposes of this declaration, all members of the board are deemed directors.



## 03 ICAEW five-year summary

|   | 2015<br>£m | 2014<br>£m | 2013<br>£m | 2012<br>£m   | 2011<br>£m |
|---|------------|------------|------------|--------------|------------|
| <b>Income statement</b>                                   |            |            |            |              |            |
| Operating income  | 101.6      | 91.5       | 87.6       | 82.7         | 82.4       |
| ICAEW services  | (85.0)     | (80.5)     | (75.3)     | (76.0)       | (72.4)     |
| Funding of regulatory and other professional associations | (8.2)      | (7.1)      | (8.3)      | (6.3)        | (4.7)      |
| Gift aid and library funding                              | (1.5)      | (1.5)      | (1.8)      | (1.6)        | (1.7)      |
| <b>Net result after taxation</b>                          | <b>6.9</b> | <b>2.4</b> | <b>2.2</b> | <b>(1.2)</b> | <b>3.6</b> |

|  |             |             |             |             |             |
|--|-------------|-------------|-------------|-------------|-------------|
| <b>Net assets</b>  |             |             |             |             |             |
| Non-current assets excluding Staff Pensions Fund                         | 64.4        | 59.9        | 55.7        | 52.9        | 51.9        |
| Current assets   | 21.4        | 14.7        | 13.9        | 13.8        | 18.3        |
| Current liabilities  | (42.9)      | (39.4)      | (39.6)      | (37.9)      | (34.1)      |
| Non-current liabilities excluding Staff Pensions Fund                    | (9.0)       | (6.0)       | (4.7)       | (3.7)       | (4.8)       |
| Non-current assets/(liabilities) - Staff Pensions Fund asset/(liability) | 9.3         | 3.1         | 2.1         | (4.9)       | (6.0)       |
| <b>Total net assets</b>  | <b>43.2</b> | <b>32.3</b> | <b>27.4</b> | <b>20.2</b> | <b>25.3</b> |

|                                   | 2015           | 2014           | 2013           | 2012           | 2011           |
|-----------------------------------|----------------|----------------|----------------|----------------|----------------|
| <b>Member and student numbers</b> |                |                |                |                |                |
| Members                           | 145,746        | 144,167        | 142,334        | 140,573        | 138,464        |
| ACA students                      | 24,149         | 22,001         | 20,121         | 20,037         | 19,073         |
|                                   | <b>169,895</b> | <b>166,168</b> | <b>162,455</b> | <b>160,610</b> | <b>157,537</b> |

# 04 Independent auditor's report to the members of The Institute of Chartered Accountants in England and Wales for the year ended 31 December 2015

## Our opinion on the financial statements is unmodified

### In our opinion:

- the financial statements give a true and fair view of the state of the group's and of ICAEW's affairs as at 31 December 2015 and of the group's and ICAEW's result for the year then ended in accordance with International Financial Reporting Standards (IFRSs) as adopted by the European Union.

## Who we are reporting to

This report is made solely to ICAEW's members, as a body, in accordance with the terms of our engagement. Our audit work has been undertaken so that we might state to ICAEW's members those matters we are required to state to them in an auditor's report and for no other purpose. To the fullest extent permitted by law, we do not accept or assume responsibility to anyone other than ICAEW and ICAEW's members as a body, for our audit work, for this report, or for the opinions we have formed.

## What we have audited

ICAEW's financial statements comprise the group and ICAEW income statements, the group and ICAEW statements of comprehensive income, the group and ICAEW statements of changes to reserves, the group and ICAEW statements of financial position, the group and ICAEW statements of cash flows and the related notes.

The financial reporting framework that has been applied in their preparation is applicable law and IFRSs as adopted by the EU.

## Overview of our audit approach

- Overall ICAEW group materiality: £2m, which represents 2% of the group's turnover.
- We performed full scope and targeted audit procedures at ICAEW and ICAEW Foundation respectively and analytical review procedures in respect of the other subsidiaries.
- The key audit risk was identified as the FRC Conduct Committee provision.

## Our assessment of risk

In arriving at our opinions set out in this report, we highlight the following risks that are, in our judgement, likely to be most important to users' understanding of the audit.

## FRC Conduct Committee provision

*The risk:* Included in the group and ICAEW statements of financial position, the FRC Conduct Committee total provision of £11.9m represents the estimated present obligation of ICAEW in respect of the investigations by the FRC Conduct Committee for disciplinary cases arising from past events up to 31 December 2015. The process to measure the provision is highly judgemental, and is based on information provided by the FRC and a review by ICAEW of potential cost estimates on a case-by-case basis. We therefore identified the FRC Conduct Committee provision as a significant risk requiring special audit consideration.

*Our response:* Our audit work included, but was not restricted to, an evaluation of the detail of the FRC's estimate of costs, a comparison of prior estimates to actual outcomes and a review of correspondence with the FRC regarding ongoing cases. We compared the provision to our expectations based on historical evidence and challenged management assumptions. ICAEW's accounting policy and disclosures regarding the FRC Conduct Committee provision are included in note 26 to the financial statements. The audit committee identified provision for FRC costs as a key judgement in its report on page 14, where the

committee also described the action that it has taken to address this matter.

## **Our application of materiality and an overview of the scope of our audit**

### **Materiality**

We define materiality as the magnitude of misstatement in the financial statements that makes it probable that the economic decisions of a reasonably knowledgeable person would be changed or influenced. We use materiality in determining the nature, timing and extent of our audit work and in evaluating the results of that work.

We determined materiality for the audit of the group financial statements as a whole to be £2m, which is 2% of revenue. This is an increase of £0.2m on the materiality applied in the prior year due to the increase in revenue. This benchmark is considered the most appropriate because ICAEW is not a commercial organisation and therefore revenue is a more appropriate measure than a profit-based measure. We use a different level of materiality, performance materiality, to drive the extent of our testing and this was set at 75% of financial statement materiality for the audit of the group financial statements. For the financial information of the subsidiary undertakings, we set our materiality based on a proportion of group materiality appropriate to the relative size of the entities.

We determined the threshold at which we will communicate misstatements to the audit committee to be £100,000. In addition we will communicate misstatements below that threshold that, in our view, warrant reporting on qualitative grounds.

### **Overview of the scope of our audit**

We conducted our audit in accordance with International Standards on Auditing (ISAs) (UK and Ireland). Our responsibilities under those standards are further described in the 'Responsibilities for the financial statements and the audit' section of our report. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion. We are independent of the group in accordance with the Auditing Practices Board's Ethical Standards for Auditors, and we have fulfilled our other ethical responsibilities in accordance with those Ethical Standards.

Our scope included an audit of the financial statements of the group and ICAEW and for the purposes of the group audit we carried out targeted audit work on ICAEW's subsidiary, the ICAEW Foundation, whose investments are material to the group financial statements. Our work on these entities covered almost 100% of group revenues and 98% of total assets. We performed analytical review on the financial statements of the other subsidiaries which were not considered to be individually significant to the group or included risks which were not considered to be material to the group financial statements. We carried out a risk assessment to identify financial statement risks, including communication with the audit committee. We undertook an interim visit in November 2015 to evaluate the internal controls over those risk areas we identified as being relevant to our audit. During our subsequent final audit visit we undertook substantive testing on significant transactions, balances and disclosures, the extent of which was based on various factors such as our overall assessment of the control environment, the effectiveness of controls and the management of specific risk.

### **Matters on which we are required to report by exception**

We have nothing to report in respect of the following.

Under the ISAs (UK and Ireland), we are required to report to you if, in our opinion, information in the annual report is:

- materially inconsistent with the information in the audited financial statements; or
- apparently materially incorrect based on, or materially inconsistent with, our knowledge of the group acquired in the course of performing our audit; or
- otherwise misleading.

In particular, we are required to report to you if:

- we have identified any inconsistencies between our knowledge acquired during the audit and the council's statement that they consider the annual report is fair, balanced and understandable; and
- the annual report does not appropriately disclose those matters that were communicated to the audit committee which we consider should have been disclosed.

We also confirm that we do not have anything material to add or to draw attention to in relation to:

- the council's confirmation in the annual report that they have carried out a robust assessment of the principal risks facing the group including those that would threaten its business model, future performance, solvency or liquidity;
- the disclosures in the annual report that describe those risks and explain how they are being managed or mitigated;
- the council's statement in the financial statements about whether they have considered it appropriate to adopt the going concern basis of accounting in preparing them, and their identification of any material uncertainties to the group's ability to continue to do so over a period of at least 12 months from the date of approval of the financial statements; and
- the council's explanation in the annual report as to how they have assessed the prospects of the group, over what period they have done so and why they consider that period to be appropriate, and their statement as to whether they have a reasonable expectation that the group will be able to continue in operation and meet its liabilities as they fall due over the period of their assessment, including any related disclosures drawing attention to any necessary qualifications or assumptions.

## **Responsibilities for the financial statements and the audit**

### *What an audit of financial statements involves:*

A description of the scope of an audit of financial statements is provided on the Financial Reporting Council's website at

[www.frc.org.uk/auditscopeukprivate](http://www.frc.org.uk/auditscopeukprivate)

### *What the council is responsible for:*

As explained more fully in the financial responsibilities of the council set out on page 16, the council is responsible for the preparation of the financial statements which give a true and fair view.

### *What we are responsible for:*

Our responsibility is to audit and express an opinion on the financial statements in accordance with applicable law and International Standards on Auditing (UK and Ireland). Those standards require us to comply with the Auditing Practices Board's Ethical Standards for Auditors.

*Grant Thornton UK LLP*

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Grant Thornton UK LLP  
Statutory Auditor, Chartered Accountants  
Milton Keynes  
12 April 2016

# 05 Group income statement for the year ended 31 December 2015

|  | Note | 2015         |                   |            | 2014         |                   |              |
|--|------|--------------|-------------------|------------|--------------|-------------------|--------------|
|  |      | Income<br>£m | Expenditure<br>£m | Net<br>£m  | Income<br>£m | Expenditure<br>£m | Net<br>£m    |
| Subscriptions and fees                         |      | 45.2         | -                 | 45.2       | 43.3         | -                 | 43.3         |
| Learning and professional development          | 1    | 11.3         | (17.4)            | (6.1)      | 10.4         | (15.6)            | (5.2)        |
| Professional standards                         | 2    | 16.4         | (15.1)            | 1.3        | 15.5         | (14.7)            | 0.8          |
| Commercial and shared services                 | 3    | 11.0         | (13.7)            | (2.7)      | 10.7         | (13.6)            | (2.9)        |
| Members  | 4    | 1.0          | (15.3)            | (14.3)     | 1.1          | (14.0)            | (12.9)       |
| Technical strategy                             | 5    | 4.7          | (9.4)             | (4.7)      | 4.3          | (9.1)             | (4.8)        |
| Central activities                             | 6    | 0.7          | (14.6)            | (13.9)     | 0.7          | (14.0)            | (13.3)       |
| Charitable trusts                              | 7    | 0.2          | (1.0)             | (0.8)      | 0.2          | (1.0)             | (0.8)        |
|  |      | <b>90.5</b>  | <b>(86.5)</b>     | <b>4.0</b> | <b>86.2</b>  | <b>(82.0)</b>     | <b>4.2</b>   |
| FRC Conduct Committee                          | 8    | 8.5          | (5.2)             | 3.3        | 3.2          | (4.1)             | (0.9)        |
| Other regulatory and professional associations | 9    | 1.1          | (3.0)             | (1.9)      | 1.0          | (3.0)             | (2.0)        |
|  |      | <b>9.6</b>   | <b>(8.2)</b>      | <b>1.4</b> | <b>4.2</b>   | <b>(7.1)</b>      | <b>(2.9)</b> |
| <b>Operating result</b>                        | 11   | <b>100.1</b> | <b>(94.7)</b>     | <b>5.4</b> | <b>90.4</b>  | <b>(89.1)</b>     | <b>1.3</b>   |
| Investment income                              | 12   | 1.9          | -                 | 1.9        | 1.5          | -                 | 1.5          |
| <b>Result before taxation</b>                  |      | <b>102.0</b> | <b>(94.7)</b>     | <b>7.3</b> | <b>91.9</b>  | <b>(89.1)</b>     | <b>2.8</b>   |
| Taxation                                       | 16   |              |                   | (0.1)      |              |                   | (0.1)        |
| <b>Net result after taxation for the year</b>  |      |              |                   | <b>7.2</b> |              |                   | <b>2.7</b>   |
| <b>Net result comprises:</b>                   |      |              |                   |            |              |                   |              |
| FRC fines and cost recoveries (see note 8)     |      | 4.7          | 1.9               | 6.6        | 1.0          | 1.4               | 2.4          |
| Operational result                             |      | 97.3         | (96.7)            | 0.6        | 90.9         | (90.6)            | 0.3          |
| <b>Net result after taxation for the year</b>  |      | <b>102.0</b> | <b>(94.8)</b>     | <b>7.2</b> | <b>91.9</b>  | <b>(89.2)</b>     | <b>2.7</b>   |

# 06 ICAEW income statement for the year ended 31 December 2015

|  | Note | 2015         |                   |            | 2014         |                   |              |
|--|------|--------------|-------------------|------------|--------------|-------------------|--------------|
|  |      | Income<br>£m | Expenditure<br>£m | Net<br>£m  | Income<br>£m | Expenditure<br>£m | Net<br>£m    |
| Subscriptions and fees                         |      | 45.2         | -                 | 45.2       | 43.3         | -                 | 43.3         |
| Learning and professional development          | 1    | 11.3         | (17.4)            | (6.1)      | 10.4         | (15.6)            | (5.2)        |
| Professional standards                         | 2    | 16.4         | (15.1)            | 1.3        | 15.5         | (14.7)            | 0.8          |
| Commercial and shared services                 | 3    | 11.0         | (13.7)            | (2.7)      | 10.7         | (13.6)            | (2.9)        |
| Members  | 4    | 1.0          | (15.3)            | (14.3)     | 1.1          | (14.0)            | (12.9)       |
| Technical strategy                             | 5    | 4.7          | (9.4)             | (4.7)      | 4.3          | (9.1)             | (4.8)        |
| Central activities                             | 6    | 0.7          | (14.1)            | (13.4)     | 0.7          | (13.5)            | (12.8)       |
|  |      | <b>90.3</b>  | <b>(85.0)</b>     | <b>5.3</b> | <b>86.0</b>  | <b>(80.5)</b>     | <b>5.5</b>   |
| FRC Conduct Committee                          | 8    | 8.5          | (5.2)             | 3.3        | 3.2          | (4.1)             | (0.9)        |
| Other regulatory and professional associations | 9    | 1.1          | (3.0)             | (1.9)      | 1.0          | (3.0)             | (2.0)        |
|  |      | <b>9.6</b>   | <b>(8.2)</b>      | <b>1.4</b> | <b>4.2</b>   | <b>(7.1)</b>      | <b>(2.9)</b> |
| Gift aid and library funding                   | 10   | -            | (1.5)             | (1.5)      | -            | (1.5)             | (1.5)        |
| <b>Operating result</b>                        | 11   | <b>99.9</b>  | <b>(94.7)</b>     | <b>5.2</b> | <b>90.2</b>  | <b>(89.1)</b>     | <b>1.1</b>   |
| Investment income                              | 12   | 1.7          | -                 | 1.7        | 1.3          | -                 | 1.3          |
| <b>Result before taxation</b>                  |      | <b>101.6</b> | <b>(94.7)</b>     | <b>6.9</b> | <b>91.5</b>  | <b>(89.1)</b>     | <b>2.4</b>   |
| Taxation                                       | 16   |              |                   | -          |              |                   | -            |
| <b>Net result after taxation for the year</b>  |      |              |                   | <b>6.9</b> |              |                   | <b>2.4</b>   |

| <b>Net result comprises:</b>                  |              |               |            |             |               |            |
|---|--------------|---------------|------------|-------------|---------------|------------|
| FRC fines and cost recoveries (see note 8)    | 4.7          | 1.9           | 6.6        | 1.0         | 1.4           | 2.4        |
| Operational result                            | 96.9         | (96.6)        | 0.3        | 90.5        | (90.5)        | -          |
| <b>Net result after taxation for the year</b> | <b>101.6</b> | <b>(94.7)</b> | <b>6.9</b> | <b>91.5</b> | <b>(89.1)</b> | <b>2.4</b> |



# 07 Group and ICAEW statements of comprehensive income for the year ended 31 December 2015

|  | Note | Group       |            | ICAEW       |            |
|--|------|-------------|------------|-------------|------------|
|  |      | 2015<br>£m  | 2014<br>£m | 2015<br>£m  | 2014<br>£m |
| Net result after taxation recognised in the income statement in the year |      | 7.2         | 2.7        | 6.9         | 2.4        |
| Items that may be reclassified subsequently to profit or loss:           |      |             |            |             |            |
| (Losses)/gains on revaluation of available for sale investments          | 21   | (1.2)       | 0.1        | (1.1)       | (0.4)      |
| Gains reclassified on disposal   | 21   | 0.9         | 0.5        | 0.9         | 0.5        |
| Items that will not be reclassified subsequently to profit or loss:      |      |             |            |             |            |
| Gains on revaluation of property, plant and equipment                    | 18   | -           | 3.3        | -           | 3.3        |
| Actuarial gains/(losses) recognised in the year                          | 28   | 4.6         | (0.8)      | 4.4         | (0.8)      |
| Deferred tax   | 17   | (0.2)       | (0.1)      | (0.2)       | (0.1)      |
| Other comprehensive income in the year                                   |      | 4.1         | 3.0        | 4.0         | 2.5        |
| <b>Total comprehensive income in the year</b>                            |      | <b>11.3</b> | <b>5.7</b> | <b>10.9</b> | <b>4.9</b> |

# 08 Group and ICAEW statements of changes to reserves for the year ended 31 December 2015

| Group   | Investment                        |                              |                           |                         |                            | Total<br>£m |
|---|-----------------------------------|------------------------------|---------------------------|-------------------------|----------------------------|-------------|
|   | Revaluation<br>reserve<br>£m      | revaluation<br>reserve<br>£m | Accumulated<br>fund<br>£m | Other<br>reserves<br>£m | Charitable<br>trusts<br>£m |             |
|   | <b>Reserves at 1 January 2014</b> | <b>6.5</b>                   | <b>4.1</b>                | <b>12.3</b>             | <b>5.2</b>                 |             |
| Net result after taxation   | -                                 | -                            | 2.4                       | 0.2                     | 0.1                        | 2.7         |
| Increase in valuation of property, plant and equipment                | 3.3                               | -                            | -                         | -                       | -                          | 3.3         |
| Net change in market value of long-term investments over cost         | -                                 | 0.1                          | -                         | -                       | 0.5                        | 0.6         |
| Actuarial losses recognised in year on defined benefit pension scheme | -                                 | -                            | (0.8)                     | -                       | -                          | (0.8)       |
| Deferred tax attributable to above                                    | (0.1)                             | -                            | -                         | -                       | -                          | (0.1)       |
| Total other comprehensive income/(expense) in the year                | <b>3.2</b>                        | <b>0.1</b>                   | <b>(0.8)</b>              | -                       | <b>0.5</b>                 | <b>3.0</b>  |
| Total comprehensive income in the year                                | 3.2                               | 0.1                          | 1.6                       | 0.2                     | 0.6                        | 5.7         |
| <b>Reserves at 1 January 2015</b>                                     | <b>9.7</b>                        | <b>4.2</b>                   | <b>13.9</b>               | <b>5.4</b>              | <b>13.3</b>                | <b>46.5</b> |
| Net result after taxation   | -                                 | -                            | 7.1                       | -                       | 0.1                        | 7.2         |
| Net change in market value of long-term investments over cost         | -                                 | (0.2)                        | -                         | -                       | (0.1)                      | (0.3)       |
| Actuarial gains recognised in year on defined benefit pension scheme  | -                                 | -                            | 4.3                       | 0.1                     | 0.2                        | 4.6         |
| Deferred tax attributable to above                                    | -                                 | -                            | (0.2)                     | -                       | -                          | (0.2)       |
| Total other comprehensive income/(expense) in the year                | -                                 | <b>(0.2)</b>                 | <b>4.1</b>                | <b>0.1</b>              | <b>0.1</b>                 | <b>4.1</b>  |
| Total comprehensive income in the year                                | -                                 | (0.2)                        | 11.2                      | 0.1                     | 0.2                        | 11.3        |
| <b>Reserves at 31 December 2015</b>                                   | <b>9.7</b>                        | <b>4.0</b>                   | <b>25.1</b>               | <b>5.5</b>              | <b>13.5</b>                | <b>57.8</b> |

| ICAEW   | Investment                        |                              |                           |                         | Total<br>£m |
|---|-----------------------------------|------------------------------|---------------------------|-------------------------|-------------|
|   | Revaluation<br>reserve<br>£m      | revaluation<br>reserve<br>£m | Accumulated<br>fund<br>£m | Other<br>reserves<br>£m |             |
|   | <b>Reserves at 1 January 2014</b> | <b>6.5</b>                   | <b>4.1</b>                | <b>11.6</b>             |             |
| Net result after taxation   | -                                 | -                            | 2.2                       | 0.2                     | 2.4         |
| Increase in valuation of property, plant and equipment                | 3.3                               | -                            | -                         | -                       | 3.3         |
| Net change in market value of long-term investments over cost         | -                                 | 0.1                          | -                         | -                       | 0.1         |
| Actuarial losses recognised in year on defined benefit pension scheme | -                                 | -                            | (0.8)                     | -                       | (0.8)       |
| Deferred tax attributable to above                                    | (0.1)                             | -                            | -                         | -                       | (0.1)       |
| Total other comprehensive income/(expense) in the year                | <b>3.2</b>                        | <b>0.1</b>                   | <b>(0.8)</b>              | -                       | <b>2.5</b>  |
| Total comprehensive income in the year                                | 3.2                               | 0.1                          | 1.4                       | 0.2                     | 4.9         |
| <b>Reserves at 1 January 2015</b>                                     | <b>9.7</b>                        | <b>4.2</b>                   | <b>13.0</b>               | <b>5.4</b>              | <b>32.3</b> |
| Net result after taxation   | -                                 | -                            | 6.9                       | -                       | 6.9         |
| Net change in market value of long-term investments over cost         | -                                 | (0.2)                        | -                         | -                       | (0.2)       |
| Actuarial gains recognised in year on defined benefit pension scheme  | -                                 | -                            | 4.3                       | 0.1                     | 4.4         |
| Deferred tax attributable to above                                    | -                                 | -                            | (0.2)                     | -                       | (0.2)       |
| Total other comprehensive income/(expense) in the year                | -                                 | <b>(0.2)</b>                 | <b>4.1</b>                | <b>0.1</b>              | <b>4.0</b>  |
| Total comprehensive income in the year                                | -                                 | (0.2)                        | 11.0                      | 0.1                     | 10.9        |
| <b>Reserves at 31 December 2015</b>                                   | <b>9.7</b>                        | <b>4.0</b>                   | <b>24.0</b>               | <b>5.5</b>              | <b>43.2</b> |

# 09 Group and ICAEW statements of financial position as at 31 December 2015

|  | Note | Group         |               | ICAEW         |               |
|--|------|---------------|---------------|---------------|---------------|
|  |      | 2015<br>£m    | 2014<br>£m    | 2015<br>£m    | 2014<br>£m    |
| <b>Assets</b>                                    |      |               |               |               |               |
| <b>Non-current assets</b>                        |      |               |               |               |               |
| Property, plant and equipment                    | 18   | 23.7          | 21.3          | 23.7          | 21.3          |
| Intangible assets                                | 19   | 4.0           | 3.2           | 4.0           | 3.2           |
| Investments in subsidiaries and associates       | 20   | 0.1           | 0.1           | -             | -             |
| Financial assets: Available for sale investments | 21   | 50.2          | 48.9          | 36.7          | 35.4          |
| Pension asset                                    | 28   | 9.3           | 2.8           | 9.3           | 3.1           |
|  |      | <b>87.3</b>   | <b>76.3</b>   | <b>73.7</b>   | <b>63.0</b>   |
| <b>Current assets</b>                            |      |               |               |               |               |
| Inventories                                      | 22   | 0.7           | 0.7           | 0.7           | 0.7           |
| Trade and other receivables                      | 23   | 11.8          | 10.2          | 10.4          | 9.1           |
| Cash and cash equivalents                        | 24   | 10.8          | 5.3           | 10.3          | 4.9           |
|  |      | <b>23.3</b>   | <b>16.2</b>   | <b>21.4</b>   | <b>14.7</b>   |
| <b>Total assets</b>                              |      | <b>110.6</b>  | <b>92.5</b>   | <b>95.1</b>   | <b>77.7</b>   |
| <b>Liabilities</b>                               |      |               |               |               |               |
| <b>Current liabilities</b>                       |      |               |               |               |               |
| Trade and other payables                         | 25   | (38.6)        | (34.8)        | (37.8)        | (34.3)        |
| Current tax liabilities                          |      | (0.1)         | (0.1)         | (0.1)         | (0.1)         |
| FRC Conduct Committee provision                  | 26   | (5.0)         | (5.0)         | (5.0)         | (5.0)         |
|  |      | <b>(43.7)</b> | <b>(39.9)</b> | <b>(42.9)</b> | <b>(39.4)</b> |
| <b>Non-current liabilities</b>                   |      |               |               |               |               |
| Grants payable                                   |      | (0.1)         | (0.1)         | -             | -             |
| Provisions                                       | 27   | (0.6)         | (0.6)         | (0.6)         | (0.6)         |
| FRC Conduct Committee provision                  | 26   | (6.9)         | (4.1)         | (6.9)         | (4.1)         |
| Deferred tax liability                           | 17   | (1.5)         | (1.3)         | (1.5)         | (1.3)         |
|  |      | <b>(9.1)</b>  | <b>(6.1)</b>  | <b>(9.0)</b>  | <b>(6.0)</b>  |
| <b>Total liabilities</b>                         |      | <b>(52.8)</b> | <b>(46.0)</b> | <b>(51.9)</b> | <b>(45.4)</b> |
| <b>Total net assets</b>                          |      | <b>57.8</b>   | <b>46.5</b>   | <b>43.2</b>   | <b>32.3</b>   |
| <b>Reserves</b>                                  |      |               |               |               |               |
| Revaluation reserve                              |      | 9.7           | 9.7           | 9.7           | 9.7           |
| Investment revaluation reserve                   |      | 4.0           | 4.2           | 4.0           | 4.2           |
| Accumulated fund                                 |      | 25.1          | 13.9          | 24.0          | 13.0          |
| Other reserves                                   |      | 5.5           | 5.4           | 5.5           | 5.4           |
| Charitable trust funds                           |      | 13.5          | 13.3          | -             | -             |
|  |      | <b>57.8</b>   | <b>46.5</b>   | <b>43.2</b>   | <b>32.3</b>   |

Approved on behalf of council and authorised for issue

*Andrew Ratcliffe*

Andrew Ratcliffe  
President  
12 April 2016

*Michael Izza*

Michael Izza  
Chief Executive  
12 April 2016

# 10 Group and ICAEW statements of cash flows for the year ended 31 December 2015

|  | Note | Group        |              | ICAEW        |              |
|--|------|--------------|--------------|--------------|--------------|
|  |      | 2015<br>£m   | 2014<br>£m   | 2015<br>£m   | 2014<br>£m   |
| <b>Cash flows from operating activities<sup>1</sup></b>                            |      |              |              |              |              |
| <b>Result before taxation</b>  |      | <b>7.3</b>   | <b>2.8</b>   | <b>6.9</b>   | <b>2.4</b>   |
| Adjustments for:   |      |              |              |              |              |
| Depreciation and amortisation  |      | 3.6          | 3.2          | 3.6          | 3.2          |
| Investment income  | 12   | (1.9)        | (1.5)        | (1.7)        | (1.3)        |
| Non-cash movement in provisions  |      | 6.8          | 6.3          | 7.1          | 6.3          |
| <b>Cash flows from operating activities before movements in working capital</b>    |      | <b>15.8</b>  | <b>10.8</b>  | <b>15.9</b>  | <b>10.6</b>  |
| <b>Movements in working capital</b>  |      |              |              |              |              |
| Increase in trade and other receivables  |      | (1.6)        | (0.6)        | (1.3)        | (0.2)        |
| Increase/(decrease) in trade and other payables                                    |      | 3.8          | (0.3)        | 3.4          | (0.4)        |
| <b>Cash generated from operating activities after movements in working capital</b> |      | <b>18.0</b>  | <b>9.9</b>   | <b>18.0</b>  | <b>10.0</b>  |
| <b>Cash flows on provisions</b>  |      |              |              |              |              |
| Tax paid   |      | (0.1)        | (0.1)        | -            | -            |
| Cash outflow on pension liabilities  |      | (1.8)        | (1.9)        | (1.8)        | (1.9)        |
| Cash outflow on FRC Conduct Committee provision                                    |      | (4.3)        | (5.1)        | (4.3)        | (5.1)        |
| <b>Net cash generated from operating activities</b>                                |      | <b>11.8</b>  | <b>2.8</b>   | <b>11.9</b>  | <b>3.0</b>   |
| <b>Cash flows from investing activities</b>  |      |              |              |              |              |
| Purchase of property, plant and equipment  |      | (4.6)        | (1.4)        | (4.6)        | (1.4)        |
| Purchase of intangible assets  |      | (2.1)        | (1.2)        | (2.1)        | (1.2)        |
| Purchase of available for sale investments   |      | (34.4)       | (33.3)       | (26.6)       | (26.3)       |
| Disposal of available for sale investments   |      | 33.6         | 32.6         | 25.9         | 25.6         |
| Investment income received   |      | 1.2          | 1.1          | 0.9          | 0.9          |
| <b>Net cash outflow from investing activities</b>                                  |      | <b>(6.3)</b> | <b>(2.2)</b> | <b>(6.5)</b> | <b>(2.4)</b> |
| <b>Net increase in cash and cash equivalents in the year</b>                       |      | <b>5.5</b>   | <b>0.6</b>   | <b>5.4</b>   | <b>0.6</b>   |
| Net cash and cash equivalents at 1 January   |      | 5.3          | 4.7          | 4.9          | 4.3          |
| <b>Net cash and cash equivalents at 31 December</b>                                | 24   | <b>10.8</b>  | <b>5.3</b>   | <b>10.3</b>  | <b>4.9</b>   |

<sup>1</sup>Fines and cost recoveries from disciplinary cases including the FRC Conduct Committee are included within operating cash flows and included in the result before taxation above. Amounts levied on firms as contributions towards FRC Conduct Committee costs are similarly included in operational income. Payments to the FRC Conduct Committee from amounts previously provided are included separately in the cash movement on provisions above.

# 11 Notes to the financial statements for the year ended 31 December 2015

## Basis of preparation

ICAEW is a body incorporated by Royal Charter. The financial statements have been prepared in accordance with IFRS as adopted by the EU, and under the historical cost convention as modified by the revaluation of properties and available for sale investments.

## Basis of consolidation

Consolidated financial statements have been prepared which comprise ICAEW and all its subsidiary undertakings.

## Subsidiaries

Subsidiaries are all entities over which ICAEW is exposed to, or has rights to, variable returns from its involvement, and has the ability to affect those returns through its power over the subsidiary in accordance with IFRS 10 – Consolidated Financial Statements. All subsidiaries have a reporting date of 31 December. All transactions and balances between group entities are eliminated on consolidation.

## Associates

Investments in associates are accounted for using the equity method. ICAEW's interest in the net assets of associates is included in investment in associates in the consolidated statement of financial position, and its interest in their results, in the income statement below the operating result. Associates are those entities over which ICAEW has significant influence to participate in, but not control over, the financial and operating policies of the companies.

## New and amended IFRS

ICAEW has adopted all relevant standards effective for accounting periods beginning on or after 1 January 2015. The first-time application of these standards has not resulted in any prior period adjustments of cash flows, net income or statement of financial position line items.

At the date of authorisation of these financial statements, the following standards and interpretations were in issue, but not yet effective:

| Standard or interpretation   | Effective from years commencing:               |
|--|--|
| IFRS 9 – Financial Instruments (2014)  | 1 January 2018<br>(not yet endorsed by the EU) |
| IFRS 15 – Revenue from Contracts with Customers  | 1 January 2017<br>(not yet endorsed by the EU) |
| Amendments to IFRS 10, IFRS 12 and IAS 28 – Investment Entities – Applying the Consolidation Exception | 1 January 2016<br>(not yet endorsed by the EU) |

## Foreign currencies

Financial assets, including the financial statements of non-UK subsidiary undertakings, are translated at the rate of exchange at the reporting date. Income and expenses are translated at the average exchange rate for the period.

## Accounting policies

Fundamental accounting policies are included within the notes to the financial statements, and are set out prior to the financial information in the note itself within the highlighted boxes.

## Critical accounting judgements and key sources of estimation

To be able to prepare financial statements according to generally accepted accounting principles, the board must make estimates and assumptions that affect the recorded asset and liability items as well as other information, such as that provided on FRC Conduct Committee provisions and pensions as well as valuations of our freehold property and historic collections and operational matters. These estimates are based on historical experience and various other assumptions that the board believes are reasonable under the circumstances. The results of these form the basis for making judgements about the carrying values of assets and liabilities that are not readily apparent from other sources. Actual results may differ from these estimates under different assumptions or conditions. Further details in relation to specific areas are included below:

Valuations of property plant and equipment – note 18  
Professional Conduct and FRC Conduct Committee – note 26  
Retirement benefits and IFRIC 14 – note 28

## Financial risk management

### Financial risk factors

Senior management directly controls day-to-day policies and operations. Financial risk management issues are covered by ICAEW's risk management process as set out in the financial review section. Board and council members are regularly updated on any significant issues relating to financial risk management. Financial risks to which ICAEW is exposed are summarised below.

### Currency risk

The majority of ICAEW's transactions are carried out in sterling. In addition, ICAEW holds accounts in US dollars and euros. To the extent possible, ICAEW uses the income received from services provided in these currencies to hedge any exposures on payments made. ICAEW operates international regional offices and is exposed to foreign currency exchange risk on the transfer of foreign currency to its international offices. Where appropriate, forward purchases are used to hedge against currency movements on known foreign exchange requirements.

### Credit risk

Working capital and longer term funds are held in interest-bearing investments and in listed equity securities for investment purposes through independent custodians.

The credit risk for cash and cash equivalents is monitored regularly. In the current economic climate, extra attention has been given to the agreed limited list of counterparties, which are all reputable banks with a high-quality external credit rating of at least AA- or which have been judged to have systemic importance.

In respect of trade and other receivables, ICAEW is not exposed to any significant credit risk to any single counterparty or group of counterparties. The majority of ICAEW's counterparties are members or member firms which are not considered to be a credit risk to ICAEW. ICAEW continuously monitors defaults of counterparties and incorporates this information into its credit risk controls relating to non-member customers.

The maximum exposure to credit risk at the year-end date is represented by the carrying value of financial instruments and management considers that all the financial assets not impaired or past due are of good credit quality.

### Liquidity and interest rate risk

ICAEW policy is to maintain a strong statement of financial position with cash or cash equivalent balances and therefore it does not have significant exposure to liquidity risk. ICAEW manages its liquidity risk by monitoring its net cash and cash equivalent flows. Liquidity needs are monitored on a day-to-day and monthly basis for short-term needs. Excess funds are invested as appropriate, depending on the forecast working capital cash flow needs, on short-term interest-bearing accounts or certificates of deposit. As a result of its holding of certificates of deposit with financial institutions, ICAEW does have exposure to interest rate fluctuations. These investments are invested by our agents in high-quality, liquid deposits, with a range of counterparties in such a way as to avoid an excessive concentration of our investment with any specific counterparty, and are monitored on a regular basis.

### Going concern

The financial statements have been prepared on a going concern basis; the conclusions of council's going concern review are set out in the financial review section.



## Result and tax

This section contains the financial statement notes that relate to the results and performance of the group and ICAEW during the year, together with the related accounting policies.

### Accounting policies

#### Income

Income as presented in the income statements is revenue as defined under IAS 18 - Revenue. The following accounting policies relate to our key income streams.

- Income from subscriptions and fees, including subscriptions from membership, special interest groups and faculties, and fees from practice regulation and assurance and authorisation of investment business, is recognised in the accounting period to which the services covered by those subscriptions relate, and is stated net of VAT where applicable.
- Income from qualifications represents predominantly examination income and is recognised in the period in which the exam was sat.
- Income associated with professional conduct (disciplinary fines) is recognised on receipt.
- Income in association with FRC Conduct Committee cases is recognised when receivable ie, when the tribunal judgement has been made and the decision is final.
- Other income, including commercial income and income from consulting services is recognised in the period in which the services are provided. For long-term capacity building contracts, income is recognised by reference to stage of completion of the individual contract.

#### Foreign currencies

- Transactions in foreign currencies are converted into sterling, the presentational currency of the group, at exchange rates at the date of the transaction.

### 1. Learning and professional development

|                                | Group and ICAEW |               |              | Group and ICAEW |               |              |
|--------------------------------|-----------------|---------------|--------------|-----------------|---------------|--------------|
|                                | 2015            | 2015          | 2015         | 2014            | 2014          | 2014         |
|                                | Income          | Expenditure   | Net          | Income          | Expenditure   | Net          |
|                                | £m              | £m            | £m           | £m              | £m            | £m           |
| Qualifications                 | 11.3            | (10.2)        | 1.1          | 10.4            | (9.6)         | 0.8          |
| Business development           | -               | (6.3)         | (6.3)        | -               | (5.1)         | (5.1)        |
| Executive, policy and strategy | -               | (0.9)         | (0.9)        | -               | (0.9)         | (0.9)        |
|                                | <b>11.3</b>     | <b>(17.4)</b> | <b>(6.1)</b> | <b>10.4</b>     | <b>(15.6)</b> | <b>(5.2)</b> |

### 2. Professional standards

|                                      | Group and ICAEW |               |            | Group and ICAEW |               |            |
|--------------------------------------|-----------------|---------------|------------|-----------------|---------------|------------|
|                                      | 2015            | 2015          | 2015       | 2014            | 2014          | 2014       |
|                                      | Income          | Expenditure   | Net        | Income          | Expenditure   | Net        |
|                                      | £m              | £m            | £m         | £m              | £m            | £m         |
| Disciplinary                         | 1.2             | (2.6)         | (1.4)      | 0.9             | (2.8)         | (1.9)      |
| Authorisation of investment business | 2.3             | (2.0)         | 0.3        | 1.9             | (1.8)         | 0.1        |
| Practice regulation and assurance    | 12.5            | (9.5)         | 3.0        | 12.0            | (9.3)         | 2.7        |
| Capacity building and public sector  | 0.4             | (1.0)         | (0.6)      | 0.7             | (0.8)         | (0.1)      |
|                                      | <b>16.4</b>     | <b>(15.1)</b> | <b>1.3</b> | <b>15.5</b>     | <b>(14.7)</b> | <b>0.8</b> |

### 3. Commercial and shared services

|                 | Group and ICAEW |               |              | Group and ICAEW |               |              |
|-----------------|-----------------|---------------|--------------|-----------------|---------------|--------------|
|                 | 2015            | 2015          | 2015         | 2014            | 2014          | 2014         |
|                 | Income          | Expenditure   | Net          | Income          | Expenditure   | Net          |
|                 | £m              | £m            | £m           | £m              | £m            | £m           |
| Commercial      | 10.9            | (8.3)         | 2.6          | 10.6            | (8.5)         | 2.1          |
| Shared services | 0.1             | (5.4)         | (5.3)        | 0.1             | (5.1)         | (5.0)        |
|                 | <b>11.0</b>     | <b>(13.7)</b> | <b>(2.7)</b> | <b>10.7</b>     | <b>(13.6)</b> | <b>(2.9)</b> |

#### 4. Members

|                                   | Group and ICAEW |                   |               | Group and ICAEW |                   |               |
|-----------------------------------|-----------------|-------------------|---------------|-----------------|-------------------|---------------|
|                                   | 2015            | 2015              | 2015          | 2014            | 2014              | 2014          |
|                                   | Income<br>£m    | Expenditure<br>£m | Net<br>£m     | Income<br>£m    | Expenditure<br>£m | Net<br>£m     |
| Members – special interest groups | 0.7             | (0.6)             | 0.1           | 0.7             | (0.7)             | -             |
| Member services                   | -               | (4.5)             | (4.5)         | 0.1             | (4.2)             | (4.1)         |
| UK regions                        | -               | (3.8)             | (3.8)         | -               | (3.7)             | (3.7)         |
| International regions             | 0.3             | (6.4)             | (6.1)         | 0.3             | (5.4)             | (5.1)         |
|                                   | <b>1.0</b>      | <b>(15.3)</b>     | <b>(14.3)</b> | <b>1.1</b>      | <b>(14.0)</b>     | <b>(12.9)</b> |

#### 5. Technical strategy

|                                   | Group and ICAEW |                   |              | Group and ICAEW |                   |              |
|-----------------------------------|-----------------|-------------------|--------------|-----------------|-------------------|--------------|
|                                   | 2015            | 2015              | 2015         | 2014            | 2014              | 2014         |
|                                   | Income<br>£m    | Expenditure<br>£m | Net<br>£m    | Income<br>£m    | Expenditure<br>£m | Net<br>£m    |
| Technical departments             | -               | (1.2)             | (1.2)        | -               | (1.1)             | (1.1)        |
| ICAEW-funded faculty activities   | 0.1             | (2.6)             | (2.5)        | 0.1             | (2.7)             | (2.6)        |
| Self-financing faculty activities | 4.6             | (4.6)             | -            | 4.2             | (4.1)             | 0.1          |
| Administration                    | -               | (1.0)             | (1.0)        | -               | (1.2)             | (1.2)        |
|                                   | <b>4.7</b>      | <b>(9.4)</b>      | <b>(4.7)</b> | <b>4.3</b>      | <b>(9.1)</b>      | <b>(4.8)</b> |

#### 6. Central activities

|   | Group        |                   |               | Group        |                   |               |
|---|--------------|-------------------|---------------|--------------|-------------------|---------------|
|   | 2015         | 2015              | 2015          | 2014         | 2014              | 2014          |
|   | Income<br>£m | Expenditure<br>£m | Net<br>£m     | Income<br>£m | Expenditure<br>£m | Net<br>£m     |
| Infrastructure  | -            | (11.9)            | (11.9)        | -            | (11.1)            | (11.1)        |
| Marketing and communications  | 0.7          | (9.7)             | (9.0)         | 0.7          | (9.6)             | (8.9)         |
| Finance and administration  | -            | (10.0)            | (10.0)        | -            | (9.4)             | (9.4)         |
|   | 0.7          | (31.6)            | (30.9)        | 0.7          | (30.1)            | (29.4)        |
| Less: allocated to other activities or recovered from outside bodies (including notional rent of £1.1m (2014: £1.1m)) | -            | 17.0              | 17.0          | -            | 16.1              | 16.1          |
|   | <b>0.7</b>   | <b>(14.6)</b>     | <b>(13.9)</b> | <b>0.7</b>   | <b>(14.0)</b>     | <b>(13.3)</b> |

|   | ICAEW        |                   |               | ICAEW        |                   |               |
|---|--------------|-------------------|---------------|--------------|-------------------|---------------|
|   | 2015         | 2015              | 2015          | 2014         | 2014              | 2014          |
|   | Income<br>£m | Expenditure<br>£m | Net<br>£m     | Income<br>£m | Expenditure<br>£m | Net<br>£m     |
| Infrastructure  | -            | (11.9)            | (11.9)        | -            | (11.1)            | (11.1)        |
| Marketing and communications  | 0.7          | (9.7)             | (9.0)         | 0.7          | (9.6)             | (8.9)         |
| Finance and administration  | -            | (10.0)            | (10.0)        | -            | (9.4)             | (9.4)         |
|   | 0.7          | (31.6)            | (30.9)        | 0.7          | (30.1)            | (29.4)        |
| Less: allocated to other activities or recovered from outside bodies (including notional rent of £1.1m (2014: £1.1m)) | -            | 17.5              | 17.5          | -            | 16.6              | 16.6          |
|   | <b>0.7</b>   | <b>(14.1)</b>     | <b>(13.4)</b> | <b>0.7</b>   | <b>(13.5)</b>     | <b>(12.8)</b> |

#### 7. Charitable trusts

|                                | Group        |                   |              | Group        |                   |              |
|--------------------------------|--------------|-------------------|--------------|--------------|-------------------|--------------|
|                                | 2015         | 2015              | 2015         | 2014         | 2014              | 2014         |
|                                | Income<br>£m | Expenditure<br>£m | Net<br>£m    | Income<br>£m | Expenditure<br>£m | Net<br>£m    |
| External research grants       | -            | (0.2)             | (0.2)        | -            | (0.2)             | (0.2)        |
| Library income and expenditure | -            | (0.8)             | (0.8)        | -            | (0.8)             | (0.8)        |
| Other income and expenditure   | 0.2          | -                 | 0.2          | 0.2          | -                 | 0.2          |
|                                | <b>0.2</b>   | <b>(1.0)</b>      | <b>(0.8)</b> | <b>0.2</b>   | <b>(1.0)</b>      | <b>(0.8)</b> |

## 8. FRC Conduct Committee

|                 | Group and ICAEW |              |            | Group and ICAEW |              |              |
|-----------------|-----------------|--------------|------------|-----------------|--------------|--------------|
|                 | 2015            | 2015         | 2015       | 2014            | 2014         | 2014         |
|                 | Income          | Expenditure  | Net        | Income          | Expenditure  | Net          |
|                 | £m              | £m           | £m         | £m              | £m           | £m           |
| Fines           | 4.7             | -            | 4.7        | 1.0             | -            | 1.0          |
| Other income    | 3.8             | -            | 3.8        | 2.2             | -            | 2.2          |
| Cost recoveries | -               | 1.9          | 1.9        | -               | 1.4          | 1.4          |
| Costs           | -               | (7.1)        | (7.1)      | -               | (5.5)        | (5.5)        |
|                 | <b>8.5</b>      | <b>(5.2)</b> | <b>3.3</b> | <b>3.2</b>      | <b>(4.1)</b> | <b>(0.9)</b> |

Total ICAEW cash receipts from fines and cost recoveries were £6.6m (2014: £2.4m). Other income relates to a direct levy on regulated firms.

## 9. Other regulatory and professional associations

|  | Group and ICAEW |              |              | Group and ICAEW |              |              |
|--|-----------------|--------------|--------------|-----------------|--------------|--------------|
|  | 2015            | 2015         | 2015         | 2014            | 2014         | 2014         |
|  | Income          | Expenditure  | Net          | Income          | Expenditure  | Net          |
|  | £m              | £m           | £m           | £m              | £m           | £m           |
| Financial Reporting Council                  | 1.1             | (1.9)        | (0.8)        | 1.0             | (1.8)        | (0.8)        |
| Consultative Committee of Accountancy Bodies | -               | (0.3)        | (0.3)        | -               | (0.5)        | (0.5)        |
| International Federation of Accountants      | -               | (0.7)        | (0.7)        | -               | (0.6)        | (0.6)        |
| Other  | -               | (0.1)        | (0.1)        | -               | (0.1)        | (0.1)        |
|  | <b>1.1</b>      | <b>(3.0)</b> | <b>(1.9)</b> | <b>1.0</b>      | <b>(3.0)</b> | <b>(2.0)</b> |

Income relates to a direct levy on regulated firms.

## 10. Gift aid and library funding

ICAEW made payments of £1.5m (2014: £1.5m) in the year under gift aid to the Chartered Accountants' Trust for Education and Research (CATER), which funds the ICAEW library and education in the field of accountancy and related subjects.

## 11. Operating result

The group and ICAEW operating result is stated after charging:

|   | Group |      | ICAEW |      |
|---|-------|------|-------|------|
|   | 2015  | 2014 | 2015  | 2014 |
|   | £m    | £m   | £m    | £m   |
| Staff costs   | 42.3  | 40.3 | 39.5  | 37.9 |
| Depreciation on owned property, plant and equipment                       | 1.8   | 2.3  | 1.8   | 2.3  |
| Amortisation of intangible assets   | 1.3   | 0.9  | 1.3   | 0.9  |
| Cost of inventories recognised as an expense                              | 1.0   | 1.2  | 1.0   | 1.2  |
| Amounts payable under operating leases:                                   |       |      |       |      |
| Plant and machinery   | 0.1   | 0.1  | 0.1   | 0.1  |
| Other   | 0.9   | 0.9  | 0.6   | 0.7  |
| Fees payable to ICAEW's auditor for the audit of the financial statements | 0.1   | 0.1  | 0.1   | 0.1  |

The group and ICAEW operating results include reimbursement of members' expenses on ICAEW activities and payments on a normal commercial basis to members and member firms for services, particularly in connection with lecturing and writing. In 2015 these payments in aggregate amounted to £1.7m (2014: £1.7m). Of this, £85,000 (2014: £30,000) was paid for services to member firms which have a partner or employee who is a member of council. The amounts paid to individual council members for services was £7,000 (2014: £6,000) in total.

Fees payable to ICAEW's auditor for consultancy work were £nil (2014: £17,000). Fees were also payable to the auditor for the audit of the Staff Pensions Fund of £8,600 (2014: £7,000). Fees payable to associates of ICAEW's auditor for the local audits of the international subsidiaries were £42,000 (2014: £35,000).

## 12. Net investment income

|  | Group      |            | ICAEW      |            |
|--|------------|------------|------------|------------|
|  | 2015       | 2014       | 2015       | 2014       |
|  | £m         | £m         | £m         | £m         |
| Interest receivable from investment deposits | 0.3        | 0.3        | 0.1        | 0.1        |
| Returns on multi-asset portfolio             | 0.8        | 0.8        | 0.8        | 0.8        |
| Net realised gains from equities             | 0.8        | 0.4        | 0.8        | 0.4        |
|  | <b>1.9</b> | <b>1.5</b> | <b>1.7</b> | <b>1.3</b> |

## 13. Leasing commitments – operating leases

- Costs of operating leases are charged to the income statement on a straight line basis over the period of the relevant agreement. For property leases, where a rent-free period is agreed, this is spread over the life of the lease.

At 31 December the group and ICAEW had the following total future minimum lease payments under non-cancellable operating leases:

|                                | Group      |            | ICAEW      |            |
|--------------------------------|------------|------------|------------|------------|
|                                | 2015       | 2014       | 2015       | 2014       |
|                                | £m         | £m         | £m         | £m         |
| Land and buildings             |            |            |            |            |
| Minimum lease payments due:    |            |            |            |            |
| Within one year                | 0.3        | 0.3        | -          | -          |
| In two to five years inclusive | 0.1        | 0.2        | -          | -          |
| After five years               | 4.2        | 4.8        | 4.2        | 4.8        |
|                                | <b>4.6</b> | <b>5.3</b> | <b>4.2</b> | <b>4.8</b> |

|                                | Group |      | ICAEW |      |
|--------------------------------|-------|------|-------|------|
|                                | 2015  | 2014 | 2015  | 2014 |
|                                | £m    | £m   | £m    | £m   |
| Plant and machinery            |       |      |       |      |
| Minimum lease payments due:    |       |      |       |      |
| In two to five years inclusive | 0.2   | 0.2  | 0.2   | 0.2  |

## 14. Staff costs

### Average number of staff employed during the year

|                       | Group |      | ICAEW |      |
|-----------------------|-------|------|-------|------|
|                       | 2015  | 2014 | 2015  | 2014 |
| Total employees       | 736   | 716  | 685   | 669  |
| Full-time equivalents | 711   | 685  | 661   | 639  |

### Employment costs

|                                  | Group       |             | ICAEW       |             |
|----------------------------------|-------------|-------------|-------------|-------------|
|                                  | 2015        | 2014        | 2015        | 2014        |
|                                  | £m          | £m          | £m          | £m          |
| Wages and salaries               | 35.9        | 34.1        | 33.4        | 32.0        |
| Employer's social security costs | 3.6         | 3.5         | 3.5         | 3.4         |
| Employer's pension costs         | 2.8         | 2.7         | 2.6         | 2.5         |
|                                  | <b>42.3</b> | <b>40.3</b> | <b>39.5</b> | <b>37.9</b> |

The figures above do not include two members of staff whose employment costs are borne by the Fraud Advisory Panel (2014: two). The charitable trust employees' employment costs are borne by CATER although they have contracts of employment with ICAEW.

## 15. Key management compensation – executive directors

|                   | Group and ICAEW |              |              | Group and ICAEW |              |              |
|-------------------|-----------------|--------------|--------------|-----------------|--------------|--------------|
|                   | Salary          | Deferred     | Total        | Salary          | Deferred     | Total        |
|                   |                 | variable pay |              |                 | variable pay |              |
|                   | 2015            | 2015         | 2015         | 2014            | 2014         | 2014         |
| £'000             | £'000           | £'000        | £'000        | £'000           | £'000        |              |
| Sharron Gunn      | 204             | 53           | 257          | 200             | 51           | 251          |
| Robert Hodgkinson | 262             | 70           | 332          | 257             | 63           | 320          |
| Michael Izza      | 419             | 135          | 554          | 411             | 134          | 545          |
| Mark Protherough  | 204             | 60           | 264          | 200             | 50           | 250          |
| Liz Rylatt        | 204             | 52           | 256          | 197             | 44           | 241          |
| Vernon Soare      | 215             | 62           | 277          | 209             | 55           | 264          |
|                   | <b>1,508</b>    | <b>432</b>   | <b>1,940</b> | <b>1,474</b>    | <b>397</b>   | <b>1,871</b> |

The executive directors are remunerated on a total-package basis. This means that they may elect to take all of their remuneration in the form of salary or they may opt to commute a portion of their salary towards ICAEW benefits such as pension scheme membership, health insurance or a car. Deferred variable pay is payable to executive directors on the basis of performance and is agreed by the remuneration committee. In addition to the above salaries, employer's national insurance contributions totalled £247,000 (2014: £232,000). Liz Rylatt resigned with effect from 5 February 2016.

Non-executive directors are not remunerated.

## 16. Taxation

- Current tax is the tax currently payable based on taxable profit for the year and is recognised as a component of tax expense in the income statement.

|   | Group |      | ICAEW |      |
|---|-------|------|-------|------|
|   | 2015  | 2014 | 2015  | 2014 |
|   | £m    | £m   | £m    | £m   |
| Current tax – current period tax charge on operating result | 0.1   | 0.1  | -     | -    |

ICAEW is chargeable to corporation tax on investment income and gains and on net surpluses arising from certain services to the extent that they relate to transactions with non-members. The liability has been reduced by payments made under gift aid to CATER. The charitable trusts fall outside the scope of corporation tax and accordingly there is no liability for their activities. The subsidiary companies pay local tax based on their country of operation and this has been included in the current tax calculations. The ICAEW net corporation tax charge for the year was £nil (2014: £nil).

| Factors affecting the tax charge for the year:                                    | Group        |              | ICAEW |       |
|---|--------------|--------------|-------|-------|
|   | 2015         | 2014         | 2015  | 2014  |
|   | £m           | £m           | £m    | £m    |
| Net result before taxation  | 7.3          | 2.8          | 6.9   | 2.4   |
| Add back: result on transactions with members                                     | (5.7)        | (0.7)        | (6.1) | (1.2) |
| Net result before taxation on transactions with non-members                       | 1.6          | 2.1          | 0.8   | 1.2   |
| Net result above at the standard rate of corporation tax in the UK of 20.3%/21.5% | (0.3)        | (0.4)        | (0.2) | (0.3) |
| Effects of:   |              |              |       |       |
| Items not chargeable/deductible for tax purposes                                  | 0.4          | 0.4          | 0.4   | 0.4   |
| Unutilised tax losses   | (0.2)        | (0.1)        | (0.2) | (0.1) |
| Tax on operating surplus for the year   | <b>(0.1)</b> | <b>(0.1)</b> | -     | -     |

ICAEW anticipates that tax charges in future years may be affected by continued donations under gift aid to CATER.

## 17. Deferred tax

- Deferred tax is recognised on all taxable temporary differences. However, it is not provided on initial recognition of an asset or liability unless the related transaction affects tax or accounting profit. In addition, a deferred tax asset is recognised for all deductible temporary differences to the extent that it is probable that taxable profit will be available against which the deductible temporary difference can be used.
- Deferred tax assets and liabilities are measured at the tax rates that are expected to apply to the period when the asset is realised or the liability is settled based on tax rates and laws that have been enacted, or substantively enacted by the end of the reporting period. Measurement is also based on the tax consequences of recovering or settling the carrying amount of assets and liabilities. Changes in deferred tax assets or liabilities are recognised as a component of tax expense in the income statement, except where they relate to items that are recognised in other comprehensive income, in which case the related deferred tax is also recognised in other comprehensive income.

Movements in the net deferred tax liability are summarised as follows:

|  | <b>Group and ICAEW</b>                              |   |   |              |
|--|---|---|---|--------------|
|  | Revaluation of<br>available for sale<br>investments | Revaluation<br>of properties<br>and historic<br>collections | Defined<br>benefit<br>pension<br>scheme | Net          |
|  | £m  | £m  | £m                                      | £m           |
| Liability at 1 January 2014                                | (1.0)   | (0.2)   | -                                       | (1.2)        |
| Movement in year: Recognised as other comprehensive income | -   | (0.1)   | -                                       | (0.1)        |
| Liability at 1 January 2015                                | <b>(1.0)</b>  | <b>(0.3)</b>  | -                                       | <b>(1.3)</b> |
| Movement in year: Recognised as other comprehensive income | -   | -   | (0.2)                                   | (0.2)        |
| <b>Liability at 31 December 2015</b>                       | <b>(1.0)</b>  | <b>(0.3)</b>  | <b>(0.2)</b>                            | <b>(1.5)</b> |

## Financial position

The following section contains the notes that relate to the financial position of the group and ICAEW during the year, together with the related accounting policies.

### 18. Property, plant and equipment

#### Freehold properties

- Freehold properties comprise our offices and are considered to be level 2 assets as defined by IFRS 13 – Fair Value Measurement and are revalued regularly, at least every five years, at open market value by independent, professionally qualified valuers. They are included in the statements of financial position at their revalued amounts derived from observable market data of comparative buildings in a similar location. Surpluses on revaluations are transferred to the revaluation reserve. Deficits on revaluations are charged against the revaluation reserve to the extent that there are available surpluses relating to the same asset and are otherwise charged to the income statement.
- Valuations are carried out using a market approach which reflects observed prices for recent market transactions. Because of changing market and economic conditions, the estimated value of our freehold property in the future may differ materially from the estimates made on the basis of these external valuations.
- Depreciation is provided on the plant and equipment elements within the freehold property. Certain major items of fixed plant and equipment are identified separately and are depreciated over their individual estimated useful economic lives. Depreciation is not charged on freehold land. Depreciation is charged on the revalued amount of freehold buildings at 2% per year.

During the year, we started a major refurbishment project at Chartered Accountants' Hall which is expected to take approximately 18 months to complete. Work done at the end of the year totalled £3.0m; of this, £0.2m related to assets or stages of the project which were in use by the year end, the remainder has been identified separately as in course of construction and will be brought into use over the project programme. A professional valuation of Chartered Accountants' Hall will be carried out on completion of the project.



### **Silver collection and antiques**

- The historical cost of ICAEW's silver collection and antiques represents only the cost of items bought by ICAEW. The valuations of these collections also include substantial donations and bequests. The collections are considered to be level 2 assets as defined by IFRS 13 – Fair Value Measurement and are revalued annually by independent, professionally qualified valuers. They are stated at estimated open market values derived from observed prices for recent market transactions. Because of changing market and economic conditions, the estimated value of these collections in the future may differ materially from the estimates made on the basis of these external valuations.
- Surpluses on revaluation, including surpluses arising from donations of items to the collections, are transferred to the revaluation reserve. Deficits on revaluation are charged against the revaluation reserve to the extent that there are available surpluses relating to the same asset and are otherwise charged to the income statement.
- In view of the nature of these assets, the estimated residual value is equal to the carrying amount and no depreciation is provided.

ICAEW's historic collections were revalued at open market value at 31 December 2014 by William Walter Antiques Limited (the Benney silver collection and other silver), John Drury Rare Books (rare books) and Ritchie Associates (period furniture, pictures and sculptures).

### **Short leasehold property**

- Improvements to leasehold properties are capitalised at cost and are depreciated on a straight line basis over the shorter of their estimated useful economic lives and the remaining lease term.
- In accordance with IAS 37 – Provisions, Contingent Liabilities and Contingent Assets, provision is made for an estimate of dilapidations costs on the leasehold property in relation to both repairs and reinstatement relating to conditions in place at the reporting date. The reinstatement provision is matched by an asset which is depreciated over the remaining lease term.

### **Furniture, computer hardware and equipment**

- Other plant and equipment is capitalised at cost. Depreciation is charged on a straight line basis over the estimated useful economic lives of the assets ranging from 2 to 10 years.
- The impairment of property, plant and equipment is considered annually or whenever events or changes in circumstances indicate that the carrying amount may not be recoverable, and provisions are made where necessary.

At 31 December 2015 there were £8.6m contracts for capital expenditure not provided for in these financial statements (2014: £nil).

There is a charge over Chartered Accountants' Hall in favour of the trustee of ICAEW's defined benefit pension scheme (see note 28).

**Group and ICAEW**

|  | Freehold<br>property<br>£m | Refurbishment<br>project in course<br>of construction<br>£m | Short<br>leasehold<br>property<br>£m | Silver<br>collection<br>and antiques<br>£m | Furniture,<br>computer<br>hardware and<br>equipment<br>£m | Total<br>£m |
|--|----------------------------|---|--------------------------------------|--|---|-------------|
| <b>Cost or valuation</b>   |                            |   |                                      |  |   |             |
| <b>At 1 January 2014</b>   | <b>12.2</b>                | -   | <b>2.8</b>                           | <b>4.1</b>                                 | <b>10.0</b>   | <b>29.1</b> |
| Additions  | 0.6                        | -   | 0.4                                  | -  | 0.7   | 1.7         |
| Disposals at cost or valuation   | (0.6)                      | -   | -                                    | -  | (0.5)   | (1.1)       |
| Surplus on revaluation   | 3.1                        | -   | -                                    | 0.1  | -   | 3.2         |
| <b>At 1 January 2015</b>   | <b>15.3</b>                | -   | <b>3.2</b>                           | <b>4.2</b>                                 | <b>10.2</b>   | <b>32.9</b> |
| Additions  | 0.2                        | 3.0   | -                                    | -  | 1.5   | 4.7         |
| Brought into use   | 0.2                        | (0.2)   | -                                    | -  | -   | -           |
| Disposals at cost or valuation   | (0.8)                      | -   | -                                    | -  | (1.2)   | (2.0)       |
| <b>At 31 December 2015</b>   | <b>14.9</b>                | <b>2.8</b>  | <b>3.2</b>                           | <b>4.2</b>                                 | <b>10.5</b>   | <b>35.6</b> |
| <b>Accumulated depreciation</b>  |                            |   |                                      |  |   |             |
| <b>At 1 January 2014</b>   | 2.5                        | -   | 1.1                                  | -  | 6.9   | 10.5        |
| Depreciation for the year  | 0.7                        | -   | 0.4                                  | -  | 1.1   | 2.2         |
| Depreciation on disposals  | (0.5)                      | -   | -                                    | -  | (0.5)   | (1.0)       |
| Adjustment on revaluation  | (0.1)                      | -   | -                                    | -  | -   | (0.1)       |
| <b>At 1 January 2015</b>   | <b>2.6</b>                 | -   | <b>1.5</b>                           | -  | <b>7.5</b>  | <b>11.6</b> |
| Depreciation for the year  | 0.6                        | -   | 0.2                                  | -  | 1.0   | 1.8         |
| Depreciation on disposals  | (0.4)                      | -   | -                                    | -  | (1.1)   | (1.5)       |
| <b>At 31 December 2015</b>   | <b>2.8</b>                 | -   | <b>1.7</b>                           | -  | <b>7.4</b>  | <b>11.9</b> |
| <b>Carrying amount</b>   |                            |   |                                      |  |   |             |
| At 31 December 2014  | 12.7                       | -   | 1.7                                  | 4.2  | 2.7   | 21.3        |
| <b>At 31 December 2015</b>   | <b>12.1</b>                | <b>2.8</b>  | <b>1.5</b>                           | <b>4.2</b>                                 | <b>3.1</b>  | <b>23.7</b> |
| On an historical cost basis the comparable amounts of property, plant and equipment are: |                            |   |                                      |  |   |             |
| Cost   | 13.1                       | 2.8   | 3.2                                  | 0.2  | 10.5  | 29.8        |
| Accumulated depreciation   | 8.3                        | -   | 1.7                                  | -  | 7.4   | 17.4        |
| <b>Net historical cost at 31 December 2015</b>   | <b>4.8</b>                 | <b>2.8</b>  | <b>1.5</b>                           | <b>0.2</b>                                 | <b>3.1</b>  | <b>12.4</b> |
| Net historical cost at 31 December 2014  | 5.9                        | -   | 1.7                                  | 0.2  | 2.7   | 10.5        |

## 19. Intangible assets

- Intangible assets comprise computer software and are stated at cost. Amortisation is charged on a straight line basis over the estimated useful economic life of the software (from two to five years). The impairment of intangible assets is considered whenever events or changes in circumstances indicate that the carrying amount may not be recoverable, and provisions are made where necessary.

|                                       | Group and ICAEW |              |
|---------------------------------------|-----------------|--------------|
|                                       | 2015            | 2014         |
|                                       | £m              | £m           |
| Computer software                     |                 |              |
| <b>Cost</b>                           |                 |              |
| At 1 January                          | 11.5            | 10.3         |
| Additions at cost                     | 2.1             | 1.3          |
| Disposals at cost                     | -               | (0.1)        |
| <b>At 31 December</b>                 | <b>13.6</b>     | <b>11.5</b>  |
| <b>Accumulated amortisation</b>       |                 |              |
| At 1 January                          |                 |              |
| Amortisation for the year             | 8.3             | 7.5          |
| Amortisation on disposals             | 1.3             | 0.9          |
| <b>At 31 December</b>                 | <b>-</b>        | <b>(0.1)</b> |
| <b>Carrying amount at 31 December</b> | <b>9.6</b>      | <b>8.3</b>   |
|                                       | <b>4.0</b>      | <b>3.2</b>   |

Amortisation charges are allocated to departments on the basis of use of ICAEW's systems through the overhead allocation.

## 20. Investments in subsidiaries and associates

The following entities, all registered in England, have been treated as subsidiaries on the basis that ICAEW has control as it is exposed to, or has rights to, variable returns from its involvement with the subsidiary and has the ability to affect those returns:

|   | Activity   |
|---|--|
| ICAEW Foundation  | Makes charitable donations of particular interest to ICAEW   |
| PD Leake Trust  | Provides grants for accountancy research, conferences and publications                                     |
| Chartered Accountants' Permanent Education Trust        | Provides examination prizes  |
| Chartered Accountants' Trust for Education and Research | Owns and operates the ICAEW library. Provides grants for accounting research, conferences and publications |
| Chartered Accountants' Library Limited                  | Trading subsidiary of Chartered Accountants' Trust for Education and Research                              |
| Chartered Accountants' Charitable Investment Pool       | Common investment fund managing the investments of the other charitable trusts                             |

The trusts, although separately administered, are accounted for as a single charity under the authority of a uniting direction from the Charity Commission. There is an agreement between the above trusts and ICAEW to provide administrative services to the trusts. The total value of the transactions amounted to £0.5m (2014: £0.5m). At the year end, the trusts owed ICAEW £0.1m (2014: £0.1m).

The following entities, all registered in England, have been treated as subsidiaries on the basis that ICAEW holds all the shares in each entity and therefore is exposed to, or has rights to, variable returns from its involvement with the subsidiary and has the ability to affect those returns:

|                           |              | 2015 | 2014 |  |
|---------------------------|--------------|------|------|--|
|                           | Shareholding | cost | cost |  |
|                           |              | £m   | £m   |  |
| ICAEW Malaysia Limited    | 100%         | -    | -    | Representative office for ICAEW in Malaysia, Indonesia and Vietnam |
| ICAEW China Limited       | 100%         | -    | -    | Representative office for ICAEW in China                           |
| ICAEW Middle East Limited | 100%         | -    | -    | Representative office for ICAEW in the Middle East                 |
| ICAEW SEA Limited         | 100%         | -    | -    | Representative office for ICAEW in South East Asia                 |
| ICAEW Europe Limited      | 100%         | -    | -    | Representative office for ICAEW in Europe                          |
| ICAEW Ltd                 | 100%         | -    | -    | Holding company for the above companies                            |

The above companies provide marketing services for ICAEW. The value of these services during 2015 was £4.9m (2014: £4.4m). At the year end £nil (2014: £nil) was owed to ICAEW.

The following related companies, all with their principal place of business in the UK, have been treated as associates. In each case, and notwithstanding the majority ownership of CCAB Limited and the Chartered Accountants' Compensation Scheme Limited, ICAEW exercises significant influence through its power to participate in the financial and operating policy decisions through its representation on the board of directors; participation in the policy-making process; and through the existence of material transactions between the company and ICAEW, but ICAEW does not control the companies.

|   | Shareholding<br>(ordinary<br>shares) | 2015<br>cost<br>£m | 2014<br>cost<br>£m | Activity   |
|---|--------------------------------------|--------------------|--------------------|--|
| The Joint Insolvency Examination Board (a company limited by guarantee) | -                                    | -                  | -                  | Conducts examinations in insolvency practice to meet the education requirements of the Insolvency Act 1986. ICAEW is one of seven subscribers, each of whom has guaranteed £1 in the event of the company being wound up.  |
| Fraud Advisory Panel (a company limited by guarantee)                   | -                                    | -                  | -                  | Registered charity which carries out research into, and education in, all aspects of fraud prevention, detection, prosecution and deterrence. ICAEW has the right to appoint up to one third of the directors of the company.  |
| CCAB Limited  | 60.5%                                | -                  | -                  | CCAB Limited undertakes activities of mutual interest to five major accountancy bodies in the British Isles. ICAEW is the majority shareholder but does not have the majority of voting shares on the board.   |
| Chartered Accountants' Compensation Scheme Limited                      | 80.0%                                | -                  | -                  | Evaluates and administers claims for compensation arising from the obligations of ICAEW, the Institute of Chartered Accountants of Scotland and Chartered Accountants Ireland as recognised professional bodies under the Financial Services Act 1986 and as designated professional bodies under the Financial Services and Markets Act 2000. |

The companies all operate on a not-for-profit basis. There is a full list of subsidiaries and associates at [icaew.com/review](http://icaew.com/review)

Financial information relating to the associates is summarised below:

|   | The Joint<br>Insolvency<br>Examination<br>Board<br>2015<br>£m | Fraud Advisory<br>Panel<br>2015<br>£m | CCAB<br>Limited<br>2015<br>£m | Chartered<br>Accountants'<br>Compensation<br>Scheme<br>Limited<br>2015<br>£m | Total<br>2015<br>£m | Total<br>2014<br>£m |
|---|---|---------------------------------------|-------------------------------|--|---------------------|---------------------|
| Assets  | 0.2   | 0.2                                   | 1.1                           | 0.2  | 1.7                 | 1.7                 |
| Liabilities   | (0.1)   | -                                     | (1.1)                         | (0.2)  | (1.4)               | (1.5)               |
| Net assets  | 0.1   | 0.2                                   | -                             | -  | 0.3                 | 0.2                 |
| Other comprehensive income and total comprehensive income | 0.1   | 0.2                                   | 5.2                           | 0.1  | 5.6                 | 5.5                 |
| Result from continuing operations                         | -   | -                                     | -                             | -  | -                   | -                   |
| Balances due from associates as at 31 December            | -   | -                                     | -                             | 0.3  | 0.3                 | 0.2                 |
| Balances due to associates as at 31 December              | -   | -                                     | (0.6)                         | -  | (0.6)               | (0.7)               |
| Group share of net assets as at 31 December               | -   | 0.1                                   | -                             | -  | 0.1                 | 0.1                 |

None of the above companies had any discontinued operations in the year or previous year.

## 21. Financial assets: available for sale investments

- All our investments are publicly traded in the UK or on other major capital markets and the substantial majority are denominated in sterling. They are held for the purposes of generating long-term investment income and are considered to be level 1 assets as defined by IFRS 13 – Fair Value Measurement and are treated as non-current available for sale investments. They are included at mid-price market value at the year-end date. Gains and losses on re-measurement are taken to the investment revaluation reserve initially and are recognised in other comprehensive income. On disposal, the cumulative gain or loss previously recognised in reserves is reclassified to profit or loss.
- At each year-end date, an assessment is made as to whether there is objective evidence that an available for sale equity instrument is impaired. A significant or prolonged decline in the fair value of the security below its cost is considered in determining whether the asset is impaired. Judgement is used to determine what a significant or prolonged decline is. Impairment charges are recognised in the income statement.

|  | Interest-bearing investments |             |             | Equities and unit trusts |             |             | Group Total |    |  |
|--|------------------------------|-------------|-------------|--------------------------|-------------|-------------|-------------|----|--|
|  | 2015                         |             |             | 2014                     |             |             | 2014        |    |  |
|  | £m                           | £m          | £m          | £m                       | £m          | £m          | £m          | £m |  |
| <b>Fair value</b>                        |                              |             |             |                          |             |             |             |    |  |
| At 1 January                             | 7.0                          | 41.9        | 48.9        | 8.0                      | 39.3        | 47.3        |             |    |  |
| Additions                                | 24.0                         | 10.4        | 34.4        | 24.6                     | 8.7         | 33.3        |             |    |  |
| Disposals                                | (24.0)                       | (9.6)       | (33.6)      | (25.6)                   | (7.0)       | (32.6)      |             |    |  |
| Gains on disposal                        | -                            | 0.8         | 0.8         | -                        | 0.3         | 0.3         |             |    |  |
| Change in market value of investments:   |                              |             |             |                          |             |             |             |    |  |
| Recognised in other comprehensive income | -                            | (0.3)       | (0.3)       | -                        | 0.6         | 0.6         |             |    |  |
| <b>At 31 December</b>                    | <b>7.0</b>                   | <b>43.2</b> | <b>50.2</b> | <b>7.0</b>               | <b>41.9</b> | <b>48.9</b> |             |    |  |

On an historical cost basis the comparable amounts of investments are:

|                |     |      |      |     |      |      |
|----------------|-----|------|------|-----|------|------|
| At 31 December | 7.0 | 37.1 | 44.1 | 7.0 | 33.1 | 40.1 |
|----------------|-----|------|------|-----|------|------|

|  | Interest-bearing investments |             |             | Equities and unit trusts |             |             | ICAEW Total |    |  |
|--|------------------------------|-------------|-------------|--------------------------|-------------|-------------|-------------|----|--|
|  | 2015                         |             |             | 2014                     |             |             | 2014        |    |  |
|  | £m                           | £m          | £m          | £m                       | £m          | £m          | £m          | £m |  |
| <b>Fair value</b>                        |                              |             |             |                          |             |             |             |    |  |
| At 1 January                             | 5.0                          | 30.4        | 35.4        | 5.0                      | 29.3        | 34.3        |             |    |  |
| Additions                                | 17.0                         | 9.6         | 26.6        | 18.6                     | 7.7         | 26.3        |             |    |  |
| Disposals                                | (17.0)                       | (8.9)       | (25.9)      | (18.6)                   | (7.0)       | (25.6)      |             |    |  |
| Gains on disposal                        | -                            | 0.8         | 0.8         | -                        | 0.3         | 0.3         |             |    |  |
| Change in market value of investments:   |                              |             |             |                          |             |             |             |    |  |
| Recognised in other comprehensive income | -                            | (0.2)       | (0.2)       | -                        | 0.1         | 0.1         |             |    |  |
| <b>At 31 December</b>                    | <b>5.0</b>                   | <b>31.7</b> | <b>36.7</b> | <b>5.0</b>               | <b>30.4</b> | <b>35.4</b> |             |    |  |

On an historical cost basis the comparable amounts of investments are:

|                |     |      |      |     |      |      |
|----------------|-----|------|------|-----|------|------|
| At 31 December | 5.0 | 26.6 | 31.6 | 5.0 | 25.1 | 30.1 |
|----------------|-----|------|------|-----|------|------|

The methods and valuation techniques used to measure fair value are unchanged compared to the previous year.

Within group investments are charitable funds of £13.5m (2014: £13.5m) which are maintained independently of ICAEW, and for which the trustee sets investment policies and monitors performance. ICAEW investments include cash balances of £3.4m (2014: £4.0m).

The trustee of ICAEW's defined benefit pension scheme has an interest noted in up to £10.0m of the investment portfolio of ICAEW (see note 28).

## 22. Inventories

- Inventories are stated at the lower of cost, using the first in first out basis, and net realisable value. Using information available at the year-end date, ICAEW makes judgements based on experience on the level of provision required to account for potential unsaleable inventories.

### Group and ICAEW

|                    | 2015       | 2014       |
|--------------------|------------|------------|
|                    | £m         | £m         |
| Learning materials | <b>0.7</b> | <b>0.7</b> |

There was no provision against learning materials at the year end (2014: £nil).

## 23. Trade and other receivables – current

- Trade receivables and other receivables are categorised as loans and receivables as required by IAS 39. The principal component of trade and other receivables is amounts due from ICAEW's members and member firms, and in the case of disciplinary fines and costs, certain former members, and are short term.
- The carrying value of trade receivables is considered a reasonable approximation of fair value. Trade and other receivables are stated at cost less allowances made for doubtful receivables after initial recognition, which approximates fair value. It is considered that all the above financial assets which are not impaired or past due are of good credit quality.
- Using information available at the year-end date, provision against trade receivables is made when there is objective evidence that ICAEW will not be able to collect all amounts due to it in accordance with the original terms of those receivables. The amount of the write-down is determined as the difference between the carrying amount and the present value of estimated future cash flows discounted at the original effective interest rate.

|   | Group       |             | ICAEW       |            |
|---|-------------|-------------|-------------|------------|
|   | 2015        | 2014        | 2015        | 2014       |
|   | £m          | £m          | £m          | £m         |
| Trade receivables and other receivables                       | 6.1         | 4.9         | 4.4         | 3.7        |
| Amounts owed by subsidiaries                                  | -           | -           | 0.3         | 0.2        |
| Amounts owed by associates                                    | 0.3         | 0.2         | 0.3         | 0.2        |
| Prepayments   | 2.9         | 2.6         | 2.9         | 2.5        |
| Accrued income  | 3.0         | 2.8         | 3.0         | 2.8        |
|   | <b>12.3</b> | <b>10.5</b> | <b>10.9</b> | <b>9.4</b> |
| Less: provision for impairment of trade and other receivables | (0.5)       | (0.3)       | (0.5)       | (0.3)      |
|   | <b>11.8</b> | <b>10.2</b> | <b>10.4</b> | <b>9.1</b> |

All receivables have been reviewed for indicators of impairment. Certain trade receivables, principally in relation to disciplinary fines and costs from members, member firms and former members, were found to be impaired, and a provision of £0.5m (2014: £0.3m) has been made. The movement in the provision for trade and other receivables can be reconciled as follows:

|                                     | Group      |            | ICAEW      |            |
|-------------------------------------|------------|------------|------------|------------|
|                                     | 2015       | 2014       | 2015       | 2014       |
|                                     | £m         | £m         | £m         | £m         |
| Balance at 1 January                | 0.3        | 0.4        | 0.3        | 0.4        |
| Amounts written off (uncollectable) | -          | (0.1)      | -          | (0.1)      |
| Impairment losses                   | 0.4        | 0.2        | 0.4        | 0.2        |
| Impairment losses reversed          | (0.2)      | (0.2)      | (0.2)      | (0.2)      |
|                                     | <b>0.5</b> | <b>0.3</b> | <b>0.5</b> | <b>0.3</b> |

In addition, some of the unimpaired trade receivables are past due as at the reporting date. The age of financial assets past due but not impaired is as follows:

|  | Group      |            | ICAEW      |            |
|--|------------|------------|------------|------------|
|  | 2015       | 2014       | 2015       | 2014       |
|  | £m         | £m         | £m         | £m         |
| More than one month but not more than three months | 0.9        | 1.1        | 0.9        | 1.1        |
| More than three months                             | 0.1        | 0.4        | 0.1        | 0.4        |
|  | <b>1.0</b> | <b>1.5</b> | <b>1.0</b> | <b>1.5</b> |



## 24. Cash and cash equivalents

- Cash and cash equivalents comprise cash in hand, balances with banks and investments in money market instruments representing short-term, highly liquid investments that are readily convertible to known amounts of cash, which are subject to an insignificant risk of changes in value and are categorised as loans and receivables as required by IAS 39.

Forward contracts are used to cover known foreign currency exposures. No forward contracts were in place at the year end (2014: £nil). US dollar and euro bank accounts stood at £0.1m (2014: £0.5m) equating to 1% (2014: 10%) of cash and cash equivalent balances.

The effect of a 0.25% change in the average market interest rate on current cash and equivalents, and cash balances within the available for sale portfolio, held at the reporting date that are sensitive to changes in interest rates, would be £34,000 (2014: £22,000). All other variables are held constant.

## 25. Trade and other payables

- Trade and other payables are categorised as current financial liabilities measured at amortised cost as required by IAS 39. All the above trade and other payables are short term and are payable within one month. Subscriptions, admission fees and other income in advance relate to income received during 2015 but relating to 2016 annual subscriptions and fees. The carrying values are considered to be a reasonable approximation of fair value.

|   | Group       |             | ICAEW       |             |
|---|-------------|-------------|-------------|-------------|
|   | 2015        | 2014        | 2015        | 2014        |
|   | £m          | £m          | £m          | £m          |
| Subscriptions and admission fees in advance | 15.3        | 13.8        | 15.3        | 13.8        |
| Amounts owed to subsidiaries                | -           | -           | 0.2         | 0.1         |
| Amounts owed to associates                  | 0.6         | 0.7         | 0.6         | 0.7         |
| Other income in advance                     | 6.8         | 7.4         | 6.8         | 7.4         |
| Trade payables                              | 3.7         | 3.0         | 3.7         | 3.0         |
| Other payables                              | 1.9         | 1.6         | 1.1         | 1.0         |
| Income tax and social security payables     | 1.0         | 1.0         | 1.0         | 1.0         |
| Accruals                                    | 9.3         | 7.3         | 9.1         | 7.3         |
|   | <b>38.6</b> | <b>34.8</b> | <b>37.8</b> | <b>34.3</b> |

## 26. FRC Conduct Committee provision

- ICAEW makes provision for the estimated future external costs of Conduct Committee disciplinary cases based on the estimated present obligation to ICAEW of investigations by the committee for cases arising from past events up to 31 December 2015. Case costs are forecast on the basis of the available information on actual or prospective cases.
- ICAEW reviews the adequacy of the provision through a review of past case cost estimates and discussions of current cases with relevant individuals. However, the accuracy of both the provision and the forecast of the period over which it will be used will depend on assumptions made about the progress of individual cases and judgements on information provided by the FRC, and is subject to a significant degree of judgement and a range of potential outcomes. In setting the provision, no account is taken of any potential fines or cost recoveries potentially due to ICAEW from tribunals not yet completed.

The FRC Conduct Committee is part of the FRC and is responsible for operating and administering an independent disciplinary scheme (the Accountancy Scheme) covering members of ICAEW and the following participating institutes: the Association of Chartered Certified Accountants, the Chartered Institute of Management Accountants, the Chartered Institute of Public Finance and Accountancy, Chartered Accountants Ireland and the Institute of Chartered Accountants of Scotland. The FRC Conduct Committee also operates and administers a separate independent disciplinary scheme (the Actuarial Scheme) covering members of the Institute and Faculty of Actuaries.

The provision covers a total of 18 investigations involving ICAEW members and member firms (2014: 20) and is expected to be used over the next five years.

|  | <b>Group and ICAEW</b> |            |
|--|------------------------|------------|
|  | 2015                   | 2014       |
|  | £m                     | £m         |
| Balance at 1 January                                   | 9.1                    | 8.5        |
| Charge to income statement                             | 7.1                    | 5.5        |
| Other income in advance                                | -                      | 0.2        |
| Amounts paid   | (4.3)                  | (5.1)      |
| Balance at 31 December                                 | <b>11.9</b>            | <b>9.1</b> |
| Provision expected to be used within one year          | 5.0                    | 5.0        |
| Provision expected to be used after more than one year | 6.9                    | 4.1        |
|  | <b>11.9</b>            | <b>9.1</b> |

## 27. Provisions for future liabilities

- In accordance with IAS 37 – Provisions, Contingent Liabilities and Contingent Assets, provision is made for an estimate of dilapidations costs on the leasehold property in relation to both repairs and reinstatement relating to conditions in place at the reporting date. The reinstatement provision is matched by an asset which is being depreciated over the remaining lease term.

|   | <b>Group and ICAEW</b> |            |
|---|------------------------|------------|
|   | 2015                   | 2014       |
|   | £m                     | £m         |
| Balance at 1 January                            | 0.6                    | -          |
| Provision relating to repairs obligations       | -                      | 0.2        |
| Provision relating to reinstatement obligations | -                      | 0.4        |
| Balance at 31 December                          | <b>0.6</b>             | <b>0.6</b> |

This provision is expected to be used on termination of the lease in 2023; the actual outflows will vary dependent upon agreement with the landlord at that time.

## 28. Pension asset/liabilities

### Defined benefit scheme

- Retirement benefits are accounted for under IAS 19 - Employee Benefits (revised). The net asset/liability on the defined benefit scheme is the fair value of the scheme assets less the present value of the defined benefit liabilities at the end of the reporting period.
- Scheme liabilities are measured by qualified actuaries on an actuarial basis using the projected unit credit method, and are discounted at appropriate high-quality corporate bond rates that have terms to maturity which approximate to the terms of the related liability.
- Scheme assets which are held in a separate trustee administered fund are measured at fair value. Scheme assets may include equities, securities and cash together with qualifying insurance policies.
- Net interest is determined by applying the discount rate to both the liability and asset calculations. In addition, scheme administration costs, which are paid directly by ICAEW, are included in the defined benefit obligation, offset by a corresponding non-cash increase in contributions by the employer.
- The discount rate is determined with reference to high quality corporate bonds that have terms to maturity approximating the terms of the related pension obligation.
- The assumption for long-term inflation is based on market expectation of long-term future inflation at the year end, as measured by the difference between yields on fixed interest and index-linked government bonds.
- The assumptions relating to the mortality of current and future pensioners are based on bespoke data using up-to-date pooled experience from occupational pension schemes and taking into account the characteristics of each individual member that are known to affect life expectancy. Allowance is made for future mortality improvements in line with the projection model issued by the Institute and Faculty of Actuaries. Improvements are assumed to have peaked and decline at older ages. This is consistent with the assumption used in the most recent actuarial valuation.
- Actuarial gains and losses are recognised in full in other comprehensive income as they arise.

Until 30 June 2010, ICAEW operated a defined benefit staff pension scheme (the scheme) which provided participating members of staff with retirement benefits based on their final pensionable salary. Following consultation during 2009, the scheme was closed to future accrual of member benefits on 30 June 2010. The assets of the scheme continue to be held by a separate trustee-administered fund.

The most recent completed valuation of the scheme was carried out by Hymans Robertson LLP as at 31 March 2013 on the projected unit credit method, taking into account the closure of the scheme to future accrual from 30 June 2010. At the valuation date, the market value of the assets of the scheme was £149.9m, which represented 86% of the value of the benefits that had accrued to members, after allowing for expected future increases in inflation.

A recovery plan has been agreed with the trustee whereby ICAEW has undertaken to make monthly payments of £0.15m (£1.8m per year) until the deficit is eliminated, to be reviewed at the next triennial valuation, together with additional payments for enhanced early retirements at the next valuation. Total payments by ICAEW to the scheme during 2015 for past service costs amounted to £1.8m (2014: £1.9m). Contributions to the scheme in 2016 are therefore estimated at £1.8m, together with contributions in kind in relation to the administration costs of the scheme. The next triennial review will be as at 31 March 2016.

Because of changing market and economic conditions, the expenses and liabilities actually arising under the scheme in the future may differ materially from the estimates made on the basis of the actuarial assumptions. The effects of any change to these assumptions are accounted for in the next financial year as other comprehensive income. The calculation of any charge relating to retirement benefits is clearly dependent on the assumptions used, which reflects the exercise of judgement.

In conjunction with the 2013 valuation of the scheme, ICAEW agreed to continue with a charge being made over Chartered Accountants' Hall and the trustee having an interest noted in up to £10.0m of the investment portfolio of ICAEW.

### Desktop actuarial valuation

The actuary has provided a desktop actuarial update on the scheme's financial position as at 31 December 2015. This review estimated that the deficit, based on assumptions consistent with the 2013 triennial valuation, was £11.0m, reflecting a funding level of 94% (2014: £17.8m).

The desktop actuarial valuation is prepared using the following key assumptions:

Pre-retirement discount rate – Bank of England gilt curve plus 1.25% pa (varies by term)

Inflation – Bank of England gilt inflation curve (varies by term)

Life expectancy – bespoke mortality base tables with future improvements underpinned at broadly one year per decade, reflecting the characteristics of the fund's membership

The main reason for the difference between this desktop actuarial valuation and the IAS 19 valuation relates to the discount rates applied.

The following table highlights the sensitivities of the funding level in the above desktop actuarial valuation to changes in each of these assumptions individually; the effect of changing more than one assumption would not necessarily be equal to the sum of the two individual changes. As a result of the purchase of the buy in annuity in the year which is discussed below, the change in assumptions affects both the liabilities and assets of the scheme.

|                   | Change in assumption            | Effect on funding level<br>% | Net effect on deficit<br>£m |
|-------------------|---------------------------------|------------------------------|-----------------------------|
| Discount rate     | Increase/(decrease) by 0.5% pa  | Increase/(decrease) by 6%    | 10.9                        |
| Rate of inflation | Increase/(decrease) by 0.25% pa | (Decrease)/increase by 3%    | 5.6                         |
| Longevity         | Increase by 1 year              | Decrease by 2%               | 3.4                         |

### IAS 19 valuation

The scheme's actuary provides a separate report for IAS 19-Employee Benefits purposes at each year end. The assumptions made at 31 December 2015 by the board on the advice of the scheme's actuary were:

|                   | 2015  | 2014  |
|-------------------|-------|-------|
| Discount rate     | 3.80% | 3.50% |
| Rate of inflation | 3.00% | 2.95% |

IAS 19 (revised) states that the discount rate used should have regard to returns on high quality corporate bonds of a term consistent with the term of the post-employment benefit obligations. A yield curve of iBoxx AA bonds has been used to estimate an appropriate discount rate for the scheme's liabilities, which are estimated to have a weighted average term of 16 years.

The mortality tables used to calculate the pension liabilities imply an expected future life expectancy of current pensioners at age 65 of 23.1 years (men) and 25.5 years (women); and for current non-pensioners of 25.5 years (men) and 28.4 years (women). These assumptions are in line with the actuarial valuation as at 31 March 2013.

The table below summarises the split of defined benefit obligation between deferred members and pensioners. There are no active members.

|                        | Number of members | Liability split | Duration - years |
|------------------------|-------------------|-----------------|------------------|
| Deferred members       | 341               | 50.9%           | 20.2             |
| Pensioners             | 403               | 49.1%           | 13.0             |
| Total/weighted average | <b>744</b>        | <b>100.0%</b>   | <b>16.2</b>      |

The scheme actuary has confirmed that the assumptions adopted by management are within their acceptable range for the purposes of the IAS 19 valuation. The following table highlights the sensitivities of the funding level in the IAS 19 valuation, as calculated by the actuary, to changes in each of the assumptions individually; the effect of changing more than one assumption would not necessarily be equal to the sum of the two individual changes. As a result of the purchase of the buy in annuity in the year which is discussed below, the change in assumptions affects both the liabilities and assets of the scheme.

|                   | Change in assumption            | Effect on funding level<br>% | Net effect on deficit<br>£m |
|-------------------|---------------------------------|------------------------------|-----------------------------|
| Discount rate     | Increase/(decrease) by 0.5% pa  | Increase/(decrease) by 7%    | 11.5                        |
| Rate of inflation | Increase/(decrease) by 0.25% pa | (Decrease)/increase by 4%    | 5.5                         |
| Longevity         | Increase by 1 year              | Decrease by 3%               | 3.8                         |

The following table summarises the results of the IAS 19 valuation of the fund:

|   | Group      |            | ICAEW      |            |
|---|------------|------------|------------|------------|
|   | 2015<br>£m | 2014<br>£m | 2015<br>£m | 2014<br>£m |
| Present value of funded obligations     | (153.6)    | (163.2)    | (153.6)    | (163.2)    |
| Fair value of plan assets               | 162.9      | 166.0      | 162.9      | 166.0      |
| Whole scheme surplus                    | 9.3        | 2.8        | 9.3        | 2.8        |
| Less: relating to other group companies | -          | -          | -          | 0.3        |
| Scheme surplus                          | <b>9.3</b> | <b>2.8</b> | <b>9.3</b> | <b>3.1</b> |

In accordance with IFRIC 14, the defined benefit pension scheme rules and funding arrangements were reviewed and with supporting legal advice, ICAEW considers that it has an unconditional right to a refund assuming the gradual settlement of the scheme liabilities over time until all members have left the scheme. Accordingly any surplus arising on valuation is recognised as a scheme asset. We note that IFRIC 14 is currently under review and will reconsider accordingly.

#### Reconciliation of defined benefit obligation – whole scheme

|  | 2015<br>£m   | 2014<br>£m   |
|--|--------------|--------------|
| Opening defined benefit obligation                                     | 163.2        | 149.3        |
| Administration cost  | 0.4          | 0.4          |
| Interest on obligation   | 5.6          | 6.5          |
| Actuarial (gains)/losses arising from changes in financial assumptions | (9.6)        | 11.9         |
| Benefits and expenses paid   | (6.0)        | (4.9)        |
| Closing defined benefit obligation                                     | <b>153.6</b> | <b>163.2</b> |

The administration costs of the scheme are paid directly by ICAEW.

## Reconciliation of fair value of plan assets – whole scheme

|  | 2015         | 2014         |
|--|--------------|--------------|
|  | £m           | £m           |
| Opening fair value of plan assets  | 166.0        | 151.0        |
| Net interest income on plan assets   | 5.7          | 6.5          |
| Contributions by the employer  | 2.2          | 2.3          |
| Actuarial (losses)/gains arising from return on assets, excluding amounts included in net interest | (5.0)        | 11.1         |
| Benefits and expenses paid   | (6.0)        | (4.9)        |
| Closing fair value of plan assets  | <b>162.9</b> | <b>166.0</b> |
| Actual return on assets  | 0.7          | 17.6         |

Contributions by the employer include deficit funding payments, together with contributions in kind of £0.4m (2014: £0.4m) in relation to administration costs paid directly.

The major categories of plan assets as a percentage of total plan assets are as follows:

|                                    | 2015        | 2014        |
|------------------------------------|-------------|-------------|
| Equities                           | 40%         | 42%         |
| Debt securities - Government bonds | 5%          | 9%          |
| Debt securities - Corporate bonds  | 20%         | 26%         |
| Insurance contracts                | 26%         | 12%         |
| Cash and cash equivalents          | 9%          | 11%         |
|                                    | <b>100%</b> | <b>100%</b> |

The scheme trustee intends to shift the weight of the portfolio towards bonds over a period of time, with the aim of creating a bond portfolio where the value of the assets moves in a similar way to the liabilities when there is a change in inflation or interest rates.

In terms of setting long-term objectives for the scheme, the key elements agreed between the trustee and ICAEW are as follows.

- The long-term objective is for the scheme to be self-sufficient, based on the scheme's current funding position and the agreed recovery plan, in 10-15 years.
- The interim target is to be fully funded on the technical provisions basis by 2023.

The modelling carried out as part of the 2013 valuation helped the trustee identify funding and investment strategies that would provide a reasonable probability of meeting their long-term target while taking an acceptable level of risk that ICAEW could tolerate. Given the agreed contribution payments and the strength of ICAEW's covenant, the current asset allocation was identified as appropriate although it will be regularly reviewed in light of emerging changes to the scheme, the wider economy and general market conditions.

The trustee had previously agreed to implement a plan to reduce the risks in the scheme as it moves progressively closer towards the objective of self-sufficiency. The process aims to give the trustee the ability to capture good investment performance as and when the right opportunities arise. The default option is to disinvest from equities in order to invest in bonds but sufficient flexibility has been built into the process to allow investment in alternative assets if market conditions do not support the default option.

As part of the continued process to manage scheme volatility, in 2014, the trustee purchased a buy-in annuity with Just Retirement to provide funding for the liabilities of a portion of the largest pension liabilities; a further annuity was purchased in November 2015 with Partnership. The annuities are in the name of the trustee and are an asset of the fund and the corresponding pensioner obligations also remain as liabilities of the fund. The policies have been valued by the scheme actuary on a basis to value the underlying liabilities secured by the policy. It assumes that the fair value of the asset is equal to this liability value which is determined and is consistent with the scheme's ongoing funding basis. The asset is included as insurance contracts elsewhere in this note.

The fair values of the main asset categories can be summarised as follows:

|                           | Quoted<br>£m | Unquoted<br>£m | Total<br>£m  |
|---------------------------|--------------|----------------|--------------|
| Equities                  | 65.0         | -              | 65.0         |
| Debt securities           | 33.2         | 8.0            | 41.2         |
| Insurance contracts       | -            | 42.8           | 42.8         |
| Cash and cash equivalents | 13.9         | -              | 13.9         |
|                           | <b>112.1</b> | <b>50.8</b>    | <b>162.9</b> |

Amounts recognised in the income statement within staff costs are as follows:

|                                    | Group        |              | ICAEW        |              |
|------------------------------------|--------------|--------------|--------------|--------------|
|                                    | 2015<br>£m   | 2014<br>£m   | 2015<br>£m   | 2014<br>£m   |
| Administration cost                | (0.4)        | (0.4)        | (0.4)        | (0.4)        |
| Net interest income on plan assets | 5.7          | 6.5          | 5.7          | 6.5          |
| Interest on obligation             | (5.6)        | (6.5)        | (5.6)        | (6.5)        |
|                                    | <b>(0.3)</b> | <b>(0.4)</b> | <b>(0.3)</b> | <b>(0.4)</b> |

Amounts recognised as other comprehensive income:

|   | Group      |              | ICAEW      |              |
|---|------------|--------------|------------|--------------|
|   | 2015<br>£m | 2014<br>£m   | 2015<br>£m | 2014<br>£m   |
| Actuarial (loss)/gain on plan assets                      | (5.0)      | 11.1         | (5.0)      | 11.1         |
| Actuarial gain/(loss) on obligation                       | 9.6        | (11.9)       | 9.6        | (11.9)       |
| Actuarial gain/(loss) – whole scheme                      | 4.6        | (0.8)        | 4.6        | (0.8)        |
| Less: relating to other group companies within the scheme | -          | -            | (0.2)      | -            |
|   | <b>4.6</b> | <b>(0.8)</b> | <b>4.4</b> | <b>(0.8)</b> |

The cumulative amount of actuarial losses recognised in other comprehensive income since the date of transition to IFRS is £1.7m (2014: £6.1m).

Amounts for the current and previous periods are as follows:

|                                      | 2015<br>£m | 2014<br>£m | 2013<br>£m | 2012<br>£m   | 2011<br>£m   |
|--------------------------------------|------------|------------|------------|--------------|--------------|
| Defined benefit obligation           | (153.6)    | (163.2)    | (149.3)    | (143.6)      | (134.1)      |
| Plan assets                          | 162.9      | 166.0      | 151.0      | 138.0        | 127.5        |
| Whole scheme surplus/(deficit)       | <b>9.3</b> | <b>2.8</b> | <b>1.7</b> | <b>(5.6)</b> | <b>(6.6)</b> |
| Actuarial (loss)/gain on plan assets | (5.0)      | 11.1       | 7.4        | 2.9          | -            |
| Actuarial gain/(loss) on obligation  | 9.6        | (11.9)     | (4.8)      | (7.7)        | (7.2)        |
| Experience gains on obligation       | -          | -          | 3.0        | -            | -            |

### Defined contribution scheme

- For the defined contribution scheme, the contributions under the scheme are charged to the income statement as they become due and payable.

The defined benefit contribution scheme provides benefits based upon contributions made and investment returns achieved. The assets of the scheme are held in a separate trustee fund. ICAEW contributes 9% of pensionable earnings for participating employees. Employees contribute a minimum of 4%.

The amount charged to the income statement during the year for these schemes was £2.2m (2014: £2.3m). There were no contributions payable to the scheme at the year-end date (2014: £nil).



## 29. Reserves

ICAEW reserves are set at a level equivalent to between three and six months of expenditure through the income statement and for cash and investment balances to be at least sufficient to cover between three and six months of annual budgeted/forecast gross cash expenditure.

Reserves comprise the following:

### **Revaluation reserve**

Represents the excess of the open market valuation over the depreciated historical cost of ICAEW's historic collections and properties, net of deferred tax.

### **Investment revaluation reserve**

Represents unrealised gains and losses arising from the revaluation of available for sale investments over their historical cost.

### **Accumulated fund and other reserves**

Represents the retained result of ICAEW and ICAEW group activities and comprises the accumulated fund, faculties, Chartered Accountants' Compensation Scheme and charitable trust reserve funds. In calculating the result to be taken to these reserves, account has been taken of a share of central activities costs and other indirect costs and an allocation of investment income where appropriate.

Included within reserves is £3.3m relating to the Chartered Accountants' Compensation Scheme. In accordance with investment business regulations ICAEW is required to maintain a compensation scheme, funded by levies on firms authorised for investment business. This compensation scheme exists to deal with claims received about work carried out by authorised firms under both the Recognised Professional Body (RPB pre-2001) and Designated Professional Body (DPB post-2001) regimes. ICAEW maintains a reserve to meet anticipated future claims. A levy was made in 2014 on licensed firms under the DPB regime. ICAEW has reserved the right to make further levies on firms authorised under the RPB regime before 1 December 2001 should additional funds be required.

## 30. Contingent liabilities and guarantees

ICAEW has undertakings to Chartered Accountants' Compensation Scheme Limited for its agreed proportion of claims for compensation and administration costs, of amounts up to but not exceeding £10.0m in any one year. Payments for individual claims are limited to a maximum of £50,000. ICAEW's share of the costs of the scheme is recovered from those firms licensed by ICAEW under the Financial Services and Markets Act 2000 and those firms previously authorised by ICAEW under the Financial Services Act 1986 as appropriate.

ICAEW is a world leading professional membership organisation that promotes, develops and supports over 145,000 chartered accountants worldwide. We provide qualifications and professional development, share our knowledge, insight and technical expertise, and protect the quality and integrity of the accountancy and finance profession.

As leaders in accountancy, finance and business our members have the knowledge, skills and commitment to maintain the highest professional standards and integrity. Together we contribute to the success of individuals, organisations, communities and economies around the world.

**Because of us, people can do business with confidence.**

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[www.charteredaccountantsworldwide.com](http://www.charteredaccountantsworldwide.com)  
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# RISK POLICY

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UPDATED 2016

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Everyone at ICAEW  
has a responsibility for  
risk management



# RISK | MANAGEMENT AND REPORTING

## Introduction

1. Managing risk is a part of everyone's everyday responsibilities. It enables us to make decisions about what we do and how we do things – both strategically and in day to day tasks.
2. We expect everyone to consider risk when planning and managing activities from strategic planning, operational planning through to contract management, project planning and the implementation of these plans.
3. Risk management does not just mean avoiding risks. We need to balance the risks we take with the achievement of our strategic goals – if we take no risks at all we will never achieve these goals.
4. This policy and guidance sets out when you need to report risks including when to discuss risk with senior management, the Board and the Council. It clarifies when a risk is significant enough to be reported to senior management and when it can be managed within a department or team. It is important that only significant risks are escalated. As a general rule, though, if you are not sure – ask. Contacts are below.
5. This document contains:
  - Definition of risk;
  - Our risk appetite;
  - Guidance on how to identify risks;
  - Clarification on how to set the priority of risks;
  - Guidance on how to report risks and who to report them to; and
  - Roles and responsibilities.

## Who can I ask about risk?

1. My line manager
2. My departmental business manager
3. The Manager, Strategy and Risk (in the Executive Office)

|                    |   |
|--------------------|---|
| <b>Version</b>     | February 2016                           |
| <b>Author</b>      | Ben Everitt, Manager, Strategy and Risk |
| <b>Next review</b> | December 2016                           |

# RISK | MANAGEMENT AND REPORTING

## Definition of risk

6. We define risk as **an uncertain event, which will affect the achievement of objectives, if it occurs**<sup>1</sup>.
7. A risk needs to be described as what might occur and what effect this might have.
8. A good example of a risk is:  
**“There is a risk that breach of system security leading to unauthorised access to ICAEW systems and data resulting in disruption to operations and reputational damage”**

The uncertain event is: breach of system security

The effect, if it occurs, is: unauthorised access to ICAEW systems and data

The possible consequence for us: disruption to operations and reputational damage

## Things that are not risks

9. Issues are not risks. An issue is something that is happening now or has already happened. A risk is the potential for an issue to arise.
10. A situation arising through inactivity is not a risk because we can predict that it will happen – it is within our control. This would be an issue.
11. Someone not doing their job properly is not a risk. It is within our control and would be a management issue.
12. Worries are not risks. A worry is something that might happen but the likelihood is so remote that we cannot take any preventative or avoidance actions. It could also be something insignificant, with little impact. This doesn't mean you shouldn't think about worries, or that the things you worry about might not develop into risks if things change – which they often do. If you need help, ask.
13. “Widespread disruption from whatever cause” is too broad to assess for impact on ICAEW and it is not a well-defined risk.
14. Again, if you are not sure what is a risk, ask.

## Relationship with project risks

15. Project risks are managed as part of the project management process. They should not be reported as part of the corporate or departmental risk management process.
16. The process for managing project risks is clearly detailed in the Project Management Toolkit<sup>2</sup>. The toolkit and user guide are available on the W Drive:  
*Computer > W Drive > Project Management > ICAEW Project Toolkit*
17. Project risk registers and benefits registers should be assessed as part of the project closure procedure. Any remaining risks and (dis)benefits that are identified as relevant should be inserted into the appropriate departmental or corporate risk register and dealt with in the normal way.

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<sup>1</sup> This is taken from the definition of risk of the Office of Government Commerce in their publication: *Management of Risk: Guidance for Practitioners (TSO 2007)*

<sup>2</sup> <http://icaew.idlive.co.uk/How-to/Manage-projects>



# RISK | MANAGEMENT AND REPORTING

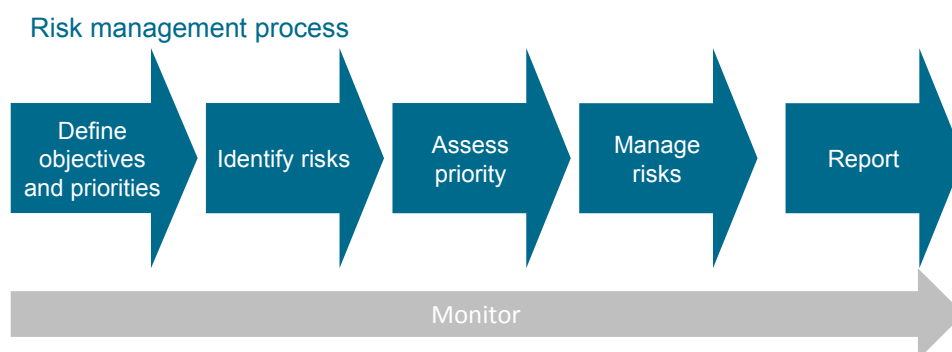
## Our risk appetite

At its simplest, risk appetite can be defined as the amount of risk, on a broad level, that an organisation is willing to take in pursuit of value. Or, in other words, the total impact if risk an organisation is prepared to accept in the pursuit of its strategic objectives.

*KPMG – Understanding and Articulating Risk Appetite, 2008<sup>3</sup>*

18. We are a risk-conscious organisation. We understand, explore and manage risk in order to deliver our strategy. Our risk appetite varies across our organisation. What remains the same is that we recognise that every activity that we engage in must uphold and promote our reputation. Our reputation is our ultimate commodity.
19. Our risk reviews (process detailed below) should clearly state the appetite to risk for each reporting department.

## Risk management and risk reporting



### Define objectives and priorities

20. This is completed as part of the strategic and operational planning processes

### Identify risks

21. A risk is normally directly related to a core activity of the organisation and/or a business objective.
22. It's easiest to think about and identify risks when operational activities and objectives are being defined and agreed, i.e., during the operational planning process or when setting out the objectives for a project. Risks can, and should, be identified and acted upon at any time.
23. Identifying risk begins with a clear understanding of the ICAEW strategic activities and objectives, and department objectives. For each activity and objective, we can then consider what might prevent us from achieving our goals. These are the risks.
24. In most cases, this is an intuitive process and part of planning and management of any activity. For risk reporting, these risks need to be formally recorded so that they can be reported and monitored.

3

<https://www.kpmg.com/CN/en/IssuesAndInsights/ArticlesPublications/documents/Risk-appetite-O-200806.pdf>

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## RISK | MANAGEMENT AND REPORTING

25. Risks could come from many sources. We have grouped some risk sources under the AIMS, but these are not the only sources of risk:

**ACCESS** – Risks that affect our portfolio of qualifications and services, their fitness for purpose, their international reputation and our ability to explore and tap into new markets. Our core business involves attracting students; they train for the ACA and become members for the long term.

**INFLUENCE** – These include risks to building our reputation, including building key relationships, which allow us to influence the future of the profession in the public interest. Factors could include, but are not limited to:

- The regulatory environment: risks that affect our ability to influence and respond to UK, European and global agendas.
- The economic environment: risks that affect our ability to promote the work of ICAEW, members, firms and businesses.

**MEMBERS** – The work of our members lies at the heart of our reputation. Factors could include, but are not limited to:

- Risks that affect our ability to grow our membership base, increase awareness of the benefits of membership and evolve our brand.
- Risks that affect our ability to build relationships with our members.

**STANDARDS** – Our professional standards work is fundamentally about keeping the badge shiny and protecting consumers. We uphold the public interest, maintain standards and the reputation of the profession.

26. Keep the focus of the risk assessment at the right level. If you try to cover too much detail you will be swamped with risks and unable to deal with them.

### Assess priority

27. Each risk is assessed for its impact and likelihood. This will enable us to determine whether it is a priority risk or not. The matrix used to assess the risk is shown on the next page.

28. We then consider the possibility of occurrence despite mitigating actions and the likely impact if it did occur.

29. Again, this would normally be an intuitive process – you would know immediately if a risk was high priority, but for risk reporting we need to be able to assess priority on a scale that can be compared between departments and between activities.

30. Even with this guidance, risk priority cannot be easily quantified. A significant amount of judgement is necessary. It is important that staff and management work together to ensure all the relevant risks are identified and prioritised as consistently as possible.

31. If you are not sure, then it is better to escalate the potential risk so that staff and management can work together to ensure all the relevant risks are identified and prioritised as consistently as possible.

32. The overall assessment, or priority, is based upon the combination of the impact and likelihood:

# RISK | MANAGEMENT AND REPORTING

|            |   |        |        |        |        |
|------------|---|--------|--------|--------|--------|
|            |   | 1      | 2      | 3      | 4      |
| Likelihood | 5 | Medium | High   | High   | High   |
|            | 4 | Low    | Medium | High   | High   |
|            | 3 | Low    | Medium | Medium | High   |
|            | 2 | Low    | Low    | Medium | Medium |
|            | 1 | Low    | Low    | Low    | Medium |

## Impact

33. The following guidance is there to assist in assigning an impact rating to the risk. The impact banding is set in terms of the impact on ICAEW as a whole and we are focusing on the more significant risks.

|                  | 1<br>Minor   | 2<br>Significant  | 3<br>Major  | 4<br>Critical   |
|------------------|--|---|---|---|
| <b>ACCESS</b>    | Damage to qualifications in specialist area or geographic region with limited take up.   | Significant impact on qualifications affecting specialist area or geographic region or degradation to qualifications affecting all students.  | Major damage to qualifications that affects the majority of students.   | Critical impact on qualifications leading to significant loss of students.  |
| <b>INFLUENCE</b> | Negative impact on our reputation and influence in a country outside of the UK or a contained area within the UK.  | Significant negative impact on our reputation and ability to influence in another region outside the UK.  | Major damage to UK reputation and influence.<br><br>Negative national media, regulator or government attention for several days.  | Critical damage to global reputation and influence.<br><br>Sustained, negative media, regulator or government attention.  |
| <b>MEMBERS</b>   | Minor damage to our brand, or the reputation of the profession, or more significant damage in a localised area.<br><br>Damage to the member experience for a small group of members or students, or a minor degradation for all members. | Significant damage to our brand, or the reputation of the profession, in a region outside of the UK.<br><br>Significant impact on member services affecting some members or significant degradation for majority of members | Major damage to our brand, or the reputation of the profession, the UK or an equivalent region.<br><br>Major impact on member services that negatively affects a large number of members. | Critical damage to our brand, or the reputation of the profession.<br><br>Critical impact on member services in the long term leading to loss of major member firms or significant number of members. |
| <b>STANDARDS</b> | Ability to deliver our role in maintaining standards in the profession is affected.  | Significant reduction in our ability to deliver our role in maintaining standards in the profession, such as the loss of some regulatory responsibilities.  | Major reduction in our ability to deliver our role in maintaining standards in the profession, such as the loss of key regulatory responsibilities.                                       | Critical impact on ability to maintain standards in the long term leading to loss of major member firms or significant number of members.   |

# RISK | MANAGEMENT AND REPORTING

## Likelihood

34. The likelihood of a risk occurring is defined as follows:

|                            |   |
|----------------------------|---|
| <b>5</b><br>Almost certain | The event will occur in all but exceptional circumstances. 80% probability or more. |
| <b>4</b><br>Probable       | The event is expected to occur in most circumstances. 50% to 80% probability.       |
| <b>3</b><br>Possible       | The event should occur at some time. 20% to 50% probability.                        |
| <b>2</b><br>Unlikely       | The event may occur at some time. 5% to 20% probability.                            |
| <b>1</b><br>Rare           | The event may occur at some time, but it would be exceptional. Up to 5% probability |

## Risk approach

35. When reporting a risk we also need to determine whether the risk is being managed to an acceptable level or not. This is an assessment of whether the risk remaining, with all the controls and other risk management activity in place, is acceptable.
36. In some cases we are seeking to limit or eliminate risk. In other cases we are taking on a risk in order to achieve a goal that has a significant benefit. Risk management is not about avoiding risk, it's about being conscious of what you are doing.
37. Management must judge if a risk is acceptable. This will depend on the description of the risk, its priority and the management activity in place.
- If a risk is defined as high priority it is unlikely to be acceptable. Exceptionally a high priority risk can be acceptable if there are no possible additional remedial actions available to reduce the risk further. In this case a contingency plan may be necessary to manage the risk if it occurs.
  - Medium priority risks may or may not be within tolerance – this depends on whether the risk requires immediate remedial action or not, or whether the risk is outweighed by the benefits
  - If the risk is defined as low priority it will normally be acceptable.

# RISK | MANAGEMENT AND REPORTING

## Manage risks

38. Risks can be managed in many different ways. This activity can include specific controls, insurance, contingency planning, etc. but it's just as likely to be managed by what you consider to be normal activities.
39. When reporting a risk, it's important to describe this activity so that the reader understands what you do.
40. Current management activity means activity that is already in place. This may be on-going activity, e.g., a monthly reconciliation, or something you do on a reactive basis, e.g., implement a contingency plan.
41. If the risk is not within acceptable levels, you must provide details of the additional management activity necessary to reduce the risk further. This must be accompanied by a responsibility and due date (like an action plan).
42. As part of the process of embedding of risk, departments should review their departmental risk register at every departmental team meeting. They should notify the Executive Office of any new principal risks and any changes to corporate or departmental risks which have made them principal risks, for report to Management Team and the Board.

## Net Risk Reporting

43. Net risk is the residual level of risk once the risk management activity has taken place. This demonstrates the effect of the activity taken, to mitigate the likelihood and/or impact of the priority risk.
44. Net risk rating provides a clear understanding of how the current risk management activity impacts the priority level of risk and to what degree. Net risk also puts forward the question whether the priority risk can be mitigated further.
45. Some risks, however, can't be mitigated even with feasible actions taken (such as a global recession) because it is out of our immediate control. This will result in net risk equalling priority risk level.

## Report

46. Medium and high priority risks must be documented as part of the following processes:
  - **Operational planning:** When completing their operational plan, departments must consider risks that will affect their ability to achieve the key priorities for their department.

The response to these risks will be embedded in their operational activities, key priorities and budgets, but we also need the risks to be clearly specified to enable us to report them. With the operational plan guidelines, departments are provided with two templates to record these risks:

    - The first contains the key risks to ICAEW as identified by the senior management team and departments must describe how they contribute to the management of these risks.
    - The second template is for the department to record the risks that they consider to be of significant priority to them.
  - **Strategic priority reporting:** Following the approval of the operational plan, a quarterly update is provided in the strategic priorities report. This details progress made in achieving these key strategic objectives.

As part of the reporting, departments must include reference to risks. If there is any deviation from target, a specific comment on how you are going to achieve

## RISK | MANAGEMENT AND REPORTING

the overall target for the rest of the year is required. This is a form of early warning report.

- **Project approvals:** Within the standard template for approval of any projects by the Board, there is a section on risk. This includes all kinds of risk to the project and not just financial risks. This section must be completed for all project proposals that go to the Board for approval.

Once the project has been approved by the Board, the relevant director is responsible for updating their risk register as necessary.

- **Other:** Risk should also be considered as part of any other activity. Specifically, reports to the Board such as the quarterly reforecast and the monthly Executive Director reports should include significant changes in risk.

### The risk register

47. The Executive Office will collate the risks reported in the above into a single risk register. The details required for each risk are:

- A description of the risk;
- The inherent likelihood and impact of the risk (i.e. before any mitigating action is taken);
- Current management activity. This can include:
  - Activity to change the likelihood of it occurring, including outsourcing to a third party who can provide more resilience;
  - Activity to change the impact when it does occur, including taking out insurance; and,
  - Acceptance of the risk as it is (i.e., no action).
- Any additional future management activity planned, along with a target date for implementation (an action plan);
- The owner of the risk;
- The owner of the actions to mitigate the risk ('responsibility'), with description of the timescale for reviewing the risk within the context of the current and planned actions; and,
- Net assessment of the risk (i.e. our actual exposure to the risk after the mitigation actions are taken into account).

48. An example of a risk in the risk register is included as an appendix to this document.

49. At least twice a year, the senior management team will review all of the risks on the register and, using the priorities assigned to each of these risks, identify those risks that are of priority to ICAEW as a whole (e.g., principle risks). This will include any risks where the residual risk is not within tolerance and risks that combine to create a significant risk to ICAEW.

50. The Executive Office will produce reports for the Board and Audit Committee on key risks to ICAEW.

### Escalation procedures

51. When risks are defined as high priority they are highlighted and reported to the Board and Audit Committee. In addition, any risks identified as not within tolerance are reported to the Board and Audit Committee.

52. This will occur routinely twice a year – once following the operational plan update and then again mid-year – or more frequently should circumstances demand.

53. Any low priority risks are not reported outside of the department.



# RISK | MANAGEMENT AND REPORTING

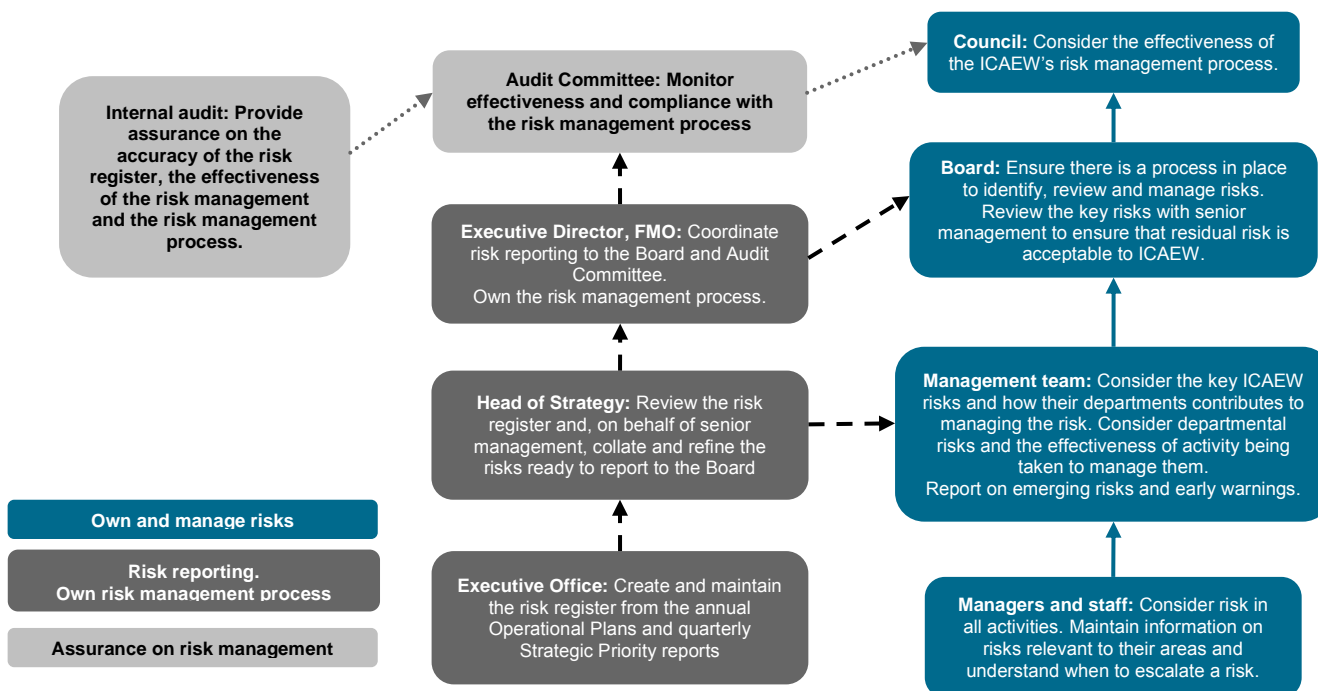
## Risk Governance and review

- 54. **Principal Risks** are owned by Executive Directors and delivery of mitigating actions is built into strategy and operational plan. They are reviewed by the Board at every Board meeting.
- 55. **Corporate risks** owned by Executive Directors s/Directors (as appropriate) and mitigating actions are either project-based (time-bound) or business as usual, delivered by multiple owners (i.e. person most appropriate regardless of where they are in org).
- 56. **Departmental risks** are owned by departments and activities (usually) delivered by that department.
- 57. Risks are reviewed and discussed at departmental management team meetings (usually monthly). Departmental boards should have the opportunity to review all risks and the ability to suggest new risks and suggest alterations to current risks.

## Monitoring and quality assurance

- 58. Internal Audit monitor whether the process is effective through regular reviews of the risk management process and the risk register reports. The results of these audits are reported to the Audit Committee.
- 59. Internal audit also report on the completeness of the risk register through their regular internal audit programme.
- 60. Audit Committee conduct regular 'deep dive' exercises into principal and other risks.

## Roles and responsibilities



- 61. Everyone at ICAEW has a responsibility for risk management:
- 62. Risk reporting is the responsibility of the Executive Office and the Director, Strategy and Governance.

## RISK | MANAGEMENT AND REPORTING

63. The Executive Director, Finance, Operations and Members will present the risk register to the Audit Committee and Board following agreement with the Management Team.
64. The Head of Strategy, with support from the departments, will collate the risks reported in the operational plans, strategic reports and monthly Executive Director reports into a risk register. The risk register will be updated twice a year using these source documents.
65. The Risk Manager will actively support departments to apply this policy. This will include:
  - Providing training and advice.
  - Reviewing the risks reported and challenging them when they do not meet this policy.
  - Considering any gaps in the risk register – looking for “left field” risks or areas of risk that have been omitted or duplicated.

# RISK | MANAGEMENT AND REPORTING

## A TEMPLATE RISK REGISTER

| Ref | Risk   | Objective/<br>Strategic Priority   | Priority   | Current risk<br>management activity   | Owner   | Additional risk<br>management activity<br>planned  | Responsibility<br>and target<br>date  | Net Risk  |
|-----|--|--|--|---|---|--|---|---|
|     | <i>[Description of the risk and its potential effect on ICAEW]</i> | <i>[The department objective or strategic priority to which this risk relates]</i> | <i>[High, medium or low rating based on the risk level pre risk management activity]</i> | <i>[Current activity in place to manage the risk.<br/>May include internal controls, contingency plans, etc.]</i> | <i>[Person responsible for managing the risk]</i> | <i>[If the risk is not at an acceptable level, what additional risk management activity is planned?]</i> | <i>[Responsibility and date to implement additional risk management activity]</i> | <i>[High, medium or low rating based on the risk level post risk management activity]</i> |



## HUMAN RESOURCES (EXTRACT FROM STAFF INTRANET)

This is the home of all the policies, procedures and forms that relate to you as an ICAEW member of staff and the pursuit of your role in the organisation.

It is important to note that our policies and procedures have been updated in line with current legislation and ICAEW governance. As some of these policies form part of your own terms and you should ensure that you take the opportunity to review them.

The HR policies relate to UK based staff. If you work in one of our global offices, please refer to your employment contract for details regarding benefits and legislation. If you have any questions please get in touch with your HR contact.

Policies which form part of your contractual arrangements include

- Attendance
- Contractual core benefits
- Leaving ICAEW
- Overtime
- Remuneration
- Secondary employment
- Sickness

You can view or download each 'human resources' policy, procedure and form from these drop-downs:

- Ad hoc homeworking
- Adoption leave
- Alcohol and substance abuse
- Anti-fraud and bribery
- Bullying and harassment
- Business conduct
- Capability
- Central Milton Keynes parking permit application
- Choice Benefits
- Corporate gifts and hospitality
- Disciplinary
- Diversity and inclusion
- Dress and conduct
- Eyecare vouchers
- Flexible working

Foster Care Support  
Grievance  
Health and safety  
Incapability  
Information security  
Internal promotions and transfers  
Job sharing  
Job titles  
Long service and gifts  
Maternity  
Mentoring  
No smoking  
Overtime  
Parental leave  
Paternity leave  
Pay  
Performance management and reward  
Personal Development Review (PDR) appraisal – guidance notes  
Promotion and transfer  
Recognition  
Recruitment, induction and probation  
Redundancy  
Regular home working  
Regular home working - additional responsibilities  
Remuneration  
Retention of personal information  
Sabbaticals  
Season ticket loans  
Secondary employment  
Shared Parental Leave  
Sickness  
Staff introduction scheme  
Sustainability  
Time off to care for dependants  
Training and development  
Whistleblowing  
Work Experience and Internship



# ACA student training guide





# Welcome to ICAEW

You are now studying towards a world-leading professional qualification in accountancy, finance and business. You have joined a global community of over 22,000 ACA students, currently training to be ICAEW Chartered Accountants.

We have over 144,000 members working in more than 160 countries



Founder member of Chartered Accountants Worldwide which has 310,000 members in 180 countries



Over 22,000 ACA students are studying the ACA globally



More than 3,300 employers around the world are authorised to train students for the ACA



The ACA exams are currently being sat in 42 countries around the world



75% of students pass the final Case Study exam and of these, 79% pass first time

# Getting started

Here's a checklist of four key things you'll need to complete in order to kick-start your journey as an ACA student.

1

Register as an ACA student

To sign up, visit [icaew.com/studentregistration](https://www.icaew.com/studentregistration)  
Once your application has been accepted, you will gain access to a variety of resources to help you with your studies.

2

Your ACA training agreement

If you are training with an ICAEW authorised training employer (ATE) or authorised training principal (ATP), they will give you an ACA training agreement to sign.

3

Apply for credit for prior learning (CPL)

You may be eligible to apply for credits for some of the ACA syllabus if you have studied a relevant academic or professional qualification. Be sure to check that your employer recognises CPL before applying. Find out more using our CPL directory at [icaew.com/cpl](https://www.icaew.com/cpl)

4

Apply for exams

You can apply for these using your online training file. For upcoming exam dates and deadlines visit [icaew.com/acaplanner](https://www.icaew.com/acaplanner)



Good luck!

We wish you every success with your ACA training and look forward to welcoming you as an ICAEW Chartered Accountant.

# The ACA qualification in detail

The ACA qualification has four key components that you need to successfully complete in order to become a qualified ICAEW Chartered Accountant.

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## ★ Top tip

You will need to meet with your employer at least every six months to discuss your progress through each of these components. Find out more at [icaew.com/dashboard](https://www.icaew.com/dashboard)





# Professional development

Professional development is an essential component of the ACA qualification as it prepares you to successfully handle situations that you will encounter throughout your career. There are seven ladders, each containing seven or eight steps, each of which represents a specific skill.

## The seven professional development ladders

As an ACA student, you will either follow ICAEW's professional development ladders or complete your employer's professional development training programme. To find out more, go to [icaew.com/dashboard](https://www.icaew.com/dashboard)



## Top tips if you're following the ICAEW professional development ladders ...

- You will review your professional development progress with your employer as part of your six-monthly reviews. Make sure that you update the professional development tab in your online training file with specific examples of how you have met the steps within each ladder.
- You are responsible for completing and updating your professional development log, as well as organising your six-monthly reviews with your employer.
- Where you start and how fast you progress is flexible and something you can manage with your employer. Your employer will give you feedback on your professional development progress in your six-monthly reviews, which you will then need to record within your online training file.

## Top tips if you're following your employer's professional development scheme ...

- Bear in mind you won't have the professional development tab in your online training file. Instead, you will need to complete your employer's own documentation.
- Your employer will need to approve your practical work experience, professional development and ethics at the end of your training to confirm that you are ready to become an ICAEW member.

## Need to get started?

We have a whole host of resources to support your professional development.



Check out our live monthly webinars, designed to help you build some of the key skills you'll need to be more effective in the workplace. Sign up at [icaew.com/acawebinars](https://icaew.com/acawebinars)



Missed a webinar? Don't worry. All of our webinars are available for you to watch on demand. You will find them saved under each professional development ladder, along with a host of useful articles to support your learning. Visit [icaew.com/listenagain](https://icaew.com/listenagain)



We've developed a series of pep talks to help support you on everything from developing assertiveness to adding value in the workplace. Perfect if you've got a spare 10 minutes; whether you're waiting for a bus, about to go in to an important meeting, or simply need a boost. Visit [icaew.com/peptalk](https://icaew.com/peptalk)



Keep an eye out for our quarterly student magazine, *Vital*, which features articles and top tips from professional development experts. Read the online magazine at [icaew.com/vital](https://icaew.com/vital)

Got a question about professional development? Visit [icaew.com/how-to](https://icaew.com/how-to)

### ★ Top tip

Whichever scheme you follow, you should build your professional development skills throughout your training – don't leave it to the end.

## What advice would you give new ACA students?



You need to be prepared to work hard – it's really intense. It's just a lot of work and you need to put your head down and keep in mind that it is a really great qualification to have, one that's going to help your career.

Emma Lowe, London

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# Ethics and professional scepticism

Ethics is more than just knowing the rules around confidentiality, integrity, objectivity and independence. It's about identifying ethical dilemmas, understanding the implications and behaving appropriately. We integrate ethics throughout the ACA qualification to develop your ethical capabilities – so you'll always know how to make the right decision, even when no one's looking.

Ethics is examined in context within all modules of the ACA qualification. Interested to know what the ethical elements are in each exam? Check out the ACA syllabus at [icaew.com/exams](https://www.icaew.com/exams)

## Ethics Learning Programme

We have developed an online learning programme based on the ICAEW Code of Ethics, to help you get to grips with our ethical framework and practise how you would respond to an ethical situation. The programme includes the following six modules:

- Introduction to ICAEW Code of Ethics
- The fundamental ethical principles
- Threats and safeguards to the fundamental ethical principles
- Conflicts of interest
- Considerations for professional accountants in practice
- Considerations for professional accountants in business.

Once you have worked your way through each of the six modules, you will need to complete a devolved assessment. This is a test to assess your knowledge of ethics and your progress through the programme.

Here are the key things you need to know about the assessment:

- you'll need to complete it online;
- it is 60 minutes long and includes 30 multiple choice questions;
- the target score is 70%;
- you will have an unlimited number of attempts; and
- each of your attempts will be recorded within the ethics and professional scepticism tab on your online training file.

### ★ Top tip

We recommend that you complete the Ethics Learning Programme and the assessment before you attempt the Case Study. Make sure you speak to your employer and get their approval before you attempt the assessment.

## Watch your ethics

We have developed a series of webinars, Practising Ethics, for you to watch on demand. After you complete each module in the Ethics Learning Programme, make sure you download the accompanying webinar to recap what you have learned. Each webinar contains three brief scenarios for you to consider and decide on a course of action. Make notes – you will be asked to present your findings on at least one scenario at every six-monthly review.

Watch the webinars now at [icaew.com/dashboard](https://www.icaew.com/dashboard)

## Log your progress

Before each six-monthly review, make sure you have added any progress you have made on the Ethics Learning Programme, the devolved assessment and the ethical steps in the ladders within your online training file. For more information about how to log your progress, visit [icaew.com/how-to](https://www.icaew.com/how-to)

At your six-monthly review, you and your employer should discuss:

- your progress with the Ethics Learning Programme;
- the result of any attempts at the devolved assessment;
- a real ethical situation; and
- a scenario from the Practising Ethics webinars.

## Ready?

Once you have completed the Ethics Learning Programme, listened to the webinars and practised approaching ethical dilemmas, you'll be able to apply your ethical skills in the workplace.

At the end of your training period, your employer will sign off your online training file. This confirms that you are ethically sound and have a strong understanding of the ICAEW Code of Ethics.

# Practical work experience

You need to accumulate at least 450 days of practical work experience, completed as part of a training agreement with one of our authorised training employers or principals. If you are eligible for a two-year training agreement, you must complete a minimum of 300 days of work experience. Your employer or principal will support you throughout your training, making sure you develop the knowledge, skills and experience you need to become an ICAEW Chartered Accountant.

Practical work experience is undertaking real-life work of a financial, business and/or commercial nature. Your work experience will need to be completed in at least one of the following six categories:

- Accounting
- Audit and Assurance (audit is not compulsory)
- Financial Management
- Information Technology
- Insolvency
- Taxation.

Your work experience can be in just one of these technical categories, or in more than one area. Either way, it must expose you to as many practical assignments, finance functions and/or clients, in as many different sectors as possible. Your work experience must also incorporate levels of responsibility that increase in depth and scope throughout the course of your training period.

## ★ Top tip

Secondments can be a good way for you to gain work experience in a variety of areas. If you are interested in doing a secondment, you will need to discuss this with your employer, as it may impact your training agreement and ACA training requirements.

As you progress through the ACA, you will need to log the number of days you have completed in the practical work experience tab of your online training file. Here are some top tips to help you keep track of your work experience and log it accurately.

- Keep a record of the number of work experience hours you complete – you might want to start a timesheet, or note these in your diary.
- Use the time in your six-monthly reviews to calculate and agree on the number of days you have accrued with your employer.
- Log the number of days within your practical work experience tab of your online training file.
- Once your employer is happy with the number of days you have accrued, you will need to confirm this in your online training file. Once confirmed, the period of work experience will be locked. Your employer can then sign off your practical work experience progress.

If you need to update your records once you have locked them, your QPRT will need to email [studentsupport@icaew.com](mailto:studentsupport@icaew.com) and ask them to amend it.

## Things to bear in mind

- If you need any further development, your work experience will not be signed off and a development plan will be put in place until your employer is satisfied that you have gained the required skills.
- If you are unable to gain the full 450 days practical work experience during your training agreement, then this will need to be extended. Please do let us know as soon as possible if this is the case.

What one item has been most helpful during your ACA revision?



Question banks. They really help you develop and understand. I think that's why I won prizes for two of my exams.

Jackson Lim, Singapore

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# Recording audit experience and the Audit Qualification

If you plan to work in audit at some point during your career, then we recommend that you apply for the Audit Qualification once you have completed the ACA.

The Audit Qualification is granted as recognition of meeting audit work experience requirements and obtaining it is the first step to becoming a UK statutory auditor. It is awarded to ICAEW members who have demonstrated audit competencies through work experience and exams. It is completely free of charge and once granted, will remain yours forever.

## Did you know?

Holding the Audit Qualification means you will count towards the control percentage of an audit registered firm. All audit registered firms require at least 50% of their partners to hold the Audit Qualification, so gaining it could really benefit you and your career in the future. What's more, the Audit Qualification is also one of the required elements for becoming a UK statutory auditor.

If you are an ACA student working for an ICAEW authorised training employer or principal, who is also a firm of registered auditors in the EU, the audit experience you gain throughout your training agreement may count towards your Audit Qualification.

To find out more about the Audit Qualification and whether you're eligible to apply, visit [icaew.com/aq](https://www.icaew.com/aq)

## ★ Top tip

Make sure you record your audit experience on the Audit Qualification tab within your training file throughout your ACA training.

Remember – if you don't claim your audit experience within six months of submitting the rest of your training records, you will lose it.

# Modules

The ACA equips you with in-depth knowledge across a broad range of topics in accountancy, finance and business. The 15 modules are designed to complement the practical experience you will be gaining in the workplace. So you should be able to really put your knowledge into practice.

You must pass every module – or receive credit. This ensures that once qualified, all ICAEW Chartered Accountants have a consistent level of knowledge, skills and experience, regardless of where in the world they have trained.

## Certificate Level

Made up of six modules, the Certificate Level introduces the fundamentals of accountancy, finance and business. Each Certificate Level module is assessed by a 1.5 hour computer-based exam, and can be sat throughout the year at an ICAEW-approved test centre. The pass mark for each exam is 55%.

## Professional Level

The next six modules build on the fundamentals and test your ability to use technical knowledge in real-life scenarios. Each Professional Level module is assessed by a 2.5 hour exam, except for Financial Accounting and Reporting, which is 3 hours. The Professional Level exams are available to sit every March, June, September and December. Please note, Business Planning: Banking and Business Planning: Insurance will only be available at the June, September and December sittings. The pass mark for each exam is 55%.

## Advanced Level

The Corporate Reporting and Strategic Business Management modules test your understanding and strategic decision making at a senior level. They present real-life scenarios, with increased complexity and wider implications from the Professional Level modules. Both exams are 3.5 hours long and have a 50% pass mark.

The Case Study presents a complex business issue which challenges your ability to problem solve, identify ethical implications and provide effective solutions. The Case Study is designed to test the knowledge, skills and experience you have gained throughout your training. This exam is 4 hours long and also has a 50% pass mark.

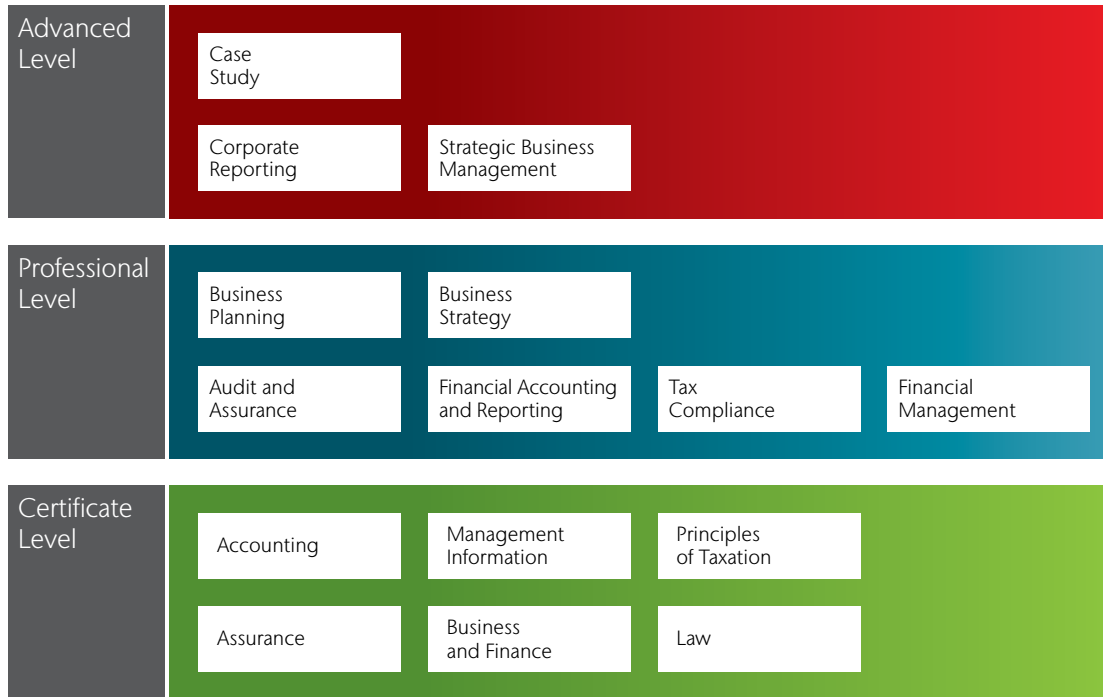
The Advanced Level exams can be taken in July and November each year. They are fully open book, so they replicate a real-life scenario where all the resources are at your fingertips.

**Please note, you will not be able to attempt the Case Study until you have taken (or received credit for) all of the other modules. You also will need to be in the final year of your training agreement.**

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# The ACA qualification



## ★ Top tip

Our bookkeeping and accounts preparation programme is a fantastic tool to help you gain experience of recording and preparing financial information. What's more, it is designed to complement the Certificate Level Accounting module.

Get ahead and access the programme at [icaew.com/bookkeeping](https://www.icaew.com/bookkeeping)

Alternative modules are available for Business Planning, Financial Accounting and Reporting, and Corporate Reporting. When you start your training agreement, your employer will guide you on the modules that are right for you. If you start the ACA independently, you should consider your future ambitions when selecting which modules to sit.

## Why not gain another qualification while you study?

Once you have completed all six Certificate Level exams, you can apply for the ICAEW Certificate in Finance, Accounting and Business (ICAEW CFAB). To find out more, visit [icaew.com/cfab](https://www.icaew.com/cfab)

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**For more information about any of the exams, as well as key dates and deadlines, visit [icaew.com/exams](https://www.icaew.com/exams)**

# Everything you need to help you with your exams

We are here to support you throughout your exams. As an ACA student, you will have access to a variety of first-class resources designed to help you with your studies. Here's a round-up of what we have to offer.

## Official ICAEW learning materials

We take pride in the fact that we publish our own learning materials. These are reviewed and approved by our examiners each year and provide clear guidance on the way in which the syllabus learning outcomes are tested in each of the ACA exams. To find out what is included in the study pack for each module, visit [icaew.com/examresources](https://www.icaew.com/examresources)



Learning materials



Past and sample papers



Syllabus



Tutor articles



Exam webinars



Student community

## Exam resources

- Access past exams, examiner feedback, sample papers and useful articles from tutors for each module at [icaew.com/examresources](https://www.icaew.com/examresources)
- Tune in to one of our webinars to listen to tutors giving their top tips for approaching the ACA exams at [icaew.com/examresources](https://www.icaew.com/examresources)
- Our student community is the hub for ACA students. Stay up to date with regular blogs covering a range of work and study topics, or join the conversation on our student forum and share your exam questions with peers. Join us at [icaew.com/studentcommunity](https://www.icaew.com/studentcommunity)

### ★ Top tip

Make sure that you are using the most up-to-date edition of the learning materials when revising for your exams.

## Apply for exams

When you're ready to sit an exam, make sure you plan ahead and keep the exam entry deadlines in mind. While we may accept late exam entries up to seven days after the closing date, you will be asked to pay a surcharge which is double the normal exam fee. Unfortunately we can't make any allowances if you apply late due to special circumstances, errors or omissions – so be sure to get your application in early.

### ★ Top tip

Before you apply, check out the ACA assessment regulations at [icaew.com/regulations](https://www.icaew.com/regulations)

The process for applying for Certificate Level exams is slightly different from the Professional and Advanced Level modules.

- When sitting a **Certificate Level** exam, you will need to apply directly to an approved assessment centre. This will either be your tuition provider or one of our approved centres within the Pearson Vue network. To find out more, speak to your tuition provider or visit [pearsonvue.com/icaew](https://www.pearsonvue.com/icaew)
- When applying for a **Professional or Advanced Level** exam, we recommend you apply online. Simply visit [icaew.com/dashboard](https://www.icaew.com/dashboard)

## Applying for access arrangements

If you have a disability, health condition or specific learning difficulty that is likely to affect you during an exam, please contact us as early as possible. We will then be able to assess your situation and make the necessary arrangements for you. To find out more about access arrangements, visit [icaew.com/accessarrangements](https://www.icaew.com/accessarrangements)

## Remember CPL

Don't forget to check whether you are eligible for credits for some of the ACA exams. Please note, once you have sat an exam, you will not be able to apply for credit for that module. Check out our CPL directory at [icaew.com/cpl](https://www.icaew.com/cpl)

**To find out more about what you can expect on the exam day, visit [icaew.com/how-to](https://www.icaew.com/how-to)**



**We appreciate that you have to work hard for the ACA exams, so each year we award prizes to the students who achieve the highest marks in the Professional and Advanced Level exams, as well as the students with the highest average mark across all exams. Prizes are presented by the ICAEW President at the annual International ACA Prizegiving Ceremony, held at Chartered Accountants' Hall.**

## What is the secret to winning first place in the Business Reporting exam?



Doing exam practice and paying attention in class. You have to be 100% there. And if you have questions, don't be afraid to ask them.

**Nicoletta Neofytou**, Cyprus

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# Your resources and student benefits

ICAEW is here to support you every step of the way on your journey to becoming an ICAEW Chartered Accountant. We provide a wide range of fantastic resources and services to help you in your studies and in the workplace. Here's a taster of what we have to offer.



## Student support team

Our dedicated student support team is on hand to help and advise you throughout your training. From queries about your training agreement and exams through to simply updating your personal details, don't hesitate to get in touch.

Email [studentsupport@icaew.com](mailto:studentsupport@icaew.com) or call +44 (0)1908 248 250 to speak to an adviser.



## Student website

The ACA student area of our website includes the latest information, guidance and exclusive resources to help you as you progress through the ACA. Find everything you need at [icaew.com/dashboard](https://icaew.com/dashboard)



## Webinars

Enjoy regular free training webinars, designed to help your technical and professional skills development. Browse the archive or book your place at [icaew.com/acaweinars](https://icaew.com/acaweinars)



## Pep talks

Got a spare 10 minutes? Whether you're waiting for a bus, about to go in to an important meeting, or simply need a boost, we've got the perfect solution for you.

Visit [icaew.com/peptalk](https://icaew.com/peptalk)



## ACA planner

Stay organised with dates and deadlines. Download the ACA planner at [icaew.com/acaplanner](https://icaew.com/acaplanner)

**Don't miss out! Look out for your copy in January's edition of *Vital*.**



## Student induction programme

Check out our online induction programme and find out more about ICAEW, what you can expect while you are training and what it means to be an ICAEW Chartered Accountant. Visit [icaew.com/studentinduction](https://icaew.com/studentinduction)



## Vital and *economia*

*Vital* is ICAEW's magazine for ACA students. Posted to you each quarter (January, April, July and October), each issue is jam-packed with interesting articles and useful resources to help you with work, study and life. Download the latest copies from [icaew.com/vital](https://www.icaew.com/vital)

What's more, you'll also receive ICAEW's monthly member magazine, *economia*. For the latest news at your fingertips, download the free *economia* app for iPhone, iPad and Android devices, available on the AppStore.

**Keep an eye on your inbox for our regular e-newsletters with the latest student news, exam resources and reminders.**

## Join us online



Follow ICAEW on Twitter: [@ICAEW\\_Talk](https://twitter.com/ICAEW_Talk)



Join our LinkedIn group: [ICAEW Students](https://www.linkedin.com/groups/ICAEW-Students)



Like us on Facebook: [Students@ICAEW](https://www.facebook.com/Students@ICAEW)



## Student community

The student community is the place for ACA students. With regular blogs covering a range of work, life and study topics as well as a forum where you can post your questions and share your own tips, the community is a fantastic tool.

Join the conversation at [icaew.com/studentcommunity](https://www.icaew.com/studentcommunity)



## Student groups

Now that you're a student, you receive automatic membership to your local ICAEW student society or network. With student groups across the UK, Europe, Russia, the Middle East, China and South East Asia, you're bound to find one local to you. All of the groups are run for students, by students. They're a great way for you to connect with fellow students and get involved in social activities. Find out more at [icaew.com/studentgroups](https://www.icaew.com/studentgroups)





## ICAEW Student Council

The ICAEW Student Council (ISC) brings together student representatives from around the world. The council is often asked to feed back their opinions on everything from recent exams to future student activity. In addition, the chair of the ISC also sits on our governing council, ensuring that students have a voice at the very top of ICAEW.

Find out more at [icaew.com/studentgroups](https://www.icaew.com/studentgroups)



## Library and Information Service

You don't have to be at Chartered Accountants' Hall to make good use of ICAEW's Library and Information Service. With thousands of resources online and a document delivery service, you'll be sure to find a useful eBook, relevant article or topic-based guide to help you. Visit [icaew.com/lis](https://www.icaew.com/lis)

**Telephone queries:** +44 (0)20 7920 8620

**Email queries:** [library@icaew.com](mailto:library@icaew.com)

**Opening hours:** Monday to Thursday 9:00 - 17:30  
Friday 10:00 - 17:30 (UK time)



## ICAEW Business Centre

Located in Chartered Accountants' Hall in London, our Business Centre offers ACA students, ICAEW members and their guests a contemporary space in which to meet. Facilities include computers and printers, free WiFi, scanning, copying and faxing. There's even a café on site serving fresh food and drink throughout the day. Open Monday to Friday from 08:00 to 18:00.



## Faculties and special interest groups

These groups are designed to support you in specific areas of work and industry sectors of interest.

Our seven faculties provide knowledge, events and essential technical resources. They cover Audit and Assurance, Corporate Finance, Finance and Management, Financial Reporting, Financial Services, Information Technology and Tax.

Our 14 special interest groups provide practical support, information and representation within a range of industry sectors – from Entertainment and Media to Energy and Natural Resources.

Register free of charge for provisional membership to one of our special interest groups and receive a monthly complimentary e-newsletter from a faculty of your choice.

To sign up, visit [icaew.com/facultiesandsigs](https://www.icaew.com/facultiesandsigs)



## Advisory services

**Ethical dilemma?** If you find you have an ethical dilemma and need some guidance, you should speak to your employer in the first instance. If you still feel you need help, the ethics advisory service offers a confidential telephone helpline service.

**Technical query?** We have a dedicated technical enquiries service, designed to deal with a wide range of subjects from auditing and accounting to company law and general technical advice. Please note, taxation advice is available via a dedicated Tax and VAT helpline.

Call +44 (0)1908 248 250 or follow us on Twitter @ICAEW\_TAS



## Discounts

As an ACA student you're able to benefit from exclusive discounts from dozens of ICAEW corporate partners. For discount codes for travel insurance, days out and even retail outlets, it's worth taking a look at what we have to offer. What's more, you can apply for an **NUS extra card**. Simply select ICAEW as your institution when applying.

For the full range of discounts and services, check out [icaew.com/studentbenefits](https://www.icaew.com/studentbenefits)



## CABA

### Support when you're studying and throughout your career

Juggling study, work and family commitments is tough. So, from the moment you begin your ACA training agreement, CABA are there to help you do it all. From a listening ear in troubled times, through personal and professional development, to carer support and financial assistance, CABA are with you for life.

Their services are free, impartial and strictly confidential. They're available to you, your spouse or life partner and close family members. You don't have to donate to use them, and they never disclose information about you to anyone.

CABA knows it can be hard to ask for help. They aim to make it easy.

Get in touch on +44 (0)1788 556 366

Chat online at [caba.org.uk/letstalk](https://caba.org.uk/letstalk)

Email [enquiries@caba.org.uk](mailto:enquiries@caba.org.uk)

# Applying for ICAEW membership

## Become an ICAEW Chartered Accountant

The ACA will open doors to limitless opportunities in all areas of accountancy, business and finance anywhere in the world. ICAEW Chartered Accountants work at the highest levels as finance directors, CEOs and partners of some of the world's largest organisations. You will be invited to apply for ICAEW membership once you have:

- passed or received credits for all of the ACA exams;
- completed your professional development, ethics and professional scepticism and practical work experience requirements;
- completed your training period with an ICAEW authorised training employer or principal; and
- completed and submitted your online training file with the final sign off.

You have 12 months (from your qualification date) to complete your application for ICAEW membership. The qualification date is the latter of:

- the date you were notified you passed the last of the ACA exams; or
- the date your training agreement was completed (including any extension).

**For everything you need to know about becoming an ICAEW member, visit [icaew.com/how-to](https://www.icaew.com/how-to)**

## New Members' Ceremony

Once your ICAEW membership application is successful, you will be invited to a New Members' Ceremony at Chartered Accountants' Hall in London. The ceremony is a fantastic opportunity for you to celebrate your success with your family and meet other new members.

### Your member benefits

As an ICAEW member you'll have an exciting time ahead with a career full of opportunities, whichever direction your career takes you.

You'll benefit from exclusive access to:

- resources and events to continue your professional development;
- leading academic and technical materials through membership of technical helplines, faculties and special interest groups;
- the world-leading ICAEW Library and Information Service;
- specially negotiated discounts on a variety of products and services; and
- unique opportunities for networking and career development through our specialist training programmes and qualifications.

To view the full suite of membership benefits, visit [icaew.com/benefits](https://www.icaew.com/benefits)

# Get in touch

**T** +44 (0)1908 248 250

**E** [studentsupport@icaew.com](mailto:studentsupport@icaew.com)

If you're browsing the ICAEW website, look out for the live help boxes. You will be able to speak directly to an adviser.

Do you live outside the UK? You can also contact us using Skype. Search 'icaew\_uk' on Skype and speak to our student support team free of charge.

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ICAEW is a world leading professional membership organisation that promotes, develops and supports over 144,000 chartered accountants worldwide. We provide qualifications and professional development, share our knowledge, insight and technical expertise, and protect the quality and integrity of the accountancy and finance profession.

As leaders in accountancy, finance and business our members have the knowledge, skills and commitment to maintain the highest professional standards and integrity. Together we contribute to the success of individuals, organisations, communities and economies around the world.

Because of us, people can do business with confidence.

ICAEW is a founder member of Chartered Accountants Worldwide and the Global Accounting Alliance.

[www.charteredaccountantsworldwide.com](http://www.charteredaccountantsworldwide.com)

[www.globalaccountingalliance.com](http://www.globalaccountingalliance.com)


#### ICAEW

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 [linkedin.com](https://www.linkedin.com/company/icaew) – find ICAEW

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## ACA STUDENT REGULATIONS

Effective from 9 February 2016

### Entry requirement

1. To be eligible to enter a training agreement, a candidate shall meet one of the minimum educational standards set out in the ACA entry routes.
2. Exceptionally the Committee may, at its discretion, and where necessary with the approval of the Financial Reporting Council, accept qualifications or a combination of qualifications or experience other than those given in the ACA entry routes as satisfying the requirement for registering their approved training.

### Approved training

3. A candidate for admission to membership pursuant to clause 5 of the Supplemental Charter shall complete a period of approved training under a training agreement as follows<sup>1</sup>:
  - (a) of not less than three years and not more than five years; or
  - (b) of not less than two years and not more than four years if the candidate is a member of an accountancy body which is a member of CCAB or other body as approved by the Committee.
4. The period of approved training referred to in regulation 3 may be of more than five years if the student is training under a strategic degree or other appropriate programme offered in partnership with an ICAEW Partner in Learning.
5. The period of approved training to be completed by the individual candidate shall be determined in accordance with regulation 3 by agreement between the candidate and the Authorised Training Employer or Authorised Training Principal that undertakes to provide or supervise the approved training.
6. The Committee may exercise its discretion:
  - (a) in reducing the length of approved training required for membership where applicants fail to meet the requirement in regulation 3. Cases will only be considered where:
    - (i) the shortfall is minimal
    - (ii) the Practical Work Experience requirement has been met; and
    - (iii) the reason for not meeting the full requirement is for circumstances beyond the control of the provisional member.
  - (b) to waive the requirement for a period of approved training in order to qualify for membership.
7. Approved training must be:

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<sup>1</sup> The requirements under regulation 3 relate to membership requirements for ICAEW only and do not relate to the requirements for the Audit Qualification. Please see the Audit Qualification regulations for the specific conditions to be met for the award of the Audit Qualification.



- (a) obtained under the supervision of an Authorised Training Principal; or
  - (b) obtained at an Authorised Training Employer;  
and in either case shall
    - (i) be provided to the standards set out in the Training Standards unless otherwise approved in writing by the Learning and Professional Development department; and;
    - (ii) comprise of work of an appropriate professional level commensurate with the status of trainee chartered accountant.
8. Approved training may be undertaken on a part-time basis at the discretion of the Committee and subject to an appropriate extension to the period of approved training and to such adjustment to the period of the provisional member's examination eligibility as the Committee may decide.
9. During approved training a provisional member shall be provided with a period of suitable Practical Work Experience in areas of accountancy, including practical instruction as defined from time to time by the Committee, of not less than:
  - (a) 300 days for a provisional member required to complete less than three years of approved training; or
  - (b) 450 days for a provisional member required to complete three or more years of approved training.
10. To satisfy the requirements of regulation 9 a provisional member shall count such approved training and Practical Work Experience as is provided:
  - (a) by the Authorised Training Employer, provided such experience is on the business of such employer;
  - (b) under the supervision of an Authorised Training Principal;
  - (c) by such other organisation as the Committee in its absolute discretion, shall approve;
  - (d) subject to sub-paragraph (c) of this regulation, secondment to such other organisation as the Qualified Person Responsible for Training or Authorised Training Principal shall approve in accordance with such conditions as the Committee shall from time-to-time decide.
11. The provisions of regulations 9 and 10 may be waived in such circumstances as the Committee in its absolute discretion considers to be acceptable.
12. The required approved training and Practical Work Experience may be gained on secondment:
  - (a) up to a maximum of 50% within an environment approved by ICAEW to train provisional members.
  - (b) up to a maximum of 33% within an environment not approved by ICAEW to train provisional members provided that any work experience gained on secondment is not relied upon in an application for the Audit Qualification.
  - (c) providing the total approved training gained on secondment does not exceed 50% of the approved training required under regulation 3;

- (d) providing the total Practical Work Experience gained on secondment does not exceed 50% of the Practical Work Experience required under regulation 9.
13. Approved training shall also include, as applicable:
- (a) any period of study leave;
  - (b) any period of absence for the purpose of sitting an examination prescribed by ICAEW;
  - (c) standard statutory and non-statutory holidays of up to 35 days per annum;
  - (d) absence due to illness not exceeding four consecutive weeks in a year;
  - (e) up to 10 days of 'Keeping in Touch' days during a period of statutory leave, with the consent of the Authorised Training Employer or Authorised Training Principal;
  - (f) any other period of absence not exceeding four consecutive weeks in a year.
14. Should the minimum period of approved training required under regulation 9 not be attained, the period of approved training shall be correspondingly extended, save that the Committee may, in its absolute discretion, waive this regulation in such circumstances as it considers acceptable.
15. Provisional members shall complete a programme of Professional Development and the Ethics and Professional Scepticism programme as specified by ICAEW.
16. Provisional members shall maintain records of approved training including evidence of Practical Work Experience and copies of Professional Development and Ethics and Professional Scepticism records in such form as may be decided from time to time by the Committee.
17. Members shall keep all records of approved training including evidence of Practical Work Experience and copies of Professional Development and Ethics and Professional Scepticism records for at least three years following admission to membership. These records must be made available to representatives of ICAEW when required within 15 business days of notification or as prescribed by the Committee.
18. Authorised Training Employers and Authorised Training Principals shall ensure that such records are maintained during approved training and made available to representatives of ICAEW when required.
19. Authorised Training Employers and Authorised Training Principals shall also make available any other such evidence required for the Authorised Training Employer review and Authorised Training Principal review including time logs and employment contract (where applicable).
20. A provisional member shall not engage in public practice unless the provisional member:
- (a) is a member of an accountancy body which is a member of the CCAB or is a member of an approved international accountancy body or the Chartered Institute of Taxation or the Association of Accounting Technicians; and
  - (b) is authorised to engage in public practice by the said accountancy body; and

- (c) has obtained the consent of the Qualified Person Responsible for Training or the Authorised Training Principal, if applicable.

### **Student registration**

21. Following the execution of a provisional member's training agreement, the Authorised Training Employer or Authorised Training Principal shall promptly apply to ICAEW to register such provisional member and shall provide such evidence of the provisional member's educational qualifications and other information as the Committee may require.
22. Provisional members must declare to ICAEW at registration if they have a criminal conviction, bankruptcy order or IVA, have been disqualified as a company director, have failed to satisfy a judgement debt, hold an adverse finding by any professional body or regulator or have been involved in any other activity that brings into question their fitness and propriety.
23. Independent students shall similarly apply to ICAEW to be registered and shall in addition pay annually such fees (if any) as the Committee may from time-to-time prescribe and shall provide such evidence of the educational qualifications and other information as the Committee may require.
24. The Committee may, in its absolute discretion, refuse to register or to re-register any person as a provisional member or as an independent student.
25. The registration of a provisional member shall be withdrawn, or shall be deemed to have been withdrawn:
- (a) on the date on which the training agreement or period of approved training was suspended or cancelled under the Authorised Training Employer regulations or the Authorised Training Principal regulations; or
  - (b) with effect from the date of any bankruptcy order made against the provisional member or any other declaration as in regulation 22; or
  - (c) on such other date and in such other circumstances as the Committee, in its absolute discretion, may decide

and the provisional member shall thereafter cease to be a provisional member as defined in these regulations.

### **Credit for prior work experience**

26. A provisional member may be awarded Credit for Prior Work Experience for relevant practical experience undertaken prior to the date that he or she becomes eligible to register their approved training provided:
- (a) The period of work experience was gained within the 24 months immediately preceding the registration of the provisional member;
  - (b) The application is made in the format prescribed by the Committee;

- (c) The experience was gained within an Authorised Training Employer or under the supervision of an Authorised Training Principal or such other environment as may from time to time be accepted by the Committee and/or the Financial Reporting Council.

27. The Credit for Prior Work Experience approved by the Committee must:

- (a) be a minimum of three months;
- (b) include at least 65 days of Practical Work Experience;
- (c) not exceed
  - (i) 12 months for provisional members entering into a training agreement for 36 or more months of approved training; or
  - (ii) eight months for provisional member entering into a training agreement for 24 to 36 months of approved training.

28. The Committee in exceptional circumstances may, in its absolute discretion, vary or waive the requirements in regulations 26 and 27.

### **Credit for prior learning**

29. The Committee shall at its discretion and in response to an acceptable application award credits to provisional members and other individuals for modules within the Certificate Level and Professional Level of the ACA. Such credits shall normally be obtained through one or other or a combination of:

- (a) an ICAEW accredited learning programme provided by tutors, Authorised Training Employers or other suppliers;
- (b) prior academic or vocational study as the Committee may approve;
- (c) membership of an approved accountancy body.

30. Applications for Credit for Prior Learning shall:

- (a) be made in the format prescribed by the Committee;
- (b) be awarded in accordance with regulation 29;
- (c) be accompanied by such fee(s) as determined by the Committee;
- (d) not be allowed if the applicant has previously failed the module where Credit for Prior Learning is sought unless the applicant is eligible for credit of that module from an additional qualification they have gained since failing the module in question.

31. A provisional member will cease to be eligible to obtain Credit for Prior Learning at the point at which they cease to be eligible to sit ICAEW examinations, as defined under regulation 35.

32. Credit for Prior Learning will normally only be awarded within five years of the award of the academic or professional qualification against which credit is sought.

33. The Committee may vary or waive the requirements prescribed under regulation 32 where the qualification cited as the basis for credit is membership of the Association of

Accounting Technicians or membership of a professional body that is a full member of the International Federation of Accountants with a CPD policy that is compliant with its International Education Standard 7.

34. With the exception of reciprocal membership applicants, students may not be awarded Credit for Prior Learning for more than the 12 modules that comprise the Certificate Level and the Professional Level.

## **Professional assessment**

Details are found in ACA assessment regulations.

35. To be eligible to sit ICAEW examinations a candidate must have satisfied:
- (a) the requirement for entry into approved training in accordance with regulations 1 or 2;
  - (b) the examination eligibility criteria prescribed by the Committee;
  - (c) the ACA assessment regulations as prescribed by the Committee;
  - (d) such other requirements as the Committee may from time to time prescribe.
36. To be eligible to apply to sit the aptitude test referred to in regulation 52(a), a candidate must:
- (a) be:
    - (i) a member of an accountancy body approved by the Council pursuant to clause 12(a) of the Supplemental Charter;
    - (ii) authorised as an accountant by an appropriate authority pursuant to clause 12(a) of the Supplemental Charter;
    - (iii) an auditor or accountant to whom the European Union's Directive 2005/36/EC or Directive 2006/43/EC applies pursuant to clause 12(b) of the Supplemental Charter; and
  - (b) declare if they have a criminal conviction, bankruptcy order or IVA, have been disqualified as a company director, failed to satisfy a judgement debt, hold an adverse finding by any professional body or regulator or have been involved in any other activity that brings into question their fitness and propriety; and
  - (c) satisfy such other requirements, as the Committee shall from time to time prescribe.
37. The Committee may in exceptional circumstances vary or waive the requirements prescribed under regulation 36.
38. The Committee may reject a candidate's application to sit an examination or test, or may refuse the candidate's admission to an examination centre as the result of:
- (a) the candidate's ineligibility for such examination or test, including ineligibility by reason of an order by the Disciplinary Committee under Disciplinary Bye-laws 22.7 (b)(c)(d) or (e); or
  - (b) the Committee upholding, after investigation, a complaint of the candidate's misconduct or involvement in an irregularity at a previous examination or test; or

- (c) any other circumstances which the Committee in its absolute discretion may decide would justify such rejection or refusal.
39. Candidates with a disability as defined under the Equality Act 2010 will be provided with reasonable adjustment to enable access to the assessments.
40. The Committee shall instruct ICAEW staff to send all candidates notice of their results in the examination or test but:
- (a) the Committee may withhold such notice for any of the reasons set out in sub-paragraphs (a), (b) and (c) of regulation 38, save that notice may also be withheld pending the result of the investigation referred to in sub-paragraph (b) of that regulation; and
  - (b) the Committee shall withhold such notice:
    - (i) pending the result of the referral of a complaint against the candidate to the Investigation or Disciplinary Committees;
    - (ii) when a candidate is declared unfit for membership by the Disciplinary Committee under Disciplinary Bye-law 22.7(a).
41. Provisional member examination results shall be released to the Authorised Training Employer or Authorised Training Principal unless a written notice has been received by ICAEW prior to the examination asking for the results not to be so released.
42. The Committee shall be under no obligation to enter into correspondence with third parties regarding examination results.
43. From the point of becoming examination qualified, all students are required to observe the principles of the ICAEW's Professional Development policy by ensuring their knowledge and skills remain up to date.

## **Re- entry**

44. Students barred from completing the ACA under ACA assessment regulation 4 may be considered by the Committee for re-entry for the ACA if:
- (a) they can provide evidence they have gained an additional relevant qualification or professional development since the cancellation of their prior ICAEW registration;
  - (b) they continue to meet the student registration requirements within these regulations.
45. An applicant wishing to re- enter under regulation 44 must:
- (a) register as a new student (see regulations 21 - 25);
  - (b) re-take any examination(s) previously passed which is not eligible for Credit for Prior Learning under regulation 46;
  - (c) undertake a further period of approved training which meets the requirements for newly registered students (see regulations 3 - 20);
  - (d) pay such fee(s) as required under regulation 45(a).



46. Students registering under regulation 44 will not be eligible for any Credit for Prior Learning or Credit for Prior Work Experience based on qualifications or experience gained before they registered for the qualification or professional development cited in regulation 44(a).
47. Students registering under regulation 45(a) will be eligible for a further four attempts at each Certificate Level and Professional Level ACA assessment. There is no restriction on the number of attempts at the Advanced Level ACA assessment.

### **Admission to membership**

48. An applicant for membership pursuant to clause 5 of the Supplemental Charter is entitled to be admitted as an Associate of ICAEW only if the Council is satisfied that the applicant:
- (a) has successfully completed a course in preparation for and has passed or obtained credit for the Certificate Level and Professional Level ACA examinations and has passed the Advanced Level ACA examinations;
  - (b) has successfully completed or been credited with a period of approved training in accordance with regulations 3 and 9;
  - (c) has completed appropriate Professional Development and associated declarations;
  - (d) has completed the appropriate Ethics and Professional Scepticism programme and associated declarations and, if applicable, the online based Ethics Learning Programme test;
  - (e) has appropriately recorded evidence of Practical Work Experience in the format prescribed by the Committee;
  - (f) is fit for membership. Provisional members are required to declare if they have a criminal conviction, bankruptcy order or IVA, have failed to satisfy a judgement debt, hold an adverse finding by any professional body or regulator or have been involved in any other activity that brings into question their fitness and propriety;
  - (g) has paid the requisite admission fee(s) and subscription;
  - (h) has submitted to ICAEW all of the required documentation set out in subparagraphs (a) to (g) of this regulation, signed and authorised by the QPRT or Deputy QPRT.
49. An application under regulation 48 shall be made not more than 12 months after the date upon which the provisional member became eligible for membership.
50. The Committee may, in its absolute discretion, extend the said period of 12 months within the provisions of regulation 49 in respect of any applicant:
- (a) if the Committee considers that the circumstances justify such an extension; and
  - (b) on payment by the applicant of such delayed admission surcharge (if any) as the Committee may in its absolute discretion decide in such case.

51. An applicant for membership pursuant to clause 12 of the Supplemental Charter shall be entitled to be admitted an Associate of ICAEW only if the Council is satisfied that the applicant:
- (a) is a qualified member of one of the following accountancy bodies:
    - (i) the Institute of Chartered Accountants in Australia;
    - (ii) the Canadian Institute of Chartered Accountants;
    - (iii) the Institute of Chartered Accountants of New Zealand;
    - (iv) the South African Institute of Chartered Accountants;
    - (v) the Institute of Chartered Accountants of Zimbabwe;
    - (vi) the Hong Kong Institute of Certified Public Accountants; or
  - (b) holds a diploma in accountancy or audit to which Directive 2005/36/EC or Directive 2006/43/EC applies;
52. An applicant for membership under regulation 51 must:
- (a) successfully complete an aptitude test if relevant;
  - (b) provide evidence which satisfies the Committee that the applicant is fit for membership;
  - (c) maintain home body membership;
  - (d) pay the requisite admission fee and subscription.
53. An application for admission to membership shall be made in such form as the Committee may from time to time prescribe.
54. An application made under regulation 48 shall include the following certificates provided by the Qualified Person Responsible for Training, or an ICAEW approved Deputy QPRT who satisfies the requirements of regulation 2 of the Authorised Training Employer regulations or the Authorised Training Principal:
- (a) in respect of the practical training and the range and depth of work experience provided by the Authorised Training Employer or under the supervision of an Authorised Training Principal, that the applicant is qualified for admission; and
  - (b) that the applicant is fit for membership.
55. An application made under regulation 48 shall be accompanied by such evidence from or on behalf of the Qualified Person Responsible for Training or the Authorised Training Principal as the Committee may require in support of the certificate given in regulation 54(a).
56. A Qualified Person Responsible for Training or ICAEW approved Deputy QPRT or Authorised Training Principal who feels unable to provide either or both of the certificates required under regulation 54 of these regulations shall inform the Committee of the reasons for withholding such certificate or certificates.
57. Admission to membership may take effect on any day of the month, following acceptance of an application by the Committee.

## **Powers of variation**

58. Subject where relevant to compliance with the Companies Act 2006 and appropriate consultation with the Financial Reporting Council, the Committee shall have the power to vary or waive the above regulations.

## ACA ENTRY ROUTES

Effective from 11 February 2014

**ICAEW will accept the following qualifications as meeting its educational requirements for entry into a minimum period of approved training agreed within the limits set out in regulations 3 to 5 of the ACA student regulations.**

### Entry routes

#### Academic Qualifications

UK or Irish graduate awards

Any recognised degree awarded by a UK or Irish university or college

#### NVQ/SVQ Level 4 awards

NVQ level 4 qualifications including BTEC Higher National Certificates or Diplomas

#### NVQ/SVQ Level 3 awards

NVQ Level 3 qualifications including BTEC National Certificates and Diplomas

#### GCSEs and A Levels

Two A level passes (grades A\*-E) plus three GCSE passes at grades A-C

Two Vocational A levels or one double award plus three GCSE passes at grades A-C or one GNVQ intermediate award or BTEC first diploma (merit)

#### Scottish Qualification Certificate

Three higher grades and two standard grades or equivalent

#### Irish School Leaving Certificate

Six passes with at least three at higher grade

#### European/ International Baccalaureate

#### Overseas Academic Qualifications

Any award which is comparable to our expectations for GCSE and A Level entry requirements.

#### Graduate Awards

Any degree from a recognised university which is comparable to a UK Bachelor's degree

#### School leaving qualifications

Any award which is comparable to our expectations for GCSE and A Level entry requirements.

See [www.ucas.ac.uk](http://www.ucas.ac.uk) for a list of overseas school leaving qualifications and their equivalence.

#### Professional Accountancy Qualifications

ICAEW Certificate in Finance, Accounting and Business (ICAEW CFAB)

Member of the Association of Taxation Technicians (AAT)

Student of the AAT who has achieved NVQ Level 3 Intermediate Stage

Member of the Association of Chartered Certified Accountants (ACCA), Chartered Institute of Management Accountants (CIMA) or Chartered Institute of Public Finance and Accountancy (CIPFA)

Student of ACCA, CIMA, CIPFA, Chartered Accountants Ireland (CAI) or Institute of Chartered Accountants Scotland (ICAS) who has sat and passed all papers of every examination stage of the body concerned, up to and including the following examinations;

- ACCA Advanced Diploma in Accounting and Business
- CIMA Certificate in Business Accounting
- CIPFA Professional Certificate
- CAI Proficiency II
- ICAS Test of Competence

Pass in a recognised Accountancy Foundation Course

#### **Overseas accountancy bodies**

Member or student who has passed all the examinations required for membership of the Institutes of Chartered Accountants of Bangladesh, Ghana, India, Nigeria, Pakistan, Sri Lanka or Certified Public Accountants (USA), Australia, China and Malaysia.

Student who has passed all the examinations, required for membership of the Institute of Chartered Accountants in Australia, the Canadian Institute of Chartered Accountants, the Institute of Chartered Accountants of New Zealand, the South African Institute of Chartered Accountants or the Institute of Chartered Accountants of Zimbabwe.

Student who has passed all the examinations required for membership of professional accountancy bodies recognised under the European Union's Directive 2005/36/EC or Directive 2006/43/EC.

Note: Members of the Institute of Chartered Accountants in Australia, the Canadian Institute of Chartered Accountants, the Institute of Chartered Accountants of New Zealand, the South African Institute of Chartered Accountants or the Institute of Chartered Accountants of Zimbabwe are eligible to apply for reciprocal membership under clause 12 of the Supplemental Royal Charter. Similar arrangements apply to Members of professional accountancy bodies recognised under the European Union's Directive 2005/36/EC or Directive 2006/43/EC.

#### **Mature Entrants**

Persons over 25 years of age without qualifications as listed above but with at least 7 years acceptable professional accountancy experience may be considered on individual application to ICAEW.

#### **Qualifications not listed above (Regulation 1)**

Other qualifications that match A level standard may be considered on individual application to ICAEW.

An individual who has attained UK university entrance level will be seen to satisfy the entry requirements for the ACA.

## Review Committee regulations

Effective from [date] These regulations were made by the Professional Standards Board of ICAEW and first came into force on the 1 January 2001. Regulations 1, 17 and 34a were amended with effect from 1 July 2005. Regulations 2, 7, 14, 19 and 30 were amended with effect from 5 November 2008. In regulation 1, the definition Review Committee was amended with effect from 1 September 2015, the definition of Investment Business Committee was amended with effect from 1 July 2012 and subsequently amended with effect from 1 September 2015. On 14 August 2014 the Probate Committee became a new defined term. On 1 July 2016 Regulation 7 was amended in respect of the quorum for a panel of the Review Committee. On [date] the Legal Services Committee replaced the Probate Committee as a new defined term.

## Interpretation

- 1 These regulations are made pursuant to the Principal Regulations. If there is any conflict between these regulations and the Principal Regulations, the Principal Regulations shall prevail. Except where express reference is made in this regulation, words and phrases used in these regulations have the same meaning as in the Principal Regulations.
 

**Applicant** means either a firm or a person which or who has made an application for a review of a decision of the Audit Registration Committee, the Insolvency Licensing Committee, the Legal Services Committee or the Investment Business Committee.

**Application** means an application for review of a decision of the Audit Registration Committee, the Insolvency Licensing Committee, the Legal Services Committee or the Investment Business Committee.

**Audit Registration Committee** or 'ARC' means the registration committee appointed by the Council of ICAEW to discharge the responsibilities and powers contained in the Audit Regulations.

**Business days** means Monday to Friday excluding public holidays.

**Chairman** means the chairman of a panel or, in his absence, the chairman of the Review Committee.

**Days** include weekends and public holidays.

**The director** means the person holding the office which is responsible for the operation of ICAEW's disciplinary and regulatory arrangements in Professional Standards.

**Firm** has the meaning given in the Principal Regulations applicable to the regulatory committee which made the decision or order in respect of which the applicant seeks a review.

**ICAEW** means the Institute of Chartered Accountants in England and Wales

**ICAEW member** means an individual who is a member of ICAEW

**Investment Business Committee** or 'IBC' means the authorisation committee appointed by the Council of ICAEW to discharge the responsibilities and powers contained in the DPB Handbook, the DPB (Consumer Credit) Handbook and under the Statement of professional standing regulations.

**Insolvency Licensing Committee** or 'ILC' means the Licensing Committee appointed by the Council of ICAEW to discharge the responsibilities and powers contained in the Insolvency Licensing Regulations.

**Lay member** means someone who is not and never has been a member, affiliate or employee of ICAEW or any other accountancy body. Furthermore, solicitors and those with legal training will not be regarded as lay members in the Review Committee when it determines any review of a decision of the Legal Services Committee.



**Legal adviser** means a person employed by ICAEW and who may be instructed by the director as the Institute's representative on any application for a review.

**Legal assessor** means a solicitor or barrister appointed by the secretary under Regulation 7.

**Legal Services Committee or 'LSC'** means the accreditation committee appointed by the Council of ICAEW to discharge the responsibilities and powers contained in the Legal Services Regulations.

**Member** means a member of the committee whether accountant, lay or otherwise.

**Panel** means three members appointed to hear an application for a review. A panel must comprise two lay members and one ICAEW member.

**Postponement** means abandonment of a date set for a hearing before the hearing has started.

The masculine gender shall include the feminine gender and vice versa and the singular shall include the plural.

**Principal Regulations** means the Audit Regulations, the DPB Handbooks, the Insolvency Licensing Regulations and the Legal Services Regulations as amended from time to time'.

**Professional Standards Board** means the board to which the Council of the Institute has delegated responsibility for oversight of regulatory matters. This Board has now been replaced by the ICAEW Regulatory Board.

**Regulatory Committee** means the ARC, ILC, LSC or IBC as appropriate.

**Review Committee** means the committee of ICAEW appointed to review decisions concerning audit registration, insolvency licensing, probate accreditation, investment business and consumer credit under the Principal Regulations.

**Secretary** means the secretary to the Review Committee.

- 2 An application shall be made in writing to the secretary within 10 business days of the regulatory committee serving a decision on a firm or ICAEW member (or 28 days in the case of a decision by the Legal Services Committee to withdraw or suspend accreditation). Any such application:
  - a. should contain a statement of the ground or grounds on which the review is sought;
  - b. should state whether he requires his application to be heard in public; and
  - c. may be served on the secretary by fax or email.
- 3 In the absence of a request under regulation 2b, the applicant shall be deemed to have waived his right to have a hearing in public.
- 4 The secretary shall not accept as valid an application for review that does not comply with regulation 2a.

### **Application for leave to apply for review outside the time limit**

- 5 Subject to the following provisions of this regulation, an application made outside the time limit specified in regulation 2 may be considered by the chairman and in his absence the vice-chairman of the Review Committee and his decision shall be final. Any such application shall:
  - a. be in writing;

- b. set out the reasons why the application could not reasonably have been made within the period originally allowed; and,
  - c. be accompanied by documents or other material in support of the application including, where appropriate, a medical certificate or other confirmation of a medical condition.
- 6 An application made outside the said time limit that does not comply with regulation 5, a, b and c shall not be valid.

### **Prior to the hearing**

- 7 The director shall, as soon as practicable, arrange to convene a panel of the Review Committee to consider the application. Subject to Regulation 8, a quorum for a Panel of the Review Committee is three and must comprise two lay members and one ICAEW member. The panel will be advised by a legal assessor. The legal assessor is not a member of the Review Committee. His role is to advise the panel on procedure and law and to prepare any written Record of Decision for approval by the chairman of the panel.
- 8 If, in the case of a panel convened to consider the application, any member of the panel:
- a. is for any reason unable to attend the hearing or any adjourned hearing of the application; or,
  - b. is, in the course of the hearing, unable to continue to attend,
- the remaining members, if not less than two in number and providing they comprise one lay member and one ICAEW member, may at their discretion proceed or continue with the hearing; but if the applicant is present or represented at the hearing, they shall do so only if he or his representative consents.
- 9 Unless he agrees to waive or vary any requirements for notice, as soon as practicable after receipt of his application, the applicant will be given not less than 42 days written notice of the date, time, and place for the hearing of the application.
- 10 The director shall appoint a representative to prepare and present ICAEW's case to the panel who may be a legal adviser or a barrister or solicitor.
- 11 In support of his application, an applicant may make written representations (subject to regulation 13 below), appear in person before the panel and or be represented by a barrister or a solicitor or any other ICAEW member or with the agreement of the panel, any person.
- 12 Not less than 28 days before the date set aside for the hearing, the secretary shall serve on the applicant:
- a. a copy of all documents that the panel will be asked to consider;
  - b. a copy of any statements of witnesses (whether or not they are to be called to give oral evidence) which shall give the full name and address of, and shall be signed by, the witness; and,
  - c. a case summary.
- 13 Not less than 14 days before the date set for the hearing, the applicant shall serve on the secretary:

- a. any response in writing to documents served upon him under regulation 12 above;
  - b. eight copies of all documents that the panel will be asked to consider; and,
  - c. eight copies of any statements of witnesses (whether or not they are to be called to give oral evidence) which shall give the full name and address of, and shall be signed by, the witness.
- 14 Any notice or document shall be served by the applicant by sending the notice or document addressed to the secretary to the Review Committee at Metropolitan House, 321 Avebury Boulevard, Milton Keynes MK9 2FZ by first-class post. Any notice or document required to be served on the applicant may be served personally or by first-class post to the applicant at his registered address. If documents are served by post, service is deemed to have been effected 48 hours after posting.
- 15 The director may decide whether an application for a postponement of a hearing, should be granted.
- 16 The director, or the chairman may of his own volition or on an application by either party prior to the proceedings direct that there be a pre-hearing review.
- 17 Any preliminary issues on procedure or any application for directions which are necessary or desirable for securing the just, expeditious, and economical disposal of an application may be determined by a pre-hearing review panel (which may or may not be the panel appointed to consider an application). Any matters falling within this regulation may be decided by agreement between the parties without a hearing.
- 18 After the decision of the regulatory committee but before any hearing of the application, the director may ask the applicant to provide such further information and documents relating to the application as he thinks necessary for the just, expeditious and economic disposal of the application and may require the applicant to supply such further copies of any document as he considers necessary.

### **Order of proceedings**

- 19 Unless the panel otherwise directs, the order of proceedings will be as follows:
- a. a representative will present ICAEW's case and produce any evidence, including calling of witnesses to give oral evidence;
  - b. the applicant or his representative will present his case and then produce any evidence including oral evidence from the applicant or calling witnesses to give oral evidence;
  - c. ICAEW's representative followed by the applicant may each make a closing address to the panel;
  - d. the panel may ask questions of the applicant; and
  - e. the panel will consider its decision in the absence of the parties.

### **The hearing**

- 20 The hearing of the application shall be held in private unless the applicant has requested a hearing in public in accordance with regulation 2.

- 21 In the absence of the applicant or his representative, the panel may proceed to hear the application where it is satisfied that regulation 9 has been complied with.
- 22 If the applicant does not comply with regulation 13 and he does not attend at the hearing, either in person or by his representative, the application may be dismissed.
- 23 The rules of judicial evidence will not apply. The panel may, at its discretion, treat as evidence any testimony whether in written, oral, or other form.
- 24 A witness for one party may be questioned by, or on behalf of, the other party. A witness so questioned may be re-examined by, or on behalf of, the party calling him.
- 25 The panel may, at its discretion, hear two or more applications for review of decisions made by an applicant at the same time.
- 26 The panel may, with the agreement of all parties, hear applications for review from two or more applicants at the same time.
- 27 The panel may adjourn after hearing the application but before making a decision. In these circumstances the panel may ask the parties to reconvene at a later date so that it can give its decision or it may advise the parties that the decision will be notified in writing within a specific time period. If a decision is notified in writing then:
  - a. the parties shall have a period of seven days from receipt of the written decision to make submissions in writing to the panel as to costs and publicity;
  - b. the panel shall, within seven days thereafter, notify the parties in writing of its decision as to costs and publicity; and
  - c. for the avoidance of doubt, the date of the panel's decision shall be the date on which the decision in regulation 27b is deemed under these regulations to have been served on the applicant.
- 28 The panel shall consider whether publicity of any decision it makes is appropriate and if so, it shall decide in what manner the decision will be published.
- 29 After the panel makes a decision, the secretary shall give written notice of the decision to the applicant.
- 30 The panel shall provide written reasons for the decision which it has made including any direction as to whether publicity shall be given to the decision.
- 31 A shorthand or stenographic note of the proceedings may be taken or a tape recording made of them, on behalf of the panel.
- 32 No objection shall be upheld to any technical fault in the procedure adopted by the panel provided that the proceedings are fair and that the relevant regulations have been complied with.

- 33 After the panel has made its decision in respect of the matter under review, the chairman may invite ICAEW's representative to make representations on the question of costs. The applicant may make representations on the question of whether it or he should pay ICAEW's costs or a contribution thereto.
- 33.1 The panel may order the applicant to pay such sum as it may in its absolute discretion determine.
- 33.2 Unless a longer period for payment (whether by instalments or not) is allowed, the costs must be paid by the applicant within 30 days beginning with the date on which notice of the decision is given.

### **Withdrawal of application**

- 34 The applicant may withdraw his application by notice in writing delivered to the secretary:
- a. at any time, being not less than 21 days before the date set aside for the application; or,
  - b. with leave of the chairman at any other time; and,
  - c. if an application to withdraw falls under regulation 34b, the applicant may make written representations on the reasons for wishing to withdraw and whether he should pay a sum in respect of ICAEW's costs.
- 35 Leave may be granted under regulation 34 above on such terms including payment of ICAEW's costs incurred to that date or a contribution thereto as the chairman shall decide in his absolute discretion.
- 36 Where an applicant gives notice to the secretary, either verbally or in writing, that he does not accept the terms under 35 above and that he will not attend the hearing, the chairman may in his absolute discretion decide that ICAEW's costs or a contribution thereto shall be paid by the applicant and that the application shall stand dismissed.



## Principal Bye-laws

These bye-laws, which are consistent with the provisions of the Supplemental Charter, regulate ICAEW's affairs.

Made under article 15 of the Supplemental Charter dated 21 December 1948. This version is effective from 13 July 2015.

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- Interpretation of terms and citation

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## **Interpretation of Terms and Citation**

### Interpretation of terms

1. a. In these bye-laws, unless inconsistent with the subject or context:
  - I. the following expressions shall have the following meanings:
  - II. the expression 'these bye-laws' includes the Schedules which shall have the same status and effect as if they were set out herein as part hereof; and
  - III. references to Schedules are to the Schedules to these bye-laws.
- b. The Interpretation Act 1978 applies to these bye-laws in the same way as it applies to an enactment.
- c. The headings are inserted for convenience only and shall not affect the construction of these bye-laws.
- d. These bye-laws may be cited as the Principal Bye-laws of the Institute of Chartered Accountants in England and Wales.

Appeal Committee means the Appeal Committee appointed by the Council under the Schedule to the Disciplinary Bye-laws (appointment of Investigation, Disciplinary and Appeal Committees);

approved training means practical training and experience approved by the Council and obtained at or from a training office;

Committee means a committee appointed by the Council pursuant to bye-law 49(a) (concerning delegation of powers to committees) and any of the Appeal Committee, the Disciplinary Committee and the Investigation Committee;

Communication(s) means any notice or other document required to be given, delivered, sent or provided to or by members under or in connection with these bye-laws and shall include without limitation the financial statements, summary financial statements, annual report of Council, notices relating to Annual and Special meetings, forms of proxy and any accompanying ancillary or additional papers, certificate or other document as shall from time to time be provided to members in accordance with or required by the Supplemental Charter, the Principal Bye-laws or any regulations.

Council means the Council of the Institute;

Disciplinary Bye-laws means the Disciplinary Bye-laws of the Institute;

Disciplinary Committee means the Disciplinary Committee appointed by the Council under the Schedule to the Disciplinary Byelaws (appointment of Investigation, Disciplinary and Appeal Committees);

Electronic form includes electronic transmission in any form through any medium (including, without limitation, telephonic, facsimile and email transmission, and publication on the Internet);

Head of staff means the person appointed by the Council pursuant to bye-law 50 (power to appoint head of staff);

Investigation and Discipline Scheme means an Investigation and Discipline Scheme in which ICAEW participates in accordance with sub-clauses 1(b)(viiA), 1(b)(viiiA) or 1(b)(xi) of the Supplemental Charter.

Investigation Committee means the Investigation Committee appointed by the Council under the Schedule to the Disciplinary Bye-laws (appointment of Investigation, Disciplinary and Appeal Committees);

in writing means written or produced by any substitute for writing or partly one and partly another, including in electronic form; Joint Disciplinary Scheme means the Scheme established with other accountancy bodies pursuant to sub-clause 1(b)(viiiA) of the Supplemental Charter (power to establish a disciplinary scheme);

member means a member of the Institute and membership shall be construed accordingly;

member firm means:

- a. a member engaged in public practice as a sole practitioner; or
- b. a partnership engaged in public practice of which more than 50 per cent of the rights to vote on all, or substantially all, matters of substance at meetings of the partnership are held by members; or
- c. a limited liability partnership engaged in public practice of which more than 50 per cent of the rights to vote on all, or substantially all, matters of substance at meetings of the partnership are held by members; or
- d. anybody corporate (other than a limited liability partnership) engaged in public practice of which:
  - I. 50 per cent or more of the directors are members; and
  - II. more than 50 per cent of the nominal value of the voting shares is held by members; and
  - III. more than 50 per cent of the of the aggregate in nominal value of the voting and non-voting shares is held by members;

order includes any finding, term or condition in consequence of or upon which the order is made;

practice and public practice mean practice as a public accountant in any part of the world otherwise (subject to bye-law 51(b) (concerning directors of a body corporate and members of limited liability partnerships)) than as an employee;

practising certificate means a certificate issued to a member by the Institute authorising him to engage in public practice;

A provisional member means a person who has not been admitted to full membership of ICAEW and:

- a. is registered with ICAEW as a CFAB student; or
- b. is registered with ICAEW as an ACA student; or

- c. is registered with ICAEW under a training agreement with an Authorised Training Employer or an Authorised Training Principal; or
- d. has attempted an ACA examination and no more than three years have elapsed since the date of the last attempt at an ACA examination; or
- e. was registered with ICAEW under a training agreement with an Authorised Training Employer or an Authorised Training Principal and no more than three years have elapsed since the training agreement was completed or cancelled;
- f. has applied for ICAEW membership outside the period allowed under regulations and the application has not been fully determined.

**registered address means:**

- a. in the case of a member in practice, the place of business registered by him with the Institute or, where more than one such place of business is registered by him, such place of business indicated by him as being his principal place of business; and
- b. in the case of a member not in practice, the address registered by him with the Institute;

**regulations or regulation** means regulations made by the Council or any Committee or Sub-committee pursuant to clause 16 of the Supplemental Charter (power to make regulations) and for the time being in force;

**Royal Charters** means the Royal Charter dated 11th May 1880 and the Supplemental Charter dated 21st December 1948; Sub-committee means a sub-committee appointed by a Committee pursuant to bye-law 49(b) (power to delegate to sub-committees); Supplemental Charter means the Supplemental Royal Charter dated 21st December 1948;

**Sub-committee** means a sub-committee appointed by a Committee pursuant to bye-law 49(b) (power to delegate to sub-committees);

**Supplemental Charter** means the Supplemental Royal Charter dated 21st December 1948;

**training contract** means a contract of approved training registered with the Institute and in such form and containing such provisions as may be prescribed in regulations, made between a candidate for membership and the person or firm at or from whose office the approved training is to be given;

**training office** means an office which for the time being is authorised pursuant to regulations to train provisional members;

**United Kingdom** includes the Channel Islands and the Isle of Man;

**Admission to Membership**

Admission to and refusal of membership

1. a. All admissions to and refusals of membership shall be by the Council or as it may by regulation prescribe.

- b. An applicant for admission to membership must satisfy such requirements as to education, approved training, examinations, fitness for membership or otherwise as shall be prescribed in regulations.

#### Admission notwithstanding informality in training

- 3. The Council may, in any particular case in which it considers it desirable to do so, admit a person to membership notwithstanding any deficiency in his training contract or his approved training thereunder.

#### Applications for admission to membership

- 4.
  - a. An application for admission to membership shall be in writing and shall be signed by The applicant who shall thereby undertake, if admitted, to be bound by the Royal Charters, bye-laws of the Institute and regulations for the time being in force.
  - b. Every such application shall comply with such other requirements (not being inconsistent with these bye-laws) as shall be prescribed in regulations.

#### Honorary members

- 4A.
  - a. The Council may, by a resolution passed by a majority of not less than three-fourths of the members present and voting at a meeting, admit a person to be an honorary member of the Institute.
  - b. An honorary member (in his capacity as an honorary member):
    - I. shall not be bound by the Supplemental Charter and the bye-laws and regulations except where these make express provision relating to honorary members;
    - II. shall not be liable to pay any fee or subscription to the Institute;
    - III. is not entitled to receive notice of or attend or vote at any meetings of the Institute; and
    - IV. for the avoidance of doubt, shall not be subject to the provisions as to discipline set out in the Supplemental Charter and in the bye-laws.
  - c. The Council may by a resolution passed by a majority of not less than three-fourths of the members present and voting at a meeting, remove a person from honorary membership for good cause.

### **Members**

#### Certificate of membership

- 5. A member shall be entitled on being admitted to membership.

#### Resignation of membership

- 6. A member may tender his resignation by notice to the Institute and on its acceptance by the Council, but not until then, he shall cease to be a member. Provided that any member whose notice of resignation has not been received before 1st February in any year shall remain liable for any fees or subscriptions in respect of that year.

#### Cessation of membership

- 7. A member shall thereupon cease to be a member:



- a. if he has a bankruptcy order made against him;
- b. if he fails to pay his annual subscription by 31st March in the year in which it becomes due or any increase in such subscription before the expiration of three months after the increase becomes due unless the Council otherwise decides; or
- c. if he fails to comply with any order as to fines and/or costs made by the Investigation Committee, the Disciplinary Committee or the Appeal Committee or any Tribunal appointed under the Investigation and Discipline Scheme by the date or dates upon which the same are due. Provided that in respect of a member whose registered address is outside the United Kingdom, the Council may, if it is satisfied that for legal reasons beyond the member's control he is unable to remit the amount due, extend the period within which the amount must be paid.

#### Return of certificates

8.
  - a. if a person ceases for any reason to be a member he shall thereupon forthwith return to the Institute all certificates issued to him by the Institute, including his certificate of membership, practising certificate and examination certificates (if any), unless the Council otherwise decides.
  - b. On the coming into force of any order made against a person, or body under the Disciplinary Bye-laws, that person or body shall forthwith return to the Institute all certificates issued to him or it by the Institute which are affected by the order.

#### Re-admission of former members

9. Any person who has ceased for any reason to be a member may be re-admitted to membership on such terms and conditions as the Council may consider appropriate.

### **Meetings of the Institute**

#### Annual meeting

10.
  - a. The annual meeting shall be held in London on the first Tuesday in June in every year or at such other place in England or Wales or on such other day (being not earlier than the first Tuesday in May and not later than the second Tuesday in June) as the Council may decide.
  - b. The ordinary annual business of the Institute shall be the appointment or re-appointment of auditors and the reception and consideration of the annual report of the Council and the accounts of the Institute with the auditors' report thereon.

#### Special meeting

11.
  - a. Council may whenever it thinks fit convene a special meeting and shall do so:
    - i. on receipt by the Institute of a requisition in writing, signed by not less than two hundred and fifty members and stating the object of the proposed meeting, provided both that the said requisition requires the special meeting to be held on the same day as the annual meeting of the Institute and that the Institute has received the said requisition not later than 21 February in the relevant year; or

- II. within 56 days from the receipt by the Institute of a requisition in writing signed by not less than one per cent of the members as at the end of the calendar year prior to the date of the said requisition and stating the object of the proposed meeting.
- b. A requisition may consist of several documents in like form each signed by one or more members.

#### Meeting at more than one place

- 11A a. The Council may resolve to enable members to attend an annual or special meeting by simultaneous attendance and participation at more than one place. The members present in person or by proxy at each meeting place shall be counted in the quorum for, and entitled to vote at, the meeting in question. That meeting shall be duly constituted and its proceedings valid if the chairman of the meeting is satisfied that members attending at all the meeting places are able to:
- i. participate in the business for which the meeting has been convened;
  - II. hear and see all persons who speak (whether by the use of microphones, loudspeakers, audio-visual communications equipment or otherwise) in the principal meeting place (as defined in paragraph (b) of this bye-law) and any other meeting place; and
  - III. be heard and seen by all other persons so present in the same way.
- b. The meeting shall be deemed to take place at the place at which the chairman of the meeting is present (the "principal meeting place").

#### Notice of meetings

12. a. An annual or special meeting shall be called by at least twenty-one days' notice, exclusive of the day on which it is served or deemed to be served and of the day on which the meeting is to be held. The notice shall specify the date, time and place of the meeting and, in the case of a meeting at which business other than the ordinary annual business of the Institute is to be transacted, the general nature of that business and shall be given in manner hereinafter mentioned to all members other than any as are not entitled to receive notices from the Institute. In the case of an annual meeting, the notice shall also specify the meeting as such and shall be accompanied by a copy of the annual report of the Council, subject to paragraph (c) of this bye-law a summary financial statement which complies with paragraph (d) of this bye-law, a list of the persons nominated or deemed to be nominated as auditors and particulars of any motions to be brought before the meeting under bye-law 13 (notice of motions).
- b. Every notice calling a meeting of the Institute shall be accompanied by a form of proxy complying with the provisions of bye-law 23 (form of proxy). Except that the Institute shall not be obliged to send out forms of proxy to the members for use at any adjourned meeting.
- c. The Institute shall send a copy of its accounts with the auditors' report thereon, instead of a summary financial statement, to any member who has given written notification to that effect to the Institute in such form as the Council may determine or accept and who has not revoked it.

- d. Every summary financial statement shall be derived from the accounts of the Institute, shall include the auditors' statement thereon and shall have been approved by the Council.

#### Notice of motions

13. A member wishing to bring before the annual meeting any motion not relating to the ordinary annual business of the Institute may do so provided that:
  - a. the Institute has received notice of the proposed motion not later than 21st February in the relevant year;
  - b. the Institute has received notice from not less than ten members entitled to vote at the annual meeting not later than 21st February in the relevant year expressing their desire that the proposed motion should be brought before the annual meeting; and
  - c. the proposed motion relates to matters affecting the Institute or the accountancy profession.
- 13A. The Institute shall circulate with the notice calling the annual meeting before which any such motion as is referred to in bye-law 13 (notice of motions) is to be brought a statement not exceeding 1,000 words explaining the grounds on which the said motion is to be proposed.

#### Provided that:

- a. the Institute shall have received notice to that effect and a copy of the said statement not later than 21st February in the relevant year; and
- b. the Institute shall not be bound to circulate a statement if it is reasonably satisfied that the rights conferred by this bye-law are being abused to secure needless publicity for a defamatory matter.

#### Transmission of accompanying documents

- 13B. Notwithstanding anything in these bye-laws to the contrary any communication to be given, sent, supplied, delivered or provided to any person by the Institute, whether pursuant to the Charter, these bye-laws or otherwise may be delivered or supplied in electronic form or by making them available on a website in accordance with these bye-laws.

#### Chairman of meeting

14. At all meetings of the Institute the President or in his absence the Deputy-President or in his absence the Vice-President shall be chairman. If at any meeting the President, Deputy-President and Vice-President are not present within fifteen minutes after the time appointed for the meeting and willing to act, the members of the Council present shall choose one of their number to be chairman of the meeting. If no member of the Council is present or if all the members of the Council present decline to take the chair, the members present shall choose one of their number to be chairman of the meeting.

#### Quorum at meetings

15. Subject as hereinafter provided with regard to adjourned meetings, the quorum at any annual meeting shall be twenty members present in person and the quorum at any special meeting shall be thirty members present in person. No business other than the appointment of a chairman shall be transacted at any annual or special meeting unless the requisite quorum is present at the time when the meeting proceeds to business.

#### Lack of quorum

16.
  - a. If within fifteen minutes after the time appointed for an annual meeting (or such longer interval as the chairman of the meeting may determine) a quorum is not present, or if during the meeting a quorum ceases to be present, the meeting shall stand adjourned to such other date (being not less than fourteen nor more than twenty-eight days thereafter) and such time and place as the chairman of the meeting may determine. At such adjourned meeting any members present in person shall be a quorum and shall have power to pass any resolution and to transact all business which could lawfully have been transacted at the meeting from which the adjournment took place. At least seven days' notice of any meeting adjourned through want of a quorum shall be given in the same manner as for the original meeting.
  - b. If within fifteen minutes after the time appointed for a special meeting (or such longer interval as the chairman of the meeting may determine) a quorum is not present, or if during the meeting a quorum ceases to be present, the meeting shall be dissolved.

#### Adjournment of meetings

17. Subject to these bye-laws the chairman of any meeting at which a quorum is present may, with the consent of the meeting, adjourn the meeting from time to time (or sine die) and from place to place. No business shall be transacted at any adjourned meeting except business which might lawfully have been transacted at the meeting from which the adjournment took place. Where a meeting is adjourned sine die, the date, time and place for the adjourned meeting shall be fixed by the Council and not less than seven days' notice of the adjourned meeting shall be given in the same manner as for the original meeting. Subject thereto and as provided in bye-law 16 (lack of quorum), no notice need be given of an adjourned meeting unless it be so directed in the resolution for adjournment.

#### Amendment to resolutions

18.
  - a. No amendment shall be permitted to any resolution to alter, amend or add to the Supplemental Charter or these bye-laws or the Disciplinary Bye-laws except with the consent of the chairman of the meeting and then only if in the opinion of the chairman (whose decision shall be final) the amendment is one of form and not of substance.
  - b. If an amendment is proposed to any resolution under consideration but is in good faith ruled out of order by the chairman of the meeting the proceedings on the substantive resolution shall not be invalidated by any error in such ruling.

#### Polls

19.
  - a. At any annual or special meeting a resolution put to the vote of the meeting shall be decided on a show of hands unless:

- i. before or on the declaration of the result of the show of hands a poll is demanded by the chairman of the meeting or by at least twenty-five members present in person or by proxy; or
  - ii. the resolution is to alter, amend or add to the Supplemental Charter or these bye-laws or the Disciplinary Bye-laws, in which event a poll shall be taken without any show of hands or demand as aforesaid.
- b. A demand for a poll may, before the poll is taken, be withdrawn. A demand so withdrawn shall not be taken to have invalidated the result of a show of hands declared before the demand was made.
- c. If a poll is duly demanded or is required to be taken, it shall be taken in such manner as the chairman of the meeting may direct. The result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded or required to be taken. The chairman of the meeting may appoint scrutineers (who need not be members) and may adjourn the meeting to a date, time and place fixed by him for the purpose of declaring the result of the poll.
- d. A poll demanded on the choice of a chairman or on a question of adjournment shall be taken forthwith. A poll demanded or required to be taken on any other question shall be taken either immediately or at such subsequent date (being not more than twenty-eight days after the date of the meeting), time and place as the chairman of the meeting may direct. Any business other than that upon which a poll has been demanded or is required may be proceeded with pending the taking of the poll. No notice need be given of a poll not taken immediately.
- e. On a poll, votes may be given personally or by proxy.

Each member to have one vote

20. On a show of hands every member present in person shall have one vote and on a poll every member present in person or by proxy shall have one vote.

Chairman's casting vote

21. In the case of an equality of votes, whether on a show of hands or on a poll, the chairman of the meeting at which the show of hands takes place or at which the poll is demanded or is required to be taken shall be entitled to a second or casting vote.

Validity and result of vote

22. a. No objection shall be raised as to the admissibility of any vote except at the meeting or adjourned meeting at which the vote objected to is or may be given or tendered. Every vote not disallowed at such meeting shall be valid for all purposes. Any such objection shall be referred to the chairman of the meeting whose decision shall be final.
- b. Unless a poll is taken a declaration by the chairman of the meeting that a resolution has been carried, or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the minute book, shall be conclusive evidence of that fact without proof of the number or proportion of the votes recorded for or against the resolution.

#### Form of proxy

23. a. The instrument appointing a proxy shall be in writing in such form as the Council may determine or accept and shall be signed by the appointor or his attorney duly authorised in writing. The signature on such instrument need not be witnessed.
- b. An instrument appointing a proxy shall be deemed to confer authority to demand or join in demanding a poll.

#### Proxy must be a member

24. A proxy must be a member.

#### Deposit of proxy

25. The instrument appointing a proxy and the power of attorney or other authority, if any, under which it is signed, or a notarially certified copy of that power or authority, must be deposited at such place or one of such places (if any) as may be specified for that purpose in or by way of note to or in any document accompanying the notice convening the meeting or, if no place is so specified, with the head of staff at such place within the United Kingdom as the Council may from time to time prescribe not less than 48 hours before the time for holding the meeting or adjourned meeting or (in the case of a poll taken otherwise than at or on the same day as the meeting or adjourned meeting) for the taking of the poll at which it is to be used. In default it shall not be treated as valid. The instrument shall, unless the contrary is stated thereon, be valid as well for any adjournment of the meeting as for the meeting to which it relates.

- 25A. a. The Council may allow a proxy to be appointed, and the instrument appointing a proxy and the power of attorney or other authority, if any, under which it is signed, or a notarially certified copy of that power or authority, to be sent, in electronic form or by means of a website, on such terms and conditions as it thinks fit. Provided that such instrument and other documents must be deposited by the time specified in bye-law 25
- b. If and to the extent that the Council allows appointments to be made and documents to be sent in this way, any provisions of these bye-laws which are inconsistent therewith shall be of no effect in relation thereto. The Council may require such evidence it thinks fit to satisfy itself that any such appointment or document is genuine.

#### Validity of vote by proxy

26. A vote given or demand for a poll made in accordance with the terms of an instrument of proxy shall be valid notwithstanding the previous death or insanity of the appointor or the revocation of the appointment of the proxy or of the authority under which the appointment was made: Provided that no notice of such death, insanity or revocation was received at the address for the time being applicable for the purposes of bye-law 25 (deposit of proxy) before the commencement of the meeting or adjourned meeting or (in the case of a poll taken otherwise than at or on the same day as the meeting or adjourned meeting) the time appointed for the taking of the poll at which the proxy is used.

#### Minutes of meetings of the Institute

27. Proper minutes shall be recorded of all resolutions and proceedings of meetings of the Institute. Every minute signed by the chairman of the meeting to which it relates or by the chairman of a subsequent meeting shall be sufficient evidence of the facts therein stated.



#### Fees and subscriptions

28. The fees and subscriptions payable by members shall be those in force immediately before this bye-law came into effect or as from time to time approved by members at a meeting in accordance with bye-law 31.

#### Annual subscriptions: when payable

29. All annual subscriptions payable under these bye-laws shall be due and payable on 1st January in each year or, in the case of members admitted after that date, as shall be prescribed in regulations.

#### Power to waive, reduce, remit or refund fees and subscriptions

30. Notwithstanding anything contained in these bye-laws the whole or any part of any fees or subscriptions payable by a member may be waived, reduced, remitted or refunded and the period within which payment must be made may be extended in such manner as may be prescribed in regulations.

#### Power to vary fees and subscriptions

31. The Institute may from time to time by resolution passed by a majority of the members present and voting (in person or by proxy) on a poll at a meeting change the then prevailing rates or types of fees and subscriptions payable by any or all members.

#### Practice Assurance Fees

31A. For the purposes of bye-laws 28, 30 and 31 the term "fees" does not include the fees payable under bye-law 54.

### **The Council**

#### Composition of Council

32. The Council shall consist of not more than 85 elected members, not more than 20 co-opted members appointed under bye-law 36 (co-opted members of Council), not more than five ex officio members appointed under bye-law 36A and not more than 10 ex officio members appointed under bye-law 36B (ex officio members of Council) and may act notwithstanding any vacancy in its body.

#### Election by constituencies

33. Election to the Council shall be on the basis of constituencies. The number and areas and/or type of such constituencies and the number of members which each constituency is to be entitled to elect to the Council shall be such as may be prescribed in regulations: and such regulations shall also, subject to any express provisions of these bye-laws, prescribe:

- i. the manner and conduct of Council elections including but not limited to the timing of such elections, the notices to be issued, the procedure for nominating candidates, the procedure for holding, voting at, determining and announcing the results of elections and the procedure for filling any casual vacancies among the elected members of the Council; and
- ii. eligibility to stand for election, to join in nominating a member for election, and to vote on any election to the Council in respect of any particular constituency.

34. [Deleted]

#### Term of office of elected members

35. a. An elected member's term of office is in these bye-laws referred to as his 'elected term of office'.
- b. An elected member of the Council shall assume office at the conclusion of the annual meeting of the Institute next following his election. Provided that, if a vacancy occurs among the elected members of the Council otherwise than because an elected member of the Council has come to the end of his elected term of office and otherwise than at the conclusion of an annual meeting, as the Council may decide, the person who is elected to fill such vacancy shall assume office fourteen clear days after election.
- c. An elected member of the Council shall, subject to these bye-laws and the Disciplinary Bye-laws, be entitled to hold office until the conclusion of the fourth annual meeting after that at which he assumed office.
- d. An elected member of Council shall be eligible for re-election at the election immediately preceding the Annual Meeting at which he would otherwise retire from office.
- e. If a vacancy occurs among the elected members of the Council otherwise than because an elected member of the Council has come to the end of his elected term of office, the person who is elected to fill such vacancy shall hold office only for the remainder of the elected term of office of the elected member of the Council whose vacancy he fills; and in relation to any such person the expression 'elected term of office' shall be construed accordingly.

#### Co-opted members of Council

36. a. The Council may appoint any member or provisional member to be a co-opted member of the Council provided that there shall not be more than twenty-five co-opted members in office at any one time.
- b. A co-opted member of the Council shall not be appointed for a term exceeding four years at any one time. Subject as aforesaid, a co-opted member of the Council whose term of appointment has expired shall be eligible for further co-option.
- c. Every appointment of a co-opted member of the Council shall be reported to the next succeeding annual meeting.

#### Ex officio members of Council

- 36A. A member of the Council chosen as President, Deputy-President or Vice-President in Accordance with bye-law 43 (election of President, Deputy-President and Vice-President) shall thereupon become an ex officio member of the Council (in substitution for any other membership of the Council which shall be deemed to have been vacated) and shall remain an ex officio member of the Council until he ceases to hold the office of President, Deputy-President or Vice-President as the case may be. Provided that, except where he is, as President, removed from office pursuant to bye-law 43A, a Past-President shall retain ex officio membership of the Council until the conclusion of the second annual meeting after the annual meeting held in the year in which he ceases to hold the office of President.

36B. Such other holders of offices within the Institute who are not already members of the Council as the Council may determine shall become ex officio members of the Council until they cease to hold the office concerned provided that there shall not be more than 10 members in office at any one time by virtue of this bye-law.

#### Vacation of office of Council members

37. The office of a member of the Council shall be vacated:

- a. if he ceases to be a member or provisional member of the Institute;
- b. if an adverse finding, other than a finding of a prima facie case with an order that no further action be taken, is made against him under the Investigation and Discipline Scheme or the Disciplinary Bye-laws; or
- c. if he has been absent from three or more consecutive meetings of the Council without the consent of the Council.

#### Election to Council - disciplinary orders against candidates

37A. A member or provisional member shall not be eligible for election or appointment to Council if within the period of 10 years prior to such proposed election or appointment an adverse finding other than a finding of a prima facie case with an order that no further action be taken has been made against him under an Investigation and Discipline Scheme or the Disciplinary Bye-laws or any equivalent provision previously in force.

#### Resignation of Council members

38. A member of the Council may tender his resignation of office by notice to the Council. On its acceptance by the Council, but not until then, he shall cease to be a member of the Council.

#### Removal of Council members

39. The Institute may by resolution passed by a majority of the members present and voting (in person or by proxy) at a special meeting convened for the purpose remove any member of the Council from his office before the expiration of his period of office. No resolution to remove a member of the Council under this bye-law shall be effective unless notice of the intention to propose it has been given to the Institute not less than twenty-eight days before the meeting at which it is to be proposed. The Institute shall give members notice of any such resolution at the same time and in the same manner as it gives notice of the meeting. A copy of any such notice to propose such a resolution shall be sent to the member of the Council concerned forthwith upon receipt by the Institute.

### **Proceedings of the Council**

#### Meetings of Council

40. a. Subject to these bye-laws the Council shall meet for the despatch of business, adjourn and otherwise regulate its proceedings as it may think fit. The Council shall be deemed to meet if, notwithstanding that the members of Council are in separate locations, they are nonetheless linked by conference telephone, conference video link or other communication equipment which allows those participating to hear and speak to each other. A quorum in that event shall be the number of persons required for a quorum in

accordance with bye-law who are so linked. Such a meeting shall be deemed to take place where the largest group of those participating is assembled or, if there is no such group, where the chairman of the meeting then is.

- b. A meeting of the Council may at any time be called by order of the President, Deputy-President or Vice-President, or at the request in writing, addressed to the head of staff, of five members of the Council.
- c. At least three days' notice of a meeting of the Council shall be delivered or sent to each member of the Council: Provided that if the President, Deputy-President or Vice-President when ordering a meeting certifies in writing that an emergency exists, only one day's notice as aforesaid need be delivered or sent. The period of notice shall in each case be exclusive of the day on which the notice is delivered or sent and of the day on which the meeting is to be held. Any such notice shall contain as far as is practicable a statement of the business to be transacted at such meeting. Any such notice shall be taken as duly delivered or sent unless the contrary be shown. The accidental failure to send or the non-receipt by any member of the Council of any notice or the non-existence in fact of the certified emergency shall not invalidate the relevant meeting.

#### Adjournment of meetings

41. Subject to these bye-laws the chairman of any meeting of the Council may, with the consent of the meeting, adjourn the meeting from time to time and from place to place. No business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. No notice need be given of an adjourned meeting unless it be so directed in the resolution for adjournment.

#### Quorum of Council

42. Twelve members of the Council shall form a quorum at all meetings of the Council.

#### Election of President, Deputy-President and Vice-President

43. At the first meeting of the Council after every annual meeting the members of the Council present shall choose one of the members of the Council as President, another as Deputy-President and another as Vice-President. Subject to bye-law 43A (removal of President, Deputy-President and Vice-President), the members so chosen shall hold the office of President, Deputy-President and Vice-President respectively until the first meeting of the Council held after the next succeeding annual meeting. A member of Council who has previously been chosen as President, Deputy-President or Vice-President shall be eligible to be chosen as President, Deputy-President or Vice-President for a second or subsequent period of office. Any vacancy in any of the offices of President, Deputy-President and Vice-President shall be filled at one or the other of the two meetings of the Council next following the occurrence of such vacancy or as the Council may otherwise determine.

#### Removal of President, Deputy-President and/or Vice-President

- 43A. The Council may, by a resolution passed by a majority of not less than three-fourths of the members present and voting at a meeting, remove from office the President, Deputy-President and/or Vice-President before the expiration of his period of office.

#### Ex officio membership of Committees

44. The President, the Deputy-President and the Vice-President shall by virtue of their offices be members of all Committees other than the ICAEW Regulatory Board, Investigation Committee, the Disciplinary Committee and the Appeal Committee and any Committee carrying out the Institute's functions as a regulator under statute.

#### Chairman of Council

45. At the first meeting of the Council after every annual meeting the members of the Council present shall appoint one of the members of the Council as the chairman of Council. The person so appointed shall preside as chairman at all meetings of the Council, provided that in his absence at any meeting of the Council the members of the Council present shall choose one of their number to be chairman of that meeting.

#### Voting at meetings of Council

46. Subject to Bye-law 4A, at all meetings of the Council the vote of a majority of those present and voting shall prevail. In the case of an equality of votes the chairman of the meeting shall have a second or casting vote in addition to his original vote.

#### Minutes of meetings of Council and Committees

47. Proper minutes shall be recorded of all resolutions and proceedings of meetings of the Council and of Committees and Sub-committees. Every minute signed by the chairman of the meeting to which it relates or by the chairman of a subsequent meeting shall be sufficient evidence of the facts therein stated.

#### Validity of proceedings

48. All acts done by any meeting of the Council, or of any Committee or Sub-committee, or by any person acting as a member of the Council or as a member of the Committee or Sub-committee, shall as regards all persons dealing in good faith with the Institute, notwithstanding that there was some defect in the appointment of any of the persons acting as aforesaid, or that any such persons had vacated office, or were not entitled to vote, be as valid as if every such person had been duly appointed and had continued to be a member of the Council or a member of the Committee or Sub-committee and had been entitled to vote.

### **Delegation**

#### Committees, Sub-committees or other person or persons

49. a. Subject to the Supplemental Charter and these bye-laws, the Council may delegate any of its powers, authorities or discretions to committees consisting of such person or persons (whether members of the Council or not) or to such person or persons (whether members of the Council or not) and on such terms and conditions as it thinks fit and may from time to time revoke or alter any of such powers, authorities or discretions so delegated.
- b. Any Committee may, subject to any such terms and conditions as aforesaid, delegate any of its powers, authorities or discretions to a sub-committee consisting of such person or persons (whether members of the Council or of such Committee or not) or to such person or persons (whether members of the Council or of such Committee or not) and on such terms and conditions as it thinks fit and may from time to time revoke or alter any of such powers, authorities or discretions so delegated.

- c. Subject to these bye-laws and to any terms and conditions imposed by the Council or, in the case of a Sub-committee, the Committee by which it was formed, any Committee or Sub-committee may meet for the despatch of business, adjourn and otherwise regulate its proceedings as it thinks fit. A Committee or Sub-committee shall be deemed to meet if, notwithstanding that the members of the Committee or Sub-committee are in separate locations, they are nonetheless linked by conference telephone, conference video link or other communication equipment which allows those participating to hear and speak to each other. Such a meeting shall be deemed to take place where the largest group of those participating is assembled or, if there is no such group, where the Chairman of the meeting then is.
- d. Insofar as any power, authority or discretion is delegated to a Committee, Sub-committee or any other person pursuant to these bye-laws, any reference in these bye-laws to the exercise by the Council or Committee of the power, authority or discretion so delegated shall be construed as if it were a reference to the exercise thereof by such Committee, Sub-committee or person, as the case may be.
- e. Bye-law 36 of the Disciplinary Bye-laws (publicity for the disciplinary process) shall apply to chairmen of any Committees appointed for the purposes of paragraph (b) of Article 16 of the Supplemental Charter in the same way (after making any necessary changes) as it applies to the Chairman of the Investigation Committee.

#### Head of staff

- 50. a. The head of staff of the Institute, being the most senior member of the paid staff of the Institute, shall be appointed by the Council on such terms and for such period as it thinks fit. The formal title of the head of staff shall be as Council may from time to time determine.
- b. The head of staff may, subject to any such terms and conditions as the Council thinks fit, delegate any of his powers, authorities and discretions (including, without limitation, any powers, authorities and discretions delegated to him pursuant to bye-law 49 (concerning delegation to person or persons)) to such person or persons and on such terms and conditions as he thinks fit and may from time to time revoke or alter any of such powers, authorities or discretions so delegated.
- c. Insofar as any power, authority or discretion is delegated by the head of staff to any other person pursuant to this bye-law, any reference in these bye-laws or the Disciplinary Bye-laws to the exercise by the head of staff of the power, authority or discretion so delegated shall be construed as if it were a reference to the exercise thereof by such person.

[Note (this note does not form part of the Principal bye-laws):

The Council has determined that the head of staff shall be called the Chief Executive.]

#### Public Practice

##### Conditions for engaging in public practice

- 51. a. Subject as may be provided in regulations, a member shall be entitled to engage in



public practice in the United Kingdom or any other member state of the European Economic Area only if he holds a current practising certificate.

- b. The circumstances in which a member is, by virtue of being a director of a body corporate or a member of a limited liability partnership, to be regarded as engaging in public practice and any other requirements governing such practice shall be those prescribed in regulations. A member shall not engage in public practice otherwise than in accordance with such regulations or as a sole practitioner or as a partner in a firm.

#### Eligibility to hold practising certificate

- 52. a. Subject to paragraph (b) of this bye-law and to bye-laws 22 (powers of tribunal) and 30 (intervention orders) of the Disciplinary Bye-laws, a member shall be eligible to hold a practising certificate if he satisfies such requirements as shall be prescribed in regulations.
- b. A member who fails to pay his practising certificate fee by 31st March in the year in which it becomes due or before the expiration of three months after it has become due shall thereupon cease to be eligible for such a certificate unless the Council otherwise decides.

#### Issue of practising certificates

- 53. a. Practising certificates shall normally be issued for a period not exceeding twelve months and ending on 31st December and shall, subject to bye-law 52(b) (failure to pay practising certificate fee), be renewed automatically for a period of twelve months on 1st January next following when the appropriate renewal fee shall become due and payable.
  - b. Practising certificates shall be in such form or forms as may be prescribed in regulations.
  - c. A member who ceases to be eligible for a practising certificate shall forthwith return his certificate to the Institute but shall be granted a further certificate if and when he again becomes so eligible.
- 54. a. Members and member firms shall co-operate with any scheme, system, or arrangements for inspection, monitoring and review of their professional and business efficiency and competence established by the Institute and shall comply with any regulations made in respect thereof.
  - b. A member holding a practising certificate shall pay such fee or fees in respect of such scheme, system or arrangement as may from time to time be determined by the Council in its absolute discretion.
  - c. If a member fails to pay any fee or fees due under paragraph (b) he shall cease to be eligible for a practising certificate.
  - d. For the purposes of this bye-law a firm which describes itself as "Chartered Accountants" shall be presumed to be a member firm unless it proves it is not.

#### Use of designations

55. a. Save as permitted by regulation a member practising under the title of a firm in partnership with any person not a member nor a member of one or other of such institutes, societies or bodies of accountants as may be approved by the Council shall not use after or in conjunction with the title of the firm the initials FCA or ACA or describe the firm in any way whatever as chartered accountants.
- b. Save as permitted by regulation a member practising as a director of a body corporate or as a member of a limited liability partnership shall not use after or in conjunction with the title of that body the initials F.C.A. or A.C.A. or describe the body in any way whatever as chartered accountants.

#### Continuing Professional Development

56. Except as may be provided in regulations or regulations a member shall:
- a. keep under review his needs for training and development having regard to the professional and other work he undertakes;
- b. where such a review identifies a specific need for training or development act promptly to meet such need; and
- c. certify annually to the Institute compliance with these provisions and, if requested by the Institute, provide such evidence of compliance as may be required.

#### **57. Deleted**

#### **Appeals**

58. a. Except as provided in these bye-laws or in regulations, an applicant for membership, provisional member, a former provisional member and a member shall each have the right to appeal against any decision made concerning him under or pursuant to these bye-laws or regulations or regulation (including decisions concerning admission to membership, eligibility for practising certificates and entitlement to fellowship).
- b. The provisions governing the hearing of any such appeal shall be prescribed in regulations.

#### **Common Seal**

##### Custody of Common Seal

59. The Common Seal shall be kept in such custody as the Council may determine.

##### Use of Common Seal

60. The Common Seal shall not be affixed to any instrument except by order of the Council or of a Committee or Sub-committee or of any person authorised by the Council in that behalf and in the presence of two members of the Council. Every such instrument shall be signed by the two members of the Council in whose presence the Seal is affixed and by the head of staff. Provided that it shall not be necessary for any member of the Council to be present when the Seal is affixed to any such certificate as is referred to in bye-law 5 (certificate of membership).

It shall be sufficient for the signatures of the two members of the Council and the head of staff upon any such certificate to be facsimile signatures.

#### Authentication of Documents

61. Any member of the Council or the head of staff or any person appointed by the Council for the purpose shall have power to authenticate any document affecting the constitution of the Institute and any resolution passed at an annual meeting or a special meeting or at a meeting of the Council or of any Committee or Sub-committee, and any book, record, document or account relating to the business of the Institute, and to certify copies thereof or extracts therefrom as true copies or extracts. A document purporting to be a copy of any such resolution, or an extract from the minutes of any such meeting, which is certified as aforesaid shall be conclusive evidence in favour of all persons dealing with the Institute upon the faith thereof that such resolution has been duly passed or, as the case may be, that any minute so extracted is a true and accurate record of proceedings at a duly constituted meeting.

#### Audit

##### Appointment of auditors

62. a. The members shall at each annual meeting appoint at least one but not more than two members in practice or at least one but not more than two firms to be the auditor or auditors of the Institute.
- b. No member of the Council shall be eligible for appointment as auditor in a personal capacity. No firm in which a member of the Council is a director, partner, member (if the firm is a limited liability partnership), or employee shall be eligible for appointment as auditor.
- c. In the event of any vacancy occurring in the office of auditor between annual meetings or in the event of a vacancy not being filled at an annual meeting, the said vacancy may be filled by the Council at a meeting summoned with notice of the object provided that during such vacancy a continuing auditor may act alone.
- d. The remuneration, if any, of the auditor or auditors so appointed shall be determined either by the meeting or in such manner as the meeting may resolve.
- e. In this bye-law the expression 'firm' means a partnership or body corporate (including a limited liability partnership) engaged in public practice.

##### Retirement of auditors

63. The auditor or auditors shall retire at the next annual meeting after his or their appointment, but shall be eligible for re-appointment.

##### Nomination of auditors

64. Each retiring auditor shall, unless he has notified the Council not later than 24th March preceding the date of the annual meeting that he does not wish to offer himself for re-appointment, be deemed to be nominated for re-appointment at such meeting. Every other candidate for appointment as an auditor shall be nominated in writing by the Council. Notice of the names of all candidates nominated for appointment or deemed to be nominated for re-appointment shall be sent to all members with the notice calling the annual meeting.

#### Removal of auditors

65. The Institute may, by a resolution passed by a majority of not less than three-fourths of the members present and voting (in person or by proxy) at a special meeting convened for the purpose, remove any auditor from his office before the expiration of his period of office. The Institute may also by a resolution passed by a majority of the members present and voting (in person or by proxy), at such a meeting appoint in place of any auditor so removed another member in practice. In default of such an appointment, the Council may at a meeting summoned with notice of the object appoint an auditor in the place of the auditor so removed.

#### Auditor's right to attend meetings

66. An auditor shall be entitled to attend any annual meeting or special meeting and to receive all notices of and other communications relating to any such meeting which any member is entitled to receive and to be heard at any such meeting on any part of the business of the meeting which concerns him as auditor.

#### Notices

- 67.
- a. Any notice required to be given for the purposes of these bye-laws shall be in writing.
  - b. Any communication required to be given, delivered or sent to members under or in connection with these bye-laws may be given or sent by pre-paid post addressed to them at their registered address.
  - c. Any communication (other than a form of proxy) required to be given, delivered or sent to the Institute under or in connection with these bye-laws shall, subject to paragraph (e) of this bye-law, be given or sent by pre-paid post addressed to the Institute at its principal London address for the time being and marked for the attention of the head of staff.
  - d. Where any communication is given, delivered or sent by post, service shall be deemed to have been effected at the expiration of 48 hours after the time when such communication is posted and in proving such service it shall be sufficient to prove that the cover containing such communication was properly addressed, stamped and posted.
  - e. Subject to paragraph (f), and to paragraph (u) the Institute may send or supply all communications to members, and receive all communications from members, in electronic form and all communications delivered in accordance with these bye-laws shall be deemed to be validly given, sent or supplied for the purposes of the Supplemental Charter, the Principal Bye-laws and any regulations.
  - f. A communication may only be sent or supplied by the Institute in electronic form to a member who has agreed (generally or specifically) that the communication may be sent or supplied in that form (and has not revoked that agreement).
  - g. Where the communication is sent or supplied in electronic form it may only be sent or supplied to an address specified for the purpose by the intended recipient (generally or specifically).

- i. Where the communication is sent or supplied in electronic form by post or by hand, it must be handed to the recipient or sent or supplied to an address to which it could be validly sent if it were in hard copy form.
  - ii. Any communication which is sent or supplied by the Institute in electronic form shall be deemed to have been received by the intended recipient 24 hours after it was transmitted, and in proving such receipt it shall be sufficient to show that such communication was properly addressed.
- h. A communication is validly sent or supplied by the Institute if it is made available on a website in accordance with these bye-laws.
- i. A communication may only be sent or supplied to a member by being made available on a website if the person:
  - has agreed (generally or specifically) that the communication may be sent or supplied to him in that manner, or
- j. is taken to have so agreed under paragraph (k) hereof and has not revoked that agreement.
- k. This paragraph applies to any communication to be sent or supplied to a member:
  - i. To the extent the Principal Bye-laws or any regulations authorise the Institute to send or supply communications to members by making them available on a website, a member in relation to whom the following conditions are met is taken to have agreed that the Institute may send or supply communications to him in that manner.
  - ii. The conditions are that:
    - the member has been asked individually by the Institute to agree that the Institute may send or supply communications generally, or the document or information in question, to him by means of a website, and
    - the Institute has not received a response within the period of 28 days beginning with the date on which the Institute's request was sent.
- l. A member is not taken to have so agreed if the Institute's request:
  - i. did not state clearly what the effect of failure to respond would be; or
  - ii. was sent less than twelve months after a previous request made to him for the purpose of this paragraph in respect of the same or a similar class of communication.
- m. A communication authorised or required to be sent or supplied by means of a website must be made available in a form, and by a means, that the Institute reasonably believes will enable the member:
  - i. to read it; and
  - ii. to retain a copy of it.
- n. For this purpose a communication can be read only if:
  - i. it can be read with the naked eye; or
  - ii. to the extent that it consists of images (for example photographs, pictures, maps, plans or drawings), it can be seen with the naked eye.

- o. The Institute must notify the intended recipient of:
  - i. the presence of the communication on the website;
  - ii. the address of the website;
  - iii. the place on the website where it may be accessed; and
  - iv. how to access the communication.
  
- p. The communication is taken to be sent:
  - i. on the date on which the notification required by this paragraph is sent; or
  - ii. if later, the date on which the communication first appears on the website after that notification is sent.
  
- q. The Institute must make the communication available on the website throughout:
  - i. the period specified by any provision of the Supplemental Charter, the Principal Bye-laws or any regulation, or
  - ii. if no such period is specified, the period of 28 days beginning with the date on which the notification required under paragraph (p) hereof, is sent to the person in question.
  
- r. For the purposes of paragraph 12, a failure to make any communication available on a website throughout the period shall be disregarded if:
  - i. it is made available on the website for part of that period, and
  - ii. the failure to make it available throughout that period is wholly attributable to circumstances that it would not be reasonable to have expected the Institute to prevent or avoid.
  
- s. Any communication which is sent or supplied by the Institute by means of a website.
  
- t. A communication that is sent or supplied otherwise than in hard copy form or in electronic form or by means of a website is validly sent or supplied if it is sent or supplied in a form or manner that has been agreed by the member or is sent by pre-paid post addressed to them at their registered address.
  
- u. The Institute may notify members in writing of an address for the purpose of its receiving communications from members by such electronic form as the Council may determine and may specify what communications may be sent to it in electronic form and having done so shall be deemed to have agreed to receive any such notice or other document from members by such electronic form.

#### Suspension of postal services

68. If at any time by reason of the suspension or curtailment of postal services within the United Kingdom the Institute is unable to give notice by post in hard copy of a meeting of members such notice shall be deemed to have been given to all members entitled to receive such notice in hard copy form if such notice is advertised on the same date in at least four national daily newspapers with appropriate circulation and such notice shall be deemed to have been given on the day when the advertisement appears. In any such case the Institute shall (i) make such notice available on a website from the date of such advertisement until the conclusion of the meeting or any adjournment thereof and (ii) send confirmatory copies of the

notice by post to such members if at least seven days prior to the meeting the posting of notices to addresses throughout the United Kingdom again becomes practicable.

## **Indemnity and Expenses**

### Indemnification of Council members and others

69. Every member of the Council, the head of staff and every auditor of the Institute shall be indemnified by the Institute against all losses and expenses incurred by him in or about the discharge of his duties, except such as happen from his own respective wilful default or, in the case of an auditor, his own negligence or wilful default or that of any partner or employee of such auditor.

### Council members and others not to be liable for losses

70. Neither any member of the Council nor the head of staff nor any auditor of the Institute shall be liable for any other member of the Council or the head of staff or any auditor of the Institute, or for joining in any receipt or document, or for any act of conformity, or for any loss or expense happening to the Institute, unless the same happen from his own wilful default, or in the case of an auditor from his own negligence or wilful default or that of any partner or employee of such auditor.

### Expenses of members of Council

71. The Council may pay to any member who is required to attend a meeting of the Council or of any Committee or Sub-committee and to any member of the Council who is required to attend a meeting of the Council or of any Committee or Sub-committee or of the Institute and to any member or member of the Council who is required to attend any other meeting for the purposes of the Institute a reasonable subsistence allowance on each occasion of attending such a meeting and reasonable travel costs to and from the place of the meeting. The Council may also pay the expenses reasonably and properly incurred by the President, Deputy-President, Vice-President or any member of the Council when acting in an official capacity on behalf of the Institute.





# Disciplinary Bye-laws

Effective from 1 January 2016

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## Preliminary

### Citation, interpretation and service of documents

1.1 These bye-laws may be cited as the Disciplinary Bye-laws of the Institute of Chartered Accountants in England and Wales.

1.2 In these bye-laws, unless the context otherwise requires the Appeal Committee means the Appeal Committee appointed under the Schedule to these bye-laws;

approved training means practical training and experience approved by the Council and obtained at or from an office which is for the time being authorised under regulations to train provisional member;

authorised firm means a firm regulated by the Institute in its capacity as

- a. as a designated professional body under the Financial Services and Markets Act 2000, or
- b. in any comparable capacity under any legislation, wherever in force, for the time being designated in regulations;

the bye-laws means all the bye-laws of the Institute for the time being in force;

complainant, except in bye-laws 24A and 34B, in relation to a complaint or formal complaint, means any of the following persons

- a. the person who under bye-law 9.1 brought to the attention of, or reported to, the head of staff any of the facts and matters which constitute the complaint;
- b. any person, who, before the Investigation Committee has under bye-law 15 decided whether in its opinion the complaint discloses a prima facie case, has made written representations to the head of staff on any of those facts and matters; and
- c. if the person mentioned in paragraph (a) of this definition, being an individual, dies before the complaint has been finally disposed of under these bye-laws, his personal representative.

complaint, except in bye-law 11 or where the reference is to a previously mentioned formal complaint, has the meaning given by bye-law 9.3;

Council means the Council of the Institute;

defendant means a member, firm or provisional member against whom a formal complaint has been preferred to the Disciplinary Committee;

director (save in paragraph (a) of the definition of member firm below) includes a member of a limited liability partnership;

Disciplinary Committee means the Disciplinary Committee appointed under the Schedule to these bye-laws;

disciplinary record, in relation to any person or body, comprises all orders, findings, fines and penalties to which he has at any time been subject, being orders, findings, fines or penalties of any description prescribed for the purposes of this definition by regulations;

firm means

- a. a body corporate or partnership including a limited liability partnership which is wholly or partly composed of members engaged in public practice or was so composed at, or at any time since, the relevant time;
- b. a member who is engaged in public practice as a sole practitioner or was so engaged at, or at any time since, the relevant time; or
- c. a person or body who was a regulated firm at the relevant time;

and in this definition, the relevant time means the time relevant to any facts or matters which under bye-law 9 have been reported to the head of staff, or have been brought or come to his attention,

as indicating a possible liability to disciplinary action;

formal complaint means a complaint preferred by the Investigation Committee to the Disciplinary Committee under bye-law 15, and in relation to a tribunal means the formal complaint which the tribunal was appointed to hear;

head of staff means the person appointed under Principal Bye-law 50;

hearing, in relation to a formal complaint or an appeal, includes the making of any finding or order on or in connection with the complaint or appeal, and also includes a re-hearing;

Insolvency Licence means an authorisation issued by the Institute to a member pursuant to the Insolvency Act 1986 or the Insolvency (Northern Ireland) Order 1989 (as from time to time amended) as a precondition to the member acting as an insolvency practitioner;

Investigation Committee means the Investigation Committee appointed under the Schedule to these bye-laws;

Investigation and discipline scheme means any scheme in which the Institute participates pursuant to articles 1(b)(viiA), 1(b)(viiiA), or 1(b)(xi) of the Supplemental Charter;

Lay member means someone who is not and never has been a member, affiliate or employee of ICAEW or any other accountancy body. Furthermore, solicitors and those with legal training will not be regarded as lay members for the determination of any complaint about legal services work in the Review Committee, the Investigation Committee, the Disciplinary Committee and the Appeal Committee;

member means a member of the Institute, and membership shall be construed accordingly;

member firm means

- a. a member engaged in public practice as a sole practitioner; or
- b. a partnership engaged in public practice of which more than 50 per cent of the rights to vote on all, or substantially all, matters of substance at meetings of the partnership are held by members; or
- c. a limited liability partnership engaged in public practice of which more than 50 per cent of the rights to vote on all, or substantially all, matters of substance at meetings of the partnership are held by members; or
- d. any body corporate (other than a limited liability partnership) engaged in public practice of which:
  - i. 50 per cent or more of the directors are members; and
  - ii. more than 50 per cent of the nominal value of the voting shares is held by members; and
  - iii. more than 50 per cent of the aggregate in nominal value of the voting and non-voting shares is held by members;

notice means notice in writing;

order includes a finding;

panel (except in bye-law 26) means a panel appointed under bye-law 27.1 to hear an appeal;

practice and public practice mean practice as a public accountant in any part of the world otherwise than as an employee, subject however to any regulations made pursuant to bye-law 51.b of the Principal Bye-laws and to any other guidance issued by the Council;

practising certificate means a certificate issued to a member authorising him to engage in public practice;

prima facie case means a prima facie case for disciplinary action under these bye-laws;

the Principal Bye-laws means the Principal Bye-laws of the Institute;

principal means a sole practitioner, a partner in a partnership or a director of a body corporate;

provisional member means a person who has not been admitted to full membership of ICAEW and;

- a. is registered with ICAEW as a CFAB student; or
- b. is registered with ICAEW as an ACA student;
- c. is registered with ICAEW under a training agreement with an Authorised Training Employer or an Authorised Training Principal; or
- d. has attempted an ACA examination and no more than three years have elapsed since the date of the last attempt at an ACA examination; or
- e. was registered with ICAEW under a training agreement with an Authorised Training Employer or an Authorised Training Principal and no more than three years have elapsed since the training agreement was completed or cancelled; or
- f. has applied for ICAEW membership outside the period allowed under the regulations and the application has not been finally determined.

registered address means

- a. in the case of a member in practice or a firm, the place of business registered by the member or firm with the Institute or, if more than one place of business is so registered, the one registered as the principal place of business;
- b. in the case of a member not in practice or a provisional member, the address registered by him with the Institute;
- c. in the case of a former member, former member firm, former regulated firm or former firm the latest address registered with or notified to the Institute by the person or body in question.

registered auditor means a firm registered as a registered auditor at the instance of the Institute (in its capacity as a recognised supervisory body under the Companies Act 2006 or in any comparable capacity under any legislation, wherever in force, for the time being designated in regulations);

regulated firm means an authorised firm or a registered auditor;

regulations means regulations made by the Council or any committee or sub-committee under clause 16 of the Supplemental Charter (power to make regulations) and for the time being in force;

relevant authority means a body which authorises the Institute to act as a regulator or to exercise any regulatory or disciplinary function.

representative, in relation to the defendant in any proceedings under these bye-laws, means

- a. a barrister, solicitor or member appointed by him to represent him in those proceedings; or
- b. any person permitted under regulations to represent him in those proceedings, and represented shall be construed accordingly;

reviewer of complaints means a person appointed as a reviewer of complaints under paragraph 5 of the Schedule to these bye-laws;

training contract means a contract of approved training registered with the Institute and in such form and containing such provisions as may be prescribed in regulations, made between a candidate for membership and the person or firm at or from whose office the approved training is to be given;

tribunal means a tribunal appointed under bye-law 19.1 to hear a formal complaint;

United Kingdom includes the Channel Islands and the Isle of Man.

1.3 The Interpretation Act 1978 applies to these bye-laws in the same way as it applies to an enactment

1.4 In these bye-laws, unless the context otherwise requires

- a. words importing the masculine gender include the neuter (as well as, by virtue of the Interpretation Act 1978 as applied by paragraph 3, the feminine);

- b. words importing the neuter gender include both the masculine and the feminine;
- c. any reference to a numbered bye-law is a reference to the bye-law so numbered among these bye-laws;
- d. any reference within any of these bye-laws to a numbered paragraph is a reference to the paragraph so numbered of that bye-law.

1.5 In these bye-laws

- a. references to the date of an order made by the Investigation Committee under bye-law 16 (consent orders) or bye-law 16A (cautions) refer to the date on which the order was signed on behalf of the Committee;
- b. references to the date of an order made by a tribunal or panel refer to the date on which the order was announced at the hearing of the formal complaint or appeal in question;
- c. references to the date of an order made by the Investigation Committee under bye-law 30 (intervention orders) refer to the date on which the Committee decided to make the order.

1.6 Any notice or other document required to be served for the purposes of these bye-laws on a member, a firm, a provisional member or a defendant may be sent by pre-paid post addressed to him at his registered address or, if none, at his last known or usual place of residence or business.

1.7 Any notice or other document required to be served on the head of staff for the purposes of these bye-laws may be sent by pre-paid post addressed to the head of staff at the Institute's principal London address for the time being or such other address of the Institute as may be prescribed by regulations.

1.8 Service of a document sent as mentioned in paragraphs 6 or 7 shall be deemed to have been effected at the end of 48 hours from the time of posting; and in proving that a document was so sent it shall be sufficient to prove that the cover containing it was properly addressed, stamped and posted.

1.9 Regulations may change, supplement or disapply any part of these bye-laws in specified cases or classes of case in pursuance of any provision of or made under any Act.

### **Constitution of Investigation, Disciplinary and Appeal Committees, and appointment of reviewers of complaints**

2 The Schedule to these bye-laws shall have effect with respect to the constitution of the Investigation, Disciplinary and the Appeal Committees and the appointment of reviewers of complaints.

### **Liability to disciplinary action**

#### **Application of investigation and discipline schemes**

3 An investigation and discipline scheme shall apply to all members and firms in accordance with the terms of that scheme and these bye-laws.

#### **Liability of members and provisional members to disciplinary action**

4.1 A member or provisional member shall be liable to disciplinary action under these bye-laws in any of the following cases, whether or not he was a member or provisional member at the time of the occurrence giving rise to that liability



- a. if in the course of carrying out professional work or otherwise he has committed any act or default likely to bring discredit on himself, the Institute or the profession of accountancy;
- b. if he has performed his professional work or the duties of his employment, or conducted his practice, inefficiently or incompetently to such an extent, or on such a number of occasions, as to bring discredit on himself, the Institute or the profession of accountancy;
- c. if he has committed a breach of the bye-laws or of any regulations or has failed to comply with any order, direction or requirement made, given or imposed under them;
- d. if he has failed to comply with any order of the Investigation, Disciplinary or Appeal Committee, or of any tribunal or panel, otherwise than by failing to pay any fine or costs;
- e. if any of the circumstances set out in paragraph 2 exist with respect to him.

#### 4.2 Those circumstances are

- a. that he has failed to satisfy a judgment debt;
- b. that he has, individually or as a partner, made an assignment by reason of insolvency of some or all of his assets for the benefit of his creditors;
- c. that he has made any arrangement or entered into a composition with his creditors to satisfy his debts, whether by resolution of his creditors or court order or under any deed or other document by reason of insolvency;
- d. that he has made a proposal to enter into a Voluntary Arrangement on grounds of insolvency, or has entered into such a Voluntary Arrangement;
- e. that he is a partner in a firm which
  - i. has had a winding-up order made against it on grounds of insolvency; or
  - ii. has made a proposal to enter into a voluntary arrangement on grounds of insolvency, or has entered into such a voluntary arrangement; or
  - iii. has had an administration order made against it on grounds of insolvency; or
  - iv. has had a receiver appointed by a creditor or by a court on the application of a creditor;
- f. that he is a director of a body corporate engaged in public practice which
  - i. has been the subject of an effective resolution passed by the shareholders (or in the case of a limited liability partnership, by its members) for it to be wound up or has had a winding-up order made against it on grounds of insolvency; or
  - ii. has made a proposal to enter into a voluntary arrangement on grounds of insolvency, or has entered into such a voluntary arrangement; or
  - iii. has had an administration order made against it on grounds of insolvency; or
  - iv. has had a receiver appointed by a creditor or by a court on the application of a creditor.

### Liability of member firms to disciplinary action

#### 5.1 A member-firm shall be liable to disciplinary action under these bye-laws in any of the following cases

- a. if in the course of carrying out professional work or otherwise it has committed any act or default likely to bring discredit on itself, the Institute or the profession of accountancy;
- b. if it has performed its professional work, or conducted its practice, inefficiently or incompetently to such an extent, or on such a number of occasions, as to bring discredit on itself, the Institute or the profession of accountancy;
- c. if it has committed a breach of the bye-laws or of any regulations or has failed to comply with any order, direction or requirement made, given or imposed under them;
- d. if it has failed to comply with any order of the Investigation, Disciplinary or Appeal Committee, or of any tribunal or panel, otherwise than by failing to pay any fine or costs;

- e. if it is a partnership to which any of heads (i) to (iv) of bye-law 4.2(e) applies;
- f. if it is a body corporate to which any of heads (i) to (iv) of bye-law 4.2(f) applies.

In this paragraph 'regulations' does not include any such regulations as are mentioned in bye-law 6.1(a) or 6.2(a).

- 5.2 It shall be a defence to a complaint arising by virtue of this bye-law for a member firm to prove that it had taken all such steps as it could reasonably have been expected to take (including the making of appropriate rules and arrangements) to prevent acts or defaults of the kind which are the subject of the complaint.
- 5.3 The fact that one or more partners have joined or left a member firm since the time of the acts or defaults which are the subject of disciplinary action shall not affect the firm's liability to such action unless the Investigation Committee is satisfied that, as currently constituted, the firm has substantially lost its identity with the firm as constituted at that time; but if the member firm continues to have the same or substantially the same name, that fact shall be evidence that such identity has not been lost.
- 5.4 For the purposes of this bye-law a firm which describes itself as 'Chartered Accountants' shall be presumed to be a member firm unless it proves that it is not.

#### Liability of regulated firm to disciplinary action

- 6.1 An authorised firm shall be liable to disciplinary action under these bye-laws in any of the following cases
  - a. if it has committed a breach of any regulations issued by the Institute in its capacity as a designated professional body under the Financial Services and Markets Act 2000 or in any comparable capacity under any legislation, wherever in force, for the time being designated in regulations;
  - b. if it has failed to comply with a notice served by the Investigation Committee under bye-law 13 within the time allowed by or under that bye-law;
  - c. if it has failed to comply with any order of the Investigation, Disciplinary or Appeal Committee, or of any tribunal or panel, otherwise than by failing to pay any fine or costs.
- 6.2 A registered auditor shall be liable to disciplinary action under these bye-laws in any of the following cases
  - a. if it has committed a breach of any regulations issued by the Institute in its capacity as a recognised supervisory body under the Companies Act 2006 or in any comparable capacity under any legislation, wherever in force, for the time being designated in regulations;
  - b. if it has failed to comply with a notice served by the Investigation Committee under bye-law 13 within the time allowed by or under that bye-law;
  - c. if it has failed to comply with any order of the Investigation, Disciplinary or the Appeal Committee, or of any tribunal or panel, otherwise than by failing to pay any fine or costs.

#### Liability of former members, member firms, regulated firms and firms to disciplinary action

- 6A.1 A person or body who, while he was a member, member firm, regulated firm or firm, became liable to disciplinary action under these bye-laws, or an investigation and discipline scheme, shall continue to be subject to these bye-laws after he has ceased to be a member, member firm, regulated firm or firm, as the case may be, as if he had not so ceased; and references in these bye-laws to members, member firms, regulated firms and firms shall be construed accordingly so far as may be necessary to give effect to this paragraph.

- 6A.2 Without prejudice to the generality of paragraph 1 above, the reference in paragraph 1 of bye-law 9 (complaints) to facts or matters indicating that a member or a firm may have become liable to disciplinary action under these bye-laws, or an investigation and discipline scheme includes facts or matters indicating that a former member or former firm may have become so liable.
- 6A.3 Bye-law 13 (power of Investigation Committee to call for information etc) shall extend to any former member, former member firm or former regulated firm, and a breach of bye-law 13 shall render the former member, former member firm or former regulated firm liable to disciplinary action by virtue of this bye-law.
- 6A.4 Liability to disciplinary action or other action by virtue of this bye-law
- a. subject to paragraph 3, extends only to facts and matters which occurred while the person or body concerned was actually a member, member firm, regulated firm or firm, as the case may be; and
  - b. does not extend to any facts or matters which occurred before 7 October 1999 unless (for the avoidance of doubt) such facts or matters, at the time when they occurred, rendered the person or body concerned liable to disciplinary action under bye-law 6.1(a), or bye-law 6.2(a) (or earlier regulations covering the same subject matter as those bye-laws, in conjunction with any bye-laws) or under any regulations issued by the Institute in its capacity as a recognised professional body under the Insolvency Act 1986.

#### Proof of certain matters

- 7.1 The fact that a member, member firm or provisional member has, before a court of competent jurisdiction, pleaded guilty to or been found guilty of an indictable offence (or has, before such a court, outside England and Wales, pleaded guilty to or been found guilty of an offence corresponding to one which is indictable in England and Wales) shall for the purposes of these bye-laws be conclusive evidence of the commission by him of such an act or default as is mentioned in bye-law 4.1(a) or 5.1(a), as the case may be.
- 7.2 The fact that a member, member firm or provisional member
- a. has been the subject of an adverse finding (not set aside on appeal or otherwise) in respect of his conduct, being a finding in proceedings before a body which is for the time being listed in paragraph 5 or before a regulatory body performing its functions under the Financial Services and Markets Act 2000, the Insolvency Act 1986 or the Companies Act 2006; or
  - b. has had a disqualification order made against him or has given a disqualification undertaking which has been accepted by the Secretary of State under the Company Directors Disqualification Act 1986,
- shall, for the purposes of these bye-laws, be conclusive evidence of the commission by him of such an act or default as is mentioned in bye-law 4.1(a) or 5.1(a), as the case may be.
- 7.3 A finding of fact
- a. in any report of an inspector appointed under the Companies Act 1985;
  - b. in any civil or criminal proceedings before a court of competent jurisdiction in the United Kingdom or elsewhere;
  - c. in any proceedings before, or report by, any of the bodies mentioned in paragraph 4; or
  - d. in any proceedings as a result of which an accountant was notified by the relevant authority that he was not qualified to give an accountant's report within the meaning of section 34 (accountants' reports), of the Solicitors Act 1974,
- shall for the purposes of these bye-laws be prima facie evidence of the facts found.

- 7.4 The bodies referred to in paragraph 3(c) are
- a. The Financial Services Authority;
  - b. The Financial Services Tribunal or the Financial Services and Markets Tribunal;
  - c. The Insolvency Practitioners Board;
  - d. any recognised professional body or competent authority within the meaning of the Insolvency Act 1986;
  - e. any recognised supervisory body within the meaning of the Companies Act 2006;
  - f. any body which is for the time being listed in paragraph 5;
  - g. any body situated in Ireland which exercises a similar function to the bodies listed in (a) to (g) above.
- 7.5 The bodies referred to in paragraph 2(a) and 4(g) are
- a. The Institute of Chartered Accountants of Scotland;
  - b. The Institute of Chartered Accountants in Ireland;
  - c. The Association of Chartered Certified Accountants;
  - d. The Chartered Institute of Management Accountants;
  - e. The Chartered Institute of Public Finance and Accountancy.
- 7.6 The Council may at any time by regulations add any accountancy body (other than the Institute) to, or remove any body listed in paragraphs (2), (4) or (5).
- 7.7 Nothing in paragraphs 3 to 6 shall affect the evidential status of any report or other document not falling within paragraph 3.

#### Relevance of codes of practice, regulations etc.

- 8.1 In discharging his or its functions under these bye-laws a person or body mentioned in paragraph 2 may have regard to all relevant matters, including any code of practice (whether relating to the ethical, the technical or any other aspect of practice), and any regulations or guidance, affecting (as the case may be) the firm, member or provisional member concerned.
- 8.2 Those persons and bodies are
- a. the head of staff;
  - b. a reviewer of complaints;
  - c. the Investigation Committee;
  - d. a tribunal;
  - e. a panel.

## Complaints

### Complaints

- 9.1 Any person may bring to the attention of the head of staff any facts or matters indicating that a member, a firm or a provisional member may have become liable to disciplinary action under these bye-laws or an investigation and discipline scheme and it is the duty of every member, where it is in the public interest for him to do so, to report to the head of staff any such facts or matters of

which he is aware.

- 9.2 In determining whether it is in the public interest for a member to report any such facts or matters under paragraph 1 regard shall be had to such guidance as may from time to time be issued by the Council.
- 9.3 In these bye-laws any facts or matters which
- a. have come to the attention of the head of staff under paragraph 1 or otherwise; and
  - b. indicate that a member, a firm or a provisional member may have become liable to disciplinary action under these bye-laws or an investigation and discipline scheme
- are referred to as a complaint.
- 9.4 Any dispute relating to
- a. a decision of the head of staff as to whether any facts or matters fall within paragraph 3(b); or
  - b. an opinion formed by him as mentioned in paragraph 1, 2, 3(a) or 3(b) of bye-law 10,
- shall be referred to and determined by the Investigation Committee.

#### Processing of complaints by head of staff

- 10.1 If, as regards any complaint, the head of staff is of the opinion that it is to be dealt with by an investigation and discipline scheme, he shall lay it before the Investigation Committee.
- 10.2 If, in the case of any complaint not laid before the Investigation Committee under paragraph 1, the head of staff is of the opinion that it is appropriate to do so, he shall attempt to resolve the complaint by conciliation or in some other way not involving disciplinary action under these bye-laws; and if the attempt is successful, he shall take no further action with respect to the complaint.
- 10.3 Where an attempt under paragraph 2 is made but fails, the head of staff shall review the complaint in the light of any further relevant facts or matters which have come to his attention since he initiated the attempt; and
- a. if as a result of that review he remains of the opinion that the member, the firm, or the provisional member concerned may have become liable to disciplinary action under these bye-laws, he shall proceed to investigate the complaint;
  - b. if as a result of that review he is no longer of that opinion, he shall take no further action with respect to the complaint.
- 10.4 If, as regards any complaint not laid before the Investigation Committee under paragraph 1, the head of staff does not think it appropriate to make an attempt under paragraph 2, he shall proceed to investigate the complaint.
- 10.5 If, having investigated a complaint under paragraph 3 or 4, the head of staff is no longer of the opinion that the member, the firm or the provisional member concerned may have become liable to disciplinary action under these bye-laws, he shall take no further action with respect to the complaint unless the complainant insists on its being laid before the Investigation Committee; but if the head of staff remains of that opinion or the complainant so insists, the head of staff shall lay the complaint before the Investigation Committee.

## Investigation of complaints by firms themselves

- 11.1 Every firm shall ensure that all new clients are informed in writing of the name of the principal to be contacted in the event of their wishing to complain about the firm's services, and of their right to complain to the Institute.
- 11.2 If a firm receives a complaint concerning any services it has provided or failed to provide to a client or former client, it shall forthwith cause the complaint to be investigated by a principal.
- 11.3 If, as a result of an investigation under paragraph 2, the firm is of the opinion that the complaint is wholly or partly justified, it shall take whatever steps are appropriate to resolve the complaint, whether by way of remedial work, apology, the provision of information, the return of books or documents, the reduction or repayment of fees, or otherwise.
- 11.4 If the head of staff receives a complaint against a firm, not being a complaint to which paragraph 1 of bye-law 10 applies, he may, if it appears to him appropriate to do so, refer it to the firm for investigation under paragraph 2 of this bye-law instead of dealing with it as provided in paragraphs 2 to 5 of bye-law 10.
- 11.5 The fact that a complaint is being investigated under this bye-law shall not affect the duty of members under bye-law 9.1 to report to the head of staff, where it is in the public interest for them to do so, any facts or matters indicating that a member, a firm or a provisional member may have become liable to disciplinary action.
- 11.6 The definition of 'complaint' in bye-law 9.3 does not apply for the purposes of this bye-law.

## Complaints laid before Investigation Committee

### Initial consideration of complaints so laid

- 12.1 This bye-law applies where a complaint is laid before the Investigation Committee under bye-law 10.
- 12.2 The Investigation Committee shall first of all decide whether it considers that, having regard to all the circumstances of the matter, it is appropriate that the complaint is referred to an investigation and discipline scheme to be dealt with under the terms of that scheme.
- 12.3 If the Investigation Committee does not refer a complaint to an investigation and discipline scheme under bye-law 12A.1, it shall either
- refer the complaint back to the head of staff to be processed by him under paragraphs 2 to 5 of bye-law 10 as if he had not laid it before the Investigation Committee under paragraph 1 of that bye-law; or
  - proceed to deal with it under bye-law 15.

### Referral of complaints to or from an investigation and discipline scheme

- 12A.1 If the Investigation Committee decides, in accordance with bye-law 12.2, that it is appropriate for a complaint to be referred to an investigation and discipline scheme, it shall make a written referral of the complaint to that investigation and discipline scheme.
- 12A.2 If a referral to an investigation and discipline scheme is declined in accordance with the terms of

the scheme, the Investigation Committee shall either

- a. refer the fact or matter back to the head of staff to be processed by him under paragraphs 2 to 5 of bye-law 10; or
- b. proceed to deal with the fact or matter under bye-law 15.

12A.3 If following an enquiry under an investigation or discipline scheme, the fact or matter is referred to the Institute, the Investigation Committee shall either

- a. refer the fact or matter back to the head of staff to be processed by him under paragraphs 2 to 5 of bye-law 10; or
- b. proceed to deal with the fact or matter under bye-law 15.

#### **Assumption of matters in accordance with an investigation and discipline scheme**

12B If the head of staff receives notice in writing in accordance with the terms of an investigation and discipline scheme requiring that a fact or matter be dealt with under the terms of that scheme, then with immediate effect

- a. the investigation of the fact or matter shall be treated as if it had been referred under bye-law 12A.1; and
- b. the head of staff and the Investigation Committee (or if, at the relevant time, a formal complaint has been preferred under bye-law 15.2a, the Disciplinary Committee) shall cease to have any responsibility for it.

#### **Power of Investigation Committee to call for information, etc.**

13.1 The Investigation Committee shall have power by notice served on any member, member firm, regulated firm or provisional member to call for such information, such explanations and such books, records and documents as the Committee considers necessary to enable it or the head of staff to perform its or his functions under these bye-laws.

13.2 It shall be the duty of any person or body on whom a notice is served under paragraph 1 to comply with it within the period of fourteen days beginning with the date of service or such longer period as the Investigation Committee may allow.

#### **Power of Investigation Committee to require advice to be obtained and followed**

14.1 If the Investigation Committee is of the opinion that a complaint laid before it indicates that the practice of any firm may have been conducted inefficiently, it may require any member or member firm concerned (at his own expense) to obtain advice from such source as the Committee may specify and to implement the advice obtained.

14.2 In any disciplinary proceedings for an alleged failure to comply with a requirement imposed under paragraph 1, it shall be a defence for the member or member firm concerned to prove that he had good and sufficient reasons for not complying with the requirement.

14.3 The power conferred on the Investigation Committee by this bye-law is without prejudice to any power exercisable by it apart from this bye-law.

#### **Complaints not referred to or referred back from an investigation and discipline scheme**

15.1 Where a complaint laid before the Investigation Committee is

- a. not referred to an investigation and discipline scheme under bye-law 12A.1 and not referred



back to the head of staff under bye-law 12.3a; or

- b. declined by an investigation and discipline scheme under bye-law 12A.2 and not referred back to the head of staff under bye-law 12A.2a; or
- c. referred back by an investigation and discipline scheme to the Institute under bye-law 12A.3 and not referred back to the head of staff under bye-law 12A.3a,

the Investigation Committee shall consider whether or not the complaint discloses a prima facie case and, if it finds that it does not, shall dismiss the complaint.

- 15.2 If the Investigation Committee finds that the complaint discloses a prima facie case it may
- a. prefer the whole or part of the complaint to the Disciplinary Committee as a formal complaint; or
  - b. deal with the whole or part of it under bye-law 16 (consent orders); or (bb) deal with the whole or part of it under bye-law 16A (cautions); or
  - c. order that further consideration of the whole or part of the complaint be deferred, on such terms and conditions as it considers appropriate, for either or both of the following purposes, namely
    - i. to enable the Investigation Committee to obtain such information, such explanations and such books, records and documents as it considers necessary to perform its functions under this bye-law; or
    - ii. if the subject of the complaint is the existence of any of the circumstances set out in sub-paragraphs (b) to (f) of bye-law 4.2, to enable the Committee to monitor developments arising out of those circumstances; or
  - d. order that no further action be taken on the complaint or on any specified part of it.

- 15.3 The conditions on which an order under paragraph 2(c) may be made include the giving of written undertakings for the protection of client interests.

- 15.4 Before taking any decision under the preceding provisions of this bye-law the Investigation Committee
- a. unless satisfied that the member, member firm, regulated firm or provisional member concerned has been given an opportunity to make written representations to the Committee, shall give him such an opportunity; and
  - b. may, if it thinks fit, give him or his representative an opportunity of being heard before the Committee (but shall not be under a duty to do so).

- 15.5 In deciding whether to prefer a complaint (the current complaint) to the Disciplinary Committee, the Investigation Committee may take into account any facts or matters
- a. which were the subject matter of any complaint considered by the Investigation Committee on any previous occasion in relation to the member, member firm, regulated firm or provisional member concerned;
  - b. in respect of which the Committee on that occasion found that a prima facie case was disclosed; but
  - c. in respect of which no formal complaint was preferred to the Disciplinary Committee and no order was made under bye-law 16.2 (consent orders) or bye-law 16A (cautions);

and if the Investigation Committee decides to prefer the whole or part of the current complaint to the Disciplinary Committee as a formal complaint, it may also prefer to that Committee any formal complaint which it could have preferred to it on that previous occasion against the member, member firm, regulated firm or provisional member in question and, if there were two or more such previous occasions, may prefer a separate formal complaint against him in respect of each of

some or all of them.

- 15.6 If the Investigation Committee prefers a formal complaint to the Disciplinary Committee, it shall send to the Disciplinary Committee and to the defendant a summary of the material facts and matters which were considered by the Investigation Committee together with:  
a summary or copy of any written representations made to it by the defendant, and  
if the defendant has appeared before it in person or by a representative, a summary of any oral representations made to it.
- 15.7 If the Investigation Committee finds that a complaint discloses a prima facie case but orders that no further action be taken on it, it shall serve a notice to that effect on the member, member firm, regulated firm or provisional member concerned; and if within the period of 28 days beginning with the date of service of that notice the member, member firm, regulated firm or provisional member concerned serves notice on the head of staff that he is unwilling to accept the finding that a prima facie case exists, then, unless on reconsideration the Committee finds that no prima facie case exists, it shall prefer the whole or part of the complaint to the Disciplinary Committee under paragraph 2(a).

### Consent orders

- 16.1 If
- a. under bye-law 15 the Investigation Committee is of the opinion that a complaint discloses a prima facie case; and
  - b. after considering all the relevant circumstances (including the past disciplinary record, if any, of the member, member firm, regulated firm or provisional member concerned) the Committee is of the opinion that the complaint is one which it is appropriate to deal with under this bye-law, the following provisions of this bye-law shall apply.
- 16.2 The Investigation Committee may with the agreement of the member, member firm, regulated firm or provisional member concerned make
- a. any one or more of the orders which, on finding a formal complaint proved, the Disciplinary Committee would have power to make against the defendant by virtue of according to whether the person concerned is a member, a member firm, an authorised firm, a registered auditor or a provisional member;
    - i. bye-law 22.3 (f), (g) or (h); or
    - ii. bye-law 22.4 (b), (c) or (d); or
    - iii. bye-law 22.5 (b), (c) or (d); or
    - iv. bye-law 22.6 (b), (c) or (d); or
    - v. bye-law 22.7 (f) or (g),
  - b. if the person concerned is a member, member firm or regulated firm, any order which, on finding a formal complaint proved, the Disciplinary Committee would have power to make against the defendant under bye-law 23, 24 or 24A;
  - c. an order that the member, member firm, regulated firm or provisional member concerned shall pay to the Institute a sum by way of costs.
- 16.3 Before making any order under paragraph 2 the Investigation Committee shall serve on the member, member firm, regulated firm or provisional member concerned a notice describing the action which it proposes to take if the member, member firm, regulated firm or provisional member agrees, and specifying the order which it would make in that event.
- 16.4 A notice under paragraph 3 must

- a. be in, or substantially in, such form as may be prescribed by regulations made by the Investigation Committee;
  - b. explain the extent to which the finding of the Investigation Committee would be communicated to others;
  - c. state that, if the member, member firm, regulated firm or provisional member concerned does not agree in writing to the proposed action within a stated period, a formal complaint may be preferred to the Disciplinary Committee which, in the event of its finding that complaint proved in whole or in part, would have available to it the complete range of orders mentioned in bye-laws 22, 23, 24 and 24A.
- 16.5 If within the period stated in the notice the member, member firm, regulated firm or provisional member agrees in writing to the Investigation Committee proceeding as proposed in the notice, the Committee shall make the order specified in the notice unless, having regard to any further information which it has received, it is of the opinion
- a. that a lesser or no penalty is appropriate, in which case it shall impose a lesser or no penalty, as the case may be;
  - b. that a smaller or no sum is appropriate by way of costs, in which case it shall order a smaller sum to be paid by way of costs or make no order as to costs, as the case may be; or
  - c. that no prima facie case exists, in which case it shall so find.
- 16.6 If the member, member firm, regulated firm or provisional member does not within the period stated in the notice agree in writing to the Investigation Committee proceeding as proposed in the notice, the Committee shall prefer the complaint to the Disciplinary Committee under bye-law 15.2(a) unless, having regard to any further information which it has received, it is of the opinion that no prima facie case exists, in which case it shall so find.
- 16.7 Paragraphs 1, 4 and 5 of bye-law 32 (time limits for payment of fines) shall apply in relation to any fine imposed by an order made under paragraph 2(a) or (b) of this bye-law as they apply in relation to a fine imposed by an order made by a tribunal; and paragraphs 2, 8 and 9 of bye-law 33 (time limits for payment of costs) shall apply in relation to any costs payable by virtue of an order made under paragraph 2(c) of this bye-law as they apply in relation to costs payable by virtue of an order made under bye-law 33(1).
- 16.8 Where any provision of bye-law 32 or 33 applies by virtue of paragraph 7 of this bye-law, it shall do so with the modification that any reference to the date of the order is to be taken to refer to the date of the relevant order under this bye-law.
- 16.9 Where the Investigation Committee makes an order under this bye-law, it shall cause to be published, as soon as practicable and in such a manner as it thinks fit, such a report as it thinks fit of its proceedings under this bye-law with respect to the complaint.
- 16.10 Except in so far as the Investigation Committee in its absolute discretion otherwise directs, a report published under paragraph 9 shall
- a. state the name of the person or body against whom the order was made; and
  - b. describe the order or orders made against him and state that they were made with his agreement,
- but need not include the name of any other person or body concerned in the complaint.

## Cautions

- 16A.1 If
- a. under bye-law 15 the Investigation Committee finds that a complaint discloses a prima facie case; and
  - b. after considering all the relevant circumstances (including the past disciplinary record, if any, of the member, member firm, regulated firm or provisional member concerned) the Committee is of the opinion that the complaint is one which it is appropriate to deal with by way of a caution under this bye-law (with or without an order to pay costs),
- the following provisions of this bye-law shall apply.
- 16A.2 The Investigation Committee shall serve on the member, member firm, regulated firm or provisional member concerned ('the subject of the complaint') a notice
- a. stating that the Committee finds that the complaint discloses a prima facie case; and
  - b. informing the subject of the complaint that the Committee proposes to make an order under this bye-law
    - i. that he be cautioned; or
    - ii. that he be cautioned and pay to the Institute a fixed sum by way of costs,
- as the case may be.
- 16A.3 A notice under paragraph 2 must be in, or substantially in, such form as may be prescribed by regulations made by the Investigation Committee and must explain the extent to which, in accordance with regulations, the proposed order, if made, would be communicated to others; and in that paragraph 'a fixed sum' means the fixed sum for the time being so prescribed for such costs.
- 16A.4 If within the period of 28 days beginning with the date of service of a notice under paragraph 2 above the subject of the complaint serves notice on the head of staff that he is unwilling to accept the finding that a prima facie case exists, then, unless on reconsideration the Committee finds that no prima facie case exists, it shall prefer the whole or part of the complaint to the Disciplinary Committee under bye-law 15.2(a).
- 16A.5 If no notice under paragraph 4 is served on the head of staff within that period, the Investigation Committee shall make the order proposed in the notice served under paragraph 2.
- 16A.6 Any costs ordered under this bye-law shall be paid within the period of 30 days beginning with the date of the order; and bye-law 33.8 (latest time for payment of costs) shall apply to costs payable to the Institute under this bye-law as it applies to costs payable under bye-law 33, but with the omission of the words 'or instalments of costs' and 'or under'.
- 16A.7 Except with the consent of the subject of the complaint in question, this bye-law shall not apply to a complaint involving facts or matters which occurred before 7 October 1999.

## Complainant's right to review

### Review of finding of no prima facie case

- 17.1 This bye-law applies where, under bye-law 15, 16 or 16A, the Investigation Committee finds that a complaint laid before it does not disclose a prima facie case against the member, member firm, regulated firm or provisional member concerned.

- 17.2 A complainant may apply in writing to the head of staff for a review of the finding, and the head of staff shall refer every such application to a reviewer of complaints (the reviewer) who, subject to paragraph 3, shall consider the application.
- 17.3 The reviewer shall not consider the application if it was received by the head of staff after the end of the period of six months beginning with the date of the finding unless
- a. the reviewer is satisfied that the complainant could not reasonably have been expected to make the application within that period; or
  - b. there is, in the opinion of the reviewer, fresh evidence justifying consideration of the application.
- 17.4 If, after considering the application, the reviewer is of the opinion that one or more of the circumstances mentioned in paragraph 5 apply, he shall remit the application to the Investigation Committee with a recommendation that the whole or part of the complaint be reconsidered.
- 17.5 Those circumstances are that
- a. fresh evidence of a material nature has been received since the date of the finding;
  - b. there has been a failure on the part of the head of staff or the Investigation Committee to follow the procedure for processing or consideration of complaints laid down in these bye-laws or any regulations, and the Committee's consideration of the complaint has been prejudiced by that failure;
  - c. there is reason to suspect a lack of independence on the part of any member of the Investigation Committee who took part in the consideration of the complaint, and the Committee's consideration of the complaint has been prejudiced by that lack;
  - d. the finding was not one which could reasonably have been arrived at by the Investigation Committee upon due consideration of the facts and matters before it.
- 17.6 If, after considering the application, the reviewer is of the opinion that none of the circumstances mentioned in paragraph 5 applies, he shall so inform the complainant and the Investigation Committee and give them in writing his reasons for being of that opinion.
- 17.7 The reviewer may request the head of staff to provide him with such technical assistance as the reviewer considers necessary to enable him to perform his functions under this bye-law; and the head of staff shall comply with any reasonable request made under this paragraph.
- 17.8 The reviewer may require the Investigation Committee to exercise its powers under bye-law 13 in order to obtain such information, such explanations and such books, records and documents as he considers necessary to enable him to perform his functions under this bye-law; and for this purpose the reference in that bye-law to the Committee's functions shall be taken to include those of the reviewer.

#### Further investigation of complaint after review

- 18.1 If under bye-law 17.4 the reviewer remits the application to the Investigation Committee with a recommendation that the whole or part of the complaint be reconsidered, the complaint or that part of it shall be treated by the Committee as if it had then been newly laid before it by the head of staff, except that
- a. the Committee may have regard both to the information and any representations previously available to it in relation to the complaint and to any information or representations (whether written or oral) received by it since the date of the finding mentioned in bye-law 17.1; and

- b. the Committee shall not take any decision on the complaint under paragraphs 1 to 3 of bye-law 15 until the member, member firm, regulated firm or provisional member concerned has been given a further opportunity to make written representations to it.
- 18.2 If it appears to the Investigation Committee, after reconsidering the complaint as required by paragraph 1, that there is still no prima facie case against the member, member firm, regulated firm or provisional member concerned, it shall inform the reviewer of its reasons for proposing so to find; and the reviewer may, within the period of 28 days beginning with the date on which he is so informed, or such longer period as the Committee may allow, send the Committee such comments, if any, on the proposed finding as he thinks fit.
- 18.3 On receipt of any such comments within the period mentioned in paragraph 2 the Investigation Committee shall consider its proposed finding in the light of them, and shall then decide whether or not it is of the opinion that the complaint discloses a prima facie case.
- 18.4 If
- a. within the period allowed by or under paragraph 2 the reviewer informs the Investigation Committee that he has no comments on the proposed finding; or
  - b. when that period ends no comments by the reviewer have been received by the Committee,
- the Committee shall proceed to decide whether or not it is of the opinion that the complaint discloses a prima facie case.
- 18.5 If under paragraph 3 or 4, the Investigation Committee finds that the complaint does not disclose a prima facie case, it shall inform the complainant and the reviewer in writing of its reasons for so finding.

## Disciplinary proceedings

### Tribunals

- 19.1 Subject to paragraph 7, on receipt by the Disciplinary Committee of a formal complaint, the Chairman of that Committee or, failing him, any Vice-Chairman of that Committee
- a. shall appoint three of its members, one of them being a member of the Institute and the remaining two being lay members as a tribunal to hear that complaint; and
  - b. shall appoint one of the two lay members as chairman of the tribunal..
- 19.2 If, in the case of a tribunal so appointed, any member of the tribunal
- a. is for any reason unable to attend the hearing or any adjourned hearing of the formal complaint; or
  - b. is in the course of the hearing unable to continue so to attend,
- the tribunal will no longer be quorate and the case will have to be re-heard in full by a new tribunal appointed pursuant to paragraph 19(1)..
- 19.3 If, in a case falling within paragraph 2, the remaining members of the tribunal
- a. do not proceed or continue with the hearing; or
  - b. complete the hearing but are unable to agree on a finding,
- the complaint shall be heard or re-heard by a new tribunal appointed under paragraph 1.

- 19.4 If at any time during the hearing of a formal complaint the chairman of the tribunal appointed under paragraph 1 is for any reason of the opinion that it is impracticable or would be contrary to the interests of justice for the hearing to be completed by that tribunal, he shall so inform the Chairman or, failing him, any Vice-Chairman of the Disciplinary Committee, who shall thereupon direct that the complaint be re-heard by a new tribunal so appointed.
- 19.5 The Disciplinary Committee may appoint a barrister or a solicitor to act as legal assessor at the hearing of a formal complaint.
- 19.6 Where a new tribunal is appointed pursuant to paragraph 2, 3 or 4, or to an order made on appeal under bye-law 29.2(e), no member of the previous tribunal may be appointed as a member of the new one; but a person appointed as a legal assessor may continue to act at any re-hearing of the complaint.
- 19.7 Regulations may provide for a tribunal to be constituted other than as required by paragraph 1 if a different constitution is prescribed or approved by a relevant authority.

#### Hearing of formal complaint

- 20.1 As soon as practicable after the appointment of a tribunal to hear a formal complaint, the head of staff shall serve on the defendant a notice stating the terms of the complaint and the time and place fixed for the hearing.
- 20.2 The defendant may appear before the tribunal in person or by a representative.
- 20.3 The tribunal shall give the defendant or his representative a reasonable opportunity of being heard before it.
- 20.4 If the defendant does not attend and is not represented at the hearing, then, provided that the tribunal is satisfied that the notice required by paragraph 1 was served on him, the tribunal may hear the formal complaint in his absence.
- 20.5 The Investigation Committee may appoint the head of staff or any member of the Institute, or may instruct a barrister or solicitor, to present the formal complaint before the tribunal.

#### Temporary suspension of activities of authorised firm

- 21.1 If, at any time while a tribunal is considering a formal complaint against an authorised firm, it is of the opinion, as regards all or any of the firm's exempt regulated activities under the Financial Services and Markets Act 2000, that their continuation may materially prejudice the interests of any client of the firm, it may serve on the firm a notice specifying the activities as to which it is of that opinion and ordering the firm to suspend them for a specified period (not exceeding 30 days) beginning at the time of service of the notice.
- 21.2 A notice under paragraph 3 of bye-law 16 (consent orders) served on a firm undertaking exempt regulated activities under the Financial Services and Markets Act 2000 shall mention the power available under this bye-law (as well as the orders referred to in paragraph 4(c) of that bye-law).

#### Powers of tribunal

- 22.1 If the tribunal appointed to hear a formal complaint is of the opinion that the complaint has been proved in whole or in part, it shall make a finding to that effect; but if it is not of that opinion, it shall



dismiss the complaint.

22.2 If the tribunal finds that the formal complaint has been proved in whole or in part, it may (unless it is of the opinion that in all the circumstances it is inappropriate to do so) make against the defendant such one or more of the orders available against him under the following provisions of these bye-laws, namely

- a. paragraph 3, 4, 5, 6 or 7 of this bye-law, as the case may be; and
- b. bye-laws 23 (waiver etc. of fees), 24 (remedial action) and 24A (expenses),

as it considers appropriate, having regard to the past disciplinary record, if any, of the defendant, the tribunal's views as to the nature and seriousness of the formal complaint (so far as proved), and any other circumstances which the tribunal considers relevant.

22.3 If the defendant is a member, the orders available against him are

- a. that he be excluded from membership;
- b. that his practising certificate be withdrawn either permanently or for a specified period;
- c. that any Insolvency Licence held by him be withdrawn;
- d. that he be ineligible for an Insolvency Licence;
- e. that he be ineligible for a practising certificate, either permanently or for a specified period;
- f. that he be severely reprimanded;
- g. that he be reprimanded;
- h. that he be fined a specified sum.

22.4 If the defendant is a member firm, the orders available against it are

- a. that it be prohibited from using the description 'Chartered Accountants' for a specified period;
- b. that it be severely reprimanded;
- c. that it be reprimanded;
- d. that it be fined a specified sum.

22.5 If the defendant is an authorised firm, the orders available against it are

- a. that it be severely reprimanded;
- b. that it be reprimanded;
- c. that it be fined a specified sum.

22.6 If the defendant is a registered auditor, the orders available against it are

- a. that its registration granted at the instance of the Institute be withdrawn;
- b. that it be severely reprimanded;
- c. that it be reprimanded;
- d. that it be fined a specified sum.

22.7 If the defendant is a provisional member, the orders available against him are

- a. that he be declared unfit to become a member;
- b. that he cease to be a provisional member and be ineligible for re-registration as a provisional member for a specified period not exceeding two years;
- c. that the registration of his training contract be suspended for a period not exceeding two years;
- d. that for a specified period not exceeding two years he be ineligible to sit for such one or more of the Institute's examinations as may be specified or for any specified part of any of those examinations;
- e. that he be disqualified from such one or more of the Institute's examinations as may be specified or from any specified part of any of those examinations, not being an examination or part the result of which was duly notified to him by the Institute before the date of the order;
- f. that he be severely reprimanded;
- g. that he be reprimanded.

22.8 An order under this bye-law may include such terms and conditions (if any) as the tribunal considers appropriate including, in the case of an order for exclusion from membership made against a member, a recommendation that no application for his readmission be entertained before the end of a specified period.

22.9 An order under this bye-law against a member, member firm or regulated firm may include a direction requiring him (at his own expense) to obtain advice from a specified source and to implement the advice obtained.

22.10 In this bye-law 'specified', in relation to any order or direction under this bye-law, means specified in the order or direction.

#### Orders for waiver or repayment of fees or commission

23.1 If the tribunal appointed to hear a formal complaint against a member or member firm engaged in public practice or against a regulated firm finds the complaint proved in whole or in part, it may make one or more of the following orders against the defendant namely:

- a. that he shall waive the whole or part of any fee which has been agreed by or invoiced to a client;
- b. that he shall pay to the Institute the whole or part of any fee which the client has paid;
- c. that he shall pay to the Institute the whole or part of any sum of money which has been retained by the defendant in or towards payment of a fee by a client;
- d. that he shall pay to the Institute a sum assessed by the tribunal as the value (in whole or in part) of any commission to which he has become entitled (whether or not it has been received by him) in connection with the facts and matters which are the subject of the complaint.

23.2 Before making an order under paragraph 1 the tribunal

- a. if the defendant is present or represented before it, shall give him or his representative an opportunity to make representations to the tribunal with regard to the proposed order;
- b. if the defendant is neither present nor represented before it, shall
  - i. adjourn the hearing for a reasonable period;
  - ii. serve on him a notice describing the order it proposes to make under paragraph 1; and

- iii. at the resumed hearing give him or his representative an opportunity to make representations to the tribunal, either orally or in writing, with regard to the proposed order.

- 23.3 Where an order is made under paragraph 1, the total of
- a. any fees ordered to be waived under paragraph 1(a);
  - b. any sum ordered to be paid under paragraph 1(b);
  - c. any sum ordered to be paid under paragraph 1(c); and
  - d. any sum ordered to be paid under paragraph 1(d)

shall not exceed £10,000 or such other sum as may from time to time be fixed for the purposes of this paragraph by direction of the Council.

- 23.4 The tribunal making an order under paragraph 1 may include in it such terms or conditions as it thinks fit.

- 23.5 In this bye-law 'client' includes a former client.

#### Remedial orders

- 24.1 If the tribunal appointed to hear a formal complaint against a member or member firm engaged in public practice or against a regulated firm finds the complaint proved in whole or in part, it may make one or more of the following orders against the defendant namely
- a. that he shall return to any client any books or documents belonging to the client which are not the subject of a lien;
  - b. that, as regards any specified fee, he shall provide the client with such particulars as may be specified;
  - c. that he shall take such steps as may be specified, being steps (other than payment of compensation) which the tribunal considers appropriate for the purpose of resolving the issues which gave rise to the formal complaint.
- 24.2 If the tribunal finds the complaint proved in whole or in part, then, whether it makes any order under paragraph 1 or not, the tribunal:
- a. may appoint a member, member firm or regulated firm other than the defendant to undertake or complete any work which the defendant had been engaged to perform for a client; and
  - b. if it does so, shall order the defendant to pay the reasonable fees of that member, member firm or regulated firm for work done as a result of the appointment.
- 24.3 Bye-law 23.2 shall apply in relation to the making of any order or appointment under paragraph 1 or 2 as it applies in relation to the making of an order under bye-law 23.1.
- 24.4 In the event of a dispute between the defendant and a member, member firm or regulated firm appointed under paragraph 2 as to the fees payable by virtue of an order under paragraph 2(b), the Investigation Committee may either
- a. determine the fees payable; or
  - b. order the parties to the dispute to submit the fees to arbitration in accordance with the directions of the Investigation Committee.

- 24.5 The tribunal making an order under paragraph 1 may include in it such terms or conditions (if any) as it thinks fit.
- 24.6 A defendant against whom an order has been made under paragraph 1 of bye-law 23 requiring him to do all or any of the things mentioned in that paragraph shall be treated for the purposes of paragraph 1(a) of this bye-law as having no lien in respect of the fees to which the order relates, if those requirements
- a. cover the whole of those fees; or
  - b. cover only part of them, and the balance has been paid by the client.
- 24.7 In this bye-law 'client' includes a former client; 'specified', in relation to any order under this bye-law, means specified in the order.

### Expenses

- 24A.1 If the tribunal appointed to hear a formal complaint against a member or member firm or against a regulated firm finds the complaint proved in whole or in part, it may make an order that the defendant shall pay a sum to the Institute which will be sufficient to reimburse the complainant for such expense as, in the opinion of the tribunal, was reasonably and necessarily incurred by the complainant in
- a. bringing to the attention of or reporting to the head of staff any of the facts and matters which constitute the complaint; or
  - b. making written representations to the head of staff on any of those facts and matters before the Investigation Committee has under bye-law 15 decided whether in its opinion the complaint discloses a prima facie case.
- 24A.2 Bye-law 23.2 shall apply in relation to the making of any order under paragraph 1 as it applies in relation to the making of an order under bye-law 23.1.
- 24A.3 Where an order is made under paragraph 1, the sum which is ordered to be paid shall not exceed 1,000 or such other sum as may from time to time be fixed for the purposes of this paragraph by the direction of Council.
- 24A.4 The tribunal making an order under paragraph 1 may include in it such terms and conditions as it thinks fit.
- 24A.5 In this bye-law and bye-law 34B, complainant means the person who under bye-law 9.1 brought to the attention of, or reported to, the head of staff any of the facts and matters which constitute the complaint.

### Time when tribunal's order takes effect

- 25.1 Subject to the following provisions of this bye-law, an order made by the tribunal appointed to hear a formal complaint shall, unless the tribunal otherwise directs, take effect at the end of the period of 28 days beginning with the date of the order.
- 25.2 If within that period the defendant serves notice of appeal
- a. against the order; or
  - b. where applicable, against the tribunal's omission to direct that the record of its decision

required to be published under bye-law 35 shall not include the name of the defendant, then, subject to paragraph 3, the order shall take effect, if at all, only after the appeal has been determined under the following provisions of these bye-laws.

- 25.3 If, before the appeal has been so determined, the defendant by notice withdraws the notice of appeal
- a. the tribunal's order shall take effect at the end of the period of 14 days beginning with the date on which the notice of withdrawal is served on the head of staff; and
  - b. any fines which would have been due for payment before the end of that period if there had been no appeal shall become due at the end of that period.
- 25.4 This bye-law does not apply to an order for the payment of costs made by the tribunal under bye-law 33.1.

## Appeals

### Right of appeal

- 26.1 Subject to bye-law 33.5 in the case of an order for exclusion from membership, if a tribunal makes an order against the defendant, he may within the period of 28 days beginning with the date of the order serve on the head of staff notice of appeal
- a. against the order; or
  - b. where applicable, against the tribunal's omission to direct that the record of its decision required to be published under bye-law 35 shall not include the name of the defendant.
- 26.2 The grounds on which the defendant may appeal against an order include the ground that the amount of any costs ordered by the tribunal to be paid by him is excessive (but not the ground that the amount of any costs ordered by it to be paid to him by the Institute is too small).
- 26.3 A notice of appeal under paragraph 1 shall be of no effect unless, before the end of the period of 28 days beginning with the date on which the written record of the tribunal's decision was served on him, or such longer period as the Chairman of the Appeal Committee or, failing him, its Vice-Chairman may within that period allow, the defendant serves on the head of staff a notice stating the grounds of appeal.
- 26.4 A notice under paragraph 3 stating the grounds of appeal may be combined with the notice of appeal; but the grounds stated in a notice under paragraph 3 as served on the head of staff shall not be amended thereafter except with the leave of the panel appointed under bye-law 27 to hear the appeal.
- 26.5 A defendant may withdraw a notice of appeal by serving on the head of staff notice to that effect.
- 26.6 If the defendant serves a notice of appeal under paragraph 1 but fails to serve a notice stating the grounds of appeal before the end of the period allowed by or under paragraph 3, the tribunal's order shall take effect under bye-law 25.3 as if the defendant had served a notice of withdrawal of the appeal on the head of staff on the last day of that period.
- 26.7 If, after the period of 28 days allowed by paragraph 1 has expired, the defendant serves on the

head of staff a written application (in the prescribed form) for leave to serve notice of appeal under that paragraph notwithstanding the expiration of that period, then

- a. the Chairman of the Appeal Committee or, failing him, its Vice-Chairman shall as soon as practicable appoint a panel (constituted as prescribed) to consider the application in accordance with the procedure prescribed for such panels, and
- b. the panel may give the defendant leave to serve notice of appeal under paragraph 1 within the period of 28 days beginning with the date on which notice of the panel's decision is served on him at an address specified by him in his application.

26.8 Leave shall not be given under paragraph 7(b) unless the panel is satisfied that the defendant could not reasonably have been expected to serve notice of appeal within the period of 28 days originally allowed by paragraph 1.

26.9 Where, in the case of an order made by a tribunal against a defendant, leave to serve notice of appeal out of time is given under paragraph 7(b)

- a. the order shall be treated for the purposes of the bye-laws as if its date were the date of service on the defendant of notice of the panel's decision as mentioned in paragraph 7(b), and references to the date of that order shall be construed accordingly;
- b. the provisions of the bye-laws shall have effect in relation to that order subject to such directions as may be given by the panel giving that leave, being directions which the panel consider necessary for the purpose of adapting or supplementing those provisions so as to fit the circumstances resulting from the giving of that leave.

26.10 In this bye-law 'prescribed' means prescribed by regulations.

## **Panels**

27.1 As soon as practicable after the receipt by the head of staff of an effective notice of appeal under bye-law 26 the Chairman of the Appeal Committee or, failing him, its Vice-Chairman shall appoint a panel to hear the appeal.

27.2 Subject to paragraph 8, a panel so appointed shall consist of

- a. a chairman, being either the Chairman or the Vice-Chairman of the Appeal Committee or, if neither of them is available to sit, another person (whether a member of the Appeal Committee or not) who is either a barrister or a solicitor;
- b. two members of the Appeal Committee who are members of the Institute; and
- c. two members of the Appeal Committee who are lay members..

In the case of appeals of legal service complaints, while still being chaired by either the Chairman or the Vice-Chairman of the Appeal Committee, the panel must have a majority of members who are lay members.

27.3 If any member of the panel, other than its chairman

- a. is for any reason unable to attend the hearing or any adjourned hearing of the appeal; or
- b. is in the course of the hearing unable to continue so to attend,

the panel will no longer be quorate and the case will have to be re-heard in full by a new panel pursuant to paragraph 27(2).

27.4 If, in a case falling within paragraph 3, the remaining members of the panel

do not proceed or continue with the hearing; or complete the hearing but are unable to agree on how to determine the appeal, the appeal shall be heard or re-heard by a new panel appointed under paragraph 1.

- 27.5 If at any time during the hearing of an appeal the chairman of the panel appointed under paragraph 1 is for any reason of the opinion that it is impracticable or would be contrary to the interests of justice for the hearing to be completed by that panel, he shall so inform the Chairman or, failing him, the Vice-Chairman of the Appeal Committee who shall thereupon direct that the appeal be re-heard by a new panel so appointed.
- 27.6 The Appeal Committee may appoint a barrister or solicitor to act as legal assessor at the hearing.
- 27.7 Where a new panel is appointed pursuant to paragraphs 3,4 or 5, no member of the original panel may be appointed as a member of the new one; but a person appointed as a legal assessor may continue to act at any re-hearing of the appeal.
- 27.8 Regulations may provide for a panel to be constituted other than as required by paragraph 2 if a different constitution is prescribed or approved by a relevant authority.

#### Hearing of appeals

- 28.1 As soon as practicable after the appointment under bye-law 27.1 of a panel to hear an appeal, the head of staff shall serve on the defendant a notice stating the time and place fixed for the hearing.
- 28.2 The defendant may appear before the panel in person or by a representative.
- 28.3 The panel shall give the defendant or his representative a reasonable opportunity of being heard before it.
- 28.4 If the defendant does not attend and is not represented at the hearing then, provided that the panel is satisfied that the notice required by paragraph 1 was served on him, the tribunal may hear the appeal in his absence.
- 28.5 If the defendant or his representative so requests, the hearing of the appeal shall be held in public; but notwithstanding such a request, the panel may exclude the press and public from all or part of the hearing in circumstances in which Article 6 of the European Convention on Human Rights permits this.
- 28.6 The Investigation Committee may appoint the head of staff or any member of the Institute, or may instruct a barrister or solicitor, to appear on behalf of the Committee at the hearing of the appeal.

#### Powers of panel on appeal

- 29.1 On an appeal under bye-law 26.1 against an order made on a formal complaint, the panel appointed to hear the appeal
- shall take into consideration the record of the evidence given before, and the documents produced to, the tribunal at the hearing of the complaint;
  - may, if it thinks fit, re-hear any witness who gave oral evidence before the tribunal; and
  - may on special grounds (as to which the panel shall be the sole judge) receive fresh evidence.



- 29.2 On such an appeal, the panel may by order
- a. affirm, vary or rescind any order of the tribunal;
  - b. substitute for any such order or orders such other order or orders as it thinks appropriate, being in every case an order which the tribunal might have made on the formal complaint;
  - c. include in any substituted order such terms and conditions, if any, as the panel thinks appropriate including, in the case of an order for the exclusion of a member from membership, a recommendation that no application for his readmission be entertained before the end of a period specified in the order;
  - d. direct that the record of the tribunal's decision to be published under bye-law 35 shall not include the name of the defendant;
  - e. direct that the complaint shall be re-heard by a new tribunal appointed under bye-law 19.1.
- 29.3 An order made by a panel on an appeal under bye-law 26.1 shall take effect on the date of the order unless the panel directs that it shall take effect as from some later date specified in the order.

## Intervention orders

### Intervention orders

- 30.1 Where, whether in the course of considering a complaint or not, the Investigation Committee is of the opinion that a member engaged in public practice
- a. has appeared before a court of competent jurisdiction charged with an indictable offence and has either
    - i. been remanded in custody on that charge; or
    - ii. pleaded guilty to or been found guilty of such an offence;
  - b. has been excluded from membership of any body (other than the Institute) mentioned or referred to in bye-law 7.2(a);
  - c. is a person whose professional competence or efficiency is seriously impaired as a result of ill health or mental incapacity;
  - d. is a sole practitioner who has abandoned his practice; or
  - e. is a member of a partnership or director of a body corporate which was engaged in public practice, but whose principals have all abandoned the practice,
- the Committee may (subject to paragraph 3 and, where it applies, paragraph 8) make against him one or more of the orders available against him under paragraph 2.
- 30.2 The orders available against a member are
- a. that his practising certificate be suspended for such period (not exceeding two years) as the Investigation Committee considers appropriate in all the circumstances;
  - b. that he shall not take on any new clients;
  - c. that in respect of his professional activities he shall execute, in such terms as the Investigation Committee may specify in the order, a power of attorney or an enduring power of attorney in favour of another member designated by the Investigation Committee (in this paragraph referred to as 'the substitute');
  - d. that he shall instruct his bank that cheques drawn on his client bank account are not to be honoured unless signed or counter-signed by the substitute;
  - e. that he shall provide the substitute with an account of all client account money;
  - f. that he shall hand over to the substitute all books and documents concerning any of his

clients and divert his professional mail to the substitute's registered address.

30.3 Where a member is engaged in public practice

- a. as a partner in a partnership in which one or more of the other partners are members so engaged; or
- b. as a director of a body corporate one or more of whose other directors are members so engaged,

an order under this bye-law (other than one confined to suspending his practising certificate) shall not be made against him unless it is also made against each other partner or director so engaged who is a member.

30.4 In determining under this bye-law whether or not a member's professional competence or efficiency is seriously impaired as a result of ill-health or mental incapacity, the Investigation Committee may rely on a report by a registered medical practitioner; but the absence of such a report shall not prevent the Committee from so determining on the basis of the member's conduct.

30.5 For the purposes of this bye-law a member shall, unless the contrary is proved, be presumed to have abandoned the practice of which he is a principal if

- a. it appears to the Investigation Committee that he has, without reasonable explanation, been continuously absent from all offices of the practice for at least 30 days; or
- b. he has persistently failed to respond to efforts to contact him at his registered address.

30.6 An order under this bye-law

- a. may be framed so as to be in force indefinitely or for a specified period or until the occurrence of a specified event; and
- b. may include such terms and conditions (if any) as the Investigation Committee thinks fit.

30.7 Where the Investigation Committee has made an order against a member under this bye-law, it may on a written application made by him or on its own initiative

- a. by order discharge the order or vary it (whether so as to prolong its operation or in any other way); or
- b. if the order has ceased to have effect, make a fresh order under this bye-law.

30.8 Before making an order against a member under this bye-law or taking any action under paragraph 7 the Investigation Committee shall

- a. serve on the member concerned a notice describing (with reasons) the action it proposes to take; and
- b. give him a reasonable opportunity to make written representations to it and, if he so requests, give him or his representative a reasonable opportunity to make oral representations to it.

30.9 Paragraph 8 shall not apply if, in the opinion of the Investigation Committee, delay in taking action under paragraphs 1 to 6 or paragraph 7 would seriously prejudice the interests of any person, whether a client of the member concerned or not; but where the Committee acts by virtue of this paragraph without having done as provided in paragraph 8, it shall promptly

- a. serve on the member concerned a notice describing (with reasons) the action it has taken;
  - b. give him a reasonable opportunity to make written representations to it and, if he so requests, give him or his representative a reasonable opportunity to make oral representations to it; and
  - c. reconsider the action taken by it in the light of any representations so made.
- 30.10 As soon as practicable after making any order under this bye-law the Investigation Committee shall serve a copy of the order on the member concerned.
- 30.11 Where the Investigation Committee makes any order under this bye-law, it shall cause a statement to that effect to be published, as soon as practicable, in such manner as it thinks fit.
- 30.12 Except insofar as the Investigation Committee in its absolute discretion otherwise directs, a statement published under paragraph 11 shall
- a. state the name of the member against whom the order was made; and
  - b. describe the order or orders made against him,
- but need not include the name of any other person or body concerned.

#### Appeals against intervention orders

- 31.1 If the Investigation Committee makes an order against a member under bye-law 30 (intervention orders), he may within the period of 28 days beginning with the date of the order serve on the head of staff notice of appeal
- a. against the order; or
  - b. where applicable, against the Committee's omission to direct that the statement required to be published under bye-law 35 (as applied by the following provisions of this bye-law) shall not include the name of the member.
- 31.2 The provisions of these bye-laws mentioned in column 1 of the table set out in paragraph 6 (which relate to appeals against orders made by tribunals) shall apply in relation to appeals under paragraph 1 of this bye-law as if references in those provisions to a tribunal, to an order made by a tribunal (or on a formal complaint) and to the defendant were respectively references to the Investigation Committee, to an order made by it under bye-law 30, and to the member against whom that order was made.
- 31.3 In their application by virtue of paragraph 2 the provisions mentioned in column 1 of that table shall have effect subject to any further modifications specified in column 2 of the table.
- 31.4 On an appeal under paragraph 1 the panel appointed to hear the appeal may, whether the appeal is successful or not, order the member concerned to pay the Institute by way of costs of the appeal such sum as the panel may in its absolute discretion determine.
- 31.5 Any costs ordered under paragraph 4 shall, unless a longer period for payment (whether by instalments or not) is allowed by order of the panel, be paid within the period of 28 days beginning with the date of the order; and paragraphs 8 and 9 of bye-law 33 (time for payment of costs) shall apply in relation to any costs or instalment of costs payable under this bye-law as if references to that bye-law and to paragraph 8 of it were references to this bye-law and this paragraph respectively.

31.6 The following is the table referred to above

| (1)  | (2)   |
|--|---|
| the definition of 'representative' in <u>bye-law 1.2</u> | -   |
| <u>bye-law 26.3 to 10</u>                                | -   |
| <u>bye-law 27</u>  | -   |
| <u>bye-law 28</u>  | -   |
| <u>bye-law 29</u>  | <p>a. in paragraph 2.(b), for 'on the <u>formal complaint</u>' substitute 'under <u>bye-law 30</u>';</p> <p>b. in paragraph 2(d), for 'record of the <u>tribunal's</u> decision' substitute 'statement'; and</p> <p>c. for paragraph 2(e) substitute '(e) direct that the matter shall be referred back to the <u>Investigation Committee</u> for reconsideration'.</p>   |
| <u>bye-law 35</u>  | <p>a. for any reference to a record of a <u>tribunal's</u> decision substitute a reference to a statement;</p> <p>b. in paragraph 2, for the words from 'Where' to 'in part' substitute 'Where, on an appeal, a <u>panel</u> rescinds an <u>order</u> made under <u>bye-law 30</u>';</p> <p>c. in paragraph 3, omit 'the <u>tribunal</u> or, as the case may be,';</p> <p>d. in paragraph 4, for '26.1' substitute '31.1';</p> <p>e. in paragraphs 5 and 6 omit '<u>tribunal</u> or' (3 times).</p> |

## Fines and costs

### Time limits for payment of fines

- 32.1 Subject to paragraph 2, a fine imposed by an order of a tribunal appointed to hear a formal complaint shall, unless a longer period for payment (whether by instalments or not) is allowed by the order, be paid within the period of 30 days beginning with the date of the order.
- 32.2 If the defendant gives notice of appeal against the order of the tribunal within the period allowed by bye-law 26.1, the fine shall not become payable until the appeal has been determined under these bye-laws, and shall then be payable, if at all, in accordance with the following provisions of this bye-law.
- 32.3 A fine
- which is imposed by an order of a panel under these bye-laws; or
  - which, having been imposed by a tribunal under these bye-laws, is on appeal affirmed or varied in amount by an order of a panel under these bye-laws,
- shall be paid within the period of 28 days beginning with the date of the order unless a longer period for payment (whether by instalments or not) is allowed by the order of the panel.

- 32.4 Any fine or instalment of a fine imposed under these bye-laws must be received by the Institute before the close of business on the last day of the period allowed by or under these bye-laws for its payment (or, if that day is not a business day, before the close of business on the next business day).
- 32.5 Where
- a. a fine imposed by these bye-laws is payable by instalments; and
  - b. any instalment is not duly received by the Institute as required by paragraph 4,
- the whole of that fine or, as the case may be, so much of it as then remains unpaid shall become due for payment in accordance with paragraph 4 as if the last day of the period allowed for the payment of that instalment were the last day of the period allowed for the payment of the whole fine.

#### **Powers of tribunals and panels as to costs**

- 33.1 If the tribunal appointed to hear a formal complaint finds that the complaint has been proved in whole or in part, it may order the defendant to pay to the Institute by way of costs such sum as the tribunal may determine.
- 33.1A If the tribunal appointed to hear a formal complaint dismisses the complaint as wholly unproved or finds that the complaint has been proved in part only, it may order the Institute to pay to the defendant by way of costs such sum as the tribunal may (subject to and in accordance with regulations) in its absolute discretion determine.
- 33.2 Any costs ordered under paragraph 1 shall, unless a longer period for payment (whether by instalments or not) is allowed by the order, be paid within the period of 30 days beginning with the date of the order.
- 33.3 If within the period allowed by bye-law 26.1 the defendant serves notice of appeal against an order for payment of costs made under paragraph 1 of this bye-law, then, subject to paragraphs 4 and 5 of this bye-law (and to bye-law 26.3), those costs shall not become payable until the appeal has been determined under these bye-laws, and shall then be payable, if at all, in accordance with the following provisions of this bye-law.
- 33.4 If, before the appeal has been so determined, the defendant by notice withdraws the notice of appeal
- a. the tribunal's order for payment of costs shall take effect at the end of the period of 14 days beginning with the date on which the notice of withdrawal is served on the head of staff; and
  - b. any costs which would have been due for payment before the end of that period if there had been no appeal shall become due at the end of that period.
- 33.5 A notice of appeal under bye-law 26.1 against an order that the defendant be excluded from membership shall be of no effect unless any costs ordered by the tribunal under paragraph 1 (or such part of those costs as may be determined by the Chairman of the Appeal Committee or, failing him, by its Vice Chairman, on the written application of the defendant) are paid on or before the giving of the notice; but any costs so paid shall be repaid if and so far as their amount is reduced or cancelled by the panel on the appeal.
- 33.6 On an appeal against an order made by a tribunal, the panel appointed to hear the appeal
- a. may by order reduce or cancel the amount of any costs ordered by the tribunal to be paid by

the defendant;

- b. may, whether the appeal is successful or not, order the defendant to pay to the Institute by way of costs of the appeal such sum as the panel may in its absolute discretion determine;
- c. may, if it finds the complaint wholly unproved or finds that it has been proved in part only, order the Institute to pay to the defendant by way of costs such sum as the panel may, subject to and in accordance with regulations, in its absolute discretion determine.

33.7 Any costs ordered by the panel under paragraph 6(b), together with

- a. any unpaid costs ordered by the tribunal under paragraph 1; or
- b. so much (if any) of those unpaid costs as remains payable after any reduction or cancellation under paragraph 6(a),

shall, unless a longer period for payment (whether by instalments or not) is allowed by order of the panel, be paid within the period of 28 days beginning with the date of the order of the panel.

33.8 Any costs or instalment of costs payable to the Institute under this bye-law must be received by the Institute before the close of business on the last day of the period allowed by or under this bye-law for payment (or, if that day is not a business day, before the close of business on the next business day).

33.9 Where

- a. any costs ordered by these bye-laws are payable by instalments; and
- b. any instalment is not duly received by the Institute as required by paragraph 8,

the whole of those costs or, as the case may be, so much of them as then remains unpaid, shall become due for payment in accordance with paragraph 8 as if the last day of the period allowed for the payment of that instalment were the last day of the period allowed for the payment of the whole of those costs.

#### **Liability for fines and costs payable by member firms**

34.1 Where a member firm has been ordered to pay any fine or costs under these bye-laws, the following provisions of this bye-law apply.

34.2 Any member or former member who at, or at any time since, the relevant time:

- a. was a director of or a partner in the firm; or
- b. as a sole practitioner, himself constituted the firm,

shall be liable for the full amount of the fine or costs in question; and where two or more persons are so liable under this paragraph, they shall be jointly and severally liable.

34.3 If any member or former member fails to pay on demand any amount which he is liable to pay under paragraph 2, the failure shall have the same consequences under the bye-laws as it would if the fine or costs had been imposed on him individually.

34.4 In this bye-law 'the relevant time' has the same meaning as in the definition of 'firm' contained in bye-law 1.2.

## Refund of fees, commission and expenses

### Time limit for payment of fees, commission and expenses

- 34A Bye-law 32 (time limits for payment of fines) shall apply in relation to an order for the payment of a sum under bye-law 23.1 or bye-law 24A.1 as it applies in relation to an order for the payment of fines.

### Refund of sums to complaints

- 34B When any sum of which payment is ordered under bye-law 23.1 or bye-law 24A.1 is paid to the Institute, the Institute shall pay the same sum to the client (if ordered under bye-law 23.1) or to the complaint (if ordered under bye-law 24A.1) within 21 days.

## Publicity

### Publication of findings and other orders

- 35.1 Subject to paragraphs 2 and 4, where a tribunal or panel makes any finding or other order under these bye-laws, it shall cause a record of its decision to be published, as soon as practicable, in such a manner as it thinks fit.
- 35.2 Where a tribunal dismisses a formal complaint, or, on an appeal, a panel decides that a formal complaint has been proved neither in whole nor in part, it shall cause a record of its decision to be so published if, but only if, the defendant so requests.
- 35.3 Unless the tribunal or, as the case may be, the panel otherwise directs, a record of its decision published under this bye-law shall state the name of the defendant and describe the finding and the other order or orders (if any) made against him, but need not include the name of any other person or body concerned in the formal complaint or appeal.
- 35.4 A tribunal shall not cause a record of its decision to be published under paragraph 1 until the period allowed by bye-law 26.1 for giving notice of appeal against the order has expired; and if an effective notice of appeal is given under bye-law 26, then, unless the appeal is abandoned
- no record of the tribunal's decision shall be published under paragraph 1 but
  - subject to paragraph 2 a record of the panel's decision on the appeal shall be so published.
- 35.5 Notwithstanding paragraphs 2 and 4, a tribunal or panel may cause a record of its decision to be published at any time if in its opinion publication is desirable in view of any statement or comment made in the public domain.
- 35.6 The restrictions imposed by the preceding provisions of this bye-law on publication of a record of the decision of a tribunal or panel shall not apply if the hearing by the tribunal or panel (as the case may be) was held wholly or partly in public.

### Publicity for the disciplinary process

- 36.1 Notwithstanding anything in these bye-laws, the Chairman of the Investigation Committee may at any time make such public statements as he thinks fit concerning
- any matter relating to or connected with the performance by the Institute of any of its statutory functions;
  - any complaint; or



c. any matter relating to or connected with the performance by the Investigation Committee of its functions under bye-law 30 (intervention order),  
being a matter or complaint which in his opinion is or involves a matter of public concern.

36.2 The power to make statements under paragraph 1

- a. shall be exercised in accordance with such guidelines as the Council may issue from time to time; and
- b. may, if the Chairman of the Investigation Committee is for any reason unavailable, be exercised by any Vice-Chairman of that Committee (in which case the reference in that paragraph to the Chairman's opinion shall be read as a reference to the opinion of that Vice-Chairman).

36.3 The Chairman of the Investigation Committee may authorise the disclosure to a complaint of information concerning any proceedings brought or to be brought before the Investigation Committee or a tribunal or panel.

36.4 An authorisation under paragraph 3 may be given subject to any restrictions which the Chairman of the Investigation Committee thinks appropriate.

36.5 A hearing of a formal complaint or appeal may be held in public if the Council has authorised it to be so held; and an authorisation under this paragraph may

- a. relate to a particular case, to cases of one or more classes, or to cases generally; and
- b. may be given subject to any restrictions which the Council thinks appropriate.

36.6 Paragraph 5 does not affect a panel's duty under bye-law 28.5 to hear an appeal in public if so requested by the defendant or his representative, or its power under bye-law 28.5 to exclude the press and public in the circumstances there mentioned.

36.7 Where any hearing is held in public by virtue of an authorisation under paragraph 5, the chairman of the tribunal or panel may exclude the press and public from all or part of the proceedings if it appears to him desirable to do so in the interests of justice or for any other special reason.

3.8 In this bye-law 'statutory functions' means powers and duties conferred or imposed by or under any Act of Parliament or by or under any legislation (wherever in force) for the time being designated in regulations.

## Commencement and transitional provisions

### Commencement and transitional provisions

37.1 These bye-laws, as originally allowed, came into force on 1 September 1998; and references to these bye-laws in paragraphs 2 to 7 of this bye-law refer to them as originally allowed.

37.2 Subject to the following paragraphs of this bye-law, these bye-laws apply in relation to

- a. facts or matters which come to the attention of the head of staff (under bye-law 9.1 or otherwise) after the commencement of these bye-laws, including facts or matters which occurred at any time before, but come to his attention after, that commencement;

- b. facts or matters which came to the attention of the head of staff before the commencement of these bye-laws but were not laid by him before the Investigation Committee before that commencement; and
- c. facts or matters which immediately before the commencement of these bye-laws were the subject of proceedings under Schedule 2 (Professional Conduct) to the former bye-laws.

37.3 In bye-law 7 (proof of certain matters)

- a. paragraph 1 shall have effect in relation to any facts or matters falling within paragraph 2(c) of this bye-law as if the references to a member firm were omitted;
- b. paragraphs 2 to 7 shall not apply in relation to facts or matters which came to the attention of the head of staff before the commencement of these bye-laws.

37.4 An application for the review of a decision of the Investigation Committee made before the commencement of these bye-laws shall be proceeded with under Schedule 2 to the former bye-laws; but if under that Schedule the reviewer of complaints remits the application to the Investigation Committee with a recommendation that it should be reconsidered, the application shall from then on be proceeded with under bye-law 18 of these bye-laws.

37.5 Where before the commencement of these bye-laws a tribunal or panel made a finding against a defendant under Schedule 2 to the former bye-laws, but did not make any other order against him, no record of its decision shall be published under bye-law 35 of these bye-laws unless the defendant so requests.

37.6 Without prejudice to section 16.1 (general savings) of the Interpretation Act 1978 as applied by bye-law 1.3, if Schedule 2 to the former bye-laws is rescinded, its rescission shall not affect the Institute's right to enforce any order, direction or requirement which was in force immediately before that rescission.

37.7 In this bye-law 'the former bye-laws' means the bye-laws of the Institute as in force immediately before the commencement of these bye-laws.

37.8 It is hereby declared that

- a. the liability of a person or body to disciplinary action under these bye-laws on a complaint is to be determined in accordance with the bye-laws and regulations in force at the time when the facts or matters complained of occurred; but
- b. all disciplinary proceedings under these bye-laws are to be conducted in accordance with the bye-laws and regulations in force at the time of the proceedings.

37.9 Paragraph 8 does not affect the operation of paragraphs 2 to 7 of this bye-law or any other provision of these bye-laws which expressly restricts or extends the application of these bye-laws or any of them.

## **Schedule - Bye-law 2 - Constitution of Investigation, Disciplinary and Appeal Committees and appointment of reviewers of complaints**

### **The Investigation, Disciplinary and Appeal Committees**

1.1 The Council shall appoint an Investigation Committee, a Disciplinary Committee and an Appeal Committee, and in this paragraph 'the Committees' means those Committees and 'a Committee'

means any of them.

- 1.2 Initial appointment as a member of a Committee shall be for a period of not less than three years (such period may be extended at the discretion of Council); but a member or former member of a Committee may be re-appointed.
- 1.3 The Council may terminate a person's membership of a Committee on grounds of serious misconduct or incapacity in such manner as shall be prescribed in regulations made by Council. Such regulations may include a provision to suspend any person's membership of a Committee pending final determination.
- 1.4 No person shall be a member of more than one of the Committees at the same time.
- 1.5 The Council may pay remuneration to, and the reasonable expenses of, the lay members of a Committee.
- 1.6 A Committee may make such regulations (not inconsistent with the provisions of these bye-laws) as it considers necessary for the performance of its functions.

#### **The Investigation Committee**

- 2.1 The Investigation Committee shall consist of not fewer than 14 persons, of whom at least the required number must be lay members.
- 2.2 The required number for this purpose is:
  - a. one half of the total number of members of the Committee; or
  - b. if the total number of the number of members of the Committee is not divisible by two, one half of the first higher number that is so divisible; or
  - c. such higher number as regulations may provide if a different constitution is prescribed or approved by a relevant authority.
- 2.3 The Committee may co-opt other persons, being either members of the Institute or persons who are lay members, provided that the required number of lay members is maintained.
- 2.4 At a meeting of the Committee, a quorum shall consist of:
  - a. four members of the Committee, of whom two must be members of the Institute and two must be lay members; or
  - b. such other constitution as is prescribed or approved by a relevant authority if regulations so provide.

#### **The Disciplinary Committee**

- 3.1 The Disciplinary Committee shall consist of not fewer than 14 persons, of whom at least the required number must be lay members.
- 3.2 Paragraph 2.2 of this Schedule (meaning of 'required number') applies for this purpose.

- 3.3 No member of the Disciplinary Committee shall take part in a decision concerning a case if, while a member of the Investigation Committee, he took part in a decision on that case.

#### The Appeal Committee

- 4.1 The Appeal Committee shall consist of not fewer than 14 persons, of whom at least the required number must be lay members.
- 4.2 Paragraph 2.2 of this Schedule (meaning of 'required number') applies for this purpose.
- 4.3 The Chairman and Vice-Chairman of the Committee must each be either a barrister or a solicitor; and neither of them shall be an accountant.
- 4.4 No serving member of the Council shall be appointed to the Appeal Committee. If a member of the Appeal Committee becomes a member of Council he shall with immediate effect cease to be a member of the Appeal Committee.
- 4.5 A person who, as a member of the Investigation Committee or the Disciplinary Committee, has been concerned with a formal complaint or with the making of an order under bye-law 30 (intervention orders) shall not be appointed to a panel which is to hear an appeal arising out of that complaint or order.

#### Reviewers of complaints

- 5.1 The Council shall appoint one or more reviewers of complaints, none of whom shall be an accountant.
- 5.2 Appointment as a reviewer of complaints shall be for a period of not less than three years, and any such appointment may be renewed.
- 5.3 The Council shall pay remuneration to, and the reasonable expenses of, every reviewer of complaints, and shall indemnify him against any civil liability incurred by him in that capacity.
- 5.4 The reviewer of complaints or, if two or more such reviewers are appointed, those reviewers acting jointly, shall make a report to the Council annually.



# GUIDANCE ON SANCTIONS

[icaew.com/publichearings](http://icaew.com/publichearings)

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## 1 Who is this guidance for?

This guidance is for members of:

- |                       |   |
|-----------------------|---|
| Conduct committees    | <ul style="list-style-type: none"><li>• The Investigation Committee (IC)</li><li>• The Disciplinary Committee (DC) works in tribunals; this guidance applies when a complaint is found proved either in whole or in part</li><li>• The Appeal Committee (AC) works in panels; this guidance applies when a panel makes its own decision on a sanctions order.</li></ul> |
| Regulatory Committees | <ul style="list-style-type: none"><li>• The Audit Registration Committee (ARC)</li><li>• The Investment Business Committee (IBC) and</li><li>• The Insolvency Licensing Committee (ILC).</li><li>• The Probate Committee (PC)</li></ul>   |

It explains the key decisions in the sanctions process and sets out, step-by-step, the approach these ICAEW committees must take whenever they make a sanctions order against a member, firm, affiliate or provisional member.

## 2 Purpose

This guidance provides a structured approach for committee members who make decisions on sanctions. ICAEW wants committee members to make their decisions and orders through a fair and reasoned process. It also wants the approach to sanctions and the sanctions imposed to be consistent and proportionate. Members who are the subject of complaints and those who represent them can see the range of penalties and orders likely to be imposed and know that the same approach will be used in each case.

The penalties available to the IC, DC and AC are set out in Disciplinary Bye-laws 16, 22, and 23 but the IC and regulatory committees do not have a full range of powers. In particular, the IC cannot exclude members from membership and the regulatory committees can only impose financial penalties.

Although this guidance is used by all committees that can impose penalties, it has been written as if it is directed to tribunals of the DC, members and defendants.

## 3 Sanctions policy

When a tribunal considers:

- whether to impose a penalty; and
- what penalty to impose

it should consider a number of factors, in particular the principles which underpin sanctions policy.

ICAEW's sanctions policy is closely linked to its general objectives to:

- uphold the good name of the profession, ICAEW and the title 'chartered accountant'; and
- maintain, in the public interest, the high standards required of members of the profession.

The key principles which apply to sanctions relate to:

- maintaining the reputation of the profession;
- correcting and deterring misconduct;
- upholding the proper standards of conduct in the profession; and
- protecting the public.

### 3.1 Maintaining the reputation of the profession

The Courts have emphasised that maintenance of the reputation of the profession is the primary justification for sanction. In *Bolton v The Law Society* (1994) Lord Bingham said:

'To maintain this reputation and sustain public confidence in the integrity of the profession, it is often necessary that those guilty of serious lapses are not only expelled but denied readmission.....Otherwise, the whole profession and the public as a whole, is injured. A



profession's most valuable asset is its collective reputation and the confidence which that inspires...'

He concluded:

'The reputation of the profession is more important than the fortunes of any individual member. Membership of a profession brings many benefits, but that is a part of the price.'

### 3.2 Correction, deterrence and upholding the proper standards of conduct in the profession

ICAEW demonstrates its commitment to high standards and to maintaining those standards through the disciplinary process and by publishing details of the orders made. Although punishment is not, in itself, a purpose, a punishment **can** act as a deterrent. Not only must the individual be deterred by the imposition of a disciplinary order, but other people must see that a particular wrong-doing will not be tolerated. The Courts have held that, in some circumstances, it would be appropriate to use a sanction to send out a message. In this context, the sanctions order is more about deterrence than punishment.

### 3.3 Protecting the public

When a tribunal acts to protect the public, it should consider both members' clients and the wider public who may be at risk. In cases where the competence of the member is also an issue, when the tribunal considers sanctions, it needs to consider whether the public can be properly protected.

## 4 The process of determining a sanctions order

When a tribunal decides that a complaint has been proved or when a defendant admits a complaint, the tribunal must then decide what to include in its sanctions order. This list summarises the sequence of events.

The IC representative:

- outlines the relevant facts (when a defendant admits a complaint).
- tells the tribunal about any previous disciplinary record.
- makes an application for costs to be paid by the defendant.

The defendant or their representative explains any mitigating factors, relating to the facts of the complaint and to personal circumstances.

The tribunal

- considers any request that the defendant's name is not included in publicity.
- leaves the room and considers its decision in private.

### 4.1 Key decisions in the sanctions process

When the tribunal decides what to include in its sanctions order, it forms its view based on the particular facts of each case. This guidance provides a step-by-step approach to help the tribunal reach a decision which is consistent, proportionate and fair.

If a tribunal decides a penalty (for example, a financial penalty, exclusion or reprimand) is necessary, it identifies the relevant category of complaint (from those listed on pages 10-28) and the behaviour that most closely corresponds to the complaint. Although the list of complaints and behaviour is not exhaustive, new complaints are added to the guidance where identified.

For each type of complaint, there is a suggested starting point. The starting point is not 'the going rate' for that particular complaint. It simply indicates where a tribunal might start when it looks at all the factors relevant to deciding the penalty. Once the tribunal has agreed the most appropriate starting point, it takes into account any aggravating and mitigating factors before deciding, if appropriate, to reduce or increase the penalty. For each category of complaint, there are examples of mitigating and aggravating factors.

The tribunal works through the steps outlined in the tables and may decide on a more or less severe penalty than the one given as a starting point.

This structured approach is designed to help tribunals arrive at a penalty which is demonstrably

proportionate to the facts of the case. The penalty should fit the underlying facts of the complaint and it should be possible to explain the rationale for choosing it. The written record of decision (which we provide to the member and make public) sets out the tribunal's reasons.

Legislation enacted on 17 June 2016 'The Statutory Auditors and Third Country Auditors Regulations 2016 (SATCAR) requires that:

'In determining the type and level of sanctions to be imposed under this regulation, the competent authority must take into account all relevant circumstances, including–

- (a) the gravity and duration of the contravention;
- (b) A's degree of responsibility;
- (c) A's financial strength;
- (d) the amount, so far as can be determined, of profits gained or losses avoided by A;
- (e) the extent to which A has co-operated with the competent authority;
- (f) any previous contravention by A of a relevant requirement.'

The tribunal considers the following key points in its decision-making process.

|  |  |
|--|--|
| The nature and seriousness of the conduct  | Where the defendant's conduct sits on the scale of seriousness   |
| The range of penalties available   | These are set out in DBL22 (page 35) and in the table of disciplinary orders on page 37.   |
| ICAEW's obligation to protect the public   |  |
| The need to decide on a penalty that is demonstrably proportionate and which takes into account both the interests of the public and those of the member |  |
| Any facts which aggravate or mitigate the seriousness of the conduct   | For example, whether it was deliberate and/or repeated over a period of time; whether a client or a group of clients was adversely affected by the conduct; whether the conduct was inadvertent; and whether it led to adverse consequences.   |
| Whether a court has made a sentencing order against the defendant or whether another regulatory body has taken disciplinary proceedings                  | If it has, a tribunal must fully take into account any penalties that may have been imposed and any other consequences that may have resulted. This will not prevent a tribunal from making a further order but it must be satisfied that, in all the circumstances, it is appropriate and just for it to do so. |
| Whether there is a previous disciplinary record and whether any past disciplinary record is relevant   | The previous misconduct may have happened so long ago or may have been unrelated to the defendant's professional work and should either be discounted or given little weight by the tribunal   |

|   |  |
|---|--|
| <p>Any mitigating factors which are personal to the defendant</p> | <p>Did they report the conduct or events in question to ICAEW? Any corrective action taken by the defendant; prompt admission; expression of regret and the likely impact of any proposed penalty on a member/firm. A tribunal may consider any information about a member's personal circumstances which it believes may have a bearing on the level of penalty to be imposed. All defendants are advised to bring details of their financial means to the hearing. Mitigating factors may include events which have affected a member's ability to work, such as ill health or family tragedy.</p> |
|---|--|

These key tribunal questions are summarised on page 11 to help tribunals arrive at their *sanctions order*.

## 5 The sanctions order

The penalty (for example, a financial penalty, reprimand or exclusion) is only one part of the sanctions order. Once the tribunal has decided on the penalty, it considers a number of ancillary orders which it may include in its sanctions order. Ancillary orders are explained in more detail in paragraphs 5.1-5.7 below.

### 5.1 A requirement to take advice

In appropriate cases (for example poor work, or failure to deal with a client's affairs in good time), a tribunal may consider making an order that the defendant member seek advice from a specified source, at their own cost, and implement the advice obtained.

### 5.2 A waiver or return of fees

A tribunal may also consider making an order that fees charged by a defendant are waived, or that fees already paid are returned.

### 5.3 The repayment of commission

A tribunal may also consider making an order that the member or firm pay the complainant or the client a sum related to any commission the defendant has received or will receive. Such an order is likely to be appropriate in cases where the member or firm has been paid commission by agencies for work referred to them or for investment business advice or services that have been provided.

### 5.4 The complainant's expenses

If a complainant has given notice that they want to recover expenses, the tribunal may consider the request if it finds the complaint proved. However, a complainant may only recover those expenses incurred in either making the complaint in the first place, or in making representations to be considered by the IC. The maximum amount a tribunal can order a defendant to pay is £1,000. It is unlikely that a complainant will actually have incurred expenses in order to make a complaint.

### 5.5 Publicity

Members may ask that their name is not included in the published record of decision. Page 34 gives detailed guidance on the circumstances in which a tribunal might be prepared to make such an order.

### 5.6 Costs

Tribunals have the power to order that the costs incurred in investigating and considering a complaint be paid by a member or firm. The requirement to pay such costs is based on the principle that the majority of ICAEW members should not subsidise the minority who, through their own failings, find themselves within the disciplinary process. A summary of the costs incurred is sent to a member before the hearing and the covering letter explains that, if the complaint is found proved, an application will be made to the tribunal for an order for the costs to be paid. Orders for costs to be paid by a member or firm must reflect the costs reasonably incurred and must never be imposed as a penalty. The tribunal will only consider the costs element after it has reached its decision on the appropriate penalty for the complaint.

Members should always come to a hearing with some documentary proof of their financial circumstances. If members do not provide proof of financial means, a tribunal will assume that they are able to meet any financial penalty and/or costs that it orders. A tribunal may, in any case (including where the order is for exclusion), specify a time scale for paying financial penalties and costs, but this will normally be limited to a maximum of one year.

### 5.7 Costs against ICAEW

Tribunals also have power to require ICAEW to contribute a specified sum towards a defendant's costs if there is a finding of 'not proved' or 'proved in part only'. This power must be exercised in accordance with the DC regulations. Unlike litigation (where an award of costs normally follows the event), a finding of 'not proved in whole or part' will not automatically trigger an award of costs.

When it decides whether to make an award of costs, a tribunal will consider all the relevant facts including the conduct of ICAEW and the defendant throughout the proceedings including the investigation. The case law relating to costs against a regulator is consistent with this approach.

The Court of Appeal has said that normal costs rules do not apply and, unless there is dishonesty or lack of good faith, a costs order should not be made against a regulator unless there is good reason to do so.

This guidance is available at [icaew.com/publichearings](http://icaew.com/publichearings) and we are happy to provide a hard copy to members, member firms and their representatives on request. We review the guidance each year, in the light of experience and developments. The chairmen of the IC, DC, and AC agree revisions.

This guidance first became effective on 1 March 2000. It was revised and re-issued in full on 1 October 2002, 16 February 2004, 1 January 2005, 2 May 2006, 7 September 2007, 4 February 2010, 10 February 2011, 1 March 2012 and 1 August 2013. It applies to all complaints considered after 20 September 2007 unless powers of penalty have been limited (see page 40).

## 6 Glossary

|                                |  |
|--------------------------------|--|
| <b>Affiliate</b>               | A person who is not a member but who has been granted affiliate status under clause 12A of the Supplemental Charter of 21 December 1948; or granted audit affiliate status in accordance with the Audit Regulations 2008; or insolvency affiliate status in accordance with the Insolvency Licensing Regulations 2004; or granted probate affiliate status in accordance with the Probate Regulations 2013.  |
| <b>Aggravating factors</b>     | Any matter which, in the opinion of the tribunal, justifies increasing the suggested level of penalty  |
| <b>Appeal Committee</b>        | Appointed by the council under the schedule to the Disciplinary Bye-laws (appointment of IC, DC and AC)  |
| <b>Consent Order</b>           | The sanctions order made by the IC with a member's agreement where liability is admitted   |
| <b>Disciplinary action</b>     | An adverse finding, plus a penalty and other order   |
| <b>Disciplinary Bye-laws</b>   | ICAEW's Disciplinary Bye-laws  |
| <b>Disciplinary Committee</b>  | Appointed by the council under the schedule to the Disciplinary Bye-laws (appointment of IC, DC and AC)  |
| <b>Disciplinary record</b>     | In relation to any person or body, comprises all orders, findings, financial penalties and penalties to which he has at any time been subject, being orders, findings, financial penalties or penalties of any description prescribed for the purposes of this definition by regulations   |
| <b>Investigation Committee</b> | Appointed by the council under the schedule to the Disciplinary Bye-laws (appointment of IC, DC and AC)  |
| <b>Mitigating factors</b>      | Any matter which, in the opinion of the tribunal, justifies reducing the suggested level of penalty  |
| <b>Panel</b>                   | Appointed under Disciplinary Bye-law 27(1) to hear an appeal   |
| <b>Penalty</b>                 | An order made in accordance with Disciplinary Bye-law 22   |
| <b>Provisional members</b>     | <p>A person:</p> <ul style="list-style-type: none"><li>• who is training under a training contract; or</li><li>• who has trained under such contract and is eligible either to sit for ICAEW's professional examinations; or, having successfully sat those examinations, to apply for membership</li></ul> <p>For the purposes of this definition only, an order under bye-law 22(7)(d) of the Disciplinary Bye-laws (concerning eligibility to sit examinations) shall be disregarded.</p> |
| <b>Regulatory committee</b>    | Either the Audit Registration Committee, Insolvency Licensing Committee, Investment Business Committee or the Probate Committee  |

|                             |   |
|-----------------------------|---|
| <b>Regulatory penalty</b>   | A financial penalty ordered by the Audit Registration Committee, Insolvency Licensing Committee, Investment Business Committee or Probate Committee for breach of regulation by an authorised or licensed firm, or licensed insolvency practitioner |
| <b>Regulated firm</b>       | A DPB licensed firm or a registered auditor or an accredited probate firm   |
| <b>Sanctions order</b>      | The order made by the IC (by a consent order) or a DC tribunal comprising, as appropriate, any or all of the matters set out in Disciplinary Bye-laws 22, 23, 24A (expenses), 33 (costs), or 35 (publicity)   |
| <b>Starting point</b>       | An indication of where a tribunal will start when it considers its decision on penalty  |
| <b>Tribunal</b>             | Appointed under Disciplinary Bye-law 19(1) to hear a formal complaint   |
| <b>Unpublicised caution</b> | An order made by the IC in accordance with Disciplinary Bye-law 16A   |



## 7 Categories of complaint

### 7.1 Tribunal questions

The tribunal will use the following questions to help it make a decision on a sanctions order.

- Which category and type of behaviour corresponds to the complaint (see category index below)?
- Where does the behaviour fall on the scale of seriousness?
- What are the penalties available?
- Are there factors that aggravate or mitigate the seriousness of the behaviour?
- The tribunal will then form a preliminary view on the appropriate penalty and consider any factors personal to the defendant that should alter the penalty. It will look at the totality of the complaint, what is the member or firm's status (member employed, a firm, a sole practitioner etc). Does the member or firm have a low, medium or high turnover? Has the member or firm produced evidence of financial circumstances?
- Are there any orders in addition to penalty to be dealt with (obtain advice, waiver or return of fees, publicity, costs)?

### 7.2 Categories of complaint and types of behaviour

Pages 12-34 set out the starting points for determining an appropriate penalty if the case involves any of the following complaints or types of behaviour.

|  |    |
|--|----|
| Acts of dishonesty/criminal convictions                  | 12 |
| Audit  | 15 |
| Breach of bye-laws and/or regulations                    | 17 |
| Clients' money offences                                  | 19 |
| Ethical  | 20 |
| Failure to comply  | 22 |
| Failure to cooperate                                     | 23 |
| Financial mismanagement                                  | 24 |
| General accountancy failings                             | 25 |
| Insolvency   | 26 |
| Investment business/licensed firms under DPB arrangement | 28 |
| Probate  | 30 |
| Misconduct as a company director                         | 33 |
| Misconduct as trustee and other positions of trust       | 34 |

## 8 Acts of dishonesty/criminal convictions/adverse findings by regulatory/other bodies

There is separate guidance on page 13 for convictions if behaviour occurred outside a professional context or if another regulatory body has made an adverse finding.

The tribunal works through the questions on page 11 to make its decision on a sanctions order.

### Complaint

### Starting point

#### Cases dealt with by the court

- |   |  |
|---|--|
| <b>a</b> Act(s) of dishonesty/breach of trust/money laundering  | <b>a</b> Exclusion # (except where followed by absolute discharge)   |
| <b>b</b> An offence other than <b>a</b> followed by a prison sentence (suspended or not) or community penalty   | <b>b</b> Exclusion #   |
| <b>c</b> An offence other than <b>a</b> or <b>b</b> committed in a professional capacity even though not followed by a prison sentence or community penalty   | <b>c</b> Exclusion #   |
| <b>d</b> An offence other than <b>a</b> , <b>b</b> or <b>c</b> not committed in a professional capacity or followed by a prison sentence or community penalty | <b>d</b> Reprimand. If conduct occurs outside professional work, see separate guidance on approach to sanctions. |

#### Adverse findings by regulatory body

- |   |                    |
|---|--------------------|
| <b>a</b> Adverse findings by other regulatory bodies where the underlying conduct involves dishonesty | <b>a</b> Exclusion |
| <b>b</b> adverse finding by regulatory body not covered by other categories of complaint              |                    |

# Where exclusion is the start point and in the previous proceedings the member has been fined or a Proceeds of Crime Act order has been made, an additional financial penalty will not be appropriate. Please see guidance on page 35.

#### + Aggravating factors

Very serious dishonesty; eg, systematic over long periods of time, for own gain  
Fraud  
Amount involved  
Defendant in a position of trust; eg, as employee  
Direct involvement in dishonesty, planned and calculated

#### - Mitigating factors

Offence not committed in a professional capacity  
Admission of guilt  
Insight into wrong doing  
Cooperation with prosecution authorities  
Restitution to victim.

**The starting point is not a tariff**

## 8.1 Criminal convictions where the behaviour occurs outside professional work

Conduct — not in a professional context but in a member's private life — which results in a conviction, presents issues which require a particular approach to sanctions.

When dealing with such cases, the tribunal will be aware that the defendant member has been dealt with for the offence and the criminal court has imposed its sentence. The severity of the sentence imposed by the court will not, however, be the only factor relevant to seriousness. Conversely, a lenient sentence will not necessarily lead the tribunal to view the matter less severely. On the contrary, it may well have been contemplated by the court that the member was bound to be dealt with by his or her professional body at a later date. The tribunal has to deal with the complaint because the member is in breach of the Disciplinary Bye-laws. The role of the tribunal is to balance the nature and gravity of the offence and its bearing, if any, on the member's fitness to practise as a chartered accountant; the need to protect the public and the good reputation of the profession against the need to impose further penalty and its consequential impact on the ability of the member to practise his or her profession.

When considering its decision on whether to impose a penalty and, if so, what, the tribunal will take into account the following questions.

- Does the offence and conviction affect the member's professional work or ability to practise as a chartered accountant in the future?
- Are future clients likely to be at risk of harm?
- Is the member's judgement sound?
- Has the member's type of work previously played a part in the conduct which led to the conviction?
- Does the public need to be protected from this member?
- Does the offence and conviction of the member diminish the good standing and reputation of ICAEW and the profession?
- Does the offence and the conviction give rise to a real probability that, if the member remains a chartered accountant, public confidence in the profession's ability and integrity to regulate itself will be undermined? If not, will an alternative, lesser penalty be appropriate?

## 8.2 The tribunal will take account of the value of the offence; for what offence has the member been convicted.

- theft
- offence against the person
- criminal damage
- sexual
- road traffic
- miscellaneous:
  - affray
  - possession/supply of drugs
  - firearms (possession of)
  - perverting the course of justice.

## 8.3 The tribunal will take account of the gravity of the offence.

- How serious?
- Is it gross?
- Is it shocking?
- Does it cause offence?

#### 8.4 The circumstances surrounding the offence

- Was it planned?
- Was it committed over an extended period of time, repeated?
- Was there a victim?
- Was the victim vulnerable?
  - a child
  - sick
- Has the victim suffered; are there any short-term or lasting consequences?
- What was the member's initial response to the offence at the time?
- What was the member's response to the prosecution for the offence?
- What sentence was imposed by the criminal court?
- Were there any particular aggravating factors before the court before sentencing?
- Is there a history of offending and a likelihood of further offences?
- In the light of all the circumstances, what is the proportional, appropriate penalty?

A financial penalty will rarely be appropriate, particularly if the court has imposed a financial penalty. Similarly, if action has been taken under the Proceeds of Crime Act for recovery and confiscation, this should be taken into account when deciding whether to impose a financial penalty as part of the sanctions order. The tribunal's discretion in relation to costs applies as in any other case.

## 9 Audit

The tribunal works through the questions on page 11 to make its decision on a sanctions order.

### Complaint

- a Acting as auditor when not registered
- b Audit work of a seriously defective nature
- c Lesser forms of bad audit work
- d Failure to prevent firm taking audit appointment - when firm not registered
- e Audit reports signed by a non-RI
- e<sup>1</sup> Deliberate/knowning not authorised or reckless
- e<sup>2</sup> Uncertain/signs without making proper enquiries
- e<sup>3</sup> Some technical irregularity
- f Wrong, unqualified auditor's report
- f<sup>1</sup> Serious/defective audit work
- f<sup>2</sup> Less serious defective audit work
- g Annual return incorrect/mis-statement
- Individual**
- g<sup>1</sup> Deliberate
- g<sup>2</sup> Reckless/serious negligence
- g<sup>3</sup> Inadvertent
- Firm**
- g<sup>1</sup> Deliberate
- g<sup>2</sup> Reckless/serious negligence
- g<sup>3</sup> Inadvertent

### Starting point

- a Exclusion plus a financial penalty of £11,500 (if it is sole practitioner or responsible individual (RI))
- b **Firm**  
Severe reprimand and a financial penalty equal to 1.5 x audit fee. Adjust upwards if audit fee inadequate or if company subsequently collapsed.
- b<sup>1</sup> **RI/second review partner**  
Exclusion and a financial penalty of £5,750-£11,500
- c **Firm**  
Reprimand and a financial penalty equal to half audit fee
- c<sup>1</sup> **RI/second review partner**  
Reprimand and a financial penalty of £2,875-£6,350
- d Severe reprimand and 1.5 x audit fee or - £6,350
- e<sup>1</sup> Severe reprimand and financial penalty of £6,350 or 1.5 x the audit fee
- e<sup>2</sup> Reprimand and financial penalty of £3,450 or financial penalty equal to half the audit fee
- e<sup>3</sup> Reprimand and financial penalty of £2,350
- f<sup>1</sup> Severe reprimand and a financial penalty equal to 1.5 x audit fee. Adjust upwards if audit fee inadequate or if company subsequently collapsed.
- f<sup>2</sup> Reprimand and half the audit fee
- Individual**
- g<sup>1</sup> Exclusion
- g<sup>2</sup> Severe reprimand and a financial penalty of £3,450
- g<sup>3</sup> Reprimand and a financial penalty of £1,725
- Firm**
- g<sup>1</sup> Severe reprimand and a financial penalty of £12,000
- g<sup>2</sup> Severe reprimand and a financial penalty of £6,350
- g<sup>3</sup> Reprimand and a financial penalty of £3,450

|  |   |
|--|---|
| <p><b>h</b> Refusing/failing to cooperate with or accept a QAD visit</p> <p><b>i</b> Failure to comply with restrictions/conditions</p> <p><b>Individual</b></p> <p><b>i<sup>1</sup></b> deliberate</p> <p><b>i<sup>2</sup></b> reckless/serious negligence</p> <p><b>i<sup>3</sup></b> inadvertent</p> <p><b>Firm</b></p> <p><b>i<sup>1</sup></b> deliberate</p> <p><b>i<sup>2</sup></b> reckless/serious negligence</p> <p><b>i<sup>3</sup></b> inadvertent</p> <p><b>j</b> Breach of undertaking</p> <p><b>Individual</b></p> <p><b>j<sup>1</sup></b> deliberate</p> <p><b>j<sup>2</sup></b> reckless/serious negligence</p> <p><b>j<sup>3</sup></b> inadvertent</p> <p><b>Firm</b></p> <p><b>j<sup>1</sup></b> deliberate</p> <p><b>j<sup>2</sup></b> reckless/serious negligence</p> <p><b>j<sup>3</sup></b> inadvertent</p> <p><b>k</b> Breach of eligibility requirements</p> | <p><b>h</b> Severe reprimand and a financial penalty of £6,350 (£6,350 to be used as a multiplier for each partner in the firm).</p> <p><b>Individual</b></p> <p><b>i<sup>1</sup></b> Exclusion</p> <p><b>i<sup>2</sup></b> Severe reprimand and a financial penalty of £6,350</p> <p><b>i<sup>3</sup></b> Reprimand and a financial penalty of £3,450</p> <p><b>Firm</b></p> <p><b>i<sup>1</sup></b> Severe reprimand and a financial penalty of £12,000</p> <p><b>i<sup>2</sup></b> Severe reprimand and a financial penalty of £6,350</p> <p><b>i<sup>3</sup></b> Reprimand and a financial penalty of £3,450</p> <p><b>Individual</b></p> <p><b>j<sup>1</sup></b> Exclusion</p> <p><b>j<sup>2</sup></b> Severe reprimand and a financial penalty of £6,350</p> <p><b>j<sup>3</sup></b> Reprimand and a financial penalty of £3,450</p> <p><b>Firm</b></p> <p><b>j<sup>1</sup></b> Severe reprimand and a financial penalty of £12,000</p> <p><b>j<sup>2</sup></b> Severe reprimand and a financial penalty of £6,350</p> <p><b>j<sup>3</sup></b> Reprimand and a financial penalty of £3,450</p> <p><b>k Firm</b><br/>Reprimand and a financial penalty based on fees saved by failure to comply x number of years.</p> |
|--|---|

Lack of audit independence, **see Ethical**

**+ Aggravating factors**

Audit of plc or public interest entity  
 Multiple accounts audited over extensive period of time  
 Intention to mislead  
 Whether anyone lost money  
 Failure to follow recommendations after a QAD inspection

Refusal or failure to cooperate with the QAD and the Audit Registration Committee is likely to lead to regulatory action including withdrawal of audit registration.

**- Mitigating factors**

Inadvertent/breach of requirements which has no consequences  
 Steps taken to put matters right  
 Subsequent audits found to comply with the requirements

**The starting point is not a tariff**

## 10 Breach of bye-laws and/or regulations

The tribunal works through the questions on page 11 to make its decision on a sanctions order.

| Complaint  | Starting point   |
|--|--|
| <b>a</b> Engaging in public practice without a practising certificate  |  |
| <b>a<sup>1</sup></b> Deliberate  | <b>a<sup>1</sup></b> Exclusion* and a financial penalty of £5,750  |
| <b>a<sup>2</sup></b> Reckless  | <b>a<sup>2</sup></b> Severe reprimand and a financial penalty of £2,300  |
| <b>a<sup>3</sup></b> Inadvertent   | <b>a<sup>3</sup></b> Reprimand and financial penalty of £1,500   |
| <b>b</b> Failure to hold PII   |  |
| <b>b<sup>1</sup></b> Deliberate  | <b>b<sup>1</sup></b> As in <b>a<sup>1</sup></b> above  |
| <b>b<sup>2</sup></b> Reckless  | <b>b<sup>2</sup></b> As in <b>a<sup>2</sup></b> above  |
| <b>b<sup>3</sup></b> Inadvertent   | <b>b<sup>3</sup></b> As in <b>a<sup>3</sup></b> above  |
| <b>bb</b> Engaging in public practice without a practising certificate and failure to hold PII   |  |
| <b>bb<sup>1</sup></b> Deliberate   | <b>bb<sup>1</sup></b> Exclusion and a financial penalty of £8,625  |
| <b>bb<sup>2</sup></b> Reckless   | <b>bb<sup>2</sup></b> Severe reprimand and a financial penalty of £3,450   |
| <b>bb<sup>3</sup></b> Inadvertent  | <b>bb<sup>3</sup></b> Reprimand and a financial penalty of £2,250  |
| <b>c</b> Failure to declare CPD  | <b>c</b> Reprimand and a financial penalty of £850 each year (up to a maximum of 4 years)                                |
| <b>c<sup>1</sup></b> Failure to notify the Member's registrar of change of address   | <b>c<sup>1</sup></b> Reprimand   |
| <b>d</b> Breach of the Money Laundering Regulations (not falling under category for dishonesty or criminal convictions; nb, the regulations are not made under the DBLs) |  |
| <b>d<sup>1</sup></b> Failure to report   | <b>d<sup>1</sup></b> Exclusion   |
| <b>d<sup>2</sup></b> Tipping off<br>Deliberate or reckless<br>Inadvertent  | <b>d<sup>2</sup></b> Exclusion<br>Severe reprimand and a financial penalty of £10,000                                    |
| <b>d<sup>3</sup></b> Failure to follow procedures, eg, maintain records  | <b>d<sup>3</sup></b> Severe reprimand and a financial penalty of £5,750  |
| <b>e</b> Practice Assurance  | <b>e</b>   |
| <b>e<sup>1</sup></b> Failure to cooperate with arranging or following a PA visit   | <b>e<sup>1</sup></b> Severe reprimand and a financial penalty of £5,750<br>Consider withdrawal of practising certificate |
| <b>e<sup>2</sup></b> Failure to complete annual return   | <b>e<sup>2</sup></b> Reprimand and a financial penalty of £3,250   |
| <b>e<sup>3</sup></b> Errors in annual return   | <b>e<sup>3</sup></b> Reprimand and a financial penalty of £1,300   |
| <b>e<sup>4</sup></b> Failure to fulfil an assurance made to the PAC (single breach)  | <b>e<sup>4</sup></b> Reprimand and a financial penalty of £1,725   |
| <b>e<sup>5</sup></b> Failure to fulfil an assurance made to the PAC (several heads of complaint)   | <b>e<sup>5</sup></b> Severe reprimand and a financial penalty of £1,725 per breach                                       |
| <b>e<sup>6</sup></b> Failure to advise ICAEW of changes to a practice  | <b>e<sup>6</sup></b> Reprimand and a financial penalty of £1,150   |
| <b>e<sup>7</sup></b> Failure to comply with DBL11, firm to deal with complaints  | <b>e<sup>7</sup></b> Reprimand and a financial penalty of £1,150   |
| <b>e<sup>8</sup></b> Breach of Provision of Services Regulations 2009 (eg, failure to provide PII details to client)   | <b>e<sup>8</sup></b> Reprimand and a financial penalty of £1,150   |



**+ Aggravating factors**

Extensive practice (repeated and on numerous occasions)  
Over significant period of time  
Continued offence after became aware  
Wilful failure

\* See guidance on page 37.

**- Mitigating factors**

Minimal work carried out, no fees charged/very short period of time  
Relied on another to ensure in place  
Steps taken after became aware, retroactive cover obtained

**The starting point is not a tariff**

## 11 Clients' money offences

The tribunal works through the questions on page 11 to make its decision on a sanctions order.

### Complaint

**a** Money held in firm account which was in credit or not held in designated client account:

- a<sup>1</sup>** Small sums for short period
- a<sup>2</sup>** Small sums for long periods or repeated holding of any sums for a short period
- a<sup>3</sup>** Medium sums for short period
- a<sup>4</sup>** Medium sums for a long period
- a<sup>5</sup>** Large sum for a short period
- a<sup>6</sup>** Large sum for long period
- a<sup>7</sup>** Very large sum for short period
- a<sup>8</sup>** Very large sum for long period

**b** Client money held in overdrawn firm account

- b<sup>1</sup>** Small sums for short period
- b<sup>2</sup>** Small sums for long periods or repeated holding of any sums for a short period
- b<sup>3</sup>** Medium sums for a short period
- b<sup>4</sup>** Medium sum for a long period
- b<sup>5</sup>** Large sum for a short period
- b<sup>6</sup>** Large sum for long period
- b<sup>7</sup>** Very large sum for a short period
- b<sup>8</sup>** Very large sum for long period

### Starting point

- a<sup>1</sup>** Reprimand and a financial penalty of £1,300
- a<sup>2</sup>** Reprimand and a financial penalty of £2,000
- a<sup>3</sup>** Reprimand and a financial penalty of £2,600
- a<sup>4</sup>** Reprimand and a financial penalty of £4,000
- a<sup>5</sup>** Severe reprimand and a financial penalty of £5,200
- a<sup>6</sup>** Severe reprimand and a financial penalty of £8,000
- a<sup>7</sup>** Severe reprimand and a financial penalty of £10,400
- a<sup>8</sup>** Severe reprimand and a financial penalty of £16,000
- b<sup>1</sup>** Severe reprimand and a financial penalty of £2,650
- b<sup>2</sup>** Severe reprimand and a financial penalty of £4,000
- b<sup>3</sup>** Severe reprimand and a financial penalty of £5,200
- b<sup>4</sup>** Severe reprimand and a financial penalty of £8,000
- b<sup>5</sup>** Severe reprimand and a financial penalty of £10,400
- b<sup>6</sup>** Severe reprimand and a financial penalty of £16,000
- b<sup>7</sup>** Severe reprimand and a financial penalty of £20,800
- b<sup>8</sup>** Exclusion

### + Aggravating factors

Large numbers of clients involved  
 Failure to deal promptly with the matter following notification of the complaint  
 Significant benefit to the defendant resulting from improper retention of funds  
 Clients suffer consequential losses

### - Mitigating factors

Matters put right immediately following complaint  
 Procedures introduced to avoid recurrence  
 Clients compensated for lost interest

### Key

|                 |                     |
|-----------------|---------------------|
| Small sums      | £20,000             |
| Medium sums     | £20,000 - £100,000  |
| Large sums      | £100,001 - £500,000 |
| Very large sums | £500,001 upwards    |
| Short period    | Seven days or less  |
| Long period     | Seven days or more  |

**The starting point is not a tariff**

## 12 Ethical

The tribunal works through the questions on page 11 to make its decision on a sanctions order.

| Complaint  | Starting point  |
|--|---|
| <b>a</b> Lack of independence due to personal/family relationship/previous material professional relationship/pecuniary interest                       |   |
| <b>a<sup>1</sup></b> Very serious – blatant  | <p><b>Individual</b></p> <p><b>a<sup>1</sup></b> Exclusion and a financial penalty of £6,000 to £12,000 and consideration of withdrawal of licence or registration (if applicable)</p> <p><b>Firm</b></p> <p><b>a<sup>1</sup></b> Severe reprimand and a financial penalty of £28,750 or a financial penalty based on an appropriate percentage of the fees earned, if the fees were significantly higher or lower than £28,750 and consideration of withdrawal of firm's licence or registration (if applicable)</p> |
| <b>a<sup>2</sup></b> Serious   | <p><b>Individual</b></p> <p><b>a<sup>2</sup></b> Severe reprimand and a financial penalty of £4,000 to £8,000</p> <p><b>Firm</b></p> <p><b>a<sup>2</sup></b> Severe reprimand and a financial penalty of £16,650 or a financial penalty based on an appropriate percentage of the fees earned, if the fees were significantly higher or lower than £16,650</p>  |
| <b>a<sup>3</sup></b> Less serious (tenuous link technical breach)  | <p><b>Individual</b></p> <p><b>a<sup>3</sup></b> Reprimand and a financial penalty of £2,000 to £4,000</p> <p><b>Firm</b></p> <p><b>a<sup>3</sup></b> Reprimand and financial penalty of £6,600 or a financial penalty based on an appropriate percentage of the fees earned, if the fees were significantly higher or lower than £6,600</p>  |
| <b>b</b> Conflict of interest  |   |
| <b>b<sup>1</sup></b> Very serious/blatant  | <b>b<sup>1</sup></b> As in <b>a<sup>1</sup></b> above   |
| <b>b<sup>2</sup></b> Serious   | <b>b<sup>2</sup></b> As in <b>a<sup>2</sup></b> above   |
| <b>b<sup>3</sup></b> Less serious; eg, inadvertent   | <b>b<sup>3</sup></b> As in <b>a<sup>3</sup></b> above   |
| <b>c</b> Providing false or misleading information   | <b>c</b> Exclusion* and a financial penalty of £6,600   |
| <b>d</b> Breach of fiduciary duty (not otherwise covered):   |   |
| <b>d<sup>1</sup></b> Very serious  | <b>d<sup>1</sup></b> Exclusion* and a financial penalty of £28,750  |
| <b>d<sup>2</sup></b> Serious   | <b>d<sup>2</sup></b> Severe reprimand and a financial penalty of £16,650  |
| <b>d<sup>3</sup></b> Inadvertent   | <b>d<sup>3</sup></b> Reprimand and a financial penalty of £6,600  |
| <b>e</b> Breach of confidentiality   |   |
| <b>e<sup>1</sup></b> Misuse of confidential information  | <b>e<sup>1</sup></b> Exclusion* and financial penalty   |
| <b>e<sup>2</sup></b> Wrongful disclosure   | <b>e<sup>2</sup></b> Exclusion* and financial penalty   |
| <b>e<sup>3</sup></b> Any other disclosure/misuse, inadvertent  | <b>e<sup>3</sup></b> Reprimand and financial penalty £6,600   |
| <b>f<sup>1</sup></b> Failure to communicate/cooperate with existing appointment holder/failure to provide handover information, lien wrongly exercised | <b>f<sup>1</sup></b> Severe reprimand and financial penalty £4,000  |

- g** Persistent or repeated aggressive course of conduct and/or the use of obscene and grossly offensive language/similar
- h** Unethical promotion practices

- g** Severe reprimand and a financial penalty of £2,650
- h** Reprimand and a financial penalty of £1,300

**+ Aggravating factors**

Lack of independence where public interest issues are involved or associated with collapse of company  
 Significant level of public attention or high public importance  
 Business – occurred in the course of  
 Deliberate  
 Fraud  
 Amount involved substantial  
 Defendant in a position of trust, eg, as employee  
 Deliberate act to gain personal advantage  
 Whether any loss suffered as a result

If the breach is repeated over successive years, any financial penalty the committee considers it appropriate to impose should not normally be multiplied for each year the breach occurred, unless it is satisfied the member or firm had a clear opportunity to address the matter each year and wilfully failed to address it. Except in such circumstances, the committee should regard repeated failures as general aggravating circumstances.

\* See guidance on page 37.

**- Mitigating factors**

No loss suffered  
 Information provided accidentally rather than deliberately  
 Reprehensible conduct/correspondence on the part of the client  
 Action taken at request of client/took professional advice  
 Compensation paid to the client

**The starting point is not a tariff**

### 13 Failure to comply with an order of the IC, DC or AC

The tribunal works through the questions on page 11 to make its decision on a sanctions order.

#### Complaint

- a Failure to take advice, for example from Practice Support Services
- b Failure to comply with an order made for waiver or repayment of fees
- c Failure to comply with a remedial order
- d Other cases where a member has failed to act or acted belatedly to obligations upon him

#### Starting point

- a Severe reprimand and a financial penalty of £6,600
- b Severe reprimand and a financial penalty of £6,600
- c Severe reprimand and a financial penalty of £6,600
- d Reprimand and a financial penalty of £1,300

#### + Aggravating factors

Blatant disregard, total absence of effort made to comply  
Nature of inefficiency and effect on clients  
Any other similar complaints in last five years

#### - Mitigating factors

Improvements made in the practice  
No client disadvantaged

**The starting point is not a tariff**

## 14 Failure to cooperate generally and to comply with DBL13 requirement

The tribunal works through the questions on page 11 to make its decision on a sanctions order.

### Complaint

- a** Failure to respond at all or promptly to client letters, telephone calls, emails
- b** Delay/failure to pass information to succeeding accountant (see also Ethical)
- c** Refusal to provide information (blatant obstruction) without good cause
- d** Failure to reply to a letter sent in accordance with Disciplinary Bye-law 13 where:
  - ia** the response has been difficult and tedious rather than calculated to obstruct and the information has been provided between the date of the IC preferring the complaint and the date of the hearing
  - ib** there has been a response but not all the information has been provided
  - ic** there has been a response that the information will be provided but it is not
  - id** there has been no response at all
- ii** Second such complaint within five years but
  - iiia** the information has been produced between the date of the IC preferring the complaint and the hearing
  - iiib** there has been a response but not all the information is provided and
  - iiic** there has been a response that the information will be provided but it has not
  - iiid** no response at all
- iii** Third such complaint within five years
  - iiia** The information has been produced between the date of the IC preferring the complaint and the hearing
  - iiib** A response but not all the information is provided
  - iiic** there has been a response that the information will be provided but it has not
  - iiid** No response at all

### Starting point

- a** Reprimand and a financial penalty of £1,300
- b** Reprimand and a financial penalty of £1,300
- c** Exclusion\* and a financial penalty of £6,600
- ia** Reprimand and a financial penalty of £1,300
- ib** Severe reprimand and a financial penalty of £2,700
- ic** Severe reprimand and a financial penalty of £3,250
- id** Severe reprimand and a financial penalty of £4,000
- iiia** Severe reprimand and a financial penalty of £4,000
- iiib** Severe reprimand and a financial penalty of £4,600
- iiic** Severe reprimand and a financial penalty of £5,300
- iiid** Severe reprimand and a financial penalty of £6,600
- iiia** Severe reprimand and a financial penalty of £6,600
- iiib** Exclusion\*
- iiic** Exclusion\*
- iiid** Exclusion\*

### + Aggravating factors

The information is produced at the last possible moment.  
The investigation of a serious complaint; eg, fraud is frustrated and no adequate explanation is given.

\* See guidance on page 37.

### - Mitigating factors

Difficulty accessing information, dependent on another, efforts made in attempt to provide information or respond.

**The starting point is not a tariff**

## 15 Financial mismanagement

The tribunal works through the questions on page 11 to make its decision on a sanctions order.

### Complaint

- a Failing to account for VAT/income tax
- b Multiple acts of financial mismanagement or second complaint in three years
- c Failing to comply with terms of voluntary arrangements with creditors or other matters charged against a defendant in an individual voluntary arrangement
- d Member or principal of a firm or body corporate engaged in public practice which enters into an insolvency procedure, as listed in DBL 4.2 (e) (i) (iii) or (iv) or DBL 4.2 (f) (i), (iii) or (iv)
- d<sup>1</sup> as a result of member's gross financial mismanagement
- d<sup>2</sup> as a result of misfortune
- e Non-payment of judgment debt or dishonoured cheque
- f Entry by a member into an IVA
- g Member or principal of a firm or body corporate engaged in public practice which has entered into a CVA or PVA

### Starting point

- a Exclusion\* and a financial penalty of £6,600
- b Exclusion\* and a financial penalty of £6,600
- c Exclusion\*
- d<sup>1</sup> Severe reprimand
- d<sup>2</sup> Reprimand
- e Reprimand and a financial penalty of £2,650 (if solvent)
- f No order but contribution to costs
- g No order but contribution to costs

### + Aggravating factors

Personal assets/income available  
Failure to disclose/or to disclose accurately assets to supervisor  
Making unfairly small contribution to IVA when substantial personal assets available  
Making substantial drawings in excess of profits in period prior to entry into IVA  
Preferring personal creditors to business creditors  
Preferring creditors of one business rather than another  
Disposing of assets at an under value with the object of personal gain  
Lack of integrity in business dealings

\* See guidance on page 37.

### - Mitigating factors

Effective arrangements made to make good deficiency  
Problem resulted from deliberate act by properly supervised/trusted member of staff

**The starting point is not a tariff**



## 16 General accountancy failings

The tribunal works through the questions on page 11 to make its decision on a sanctions order.

| Complaint   | Starting point   |
|---|--|
| <b>a</b> Poor work on accounts  |  |
| i Serious   | i Severe reprimand, financial penalty £6,600 or 1.5 x fee if greater than £6,600. Consider PRS referral  |
| ii Other cases less serious   | ii Reprimand, financial penalty £3,250 or 0.5 x fee if greater than £3,250   |
| <b>b</b> Accounts not in statutory format   |  |
| i Serious   | i Severe reprimand, financial penalty £2,700 or 1.5 x fee charged – if successive years fee x by number of years   |
| ii Less serious   | ii Reprimand, financial penalty £1,300   |
| <b>c</b> Wrongly signed report/inaccurate report, accounts do not comply with Solicitor's Accounts Rules or similar | <b>c</b> Severe reprimand, financial penalty £2,700. Consider fees charged if greater for financial penalty and/or return or waiver  |
| <b>d</b> Second offence <b>a</b> , <b>b</b> , or <b>c</b> within two years  | <b>d</b> Severe reprimand, financial penalty £13,250. Consider withdrawal of practising certificate and consider fees charged if greater for financial penalty and/or return or waiver   |
| <b>e</b> General neglect of client affairs  |  |
| i Single/first instance   | i Severe reprimand and a financial penalty of £2,700. Consider fee waiver/return   |
| ii Multiple clients or lengthy neglect  | ii Severe reprimand and financial penalty of £6,600  |
| iii Second finding of guilt in relation to i and/or ii above in three years   | iii Exclusion or severe reprimand, financial penalty of £13,250. Consider fee waiver/return. Consider withdrawal of practising certificate or referral to Practice Support Services (PSS). Consider using fee charged as multiplier in all above |
| <b>f</b> Lack of attention/delay on client's affairs  | <b>f</b> Reprimand, financial penalty £1,300 or fee charged if greater. Consider waiver/return of fees   |
| <b>g</b> Bad advice on client's affairs/tax   | <b>g</b> Reprimand, financial penalty £1,300 or fee charged if greater. Waiver return of fees, withdrawal of practising certificate, referral to PRS   |
| <b>h</b> Failing to respond properly to professional enquiry or handover (also see Ethical)                         | <b>h</b> Severe reprimand, financial penalty of £4,000   |

### + Aggravating factors

Nature of inefficient or incompetent work, eg, failure to reconcile client ledger balances with funds available to meet them

Collusion to cover up deficiencies

The client has lost money

Effect on client, eg, subject to penalties, loss of business opportunity

### - Mitigating factors

Client deceived the defendant

Turnover on client account and proportion and size of deficiencies

Client unhelpful in providing records or information; gave misleading information.

Files lost through natural catastrophe, eg, fire, flood

**The starting point is not a tariff**

## 17 Insolvency<sup>1</sup>

The tribunal works through the questions on page 11 to make its decision on a sanctions order.

| Complaint   | Starting point  |
|---|---|
| <b>a</b> Acts of dishonesty, criminal convictions, adverse findings by regulatory and other bodies where the underlying conduct involves dishonesty | <b>a</b> Exclusion and licence withdrawal   |
| <b>b</b> Acting as an insolvency practitioner without a licence   | <b>b</b> Exclusion and financial penalty of £10,000   |
| <b>c</b> Unauthorised diversion of funds into own account, other estates or third parties   | <b>c</b> Exclusion or licence withdrawal and financial penalty of £15,000 or equal to 150% of fee charged |
| <b>d</b> Drawing unauthorised remuneration  | <b>d</b> Severe reprimand and financial penalty related to the level of the unauthorised fee drawn.       |
| <b>e</b> Material breach of the fundamental principles of the Insolvency Code of Ethics   | <b>e</b> Reprimand and financial penalty commensurate with the breach                                     |
| <b>f</b> Major failure to submit returns (eg, CDDA returns)   | <b>f</b> Severe reprimand and financial penalty of £5,000   |
| <b>g</b> Failure to convene key creditor meetings   | <b>g</b> Severe reprimand and financial penalty of £5,000   |
| <b>h</b> Minor delay in submitting returns  | <b>h</b> Reprimand and financial penalty of £500  |
| <b>i</b> Delay in convening annual meetings   | <b>i</b> Reprimand and financial penalty of £500  |
| <b>j</b> Accepted an appointment as administrator when no statutory purpose achievable  | <b>j</b> Severe reprimand and if a major failure, financial penalty of £5,000                             |
| <b>k</b> Material failure to comply with the provisions of a SIP, the Insolvency Act and rules and regulations made thereunder                      | <b>k</b> Severe reprimand and financial penalty of £5,000   |
| <b>l</b> Failure to take adequate steps to realise assets   | <b>l</b> Severe reprimand and If a major failure, financial penalty of £5,000                             |
| <b>m</b> Delay in progressing administration of an insolvency estate  | <b>m</b> Reprimand and financial penalty of £2,500  |
| <b>n</b> Repeated failure to respond at all, or to respond promptly, to letters, telephone calls, emails  | <b>n</b> Reprimand and financial penalty of £1,150  |
| <b>o</b> Refusing/failing to cooperate with or accept a QAD visit   | <b>o</b> Severe reprimand and financial penalty of £6,350   |
| <b>p</b> Failure to comply with an order of the ILC   | <b>p</b> Severe reprimand and financial penalty of £5,750   |

### + Aggravating factors

The conduct was dishonest, deliberate or reckless  
The conduct was intentional  
Concealment of wrongdoing

Lack of cooperation with regulator  
Repeated course of conduct

### - Mitigating factors

Prompt rectification  
Prompt repayment of (unauthorised) fees  
Personal mitigation: ill health, financial circumstances, good standing  
Age of issues under consideration  
Up to date regulatory or monitoring information suggesting issues addressed

<sup>1</sup> There are seven recognised professional bodies (RPBs) that license insolvency practitioners. The RPBs apply a common approach to make sure that outcomes and sanctions are as consistent as possible.

Reoccurrence of conduct previously subject of reminder, warning or other sanction  
The benefit derived or likely to be derived from the conduct by the insolvency practitioner or their firm  
The conduct has caused or is likely to cause the loss of significant sums of money to the insolvency estate and/or third party  
Poor disciplinary or regulatory history  
Lack of understanding or acceptance of charge

Seriousness generally  
Other relevant information

In the lists above, where any matter is listed as an aggravating factor, the converse should be treated as a mitigating factor and vice versa.

\* See guidance on page 37.

Generally, risk of re occurrence or repetition

Absence of adverse effect of conduct on insolvency assignment or third parties.  
Self-reporting and/or acceptances of conduct issues

Single isolated issue  
Other relevant information including references or testimonials from third parties.

**The starting point is not a tariff**

## 18 Investment business/licensed firms under DPB arrangements

The tribunal works through the questions on page 11 to make its decision on a sanctions order.

| Complaint   | Starting point  |
|---|---|
| <b>a</b> Carrying on investment business without authorisation  | <b>a</b> Exclusion* and a financial penalty of £11,500  |
| <b>b</b> Breach or breaches of Investment Business Regulations or Designated Professional Body Handbook Regulations | <b>b</b> Severe reprimand and a financial penalty of £5,750. Consider order of waiver or return of related remuneration or commission |
| <b>c</b> Refusal to cooperate with or accept a QAD visit  | <b>c</b> Severe reprimand and a financial penalty of £5,750 (with £5,750 as a multiplier for each partner in the firm)                |
| <b>d</b> Failure to rectify faults discovered on QAD inspection   | <b>d</b> Severe reprimand and a financial penalty of £5,750   |
| <b>e</b> Failure to comply with an order of the Investment Business Committee                                       | <b>e</b> Severe reprimand and a financial penalty of £8,650   |
| <b>f</b> Failure by firm to investigate complaint concerning investment business                                    | <b>f</b> Reprimand and a financial penalty of £5,750. Consider order of waiver or return of related remuneration or commission        |
| <b>g</b> Charging excessive fees/commission   | <b>g</b> Severe reprimand and a financial penalty of £5,750. Consider order of waiver or return of related remuneration or commission |
| <b>h</b> Seriously negligent/reckless investment advice   | <b>h</b> Severe reprimand and a financial penalty of £5,750. Consider order of waiver or return of related remuneration or commission |
| <b>i</b> Annual return failure to submit, incorrect mis-statement   |   |
| <b>Individual</b>   | <b>Individual</b>   |
| <b>i<sup>1</sup></b> Deliberate   | <b>i<sup>1</sup></b> Exclusion*   |
| <b>i<sup>2</sup></b> Reckless/serious negligence  | <b>i<sup>2</sup></b> Severe reprimand and a financial penalty of £2,875   |
| <b>i<sup>3</sup></b> Inadvertent  | <b>i<sup>3</sup></b> Reprimand and a financial penalty of £1,150  |
| <b>Firm</b>   | <b>Firm</b>   |
| <b>i<sup>1</sup></b> Deliberate   | <b>i<sup>1</sup></b> Severe reprimand and a financial penalty of £11,500  |
| <b>i<sup>2</sup></b> Reckless/serious negligence  | <b>i<sup>2</sup></b> Severe reprimand and a financial penalty of £5,750   |
| <b>i<sup>3</sup></b> Inadvertent  | <b>i<sup>3</sup></b> Reprimand and a financial penalty of £2,875  |
| <b>j</b> Breach of eligibility requirements   |   |
| <b>Firm</b>   | <b>Firm</b>   |
| Pre-N2 complaints   | Reprimand and a financial penalty based on annual fees saved x number of years  |
| <b>k</b> Conduct of investment business outside authorisation category or licence                                   | <b>k</b> Severe reprimand and a financial penalty of £5,750   |
| <b>l</b> Holding investment business clients monies in excess of £50,000 without bonding                            | <b>l</b> Severe reprimand and a financial penalty of £5,750   |
| <b>m<sup>1</sup></b> Pension advice without taking required steps   | <b>m<sup>1</sup></b> Severe reprimand and a financial penalty of £5,750   |
| <b>m<sup>2</sup></b> Failure to complete pension transfer and opt-outs review                                       | <b>m<sup>2</sup></b> Severe reprimand and a financial penalty of £2,875   |

\* See guidance on page 37.

**+ Aggravating factors**

Advised numerous clients/conducted numerous transactions without authorisation  
Failure to make client aware of risks  
Failure to pass on risk warnings in product literature  
Failure to document/record justification for advice/recommendation  
High value of commission earned  
Breach repeated/continued over time

Refusal or failure to cooperate with the QAD or the Investment Business Committee is likely to lead to regulatory action including withdrawal of DPB licence.

**- Mitigating factors**

Steps taken on behalf of client to recover loss  
Steps taken to tighten up/improve office procedures  
QAD recommendations since implemented  
Technical breach, no clients involved

**The starting point is not a tariff**

## 19 Probate

Certain sanctions are split into three categories depending on the seriousness of the misconduct:

**Very serious (a):** This will generally mean that the Accredited Probate firm's conduct was deliberate and/or dishonest.

**Serious (b):** This will generally mean that the Accredited Probate firm's conduct was reckless.

**Less serious (c):** This will generally mean the conduct by the Accredited Probate firm amounts to an inadvertent breach. Where breaches are adjudged to be inadvertent, a financial or published sanction may not always be appropriate depending on the facts of the case and the aggravating and mitigating factors considered.

| Complaint  | Starting point  |
|--|---|
| Carrying out probate work without authorisation under the Probate Regulations  | Exclusion and financial penalty of £11,500  |
| Failure by the Accredited Probate firm to ensure that individuals conducting or controlling the conduct of probate work are Authorised Individuals under the Probate Regulations     | Severe reprimand and a financial penalty of £6,350 or 1.5 x probate fee   |
| Failure by a Accredited Probate firm to ensure that it has at all times a Head of Legal Practice and a Head of Finance and Administration who are approved in that capacity by ICAEW | Withdrawal of accreditation and a financial penalty of £5,000   |
| Failure by a Accredited Probate firm to ensure that at all times any non-authorised persons holding material interests in the firm are approved in that capacity by ICAEW            | Severe Reprimand and withdrawal of accreditation and a financial penalty of £11,500   |
| Breach by the Head of Legal Practice or Head of Finance and Administration of their duties under the Probate Regulations and the Legal Services Act 2007                             | <ul style="list-style-type: none"> <li>a Disqualification and a financial penalty of £5,000</li> <li>b Severe Reprimand and a financial penalty of £3,000</li> <li>c Reprimand and a financial penalty of £1,000</li> </ul>   |
| Failure by the Accredited Probate firm to comply with the requirements of the Probate Regulations  | <ul style="list-style-type: none"> <li>a Severe reprimand and a financial penalty of £5,750. Consider order of waiver or return of related remuneration or commission.</li> <li>b Severe reprimand and a financial penalty of £3,000. Consider order of waiver or return of related remuneration or commission.</li> <li>c Reprimand and a financial penalty of £1,000</li> </ul> |
| Probate work of a defective nature   | <ul style="list-style-type: none"> <li>i Seriously defective nature – Severe reprimand and financial penalty of £5,000</li> <li>ii Less serious nature – Reprimand and financial penalty of £2,000</li> </ul>   |
| Acts of dishonesty, criminal convictions, adverse findings by regulatory and other bodies where the underlying conduct involves dishonesty   | Exclusion and withdrawal of accreditation   |
| Failings/errors in administering the estate  | <ul style="list-style-type: none"> <li>i Serious – Severe reprimand and financial penalty of £6,600</li> <li>ii Minor – Reprimand and financial penalty of £2,000</li> </ul>  |
| Delays in progressing the administration of the estate   | <ul style="list-style-type: none"> <li>i Serious – Severe reprimand and financial penalty of £5,000</li> <li>ii Minor – Reprimand and financial penalty of £2,500</li> </ul>  |

Breach of undertaking

**Individual**

**Individual**

- a Exclusion
- b Severe reprimand and a financial penalty of £5,500
- c Reprimand and a financial penalty of £3,000

**Firm**

**Firm**

- a Severe reprimand and a financial penalty of £10,500
- b Severe reprimand and a financial penalty of £5,500
- c Reprimand and a financial penalty of £3,000

Misappropriation of funds into own account, other estates or third parties

- i Exclusion and licence withdrawal

Drawing unauthorised remuneration  
(1) Not subsequently authorised; (2) Subsequently authorised;

- i Severe reprimand and a financial penalty of fee so drawn or £10,000 whichever is greater
- ii Severe reprimand and a financial penalty of 50% of fee so drawn

Refusing/failing to cooperate with or accept a QAD visit

Severe reprimand and a financial penalty of £6,350 (with £6,350 as a multiplier for each principal in the firm)

Failure to rectify key issues identified in the QAD report

Severe reprimand and a financial penalty of £5,750

Failure to comply with restrictions or conditions on authorisation or any other decision or order of the Probate Committee.

**Individual**

- i Deliberate Exclusion
- ii Reckless/severe negligence Severe reprimand and financial penalty of £6,350
- iii Inadvertent Reprimand and financial penalty of £3,450

**Firm**

**Firm**

- i Deliberate Severe reprimand and a financial penalty of £12,000
- ii Reckless/serious negligence Severe reprimand and a financial penalty of £6,350
- iii Inadvertent Reprimand and a financial penalty of £3,450

**+ Aggravating factors**

Acting for multiple clients without authorisation  
Repeated course of conduct  
The conduct was dishonest or reckless or intentional

**- Mitigating factors**

Self-reporting, acceptance of conduct issues and prompt voluntary and immediate rectification  
Self-reporting and prompt voluntary and immediate repayment of (unauthorised) fees



Concealment of wrongdoing  
The conduct has caused or is likely to cause significant financial loss to the estate or a third party  
Vulnerable client/abuse of position

No financial loss or loss reimbursed  
Steps taken to put matters right  
Isolated failure  
Age of issues under consideration in respect of less serious matters where there are no aggravating behaviours  
Personal mitigation: ill health, financial circumstances, good standing  
Up to date regulatory or monitoring information suggesting issues have been addressed

**The starting point is not a tariff**

## 20 Misconduct as a company director

The tribunal works through the questions on page 11 to make its decision on a sanctions order.

### Complaint

**a** Disqualification including by undertaking as company director

i Disqualification 11-15 years

ii Disqualification 6-10 years

iii Disqualification 2-5 years

**b** Misuse of company funds

**c** Issue of post-dated cheques, dishonoured when presented

**d** Approving defective accounts

i Deliberate

ii Reckless or serious negligence

iii Inadvertent

### Starting point

**a**

i Exclusion\*

ii Exclusion\*

iii Exclusion/severe reprimand and a financial penalty of £6,600

**b** Exclusion\*

**c** Exclusion\*

**d**

i Exclusion

ii Severe reprimand and a financial penalty of £6,600

iii Reprimand and a financial penalty of £2,650

### + Aggravating factors

Misuse of company funds deliberate/for personal gain

Nature of conduct rendering member unfit to be concerned in the management of the company

Carrying on business with intent to defraud creditors

Making fraudulent preferences

Amount of deficiency of the insolvent company

Systematic failure to submit returns

Conduct during the insolvency, eg, giving false explanations, concealment of assets

Length of disqualification imposed by the court

### - Mitigating factors

Length of disqualification

Existence of dominant other director or proprietor of company

Periods of disqualification are divided into three levels:

1. Disqualification for periods over 10 years; reserved for particularly serious cases.
2. The middle level, 6-10 years, is applied to serious cases which do not merit the top level.
3. The lowest level, 2-5 years, is applied if a case is not very serious based on the decision in the case re Sevenoaks Stationers (Retail) Limited.

\* See guidance on page 37.

**The starting point is not a tariff**

## 21 Misconduct as trustee and other positions of trust

The tribunal works through the questions on page 11 to make its decision on a sanctions order.

| <b>Complaint</b>  | <b>Starting point</b>                                       |
|---|---|
| <b>a</b> Misappropriation of funds from trust or employer     | <b>a</b> Exclusion*   |
| <b>b</b> Trustee acts contrary to beneficiaries' interests    | <b>b</b> Severe reprimand and a financial penalty of £6,600 |
| <b>c</b> Serious failings/errors in administration of a trust | <b>c</b> Severe reprimand and a financial penalty of £6,600 |
| <b>d</b> Delay/lack of attention as executor                  | <b>d</b> Severe reprimand and a financial penalty of £6,600 |

### + Aggravating factors

Distress caused to beneficiaries over a long period of time.

### - Mitigating factors

Contribution to delay by others or lack of attention.  
Errors corrected.  
No cost to estate/trust.

\* See guidance on page 37.

**The starting point is not a tariff**

## **22 Guidance to disciplinary tribunals – financial penalty and/or reprimand or severe reprimand**

### **22.1 Financial Penalties**

Where a financial penalty is considered by a tribunal to be appropriate, the first consideration will be seriousness of the misconduct and aggravating and mitigating factors. The second consideration will be the circumstances of the defendant and their means to pay a financial penalty. There are a number of specific matters which influence general approach and will be taken into account by a tribunal when deciding on the level of financial penalty:

- The extent to which the conduct has fallen below the required standard.
- The existence and amount of any economic gain resulting from the conduct.
- If the defendant is a corporate entity, all aspects of means to pay are relevant including profitability and liquidity.
- If no, or inadequate, information is produced to demonstrate financial circumstances, a tribunal can assume the defendant can pay whatever financial penalty is ordered.
- If a financial penalty is imposed with an order for exclusion and a request is made for time to pay, a tribunal can direct that the financial penalty be paid by instalments. Ideally an instalment plan should not extend beyond 12 months.

### **22.2 Reprimand or severe reprimand**

A reprimand is equated by some other regulatory bodies to a warning or a ticking off (Brian Harris, Disciplinary and Regulatory Proceedings 2013). A severe reprimand is viewed very much as a final warning.

The GMC (Indicative Sanctions Guidance) suggests that if fitness to practice is found not to be impaired, a warning may be given. The following are relevant considerations when deciding whether to give a warning:

- evidence that behaviour would not have caused direct or indirect harm;
- insight into failings;
- isolated incident that was not deliberate;
- genuine expression of regret/apologies;
- evidence of duress;
- previous good record;
- no repetition of behaviour since incident;
- rehabilitative/corrective steps taken; and
- relevant and appropriate references.

Equally, the absence of such considerations may influence a decision to impose a severe reprimand or exclusion.

## 23 Guidance to disciplinary tribunals – withdrawal of practising certificates

In addition to penalty, tribunals may specify as part of its order, the time for which a member should remain without a practising certificate.

### 23.1 Practising certificates

The Disciplinary Bye-laws give tribunals the power to order:

- 22.3 b that his practising certificate be withdrawn either permanently or for a specified period
- 22.3 e that he be ineligible for a practising certificate, either permanently or for a specified period.

The Learning and Professional Development Board has responsibility for deciding whether or not a member should be given a practising certificate. In reaching their decision on an application where a practising certificate has been withdrawn, the board would find it helpful to have the minimum period for withdrawal specified. If a practising certificate is withdrawn for less than four years (unless the tribunal orders that the member be ineligible), it will be returned when a member signs a declaration that he has maintained competence in his area of practice, has PII cover and that he understands ICAEW's ethical code, in particular Fundamental Principle 3. If a practising certificate is withdrawn for more than four years, a member will have to satisfy the Board as to his competence before it can be returned.

If the tribunal withdraws a practising certificate for less than four years and are of the view that the member's competence should also be re-assessed before a practising certificate is issued, they should order that the member be ineligible for the same period fixed for withdrawal.

## 24 Guidance on exclusion

A tribunal does not have power under the Disciplinary Bye-laws to make an order for exclusion for a specified period. Disciplinary Bye-law 22(8) provides that where a member is excluded, the order may include a **recommendation** that no application for his readmission be entertained before the end of a specified period.

In most cases, a recommendation of a minimum term will dissuade a defendant from making an application for readmission too soon, and will also assist the Investigation Readmissions Sub-Committee if an application for readmission is made. However, in the most serious cases, where the tribunal believes that the nature and circumstances of the offence might make it difficult for the Readmissions Sub-Committee to approve any future application for readmission, the tribunal should consider carefully whether it should make any recommendation as such a period may set an unrealistic expectation for a defendant as to whether or when he or she might be readmitted. If the tribunal does not make a recommendation as to a minimum period of exclusion, the tribunal should make it clear that, save in the most exceptional circumstances, the defendant is unlikely to be readmitted.

Where a recommendation is given for a minimum period, the tribunal should take care to make it clear to the defendant, in announcing the order, and in the written record of the decision, that an application for readmission after the specified period will not necessarily be approved by the Investigations Readmissions Sub-Committee and that the Sub-Committee will consider all of the merits of the application, including, in particular, what steps the defendant has taken by way of rehabilitation during the period of exclusion. If it considers it appropriate to make a recommendation of a minimum period of exclusion, the tribunal should use the following starting points:

| <b>Complaint</b>  | <b>Recommended period/no application for readmission</b> |
|---|--|
| Dishonesty (whether or not prosecuted and whether or not followed by an immediate custodial sentence) | Ten years  |
| Criminal offence followed by an immediate custodial sentence  | Five years   |
| Other exclusion orders  | Two years  |

Where an order for exclusion is made on a complaint that a member has been disqualified from acting as a company director, any period of exclusion recommended should match the length of disqualification. In all cases, a tribunal will take account of the date of the disqualification and the expiration of the period of disqualification.

A tribunal does have the power to impose more than one penalty for the same offence. A financial penalty may be imposed in addition to an order for exclusion in appropriate circumstances, for example, where the defendant has clearly benefited financially as a result of the misconduct.

A financial penalty with exclusion will only be appropriate in the most exceptional cases where the misconduct is very serious so that in addition to loss of membership a financial penalty is necessary. In this narrow context a financial penalty is part of the punishment which in turn should be a deterrent. Before ordering a financial penalty with exclusion, a tribunal will need to consider not only whether a member has benefited financially from the wrong doing but whether he or she has the means to pay not only at the time of the hearing but following loss of membership. Where there have been criminal proceedings, a tribunal should enquire as to whether there have been confiscation and compensation orders made.

## 25 Publicity

When a tribunal makes an adverse finding and order, the record of its decision will be published in such manner as it thinks fit. This means there will be publicity in all cases where a finding and order are made (Disciplinary Bye-law 35(1)).

Where a tribunal dismisses a complaint, a record of that decision will be published only if the member requests (Disciplinary Bye-law 35(2)).

We publish details from the record of decision at [icaew.com/publichearings](http://icaew.com/publichearings). We send this information to *economia*, ICAEW's member magazine. It is a matter of editorial discretion whether case details are actually published.

Unless a tribunal directs otherwise, a record of decision includes the name of the defendant and describes the finding and order or orders (if any) made against them. There is a power available to the tribunal to direct the omission of the defendant's name (Disciplinary Bye-law 35(3)). The discretion not to publish the name of a defendant is rarely exercised.

There are a number of reasons why the name of the defendant will normally be included, namely:

- ICAEW members should be aware of the decision of the disciplinary tribunal;
- it is desirable that the public should have confidence in the disciplinary procedures employed by ICAEW; and
- such confidence is best promoted by openness in respect of the findings and orders made by disciplinary tribunals.

Although any application to omit the defendant's name from publicity must be considered on its merits, in fact such orders are rarely made by the tribunal. By reference to the few cases where no publicity has been ordered, it is possible to identify features which influenced the decision to treat them as exceptional, in particular:

- the conduct in question was not serious misconduct; and
- there may have been an adverse impact on innocent third parties; or
- the effect of publication on the defendant himself would have had an adverse impact on his health or safety such that publication would have been unduly harsh.

These features will also be relevant to consideration of whether a hearing should be held in private. But where a hearing or part of a hearing is held in private, it will not automatically follow that the defendant's name will not be published. This will always be considered as a separate matter by the tribunal if a request is made by a defendant for his name not to be published.



## 26 Disciplinary Bye-law 22

### Powers of tribunal

- 22.1 If the tribunal appointed to hear a formal complaint is of the opinion that the complaint has been proved in whole or in part, it shall make a finding to that effect; but if it is not of that opinion, it shall dismiss the complaint.
- 22.2 If the tribunal finds that the formal complaint has been proved in whole or in part, it may (unless it is of the opinion that in all the circumstances it is inappropriate to do so) make against the defendant such one or more of the orders available against him under the following provisions of these bye-laws, namely:
- a paragraph 3, 4, 5, 6 or 7 of this bye-law, as the case may be and
  - b bye-laws 23 (waiver etc. of fees), 24 (remedial action) and 24A (expenses), as it considers appropriate, having regard to the past disciplinary record, if any, of the defendant, the tribunal's views as to the nature and seriousness of the formal complaint (so far as proved), and any other circumstances which the tribunal considers relevant.
- 22.3 If the defendant is a member, the orders available against him are:
- a that he be excluded from membership
  - b that his practising certificate be withdrawn either permanently or for a specified period
  - c that any insolvency licence held by him be withdrawn
  - d that he be ineligible for an insolvency licence
  - e that he be ineligible for a practising certificate, either permanently or for a specified period
  - f that he be severely reprimanded
  - g that he be reprimanded
  - h that he be fined a specified sum.
- 22.4 If the defendant is a member firm, the orders available against it are:
- a that it be prohibited from using the description 'chartered accountants' for a specified period
  - b that it be severely reprimanded
  - c that it be reprimanded
  - d that it be fined a specified sum.
- 22.5 If the defendant is an authorised firm, the orders available against it are:
- a that it shall cease to be authorised by ICAEW to carry on exempt regulated services under the Financial Services and Markets Act 2000
  - b that it be severely reprimanded
  - c that it be reprimanded
  - d that it be fined a specified sum.
- 22.6 If the defendant is a registered auditor, the orders available against it are:
- a that its registration granted at the instance of ICAEW under the Companies Act 1989 be withdrawn
  - b that it be severely reprimanded
  - c that it be reprimanded
  - d that it be fined a specified sum.

- 22.7 If the defendant is a provisional member, the orders available against him are:
- a that he be declared unfit to become a member
  - b that he cease to be a provisional member and be ineligible for re-registration as a provisional member for a specified period not exceeding two years
  - c that the registration of his training contract be suspended for a period not exceeding two years
  - d that for a specified period not exceeding two years he be ineligible to sit for such one or more of ICAEW's examinations as may be specified or for any specified part of any of those examinations
  - e that he be disqualified from such one or more of ICAEW's examinations as may be specified or from any specified part of any of those examinations, not being an examination or part the result of which was duly notified to him by ICAEW before the date of the order
  - f that he be severely reprimanded
  - g that he be reprimanded.
- 22.8 An order under this bye-law may include such terms and conditions (if any) as the tribunal considers appropriate including, in the case of an order for exclusion from membership made against a member, a recommendation that no application for his readmission be entertained before the end of a specified period.
- 22.9 An order under this bye-law against a member, member firm or regulated firm may include a direction requiring him (at his own expense) to obtain advice from a specified source and to implement the advice obtained.
- 22.10 In this bye-law 'specified', in relation to any order or direction under this bye-law, means specified in the order or direction.

## 27 Table of disciplinary orders – powers of tribunals

|  |   |
|--|---|
| Complaint relates to conduct before 19 December 1990                   | Exclusion<br>Censure<br>Reprimand<br>Admonishment<br>Financial penalty<br>limited to £1,000 Costs |
| Complaint relates to conduct from 19 December 1990 to 18 December 1991 | Exclusion<br>Censure<br>Reprimand<br>Admonishment<br>Financial penalty<br>unlimited Costs         |
| Complaint relates to conduct from 19 December 1991                     | Exclusion<br>Severe reprimand<br>Reprimand<br>Financial penalty<br>unlimited Costs                |

| Date of PC allowance | Bye-law   | Change  |
|----------------------|---|---|
| 19 December 1990     | Bye-law 83(a)(A)(x)   | £1,000 limit on financial penalty changed to unlimited  |
| 19 December 1990     | Bye-law 88(a)   | £1,000 limit on costs changed to unlimited  |
| 19 December 1991     | Bye-law 83(a)(A)(vi),<br>Bye-law 83(a)(A)(vii),<br>Bye-law 83(a)(A)(ix) | Removal of censure and admonishment substituted by severe reprimand, reprimand (members & students) |

Since 8 February 1994, ICAEW has been able to discipline member firms as well as members.

## 28 Unpublicised cautions

Unpublicised cautions are only available to the IC.

When the IC finds that there is a prima facie case for disciplinary action it may, if it considers it appropriate in all the circumstances, offer to the member as a penalty, an unpublicised caution. If the offer is not accepted, and the IC is not prepared to alter its finding, the complaint will be preferred to the DC. The DC does not have power to impose an unpublicised caution.

The caution is intended to be a more serious step than 'no further action' but less serious than a consent order or referral to the DC. The IC may include in the order a requirement to pay a sum towards costs. This will be a figure for the actual costs incurred up to a maximum of £2,500.

A caution will constitute part of a member's record and result in cessation of eligibility to be a member of council. ICAEW will not pass details of the caution to the press for publication but it will be entitled to inform a complainant, other regulators and those making a specific request.

The procedure and form of notice relating to unpublicised cautions is set out in Disciplinary By-law 16.1 a and Investigation Committee Regulations 19, 20 and 21.

## Professional indemnity insurance regulations and guidance

Effective from [date TBC] .

Table listing all amendments made since originally issued in 1998.

### Introduction

#### Changes to the professional indemnity insurance regulations

The PII regulations were originally issued in August 1991. Since then, a number of changes have been made which have been incorporated into this latest version. A schedule of the changes made since the regulations were originally issued is available.

Guidance is included with the regulations, and additional guidance is in section 6. The regulations are in a grey frame to distinguish them from the guidance. Where defined terms are used in the regulations they are in dashed underline. The guidance is shown in plain type throughout. Within the limits of regulations which have a legal standing, the wording is in plain English.

#### Members and others who need to comply with the regulations

Professional indemnity insurance is compulsory for all members of ICAEW who have a practising certificate and are engaged in public practice, regardless of the amount of practice income.

Council's statement on public practice is at [icaew.com/regulations](http://icaew.com/regulations). This sets out a definition of public practice. If a member remains in doubt as to whether his activities amount to engaging in public practice, he should contact the Ethics Advisory Services on +44 (0)1908 248 250 and give all the facts of his circumstances.

Similarly, the regulations for audit, local audit, investment business, legal services and insolvency require those so regulated to meet the requirements of the PII regulations.

#### Responsibility of members

The PII regulations apply to individual members but in practical terms professional indemnity insurance usually covers their practising entity - for example their partnership or their sole practice. For those members in practice with non-members these PII regulations effectively apply to the entire mixed practice. For example, in a mixed partnership, the principle of joint and several liability will make the member partner jointly liable for the actions of his non-member partners. Therefore the insurance should cover the whole practice, not just the member partner.

Members who are responsible for making their own or their firm's professional indemnity insurance arrangements should be sure that those arrangements comply with the PII regulations. Many members are in firms and the professional indemnity insurance arrangements are handled by someone else on their behalf. This does not affect the responsibility of individual members to ensure they meet the PII regulations.

#### Level of insurance cover

Section 3 details the requirements for the minimum level of cover you must obtain. When deciding on how to achieve that level of cover you should consider the following:

- professional indemnity insurance - your broker will be able to help you to obtain cover; and
- the amount of excess to be borne by the insured - this level should only be decided after consideration of both the firm's and the principals' resources, including the borrowing capacity of each. Consider the past incidence of claims and your ability to meet multiple losses.

This is only the minimum amount of cover and you should always consider if this is adequate for your firm.

### **Inability to obtain insurance**

If you cannot obtain cover which satisfies the PII regulations you may be able to enter the assigned risks pool for a period of time until cover is obtained in the market. Section 4 provides details.

### **Who can provide insurance**

You must obtain the minimum level of cover, subject to any allowable excess, from a participating insurer and appendix A explains who these are.

### **Certificate of compliance**

Each year ICAEW requires confirmation of compliance with the PII regulations. All those covered by these regulations are asked to complete and return a certificate of compliance, which is part of the Practice Assurance annual return. ICAEW may check with brokers or insurers that the information is correct.

For many members the confirmation will be sent to their firm, and will cover all the members who are principals in the firm.

### **Further advice**

It is possible that the minimum level of cover, while complying with the PII regulations, will not be high enough to ensure that all claims made against you will be covered. You should consider carefully the level of cover which is right for you or your firm. To assist you in this, section 6 includes answers to the queries which are most often raised by members and some general guidance notes.

Your broker will be able to help you if you have any further queries. If you would like to talk to someone at ICAEW please telephone:

- PII helpline +44 (0)1908 546 336

Other useful telephone numbers are:

- Advisory Services +44 (0)1908 248 250
- Assigned risk pool manager +44 (0)1603 207 030\*

\*Members should refer to section 4 before contacting the assigned risk pool manager.

### **Non-practising members**

Some members hold a practising certificate even though they are not engaged in public practice. There is no requirement for these members to have professional indemnity insurance. Such members are required to confirm annually that they are still not practising. If any practice activity is contemplated, then such members should obtain professional indemnity insurance, in accordance with these regulations, before the work commences. The Members' Registrar should also be informed that practice has commenced, together with the name of the firm that the member intends to practise under. The special situation of employees who hold practising certificates under the Audit Regulations and Guidance or Insolvency Licensing Regulations is dealt with at regulation 5.3.

# 1 General

## Authority and commencement

1.1. These regulations are issued by the authority of Council.

1.2. The regulations come into effect on 1 November 1998.

## Interpretation

1.3. Words and expressions have the meaning given by the Interpretation Act 1978 unless defined in these regulations. The definitions in these regulations take precedence.

1.4. In these regulations words importing the singular number include the plural number and vice versa. Words importing the neuter gender include both the masculine and feminine. Headings do not affect the interpretation of these regulations. The regulations will be governed by, and interpreted according to, English law.

1.5. Any reference to legislation, bye-laws, regulations, schemes or other documents will apply to any re-enactment, re-issue or amendment.

## Definition of terms

1.6. In these regulations the following words have the following meanings.

|                                |   |
|--------------------------------|---|
| accredited legal services firm | a sole practitioner, a partnership or a body corporate accredited to conduct authorised legal services work and/or authorised probate work under <i>ICAEW's</i> Legal Services Regulations.   |
| assigned risks pool            | The arrangements by which firms who are otherwise unable to obtain professional indemnity insurance may do so for a limited period and to which all participating insurers subscribe.   |
| assigned risks pool manager    | The broking firm which advises ICAEW and which manages the assigned risks pool.   |
| authorised firm                | A sole practitioner, a partnership or a body corporate authorised under ICAEW's Investment Business Regulations.  |
| authorised insurer             | An insurer authorised by the Prudential Regulation Authority (or any relevant successor body) in the United Kingdom, or by the Central Bank of Ireland (or any relevant successor body) in the Republic of Ireland, to carry on general insurance business in the United Kingdom or the Republic of Ireland respectively. |
| Bye-laws                       | The Bye-laws of ICAEW.  |
| certificate of compliance      | The certificate used by the Committee to monitor compliance with these regulations.   |
| Committee                      | The Professional Indemnity Insurance Committee of ICAEW.  |
| Council                        | The Council of ICAEW.   |
| firm                           | <ol style="list-style-type: none"><li>a member engaged in public practice as a sole practitioner or with others in a partnership or a body corporate;</li><li>an authorised firm;</li></ol>   |



|                                     |   |
|-------------------------------------|---|
|                                     | <ul style="list-style-type: none"> <li>c. a licensed firm;</li> <li>d. a registered auditor;</li> <li>e. a local auditor;</li> <li>f. an insolvency practitioner;</li> <li>g. an insolvency affiliate; or</li> <li>h. an accredited legal services firm.</li> </ul>   |
| gross fee income                    | <p>All income in respect of work carried on in public practice, including:</p> <ul style="list-style-type: none"> <li>a. income for personal appointments in respect of work covered by professional indemnity insurance;</li> <li>b. income from third parties as commissions or brokerage (whether or not offset against charges to a client) and;</li> <li>c. income received in respect of work sub-contracted to others.</li> </ul> <p>It does not include:</p> <ul style="list-style-type: none"> <li>a. the recovery of disbursements and expenses which do not form part of the chargeable fee for professional services rendered;</li> <li>b. value added tax.</li> </ul> <p>Guidance: Gross fee income must include the income in respect of work which the firm has subcontracted to others. This is unless the work is clearly shown as a disbursement in the invoice issued for the relevant work and the client knows that the firm is not taking professional responsibility for the work.</p> |
| insolvency affiliate                | An individual granted affiliate status under ICAEW 's Insolvency Licensing Regulations.   |
| insolvency practitioner             | An individual licensed under ICAEW's Insolvency Licensing Regulations.  |
| ICAEW                               | The Institute of Chartered Accountants in England and Wales.  |
| Institutes                          | ICAEW, the Institute of Chartered Accountants of Scotland and the Institute of Chartered Accountants in Ireland.  |
| Investigation and Discipline Scheme | The scheme, or any predecessor or successor scheme, established under clause 1b(vii A) or clause 1b(viii A) of the Supplemental Royal Charter of 21 December 1948.  |
| Joint Advisory Panel                | The Joint Advisory Panel appointed under regulation 5.9.  |
| licensed firm                       | a sole practitioner, a partnership or a body corporate licensed under ICAEW 's Designated Professional Body arrangements.   |
| local auditor                       | A sole practitioner, a partnership or a body corporate registered under ICAEW's Local Audit Regulations.  |
| member                              | A member of ICAEW.  |
| minimum limit of indemnity          | The amount of insurance required each year under these regulations.   |
| participating insurer               | An authorised insurer who has agreed to the terms and conditions described in appendix A of these regulations.  |

|                        |   |
|------------------------|---|
| principal              | A sole practitioner, partner, director or member of a limited liability partnership, of a firm.   |
| practising certificate | The certificate issued to a member by ICAEW authorising the member to engage in public practice.  |
| qualifying insurance   | <p>Insurance which:</p> <ol style="list-style-type: none"> <li>a. is underwritten by participating insurers (see appendix A);</li> <li>b. includes retroactive cover for liabilities arising from work carried out in the previous six years, except for claims or potential claims known about at the time the insurance was first taken out; and</li> <li>c. is underwritten in terms of the minimum wording approved by ICAEW.</li> </ol> <p>Guidance: A policy which does not use the exact approved minimum wording must contain a difference in conditions endorsement in a form approved by ICAEW. The required cover may be provided by more than one insurance policy. Retroactive cover may be for a shorter period than six years if the member has only just started in practice. The guidance notes in section 6 explain this further.</p> |
| registered auditor     | A sole practitioner, a partnership or a body corporate registered under ICAEW's Audit Regulations.  |
| regulations            | These regulations as modified or amended.   |
| secretariat            | The people employed by ICAEW to carry out its functions.  |
| United Kingdom         | Includes the Channel Islands and the Isle of Man.   |

## 2 Scope and monitoring

This section explains who needs to take out professional indemnity insurance and how this is monitored. If you are about to start practising you should contact ICAEW, which will be able to provide any further information you need.

### Scope

2.1. These regulations apply to:

- a. a member holding a practising certificate and resident in the United Kingdom or the Republic of Ireland;
- b. a member, wherever resident, in public practice in the United Kingdom or the Republic of Ireland;
- c. an authorised firm;
- d. a licensed firm;
- e. a registered auditor;
- f. a local auditor;
- g. an insolvency practitioner;
- h. an insolvency affiliate; and
- i. an accredited legal services firm

The regulations governing post-qualification education and training require a member who has a practising certificate to meet the requirements of these PII regulations. This is regardless of the form of practice (that is as a sole practitioner or as a principal in a partnership or a body corporate) or the amount of practice income. Similarly those regulated by the regulations for audit, local audit, investment business, legal services or insolvency have to meet the requirements of the PII regulations.

Members who hold a practising certificate, but who do not engage in public practice, do not need to have professional indemnity insurance.

A practising certificate is evidence of being in public practice but these PII regulations only apply to those members who are also resident, or in practice, in the United Kingdom or the Republic of Ireland. Other members who hold a practising certificate but who are resident elsewhere do not need insurance that meets the requirements of these regulations. If a member is in practice in another country then some form of insurance is recommended, but it is not mandatory unless required under the laws of the relevant jurisdiction.

However, members or firms that are authorised or licensed under ICAEW's audit, local audit, investment business, legal services or insolvency regulations must comply with the requirements of the PII regulations, even if they are located outside the United Kingdom or the Republic of Ireland.

- 2.2. These regulations also apply to a member for a period of two years after ceasing to hold a practising certificate.
- 2.3. Those members who do not make their own professional indemnity insurance arrangements should ensure that the arrangements of their firm comply with these regulations.

All members with practising certificates should satisfy themselves that they or their firm have suitable arrangements in place to comply with these regulations.

- 2.4. In deciding whether these regulations have been complied with the Committee will take into account any guidance issued from time-to-time, by or on behalf of Council. In the event of any actual or apparent conflict between these regulations and such guidance, the wording of these regulations will apply.

### Monitoring

- 2.5. Every firm is required to return a certificate of compliance with the regulations to ICAEW each year.
- 2.6. The Committee can require such further information and evidence as it may reasonably need from members, firms and participating insurers.

ICAEW sends a reminder letter and blank certificate (which is part of the practice assurance annual return) to all those covered by these regulations before the date on which the insurance is due for renewal. Individual principals in a firm will not receive separate certificates unless they are also in another firm on their own account. Members who hold a practising certificate but who are not engaged in public practice will not receive a certificate but will be required to declare annually that they are not engaged in public practice.

As soon as you have negotiated your new cover you should complete the certificate and return it to ICAEW. It is important that you comply with this requirement. If you have any problems completing the certificate, or if you experience any delay in renewing your cover, you will receive reminders from ICAEW and you should contact the practice insurance section to explain the reasons for the delay.

If you fail to complete the certificate, or to explain to ICAEW why you are unable to do so, the consequences may be serious. You may be in danger of losing your registered or local auditor status, investment business authorisation, legal services accreditation and/or insolvency

practitioner status. Your eligibility to hold a practising certificate could also be in danger and you may also be liable to disciplinary action.

### Cessation of practice

- 2.7. A member who ceases to be engaged in public practice in the United Kingdom or the Republic of Ireland must use his best endeavours to ensure that he is covered by arrangements which satisfy these regulations for at least two years from the date he ceased in public practice. The terms and extent of any cover must be equivalent to that provided by his firm's previous qualifying insurance.
- 2.8. When a firm ceases the members in practice in that firm at the date of cessation shall ensure that there is in place appropriate cover to meet requirements of regulation 2.7 for at least 24 months following the cessation of the practice. Thereafter the members in practice in that firm shall use their best endeavours to ensure cover is in place to meet requirements of regulation 2.7 for a further four years. The terms and extent of the cover must be equivalent to that provided by the firm's previous qualifying insurance.

It is extremely important that you secure 'run-off' cover for your previous practice after you cease to practise. This is to cover you for claims for work done while in practice but arising after the practice ceased. Such cover is a requirement of these regulations and it is in your own interests, whether or not you think you might have a claim in future. If your practice has been taken over by someone else this cover may be effected by the new practice or by you.

You should maintain this cover for at least two years and at the end of that period you should carefully consider whether you need to continue cover. This will depend on whether you have had, or expect to have, any claims since you ceased practice. It is ICAEW's recommendation that you should maintain run-off cover for at least six years.

A member who keeps a practising certificate after ceasing in public practice is required by these regulations to have run-off cover in accordance with regulation 2.7.

There is further guidance in section 6 about what to do in the case of other practice changes.

### 3 Terms of cover

This section explains ICAEW's scheme of insurance and the level of cover you should have in place. Professional indemnity insurance works on a claims made basis. This means that the insurance will provide cover for claims first made or circumstances arising and notified to the insurers during the term of the current policy. This is irrespective of when the work concerned was carried out. It is therefore important that insurance remains in force to provide protection against any claims which may arise in the future for work done in the past.

It is most important that you check carefully the wording of your policy. This is so you understand:

- exactly how the insurance works;
- what is covered;
- on what terms; and
- subject to what terms, conditions and exclusions.

Remember that the terms of any additional policies that you obtain for levels of cover over and above the minimum levels required by these regulations may not necessarily be the same as the terms of the qualifying insurance offered by participating insurers.

### Ability to meet claims

- 3.1. A firm must:
- a. take reasonable steps to meet claims arising from being in public practice; and

- b. arrange qualifying insurance which meets the limits in regulations 3.2 to 3.5.

As well as taking reasonable steps to meet any claims that do arise, a priority is to limit the risk of claims against you. The guidance in section 6 gives some examples of the matters you should consider. Regulation 2.1 details who is subject to these regulations.

### Qualifying insurance

Qualifying insurance is a special type of insurance for those in public practice. This insurance can only be obtained from certain insurers who are known as 'participating insurers' for the purpose of these regulations. Further details of these insurers are in appendix A.

All participating insurers have agreed to provide cover under terms which match those of ICAEW's approved minimum wording. Those members taking out cover with a participating insurer can be certain that their policy meets the minimum requirements. These terms may be amended by insurers in an individual policy to include extensions of cover beyond the requirement of the approved minimum wording.

As an extra safeguard, ICAEW has asked those participating insurers which use a slightly different wording to include a 'difference in conditions' endorsement in their wording. In the event of a dispute between a policy holder and his insurer, the endorsement will ensure that ICAEW's minimum wording overrides that of the insurer where the insurer's wording is less favourable.

A current policy will primarily provide cover for past acts, whether or not cover was in place at the time of the act. Sometimes insurers may put a 'retroactive date' on the policy, limiting the period of cover for past acts. The date must be at least six years before the date of the current policy, or when the practice started if sooner.

The current text of the minimum policy wording and the difference in conditions endorsement may be obtained from ICAEW at [icaew.com/pii](http://icaew.com/pii).

### Minimum limit of indemnity

- 3.2. Except where regulation 3.3 applies, and subject to regulations 3.4 or 3.5, the minimum limit of indemnity must be £1.5 million for any one claim and in total.

This means that the insurance must be for at least £1.5 million for a single claim or a number of claims totalling £1.5 million. You may be able to obtain cover of £1.5 million for each and every claim, regardless of the number of claims made. You must take out cover up to the minimum limit of £1.5 million with a participating insurer. Above that limit, cover does not have to be with a participating insurer, nor does it need to comply with the minimum approved wording.

Firms that are authorised to conduct insurance mediation activities and legal services work may need to obtain additional cover as set out in regulations 3.4 and 3.5.

- 3.3. Subject to regulations 3.4 and 3.5, if the gross fee income of a firm is less than £600,000, the minimum limit of indemnity for any one claim and in total must be equal to two and a half times its gross fee income, with a minimum of £100,000.

Firms with a gross fee income of less than £600,000 are not required to hold cover at the level prescribed in regulation 3.2. Nevertheless, firms with a gross fee income of less than £600,000 should always consider if cover below £1.5 million is sufficient for their situation.

Firms that are authorised to conduct insurance mediation activities and legal services may need to obtain additional cover as set out in regulations 3.4 and 3.5.

3.4. If a firm is a licensed firm or a firm authorised by the Financial Conduct Authority (or any relevant successor body) to conduct insurance mediation activities, the minimum limit of indemnity required for those activities must be equivalent to at least €1,120,200 for any one claim and €1,680,300 in total. This may form part of, or be in addition to, the minimum limit of indemnity required for the firm's other activities under regulations 3.2 or 3.3.

Firms:

- licensed by ICAEW under the Designated Professional Body arrangements; or
- authorised by the Financial Conduct Authority (or any relevant successor body)

must comply with the insurance requirements specified in the EU's Insurance Mediation Directive (IMD). The IMD only applies if firms undertake regulated activities relating to contracts of insurance covered by the Directive. The Designated Professional Body Handbook gives further information (see regulation 2.07m and note 3 at the end of Part 2 of the Handbook).

Such firms must hold a minimum level of PII as set out in regulation 3.4. This may exceed the amounts otherwise required by these regulations. For example, the minimum limit of indemnity required by regulation 3.3 is less than the amounts required by regulation 3.4 and would not be acceptable for a firm which conducts insurance mediation activities.

Some licensed firms will already have PII in excess of the IMD limits. They need take no further action. Other licensed firms may need to increase the sum insured. They can do this by increasing the total sum insured to the IMD limits for all the firm's activities.

Alternatively, it may be possible to get an extension of cover. The licensed firm may have, for example, £500,000 of PII. In this scenario, the firm can increase the sum insured to the IMD limits to cover only claims relating to the insurance mediation activities covered by the IMD.

Licensed firms should discuss with their broker or insurer the need for any changes to the sum insured. The amounts in regulation 3.4 are minimum levels and licensed firms should always consider whether the minimum amount is sufficient for the regulated activities it undertakes.

As licensed firms are unlikely to be able to obtain PII denominated in euros, they need only consider whether the sum insured is the equivalent in sterling to the IMD limits when they renew their cover. There's no need to anticipate future exchange rates and forecast the amount in sterling necessary to exceed the IMD limits throughout the period of the PII policy.

Licensed firms that start negotiations well before the policy renewal date should consider what the exchange rate may be by the renewal date. The exchange rate used in the calculation will be acceptable provided it was current during the one-month period before the renewal date.

Licensed firms should keep a record of their calculations and the source of the exchange rate used.

3.5 If a firm is an accredited legal services firm, the minimum limit of indemnity required for authorised legal services work and/or authorised probate work (ie, probate and estate administration) is £500,000 for any one claim. This may form part of, or be in addition to; the minimum limit of indemnity required for the firm's other activities under regulations 3.2 or 3.3.

Firms that are accredited to conduct legal services work under ICAEW's legal services Regulations must hold, as a minimum, the level of PII set out in regulation 3.5. This may exceed

the amounts required by these regulations in other circumstances. For example, the minimum limit of indemnity required by regulation 3.2 may be an aggregate amount (ie, not per claim) and the amount required by regulation 3.3 may be less than £500,000 (and also not per claim).

Some accredited legal services firms may already have professional indemnity insurance that exceeds the limits set out in regulation 3.5. If they do, and if this insurance is on an 'each and every claim' basis, this will suffice for the purposes of these regulations.

Other accredited legal services firms may need to increase the sum insured. They may do this by increasing the total sum insured for all the firm's activities to meet the requirements of regulation 3.5.

If a firm has PII above £500,000, but this cover is in the aggregate, the policy will either need to be amended to increase cover to an 'each and every claim' basis, or, alternatively, it may be possible to get an extension of cover. The accredited legal services firm may be insured, for example, for an aggregate amount in respect of its other (non-legal services) activities. In this scenario, the firm can increase the sum insured to the limits in regulation 3.5 to cover only claims relating to authorised legal services work and/or authorised probate work (ie, probate and estate administration) as set out in ICAEW's Legal Services Regulations.

Accredited legal services firms should discuss the need for any changes to the sum insured with their broker or insurer to ensure compliance with the requirements of these regulations.

The amounts in regulation 3.5 are minimum levels and accredited legal services firms should always consider whether the minimum amount is sufficient for the activities they undertake.

3.6. Gross fee income should be based on the accounting year of the firm which immediately precedes the start of the policy.

Gross fee income must include the income in respect of work which the firm has subcontracted to others. This is unless the work is clearly shown as a disbursement in the invoice issued for the relevant work and the client knows that the firm is not taking professional responsibility for the work.

The figure of gross fee income should be based on the most recently completed accounting year. If this is your first year in practice, you should give your broker an estimate of your gross fee income. However, if the most recently completed accounts are not for a year or are for a period ending some time previously to the policy renewal date then you may need to estimate the gross fee income figure to use. It is advisable not to decrease the amount of cover from that previously held until a completed set of accounts shows a decrease in gross fee income. This is because although the insurance is on a claims made basis, regardless of when the work was done, claims do arise from previous years and if turnover was greater in the past the possibility of claims may be higher.

3.7. The minimum limit of indemnity can include an aggregate excess provided that the aggregate excess is no more than £30,000 multiplied by the number of principals.

Although there is a minimum amount of insurance needed, part of this can be borne as an excess as in any other form of insurance. However, regulation 3.7 sets a limit to the amount of the excess by reference to the number of principals in the firm.

An insurance policy will usually have a per-claim excess (ie, the firm has to pay the first part of any claim) but, in conjunction with the approved minimum wording of a qualifying insurance policy, the excess amount is an aggregate amount. So, if a firm has paid out an excess on one or more claims, once the total amount of those excess payments have reached a limit of £30,000 multiplied by the number of principals, the firm does not have to pay any further amounts by way of an excess in that policy period.



If a firm has 50 or more principals, the minimum limit of indemnity is reduced to zero and such a firm is not obliged to obtain qualifying insurance, it can make its own insurance arrangements, but must still comply with regulation 3.1a and all other regulations except for regulation 3.1b.

The Committee does have the power (see regulation 5.3) to vary the excess amounts in specific situations. However, the general rule is that the maximum should be £30,000 per principal.

- 3.8. If the Committee is satisfied that a group (however composed) of firms has shown that together they comply with these regulations, it is at the Committee's discretion to allow that group to be treated as a single entity (compound firm) for the purposes of these regulations.

The Committee can treat a 'group' of separate firms as a compound firm. Such a firm will usually comprise a number of associated firms which appoint one of their number to arrange insurance under one policy.

#### **4 Inability to obtain cover**

It is possible, for example if you have had a number of claims, that you may not be able to obtain cover. This section explains the provisions which will help you and what you need to do if you are refused cover in the insurance market with a participating insurer. The assigned risks pool is effectively an insurer of last resort and was set up to ensure that members are almost always able to comply with these regulations whatever their circumstances.

Every participating insurer has agreed to subscribe to the assigned risks pool. This can provide cover in an emergency and for up to two years, although premium levels are considerably higher than charged outside the assigned risks pool. The assigned risks pool manager (see introduction for telephone number) acts as coordinator between firms, participating insurers and ICAEW. If you wish to apply to enter the assigned risks pool you should telephone the assigned risks pool manager who will be able to help you and will provide the documents you need.

If you establish to the satisfaction of the Joint Advisory Panel (regulation 5.10) that you cannot obtain the professional indemnity insurance cover required by these regulations then you are eligible for admission to the assigned risks pool.

#### **Reasons for entering the Assigned Risks Pool**

- 4.1. The Joint Advisory Panel will permit an applicant to be insured in the assigned risks pool if:
- a. the applicant has evidence of declinature from participating insurers in a form satisfactory to the Joint Advisory Panel;
  - b. the applicant is unable to obtain a quotation from any participating insurer other than a quotation which (in the opinion of the Joint Advisory Panel) amounts to constructive declinature. Prima facie evidence of constructive declinature will be:
    1. the quotation of a premium which the applicant is unable to pay within six months from the commencement of the policy; or
    2. the quotation of a premium which has such an effect on the applicant's financial security that it jeopardises its ability to carry on its business.or
  - c. where cover following cessation of public practice (see regulation 2.7 and 2.8) is not available from any participating insurer.

You may apply for entry into the assigned risks pool if you or your firm cannot obtain cover to comply with these regulations from any participating insurer. Declinature and constructive declinature are insurance terms. Declinature means that you have been refused cover.

Constructive declinature means that you have been offered cover but only at a premium which you cannot pay or which, if you did pay it, would put your practice at risk financially. If you wish to plead constructive declinature you must satisfy the Joint Advisory Panel, producing such evidence as the Panel requires that the premium quoted meets one or more of the conditions of regulation 4.1b.

#### Procedure for entering the assigned risks pool

- 4.2. Application for admission into the assigned risks pool must be made to the assigned risks pool manager. Any application must include:
- a. evidence of declinature satisfactory to the Joint Advisory Panel, or
  - b. a declaration by the applicant of the circumstances it considers to be evidence of constructive declinature. The assigned risks pool manager will refer the matter to the Joint Advisory Panel, which will decide whether particular cases constitute constructive declinature and whether the firm can enter the assigned risks pool.

- 4.3. An applicant will be given a short term admission to the assigned risks pool provided the applicant has signed the contract for entry, while other participating insurers are approached or while the Joint Advisory Panel decides whether there has been constructive declinature.

The Joint Advisory Panel has delegated the authority to approve evidence of declinature to the assigned risks pool manager.

It is possible to enter the assigned risks pool on a short term basis if your current insurers have declined to provide renewal terms and have not agreed to an extension of cover. Temporary cover for up to thirty days may be granted in the assigned risks pool and should provide sufficient time for all participating insurers to be approached.

The assigned risks pool manager will explain that anyone attempting to gain entry to the assigned risks pool must approach other participating insurers to seek insurance. For details of participating insurers and how they should be approached you should refer to the assigned risks pool manager.

- 4.4. Before admission to the assigned risks pool the applicant must:
- a. supply the assigned risks pool manager with any information it may reasonably require;
  - b. agree to pay to the assigned risks pool manager within thirty days any required deposit and agree to pay within six months the balance to meet the full premium as eventually assessed;
  - c. agree to submit, at the applicant's own expense, to investigations as required by regulation 4.5; and
  - d. consent to the assigned risks pool manager notifying the Committee of the application for admission to the assigned risks pool and whether or not it was granted.

The cover provided in the assigned risks pool will not include claims made or circumstances reported or known to you before you entered the assigned risks pool. Before entry into the assigned risks pool it is therefore essential to notify existing insurers, before the existing policy expires, of all known claims or circumstances which might give rise to a claim.

- 4.5. Once in the assigned risks pool the person, member or firm must submit, at its own expense, to an investigation by the Committee or its appointed agent and, if the Committee so decides, a further investigation at a later date. A deposit for the costs of the investigation may be required at the Committee's discretion. The investigation will:
- a. determine the reasons why cover could not be obtained; and
  - b. ascertain what steps, if any, should be taken to enable cover to be obtained outside the assigned risks pool.

- 4.6. The Committee will notify the person, member or firm of any action it should take following the investigation. If, as part of the investigation, the Committee considers that the interests of any clients of the person, member or firm, or of the public, may be adversely affected, the Committee will refer the matter to any regulatory, disciplinary or other committee of ICAEW for that committee to take appropriate action.

Before you can enter the assigned risks pool you must sign a contract which requires you to pay the premium determined by the Joint Advisory Panel and have a review of your practice. A significant premium deposit is payable immediately. A final adjustment will be made once your position has been reviewed. You must also pay the cost of the investigation and any follow-up investigation which is necessary.

ICAEW will arrange for an investigation of your firm. This report will be used deciding whether you are in a position to be able to leave the assigned risks pool and, if not, what steps should be taken by you to satisfy insurers. It is also to enable the committee to assess whether it should report any matters for possible regulatory or disciplinary action.

#### **Leaving the assigned risks pool**

- 4.7. The written approval of the Joint Advisory Panel is required before a person, member or firm can remain in the assigned risks pool for more than twenty four consecutive months.
- 4.8. Applications for extensions of time in the assigned risks pool must be made, through the assigned risks pool manager, to the Joint Advisory Panel which has absolute discretion to grant the application for continuation in the assigned risks pool. The decision of the Joint Advisory Panel in respect of the continuation will be final. Any such extension may be granted subject to the requirements of regulation 4.4.
- 4.9. The written approval of the Joint Advisory Panel for a person, member or firm to remain in the assigned risks pool must be submitted to the Committee. If the Committee considers that the interests of any clients of the person, member or firm, or of the public, may be adversely affected by the person, member or firm remaining in the assigned risks pool, the Committee will refer the matter to any regulatory, disciplinary or other committee of ICAEW for that committee to take appropriate action.

It is a requirement that a member who holds a practising certificate must comply with these regulations. A member will therefore lose the right to a practising certificate at the end of the expiry of the maximum two year period (or any extension) allowed in the assigned risks pool if no other arrangements are made to meet the requirement of these regulations.

If a member ceases to be eligible to hold a practising certificate then the bye-laws require that the practising certificate must be returned to ICAEW immediately.

You can leave the assigned risks pool at any time if you obtain cover in the general insurance market. You must normally leave the assigned risks pool after two years and, if it is not possible to obtain cover at the end of those two years, you will no longer be eligible to hold a practising certificate. It may be possible to obtain an extension of time within the assigned risks pool but this

is at the discretion of the Joint Advisory Panel. Further, such an extension must be acceptable to the committee.

It is essential to advise the assigned risks pool manager of any claim or circumstance which might give rise to a claim before you leave the assigned risks pool. It is also essential, when seeking cover outside the assigned risks pool, to make any potential insurer aware of your time in the assigned risks pool, otherwise this could jeopardise your cover and your new insurers might refuse a claim on the grounds of material non-disclosure.

## 5 The committees

### Professional Indemnity Insurance Committee

#### Composition

- 5.1. Council will appoint the Committee, which must consist of at least four members, and its quorum is three.

#### Responsibilities

- 5.2. The Committee is responsible for:
- a. reviewing the qualifying insurance criteria;
  - b. monitoring compliance with these regulations and reporting non-compliance to any regulatory, disciplinary or other committee of ICAEW ;
  - c. deciding the content of the annual certificate of compliance with these regulations (regulation 2.5);
  - d. approving the form and content of the contract for entry into the assigned risks pool;
  - e. ensuring the commissioning of investigations into firms applying to be admitted to the assigned risks pool (regulation 4.5);
  - f. making a referral to any regulatory, disciplinary or other committee of ICAEW for that committee to take appropriate action following an investigation under regulation 4.5;
  - g. designating authorised insurers as participating insurers; and
  - h. granting, at its absolute discretion, an exemption under regulation 5.3.

- 5.3. The Committee may, at its absolute discretion, and in such terms as it decides:
- a. grant an exemption from the requirements of these regulations to a member who is a principal in a practice which is regulated by another professional body and has in place the professional indemnity insurance required by that body;
  - b. waive or relax the requirements of regulation 3.7 (level of excess);
  - c. allow a firm subject to these regulations to combine with others to comply with these regulations;
  - d. waive or relax the requirements of these regulations concerning participating insurers;
  - e. grant an exemption from the requirements of these regulations to a member who is an employee in a firm and who is holding a practising certificate only to meet the requirement of the audit or insolvency regulations and who is not engaged in public practice in another firm or on their own account;

- f. grant an exemption from the requirements of these regulations to a member who holds a practising certificate but who is not engaged in public practice;
- g. grant an exemption from the requirements of regulation 3.1b (arranging qualifying insurance) to an entity or individual if that entity is owned or the individual is employed by an entity that is not subject to these regulations provided that other entity (the owner/employer) has, and agrees to maintain, other appropriate professional indemnity insurance; and
- h. grant an exemption from the requirements of regulation 3.1b (arranging qualifying insurance) to an entity or individual if that entity or individual is resident in a country outside the UK or RoI provided that the entity or individual is primarily in practice outside the UK/RoI and has other appropriate professional indemnity insurance that covers work undertaken in the UK/RoI.

This regulation allows the committee to exempt members and firms from the requirements of particular regulations. These are the only exemptions allowed.

You may be in a firm which is regulated and insured under the requirements of another professional body. ICAEW can advise you if your cover meets the requirements of these regulations and whether you may apply to the committee for an exemption from them.

In exercising its discretion, the committee will take account of whether the cover is at least equivalent to that required by these regulations, and whether the insurer in question is a participating insurer in ICAEW's scheme.

The minimum requirements may include a self insured element so long as it does not exceed the limits in these regulations. The limits are set out in full in regulation 3.7. The committee can vary these in specific situations although the general rule is that the maximum self insured element should be £30,000 per principal.

The committee can permit a group of firms to arrange the insurance required by these regulations jointly. Regulation 3.8 details exactly how this can happen.

The committee can relax the requirements relating to participating insurers.

The Audit Regulations and Guidance allow an employee to be designated as a responsible individual and the Insolvency Regulations allow an employee to hold an insolvency licence. Both sets of regulations require such an employee to hold a practising certificate. However, there is no need for such an employee to have his own professional indemnity insurance.

Some members hold a practising certificate even though not engaged in public practice. There is no need for such members to have their own professional indemnity insurance.

If the individual is also engaged in public practice in another firm or otherwise on his own account, insurance must be obtained to meet the requirements of these regulations.

You may be subject to these regulations but employed or owned by another entity which is not. In this case the committee may exempt you from having 'qualifying insurance' but only if the other entity has other appropriate professional indemnity insurance arrangements in place.

You may also be subject to these regulations but your practice is primarily based outside the UK or RoI. In this case the committee may exempt you from having 'qualifying insurance' but only if you have other appropriate professional indemnity insurance arrangements in place for your UK/RoI clients.

In all cases, any relaxation of the regulations is at the absolute discretion of the committee which may attach conditions to the relaxation.

5.4. The Committee may publish its decisions or advice as and where it considers appropriate.

5.5. The Committee may delegate its duties to sub-committees or to the secretariat.

#### Provision of information to the Committee

5.6. In carrying out its functions under these regulations , the Committee has the power to require a person, member or firm subject to these regulations to provide any information (including books, papers and records) about it or its clients. This power can also be exercised by any of the Committee's sub-committees, the secretariat, or any duly appointed agent.

5.7. Information provided to the Committee under these regulations will be treated as confidential but may be disclosed if the Committee considers it appropriate in the following circumstances:

- a. in connection with the procedures set out in these regulations ;
- b. in connection with disciplinary proceedings by ICAEW or the Investigation and Discipline Scheme;
- c. in connection with the discharge by ICAEW of its function as a regulatory body; or
- d. as required by law or regulations.

5.8. A person, member or firm which was subject to these regulations will nevertheless continue to be subject to regulation 5.6 in so far as the enquiries or information required relate to any period up to and including the date when compliance with these regulations was no longer required.

It is important that confidentiality is maintained so as to avoid prejudicing the terms of members' insurance cover. Except for the circumstances described in regulation 5.7 neither the committee, nor any member of ICAEW or secretariat, may disclose the insurance details of any member to any person other than that member.

#### Joint Advisory Panel

5.9. The Joint Advisory Panel will:

- a. consist of two representatives from each of the Institutes, one of whom shall be nominated Chairman by joint agreement of the Presidents of the Institutes, and four representatives from the participating insurers;
- b. have a quorum for meetings of four members, two of whom must be representatives of the Institutes and two of the participating insurers; and
- c. meet as required and at least twice a year.

5.10. The participating insurers' membership of the Joint Advisory Panel will be reviewed annually by the assigned risks pool manager by reference to the participating insurers' level of participation in the assigned risks pool.

5.11. The Joint Advisory Panel is responsible for:

- a. reviewing the progress, effectiveness and viability of the participating insurers scheme including the assigned risks pool;
- b. reviewing insurance matters referred to ICAEW ;
- c. determining applications for admission to the assigned risks pool;

- d. determining applications for extensions in particular cases to the maximum of twenty four months in the assigned risks pool; and
- e. dealing with any other matters referred to the Joint Advisory Panel.

The Joint Advisory Panel ensures that there is a regular exchange of information between the Institutes and insurers and that the regulations are suitable to meet current market conditions. The Joint Advisory Panel also provides technical expertise and, in particular, monitors firms in the assigned risks pool.

## 6 Additional guidance

- 6.1. This section has been compiled from questions asked by members and should answer most of your queries. If you are unable to find the answer to your particular problem, you should contact your broker, or the professional indemnity insurance section of Professional Standards.
- 6.2. This section, together with the guidance included with the regulations, also provides guidance on the 'reasonable steps' that regulation 3.1 requires firms to take.

### Certificate of compliance

- 6.3. The certificate of compliance is the document used by ICAEW to collect information on the amount of insurance each firm has. It is sent to all those who have professional indemnity insurance as part of the Practice Assurance annual return.
- 6.4. Individual principals in a firm will not receive separate certificates unless they are also in another firm on their own account. Members who hold a practising certificate but who are not engaged in public practice will not receive a certificate.

### Claims handling

- 6.5. All principals, together with their employees, should be made aware of the importance of notifying insurers promptly of claims or circumstances which may give rise to a claim. Everyone in the firm should know that failure to comply with underwriters' requirements in this regard could seriously prejudice the firm's rights and entitlement to indemnity under the policy.
- 6.6. One person, at the level of principal, should be given the task of recording and coordinating information about claims or circumstances and of notifying brokers/underwriters accordingly. That person should regard the prompt notification to brokers/underwriters as a first priority and should not wait until there have been developments or until a detailed report of the matter has been prepared.
- 6.7. All staff should be encouraged to report promptly to the individual designated in the above paragraph any matters of which they become aware.
- 6.8. Claims or circumstances should be regarded objectively. If there are circumstances which might reasonably give rise to a claim then insurers should be notified immediately. This is regardless of the fact that currently allegations may be vague or not specified and regardless of whether the member personally thinks liability is unlikely. (In



this latter regard the question of liability is a legal one which only lawyers and, ultimately, the courts are competent to decide.)

- 6.9. There should be a regular item on the agenda of principals' meetings to discuss any matter that might lead to a claim and also to monitor any claims that have been made.
- 6.10. Prior to renewal and the completion of the proposal form, a circular should be sent to all principals requiring confirmation that they are not aware (after enquiry of staff who report to them if applicable) of any claim or circumstance which may give rise to a claim. The circular should remind principals and staff of the importance of the declaration and that failure could prejudice the firm's rights under the policy. In addition, it should make clear that the period between the completion of the proposal form and renewal is a critical one and that any matter or circumstance arising in that period must be notified as a matter of great urgency.

#### **Cost of cover**

- 6.11. This is a matter between you and your insurer and ICAEW will not become involved in these discussions unless you are offered a quotation which you are unable to pay within six months from the commencement of the policy, or which has such an effect on your financial security that it jeopardises your ability to carry on your business (regulation 4.1).

#### **Level of cover**

- 6.12. Having carried out your risk assessment procedures (see paragraphs 6.16 to 6.23) you should decide the level of cover required, considering:
  - the minimum level required by these regulations;
  - the likely level of exposure of the firm to claims;
  - whether current cover is consistent with that of similar firms, using available resources such as inter firm comparison, information held by your broker, and information held jointly with other firms in a mutual arrangement;
  - the advice from experts on what cover is available and its cost. This should include consideration of whether the cover offered includes legal costs within, rather than in addition to, the limit of indemnity. Your broker will be able to assist you;
  - the level of the firm's own resources to meet claims. This includes the availability of both firm and personal assets and reserves held to meet known claims.

#### **Practice mergers etc**

- 6.13. You must plan in advance if your firm's structure changes. For example, if you are about to merge with another firm, you and your fellow principals must ensure that the new firm has sufficient qualifying insurance in order for you to comply with the regulations. If your firm is dividing, each new firm must have sufficient qualifying insurance in its own right. Further guidance is in paragraph 6.24 onwards.

#### **Recommended level of insurance cover (limit of indemnity)**

- 6.14. The minimum required level is set out in section 3. No firm is currently required to have more than £1.5 million insurance cover but for many firms this limit may not be

adequate. It is important to note that all firms are required to take reasonable steps to be able to meet claims arising from professional business.

### Reminder letter from ICAEW

- 6.15. This, together with a blank certificate of compliance (part of the Practice Assurance annual return), is sent out as a reminder to every firm and member, (resident in the United Kingdom or the Republic of Ireland) and holding a practising certificate but not engaged in public practice before cover is due for renewal. If you have not already started to negotiate your cover for next year you should do so immediately you receive the reminder.

### Risk assessment

- 6.16. Your first priority is to limit the risk of claims against your firm.
- 6.17. ICAEW produces a helpsheet Managing Professional Liability Risk, which sets out in detail the steps you should take to limit the risk of claims and what you should consider before accepting new clients, or new work from existing clients.
- 6.18. A firm should carry out a risk assessment and take any appropriate action. This would normally be at least annually, in the context of an impending renewal of PII cover, and at any other time when the composition of the firm or its client base changes significantly. The assessment should give consideration to the possibility of being sued should anything go wrong and the possible amount of such a claim:
- client by client, having regard to whether the work is ongoing or one-off;
  - client by client, having regard to the maximum potential exposure of those interested in the client, for example shareholders and creditors.
- 6.19. External information such as the general economic climate and the types of business experiencing difficulties should also be considered as part of the assessment.
- 6.20. As part of the assessment of each client (and new clients before they are taken on) the following should be considered:
- instructions received, and nature of work to be carried out and the resources necessary in time and staff to complete tasks in a timely and accurate manner;
  - credibility of management;
  - quality of accounting, financial and management controls;
  - type of business;
  - continued viability of company;
  - the effect of the fee on the quality of the work.
- 6.21. If you decide that work done for any client creates a potentially higher than average risk, whether or not you are charging a fee, you should:

- evaluate your ability to mitigate the risk in terms of procedures;
- initiate safety procedures, for example a review by another principal;
- reconsider your quality control and assurance procedures;
- decide whether to retain the client.

6.22. Remember the need to cover:

- all of your firm's current staff, including sub-contractors and consultants;
- all of your firm's activities including, for example, joint audit appointments;
- past and new principals and predecessors in business.

6.23. After taking any limiting action you must then assess the remaining risk before deciding upon the level of professional indemnity insurance. Bear in mind the firm's claims history and the need for regular analysis of prime causes of any failures experienced by the firm.

#### **Retroactive cover**

6.24. When a practitioner ceases in public practice (and assuming he does not keep his practising certificate) then 'run-off' cover should be arranged. This is explained below.

6.25. The position can be more complicated when a practitioner moves between practices. The obligation is on individual members to have 'qualifying insurance'. An important part of what constitutes qualifying insurance is retroactive cover. Although the insurance is on a claims made basis, which means the relevant time is when a claim is made, not when the work was done, insurers will frequently put a retroactive date on the policy. This cannot be less than six years and may well be much longer. The practical effect is that the insurers will not accept a claim if the original work was done before the retroactive period started.

6.26. When a practitioner changes practice, either by moving between firms or leaving a partnership to become a sole practitioner, it is very important that this retroactive part of the cover is maintained. This can be achieved in a number of ways:

- as retroactive cover in the new practice;
- as a former principal in the old practice;
- as a special policy;
- as a last resort, in the assigned risks pool (see section 4).

6.27. It is the member's responsibility to ensure that this element of the cover is in place. If the cover is provided by the insurance policy of a practice the member has just left, then the provision of such insurance, and confirmation of its continued existence, should form part of any 'leaving' agreement.

- 6.28. Similar consideration applies when practices merge or break-up into smaller firms. Each member should ensure, through one route or another, that retroactive cover is in place. It may be necessary to take advice from a specialist insurance broker. As with all such matters, advance planning is essential.

#### **Run-off cover**

- 6.29. Members are expected to use their best endeavours to ensure they are covered by arrangements which comply with ICAEW's regulations for at least twenty four months after they cease to practise. The terms and extent of any cover should be equivalent to any previous qualifying insurance. It is to cover the practitioner for claims received after ceasing in practice for work done while in practice.
- 6.30. Run-off cover may be provided under the policy of a continuing practice or you may need to take out an individual policy. If your former practice has undertaken to include run-off cover for you in its current cover, you must remember to check that it continues to cover you for at least two years. At the end of that time you should consider whether you need continued cover.
- 6.31. You should continue to assess your need for such cover each year until you are satisfied that there is no possibility of a claim being made. It is recommended that you consider maintaining run-off cover for six years after you cease to practise.

#### **Terms used in policy documents**

##### **Aggregate**

- 6.32. The total limit of indemnity available. The policy may describe this as 'any one claim and in all' or 'each and every claim and in the aggregate'.

##### **Claims made basis**

- 6.33. This means that the insurance will provide cover for claims first made or circumstances arising and notified to the insurers during the term of the current policy only. This is irrespective of when the work concerned was carried out, but see 'retroactive cover' above. It is therefore important that insurance remains in force to provide protection against any claims which may arise in the future for work done in the past.

##### **'Each and every' claim or 'any one' claim**

- 6.34. The limit of indemnity specified in the policy schedule which is available to meet 'each and every' claim. This may also be written as 'any one claim'. In this case there is no overall limit to the number of claims and multiple claims, each up to the limit, could be made.

##### **Limit of indemnity**

- 6.35. The maximum amount that an insurer is obliged to pay out, either in aggregate or each and every claim, to meet valid claims against the firm while the insurance is in force.

## **Appendix A - Participating insurers**


The Prudential Regulation Authority (or the Central Bank of Ireland) is responsible for authorising insurers to carry on general insurance business in the United Kingdom or the Republic of Ireland. Any such authorised insurer prepared to agree to the conditions of ICAEW's scheme may apply to the assigned risk pool manager to be designated as a participating insurer.

To be a participating insurer, an authorised insurer has to agree to:

- provide insurance in accordance with these regulations;
- subscribe to the assigned risks pool, as described in section 4;
- supply ICAEW or its appointed agent such information as it may reasonably require;
- refer to arbitration all disputes with insured firms involving disagreement about:
  1. which of two or more participating insurers should indemnify a firm; or
  2. how two or more participating insurers should indemnify a firm.

ICAEW has a list of participating insurers which is updated every year and can be obtained from ICAEW's website at [icaew.com/pii](http://icaew.com/pii).

Most insurers underwrite in groups (facilities) with a lead underwriter and several following underwriters. On the list provided by ICAEW, those insurers which accept business direct are indicated. The other insurers must be approached through a broker, preferably a Lloyd's broker, with access to all participating insurers.



# Practice Assurance visits

Your Practice Assurance visit is designed to reassure you that your practice is meeting the requirements of the principles-based Practice Assurance standards, other relevant regulations and the ICAEW Code of Ethics.

If you hold a DPB licence or you are approved by us to conduct probate activities, we may carry out our monitoring of these areas alongside our Practice Assurance visit.

During the visit, you'll also have the opportunity to discuss any other matters regarding your firm.

## Before the visit

We'll phone you usually 7 to 14 days before the visit to answer any questions you may have, and discuss practical arrangements.

You will need to have ready for the review the documents and records opposite. Not every document or record listed will necessarily be relevant to your practice.

## The opening meeting and review

Our approach is open and friendly, starting with an opening meeting to gain a general picture of your firm.

Our review varies from firm to firm, but usually covers:

- a sample of client files;
- a sample of fee notes, commission statements, office and client bank account records;
- your professional indemnity insurance (PII) policy and proposal form; and
- other matters which might have arisen during the opening meeting.

### If your visit includes DPB

We'll look at how the firm meets the requirements of the *DPB Handbook* in the conduct of exempt regulated activities or insurance mediation activities.

### If your visit includes probate

We'll look at how the firm meets the requirements of the Probate Regulations.

We don't form judgements on your professional advice or examine your clients' affairs in depth. We concentrate on finding out how your firm demonstrates that it meets the relevant standards, regulations and the Code of Ethics. The standards can be applied in different ways and we consider whether your approach is appropriate for the size and nature of the firm and the work it undertakes.

## The closing record

After our review, we record our findings and discuss them with you. The purpose is to discuss:

- any issues that have arisen; and
- your initial thoughts on any action we may suggest to help your firm.

## Your response

We ask you to respond in writing to any findings requiring action within 15 business days. You need to explain what action you plan to take and by what date.

## After the visit

When we receive your response, we complete our visit documentation which may include a quality control review.

If we have any questions or need additional information we will contact you. We will only be able to close the process once we have received and reviewed your responses.

You will usually receive a letter from us to confirm that your visit has been completed satisfactorily or to request additional information so that we can close the visit.

In some circumstances, we may need to report matters to an ICAEW committee. If this happens, we will keep you fully informed and send you a copy of our report to the committee for comment before it is considered.

## Complaints

There is a formal process for handling complaints. If you have any comments about the visit process, please write to:

Director, Quality Assurance Department  
ICAEW  
Metropolitan House  
321 Avebury Boulevard  
Milton Keynes  
MK9 2FZ UK

If your comments are about the director, Quality Assurance Department, please write to:

Chief Executive  
ICAEW  
Chartered Accountant's Hall  
Moorgate Place  
London  
EC2R 6EA UK



## List of documents and records

The list of documents and records tells you what you need to have available on the day of the visit.

The reviewer will not necessarily want to see every document and some may not be applicable to your practice.

## Firm information

- Details of ownership of the firm and any connected entities.
- Details of any trading names used.
- PII policy (including policies for connected entities), most recent renewal/proposal documentation and details of claims history and of any current claims or notifiable events.
- Fee protection insurance policy and examples of all documentation sent to clients.
- Copies of any promotional or marketing material (eg, newsletters, budget circulars, website).
- Sample of firm's letterhead and email template.

## Personnel information

- List of staff and their responsibilities.
- CPD records for the current and previous year for principals and qualified staff.
- Subcontractor and consultancy agreements (if applicable).

## Accounting records

- List of practice bank accounts and of current mandated signatories.
- Bank statements and cashbooks (or access to electronic records) for the practice accounts for the last six months.
- Client bank account statements, cashbooks (or access to electronic records) and reconciliations for the last 12 months, trust letter(s) from the bank, details of alternate and compliance review.
- Letters notifying clients of commission received in the last 12 months, and commission statements in the last 12 months.
- Fee notes for the last six months.

## Client records

- Access to client files.

## Self-monitoring

- Most recent annual review of compliance with the Client's Money Regulations.
- Most recent review of compliance with the Money Laundering Regulations 2007.
- Most recent review of compliance with the Practice Assurance standards.

## If the visit includes DPB

- Details of exempt regulated activities or insurance mediation activities undertaken in the last two years.
- Most recent annual review of compliance with the *DPB Handbook*.

## If the visit includes probate

- Details of probate and estate administration activities in the last two years.
- Records of clients' property.
- Publication of diversity monitoring.
- Annual fit and proper declarations.
- Probate complaints procedures.
- Notifications to the probate compensation scheme.
- Most recent annual review of compliance with the Probate Regulations.

## Sources of information

[icaew.com/cpd](http://icaew.com/cpd)

[icaew.com/DPB](http://icaew.com/DPB)

[icaew.com/faculties](http://icaew.com/faculties)

[icaew.com/helpsheets](http://icaew.com/helpsheets)

[icaew.com/moneylaundering](http://icaew.com/moneylaundering)

[icaew.com/pii](http://icaew.com/pii)

[icaew.com/practice](http://icaew.com/practice)

[icaew.com/practiceassurance](http://icaew.com/practiceassurance)

[icaew.com/probate](http://icaew.com/probate)

[icaew.com/regulations](http://icaew.com/regulations)

[icaew.com/sigs](http://icaew.com/sigs)

[icaew.com/support](http://icaew.com/support)

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## PROBATE ANNUAL RETURN AS AT DD MM YYYY

### Probate - variable data

#### 1 Ownership and control of firm

Questions 1.1 and 1.2 relate only to accredited probate firms **authorised** for probate work in accordance with Probate Regulation 2.2.

If your firm is **licensed** to conduct probate work in accordance with Probate Regulation 2.3, please go to question 1.3.

1.1 If your firm is an authorised firm, are all principals and shareholders in the firm (whether individuals or bodies corporate) individually authorised to conduct probate work? Yes/No

1.2 If your firm is an authorised firm and another body is a principal in your firm, are non-authorised persons entitled to exercise, or control the exercise of, less than 10% of voting rights in that other body? Yes/No

If 'No', please provide details on a separate sheet.

Questions 1.3 and 1.4 relate only to accredited probate firms that are **licensed** for probate work in accordance with Probate Regulation 2.3.

If your firm is **authorised** in accordance with Probate Regulation 2.2, please go to question 2.4.

1.3 If your firm is a licensed firm, is at least one principal in the firm (other than a licensed firm) authorised to conduct probate work? Yes/No

1.4 Are all non-authorised persons (whether individuals or bodies corporate) who hold, together with their associates, a material interest in the firm or the firm's parent entity, individually approved in that capacity by ICAEW? Yes/No

For a definition of what constitutes a 'material interest' and an 'associate' for the purposes of the Probate Regulations, please see Probate Regulations 6.2 and 6.3.

If 'No' please provide details on a separate sheet.

#### 2 Profile of probate and related work

Please answer the following questions with reference to the period covered by this return

2.1 Please indicate the business activities performed by the firm during the period covered by return:

• will-writing

• advice to those drafting wills

- advice on IHT and related matters before applying for a grant of probate or letters of administration
  - probate work   
(ie, applying for a grant of probate or letters of administration)
  - executorship activities
  - assistance to executors in administering estates
- 2.2 Please state your firm's total income from all activities.   
(Please state if estimated).
- 2.3 Please state your firm's total income from regulated authorised work (ie, probate and estate administration).   
(Please state if estimated).
- 2.4 How many probate clients has your firm had?   
Answer 0 if none.
- 2.5 Has your firm or an authorised individual within your firm acted as an executor in administering an estate?   
If 'Yes' please complete questions 2.6 – 2.15. If 'No' please go to the next section.
- 2.6 How many estates did you administer as an executor?
- 2.7 Were estate monies or assets held?
- 2.8 If estate monies were held, what was the total, estimated value of these monies?
- 2.9 If estate assets were held (other than estate monies) what was the total, estimated value of these assets?
- 2.10 Please provide details of the assets held:  
-----  
-----  
-----
- 2.11 Has your firm provided assistance to executors in administering estates?   
If 'Yes' please complete questions 2.12 to 2.15 below.  
If 'No' please go to the next section.
- 2.12 How many estates were involved?
- 2.13 Were estate monies or assets held?
- 2.14 If estate monies were held, what was the total, estimated value of these monies?
- 2.15 If estate assets were held (other than estate monies) what was the total,

estimated value of these assets?

2.16 Please provide details of the assets held:

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-----  
-----

### 3 Firm profile

- 3.1 Does the firm have at least one office in England and Wales from which it conducts probate work (unless it is a company or limited liability partnership whose registered office is in England and Wales)? Yes/No
- 3.2 From how many offices does the firm conduct probate work? \_\_\_\_\_
- 3.3 Does each office from which probate work is conducted contain at least one authorised individual? Yes/No  
If 'No' please explain on a separate sheet how your firm ensures that probate work is conducted in accordance with the Probate Regulations.

### 4 Compliance with the Probate Regulations

- 4.1 For the period covered by this return, has your firm conducted a compliance review to consider how effectively it is complying with the Probate Regulations? Yes/No  
The Probate Regulations require accredited probate firms to perform an annual compliance review.
- 4.2 Has your firm retained a record of the review showing the work done and the results? Yes/No
- 
- 4.3 Have all matters identified in previous compliance reviews now been addressed? Yes/No  
If 'No', please provide details.
- 
- 4.4 During the period covered by this return, has the firm informed ICAEW within 10 business days of any change of circumstances affecting the firm or its eligibility to be accredited, as required by Probate Regulations 2.7 – 2.9? Yes/No  
If 'No' please provide details:
- 4.5 Does your firm have arrangements in place to ensure that all principals and employees engaged in authorised work (ie, probate and estate administration) are, and continue to be, competent to conduct this work? Yes/No  
If 'No' please provide further information.
- 4.6 Does the firm hold PII of at least £500,000 per claim in respect of authorised work (ie, probate and estate administration) as required by the PII Regulations and Probate Regulation 2.10? Yes/No
- 4.7 Has your firm received any complaints about its activities in relation to authorised work (ie, probate and estate administration) during the period covered by the return? Yes/No  
If 'Yes', please provide details of any investigations undertaken, the outcome and whether the client made a complaint to the Legal Ombudsman.

## Probate - Standing data

We have completed most of this section using data held by ICAEW. Please check, update, amend or complete as necessary using black ink.

The Probate Regulations state that you must tell ICAEW as soon as changes occur. You should not wait until you receive your next annual return.

### 5 Firm information

5.1 Name of probate contact partner (this will be the Head of Legal Practice in a licensed firm)

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5.2 Email address of probate contact partner

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5.3 Name of the Head of Finance and Administration (this applies only to licensed firms)

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### 6 Authorised individuals - principals

Please add below details of any principals not already listed or amend details as required.

| Member number | Full name | Office number | % voting rights | Affiliate number if applicable |
|---------------|-----------|---------------|-----------------|--------------------------------|
|               |           |               |                 |                                |
|               |           |               |                 |                                |

### 7 Non-authorised principals and shareholders holding a material interest – licensed firms only

Please add below details of any principals or shareholders not already listed or amend details as required.

If your firm is **authorised** to conduct probate work, please go to the next question.

| Member number | Full name | Office number | % voting rights | Affiliate number if applicable |
|---------------|-----------|---------------|-----------------|--------------------------------|
|               |           |               |                 |                                |
|               |           |               |                 |                                |



## 8 Authorised individuals - employees

Please add below details of any employees not already listed or amend details as required..

| Member number | Full name | Office number |
|---------------|-----------|---------------|
|               |           |               |
|               |           |               |

## 9 Probate connected entities regulated by ICAEW

Please add below details of any entities not already listed or amend details as required.

| Name of connected entity | Firm number | Main address |
|--------------------------|-------------|--------------|
|                          |             |              |
|                          |             |              |

## 10 Confirmations and undertakings

If you are unable to give one or more of the following confirmations and undertakings, please strike it through and enclose a full statement explaining the position.

- I/We undertake that the firm will comply with the Probate Regulations at all times.
- I/We confirm that the firm has made arrangements to ensure that only authorised individuals undertake, or control the undertaking of, probate work on behalf of the firm.
- I/We confirm the firm has made arrangements to prevent anyone who is not an authorised individual in the firm, or a person working under their supervision, from having any influence that would be likely to affect the independence or integrity of probate work.
- I/We confirm that the firm has made arrangements to ensure that all principals and employees undertaking authorised work (ie, probate and estate administration) are, and continue to be, competent to carry out the authorised work for which they are responsible.
- I/We confirm that the firm has notified ICAEW within 10 business days of all changes in circumstances, and will continue to do so, in accordance with Probate Regulations 2.7(j) – 2.7(l).
- I/We confirm that the firm is a fit and proper firm to carry out probate work.
- I confirm that as the firm's Head of Legal Practice I am, and will continue to be, independent and that I am able to report matters freely where required.

## 11 Signature

Signature of the probate contact partner (this will be the Head of Legal Practice in a licensed firm)

Name in capitals

Date

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## **Clients' Money Regulations**

Effective from 1 January 2011.

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## Clients' money regulations

1. These regulations are made by the [Council](#) of the Institute of Chartered Accountants in England and Wales, pursuant to Clause 16 of the Supplemental Royal Charter of 1948. They come into force on 1 January 2004. The regulations dated 1 April 1992 remain applicable after this date only in respect of actions or omissions or acts prior to the coming into force of these regulations.

## Scope

2. These regulations apply in relation to all United Kingdom and Ireland offices of [Firms](#) and, subject to regulation 29, to the [Principals](#) of such [Firms](#). A [Firm](#) must receive or hold Clients' Money only in accordance with these regulations.  
Where a [Firm](#) is authorised by the Financial Services Authority, any monies received or held which are Investment Business Clients' Money as defined by the Financial Services Authority's Handbook must be dealt with in accordance with that Handbook, which takes precedence over the requirements of these regulations.

## Clients' money

3. [Clients' Money](#) means money of any currency (whether in the form of cash, cheque, draft or electronic transfer) which a [Firm](#) holds or receives for or from a client, including money held by a [Firm](#) as stakeholder, and which is not immediately due and payable on demand to the [Firm](#) for its own account. [Clients' Money](#) must be held in the currency in which it was received unless the client instructs otherwise in writing.
4. Where a [Firm](#) has a power or control over the clients own account, though not meeting the definition of [Clients' Money](#), it must ensure that it has the specific written authority of the client acknowledged by the [Bank](#) before exercising that authority, and it must maintain adequate records of the transactions it undertakes.
5. Fees paid in advance for professional work agreed to be performed and clearly identifiable as such shall not be regarded as [Clients' Money](#) for the purposes of these regulations. A cheque or draft received by a [Firm](#), which is drawn in favour of a client or third party, does not constitute [Clients' Money](#).

## Interpretation

6. The words listed below shall have the meanings indicated:  
[Bank](#) means:
  - a. a branch in the United Kingdom or Ireland of:
    - i. the Bank of England;
    - ii. the Central Bank of Ireland;
    - iii. the Central Bank of another member State of the European Union;
    - iv. a person who has permission under part 4 of the Financial Services and Markets Act to accept deposits; or
    - v. a building society within the meaning of the Building Societies Act 1986 which has adopted the power to provide money transmission services and has not assumed any restriction on the extent of that power.
  - b. a branch outside the United Kingdom or Ireland of:
    - i. a bank within the meaning of paragraph (a) above;
    - ii. a bank which is a subsidiary or parent company of such a bank;
    - iii. a credit institution, as defined in the First EU Banking Coordination Directive number 77/780 (EEC), established in a member State of the European Union other than the

United Kingdom or Ireland and duly authorised by the relevant supervisory authority in that member State; and

c.

- i. a bank on the Island of Guernsey that is registered as a Deposit Taker under the Banking Supervision (Bailiwick of Guernsey) Law 1994;
- ii. a bank on the Island of Jersey including a registered person under the Banking Business (Jersey) Law 1991;
- iii. a bank on the Isle of Man including a bank which is licensed under the Isle of Man Banking Act 1998.

**Client Bank Account** is an account at a bank in the name of the firm separate from other accounts of the firm which may be either a general account or an account designated by the name of a specific client or by a number or letters allocated to that account and which, in all cases, includes the word client in its title.

**Council** means the Council of the Institute, or any Committee, entity or individual delegated by Council to exercise any powers or discharge any functions on its behalf.

**Firm** means a sole practitioner who is a Member, or a partnership, or a body corporate or a limited liability partnership comprised in whole or in part of Members, the business of whom or of which includes carrying on the profession of accountancy.

**Independent Accountant's Report** is a report, (in such form as the Council shall from time-to-time determine) covering such period as the Council or its nominee may require, to the Chief Executive or his nominee, required in terms of regulation 28(b) and commissioned by the firm which the firm must ensure states whether, in the view of the Independent Accountant:

- a. it has adequate systems so that it can comply with the regulations and make the confirmations necessary in terms of regulation 27;
- b. it has complied with the **Clients' Money** Regulations as at the reporting date; and
- c. while carrying out the work in support of the Report, anything has come to the **Independent Accountant's** attention which caused him or her to believe that the **Firm** has failed to comply with the regulations.

**Independent Accountant** means a firm which is a registered auditor under the Companies Act 2006 or the Companies Act 1990 in the Republic of Ireland and which has satisfied itself that it is independent of the Firm on which the Independent Accountant is reporting, in the terms referred to on Independence - assurance engagements in Section 290 in the Code of Ethics.

**Mixed Monies** means monies received (whether in the form of cash, cheque, draft or electronic transfer) or held by a firm or Principal in terms of regulation 9 which comprises or includes Clients' Money and money due to the Firm.

(Note: for any **Firms** authorised by the Financial Services Authority, any monies so received or held which include an element of Investment Business **Clients' Money**, as defined by the Financial Services Authority's Handbook, must be dealt with in accordance with the Handbook.)

**Notice** means written notice sent by first-class pre-paid recorded delivery to a firm's place of business or given in person by the Council (or its nominee) to any Principal.

**Principal** means a Member who is a sole practitioner or who is a partner in a firm which is a partnership or who is a director of a firm which is a body corporate or who is a member of a limited liability partnership.

7. References in these regulations to any statutory provision or European legislation shall include any statutory modification or re-enactment thereof and any amendment thereto.

## Client identification

8. Before holding any [Clients' Money](#) on behalf of a client the [Firm](#) must first verify the identity of the client. (See Explanatory Note 8 below.)

## Opening a client bank account

9.
  - a. Subject to regulation 11 hereof, a [Firm](#) which receives or holds [Clients' Money](#) or [Mixed Monies](#) or money which under regulation 11 hereof the [Firm](#) is required to pay into a client account, must immediately open one or more [Client Bank Accounts](#). Any [Firm](#) may maintain one or more [Client Bank Accounts](#) as appropriate. All money which is [Clients' Money](#) must be held in a [Client Bank Account](#).
  - b. On opening a [Client Bank Account](#), a [Firm](#) must notify the [Bank](#) in writing that:
    - i. all money standing to the credit of that account is held by the [Firm](#) as [Clients' Money](#) and that the [Bank](#) is not entitled to combine the account with any other account or exercise any right to set off or counterclaim against money in that account in respect of any money owed to it on any other account of the [Firms](#);
    - ii. interest payable on the money in the account must be credited to that account;
    - iii. the [Bank](#) must describe the account in its records to make it clear that the money in the account does not belong to the [Firm](#); and
    - iv. the [Bank](#) must acknowledge in writing that it accepts these terms.
  - c. For a [Client Bank Account](#) in the United Kingdom or Ireland, if the [Bank](#) does not provide the acknowledgement required under sub-paragraph (b) above within 20 business days of the [Firm](#) sending the [notice](#), the [Firm](#) must:
    - i. withdraw all money from the account;
    - ii. close the account; and
    - iii. deposit the money with another [Bank](#) in a [Client Bank Account](#); or
    - iv. as a last resort, return the money to the client.
  - d. A [Firm](#) may only hold [Clients' Money](#) in a [Bank](#) outside the United Kingdom or Ireland if the client is informed in writing:
    - i. of the country or territory where the account will be held; and
    - ii. either that the [Bank](#) has given the acknowledgement required under regulation 9(b)(iv), or where the [Bank's](#) acknowledgement has not been received, the [Firm](#) has advised the client that the [Clients' Money](#) held in that account may not be protected as effectively as it would if held in a [Bank](#) in the United Kingdom or Ireland; and
    - iii. the client has agreed in writing to the money being paid into, or remaining in, that [Bank](#).
  - e. A [Firm](#) may not hold [Clients' Money](#) (or money which would, if held in a [Bank](#) (see regulation 6) be [Clients' Money](#)) outside the European Union unless:
    - i. the client is informed in writing of the country or territory where the account will be held; and
    - ii. the client has agreed in writing to the money being paid into, or remaining in, the institution where the money is held; and
    - iii. the client accepts in writing that where money is so held it will not have the protection afforded by these regulations.

## Payment into a client bank account

10. [Clients' Money](#) or [Mixed Monies](#) received by a [Firm](#) or by any [Principal](#) must be paid immediately into a [Client Bank Account](#), or to the client.
11. A [Firm](#) must only pay money into a [Client Bank Account](#), if:  
the [Firm](#) is required to make such payment under these regulations; or  
the money is the [Firm's](#) own money and:

it is required to be so paid for the purpose of opening and maintaining the account and the amount is the minimum amount required for that purpose; or  
it is so paid in order to restore in whole or in part any money paid out of the account in contravention of these regulations.

12. A [Firm](#) shall not be regarded as having breached regulations 10 and 11 simply because it transpires that money which the [Firm](#) paid into a [Client Bank Account](#) in the reasonable belief that it was required so to do under these regulations should not have been paid into such an account, provided that immediately upon discovering the error the [Firm](#) takes the necessary steps to withdraw the money which has been paid into such account in error.
13. Where money of any one client in excess of £10,000 is held or is expected to be held by the [Firm](#) for more than 30 days, the money must be paid into a [Client Bank Account](#) designated by the name of the client or by a number or letters allocated to that account.  
(Note: The [Client Bank Account](#) in this regulation must be a separate account, rather than a memorandum account in the [Firm's](#) books. In other words, the account will be for that client (or clients acting jointly) only.)

## Interest

14. Subject to regulations 15 and 16, a [Firm](#) must:
  - a. place [Clients' Money](#) in an interest-bearing account unless the interest earned would not be material (see Explanatory Note 5 below); and
  - b. ensure that a fair rate of interest (see Explanatory Note 5 below) on the money is earned; and
  - c. ensure that all interest earned is paid or credited to the client, or as the client instructs in writing.
15. Regulation 14 shall not apply to [Clients' Money](#) held by a [Firm](#) as stakeholder though a [Firm](#) may not itself earn interest on it unless regulation 16 applies.
16. The [Firm](#) and the client may agree in writing different arrangements for the payment of interest on [Clients' Money](#) held. This agreement may be in the engagement letter with the client.
17. It shall be a breach of these regulations if a [Firm](#) fails to comply with any of the terms of any such agreement as is referred to in regulation 16.
18. For the purposes of regulations 14 to 17 [Clients' Money](#) held by a [Firm](#) for two or more clients acting together in one or more transaction must be treated as though held for a single client.

## Withdrawal from a client bank account

19. When a cheque or draft including money which is not [Clients' Money](#) is paid into a [Client Bank Account](#), the money which is not [Clients' Money](#) must be withdrawn as soon as the cheque or draft is cleared.
20. A [Firm](#) may withdraw from a [Client Bank Account](#):
  - a.
    - i. money, not being [Clients' Money](#), paid into a [Client Bank Account](#) for the purpose of opening or maintaining the account; or
    - ii. the element of [Mixed Monies](#) which are not [Clients' Money](#);



- b. money paid into a [Client Bank Account](#) contrary to these regulations or which would have been so but for regulation 12;
- c. money required to be withdrawn under regulation 19;
- d. interest which the client has agreed in writing should not be paid to him (see regulation 16);
- e. money properly required for a payment to a client;
- f. money properly required for or towards payment of a debt due to the [Firm](#) from a client otherwise than in respect of fees earned by the [Firm](#);
- g. money withdrawn in accordance with regulation 22, for or towards payment of fees payable to the Firm by the client;
- h. money drawn on a clients written authority or in conformity with any written contract between the [Firm](#) and the client;
- i. money which may be properly transferred into another [Client Bank Account](#) or into a [bank](#) account in the name of an individual client or clients acting jointly (see regulation 18);
- j. money withdrawn and paid to a registered charity in accordance with regulation 32 or 33.

Any withdrawal from a [Client Bank Account](#) may only be made where an authority in respect of that withdrawal has been signed by a [Principal](#) of the [Firm](#) or by an employee of the [Firm](#) to whom authority in writing has been delegated from the [Principals](#) of the [Firm](#). (See explanatory Note 12 below.)

- 20A Clients' money must be returned to the client promptly as soon as there is no longer any reason to retain those funds.
21. The [Firm](#) must ensure that at all times the sum of the credit balances held for all clients is at least equal to the total balance held in all [Client Bank Accounts](#) and that no amount may be withdrawn from the [bank](#) account for any client which is greater than the credit balance held for that client.
22. Money may only be withdrawn from a [Client Bank Account](#) for or towards payment of fees payable by the client to the [Firm](#) if:
- a. the precise amount thereof has been agreed by the client or has been finally determined by a court or arbiter; or
  - b. the fees have been accurately calculated in accordance with a formula agreed in writing by the client on the basis of which the amount thereof can be determined; or
  - c. thirty days have elapsed since the date of delivery to the client of a statement of fees and the client has not questioned the amount therein specified as due.
23. Monies which, in terms of regulation 20, are payable to the [Firm](#), shall be withdrawn as soon as reasonably practicable.

## Records and reconciliation

24. A [Firm](#) must keep [Clients' Money](#) records (including the [notice](#) and acknowledgement under Regulation 9(b)(iv)) which show:
- a. details of all money paid into and out of all [Client Bank Accounts](#);
  - b. entries of all [Clients' Money](#) paid direct to the client, or, on the clients instructions, paid to a third party, identifying that person;
  - c. entries of all cheques received and endorsed over by the [Firm](#) to the client or, on the clients instruction, endorsed over to a third party, identifying that person;

- d. entries of all electronic transfers received or made of money and transferred direct to the client or, on the clients instructions, transferred to a third party, identifying that person; and
  - e. details of all transactions on each clients ledger account which will easily identify the balance held for each client and which will reconcile to the total of [Clients' Money](#) held in the [Client Bank Accounts](#).
  - f. details of all unclaimed monies withdrawn from the [Client Bank Account](#) in accordance with regulation 32 or 33, including the name and contact details of the recipient of those monies.
25. A [Firm](#) must:
- a. at least once every five weeks, reconcile the total balances on all its [Client Bank Accounts](#) with the total corresponding credit balances in respect of its Clients, as recorded by it, and where any difference arises, correct it immediately; and
  - b. at the same time as carrying out the reconciliation under sub-paragraph (a) above, reconcile the balance on each [Client Bank Account](#), as recorded by it, with the balance on that account as set out in the statement issued by the [Bank](#) and, where any difference arises, correct it immediately, unless the difference arises solely as a result of timing differences.
26. Records kept in accordance with regulations 24, 25 and 27(a) shall be preserved for at least 6 years from the date on which they were made and the [Firm](#) shall hold them available for inspection.

## Returns and reports

27. [Principals](#) must:
- a. confirm that their [Firm](#) meets the requirements of these regulations and shall supply such evidence as these regulations and/or [Council](#) may require to support such confirmation; and
  - b. ensure that their [Firm](#) conducts a review at least annually, to consider whether systems it has maintained have been adequate to enable it:
    - i. to comply with these regulations;
    - ii. to carry out the reconciliations in accordance with regulation 25; and
    - iii. to prepare any return required under regulation 27(a) and to confirm its compliance with these regulations.

Where possible the review should be conducted by a [Principal](#) who is not involved in the handling of [Clients' Money](#).

Significant breaches of these regulations require to be reported by the [Firm](#) to the Institute or its nominee.

28. To enable [Council](#) to ascertain whether or not these regulations are being complied with, it:
- a. may appoint a person or persons to inspect the books and records of the [Firm](#) or any of its [Principals](#). [Notice](#) given by [Council](#) or on behalf of [Council](#), the [Firm](#) or any of its [Principals](#) shall be signed by the Chief Executive, or his nominee; or
  - b. may require the [Firm](#) to provide an [Independent Accountant's Report](#);
- and it shall be the responsibility of the [Firm](#) and its [Principals](#) to make books and records available for inspection in accordance with such a [Notice](#) and to provide an [Independent Accountant's Report](#) in accordance with such a requirement.

## The responsibility of a principal

29. Every [Principal](#) shall be responsible for any breach of these regulations on the part of his [Firm](#) unless he proves that responsibility for the breach was entirely that of another [Principal](#) or [Principals](#).

30. Where as a result of any disciplinary proceedings which may arise out of a breach of these regulations a [Firm](#) is ordered to pay a fine, monetary penalty or costs all [Principals](#) of the [Firm](#) shall be jointly and severally liable for the payment thereof and regulation 29 shall have no application to such liability.
31. A [Firm](#) (which term includes a sole practitioner) which is wholly owned and/or controlled, whether directly or indirectly, by a single member may not receive or hold Clients' Money unless it has arrangements with another appropriately qualified [firm](#) or person to enable the proper distribution or processing of [Clients' Money](#) held by the [Firm](#) in the event of the incapacity or death of the member. Notification of such arrangements must be made in writing before or immediately following the first receipt of [Clients' Money](#) by the firm, or notified via the firm's next annual return to ICAEW and immediately following any change (including cancellation) in the arrangement. (See Explanatory Note 10 below.)

### Unidentified and untraced clients

32. A [Firm](#) may cease to treat as client monies, any monies, when after taking reasonable steps to trace the client and return the monies, those monies remain unclaimed. (Guidance on 'reasonable steps' is included in explanatory note 13). Such monies must then be paid by the member to a registered charity, subject to the following conditions:
- The client must have remained untraced for 5 years.
  - Sums of below £10,000 (per client) may be paid to any registered charity.
  - For sums of £10,000 and above (per client), the registered charity must provide an indemnity against any claim subsequently made by the client for the money.
33. a. Where a [Firm](#) is ceasing to practise, payment of any unclaimed [clients' money](#) to a registered charity must be on the following terms:
- That the registered charity provides an indemnity for all sums paid whatever the amount.
  - There is no requirement for the client to have remained untraced for 5 years.
- b. On cessation the [Firm](#) must inform the Institute in writing of all sums paid to a registered charity in accordance with this regulation. The information to be provided must include:
- the clients name and last known contact details, and
  - the sum paid, and
  - the name and contact details of the recipient registered charity.
- For the purposes of this regulation, ceasing to practise does not include any arrangement whereby a [Firm](#) succeeds to the business of another.
34. Any sums not paid to a registered charity in accordance with regulation 32 or 33 must be retained on deposit for the benefit of the unidentified or untraced client.

### Explanatory notes

(These notes do not form part of the regulations)

- For convenience only, these regulations have been drafted in terms of the duties imposed on [firms](#). However, disciplinary proceedings can be brought against members, affiliates or [firms](#) under regulation 29 and attention is drawn to that regulation.
- A cheque or draft which is not [clients' money](#) shall be forwarded to the payee or dealt with in accordance with the clients written instructions. (See definition of [clients' money](#).)

3. Money held by a [firm](#) as stakeholder is governed by these regulations (regulation 3) but the payment of interest provisions do not apply (regulation 15).
4. Unless the [firm](#) agrees otherwise with a client (regulation 16) a [client bank account](#) must be an interest bearing account if material interest would be likely to be earned within the meaning of regulation 14 and any interest thereby received, or which ought to have been received, shall in the absence of such agreement be paid to the client in accordance with regulation 14.
5. Interest would be material under regulation 14 if the money is likely to be held for at least the number of weeks shown in the left hand column of the following table and the minimum credit balance of the client equals or is more than the sum in the right hand column (see regulation 18 for aggregated [clients' money](#)).

| Number of Weeks | Minimum Balance |
|-----------------|-----------------|
| 8               | £1,000          |
| 4               | £2,000          |
| 2               | £10,000         |
| 1               | £20,000         |

This is merely a guide. The obligation of the [firm](#) is to take reasonable steps to ensure that the client does not lose material sums of interest because the money remains in low or non-interest bearing accounts. There may be circumstances, for example, where money should be placed on overnight deposit.

The fair rate of interest earned must be at least the minimum deposit rate offered publicly by a [bank](#) for small deposits.

6. Interest on [clients' money](#) received by way of cheque should be calculated either from the day it is received or cleared. Both payments and withdrawals must be treated in the same way. If the [firm](#) chooses to credit interest from the date the cheque is cleared, and wants to include interest in a payment to a client, it should assume that the cheque will clear on the fifth business day after the cheque is sent to the client.
7. Whereas these regulations govern the treatment and withdrawal of fees from monies held in a [client bank account](#), they do not relate to commissions received by the [firm](#). In this respect, the attention of members is drawn to Conflicts of interest and confidential information in Section 220 in the Code of Ethics.
8. The Fédération des Experts Comptables Européens, of which the Institute is a member, is a signatory to the EUs Charter for the European Professional Associations in support of the fight against organised crime. To comply with the obligations under the charter, firms should verify the identity of a client before any money is held on behalf of that client.

To avoid potential embarrassment, it is suggested that firms verify a clients identity when a professional relationship is first established, rather than later when any [clients' money](#) may be first received. Guidance on suitable procedures to verify a clients identity can be found in anti-money laundering guidance.

Members are advised that converting or concealing criminal property or terrorist funds, for example by allowing them to be passed through the [clients' money](#) account, is a criminal offence under the money laundering legislation. However, the offence is not committed if a prompt report is made to the law enforcement authorities and their permission obtained to continue the transaction. More guidance on the recognition of when this might be the case, and advice on reporting money laundering suspicions, is contained in [statement 9.5](#).

Where client money is held for the first time after the implementation date of these regulations on behalf of an entity who was already a client at that date, the firm should consider carefully if it has sufficient evidence of the clients identity through the course of past dealings.

It is now a requirement of the Money Laundering Regulations that firms should verify the identity of all new clients which would then deal with the identification requirements outlined above.

9. Members are reminded to consider any income tax implications relating to interest received and paid on [client bank accounts](#).
10. Regulation 31 requires firms which are directly or indirectly wholly owned or controlled by a single member to have an arrangement with another person to provide the clients with access to their money held by the firm in the event of the incapacity or death of that member. Such firms could be a limited company with a single director and no company secretary, or a LLP where one member is an individual and the other member is a company, and the individual is the sole director of that company. However, firms may adopt different structures but still be controlled by a single member and it is not possible for this guidance to outline every situation whereby an alternate will be required under regulation 31. A firm which is a partnership of individuals but which only has a single equity partner would not need to make arrangements under regulation 31 as other 'partners' are able to deal any client money held by the firm. The regulation details when these arrangements have to be in place. The arrangement could most easily be with another firm where there is already an alternate or consultation arrangement in place.

There is no requirement that this arrangement has to be with another chartered accountant, but when selecting an alternate, the member should consider:

- If the alternate is to be a firm, whether that firm is itself subject to similar client money requirements, such as a solicitor, or is otherwise capable of undertaking the task.
- If the alternate is to be an individual, whether he or she has the appropriate experience to deal with these responsibilities.

In either case, the member needs to be convinced of the integrity of the proposed alternate and that the alternate understands the Client Money Regulations and what the alternate may be required to do. If you are unsure about the suitability of a particular person for this role, contact the Ethics Advisory Services' helpline for assistance.

Whoever is chosen, it would be best practice to inform clients of the identity of this person.

The Advisory Service has a help sheet on general alternate arrangements that can be adapted for the purposes of these regulations. Visit [www.icaew.com/helpsheets](http://www.icaew.com/helpsheets) and click on 'Practice helpsheets' for the helpsheet on alternate arrangements; click on 'Ethics helpsheets' for the helpsheet on clients' monies.

Details of the arrangements, and any changes, should be sent to the Professional Conduct Department, ICAEW, Metropolitan House, 321 Avebury Boulevard, Milton Keynes, MK9 2FZ. Although there is no requirement to use it, there is a standard form on our website which forms part of the clients' money helpsheet and may be obtained as noted above.

11. Insolvency practitioners are reminded that these regulations apply when they receive money in pre-insolvency situations. If, subsequent to an insolvency appointment, monies are received as payable to the firm, it should either be endorsed over to the insolvency appointment or banked in a [Clients' Money](#) account and withdrawn as soon as the cheque clears.
12. Regulation 20 sets out the various circumstances in which money can be withdrawn from a firms [client bank account](#). It requires such withdrawals to be authorised by a [Principal](#) or an employee of the firm provided that in the latter case the extent of the delegation from the [principals](#) is recorded in writing. The written delegation should also detail any restrictions on the use of this delegated authority.  
In deciding who can have this authority, the [principals](#) should consider the trust that is being placed in the individual and their ability to carry out this function with due care and integrity. The [principals](#) should note that they are responsible for the firms compliance with the Clients' Money Regulations, regardless of any delegation that may have been made. Regulation 27

requires the [principals](#) to review the firms compliance with the regulations and this review should include the operation of any delegated powers.

13. Regulation 32 enables firms to pay unclaimed [clients' money](#) to a registered charity. There is no requirement to do so - funds not paid to a registered charity must be retained on deposit for the benefit of the unidentified or untraced client in accordance with regulation 34. Before any payment to a charity is made, reasonable steps to trace the client must have been taken. Any steps taken should be proportionate to the sums involved, but could include, writing to the client at their last known address, conducting searches of the electoral roll or at Companies House, advertising in a local newspaper and employing tracing agents. Obviously, more effort should be made to trace a missing client if the sums involved are material. The firm will remain liable to repay any monies paid to a registered charity.

There is no requirement to take steps to trace the client when a firm is ceasing to trade - see regulation 33. The ICAEW Foundation [www.icaew.com/foundation](http://www.icaew.com/foundation) (a registered charity number 313983) has indicated that it will normally accept funds on an indemnity basis. The level of indemnity will depend on the sums paid and whether the firm has ceased to trade, see regulations 32 and 33.

To avoid such a situation arising, it may be appropriate before accepting funds from clients to make a written arrangement with them should such circumstances arise. For example, the firm either in its engagement letter or on acceptance of the funds, could detail the means by which monies which subsequently become unclaimed would be dealt with.



## Technical Release

TECH 04/08

### ANTI-MONEY LAUNDERING GUIDANCE FOR THE ACCOUNTANCY SECTOR

**Guidance for those providing audit, accountancy, tax advisory, insolvency or related services in the United Kingdom (including such firms providing trust or company services) on the prevention of money laundering and the countering of terrorist financing. Issued by the Consultative Committee of Accountancy Bodies in August 2008.**

#### INTRODUCTION

This technical release gives the text of the Anti-Money Laundering Guidance issued by the CCAB. Tech 04/08 replaces Tech 05/07 (and exposure draft of the Guidance) issued in October 2007 and Tech 07/07 (a post consultation and pre-approval version of this guidance) issued in December. It is also being issued as Handbook Statement 9.5.

The Guidance (excluding Appendix A – Supplementary guidance for the Tax Practitioner) has been approved by Treasury. This means that courts must take it into account when determining whether an accountant's conduct gives rise to an offence under either the Proceeds of Crime Act 2002 or the Money Laundering Regulations 2007. It will also be taken into account in relevant professional disciplinary enquiries. Appendix A has been submitted for Treasury approval. The version submitted for Treasury consideration is included in this technical release.

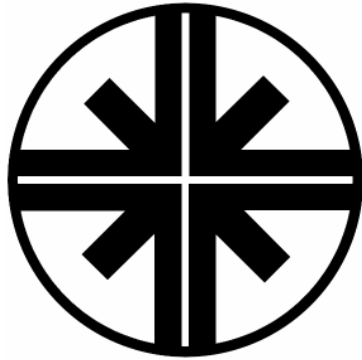
The Guidance is addressed to all entities providing audit, accountancy, tax advisory, insolvency or related services in the United Kingdom by way of business, irrespective of membership of a recognised professional body. We hope this will promote consistency of compliance with requirements, both between competing firms and where work is sub-contracted from one firm to another. The Guidance should also be followed by any accountancy firm which also provides trust or company services within the meaning of the Money Laundering Regulations 2007.

This technical release differs from the previous releases in a number of minor ways. These changes reflect the comments and amendments made as a result of both the consultation and approval processes. Members are cross referred to technical release 05/08 which provides as "tracked changes" version of the text of this guidance.

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The Institute of Chartered Accountants of Scotland  
The Institute of Chartered Accountants in Ireland  
The Association of Chartered Certified Accountants  
The Chartered Institute of Management Accountants  
The Chartered Institute of Public Finance and Accountancy

## ANTI-MONEY LAUNDERING GUIDANCE FOR THE ACCOUNTANCY SECTOR

***Guidance for those providing audit, accountancy, tax advisory, insolvency or related services in the United Kingdom, on the prevention of money laundering and the countering of terrorist financing. Issued by the Consultative Committee of Accountancy Bodies, in August 2008.***

The Anti-Money Laundering Guidance for the Accountancy Sector has been approved by Treasury (excluding Appendix A - Supplementary guidance for the Tax Practitioner, which has been submitted for Treasury approval separately). Guidance which is approved by Treasury is 'relevant guidance' within the meaning of the Money Laundering Regulations 2007. Courts must consider relevant guidance when determining whether an accountant's conduct gives rise to certain offences under either the Proceeds of Crime Act 2002 or the Money Laundering Regulations 2007. It is this guidance which practitioners should consider as authoritative when implementing and complying with anti-money laundering requirements.

The Guidance provides the accountancy sector with not only an interpretation of the requirements of the Money Laundering Regulations 2007 (which became effective from 15<sup>th</sup> December 2007) and primary legislation relating to money laundering and terrorist financing but also practical guidance on good practice for matters not prescribed in law.

This Guidance includes a number of minor changes made since the guidance was issued in December 2007 (following the publication of an exposure draft in October 2007).

The Guidance reflects not only law but the experience of practitioners. For more complex areas of customer due diligence, our guidance continues to be cross referred to the guidance notes issued by the Joint Money Laundering Steering

Group. However, it is intended that, at least for most smaller practitioners, the guidance will be self contained and the need to refer to additional external material will be minimal.

To aid easy access, use is made of defined terms explained in a glossary and each section is prefaced with key points for quick reference.

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### **KEY POINTS**

- UK anti-*money laundering* regime requirements are set out in the Proceeds of Crime Act 2002 (*POCA*) (as amended by the Serious Organised Crime and Police Act 2005 (*SOCPA*)), the Money Laundering Regulations 2007 (*2007 Regulations*) and the Terrorism Act 2000 (*TA 2000*) (as amended by the Anti-Terrorism, Crime and Security Act 2001 (*ATCSA 2001*) and the Terrorism Act 2006 (*TA 2006*)).
- HM Treasury approval for this *Guidance* has been granted. As such the Courts must take it into account in deciding whether or not an offence has been committed under ss330-331, *POCA* or the *2007 Regulations* by an *individual* or *business* within its scope.
- *Businesses* and *individuals* should take account of this *Guidance* when acting in the course of business as auditors, *external accountants*, *insolvency practitioners* and *tax advisers*, and when acting in the course of business as trust and company service providers. Failure to do so could have serious legal, regulatory or professional disciplinary consequences.
- Where other professional or trade bodies have produced specialist *Guidance* concerning particular services or activities, *businesses* and *individuals* may need, to have regard to that *Guidance* as a supplement to this *Guidance*.

---

### **INTRODUCTION**

- 1.1 Terms that appear in *italics* in this *Guidance* are explained in the Glossary.
- 1.2 This *Guidance* has been drafted to be consistent with the *Guidance* for the UK financial sector issued by the Joint Money Laundering Steering Group (*JMLSG*). Some of the material contained in this guide draws significantly on *JMLSG* wording, for which thanks are due to the *JMLSG*. The *JMLSG Guidance* is very comprehensive, and where *businesses* or *individuals* require further guidance, they may seek it from the *JMLSG Guidance*. *Businesses* and *individuals* carrying out *defined services* who follow the *JMLSG Guidance*, adapted for the circumstances in which they are practising, will be deemed to have followed this *Guidance*.
- 1.3 This *Guidance* has been prepared to assist accountants and related *businesses* and professionals in complying with their obligations, arising from United Kingdom legislation, in relation to the prevention, recognition and reporting of *money laundering*.

---

### **BUSINESSES AND INDIVIDUALS WITHIN THE SCOPE OF THIS GUIDANCE**

- 1.4 The *Guidance* is addressed to *businesses* and *individuals* covered by Regulation 3 (1)(c) of the *2007 Regulations* ie, those who act in the course of a business carried on by them in the United Kingdom as an auditor, *external accountant*, *insolvency practitioner* or *tax adviser* (as defined in Regulation 3(4) to 3(8)), and those who act in the course of business as trust or company service providers under Regulation 3 (1)(e) of the *2007 Regulations* (as defined in Regulation 3(10)). These services are referred to together for the purpose of this *Guidance* as the *defined services*.

*Businesses* that provide both accountancy services and trust or company services and that are supervised by HMRC should generally follow the this *Guidance* but also



have regard to 'Appendix 10: Supplementary guidance for trust or company services providers' of the HMRC guide 'MLR 8 - Preventing money laundering and terrorist financing'.

- 1.5 This *Guidance* is not addressed to *independent legal professionals*, even where they are acting as *tax advisers*, *insolvency practitioners* or trust or company service providers. *Independent legal professionals* should refer to *Guidance* issued by their professional body or *anti-money laundering supervisory authority*. Where *businesses* have sub-contracted parts of their work for clients to other *individuals* or *businesses* situated outside of the United Kingdom, it is likely that those others will be subject to local anti-money laundering law and not to United Kingdom law in respect of the work undertaken by them. However, the responsibility of United Kingdom *businesses* and *individuals* for compliance with the 2007 Regulations and *POCA and TA* in respect of the conduct of their business, and in respect of information or other matters coming to them in the course of conducting that business, remains whether or not parts of the work are sub-contracted.
- 1.6 Regulation 3(7) defines *external accountant* as someone who provides *accountancy services* by way of business to other persons, when providing such services. *The 2007 Regulations* do not define the term *accountancy services*. For the purpose of this *Guidance*, *Accountancy services* includes, any service provided under a contract for services (ie, not a contract of employment) which pertains to the recording, review, analysis, calculation or reporting of financial information.
- 1.7 Employees of organisations which are not providing *defined services* are outside the scope of this *Guidance*. Those employed in other *regulated sectors* (financial services, law firms, estate agents, high value dealers or casinos) should have regard to *Guidance* issued by the employer's trade or professional body or *anti-money laundering supervisory authority*. Employees are not engaged in the *regulated sector* for the purposes of the *anti-money laundering* legislation, if their employer is not acting in the *regulated sector*. Nor are those providing services privately on an unremunerated and voluntary basis, since those services will not have been provided 'by way of business'. Services provided in the course of employment or business in *defined services* will however be included, even if provided to the *client* on a pro-bono or unremunerated basis.
- 1.8 All persons (including those outside the *regulated sector*) risk committing the *money laundering offences* and are required to report suspicions of *terrorist financing* formed in the course of their trade, profession or employment. However, those outside the *regulated sector* have no mandatory requirements for reporting knowledge or suspicions of non-terrorism related *money laundering* (although if they are themselves involved in the *money laundering*, reporting under s338, *POCA* (authorised disclosures) is required if the person is to benefit from the defence available in this regard under ss 327-329, *POCA*), or for maintaining *anti-money laundering* systems. Additional guidance on both the legal requirements and on the avoidance of *money laundering* risk, for accountants or tax advisers working outside the *regulated sector*, may be sought from an appropriate trade or professional body.
- 1.9 All *businesses* and *individuals* within the scope of this *Guidance* should have regard to its content, in respect of all *defined services*. Members and member firms of the *CCAB* member bodies and other professional bodies which adopt this *Guidance* should be aware that failure to take account of the provisions of this *Guidance* can give rise to a liability to disciplinary action. *Businesses* and *individuals* undertaking *defined services* who are supervised by HMRC should refer to the HMRC's web site to determine the likely effects of failure to take into account this *Guidance*.

- 1.10 It should also be noted that the way in which *businesses* and *individuals* apply the provisions of this *Guidance* will be likely to influence decisions by their professional bodies on whether they have complied with general ethical requirements, for example relating to integrity, the need to consider the public interest, or regulatory requirements.
- 1.11 *Businesses* and *individuals* may also need to have regard to *Guidance* issued by other standard setters, professional bodies or trade associations where this relates to particular specialist services. Additional *Guidance* should be read in conjunction with this *Guidance*. Such *Guidance* includes (but may not be limited to):
- Auditors – Auditing Practices Board Practice Note 12 ‘Money Laundering: Interim *Guidance* for Auditors in the UK’.
  - *Tax advisers* - Supplementary *Guidance* for Tax Practitioners (Appendix A).
- 1.12 This *Guidance* does **not** deal with the specific requirements of the Financial Services Authority (*FSA*). Accordingly, those providing financial services and regulated by the *FSA* should additionally refer to *FSA* requirements, which incorporate *anti-money laundering Guidance* issued by the Joint Money Laundering Steering Group (*JMLSG*).
- 1.13 However, this *Guidance* **does** cover the requirements of firms providing services under the Designated Professional Body provisions of Part XX, section 326 of the Financial Services and Markets Act 2000, or otherwise providing financial services under the oversight of their professional body. Such activities for the purpose of this *Guidance* are included within the scope of *defined services*.
- 1.14 As well as ‘*business relationship*’, the *2007 Regulations* refer to ‘occasional transactions’, ie, those outside the *business relationship* valued at over €15,000. ‘Occasional transactions’ is a cogent term in a banking context but is difficult to apply in the context of *accountancy services*. Therefore this *Guidance* uses only ‘*business relationship*’, a more natural term for *accountancy and related services*, throughout.

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## ROLE OF SUPERVISORY BODIES

- 1.15 The *2007 Regulations* require all *businesses* to be supervised by an appropriate *anti-money laundering supervisory authority*. For many *businesses* acting as *external accountants* and/or auditors, *tax advisers* or *insolvency practitioners* the supervisory authority will be the professional body to which they belong. A full list of approved supervisory authorities for the accountancy sector is set out in Schedule 3 to the *2007 Regulations*, including all six *CCAB* member bodies and certain other accountancy and tax bodies. Those *businesses* that are not members of, or otherwise regulated by, one of the approved bodies will be supervised by HMRC. Where a *business* or *individual* is subject to more than one *anti-money laundering supervisory authority* the relevant *anti-money laundering supervisory authorities* may (Regulation 23 (2)) agree that one shall act in respect of that *business* or *individual* but they are not obliged to do so. Accordingly some *businesses* and *individuals* will continue to have to respond to more than one *anti-money laundering supervisory authority*.

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## LEGAL REQUIREMENTS AND STATUS OF THIS GUIDANCE

- 1.16 The legislation which embodies the UK *anti-money laundering* regime is contained in:

- The Proceeds of Crime Act 2002 (*POCA*) as amended by The Serious Organised Crime and Police Act 2005 (*SOCPA*) and relevant statutory instruments;
- The Terrorism Act 2000 (*TA 2000*) (as amended by the Anti Terrorism Crime and Security Act 2001 (*ATCSA*) and the Terrorism Act 2006 (*TA 2006*)) and relevant statutory instruments; and
- The Money Laundering Regulations 2007 (*2007 Regulations*) and relevant statutory instruments.

*POCA* and *TA 2000* contain offences which may be committed by *individuals* or entities, whereas the *2007 Regulations* deal with the systems and controls which *businesses* are required to have and contain offences which may be committed by *businesses* as well as the key *individuals* within them.

- 1.17 Approval by HM Treasury has been granted in relation to this *Guidance*. This means the Courts must have regard to the *Guidance* in deciding whether *businesses* or *individuals* affected by it have committed an offence under the *2007 Regulations* or under ss330-331, *POCA*. Of course, this *Guidance* cannot be exhaustive. It may be necessary to seek advice either from trade or professional bodies, *anti-money laundering supervisory authorities* or other sources on issues and situations not covered by this *Guidance*.
- 1.18 This *Guidance* has been prepared on the basis that compliance with its requirements, and recommendations, will ensure compliance with relevant legislation and professional requirements. Within this *Guidance*, the term ‘must’ is used to indicate a legal or regulatory requirement and accordingly the use of this term indicates where following this *Guidance* is considered mandatory. *Businesses* and *individuals* may seek alternative interpretations of the UK *anti-money laundering* regime if they wish but they are recommended to consider the impact of any advice they receive on their obligations and be able to justify why they have preferred to implement an alternative interpretation. However, there are many instances where law and regulation does not prescribe the required actions. In such instances the term ‘should’ (and other terms suggesting possible ways in which *Businesses* and *Individuals* may approach matters subject to this *Guidance*) are used to indicate good practice methods that may be employed to meet statutory and regulatory requirements. *Businesses* and *individuals* need to consider the specific circumstances of their own situation in determining whether the suggested good practice methods are appropriate, or whether they consider alternative practices may be employed to achieve compliance with law and regulation. In all cases, *Businesses* and *individuals* need to be prepared to be able to explain to their *anti-money laundering supervisory authority* the rationale for their procedures and why they consider they are compliant with law and regulation.
- 1.19 Note that the UK *anti-money laundering* regime does not apply to some services that *businesses* may undertake and applying the regime’s requirements to all their services may in these cases be unnecessarily costly. This *Guidance* assumes that many *businesses* will find it easier, and more effective, to apply the requirements to all their services. However, it is a decision for each *business* to take. Where *businesses* choose to outsource or subcontract work to non-regulated entities, they should bear in mind that they remain subject to the obligation to maintain appropriate risk management procedures to prevent *money laundering* activity. In that context, they should consider whether the subcontracting increases the risk that they will be involved in or used for money laundering, in which case appropriate controls to address that risk should be put in place.

- 1.20 Those involved in the provision of management consultancy services or interim management should be particularly alert to the possibility that they could be within the scope of the anti-*money laundering* regime to the extent they supply any of the *defined services* when acting under a contract for services in the course of business.
- 1.21 Throughout this *Guidance*, *businesses* and *individuals* subject to the provisions of the UK anti-*money laundering* regime through being covered in Regulation 3, *2007 Regulations* or Schedule 9 to *POCA* are referred to as being part of the *regulated sector*. Note that whilst *POCA* refers to those covered in Schedule 9 as 'regulated' persons and the *2007 Regulations* refer to those covered by Regulation 3 as 'relevant' persons, those included in the two categories are identical.
- 1.22 Throughout this *Guidance*, the *nominated officer* required to be appointed by a *business* under the *2007 Regulations* to receive disclosures in accordance with Part 7, *POCA* is referred to by the name commonly used in the *regulated sector* as a *Money Laundering Reporting Officer* or *MLRO*.

## SECTION 2 – THE OFFENCES

### KEY POINTS

- The three *money laundering offences* are those contained in ss327-329, the Proceeds of Crime Act 2002 (*POCA*). The Terrorism Act 2000 (*TA 2000*) also creates similar offences relating to *terrorist financing*. In this *Guidance*, the term '*money laundering*' will encompass *terrorist financing* activities.
- Detailed *Guidance* as to the provisions of the *TA 2000* has not been provided as the requirements for the *regulated sector* are very similar to those contained in *POCA* which are described in detail. Reporting of *terrorist financing* suspicions is through the same channels as *money laundering* suspicions.
- The *money laundering* offences are framed very broadly and are designed to catch any activity in respect of *criminal property*, including possession of the proceeds of one's own *criminal conduct*.
- *Criminal conduct* is widely defined by s340, *POCA* to be conduct that is an offence in any part of the UK as well as conduct occurring elsewhere that would have been an offence if it had taken place in the UK. There are very limited exceptions to this for conduct which is both known to be legal in the country in which it is committed and which falls within the specific exceptions set out in orders made by the Secretary of State.
- *Criminal property* is defined by s340, *POCA* as being the benefit of *criminal conduct* where the alleged offender knows or suspects that the property in question represents such a benefit.
- *Terrorist property* is defined in s14, *TA 2000* as money or property likely to be used for terrorist purposes, or the proceeds of commissioning or carrying out terrorist acts.
- The *money laundering* offences and the similar offences under *TA 2000* can be committed by any person, whether or not they are part of the *regulated sector*. Defences available to any person charged with such offences include reporting to the appropriate authorities and obtaining consent. *Individuals* working in any *business* can commit, subject to limited exemptions, the offence of failing to disclose *terrorist financing*.
- There are three further types of *POCA* offences relevant to *individuals* to whom this *Guidance* relates. These are the failing to disclose offences in ss330-331, *POCA* (NB: s332 contains a similar offence relating to *MLRO's* outside of the *regulated sector*); *tipping off* (s333A, *POCA*); and *prejudicing an investigation* (s342, *POCA*). There are similar offences in ss19-21A, *TA 2000*.
- The offence of failing to make a *money laundering* disclosure (often referred to as failing to report) can be committed by any *individual* working in the *regulated sector* or by an *MLRO* working in other *business*. The offence of *tipping off* is set out in s333A, *POCA* which applies to those in the *regulated sector* only. The *POCA* offence of *prejudicing an investigation* can be committed by anyone. There are similar failing to disclose and *tipping off* offences contained in *TA 2000*.
- It is a criminal offence for a *business* not to comply with the *2007 Regulations*, if that *business* is within their scope. It is also an offence for any partner, director or officer of the *business*, to consent to or connive at the non-compliance or by neglect to cause non-compliance.

### WHAT IS MONEY LAUNDERING?

- 2.1 In UK law *money laundering* is defined very widely, and includes all forms of handling or possessing *criminal property*, including possessing the proceeds of one's own crime, and facilitating any handling or possession of *criminal property*. *Criminal property* may take any form, including in money or money's worth, securities, tangible

property and intangible property. *Money laundering* can be carried out in respect of the proceeds of conduct that is an offence in the UK as well as most conduct occurring elsewhere that would have been an offence if it had taken place in the UK. For the purpose of this *Guidance*, *money laundering* is also taken to encompass activities relating to *terrorist financing*, including handling or possessing funds to be used for terrorist purposes as well proceeds from terrorism. Terrorism is taken to be the use or threat of action designed to influence government, or to intimidate any section of the public, or to advance a political, religious or ideological cause where the action would involve violence, threats to health and safety, damage to property or disruption of electronic systems. Materiality or de minimis exceptions are not available in relation to either *money laundering* or *terrorist financing* offences.

- 2.2 *Money laundering* activity may range from a single act, eg, being in possession of the proceeds of one's own crime, to complex and sophisticated schemes involving multiple parties, and multiple methods of handling and transferring *criminal property* as well as concealing it and entering into arrangements to assist others to do so. *Businesses* and *individuals* need to be alert to the risks of *clients*, their counterparties and others laundering money in any of its possible forms. The *business* or its *client* does not have to be a party to *money laundering* for a reporting obligation to arise (see section 3). Where criminal proceeds have already arisen, s340(11), *POCA* includes within the definition of *money laundering* any attempt, conspiracy or incitement to commit an offence under ss327-329, *POCA* as well as aiding, abetting, counselling or procuring an offence under ss327-329, *POCA*. In the case of *terrorist financing*, it is an offence to attempt to commit an offence under ss15-18, *TA 2000* even if *terrorist property* has not come into being, eg, under s15(1), *TA 2000* where the invitation to provide money or other property for *terrorist financing* is in itself an offence. Further, the definition of '*terrorist property*' means that all dealings with funds or property which are likely to be used for the purposes of terrorism, even if the funds are "clean" in origin, is a *terrorist financing* offence.

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## MONEY LAUNDERING OFFENCES

- 2.3 Sections 327-329 in the Proceeds of Crime Act (*POCA*) (as amended by the Serious Organised Crime and Police Act 2005 (*SOCPA*)) define the *money laundering* offences. **Anyone** can commit one of these. Conviction of any of these offences is punishable by up to 14 years imprisonment and/or an unlimited fine. A person commits a *money laundering* offence if he:

- **Conceals**, disguises, converts or transfers *criminal property*, or removes *criminal property* from England and Wales, or from Scotland or from Northern Ireland (s327);
- Enters into or becomes concerned in an **arrangement** which he knows or suspects facilitates (by whatever means) the acquisition, retention, use or control of *criminal property* by or on behalf of another person (s328); or
- **Acquires**, uses or has possession of *criminal property* except where adequate consideration was given for the property (s329).

- 2.4 None of these offences are committed if:

- the persons involved did not know or suspect that they were dealing with the proceeds of crime; or
- a report of the suspicious activity is made promptly to an *MLRO* (an *internal report*) or direct to *SOCA* (a *suspicious activity report*, or *SAR*) under the

- provisions of s338, *POCA*, and (if the report is made before the act is committed) the appropriate consent is obtained before doing the act; or
- no report is made, there was a reasonable excuse for this failure (note that there is no *money laundering* case law on this issue and it is anticipated that only relatively extreme circumstances, such as duress, might be accepted); or
  - the act is committed by someone carrying out a law enforcement or judicial function; or
  - the conduct giving rise to the *criminal property* was reasonably believed to have taken place outside of the UK, and the conduct was in fact lawful under the criminal law of the place where it occurred, and the maximum sentence if the conduct had occurred in the UK would have been less than 12 months (except in the case of an act which would be an offence under the Gaming Act 1968, the Lotteries and Amusements Act 1976 or under ss23 or 25, *FSMA*, which will fall within the exemption even if the relevant sentence would be in excess of 12 months). In this *Guidance*, this is referred to as the *overseas conduct exemption*.
- 2.5 It should be noted that the tests relating to overseas conduct (set out in SI 2006 No1070 and in Section 2.4, final bullet, of this *Guidance*) are complex and onerous. These are very stringent tests, and as such *individuals* and *businesses* need to be cautious in their application.
- 2.6 There is a further exemption for deposit taking bodies (accountancy *businesses* holding clients' money cannot use this exemption) who may continue to run an account containing *criminal property* where the each transaction is less than the threshold amount (currently £250) set out in s339A, *POCA*.
- 2.7 Note that ss15-18, Terrorism Act 2000 (*the TA 2000*) also create similar offences (*terrorist offences*) to those contained in ss327-329, *POCA* but that there is no *overseas conduct exemption* or threshold amounts.

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## OFFENCES OF FAILING TO DISCLOSE

- 2.8 *Individuals* in the *regulated sector* commit an offence if they fail to make a disclosure in cases where they have knowledge or suspicion, or reasonable grounds for suspicion, that *money laundering* is occurring. Disclosure must be made to their *MLRO* or direct to *SOCA* under ss330, *POCA*. In this *Guidance*, disclosure to an *MLRO* is referred to as an *internal report* and to *SOCA* as a *suspicious activity report* or *SAR*. *MLROs* have a duty to make disclosures under s331, *POCA* if they have knowledge, suspicion or reasonable ground to suspect *money laundering* as a consequence of an *internal report*. The s332 failure to disclose offence is similar and would apply to an *MLRO* in a business outside of the *regulated sector*, including an *MLRO* appointed to deal with reports emanating from non-regulated business within a *business* that conducted both regulated, and non-regulated services, in respect of suspicions arising from *internal reports*. This is not further addressed in this *Guidance*. These offences are punishable by imprisonment of up to 5 years and/or an unlimited fine.
- 2.9 Similar provisions regarding failure to disclose are contained in s19, and 21A, *TA 2000*. The s19 failure to report offence is applicable to **anyone** in employment or business outside of the regulated sector, with s21A being applicable to all those in the *regulated sector*.



## The failure to disclose offence under Sections 330 and 331 POCA

- 2.10 The failure to disclose offence in s330 is committed if an *individual* fails to make a report comprising the *required disclosure* as soon as is practicable either in the form of an *internal report* to his *MLRO* or in the form of a *SAR* to a person authorised by the Serious Organised Crime Agency (*SOCA*) to receive disclosures. The obligation to make the *required disclosure* arises when:
- a person knows or suspects, or has reasonable grounds for knowing or suspecting that another person is engaged in *money laundering*;
  - the information or other matter on which the above is based came to him in the course of business in the *regulated sector*;
  - he either can identify that other person, or has information concerning the whereabouts of the laundered property or the information he has may assist in identifying the person or the whereabouts of the property (the laundered property is that which forms the subject of the matter of the known or suspected *money laundering*).
- 2.11 An *MLRO* is obliged to report if he is satisfied that the information received in *internal reports* meets the tests set out in 2.10. An *MLRO* may commit the s331, *POCA* offence if he fails to pass on reportable information in *internal reports* that he has received, as soon as is practicable, to *SOCA*.

### Required Disclosure

- 2.12 *Individuals* need to take care to ensure that any information held by them which is part of the *required disclosure*, ie, the identity of the suspect (if known), the information or other matter on which the knowledge or suspicion of *money laundering* (or reasonable grounds for such) is based and the whereabouts of the laundered property (if known) is passed as soon as is practicable to the *MLRO*. Additional information held by the *individual* which identifies other parties involved in or connected to the matter should also be given to the *MLRO*.
- 2.13 Further *Guidance* on the making of *SARs*, including the appropriate form and manner of reporting, is given in sections 5 and 6 below.

### Defences and exemptions

- 2.14 There are defences to and exemptions from the failing to disclose offences as follows:
- there is reasonable excuse for not making a report (note that there is no *money laundering* case law on this issue and it is anticipated that only relatively extreme circumstances, such as duress and threats to safety, might be accepted); or
  - the *privilege reporting exemption* (see sections 7.26 to 7.46 below) applies; or
  - the *individual* does not actually know or suspect *money laundering* has occurred and has not been provided by his employer with the training required by the 2007 *Regulations* (Regulation 21). If the employer has failed to provide the training, this is an offence on the part of the employer. The effect for the individual who has not been provided with training is that the objective test (of being required to report if there are 'reasonable grounds' for knowledge or suspicion) is removed; or

- it is known, or believed on reasonable grounds, that the *money laundering* is occurring outside the UK, and is not unlawful under the criminal law of the country where it is occurring.

In determining whether an offence has been committed under ss330 and 331, the Courts must have regard to the content of this *Guidance* [Subject to HMT approval] when applied to an *individual* delivering *defined services* or to an *MLRO*.

- 2.15 Whilst an *individual* in the *regulated sector* has a duty to report, other persons may voluntarily report to SOCA and also receive the protections available both in terms of potentially creating a defence to a *money laundering* offence and also the protection against accusations of breach of confidentiality providing the report is properly made under the provisions of either of ss337 and 338, *POCA* (See section 6.10) as appropriate.

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## TIPPING OFF

- 2.16 The offence of *Tipping off* was previously set out in s333, *POCA*, but was removed by statutory instrument (effective from 26 December 2007) The s333, *POCA* offence meant anyone not acting in the course of a business in the *regulated sector* could commit this offence which consisted of:

- knowing or suspecting that a report has been made either to an *MLRO* or to SOCA (under either s337 or s338, *POCA*); *and*
- making any disclosure which he knows or suspects is likely to prejudice any investigation that might follow that report.

There were limited exceptions relating to persons carrying out law enforcement or judicial functions, and to legal advisers acting in privileged circumstances provided the disclosure is not made with the intention of furthering a criminal purpose.

The penalty for this offence is a maximum of 5 years imprisonment, or an unlimited fine, or both.

- 2.17 Section 333, *POCA* is replaced by s333A *POCA* which applies only to the *regulated sector*. The criminal offence of *tipping off* in s333A, *POCA* arises where a person in the *regulated sector* discloses either:

- that a disclosure has been made by a person of information obtained in the course of a *regulated sector business* either to an *MLRO* or to SOCA (under either s337 or s338, *POCA*) or to any other person authorised by SOCA to receive disclosures, or to the police or HMRC and the disclosure is likely to *prejudice any investigation* that might be conducted following the disclosure referred to; or
- that an investigation into allegations that a *money laundering* offence has been committed, is being contemplated or is being carried out and the disclosure is likely to prejudice that investigation and the information disclosed came to the person in the course of a *business* in the *regulated sector*.

A *tipping off* offence will not be committed under s333A, *POCA* if the person did not know or suspect that the disclosure was likely to *prejudice any investigation* that followed.

The penalty for this offence on summary conviction is a maximum of three months imprisonment, or a fine on scale 5, or both and on conviction on indictment to

imprisonment for a term not exceeding two years, or a fine or both. There are a number of exceptions to this prohibition on revealing the existence of a report or an actual or contemplated investigation which are as follows:

- **Disclosures within an undertaking or group etc**, (s333B): a person does not commit an offence if he makes a disclosure to another person employed by the same undertaking as him, and nor does an *independent legal professional* or a *relevant professional adviser* commit an offence if the disclosure is made to another *independent legal professional* or a *relevant professional adviser* where both the person making the disclosure and the person to whom it is made are in either an EEA state or a state imposing equivalent anti-*money laundering* requirements and those persons perform their professional activities within different undertakings that shares common ownership, management or control.
- **Other permitted disclosures between institutions etc** (s333C): an *independent legal professional* or a *relevant professional adviser* does not commit an offence if he makes a disclosure to another person of the same kind from a different undertaking but of the same professional standing as himself (including as to duties of professional confidentiality and the protection of personal data) where the disclosure relates to the same *client* or former *client* of both advisers and involves a transaction or provisions of a service that involved them both, the disclosure is only made for the purpose of preventing a *money laundering* offence and the disclosure is made to a person in an EU Member State or a State imposing an equivalent money laundering requirements. This means that eg, an accountant may only disclose to another accountant, and not to a lawyer or another kind of *relevant professional adviser*.
- **Other permitted disclosures (general)** (s333D): an offence is not committed if a disclosure is made to a *anti-money laundering supervisory authority* by virtue of the Money Laundering Regulations 2007 or for the purpose of the prevention, investigation or prosecution of a criminal offence in the UK or elsewhere, an investigation under *POCA*, or enforcement of any order of a court under *POCA*. In addition, and of importance to those who are *relevant professional advisers*, an offence is not committed by a *relevant professional adviser* if he makes the disclosure to his *client* for the purpose of dissuading the *client* from engaging in conduct amounting to an offence.

2.18 Any of the *tipping off* offences contained in s333A, *POCA* will only occur in the circumstances described, but there may be circumstances where a money launderer may be alerted to the possibility that a report will be or has been made or an investigation conducted, other than by a disclosure of such fact eg, by unexpected delay caused by waiting on *consent*. These have been distinguished in this *Guidance* by use of the phrase '*alerting a launderer*'. *Businesses* will also need to take care to guard against *alerting a launderer*, as part of their policies and procedures aimed at preventing operations related to *money laundering*.

2.19 A *tipping off* disclosure may be made in writing or verbally, and either directly or indirectly – including through inclusion of relevant information in published information. Considerable care is required in carrying out any communications with *clients* or third parties following a report. Before any disclosure is made relating to matters referred to in an *internal report* or *SAR*, it is important to consider carefully whether or not it is likely to constitute offences of *tipping off* or prejudicing an investigation. It is suggested that *businesses* keep records of these deliberations and the conclusions reached (sections 7.10 and 7.11).

- 2.20 However, *individuals* and *businesses* in the *regulated sector* will frequently need to continue to deliver their professional services and a way needs to be found to achieve this without falling foul of the *tipping off* offence. Section 333D(2) is of assistance in this regard (disclosure to his *client* for the purpose of dissuading the *client* from engaging in conduct amounting to a *money laundering* offence). More *Guidance* on acting for a *client* after a *money laundering* suspicion has been formed is given in section 9.

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## PREJUDICING AN INVESTIGATION

- 2.21 This offence is set out in s342, *POCA*. This offence is committed where a person:

- knows or suspects that a *money laundering*, confiscation or civil recovery investigation is being conducted or is about to be conducted; and
- makes a disclosure which is likely to *prejudice the investigation*; or
- falsifies, conceals or destroys documents relevant to the investigation, or causes that to happen.

As with *tipping off* offences, the person making the disclosure does not have to intend to prejudice an investigation for this offence to apply. However, there is a defence available if the person making the disclosure did not know or suspect the disclosure would be prejudicial, did not know or suspect the documents were relevant, or did not intend to conceal any facts from the person carrying out the investigation.

- 2.22 There are limited exceptions relating to persons carrying out law enforcement or judicial functions, and to legal advisers acting in privileged circumstances provided the disclosure is not made with the intention of furthering a criminal purpose.
- 2.23 Considerations similar to those set out under *tipping off* above apply in terms of how the offence may be committed and of taking precautions to ensure any disclosure made does not prejudice an investigation. *Businesses* should ensure they have sufficient document retention policies in place (see Section 3.9 of this *Guidance* – Record Keeping) to meet the needs of this section of *POCA* and the *2007 Regulations*, as well as their legal and professional obligations more generally.

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## KNOWLEDGE AND SUSPICION

### Knowledge or suspicion?

- 2.24 An offence is committed by an *individual* in the *regulated sector* if he fails to report where he has knowledge, suspicion or reasonable grounds for suspecting *money laundering* activity. There is no definition of knowledge or suspicion within *POCA* and so interpretation of their meaning will rely on judgements in past legal cases, as well as this *Guidance* and on the ordinary meaning of the words.
- 2.25 Having knowledge means actually knowing that something is the case.
- 2.26 Case law suggests that suspicion is a state of mind more definite than speculation, but falls short of knowledge based on evidence. It must be based on some evidence, even if that evidence is tentative – simple speculation that a *client* may be *money laundering* is not sufficient grounds to form a suspicion. Similarly, a general assumption that low levels of crime (eg, not declaring all cash takings) are endemic

in particular industry sectors does not amount to reasonable grounds for suspicion of particular *clients* operating in that sector.

- 2.27 A frequently used description is that ‘...A suspicion that something exists is more than a mere idle wondering whether it exists or not; it is a positive feeling of actual apprehension or mistrust, amounting to a “slight opinion, but without sufficient evidence”’ (*Queensland Bacon PTY Ltd v Rees* [1966] 115 CLR 266 at 303, *per Kitto J*). In another more recent case, *Da Silva* [2006] EWCA Crim 1654, ‘It seems to us that the essential element in the word “suspect” and its affiliates, in this context, is that the defendant must think that there is a possibility, which is more than fanciful, that the relevant facts exist. A vague feeling of unease would not suffice.’
- 2.28 *Money laundering* occurs only when *criminal property* has accrued to someone from a criminal act. In addition, it must be borne in mind that for property to be *criminal property* not only must it constitute a person’s benefit from *criminal conduct*, but the alleged offender (ie, the person alleged to be laundering *criminal property*) must know or suspect that the property constitutes such a benefit. This means, for instance, that if someone has made an innocent error, even if such an error resulted in benefit and constituted a strict liability criminal offence, then the proceeds are not *criminal property* for the purposes of *POCA* and no *money laundering* offence has arisen until and unless the offender becomes aware of the error (eg, s167(3), Customs and Excise Management Act 1979). *MLROs* need to consider carefully before reporting whether the information or other matter they intend to report meets these criteria. Examples of unlawful behaviour which may be observed, and may well result in advice to a *client* to correct an issue, but which are not reportable as *money laundering* are given below:

- offences where no proceeds or benefit results, such as the late filing of company accounts. However, *businesses and individuals* should be alert to the possibility that persistent failure to file accounts could represent part of a larger offence with proceeds, such as fraudulent trading or credit fraud involving the concealment of a poor financial position.
- misstatements in tax returns, for whatever cause, but which are corrected before the date when the tax becomes due.
- attempted frauds where the attempt has failed and so no benefit has accrued (although as this may still be a Fraud Act offence in England, Wales and Northern Ireland or the common law offence of fraud in Scotland, *individuals* and *businesses* may wish to consider reporting to their local police force or, once operational, the ‘National Fraud Reporting Centre’). This includes ‘419’<sup>1</sup> letters and other attempted advanced fee frauds where there is no knowledge of benefit accruing. In the case of such letters, *individuals* and *businesses* may wish to consider following the guidance on the Metropolitan Police Fraud Alert internet pages ([www.met.police.uk/fraudalert](http://www.met.police.uk/fraudalert)).

Where a *client* refuses to correct, or unreasonably delays in correcting, an innocent error that gave rise to proceeds and which was unlawful, *businesses* should consider what that indicates about the *client’s* intent and whether the property has therefore now become *criminal property*.

## Reasonable grounds for knowledge or suspicion

- 2.29 *Individuals* in the *regulated sector* must make an *internal report* or a *SAR*, as applicable, if there are ‘reasonable grounds’ for knowledge or suspicion, as well as

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<sup>1</sup> Otherwise known as ‘Nigerian scam’ letters or equivalent

actual knowledge or suspicion. This 'reasonable grounds' test creates an objective test – persons in the *regulated sector* will not be able to rely on an assertion of ignorance or naivety where this would not be reasonable to expect of a person with their training and position. For example, a person might be considered to have reasonable grounds for knowledge of *money laundering* if he had actual knowledge of, or possessed information which would indicate to a reasonable person, that another person was committing or had committed a *money laundering* offence; or had deliberately ignored the obvious inference from information (ie., wilfully shutting one's eyes) known to him that another person was committing or had committed a *money laundering* offence. Please note that the interpretation of 'reasonable grounds' has not, as yet, been tested by the courts for the purposes of *POCA*.

- 2.30 'Reasonable grounds' should not be confused with the existence of higher than normal risk factors which may affect certain sectors or classes of persons. For example, cash-based *businesses* or complex overseas trust and company structures may be capable of being used to launder money, but this capability of itself is not considered to constitute 'reasonable grounds'.
- 2.31 Existence of higher than normal risk factors require increased attention to gathering and evaluation of 'know your *client*' information, and heightened awareness of the risk of *money laundering* in performing professional work, but do not of themselves require a report of suspicion to be made. For 'reasonable grounds' to come into existence, there needs to be sufficient information to advance beyond speculation that it is merely possible someone is laundering money, or a higher than normal incidence of some types of crime in particular sectors.
- 2.32 It is important that *individuals* do not turn a blind eye to information, but make reasonable enquiries such as a professional with their qualifications, experience and expertise might be expected to make in such a situation within the normal scope of their assignment or client relationship, and draw a reasonable conclusion such as may be expected of a person of their standing. *Individuals* should exercise a healthy level of professional scepticism, and if unsure of the action that should be taken, consult with their *MLRO* or otherwise in accordance with their *businesses'* procedures. If in doubt, *individuals* should err on the side of caution and make a report to their *MLRO*.

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## NON-COMPLIANCE WITH THE MONEY LAUNDERING REGULATIONS

- 2.33 It is a criminal offence for a *business* not to comply with the *2007 Regulations*, if it is within their scope. An offence may also be committed by any partner, director or officer of the *business*, who has consented to or connived at the non-compliance or where the non-compliance is attributable to his neglect.
- 2.34 The relevant offences are referred to below. *Individuals* and *businesses* should appreciate that there are a wide range of requirements in respect of which failure to comply could be considered to be a criminal offence.
- 2.35 The offences are set out in Regulation 45 and those which are relevant to the provision of *defined services* relate to:
- Regulation 7 – failure to apply *customer due diligence* measures
  - Regulation 8 – failure to apply ongoing monitoring of *business relationships* and *customer due diligence*

- Regulation 9 – failure to comply with the requirements on timing of verification of identity of *clients* and any beneficial owner
- Regulation 11 – continuing with transaction/*business relationship* where unable to apply *customer due diligence* measures
- Regulation 14 – failure to apply enhanced *customer due diligence* and ongoing monitoring where required
- Regulation 18 – failing to follow a direction made by HM Treasury under this regulation (directions where *FATF* applies counter-measures)
- Regulation 19 – failure to keep the required records
- Regulation 20 – failure to establish, maintain, monitor and manage the required policies and procedures
- Regulation 21 – failure to take appropriate measures to provide the required training
- Regulations 26, 27 – failures regarding certain registration procedures where the Commissioners (HMRC) are the supervisory body (not applicable to those supervised by a body listed in Schedule 3)
- Regulation 33 – failure to comply with registration requirements specified by the Commissioners (not applicable to those supervised by a body listed in Schedule 3)

2.36 Further *Guidance* on compliance with the *2007 Regulations* is given in sections 3 to 7 below. As Treasury approval has been obtained the Courts are obliged to take into account compliance with this *Guidance*, in deciding whether an offence has been committed.



## SECTION 3 - ANTI MONEY LAUNDERING SYSTEMS AND CONTROLS

### **KEY POINTS**

Under the Money Laundering Regulations 2007 (*2007 Regulations*) *businesses* are required to establish appropriate risk-sensitive policies and procedures in order to prevent activities related to *money laundering* and *terrorist financing* including those policies and procedures which provide for:

- identification and scrutiny of complex or unusually large transactions, unusual patterns of transactions with no apparent economic or lawful purpose and other activities regarded by the regulated person as likely to be of the nature of *money laundering* or *terrorist financing*;
- prevention of use of products favouring anonymity;
- determination of whether a *client* is a *PEP*;
- *customer due diligence*, ie, procedures designed to acquire knowledge about the firm's *clients* and prospective *clients* and to verify their identity as well as monitor *business relationships* and transactions;
- internal reporting including appointment of an *MLRO* to receive the *money laundering* reports required under the Proceeds of Crime Act 2002 (*POCA*) and the Terrorism Act (*TA 2000*) and a system for making those reports;
- record keeping, including details of *customer due diligence* and supporting evidence for *business relationships*, which need to be kept for five years after the end of a relationship and records of transactions, which also need to be kept for five years;
- internal control, risk assessment and management, compliance monitoring, management and communication; and
- in addition, *businesses* are required to take measures to make relevant employees aware of the law relating to *money laundering* and terrorist finance, and to train those employees in how to recognise and deal with transactions which may be related to *money laundering* or *terrorist financing*.

In order to ensure compliance is appropriately managed, *businesses* will need to ensure sufficient senior management oversight, appropriate analysis and assessment of the risks of *clients* and work/product types, systems for monitoring compliance with procedures and methods of communicating procedures and other information to personnel.

### **INTRODUCTION**

- 3.1 *POCA* offences may be committed not only by *individuals* and *businesses* in the *regulated sector* but by any person. In contrast, the *2007 Regulations* impose obligations on *businesses* in the *regulated sector* as to the systems and controls they need to have in place to meet the requirements of the UK anti-*money laundering* regime. Under these regulations, not only must each *business* put anti-*money laundering* systems and controls in place but it also has a duty to ensure that relevant staff are aware of these systems and are appropriately trained. *Businesses* are explicitly required to monitor and manage their compliance with the *2007 Regulations*, to ensure continued observation of the requirements.

- 3.2 *Individuals* involved in the failure of *businesses* to meet their obligations under the *2007 Regulations* may be subject to criminal sanction, as may the *business* itself. Criminal sanctions for breach of the *2007 Regulations* only apply directly to the *individuals* working within a *business* when their neglect, connivance or consent has led to the failure to comply by the *business*.

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## THE REQUIREMENTS

- 3.3 The *2007 Regulations*' requirements of *businesses* are contained in the following Parts:

- *customer due diligence* (Part 2 of the *2007 Regulations*); and
- record-keeping, procedures and training (Part 3 of the *2007 Regulations*).

### Systems

- 3.4 The *2007 Regulations* place requirements on *businesses* to have in place a wide range of systems in order to prevent operations related to *money laundering* or *terrorist financing*. The requirements cover the following issues. Where a separate section of this *Guidance* deals in detail with this matter, this is shown after the relevant heading, the other matters are dealt with in this section:

- *customer due diligence* and ongoing monitoring (see section 5 of this *Guidance*);
- reporting procedures (see sections 6 and 7 of this *Guidance*);
- record-keeping;
- internal control;
- risk assessment and management (see section 4 of this *Guidance*);
- compliance management; and
- communication.

- 3.5 The level of detail in the *2007 Regulations* as to what the requirements mean varies considerably, with *customer due diligence* being explained in some detail in Part 2 of the *2007 Regulations*, and with some detail being provided in respect of internal reporting procedures (Regulation 15) and record-keeping (Regulation 19). The *2007 Regulations* are less comprehensive on what is expected in respect of internal control, risk assessment and management, compliance management and communication.

- 3.6 *Businesses* need to establish systems that create an internal environment or culture in which people are aware of their responsibilities under the *UK anti-money laundering* regime and where they understand that they are expected to fulfil those responsibilities with appropriate diligence. In deciding what systems to install, a *business* will need to consider a range of matters including:

- the type, scale and complexity of its operations;
- the number of different business types it is involved in;
- the types of services it offers, and its *client* profiles;
- how it sells its services;
- the type of business transactions it becomes involved in or advises on; and
- the risks associated with each area of its *business* in terms of the risks of the *business* or its services being used for *money laundering* or terrorist operations, or the risks of its *clients* and their counterparties being involved in such operations.

3.7 *Businesses* should allocate responsibility for internal controls and effective risk management to a member of senior management, and should also ensure that the appointed *MLRO* has sufficient seniority and authority to carry out his task, whether or not these two functions are held by the same person. All *businesses* will need systems and controls, appropriate to the size and nature of their *business*, sufficient to achieve the following:

- determination and recording of the firm's systems for anti-*money laundering* awareness, *client* acceptance, *customer due diligence* and on-going monitoring requirements (including whether a customer is a *PEP*), consultation with and internal reporting to the *MLRO* (where applicable – sole practitioners with no staff and no associates are not required to have internal reporting procedures or an *MLRO*), and dissemination of such policies and procedures to all relevant staff;
- development and documentation of the firm's risk assessment of its *business*;
- training of all relevant staff, including systems and controls to ensure training is taken/attended and understood;
- methods for identification of topical update material and its dissemination as appropriate to senior management and other personnel;
- systems for periodic testing that policies and procedures comply with legislative and regulatory requirements;
- monitoring the compliance of the *business* with the policy and procedures including reporting to senior management on compliance and addressing any identified deficiencies.

3.8 In addition, *businesses* are recommended to maintain the following additional systems, for effective internal control and risk management:

- detailed documentation of policies and procedures in relation to matters not routinely a matter for *client* facing staff, such as *customer due diligence* for higher risk *clients*; information provision to senior management, training, awareness and compliance monitoring, and the role of the *MLRO*;
- provision in new product/service development processes for consideration of new services or business areas from an anti-*money laundering* perspective, and update of policy and procedure where appropriate;
- consideration at appropriate intervals of the *business* profile and whether the firm's risk assessment and/or policy and procedures require updating in response.

Appropriate systems might also include a policy of acceptance of new *clients* being reserved to partners or other senior personnel, who may wish to refer to the *MLRO* for advice, if it is proposed to accept *clients* from outside the usual and well understood *client* base of the firm.

## Record-keeping

3.9 Records must be kept of *clients'* identity, the supporting evidence of verification of identity (in each case including the original and any updated records), the firm's *business relationships* with them (ie,. including any non-engagement related documents relating to the *client* relationship) and details of any occasional transactions and details of monitoring of the relationship. These records must be kept for five years after the end of the relevant *business relationships* or completion of the transactions. Care is needed to ensure retention of historic, as well as current records. *Businesses* are also recommended to store securely information relating to both *internal reports* and *SARs* for at least the same period, ie,. at least five years after receipt by the *MLRO*. Documentation of reports is dealt with in further detail in section 7 below. Shown below is a summary of record-keeping requirements specified in the *2007 Regulations* for *customer due diligence* and *business relationships/occasional transactions* and *Guidance* in respect of retention of internal reporting procedures and training records for which specific guidance is not given in the *2007 Regulations*.

| Record  | Retention period  | Comments   |
|---|---|--|
| <b>Specified in the 2007 Regulations</b>                        |   |  |
| i) <i>Client</i> identification, including evidence of identity | <b>5 years</b> from end of <i>business relationship</i> . <sup>2</sup>  | Care should be taken to ensure that records are not destroyed by one department, while another is still within the five year retention period or has undertaken new business with the <i>client</i> . Where a <i>business</i> is engaged with several different activities with a <i>client</i> , it may decide to keep details of <i>customer due diligence</i> within each part of the firm so engaged, or to maintain central files, depending on its internal organisation. Evidence of <i>client</i> identity can be held in a variety of forms, eg, in hard copy or in electronic form in accordance with the document retention policies employed within the <i>business</i> .  |
| ii) <i>Business relationships</i>                               | <b>5 years</b> from the date when all activities in relation to the <i>business relationship</i> were completed - except in the case of particular transactions within that <i>business relationship</i> the retention period is 5 years from the date on which the transaction | Records of <i>business relationships</i> and occasional transactions (ie,. client assignment working papers and related documents) also need to be maintained for 5 years from the end of the relationship or transaction. For particular transactions within a <i>business relationship</i> , the records for the particular transaction need only be retained for 5 years from the completion of that transaction. In the context of provision of <i>defined services</i> it would be reasonable to treat each engagement or assignment as a 'particular transaction'.<br>As <i>businesses</i> will need to maintain records for a wide range of purposes that comply with both legal and professional requirements for retention of documentation, it is not anticipated that any special system should be needed but that the general document retention systems employed within the |

<sup>2</sup> As well 'business relationship', the *2007 Regulations* refer to 'occasional transactions', ie, those outside the *business relationship* valued at over €15,000. 'Occasional transactions' is a cogent term in a banking context but is difficult to apply in the context of *accountancy services*. Therefore this *Guidance* uses only '*business relationship*', a more natural term for *accountancy and related services*, throughout.

|  |                |   |
|--|----------------|---|
|  | was completed  | <i>business</i> , provided they meet these standards, should be sufficient.   |
| <b>Not specified in the 2007 Regulations</b> |                |   |
| iii) Suspicious activities                   | Not prescribed | Records of <i>internal reports</i> , the <i>MLRO</i> 's consideration of them, any subsequent reporting decision and issues connected to consent, production of documents etc are a vital record as they may form the basis of a defence to accusations of <i>money laundering</i> and related offences. For this reason, it is recommended that such records are retained for at least 5 years after being made and possibly longer, at least whilst the <i>business relationship</i> continues. Records of <i>internal reports</i> are not considered to form part of <i>client</i> assignment working papers and so it is recommended that such records are kept, in a secure form separately from the <i>businesses</i> ' normal methods for retaining <i>client</i> work documents. This is to guard against inadvertent disclosure to any party who may have or seek access to the <i>client</i> working paper files where the existence of otherwise of an <i>internal report</i> or <i>SAR</i> is not relevant to the purpose for which they are examining the files. |
| iv) Training                                 | Not prescribed | We recommend that evidence of assessment of training needs and steps taken to meet such needs is retained. <i>Businesses</i> should determine a retention period in the light of their normal retention period for training and other internal records, but we recommend they be kept for at least 5 years in order to demonstrate a continuing compliance with current and previous regulations.   |

## Reporting procedures

- 3.10 A *business*'s internal procedures should clearly set out what is expected of *individuals* who form suspicions or obtain knowledge of possible *money laundering*. The reports can take any form specified by the *business* in internal procedures, eg, phone calls, emails, in writing, supplemented by copies of third party documents and working papers but *businesses* should ensure that, whatever forms the reporting takes, relevant personnel are aware of the procedures to be used. Consideration should be given to how to minimise the number of copies of reporting information held within a *business*. *Businesses* may wish to consider whether it is advisable to specify telephone or face to face contact with the *MLRO* as the preferred initial reporting step, with the reporting records being created by the *MLRO*, supplemented as necessary with copy information from *client* files.
- 3.11 It is recommended that all details of *internal reports* are held by the *MLRO* and excluded from *client* files. The duty to report is a matter which does not fall within the delivery of professional services to *clients* and accordingly reporting details are not required to be placed on *client* files. Exclusion of information from *client* files assists in avoiding inadvertent or inappropriate disclosure of information and provides some protection against the threat of *tipping off*. *Client* files should retain only that information relevant to, and required for, the professional work being undertaken. It should be noted that *anti-money laundering supervisory authorities* have an obligation under Regulation 24 (2) to make reports of suspicion. However, the law is

not clear as to the interaction of the *POCA privilege reporting exemption* (Section 7.26-7.46) and the 2007 *Regulations* and unless this is resolved, there remains the risk of an *anti-money laundering supervisory authority* reporting a matter that was properly the subject of the *privilege reporting exemption*. Keeping internal reporting papers separate from *client* files may assist in mitigating this risk but is not a complete solution.

- 3.12 Further *Guidance* is given for *individuals*, on forming suspicions and making *internal reports* is given in section 6 and *Guidance* for *MLROs* in checking and validating *internal reports* and making *SARs* to *SOCA* in section 7.

### Communication and Training

- 3.13 The 2007 *Regulations* provide that all 'relevant' employees are required to be 'made aware' of law relating to *money laundering* and *terrorist financing*, and regularly given training in how to recognise and deal with transactions which may be related to *money laundering* or *terrorist financing*. Though the 2007 *Regulations* contain no express requirement, it is considered to be best practice for these provisions to be applied to all partners in firms and to sole practitioners and it is likely to be necessary to train all *client*-facing staff (see section 3.15 below).
- 3.14 In considering a training plan, *businesses* need to keep in mind the objectives they are trying to achieve, which is to create an environment effective in preventing *money laundering* and which thereby helps protect *individuals* and the *business*.
- 3.15 When considering which staff may be considered relevant, *businesses* should consider not only those who have involvement in *client* work, but also, where appropriate, those who deal with the *business* finances, and those who deal with procuring services on behalf of the *business* and who manage those services. Accordingly, it is likely that all *client*-facing staff will be considered relevant and at least the senior support staff. *Businesses* may decide to provide comprehensive training to all relevant staff members, or may choose to tailor its provision to match more closely the role of the employees concerned. In particular, *MLROs* may require supplementary training, and members of senior management may also benefit from a customised approach or some supplementary training.
- 3.16 A training programme for relevant staff needs to contain content on the law and content which puts this into the context in which the *business* operates, to enable recognition of suspected *money laundering* in that context, and which illustrates the 'red flags' which staff should be aware of in conducting business. The core elements of law making up the UK anti-*money laundering* and anti-terrorism regime, are set out in this *Guidance* (in particular in section 2). In addition, *businesses* may wish to include reference to other elements of law where criminal penalties may be applied and where these relate directly to the work of the *individual* or *business*, eg, an *FSA* approved person might be expected to have a reasonable working knowledge of the parts of *FSMA 2000* relevant to his work. Whilst it is not necessary for relevant personnel to develop specialist knowledge of criminal law in general, they may reasonably be expected to apply the general legal and business knowledge which might normally be held by a person of their role and experience in determining whether to make a report to the *MLRO*.
- 3.17 Training also needs to cover how to deal with transactions which might be related to *money laundering* and *terrorist financing*. This would include training on the *businesses'* internal consultation and advisory systems (to assist *individuals* in assessing whether they have a valid suspicion) internal reporting systems and the

*businesses'* expectations for confidentiality and the avoidance of *tipping off* and *alerting a money launderer*. Further *Guidance* on recognising *money laundering* by those undertaking *defined services* is given in section 6.

- 3.18 As regards the frequency of training, this is a matter for each *business* to consider. It may be influenced by changes in law, regulation or professional guidance, by new case law or national/international findings, or by a change in the profile and perceived risks of the *business*. Each *business* should consider the frequency of its training, possibly on an annual basis, and document its assessment as to whether the current training and state of awareness of employees is sufficient, or whether a supplement is needed. It may not be necessary to repeat the whole of a training programme on a regular basis, but it may be possible to provide concise update material which accomplishes the dual role of refreshing or expanding knowledge and generally reminding staff of the importance of effective *anti-money laundering* work.
- 3.19 Training methods may be selected to suit the size, complexity and culture of the *business*, and may be delivered in a variety of ways including face to face, self-study, e-learning and video, or a combination of methods. *Businesses* should keep records of attendance at, or completion of, training and are recommended to provide for some form of test or other confirmation of understanding of the training.
- 3.20 Should a *business* fail to make provision for the training of relevant employees, then under s330 (7), *POCA* a member of staff who does not know or suspect someone is engaged in *money laundering* gains a defence against the failure to disclose offence (ie, if there is only reasonable grounds for knowledge or suspicion and the staff member fails to make an *internal report*). However, such an omission is likely to open the *business* to the risk of prosecution for breach of the *2007 Regulations*. The significance of training records to both *individuals*, and *businesses* is reflected in the recommendation in section 3.9.
- 3.21 *Businesses* need to make arrangements to ensure new staff are trained as soon as possible after they join the *business*.

## SECTION 4 – THE RISK BASED APPROACH

### KEY POINTS

- A risk based approach allows *businesses* to target resource and effort where the risk is greatest and, conversely, reduce requirements where the risk is low.
- *Businesses* must establish adequate and appropriate policies and procedures relating to risk assessment and management in order to prevent operations related to *money laundering* or *terrorist financing*.
- *Businesses* must—
  - (a) determine the extent of *customer due diligence* measures (section 5) on a risk-sensitive basis depending on the type of *client*, *business relationship*, or services to be provided;
  - (b) be able to demonstrate to their *anti-money laundering supervisory authorities* that the extent of *customer due diligence* measures is appropriate in view of the risks of *money laundering* and *terrorist financing*.
- *Businesses* are required to take a risk-based approach and have adequate measures to verify the identity of beneficial owners so that they are satisfied that they know who the beneficial owner is and what the control structure is in respect of a *client* who is other than a natural person (Regulation 5(1)(b)).
- *Businesses* are required to undertake scrutiny of transactions and other activities throughout the course of a *business relationship* to ensure consistency with *businesses' and individuals' knowledge* of the *client*, his business and risk profile.
- *Businesses* must also keep up-to-date the information collected in applying *customer due diligence* measures.
- *Businesses* must apply *customer due diligence* measures at appropriate times to existing *clients* on a risk-sensitive basis.

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## RISK ASSESSMENT AND MANAGEMENT

### Policies and Procedures

- 4.1 All *businesses* must have appropriate policies and procedures for assessment and management of the risk of the *business* being used for *money laundering*, of failing to recognise it where it occurs and report it when required. A risk-based approach to *anti-money laundering* incurs cost which is proportionate to this risk, focusing effort where it is needed and has most impact.
- 4.2 Professional firms are likely to already have in place policies and procedures to minimise professional, *client* and legal risk. *Anti-money laundering* procedures and policies may be integrated into existing risk management systems or be controlled separately. In either case, *anti-money laundering* policies and procedures should be valuable to *businesses*, in contributing to the control of risks to both *businesses* and *individuals* in this and other areas.



## Risk profile

- 4.3 The development of a *money laundering* risk profile for the *business* enables a risk-based policy and approach to be developed, and thus to determine the most cost effective and proportionate way to manage and mitigate the *money laundering* and *terrorist financing* risks faced by the *business*. The risk profile of a *business* is determined by:
- identifying the *money laundering* and *terrorist financing* risks that are relevant to the *business*; and
  - designing and implementing controls to manage and mitigate these risks, and record their operation.

## Managing compliance

- 4.4 *Businesses* are required to monitor and manage their compliance with and internal communication of their policies and procedures and this includes their systems for risk assessment and management, as well as their other anti-*money laundering* policies and procedures (Regulation 20 (1)). All such systems should be managed through monitoring the operation of the controls, updating them where necessary and assessing whether they have been effective. *Businesses* may come into contact with activity in the *client's* business which they perceive as likely, by its nature, to be related to *money laundering* or *terrorist financing* (in particular, complex or unusually large transactions and all unusual patterns of transactions which have no apparent economic or visible lawful purpose). In those circumstances, *businesses* have a duty to pay special attention to such an activity.
- 4.5 *Businesses* can decide for themselves how to carry out their risk assessment, which may be simple or sophisticated depending on the nature of their practice. Where the practice is simple, involving few service lines, with most *clients* falling into similar categories, a simple approach may be appropriate for most *clients*, with the focus being on those *clients* that fall outside the norm.
- 4.6 A risk-based approach can never, by its nature, be an error-free system. However, it ensures the most cost effective results by directing the attention of *businesses* to the risks relating to different *clients* and services, in order to determine what level of knowledge and verification is required when establishing a *business relationship* and in conducting that relationship.

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## THE RISK-BASED APPROACH

- 4.7 Each *business* needs to make a reasoned decision as to how it intends to manage *money laundering* risk. A risk-based approach does, however, enable a *business* to target its effort on conducting *customer due diligence* more effectively with increased depth of work being conducted where the risks are perceived, on a rational basis, to be higher.
- 4.8 Senior management engagement and commitment is needed to produce and embed a successful risk-based approach, and it also needs effective communication to all staff members who need to use it.
- 4.9 *Businesses* may assess the *money laundering* risks of:
- different products and services,
  - *client* types and sectors, and

- the jurisdictions of *client* origin, funding, investment and conduct of business.

and apply a simple risk categorisation of low/normal/high on the basis of these categories. Such an approach is valid, and should be capable of minimising complexity, but needs to retain an element of discretion and flexibility where risk ratings may be raised or lowered with appropriate management input in response to particular or exceptional circumstances.

- 4.10 *Businesses* may also wish to consider the different types of risk to which they are exposed. These risks may include
- being used in an active sense to launder money through the handling of cash or assets,
  - becoming concerned in an arrangement which facilitates *money laundering*, through the provision of investment services or the provision of trust or company services.
  - risks attaching to the *client* and/or those who trade with or otherwise interact with *clients* as regards their potential for involvement in *money laundering*.
- 4.11 A simple matrix prepared from a risk-assessment of the factors considered above may be prepared to provide a basic framework for the categorisation of *clients* and engagements, and to direct the depth and type of *customer due diligence* accordingly.
- 4.12 Chapter 4 of the *JMLSG Guidance* notes provides useful additional guidance on the risk-based approach

#### **Developing and applying a risk based approach**

- 4.13 In developing a risk-based approach, *businesses* need to ensure it is readily comprehensible and easy to use for all relevant staff. In cases of doubt or complexity, *businesses* may wish to consider putting in place procedures where queries may be referred to a senior and experienced person, eg, the *MLRO* for a risk-based decision which may vary from standard procedures.
- 4.14 To develop the approach it is necessary to review the *business* and consider what *money laundering* risks might attach to each service type, *client* type etc. One way to consider this in relation to the *defined services* is outlined below, but there are other approaches that may be equally or more valid depending on the type of *business*.
- 4.15 *Businesses* should consider first the type of risk presented:
- is the risk that the *business* might be used to launder money or provide the means to launder money? Examples might include handling *client* money, implementing company and trust structures, handling insolvent estates where assets are tainted by crime etc.
  - is the risk that the *client* or its counterparties might be involved in *money laundering*? Examples might include *clients* who are *PEPs* (see section 5.27), or who are high profile and attract controversy or adverse comment in the public domain, or who are involved in higher risk sectors and jurisdictions (eg, those where corruption is known to be a higher risk), or who are known to be potentially involved in illegal activities, such as tax evaders seeking advice to resolve their affairs, and certain forensic work connected with fraud or other crime etc.

- 4.16 Consideration of these risk types should enable the *business* to draw up a simple matrix of characteristics of the *client* or service which are considered to present a higher than normal risk, and those which present a normal risk. Some may, by long acquaintance and detailed knowledge, or by their status (eg, listed, regulated and government entities as defined for the purpose of *simplified due diligence* in the *2007 Regulations*) be considered to present a lower than normal risk.
- 4.17 This matrix can then be incorporated into *client* acceptance procedures, and as step 1 of the *customer due diligence* process, allows a *money laundering* risk level to be assigned to ensure appropriate, but not excessive, *customer due diligence* work is carried out.
- 4.18 It is important for the approach adopted to incorporate a provision for raising the risk rating from low or normal to high if any information comes to light in conducting the *customer due diligence* that causes concern or suspicion.
- 4.19 In all cases, even where *clients* qualify for *simplified due diligence* under the terms of the *2007 Regulations*, or where they are considered low risk for other reasons, to assist in effective ongoing monitoring *businesses* should gather knowledge about the *client* to allow understanding of:
- who the *client* is
  - where required, who owns it (including ultimate beneficial owners – see section 5.6)
  - who controls it
  - the purpose and intended nature of the *business relationship*
  - the nature of the *client*
  - the *client's* source of funds
  - the *client's* business and economic purpose.
- 4.20 The information specified in the bullet points above are referred to in the remainder of this *Guidance* as 'know your client' or 'KYC' information which is one step in the *customer due diligence* process. However, *businesses* may avail themselves of the opportunity to conduct verification of identity on a simplified basis both under the terms of the *2007 Regulations*, where applicable, and otherwise where the accumulated knowledge of the *client* is considered sufficient to prove its identity on a risk-sensitive basis without collecting additional documents as might be required for a new *client* considered to present a normal risk (provided in both cases that any relevant requirements of the *2007 Regulations*, for example in relation to the identification of beneficial owners, are met).
- 4.21 *Businesses* need to set out clear requirements for collecting KYC information about the *client* and for conducting verification of identity, to a depth suitable to the assessment of risk. Set out in this *Guidance* are some high level guidelines as to how *businesses* might approach this. More detailed *Guidance* is contained in the *JMLSG Guidance* notes, Chapters 4 and 5.

## SECTION 5 – CUSTOMER DUE DILIGENCE

### KEY POINTS

- Effective ‘*customer due diligence*’ measures are an essential part of any system designed to prevent *money laundering* and are a cornerstone requirement of the Money Laundering Regulations 2007 (*2007 Regulations*).
- *Businesses* should take a **risk-based approach** to allow effort to be concentrated on higher risk areas (**also see section 4**). Risks must be assessed before the appropriate level of *customer due diligence* can be applied.
- *Customer due diligence* measures need to be carried out:
  - \* when establishing a *business relationship*,
  - \* when carrying out an occasional transaction,
  - \* where there is a suspicion of *money laundering* or *terrorist financing*; and
  - \* where there are doubts concerning the veracity of previous identification information.
- *Businesses* are required to ensure *customer due diligence* procedures are applied to all *clients*, both new and existing. *Customer due diligence* must be applied to existing *clients* (ie those existing prior to the *2007 Regulations* coming into force) at appropriate times on a risk-sensitive basis.
- **Before** entering a *business relationship*, *businesses* must:
  - \* identify and verify the *client’s* identity using documents or information from reliable and independent sources.
  - \* identify the beneficial owner of the *client* (where there is one), including understanding the ownership and control structure of the *client* and verifying, according to risk, the identity of the beneficial owner(s).
  - \* obtain information on the purpose and intended nature of the *business relationship*.
- Verification of identity may in certain circumstances be conducted during the establishment of a *business relationship* if this is necessary not to interrupt the normal course of business and there is little risk of *money laundering* or *terrorist financing* occurring, provided the verification is completed as soon as practicable after contact is first established.
- **During** a *business relationship*, *businesses* must monitor activity on an ongoing basis. This includes scrutiny of transactions, source of funds and other elements of knowledge collected in the *customer due diligence* process, to ensure the new information is consistent with other knowledge of the *client* and keeping the documentation concerning the *client* and the relationship updated.
- *Businesses* can use a variety of tools and methods to conduct *customer due diligence*; the onus is on them to satisfy themselves and to be able to demonstrate to their *anti-money laundering supervisory authority* the appropriateness of their approach.

## WHY IS THIS IMPORTANT?

- 5.1 *Customer due diligence* measures are a key part of the anti-*money laundering* requirements. They ensure that *businesses* know who their *clients* are, ensure that they do not accept *clients* unknowingly which are outside their normal risk tolerance, or whose business they will not understand with sufficient clarity to be able to form *money laundering* suspicions when appropriate. If a *business* does not understand its *client's* regular business pattern of activity it will be very difficult to identify any abnormal business patterns or activities. In addition *businesses* must be in a position to supply the *client's* identity to SOCA should that *client* become the subject of a SAR.
- 5.2 Many *businesses* will have other procedures for *client* acceptance, for example to ensure compliance with professional requirements for independence and to avoid conflicts of interest. The requirements of the *2007 Regulations* may either be integrated with those procedures or addressed separately. In either case, initial *customer due diligence* information not only assists in acceptance decisions, but also enables the *business* to form well-grounded expectations of the *client's* behaviour which provides some assistance in detecting potentially suspicious behaviour during the *business relationship*.
- 5.3 The processes required for compliance with anti-*money laundering* initial *customer due diligence* requirements contribute vitally to the overall picture of potential *clients* and appropriate risk assessment of them. However, a lack of concern raised during *customer due diligence* does not automatically mean that the *client* and engagement will remain in their initial risk category. Continued alertness for changes in the nature or ownership of the *client*, its business model, or its susceptibility to *money laundering* – or actual evidence of the latter - must be maintained.

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## WHAT IS CUSTOMER DUE DILIGENCE?

- 5.4 The *2007 Regulations* provide an outline of the required components of *customer due diligence* which *businesses* need to ensure are integrated into *client* acceptance processes and the continuing conduct of the *business relationship*. The required components are:
- identifying the *client* (ie, knowing who the *client* is) and verifying the identity of the *client* (ie, confirming that identity is valid by obtaining documents or other information from sources which are independent and reliable);
  - identifying the beneficial owner(s) (see section 5.6) of a *client*, if there is one, so that the identity of the individual(s) who is the ultimate owner or controller is known, the ownership and control structure is understood and also that their identities are verified, as required, on a risk-sensitive basis; and
  - information on the purpose and intended nature of the *business relationship*.
- 5.5 Whilst the *2007 Regulations* do indicate some cases where either *simplified due diligence* may be employed or *enhanced due diligence* must be employed, they do not specify, comprehensively, how to apply a risk-based approach in conducting *customer due diligence*. Section 4 of this *Guidance* provides a high level outline of the key elements of a risk-based approach. If further detail is required it is recommended that reference is made to the *JMLSG Guidance* notes which cover the subject in depth and, as HM Treasury approved *Guidance* for the financial services industry, may be considered as a reliable additional source of information in supplement to this *Guidance*.

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## WHAT IS A BENEFICIAL OWNER?

5.6 The *2007 Regulations* set out in some detail the meaning of 'beneficial owner' in terms of bodies corporate, partnerships, trusts and other legal entities/arrangements not falling into the three categories listed above as well as special provisions regarding estates of deceased persons and a catch all provision that, where not otherwise specified, defines the beneficial owner as the person who ultimately owns or controls the *client* or on whose behalf a transaction is being conducted. The provisions regarding beneficial ownership are set out in Regulation 6 and are summarised below:

- **Bodies corporate** –beneficial owner means any individual who, in respect of any body other than a company whose securities are listed on a *regulated investment market*, owns or controls, directly or indirectly including through bearer share holdings, more than 25% of the shares or voting rights in the body or who otherwise exercises control over the management of the body.
- **Partnerships** (other than limited liability partnerships established under the Limited Liability Partnerships Act 2000) - beneficial owner means any individual who ultimately is entitled to or controls (directly or indirectly) more than 25% of the capital or profits of the partnership or more than 25% of the voting rights in the partnership or who otherwise exercises control over the management of the partnership.
- **Trusts** - beneficial owner means any individual who is entitled to a *specified interest* in at least 25% of the capital of the trust property, or where a trust is not set up entirely for the benefit of persons with a *specified interest*, the class of persons in whose main interest the trust is set up or operates or any individual who has control (*a trust controller*) over the trust. Where a class of persons is identified, it is not a requirement for all members of that class to be separately identified.
- **Other entities and arrangements** (meaning an entity or arrangement which administers and distributes funds) – where the individuals who benefit from the entity or arrangement have been determined, beneficial owner means any individual who benefits from at least 25% of the property of the entity or arrangements. Where those benefiting have yet to be determined, beneficial owner means the class of persons in whose main interest the entity or arrangement is set up or operates or an individual who exercises control over at least 25% of the property of the entity or arrangement. Where a class of persons is the beneficial owner, it is not a requirement for all members of that class to be separately identified. Note that where an individual is the beneficial owner of a body corporate which benefits from, or exercises control over, the property of an entity or arrangement, the individual is to be regarded as having that benefit or control and so is classed as the beneficial owner.
- **Estates of deceased persons** – the beneficial owner is considered to be the executor or administrator of the estate (full detail is shown in Regulation 6(8)).

5.7 The focus on identifying and, where appropriate, verifying the identity of beneficial owners is not only an important element of the required *customer due diligence* information, but is also an important factor in an effective risk-based approach to *client* acceptance. *Businesses* will need to be diligent in their enquiries in this field, taking into account that information may sometimes not be readily available from

public record sources. This will necessitate a flexible approach to information gathering which will often involve direct enquiry of *clients* and their other advisers and professional service providers as well as undertaking public record searches in the UK and overseas.

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## APPLICATION AND TIMING OF CUSTOMER DUE DILIGENCE MEASURES (WHEN)

- 5.8 Identification and verification of identity procedures (together termed as “ID procedures”) should normally be completed **before** entering into a *business relationship*. This applies also to occasional transactions. ID procedures are also required at other times, for example, when there is a suspicion of *money laundering* or *terrorist financing* or where there are doubts about the sufficiency of identification information already held. If it is concluded the information held is insufficient, the *business* should remedy this as soon as is practicable. Should a suspicion be developed about the *client*, *businesses* will need to consider whether they are satisfied that the information already held is sufficient and up to date or whether any additional or updated information is required in respect of the *client(s)* in question in order that the information required by Regulation 5 (customer due diligence) is met. In particular, in any case where suspicion is developed, *simplified due diligence* may no longer be applied. This means if *simplified due diligence* had been applied, additional information will need to be collected in accordance with *businesses’* risk-based procedures. *Businesses* must bear in mind in conducting this *customer due diligence* work the need to avoid disclosing that a *money laundering* report has been made, or that an investigation is underway, or may be commenced (see section 2.17-2.21 Tipping Off).
- 5.9 The *2007 Regulations* allow for completion of ID procedures ‘during the establishment of a *business relationship*’ rather than before if the measures are completed as soon as practicable after the initial contact **but only** when such a process is necessary not to interrupt the normal conduct of business and there is little risk of *money laundering* or *terrorist financing* occurring. *Guidance* on how this might reasonably be applied in the case of provision of the *defined services* is provided below, although this is not intended to be prescriptive, or exclusive. *Businesses* should not complete any assignment for a *client* (eg, including transfer of *client* monies or delivery of work product) before *customer due diligence* has been carried out in full in accordance with the *businesses’* procedures.
- 5.10 If procedures are not completed before entering a *business relationship*, *businesses* and their *clients* may suffer considerable cost and inconvenience in having to terminate a relationship if ID procedures either cannot be completed, or where the results are unsatisfactory.
- 5.11 *Customer due diligence* should also be completed before undertaking occasional services for the *client* that do not form part of an ongoing *business relationship*. *Businesses* must understand why the *client* requires the service, the identities of other parties that might be involved, and any potential for *money laundering* that may arise.

### When delay may be acceptable

- 5.12 In forming new *business relationships*, there are some cases where delay **may** be acceptable, such as in urgent insolvency appointments, and urgent appointments that involve ascertaining the legal position of a *client* or defending the *client* in legal proceedings.

- 5.13 In such cases, *businesses* should still gather enough information to allow them to at least form a basic assessment of the identity of the *client* and *money laundering* risk and to complete other acceptance formalities such as considering the potential for conflicts of interest.
- 5.14 In other cases, where the majority of information required has been collected before entering a *business relationship*, short time extensions to complete collection of remaining information may be acceptable, provided this is caused only by administrative or logistical issues, and not by any reluctance of the *client* to provide the information and is necessary not to interrupt the normal course of business. Such extensions should be exceptional, rather than the norm. It is recommended that such extensions of time are considered and agreed by a member of senior management or the *MLRO* to ensure the reasons for the extension are valid and do not give rise to concern over the risk category of the *client* or the potential for *money laundering* suspicion.
- 5.15 If evidence is delayed (rather than refused), *businesses* should consider;
- the credibility of the *client's* explanation,
  - the length of delay,
  - whether the delay is in itself reasonable grounds for suspicion of *money laundering* requiring a report to *SOCA* and/or a factor indicating against acceptance of the *client* and engagement, and
  - documenting the reasons for delay and steps taken.

#### **Non-compliance through client refusal**

- 5.16 If a prospective *client* refuses to provide evidence of identity or other information properly requested as part of *customer due diligence*, the *business relationship* or occasional transaction must not proceed any further and any existing relationship with the *client* must be terminated (but see sections 5.56 – 5.59 on insolvency cases). Consideration must be given as to whether a report needs to be made to *SOCA* under *POCA* or *TA 2000*.
- 5.17 Where the appointment is of either a lawyer or *relevant professional advisor* in the course of ascertaining the legal position for the *client*, or performing the task of defending or representing the *client* in or concerning legal proceedings (including advice on instigating or avoiding proceedings) the requirement to cease acting and consider reporting to *SOCA* does not apply although *customer due diligence* information will still need to be collected within the time constraints in Regulation 9. *Businesses* are advised to consider the position very carefully before applying this exception to ensure that the type of work and their professional status fall within the definitions set out in Regulations 11(2) and (3).

#### **Continuing customer due diligence**

- 5.18 In addition to considerations before entering a *business relationship*, *customer due diligence* must be exercised on an ongoing basis during the relationship, as part of regular monitoring of *money laundering* risks or occasioned by the *client* undergoing significant changes. *Businesses* may wish to consider reviewing *customer due diligence* and other *client* information on a periodic basis, as well as in response to perceived risks.



- 5.19 Changes such as the appointment of new senior managers or shareholders and/ or controlling parties, changes in the *client's* strategy or changes of business profile should prompt *businesses* to re-apply *customer due diligence* procedures. These may differ from those adopted for a new *client*, and although there may be a change in focus the objective remains the same: to have a sound understanding of the *client's* identity and activities in order to assess risks of *money laundering* and to have accurate underlying records.

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## THE RISK BASED APPROACH TO CLIENT DUE DILIGENCE

- 5.20 Regulation 7(3) requires *customer due diligence* measures to be carried out on a risk-sensitive basis. This means that *businesses* need to consider how their risk assessment and management procedures (see section 3 above) flow through into their *client* acceptance and ID procedures, to give sufficient information and evidence, in the way most appropriate to the *business* concerned.
- 5.21 In addition, there are certain circumstances where the *2007 Regulations* themselves lay down categories where *simplified due diligence* or *enhanced due diligence* is appropriate, according to national and international assessments of the risk of *money laundering*.

### Simplified due diligence

- 5.22 '*Simplified due diligence*' is a phrase used in the *2007 Regulations* (Regulation 13) which means that a *business* is not required to apply the *customer due diligence* measures laid out in Regulation 7, as set out in section 5.20 above, where the *business* has reasonable grounds for believing that a *client* falls into the relevant categories. *Businesses* who may be permitted to apply the *simplified due diligence* exemptions but who perceive other than a low risk of *money laundering* in a specific case, should consider applying their standard or *enhanced due diligence* processes. In any case where a *client* or potential *client* has been subject to *simplified due diligence* and a suspicion or *money laundering* or *terrorist financing* arises in relation to that *client*, the *simplified due diligence* provisions must no longer be applied and the *customer due diligence* requirements of Regulation 7 must be applied, subject to any *tipping off* issues.
- 5.23 The main categories of relevance to those providing *defined services* are:
- *credit* or *financial institutions* subject to the provisions of the *money laundering directive* or equivalent overseas requirements,
  - companies listed on a regulated EEA market or equivalent overseas requirements subject to *specified disclosure obligations*,
  - UK public authorities and certain public authorities in the EU and EEA (see Schedule 2 paragraph 2).

*Simplified due diligence* is also available for some categories of products and transactions which may be provided by financial institutions.

- 5.24 *Businesses* should set out clearly in their internal procedures what is considered to constitute reasonable grounds for a belief that a *client* can be made subject to *simplified due diligence*. Evidence should be obtained either as to the regulated status of the *credit* or *financial institution* (such as a print out from the regulator's official web-site or listing), or the listed status of the company (such as a print out from the exchange's official web-site or listing, or details of the listing obtained from a

trusted, independent commercial provider of company information). With regard to public authorities, recourse to official government web-sites is recommended. In each case, where the body is not subject to UK, EC or EEA law, justification will also need to be recorded as to how the provisions and other conditions regarding *specified disclosure obligations* in respect of listed companies, and the check and balance procedures and other conditions in respect of public authorities outside the UK, have been met. Recourse to information provided from time to time by the *JLMSG* is recommended [ref to *JMLSG* source]. Where *simplified due diligence* applies, *businesses* are not required to apply standard *customer due diligence* measures. However, *businesses* must still carry out ongoing monitoring (see section 5.46) and appropriate KYC information should therefore still be obtained (see section 4.19).

### Enhanced due diligence

- 5.25 A risk-based approach to *customer due diligence* will identify situations which by their nature can present a higher risk of *money laundering* or *terrorist financing*. Regulation 14 sets out a general provision that *enhanced due diligence* must be applied in such situations and means that the *business* must obtain additional *customer due diligence* information about the *client*.
- 5.26 The *2007 Regulations* also specify that *enhanced due diligence* must be applied in a number of situations, of which two are relevant to providers of *defined services* and are outlined below:
- if a *client* has not been physically present for identification purposes, and if so, one or more additional measures must be taken to *enhance due diligence*, for example by, inter alia, either gathering additional documents, data or information, or taking additional steps to verify documents or obtain a confirmatory certificate from a *credit or financial institution* subject to the *money laundering directive*; and
  - if a *business relationship* or occasional transaction is to be undertaken with a *politically exposed person (PEP)* in which case the *business* must provide for senior management approval for the relationship to be established, must take adequate measures to establish the source of wealth and funds which are involved and must conduct enhanced monitoring of any relationship entered into.

### Politically exposed persons (PEPs)

- 5.27 The *2007 Regulations* define a *PEP* as a person ‘...who is or has, at any time in the preceding year been entrusted with a prominent public function by a state other than the United Kingdom, a community institution or an international body’ or a family member or known close associate of such a person. Details of what are considered to be prominent public functions are shown in Schedule 2, paragraph 4(1)(a). For risk management and reputational risk reasons, *businesses* may wish to treat as *PEPs* individuals who held such positions more than a year ago. As regards establishing whether someone is considered to be a family member or known close associate, regard need only be had to information in the public domain or in the possession of the *business*. ‘International body’ is not defined, and due consideration should be given to the type, reputation and constitution of the body before excluding it or its representatives from *enhanced due diligence*. However, bodies such as the United Nations, NATO and *FATF* may reasonably be included within the definition of an international body for this purpose.
- 5.28 Under the *2007 Regulations*, *clients* who are *PEPs* must always be subject to the *enhanced due diligence* measures referred to in section 5.26 above.

- 5.29 *Businesses* are required to have risk sensitive measures in place to recognise *PEPs*. This can be a simple check conducted by enquiring of the *client* and perhaps using an internet search engine. *Businesses* that are likely to regularly undertake services for *PEPs* may need to subscribe to a specialist database. To the extent possible, *businesses* should be aware of any news during a *business relationship* that could change a *client's* status to *PEP*.

### Prohibited relationships

- 5.30 The *2007 Regulations* set out circumstances which constitute prohibited relationships. In Regulation 16, correspondent banking relationships with *shell banks*, or a bank known to permit use of its accounts by a *shell bank* are prohibited. In addition, set up of anonymous accounts in the UK is prohibited, and *customer due diligence* must be applied to any existing accounts continuing in existence after 15 December 2007 before such an account is used.
- 5.31 All *businesses* must pay special attention to services or, where relevant, products or transactions that might allow anonymity and take measures to prevent their use in *money laundering* or terrorist activity. *Businesses* must include any such product or transaction within those requiring *enhanced due diligence*.
- 5.32 In addition, *businesses* must comply with any prohibition issued by HM Treasury in respect of any person, or State to which the Financial Action Task Force has decided to apply counter-measures (see also section 5.44). Directions may be given not to enter into *business relationships*, carry out *occasional transactions* or proceed with any such arrangements already in progress. The Government also issues advisory notices, against countries with material deficiencies in their anti-*money laundering* and counter *terrorist financing* (AML/CTF) regimes, based on the *FATF* Non-Cooperative Countries or Territories (NCCTs) list (consisting of countries with extremely ineffective AML/CTF legislation and systems which prevent them from adequately cooperating internationally in combating *money laundering* and *terrorist financing*) and other *FATF* concerns. An advisory notice requires that *businesses* and *individuals* in the UK should exercise caution when entering into *business relationships* in such countries. Advisory notices are available from the HM Treasury website under "press notices". *Businesses* may subscribe to receive press notices on the HM Treasury website.

### Reliance on third parties

- 5.33 *Businesses* may rely on third parties, subject to the third parties' consent, to complete all or part of *customer due diligence* as set out below but they should be cautious in relying on third parties as they will remain liable for any failure to comply notwithstanding their reliance on a third party (See Regulation 17). *Businesses* should consider requiring copies of relevant information and documentation from the third parties, in order that they may satisfy themselves the information is sufficient.
- 5.34 Reliance may be made on persons who are:
- regulated *credit* or *financial institutions* (excluding money service businesses);
  - professional lawyers, auditors, *external accountants*, *insolvency practitioners* or *tax advisers*;

'professionals' in the second of these categories must be regulated by one of the *anti-money laundering authorities* listed in Part 1 of Schedule 3 to the *2007 Regulations*, or be subject to equivalent regulation in an EEA or non-EEA state

including mandatory professional registration recognised by law and supervision for compliance with requirements equivalent to the *money laundering directive*. *Businesses* may outsource their *customer due diligence* measures but remain liable for any failure in the *customer due diligence*.

- 5.35 Information on equivalence is very limited at present, but further information should [shortly be published by HM Treasury following an EU study].
- 5.36 Before reliance may be placed on one of those specified above, the other *individual* or *business* must agree to reliance being placed. If consent is obtained, the *individual* or *business* consenting to the reliance must take great care to ensure they have adequate systems in place to keep proper records and to respond to any request for these.
- 5.37 An *individual* or *business* consenting to be relied upon must, if requested, make available to the person relying as soon as is reasonably practicable:
- any information obtained about the *client* (and any beneficial owner) when applying *customer due diligence* measures; and/or
  - copies of any identification and verification data and other documents on the identity of the *client* (and any beneficial owner) obtained when applying *customer due diligence* measures.
- 5.38 Before placing reliance, an *individual* or *business* seeking to rely must take steps to ensure the person being relied upon will provide the required information.
- 5.39 Any *individual* or *business* consenting to be relied upon must ensure the records of *customer due diligence* which become the subject of reliance are retained for 5 years from the date on which reliance commences.
- 5.40 Failure by a person who has been relied upon to comply with the requirements in relation to responding to requests for information, relying upon a person without having ensured they will provide the information required on request, or failing to keep the records required after reliance has been allowed are all criminal offences as set out in Regulation 45.

Where reliance is placed on a third party, *businesses* are not required to apply standard *customer due diligence* measures. However, *businesses* must still carry out ongoing monitoring (see section 5.46) and appropriate KYC information should therefore still be obtained (see section 4.19).

- 5.41 Whilst reliance may be a useful and efficient feature of a *customer due diligence* system between parties who are able to build a relationship of trust, it should not be entered into lightly. *Individuals* and *businesses* need to consider carefully whether they wish to be relied upon and before so consenting ensure:
- their *client* (and any other third party whose information would be disclosed) has no objection to their information being passed to the person seeking reliance; and
  - that they have in place the necessary record-keeping systems.

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## CONDUCTING CUSTOMER DUE DILIGENCE

### ‘Know your client’ or ‘KYC’

- 5.42 The resources used to undertake effective *customer due diligence* are not prescribed. Various sources may be used to enhance a *business'* knowledge of their *client*, including direct discussion with the *client*, information (eg, websites, brochures, reports etc) prepared by the *client* and review of public domain information.
- 5.43 *Businesses* need to consider whether there are any particular steps they wish to specify for use in higher risk cases to increase the depth of *customer due diligence*, such as seeking out wider information from extensive internet and press searches concerning the potential *client*, its key counterparties, its sector and jurisdiction, or possibly using subscription databases which provide a quick way of accessing public domain information and in many cases provide links to persons or companies known to be associated with the potential *client* (see sections 5.54 to 5.55 on electronic identification).
- 5.44 *Businesses* might, as appropriate to their risk assessment, wish to check the names of *clients* against lists of persons subject to asset-freezing restrictions, including under financial sanctions and terrorism *financial restrictions*. HM Treasury maintains a consolidated list of persons designated as being subject to *financial restrictions* in force in the UK but recourse may be had to further lists such as those issued by the UN and the US Treasury Office of Foreign Assets Control or OFAC). Some electronic resources also include an automated check against this information as part of the product.

#### Specific *customer due diligence* prompts

- 5.45 It may be helpful for a list of questions or prompts to be incorporated into *customer due diligence* procedures. Examples are given at the end of this section (section 5A) which should be amended to suit the particular *business'* *client* base and services.

#### **Ongoing monitoring**

- 5.46 Ongoing monitoring of the *business relationship* is required. This comprises scrutiny of activity during the relationship, including enquiry into source of funds if needed, to ensure all is consistent with expected behaviour based on accumulated *customer due diligence* information. In addition, it is required that the documentation concerning the relationship (including *customer due diligence*) is kept updated as laid out in Regulation 8, *2007 Regulations*. The need to update *customer due diligence* information should be considered at appropriate times, following a risk based approach, according to the firm's knowledge of the *client* and changes in its circumstances or the nature of services provided by the firm. A firm also may wish to consider this need, on a more routine basis, as appropriate opportunities arise. Examples of such opportunities are:
- at the start of new engagements and when planning for recurring engagements;
  - when a previously stalled engagement restarts;
  - whenever there is a change of control and/or ownership of the *client*;
  - when there is a material change in the level, type or conduct of business; and
  - where any cause for concern, or suspicion, has arisen (in such cases, care must be taken to avoid making any disclosure which could constitute *tipping off*).

#### **Risk-based verification**

- 5.47 Application of a risk-based approach is of considerable importance in verification, both to ensure a good depth of knowledge in higher risk cases, but also to avoid

superfluous effort in lower or normal risk cases. Very extensive information is contained in the *JMLSG Guidance* notes. Reference to this is recommended, particularly for overseas *clients*, or those *clients* who have a legal form other than that of a UK private or public company, a UK partnership or LLP, or a UK government body.

- 5.48 With the more frequently encountered *client* types, ie individuals, UK private or public companies, UK partnerships or LLPs, a UK regulated *business*, or a UK government body, outline *Guidance* on a risk based approach to verification of identity is set out at the end of this section (section 5B).

### **Documentary evidence used in the verification of identity (How)**

- 5.49 The purpose of verification of identity is to confirm and prove the information collected in so far as it relates to the identity of the *client*. Recourse to documents from independent sources is important. The amount of reliance that can be placed upon, and thus the strength of, particular forms of evidence varies.
- 5.50 The following are illustrative of a different of strength of various forms of documentary evidence starting with the highest:
- documents issued by a government department or agency or a Court (including documents filed at Companies House or overseas equivalent)
  - documents issued by other public sector bodies or local authorities
  - documents issued by *businesses* regulated by the Financial Services Authority or overseas equivalent
  - documents issued by professionals regulated for anti-*money laundering* purposes by the bodies listed in Schedule 3 of the *2007 Regulations* or overseas equivalents
  - documents issued by other bodies.
5. 51 In the case of individuals, documents from highly rated sources that contain photo identification as well as written details are a particularly strong source of verification of identity.

### **Certification and annotation**

#### Certification

- 5.52 *Businesses* may wish to consider whether copies of original documents and copies of certified copies of original documents should be certified as true copies to demonstrate their provenance. *Businesses* may wish to create standard stamps or labels to apply to documents, which can then simply be filled in with name, signature and date. *Businesses* should have regard to the standing of the person certifying and may wish to consider specifying from whom certification may be accepted, for instance, *businesses* may decide to restrict acceptance to those documents certified by a person in the permitted categories for reliance (Regulation 17 of the *2007 Regulations*) which are broadly a credit or *financial institution* authorised by the *FSA*, a professionally qualified auditor, *external accountant*, *insolvency practitioner* or *tax adviser*, or *independent legal professional*, or their equivalent in EU countries and other countries which have equivalent law and provided in all cases that the person is subject to supervision as to his compliance with those requirements.

## Annotation

- 5.53 This should be used when the document is as good as an original but is not the original itself. This particularly applies to printouts from the Internet, such as downloads from Companies House, regulator, stock exchange or government websites, or similar trustworthy business information sources. Each document so obtained should bear written evidence showing who printed it, when, from where and should be signed by the relevant person.

## **Electronic identification**

- 5.54 There are now a number of subscription services that give access to databases of information on identity. Many of these services can be accessed on-line and are often used by *businesses* to replace or supplement paper verification checks. Subject to 5.55, this means *businesses* may use on-line verification as a substitute for paper verification checks for *clients* considered normal risk, supplemented by additional paper verification checks for higher risk *clients*, or vice versa.
- 5.55 Before using electronic databases, however, *businesses* should question whether the information supplied is sufficiently reliable, comprehensive and accurate. The following points should be considered before deciding to use an electronic source (either as part of a wider process or, where appropriate, on its own)<sup>3</sup>:
- **Does the system draw on multiple sources?** A single source, eg, the Electoral Roll, is usually not sufficient. A system which uses both negative and positive data sources is generally more robust than one that does not.<sup>4</sup>
  - **Are the sources checked across a period of time?** Systems that do not regularly update their data are generally prone to more inaccuracies than those that do.
  - **Are there control mechanisms to ensure the quality and reliability of data?** Systems should have built-in checks that ensure the integrity of data and should ideally be transparent enough to show the results of these checks and their bearing on the integrity of data.
  - **Is the information accessible?** Systems need to allow a *business* either to download and store the results of searches in appropriate electronic form, or to print off a hardcopy record containing all necessary details as to name of provider, source, date etc.

## **Insolvency cases**

- 5.56 In the context of insolvency work, the person or entity entering into the *business relationship* is considered to be the insolvent. *Insolvency practitioners* are also referred to the *Guidance* provided by R3.<sup>5</sup>
- 5.57 An *Insolvency practitioner* should obtain verification of the identity of the person or entity over which he is appointed. Acceptable evidence of verification may include a court order, a court endorsed appointment, or an appointment made by a debenture

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<sup>3</sup> The JMLSG *Guidance* (Section 2, paragraphs 5.3.11 – 5.3.18) also covers indicators of good electronic identification resources.

<sup>4</sup> 'Positive' data are those that prove an individual exists, e.g. name, current address, date of birth etc, whereas 'negative' data relate known incidents of fraud, including identity fraud, other known offences and registers of deceased persons.

<sup>5</sup> [www.r3.org.uk](http://www.r3.org.uk) The Association of Business Recovery Professionals, better known as 'R3' (rescue, recovery, renewal).

holder or creditors meeting supported by a company search or similar. It is not always possible or necessary to obtain identification evidence direct from individuals or individual shareholders or directors in an appointment in respect of a company as their co-operation may not be forthcoming.

- 5.58 It is important for an officeholder to be sure about the identity of the person or entity over which he is taking appointment given the urgency of the situation and the necessity not to delay when this might risk dissipation of assets and erosion of value. However, completion of other KYC elements of *customer due diligence* may not be possible prior to appointment and should be completed as soon as practicable after appointment (if possible, usually within 5 working days).
- 5.59 *Insolvency practitioners* post appointment have a very different relationship with the insolvent *client* than that with a normal audit or advisory *client* and have access to a very wide range of information which alters the need for traditional pre-appointment KYC. However, particular focus is needed before, and immediately after, appointment on considering the way the business has been operated and assessing the risk of assets being tainted by crime in which case it may well be necessary, but not as a matter of routine in every case, to apply to SOCA for *consent* to perform the normal range of duties of collection, realisation and distribution of assets (see section 8).



## SECTION 5 A – SPECIFIC PROMPTS FOR CLIENTS

These are suggested prompts only. In order to make the most use of these *businesses* should amend the text to suit their own *client* base and services offered.

### A. For entities/businesses

1. What is its purpose in entering into any transaction forming the basis of the proposed engagement or its purpose in seeking services where not related to a specific transaction?
2. What are the entity's main trading and registered office addresses?
3. What are its business activities or purposes and sector?
4. Who controls and manages it (ie, has executive power over the entity – this may be directors, shadow directors or others depending on the circumstances)?
5. If the client is audited, were the accounts qualified and, if so, why?
6. Name and check that the person(s) purporting to represent the entity is/are who they say they are.
7. Who owns it - ultimate beneficial owner(s) and steps in between (at a minimum for companies provide details of any ultimate beneficial owners of more than 25% – for trusts, supply details of trustees and settlors and details of either beneficiaries with more than 25% interest, or the classes of beneficiary, and for collective investment funds or other similar arrangements provide details of the general partner and/or investment manager together with details of any person with more than 25% interest)?
8. What is its business model/intended business model (ie, the mechanism by which a business intends to generate revenue and profits and serve its customers – in terms of broad principles)?
9. What are the key sources of:
  - ◆ income (eg, trading, investment etc); and
  - ◆ capital (eg, public share offer, private investment etc)?
10. The history and current (also forecast if readily available) scale of the entity's:
  - ◆ earnings (eg, turnover and profits/losses); and
  - ◆ net assets.
11. The entity's geographical connections, so that you are in a position to ask such questions as “Why is it getting so much money from that place?” and “Why is it sending assets to that place?”
12. Has the entity been subject to insolvency proceedings, or is it in course of being dissolved/struck-off, or has it been dissolved/struck-off?

## B. For individuals

- ◆ His or her purpose in entering into any transaction forming the basis of the engagement or purpose in seeking services where not related to a specific transaction.
- ◆ Home address and, if applicable/different, trading address.
- ◆ His or her purpose in entering into any transaction forming the basis of the engagement or purpose in seeking services where not related to a specific transaction.
- ◆ The scale and sources of the individual's capital (past and future).
- ◆ The scale and sources of the individual's income (past and future).
- ◆ The type and sector of the individual's business activities.
- ◆ The individual's geographical connections, so that you are in a position to ask such questions as "Why is he getting so much money from that place?" and "Why is she buying assets from that place?"
- ◆ Has the individual been subject to bankruptcy proceedings?  
If after enquiry of the individual it is considered that the individual has been subject to bankruptcy proceedings, information can be obtained:
  - ◆ for England and Wales, on: [www.insolvency.gov.uk/eiir/](http://www.insolvency.gov.uk/eiir/)
  - ◆ [for Scotland – call The Accountant in Bankruptcy on 0131 473 4600 \(Search Team\).](#)
  - ◆ [for Northern Ireland](#) - call The Insolvency Service on 02890 251441 (Insolvency Search Department)
- ◆ Has the individual been disqualified as a director?

Consult Companies House: [www.companieshouse.gov.uk/ddir/](http://www.companieshouse.gov.uk/ddir/)

## SECTION 5 B – EXAMPLES OF RISK-BASED VERIFICATION

Set out below are examples of risk-based verification for some of the more common client types. For Guidance on other situations, reference should be had to the JMLSG Guidance Notes.

### A. Individuals

Met face to face? **Yes and normal risk** – obtain:  
 either: proof of identity – photo identity  
 or: proof of identity – non-photo identity and proof of address (Please note P.O. Boxes are not acceptable addresses) or date of birth (can be electronic)

**No and/or higher risk** – obtain:  
 either: proof of identity – photo identity and an additional piece of evidence  
 or: proof of identity – non-photo identity, proof of address (Please note P.O. Boxes are not acceptable addresses) or date of birth  
 Plus: an additional piece of evidence

| Sources of evidence   |  |
|---|--|
| <p><i>List 1: Evidence of identity</i></p> <p>Acceptable photo identity</p> <ul style="list-style-type: none"> <li>● valid passport; or</li> <li>● valid photocard driving licence (full or provisional); or</li> <li>● national identity card (non-UK nationals issued by EEA member states and Switzerland); or</li> <li>● firearms certificate or shotgun licence; or</li> <li>● identity card issued by the Electoral Office for Northern Ireland</li> </ul> <p>Acceptable non-photo evidence of identity:</p> <p>Documents issued by a government department, incorporating the person’s name and residential address or their date of birth, eg,</p> <ul style="list-style-type: none"> <li>● a current UK full driving licence old version (<b>not</b> provisional licences); or</li> <li>● evidence of entitlement to a state or local authority funded benefit (including housing benefit and council tax benefit), tax credit, pension, educational or other grant; or</li> <li>● documents issued by HMRC, such as PAYE coding notices and statements of account (NB: employer issued documents such as P60s are not acceptable)</li> <li>● end of year tax deduction certificates.</li> </ul> | <p><i>List 2: Evidence of address or date of birth</i></p> <ul style="list-style-type: none"> <li>● instrument of a court appointment (such as a grant of probate, bankruptcy); or</li> <li>● current council tax demand letter or statement; or</li> <li>● current (within the last 3 months) bank statements, or credit/debit card statements issued by a regulated financial sector firm in the UK, EU or JMLSG equivalent jurisdiction (but not those printed off the internet); or</li> <li>● a file note of a visit by a member of the firm to the address concerned (“home visit”); or</li> <li>● an electoral register search showing residence in the current or most recent electoral year (can be done via <a href="http://newcorp.192.com/search/index.cfm">http://newcorp.192.com/search/index.cfm</a>); or</li> <li>● a recent (last available) utility bill (gas, water, electricity, telephone – <b>not</b> mobile ‘phone bills); it must be a bill or statement of account (<b>not</b> correspondence); or</li> <li>● valid photocard driving licence (full or provisional); or</li> <li>● a current UK full driving licence old version (<b>not</b> provisional licences); or</li> <li>● evidence of entitlement to a state or local authority funded benefit (including housing benefit and council tax benefit), tax credit, pension, educational or other grant; or</li> <li>● documents issued by HMRC, such as PAYE coding notices and statements of account (NB: employer issued documents such as P60s are not acceptable); or</li> <li>● a firearms/shotgun certificate; or</li> <li>● a solicitor’s letter confirming recent house purchase or land registry confirmation (you must also verify the previous address).</li> </ul> |

## B. Entities

### i. Private company/LLP

|   |   |
|---|---|
| <p>Met a representative face to face?</p> | <p><b>Yes and normal risk</b> – obtain:<br/>           Full company search from a national companies registry (or equivalent information obtained through a commercial provider of registry information)<br/>           Or<br/>           Certified copies of taken from original documents evidencing details of incorporation or registration, registered office and list of directors and shareholders/members</p> <p>Identify any shareholder/member in the entity holding more than 25% of the equity (rights to either income, capital or voting), or if there is no holding over 25%, where considered appropriate on a risk sensitive basis, the largest holding.</p> <p>Repeat step above until appropriate ultimate beneficial owners have been identified.</p>   |
|   | <p><b>No and/or higher risk</b> – obtain<br/>           Select individual(s) and entities that is/are capable of exercising significant influence over this entity either as an appointed director, or as a shadow director or equivalent, <b>identify</b> it/them according to whether a legal or natural person</p> <p>Select any shareholder/member in the entity holding more than 25% of the equity (rights to either income, capital or voting), or where no holding over 25%, the largest holding <b>and identify</b> it/them according to whether a legal or natural person</p> <p>Repeat step above until appropriate ultimate beneficial owners have been verified.</p> <p>For all entities, if a money service business, verify HMR&amp;C registered number (obtain certified copy of certificate or call HMR&amp;C National Advice Service on 0845 0109000, Opt. 3)</p> |

### ii. Listed or regulated entity

Obtain either a printout from the relevant regulator's or exchange's web-site (and annotate), or obtain direct written confirmation from the regulator or exchange, confirming the regulated or listed status of the entity (ensure basic details of name, address, any membership or registration details, and any disciplinary details where applicable are provided).

Additional verification steps are not generally considered necessary in such cases as these entities in the UK qualify for application of *simplified due diligence*.

### iii. Government or similar bodies

Obtain and annotate evidence to confirm the body's:

- main place of operation; and
- the government or supra-national agency controlling it (government and supra-national agency web-sites are a useful source of information)
- for Housing Associations, the printout must contain its registered number, registered company number (where appropriate) and registered address

Useful, trusted sites include:

UK Government information portal - <http://www.direct.gov.uk/Homepage/fs/en>

Housing Association Register - <http://www.housingcorp.gov.uk>

EU official site - <http://www.europa.eu.int/>

United Nations list of main bodies - <http://www.un.org/aboutun/mainbodies.htm>

USA government information portal -

[http://www.firstgov.gov/Agencies/Federal/All\\_Agencies/index.shtml](http://www.firstgov.gov/Agencies/Federal/All_Agencies/index.shtml)

Additional verification steps are not generally considered necessary in such cases as these entities in the UK qualify for application of *simplified due diligence*.

#### **iv. Money Service business**

Verify HMR&C registered number (obtain certified copy of certificate or call HMR&C National Advice Service on 0845 0109000, Opt. 3).

## SECTION 6 - REPORTING

### KEY POINTS

- *Suspicious activity reports* submitted by the *regulated sector* are an important source of information used by SOCA in meeting its harm reduction agenda, and by law enforcement more generally.
- *Businesses* are required to have procedures which provide for the nomination of a person (in this *Guidance* the *MLRO*) to receive disclosures (*internal reports*) under Part 7 of *POCA* and which require that everyone in the *business* complies with Part 7 of *POCA* in terms of reporting knowledge, suspicion or reasonable grounds for knowledge or suspicion of *money laundering*.
- Failure to report in accordance with Part 7 of *POCA* where the relevant information or other matter has been obtained through the course of work in the *regulated sector* is a criminal offence which can be committed by any *individual* (s330, *POCA*), or by the *MLRO* (s331, *POCA*). There is a similar offence for *MLRO*'s outside the *regulated sector* in s332, *POCA*.
- An *individual* other than the *MLRO* fulfils his reporting obligations by making an *internal report* to his *MLRO*.
- The *MLRO* is responsible for assessing *internal reports*, making further inquiries if need be (either within the *business* or using public domain information), and, if appropriate, filing *SARs* with SOCA.
- Where a *relevant professional advisor* forms knowledge or suspicion or reasonable grounds for such in 'privileged circumstances' no report should be made to SOCA unless this '*privilege reporting exemption*' is overridden by the crime/ fraud exception ie where the information or other matter is communicated to the *relevant professional advisor* with the intent of furthering a criminal purpose (Section 7.42 to 7.46).
- When reports are properly made they are 'protected' under s337, *POCA* in that nothing in them shall be taken to breach any restriction on the disclosure of information, however imposed.
- A person who considers he may have engaged or is about to engage in *money laundering*, should make an 'authorised' disclosure (s338, *POCA*). Such a disclosure, provided it is made (and SOCA's consent to the act is obtained) before the act is carried out, or is made as soon as possible on the initiative of that person after the act is done and with good reason being shown for the delay, may provide a defence against charges of *money laundering*. When properly made such reports shall not be taken to breach any restriction on the disclosure of information, however imposed.
- *Consent* may be sought from SOCA under s335, *POCA* (and confirmed to the *business* by the *MLRO* under s336 *POCA*) to carry out activity that would otherwise be *money laundering* under ss327-329 *POCA*. If granted, the *consent* provides complete protection against charges of *money laundering* but only in respect of the activity covered by the *consent*.
- *TA 2000* provides for broadly equivalent provisions regarding the reporting of knowledge, suspicion or reasonable grounds for such of *terrorist financing*. The definition of '*terrorist property*' is set out in s14, *TA 2000* and the *terrorist offences* and provisions regarding reporting, *consent* and *tipping off* are set out in ss15-21A.

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## WHAT MUST BE REPORTED?

- 6.1 Under ss330-332, *POCA*, failing to report knowledge or suspicion, or reasonable grounds for such, of *money laundering* is a criminal offence (see section 2 of this *Guidance*, which outlines the offences and details of exemptions). The following must be reported, as soon as practicable. These are collectively known as 'the *required disclosure*':
- the identity of the suspect (if known);
  - information or other matter on which the knowledge or suspicion of *money laundering* (or reasonable grounds for such) is based; and
  - the whereabouts of the laundered property (if known)
- 6.2 Care is needed to ensure that any information held concerning identity (such as date of birth, passport number, address, registration numbers for companies and so on) is included within the report as well as details of the laundered property and its whereabouts, where known, and reasons for knowledge or suspicion.
- 6.3 Even if the name of a suspect is not known, any information available which may assist in identifying the suspect or the whereabouts of any of the laundered property must be included in the report, under the provisions of s330 (3A), *POCA*. For example, even if the *business* does not have the name of the suspect, if the *business* is aware the *client* holds the detail the report needs to reflect this as information which may assist in identifying the suspect.
- 6.4 In cases where the suspect is not known, another subject should be included in the report, whether this is the victim or another subject associated with the activity. The fact that in these cases the subject of the report is not a suspect should be made clear in the report.
- 6.5 The disclosure requirement relates to any information coming to a person in the course of business in the *regulated sector*, and not just information relating to *clients* and their affairs. This means that reports made may be required on the basis of information not only about *clients*, but about potential *clients*, associates and counterparties of *clients*, acquisition targets and even employees of *businesses* in the *regulated sector*.

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## TYPES OF REPORT

- 6.6 Reports made in accordance with the provisions of *POCA* are made under either s337 (protected disclosures) or s338 (authorised disclosures).

### The Protected Disclosure

- 6.7 A protected disclosure is any report made by a person providing the *required disclosure*, based on information or other matter coming to their attention in the course of their trade, profession, business or employment, where this information has led to knowledge or suspicion (or reasonable grounds for such) that another person is engaged in *money laundering*.
- 6.8 A protected disclosure may be made by any person forming a *money laundering* suspicion, at work or carrying out professional activities, whether or not acting within the *regulated sector*. This means that any *individual* or *business*, or other organisation (such as a charity) meeting these conditions may make a voluntary

report to SOCA in the public interest and benefit from the protections contained in s337, POCA against allegations of breach of confidentiality. In the *regulated sector*, such reports are compulsory (save where an exemption such as the *privilege reporting exemption* applies).

### The Authorised Disclosure

6.9 An authorised disclosure is a report made by a person who makes the disclosure:

- before he has carried out a prohibited act (ie, done something which would constitute a *money laundering* offence under ss327-329, POCA); or
- whilst he is doing the prohibited act, or after he has done such an act provided that when he started to do the act he didn't realise that it was *money laundering* (ie, did not realise that *criminal property* was involved) and made the report on his own initiative as soon as he knew or suspected *criminal property* was involved; or
- after he has done the prohibited act, provided that there was good reason for not reporting before he committed the act, and he made the report on his own initiative as soon as it was practicable to make it. There is no guidance in POCA as to what might constitute 'good reason', but this is likely to be applied narrowly.

### Confidentiality protections

6.10 Any report properly made under the provisions of ss337 and 338, POCA cannot be taken to breach any restriction on disclosure of information, however this is imposed. This means considerations of *client* or other duties of confidentiality must not impede reporting, unless the *privilege reporting exemption* applies (see section 7 below) where different considerations apply. Such protection does not exist for reports which are made founded only on speculation or made defensively, founded on generalities or 'just in case'.

### Non-POCA reporting

6.11 This *Guidance* deals only with obligations under the UK anti-*money laundering* regime – *businesses* and *individuals* should have regard to other obligations they may have, such as reporting responsibilities under the Statements of Auditing Standards, statutory regulatory returns, and reports of misconduct of fellow members of professional bodies. In all cases, the risk of *tipping off* must be considered and avoided. Further *Guidance* on acting for *clients* who are the subject of SARs is given in section 9.

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## RECOGNISING MONEY LAUNDERING

### The key elements

6.12 The anti-*money laundering* requirements only relate to criminal matters, that is those which attract criminal penalties. Other acts may be unlawful, but not criminal. This distinction is particularly important in areas of work where an array of penalties on both civil and criminal levels exist. An example of this is in relation to infringement of the requirements of the Companies Act where there is a mixture of issues attracting civil penalties and those attracting criminal penalties.

6.13 In most cases of suspicion, the reporter will have in mind a particular type of underlying or predicate *criminal conduct*. However, on occasion a transaction or activity may so obviously lack any normal economic rationale or business purpose as



to lead to a suspicion that it may be linked to *money laundering* in the absence of any other credible explanation. *Individuals* should not hesitate to exercise professional scepticism and judgement and should report such matters if appropriate.

- 6.14 For a matter to be *money laundering*, there must not only be *criminal conduct*, but also proceeds or *criminal property*. These terms are described below.

### **Criminal conduct**

- 6.15 *Criminal conduct* is that which constitutes an offence in any part of the UK or would do if it was committed in the UK. However, *businesses* and *individuals* should note that under the provisions of the *overseas conduct exception* (s330(7)(A) *POCA*) there are limited exceptions to the requirement to report conduct occurring overseas – see sections 2.4 and 2.5.
- 6.16 Since UK law defines *money laundering* so widely, any *criminal conduct* which has resulted in any form of *criminal property* will also constitute *money laundering*. It is not expected that *individuals* will become expert in the very wide range of underlying or predicate criminal offences which lead to *money laundering* but they will be expected to recognise those that fall within the professional competence of their role but should use professional scepticism, judgement and independence as appropriate to identify offences.
- 6.17 If a person knowingly engages in criminal activity but does not successfully benefit from it, he may have committed some other offence (often fraud) but not *money laundering*. If an activity does not result in *criminal property* it cannot constitute a *money laundering* offence. Consequently, there is no obligation to file a *money laundering* report. However, *businesses* and *individuals* may wish to report the matter to the Police, or may have other reporting duties (such as those referred to in section 6.11 above).

### **Criminal property**

- 6.18 *Criminal property* is the benefit derived from a person's criminal activity. Note that *criminal property* (or 'proceeds') can take any form. For example, cost savings from ignoring mandatory health and safety regulations (amounting to a criminal offence) savings as a result of tax evasion, and other less obvious financial benefits can also constitute *criminal property*. Where *criminal property* is used to acquire further assets these further assets themselves become *criminal property*. It is important to note that there is no de minimis level and thus *criminal property* is not identified by its value.
- 6.19 *POCA* defines *criminal property* in s340(3)(b), *POCA* as 'property is *criminal property* if it constitutes a person's benefit from *criminal conduct* and the alleged offender knows or suspects, that it constitutes or represents such a benefit'

### **Intent**

- 6.20 Except for certain strict liability offences, *criminal conduct* requires an element of criminal intent. S 340(3)(b) of *POCA* means that an offender must know or suspect that property is criminal. Conduct which is an innocent error or mistake may be criminal where it constitutes a strict liability offence but will not also be *money laundering*.
- 6.21 If an *individual* or *business* knows or believes that a *client* is acting in error, the *individual* may approach the *client* and explain the situation and legal risks to him.

However, once the criminality of the conduct is explained to the *client*, he must bring his conduct (including past conduct) promptly within the law to avoid a *money laundering* offence being committed. Where there is uncertainty about the legal issues, outside the competence of the *individual*, *clients* should be referred to an appropriate specialist or professional legal adviser.

- 6.22 Note that if there are reasonable grounds to suspect that a *client* knew or suspected that his/ its actions were criminal, a report must be made. Even if the *client* does not have the relevant intent, but *businesses* or *individuals* are aware that there is *criminal property*, consideration needs to be given to whether a report has to be made under s 338, POCA to avoid an offence under ss327-329, POCA (see also section 6.27 and section 8).

### **Determining whether and when to report**

- 6.23 There can be no hard and fast rules on how to recognise *money laundering*. It is important for all *individuals* to be alert to this issue and to apply their professional judgement and experience.
- 6.24 *Individuals* need to consider whether activity or conduct observed in the course of business has the characteristics of *money laundering* and, therefore, warrants a report. Most *businesses* will include in their standard anti-*money laundering* systems and procedures arrangements to allow *individuals* to discuss whether the information they hold amounts to a reportable knowledge or suspicion, and *individuals* should take advantage of these arrangements where necessary.
- 6.25 *Individuals* must report promptly to the *MLRO* (or exceptionally direct to *SOCA*) once the requisite knowledge or suspicion has been formed, or reasonable grounds for such have come into existence. There are no external requirements for the format of an *internal report* and *businesses* may design their systems for *internal reporting* as they wish. *Internal reports* may be made orally or in writing, and may refer to *client* files or contain all the requisite information in a standard form, provided that all the information in the *required disclosure* and other information which the *business* requires under its procedures for the reporting of *money laundering* are reliably provided and recorded.
- 6.26 To decide whether or not a matter is suspicious *individuals* may need to make further enquiries (within the normal scope of the assignment or *business relationship*) of the *client* or their records. The anti-*money laundering* legislation does not prevent normal commercial enquiries being made to fulfil duties to *clients*, and such enquiries may also assist in understanding a matter to determine whether or not it is suspicious. However, investigations into suspected *money laundering* should not be conducted unless this is within the scope of the engagement, and information is limited to that to which the *individual* would normally be entitled in the course of business. Normal business activities should be maintained and such information or other matter which flows from this will form the proper basis of *internal reports* and *SARs*. To carry out additional investigations is unnecessary and could risk *alerting a money launderer*.
- 6.27 *Individuals* should be cautious and report to their *MLRO* if in doubt, but may wish to consider the following questions to assist their decision:

- Am I suspicious, or do I know, that activity I have seen is criminal and has caused someone to benefit from it in some way?
- Am I suspicious of an activity which, whilst I can't identify a specific *predicate offence*, is so unusual or lacking in normal commercial rationale that it causes suspicion that money is being laundered?
- If so, do I suspect a particular person or persons of having been involved in criminal activity (or do I know who undertook criminal activity), or does another person that I can name have details of this person(s) or information that might assist in identifying this person(s)?
- Do I know who might have received, or still be holding, the benefit of the criminal activity or where the *criminal property* might be located or have I got any information which might allow the property to be located?
- Do I think that the person(s) involved in the activity knew or suspected that the activity was criminal or do I think the activity arose from innocent error?
- Can I explain coherently what and who I am suspicious of, and why, either in terms of knowledge or suspicion that a *predicate offence* has been committed, or in terms of abnormal activities which may constitute *money laundering*?

Consideration must also be given to whether *individuals* or *businesses* have engaged, or intend to engage, in conduct which could constitute a *money laundering* offence under ss327-329, POCA (eg, transferring *client* money that comprises *criminal property*). If so, this must also be reported to the *MLRO* as a report may be required under s 338, POCA and *consent* requested.

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## HOW TO REPORT

### Internal reports to the *MLRO*

- 6.28 The *2007 Regulations* require *businesses* to maintain internal reporting procedures that allow any *individual* in the *business* to submit to the *MLRO* a report of knowledge or suspicion or reasonable grounds for such, of *money laundering*. Only by doing this can the *individual* fulfil his obligations under s330, POCA (or in exceptional circumstances, reporting direct to SOCA). Of course, sole practitioners who do not employ any staff will simply make their own SARs directly to SOCA.
- 6.29 Under s330, POCA, the *internal report* must reach the *MLRO* – a report to a line manager or other colleagues is not enough to comply with the legislation.<sup>6</sup> An *individual* may discuss his suspicion with managers or other colleagues to assure himself of the reasonableness of his conclusions but, other than in group reporting circumstances, the responsibility for reporting to the *MLRO* remains with him. It cannot be transferred to anyone else, however junior or senior they are.
- 6.30 Where a group (more than one *individual*) arrives at knowledge or reasonable suspicion together by consolidating their thoughts, a single *internal report* may be submitted, in terms agreed by those forming the suspicion and in the names of them all. This may occur, for example, where an engagement team has a reason to be suspicious.

### Reports to SOCA

- 6.31 The *MLRO* will be responsible for making decisions on whether the information contained in an *internal report* needs to be relayed to SOCA in the form of a SAR,

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<sup>6</sup> Both the *2007 Regulations* and *POCA 2002* use the term 'nominated officer' for *MLRO*.

and compiling and despatching the *SAR* to *SOCA* (section 7). The *MLRO* will also be responsible for determining whether *consent* is required to continue with the engagement or any aspect of it, and will usually be responsible for decisions on how business should be conducted pending receipt of *consent* (section 8).

## SECTION 7 – THE MLRO AND REPORTING TO SOCA

### KEY POINTS

- The role of the *MLRO* carries significant responsibility and should be undertaken by a senior person within the *business* who has sufficient authority to take independent decisions, and who is properly equipped with sufficient knowledge, and resources, to undertake the role.
- The key role is that of receiving *internal reports*, and making *SARs* to *SOCA* as applicable, but *MLROs* may undertake other functions relating to the *businesses'* systems and controls in relation to its anti-*money laundering* activities.
- *Businesses* should make provision for delegates or deputies to cover any absence of the appointed *MLRO* and should ensure all relevant employees are aware of the reporting channels laid down by the *business*.
- It is for *businesses* to determine the format of *internal reports*.
- A *relevant professional adviser* who suspects or has reasonable grounds for knowing or suspecting that another person is engaged in *money laundering* is exempted from making a *money laundering* report where his knowledge or suspicion comes to him in privileged circumstances (the *privilege reporting exemption*).

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### THE ROLE

7.1 The role of the *Money Laundering Reporting Officer (MLRO)* carries significant responsibility and should be undertaken by an appropriately experienced *individual*. Although there is no prescribed level of seniority, one of the principals of an accounting firm, or similar in other *businesses*, is likely to be suitable, or another senior and skilled person with sufficient authority to enable decisions to be taken independently. *MLROs* are **required** to:

- consider *internal reports* of *money laundering*;
- decide if there are sufficient grounds for suspicion to pass those reports on to *SOCA* in the form of a *SAR*, and, if so, to make that *SAR*; and
- act as the key liaison point with *SOCA* and law enforcement agencies including dealing with *consent* and disclosure issues.

*MLROs* **may** also take responsibility for:

- training within the *business*;
- advising on how to proceed with work once an *internal report* and/or *SAR* has been made in order to guard against risks of *tipping off* or *prejudicing an investigation*; and
- the design and implementation of internal anti-*money laundering* systems and procedures.

If this role is not undertaken by the *MLRO*, these responsibilities should be taken on by another sufficiently senior and skilled person within the *business*. This person should work closely with the *MLRO*.

- 7.2 The functions of an *MLRO* can be delegated, although this does not relieve that *MLRO* of his responsibility, and *businesses* should have contingency arrangements for discharging the duties of an *MLRO* during periods of absence or unavailability. It is recommended that *businesses* appoint an alternate or deputy *MLRO* for these situations and ensure that the reporting channels are well known to all relevant employees.
- 7.3 Like all *individuals*, *MLROs* can commit the *money laundering* offences as well as the related offences of *failure to disclose*, *tipping off*, and *prejudicing an investigation*.

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## ASSESSING INTERNAL REPORTS

- 7.4 When first approached by a colleague with an *internal report*, there are two matters for immediate consideration. Rapid consideration is needed by the *MLRO* as to whether an application for *consent* is required (see section 8). In addition, the *MLRO* should first establish by discussion and review whether or not the *privilege reporting exemption* may apply, as this exemption significantly affects not only whether a *SAR* must be made under the legislation, but also whether it may be made. The *privilege reporting exemption* is limited to *relevant professional advisers*, and will not be available other than to members of well established professional bodies such as those listed in Schedule 3 to the *2007 Regulations* and who meet the requirements set out in s 330 (14), *POCA*. Further *Guidance* on the *privilege reporting exemption* is given in sections 7.26 to 7.46 below.
- 7.5 Once the *MLRO* receives an *internal report*, he must assess it and determine whether it meets the criteria laid down in s 331, *POCA* ie:
- does he know, suspect or have reasonable grounds to know or suspect that another person is engaged in *money laundering*; and
  - did the information or other matter giving rise to the knowledge or suspicion come to him in a disclosure made under s 330, *POCA*; and
  - does he know the name of the other person or the whereabouts of any laundered property from the s 330 disclosure; or
  - can he identify the other person or the whereabouts of any laundered property from information or other matter contained in the s 330 disclosure; or
  - does he believe, or is it reasonable for him to believe, that the information or other matter contained in the s 330 disclosure will or may assist in identifying the other person or the whereabouts of any laundered property.
- 7.6 In each case the *MLRO* should ensure the report contains all the relevant information known to the *individual(s)* making the report and records all necessary aspects as follows:
- who is making the report
  - the date of the report
  - who is suspected or information that may assist in ascertaining the identity of the suspect (which may simply be details of the victim and the fact that the victim knows the identity but this is not information to which the *business* is privy in the ordinary course of its work)
  - who is otherwise involved in or associated with the matter and in what way
  - what the facts are
  - what is suspected and why
  - information regarding the whereabouts of any *criminal property* or information that may assist in ascertaining it (which may simply be the details of the victim)

- who has further information but this is not information to which the *business* is privy in the ordinary course of its work)
- what involvement does the *business* have with the issue in order that requirements for *consent*, the need for consideration of *tipping off* issues, basis of continuance of work and any other necessary guidance for engagement staff may be considered.
- 7.8 The *MLRO* may also wish to make reasonable enquiries of other *individuals* and systems within the *business*. Such enquiries may either have the effect of confirming the knowledge or suspicion, or reasonable grounds for such, or may provide additional material which enables the cause of suspicion to be eliminated at which point the matter may be closed without a *SAR* being issued.
- 7.9 In conducting his assessment, the *MLRO* may well wish to consider the criteria set out in section 6 [determining whether to report]. If the *MLRO* considers the information or other matter he has received in an *internal report* meets these criteria then a *SAR* to *SOCA* will be required unless either the *privilege reporting exemption* has been applied on the reporter seeking advice from the *MLRO* and not overridden by the crime/fraud exception or, on analysis of the *internal report* received, the *MLRO* determines that the *overseas conduct exemption* applies (sections 2.4 and 2.5).

### The Reporting Record

- 7.10 It is vital for the control of legal risk that adequate records of *internal reports* are maintained, usually by the *MLRO*. These would normally be details of all *internal reports* made including details of the *MLRO*'s handling of the matter, his requests for further information, assessments of the information received, decisions as to whether to conclude immediately or to wait for further developments or information, whether to make a *SAR* or not and on what grounds, any advice given to engagement teams as regards continuation of work and any *consent* requests made.
- 7.11 Details of *internal reports* submitted as *SARs* should also be retained. For efficiency, and ease of reference for the *MLRO*, it is recommended that some form of index of reports is kept and internal reference numbers given. The records may be simple, or sophisticated, depending on the size of the *business* and the volume of reporting, but all need to contain broadly the same information and be supported by appropriate working papers. These records are important as they may subsequently be required to justify and defend the actions of an *individual* or *MLRO*. There is no prescribed form specified in *POCA* or elsewhere for *internal reports* to an *MLRO*.

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### MAKING EXTERNAL REPORTS

- 7.12 Once an *MLRO* has concluded a report is required, it should be prepared and submitted promptly to *SOCA*.
- 7.13 The requirement set out in *POCA* as to timing of reports is that a report should be made 'as soon as is practicable' after the information required is received. In practical terms, the interval between receiving an *internal report* and making a *SAR* will vary quite widely. Some matters may be disposed of very rapidly where all the information required to make a *SAR* is received with the first contact, and where this occurs a quick turnaround should be achieved. It is particularly important to work rapidly in matters where *consent* is required, or where '*money laundering in action*' is suspected, ie, another is engaged in current criminal activity which may provide law enforcement with opportunities to intervene. In other cases, where not all the

required information is immediately to hand, or where there is material uncertainty as to whether the matter is reportable or not, the *MLRO* may reasonably choose to await further expected developments, and/or seek further information before making a reporting decision.

7.14 *MLROs* can use a variety of manners and methods of submission, to make reports such as:

- *SAR* on-line, using internet transfer
- Moneyweb, using extranet transfer
- Secure (encrypted email) using electronic file transfer by email
- Bulk reports in electronic form using CD etc for transfer
- Hard copy *SOCA* forms (obtainable on the internet or by post on request to *SOCA*) to be typed and submitted by post or fax

The manners most likely to be of relevance to those providing *defined services* are *SAR* on-line, Moneyweb and the hard copy forms, the other two manners and methods are normally only used by retail banks and others submitting very large quantities of reports. We recommend that *individuals* and *businesses* have regard to guidance on how to make reports published from time to time by *SOCA*. Details of *SOCA's* preferred reporting methods are available from their web site at [www.soca.gov.uk](http://www.soca.gov.uk)

7.15 Each of the manners contain compulsory fields which require information, where known, to be provided in accordance with the *required disclosure* provisions. These fields relate to the identity of the reporter, the details of subjects (to the extent known but at least one must be named whether as victim or suspect and the identity information known provided in the correct specified fields), and in the free text box (variously called 'reason for disclosure' or 'reason for suspicion') the whereabouts of the laundered property, where known, and the description of the reason for suspicion or knowledge.

7.16 Please note that currently there are no prescribed forms which *MLROs* must use. An offence for failing to use the prescribed manner and form for making a *SAR* is contained in s339(1A), *POCA* but this section is not effective unless or until an order by the Secretary of State. We are not aware of any plans to prescribed manner and form in the immediate future.

7.17 In preparing *SARs*, *MLROs* should seek to present information in a way that is clear and succinct. In particular:

- the full name of the reporting *business* must be provided and the internal reference for the report should be provided in each case;
- identification information held by the *business* (name, address, date of birth, registration numbers etc) must be presented in the appropriate subject fields, and not simply incorporated into the 'reason for suspicion' text;
- where it assists in explaining the matter being reported, it may be appropriate to include a number of subjects in the report, providing such identification information as is known in the manner above for each of them;
- for each subject their role, as far as it is known, in the matter should be made clear and the options of flagging each subject as suspect/victim/unknown used as appropriate;
- where bank account/transaction details are available and relevant, these should be included in the appropriate fields;



- the activity observed should be explained clearly in the reasons for suspicion field, without using jargon or terms which might not be readily understood by non-accountants and, as far as known, giving details of when events occurred;
- features of the activity which are unusual or are considered to denote either a *predicate offence to money laundering*, or *money laundering*, should be highlighted as such;
- such information held as to the whereabouts of any laundered property should be given;
- the information given in the reasons for suspicion field should be succinct; and
- the report should be submitted without any supporting documents and accordingly should be able to stand alone to explain the suspicion through provision of the information comprising the *required disclosure*.

7.18 If the *MLRO* so wishes, he may make use of the *SAR Glossary of Terms* provided by SOCA and incorporate the relevant terms in his report.

7.19 An important role for the *MLRO* on receipt of an *internal report* and on making a *SAR* is to advise engagement teams on how to continue their work and interact with the *client* to balance professional responsibilities, risk to the *business* and responsibilities under *POCA*. This area of work is examined in section 9.

### Guarding confidentiality

7.20 If *clients* or third parties become aware that an *individual* or *business* has made a *SAR*, this can have adverse effects on *client* relationships and may ultimately endanger the security of staff members. Maintaining the confidentiality of *SARs* is important to SOCA<sup>7</sup>. Access to *SAR* information is now provided to end-users in law enforcement and similar agencies by SOCA only on condition that undertakings are taken as to compliance with Home Office guidance on preserving the confidentiality of *SARs*. (Home Office Circular 53 / 2005 'Money Laundering: The Confidentiality And Sensitivity Of Suspicious Activity Reports (*SARs*) And The Identity Of Those Who Make Them').

7.21 SOCA has provided a reporting line for concerns over breach of confidentiality by end-users of reports and details may be found on <http://www.soca.gov.uk/financialIntel/sarBreachLine.html>.

7.22 Whilst it is reasonable for the *regulated sector* to expect SOCA to make strenuous efforts to protect the confidentiality of those who make *SARs*, reporters should also take such steps as are available to them to protect the confidentiality of *individuals* and *businesses* and the information reported.

7.23 In making reports, *MLROs* should disclose information relevant to the suspicion or knowledge of *money laundering* and information necessary to allow the reader to gain a proper understanding of the matters reported. It is recommended that reporters:

- refrain from including other confidential information where this is not required for compliance with obligations under *POCA*
- show the name of the *business*, *individual*, or *MLRO* submitting the report only once in the source ID field but nowhere else in the report;
- do not include names of personnel who made *internal reports* to the *MLRO*;

<sup>7</sup> The review into the future of the *SAR* regime, known as the Sir Stephen Lander Review, included recommendations regarding the importance of maintaining and improving confidentiality in the *SAR* regime.

- only include parties as subjects where this information is necessary for an understanding of the report, or to meet the standards of the *required disclosure*; and
- highlight clearly in the reasons for suspicion/disclosure field any particular concern the reporter has about safety (in physical, reputational or other terms).

7.24 Whilst it is reasonable for an *MLRO* to answer questions from a *SOCA* officer or a law enforcement officer aimed simply at clarifying the content of a *SAR*, any further disclosure to *SOCA* or law enforcement or prosecuting agencies should normally only be undertaken in response to the exercise of a power to obtain information contained in relevant legislation, or in compliance with professional guidance on the balance of confidentiality and making disclosures in the public interest. This provides protection for the *MLRO* and the *business* against any allegation of breach of confidentiality.

7.25 A facility exists for any person to make voluntary disclosures to *SOCA* under s34, *SOCPA* provided that:

- the disclosure is made for the purposes of the exercise by *SOCA* of any of its functions (ss2-4, *SOCPA*);
- it is not a disclosure of personal data in contravention of the Data Protection Act 1998 where that personal data is not exempt from its provisions;
- it is not a disclosure prohibited by Part 1, Regulation of Investigatory Powers Act 2000 (relating to unlawful interception of communications).

If a disclosure meets these requirements, the person making the disclosure does not breach any duty of confidentiality or other restriction on the disclosure of information, however imposed. We recommend a cautious approach to disclosure under this section, as it is important to be sure that all the required conditions are met.

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## THE PRIVILEGE REPORTING EXEMPTION

7.26 With effect from 21 February 2006, a *relevant professional adviser* who suspects or has reasonable grounds for knowing or suspecting that another person is engaged in *money laundering* is exempted from making a *money laundering* report where his knowledge or suspicion comes to him in privileged circumstances (the *privilege reporting exemption*). In such circumstances, provided that the information is not given to him with the intention (by his *client* or another person) of furthering a criminal purpose ('the crime/fraud exception' – see sections 7.42 to 7.46 below), s330(6) affords the adviser a complete defence against a charge of failure to disclose (ie, to make a *SAR*). By implication, the exemption also means that in these circumstances a *business* should not make a *SAR*, as they are expected to be bound by the same standards of behaviour as is the case for legal professional advisers subject to legal professional privilege.

7.27 Discussions with the *MLRO* to seek advice about making a report under s 330, *POCA* shall not be taken to be an *internal report* when it was not intended as such, eg, if the person initiating the discussion believes the matter falls within the *privilege reporting exemption* and contacts the *MLRO* to confirm this. On receipt of such an approach, it is recommended the *MLRO* still collects the information which would otherwise be included in the *required disclosure* to enable careful consideration with the reporter of whether or not the matter falls within the *privilege reporting exemption* and, if it does, whether this is overridden by the crime/fraud exception. It is

recommended that the *MLRO* documents the decision reached in this regard and the reasons for reaching that decision.

7.28 A *relevant professional adviser* is defined in the legislation as:

- an accountant, auditor or *tax adviser* who is a member of a professional body which is established for accountants, auditors or *tax advisers* (as the case may be); and which makes provision for;
  - (a) testing the competence of those seeking admission to membership of such a body as a condition for such admission; and
  - (b) imposing and maintaining professional and ethical standards for its members, as well as imposing sanctions for non-compliance with those standards.

The *privilege reporting exemption* also extends to persons in partnership with (or equivalent), or employed by, the *relevant professional adviser* to provide them with assistance or support. The information must come to these partners or employees in connection with this assistance or support and to the *relevant professional adviser* in privileged circumstances.

7.29 The legislation does not list which professional bodies meet the criteria listed in s 330 (14), but the *CCAB* member bodies meet those criteria and, accordingly, *individuals* who are members of a *CCAB* member body, those in partnership with such *individuals* in *businesses* regulated by the *CCAB* and the employees of such *businesses* and *individuals* are within the scope of the exemptions. If *businesses* or *individuals* are in any doubt as to whether these provisions apply to them, it is recommended that they seek legal advice.

7.30 However, the amendments referred to above affect only the duty to make *money laundering* reports and related disclosures under *POCA*. They do not in any way extend legal professional privilege to advice given by *relevant professional advisers* in any other circumstances. However, *businesses* and *individuals* need to be aware, when responding to requests for further information (sections 9.11 to 9.17), documents subject to a *client's* privilege are not disclosable.

7.31 If a *relevant professional adviser* considers that the information or other matter on which his knowledge or suspicion is based came to him in privileged circumstances, he is obliged to apply the *privilege reporting exemption* in s330(6), *POCA* (unless the crime/fraud exception applies) and so has no discretion to make a *money laundering* report. This means that the *relevant professional adviser* could find himself in a situation where he might wish to make a report but is prevented from doing so. In such circumstances, he should consider whether he may continue to act, but in carrying out his decision will need to bear in mind the provisions of *POCA* relating to *prejudicing an investigation* (s342, *POCA*).

7.32 Whether or not the *privilege reporting exemption* applies needs to be considered carefully, including a consideration as to whether the *relevant professional adviser* was working in privileged circumstances when the particular information or other matter came to him. This is an important consideration, as a *relevant professional adviser* may be providing a variety of services to a *client*, not all of which may create privileged circumstances for this purpose. Accordingly, it is strongly recommended

that a careful record is maintained of the provenance of information considered when a decision is made on the applicability or otherwise of the *privilege reporting exemption*.

- 7.33 Set out below is a description of the two types of privileged circumstances and some examples of work which may fall within or outside of them.

### Legal advice

- 7.34 For the privileged circumstances set out in s330(10)(a) and (b), *POCA* to apply, the following conditions need to exist:

- there needs to be a confidential communication (written or oral) between the *relevant professional adviser* and his *client*, or a representative of the *client*, in which the *client* seeks or the *relevant professional adviser* gives legal advice;
- that communication must take place within the confines of a professional relationship between them, including an initial meeting which does not progress to a *business relationship*; and
- the communication must relate to legal advice (ie, advice concerning the rights, liabilities and obligations or remedies of the *client* under the law).

### Litigation

- 7.35 For the privileged circumstance set out in s330(10)(c), *POCA* to apply, the following conditions need to exist:

- there must be a confidential communication (written or oral) between the relevant professional advisor and the *client* or third party;
- the confidential communication must be made for the dominant purpose (ie, the overriding purpose) of being used in connection with actual, pending or contemplated litigation.

Defining contemplated litigation is difficult. In summary, it is usually necessary to be able to identify some act that gives rise to a cause of action in relation to which some threat of legal action has either been clearly intimated or is more than reasonably likely to follow. The party seeking to claim the benefit of litigation privilege must show that he was aware of circumstances that rendered litigation between himself and a particular person or class of persons a real likelihood rather than a mere possibility.

### Examples of privileged circumstances

- 7.36 Examples where *relevant professional advisers* might frequently fall within privileged circumstances as regards legal advice privilege include, where this advice is delivered as part of the provision of a *defined service*:

- advice on taxation matters, where the *tax adviser* is giving advice on the interpretation or application of any element of tax law and in the process is assisting a *client* to understand his tax position;
- advice on the legal aspects of a take-over bid, for example on points under the Companies Act legislation;
- advice on duties of directors under the Companies Act;

- advice to directors on legal issues relating to the Insolvency Act 1986, eg, on the legal aspects of wrongful trading; and
- advice on employment law

7.37 Examples where *relevant professional advisers* might fall within privileged circumstances as regards litigation privilege include:

- assisting a *client* by taking witness statements from him or from third parties in respect of litigation;
- representing a *client*, as permitted, at a tax tribunal; and
- when instructed as an expert witness by a solicitor on behalf of a *client* in respect of litigation.

7.38 It should be noted that conducting audit work does not of itself give rise to privileged circumstances for this purpose, as the *relevant professional adviser* is neither providing legal advice, nor is he instructed in respect of litigation. Nor do routine book-keeping, accounts preparation or tax compliance assignments, though privileged circumstances may arise if the *client* requests or the adviser gives, legal advice on an informal basis, during the course of such an assignment

7.39 It is recommended that the reasons for the conclusion reached as to whether the *privilege reporting exemption* applies are carefully documented. If the *relevant professional adviser* decides it does apply, he must act in accordance with the *privileged reporting exemption* unless the crime/fraud exception applies. If in doubt, it is recommended that *businesses* and *individuals* seek professional or legal advice.

### **Recording and discussion with the MLRO**

7.40 Even where the *client* service team believe that the *privilege reporting exemption* applies, *businesses* should consider whether all matters involving knowledge or suspicion of *money laundering* should still be referred to the MLRO for advice or to another appropriate person (see section 7.41 of this *Guidance*). Discussion of a matter with the MLRO, where the purpose of the discussion is the obtaining of advice about making a disclosure under s330, does not alter the applicability of the *privilege reporting exemption*. Given the complexity of these matters, and the need for considered and consistent treatment with adequate documentation of decisions made, a referral to and discussion with the MLRO is likely to be beneficial and is recommended. The MLRO may decide, with the reporter, to seek further appropriate advice.

7.41 Likewise reporters within a *business* are entitled to seek advice from an appropriate specialist (either a person within the *business* who would fall into the category specified in s330(7B) or an external adviser who himself is able to apply the *privilege reporting exemption*) without altering the applicability of the *privilege reporting exemption*.

### **The Crime/Fraud Exception**

7.42 Before determining whether the *privilege reporting exemption* must be applied, consideration needs to be given to whether the exemption is lost through application

of the crime/fraud exception. This exception, as set out in s330(11), *POCA*, overrides the *privilege reporting exemption* which:

‘does not apply to information or other matter which is communicated or given with the intention of furthering a criminal purpose’.

This means that communications that would otherwise qualify under one or other of the above two types of privilege are not covered by the *privilege reporting exemption* where the communication was intended to facilitate or to guide someone (usually the *client* but possibly a third party) in the commission, or furtherance, of any crime or fraud. An example of this might be where tax advice was sought ostensibly to enable the affairs of a tax evader to be regularised but in reality was sought to aid continued evasion by improving the evader’s understanding of the relevant issues.

7.43 The crime/fraud exception also applies where communication takes place between a *client* and his adviser in circumstances where the *client* is the innocent tool of a third party’s criminal or fraudulent purpose. An example of this might be where a money launderer gives money to a family member, who is unaware of the source of that money, to purchase a property, for which purpose he communicates with his adviser.

7.44 The crime/fraud exception does not apply where the adviser is approached to advise on the consequences of a crime or fraud or similar conduct that has already taken place and where the *client* has no intention, in seeking advice, to further that crime or fraud. This means that a person who is concerned that he may be guilty of tax evasion can approach a *tax adviser* for legal advice in this regard without fear of the exception being invoked. This remains the case even if the potential *client* declines a *client* relationship having received the advice, and the adviser does not know whether the person will proceed to rectify his affairs. However, if the person behaves in a way that makes the adviser suspicious that he intends to use the advice to further his evasion, then a *money laundering* report could be required.

7.45 The crime/fraud exception is a difficult area and the Courts will not usually allow the exception to be invoked unless there is reasonably compelling circumstantial evidence available that demonstrates that the communications have in some way been intended to further the crime or the fraud. A mere speculation may not be sufficient as a basis to invoke it. It is strongly recommended that professional or legal advice is sought in all cases of doubt.

7.46 In summary, the following issues need to be considered before deciding whether to apply the *privileged reporting exemption*:

- (a) Are those who received the information or other matter which gave rise to knowledge or suspicion of *money laundering* relevant professional advisers (s330(14) and s330(6)(b))?
- (b) Was the *relevant professional adviser* acting in privileged circumstances (s330(10))?
- (c) Was the information or other matter which gave rise to knowledge or suspicion of *money laundering* actually received in privileged circumstances (s330(10)) and not in some other communication or situation?

(d) Was the information or other matter received or communicated with the intention of furthering a criminal purpose (*ie*, does the crime/fraud exception apply (s330(10))?)

If the answers to (a), (b), and (c) are yes, and the answer to (d) is no, the *privileged reporting exemption* must be applied. If the answer to (a), (b), and (c) are yes and the answer to (d) is yes, the crime fraud exception applies and a *money laundering* report must be made. Further advice should be sought from the relevant professional body or a lawyer in cases of doubt. This issue may be vital in balancing legal and professional requirements for confidentiality and for serving the public interest and the interests of *clients*. If doubts cannot be resolved through internal discussion, through access to normal sources of professional advice, *businesses* are strongly recommended to seek advice from a professional legal adviser with experience of these matters.

## SECTION 8 – CONSENT

### KEY POINTS

- If a *business* or an *individual* believes an activity they are going to undertake would constitute a *money laundering* offence under ss327-329 *POCA* then they must make an authorised disclosure under s338, *POCA* (or have a reasonable excuse for not having made such a report); and
- If the authorised report was made before the *money laundering* activity took place, the reporter must receive an appropriate *consent* (s335, *POCA*) before proceeding with the activity or an offence will be committed
- On receipt of the appropriate *consent* under s335, *POCA*, an *MLRO* may then provide this *consent* to the *business* under the provisions of s336, *POCA*
- Once a *consent* request is made, this may be granted by *SOCA* or given by default once 7 working days starting the working day after submission of the *consent* request (the 'notice period') has elapsed, or *consent* may be refused
- If *consent* is refused during the 7 working day notice period, a moratorium period of 31 days starts on the day notice of refusal is received during which the activity may not be undertaken unless and until the moratorium period expires.
- Once the moratorium has expired, then if no restraining action has been taken by law enforcement, the activity in question may be continued.

### MATTERS FOR CONSENT

- 8.1 The *MLRO* needs to consider carefully when preparing to make a *SAR* whether continuation of activity by the *business* in respect of the subject matter of the *SAR* may potentially involve the *business* in carrying out an act which would constitute a *money laundering* offence.
- 8.2 Whilst this, on the face of it, appears relatively unlikely in the context of the *defined services* there are situations where *consent* issues do arise and careful consideration should be given to this possibility.
- 8.3 Before applying for *consent* it is important to consider whether the proposed activity is a matter to which *SOCA* is empowered to *consent*. *SOCA*'s power is strictly limited to being able to *consent* to activity that would otherwise be an offence under any of ss327-329, *POCA*. In particular, it should be noted that *consent* may not be sought or given for offences under s333A, *POCA* (*tipping off*) or s342, *POCA* (*prejudicing an investigation*) or for any other *POCA* offence except those under ss327-329, *POCA*. As well as having only restricted powers to consent to *POCA* offences, it does not have the power to *consent* to an act which would otherwise constitute the commission of any other criminal offence. Accordingly, it cannot give *consent* to *eg*, an adviser knowingly submitting a false VAT return on behalf of a *client* as this would be a separate criminal offence on the part of the adviser as well as an offence under s328, *POCA*.
- 8.4 If in doubt as to whether a matter requires (or is eligible for) *consent* or not, either legal advice should be sought, or recourse had to helplines provided by the relevant supervisory bodies. Advice should not be sought from *SOCA* as they are not in a position to advise, although it will make clear if a matter falls outside of its powers.



8.5 Some of the more common instances where a *consent* may be required include:

- acting as an insolvency officeholder where there is knowledge or suspicion either that the assets may in whole or in part represent *criminal property*, or where the insolvent entity may enter into or become concerned in an arrangement under s328, *POCA*
- designing and implementing trust and company structures for *clients*, including acting as trustees or company officers, where there is knowledge or suspicion that these structures are being, or may be about to be, used to launder money;
- acting on behalf of the *client* in the negotiation and implementation of transactions where these involve an element of *criminal property* being either bought or sold by a *client*, for example corporate acquisitions;
- handling money in *client* accounts which is suspected to be of criminal origin; and
- providing outsourced business processing for *clients* where money is suspected to be of criminal origin.

8.6 There will be some cases where *businesses* consider they no longer wish to act for the *client* in question and will decline to conduct the requested activity and possibly terminate the relationship. This is a matter for the *business* and not a matter for *consent*. However, this is unlikely to be the case in terms of insolvency appointments, or when acting for the innocent purchaser of assets of suspicious origin. *Businesses* may on occasion decide that undertaking an activity which might otherwise constitute an offence under ss327-329, *POCA* may, at least in the short term, provided there is *consent*, be the most practical option even if there is no intention to continue acting for the *client* in the longer term. In particular, this might apply when monies are already held in *client* account and need to be returned to or paid away on the instructions of a known or suspected criminal and either a *consent* is required to enable transfer of monies away, or law enforcement confiscation activity is required to resolve the matter.

8.7 *Consent* requests must be clear as to the nature of the knowledge or suspicion of *money laundering* and specific as to the type and extent of the activity for which consent is requested, including how that activity would otherwise constitute an offence under ss327-329, *POCA*, or the *consent* request will not be accepted as a valid request by *SOCA* and no protection will be obtained.

8.8 *SOCA*'s priority in terms of dealing with *consent* issues are understandably focussed on those where there is an opportunity for law enforcement intervention either to confiscate assets or to prevent the commission of crime or acts of terrorism. Clearly, these may not entirely match with the priorities of the person requesting *consent*, who will be driven by *client* and transaction related considerations. To give the best chance of having a *consent* request processed rapidly, it is important to tick the *consent* box provided on the forms and it is recommended that any critical timescale attaching to the activity is explained clearly, and if the report is complex, a summary of key facts and the request is given at the beginning of the report, before explaining the supporting detail.

8.9 In terms of insolvency, *SOCA* are accustomed to dealing with *consent* requests from officeholders and, in general, officeholders should request *consent* to carry out their duties as an officeholder rather than attempting to request *consent* for specific transactions or activities. *SOCA* will try and provide a very rapid turnaround to such requests, as they recognise the unique position of a licensed officeholder acting as such. In order that *SOCA* can rapidly identify requests for *consent* from an insolvency officeholder, this should be made clear at the beginning of the report requesting

*consent*, specifying the type of insolvency appointment as well as providing all the other required detail.

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## CONSTRUCTIVE TRUST

- 8.10 Where *client* assets or monies are held, and in forming knowledge or suspicion of *money laundering businesses* become concerned about potential third party claims to the assets or monies, appropriately qualified legal or professional advice should be sought. This is a complex area of law and any *SOCA consent* will not protect a *business* against the claims of a third party, but only against any accusation of *money laundering*. However, *SOCA* are aware of the need to avoid any unwarranted disadvantage accruing to the *regulated sector*, arising from issues of constructive trusts. Where constructive trusts could be an issue, *businesses* are strongly advised to draw this to the attention of *SOCA* when making a *SAR*, so that this can be taken into account in the way *SOCA* deals with the application for *consent*.

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## SUSPENSION OF ACTIVITY

- 8.11 Once a *consent* request has been made, the process must be adhered to and the activity that would otherwise be a *money laundering offence* refrained from unless and until *consent* has been received (or the notice period expired), or in the event *consent* has been refused, until the moratorium period has expired. Failure to do so risks prosecution either for a *money laundering offence* and/or, in the case of an *MLRO* giving *consent* for an activity to continue before he is entitled to do so, an offence under s336 (5) punishable by imprisonment and/or a fine.
- 8.12 It is appreciated that it is extremely difficult, in some cases, to explain to *clients* and other parties why activity has ceased in an unexpected fashion. Whilst *SOCA* will make every reasonable effort to deliver a rapid *consent*, in some cases the full 7 working days will be taken before a decision is reached whilst the matter is considered with law enforcement, and the potential for intervention in terms of confiscation, arrest etc is considered.
- 8.13 There is nothing in the legislation which provides for how a *business* may/may not deal with the issues arising from delay. There is nothing which requires a *business* to lie to *clients* or other parties, and clearly to lie would be unacceptable conduct for a professional, but *businesses* must take into account the provisions of the offences concerning *tipping off* and *prejudicing an investigation* when informing parties of delays. If the delay is such as to cause the *client* or other parties to question the *business* as to the reasons for delay, *businesses* may be well advised simply and persistently to refuse to enter into any discussion of the matter and explain that, with regret, they are unable at this point to discuss the matter further. Clearly, this is not a form of behaviour or communication with *clients* that would normally be engaged in, but the period after a request for *consent* has been made is an exceptional period, although frequently of very short duration and manageable in the normal course of business.
- 8.14 In exceptional circumstances, where an unexpected delay in carrying out a service for a *client* is likely to *alert a money launderer*, in a way that could bring harm to an *individual* or the *business* or could materially undermine a criminal investigation, *MLROs* are recommended to ask *SOCA* to be put in touch with the Law Enforcement Authority dealing with the situation, to discuss the circumstances.

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## APPLYING FOR AND RECEIVING CONSENT

- 8.15 *Consent* may only be requested on the basis of a properly submitted *SAR*, made under the provisions of s338, *POCA* (authorised disclosures). The ‘*consent* required’ option should be selected on all methods of submission to alert *SOCA* to the request and enable them to prioritise appropriately. In cases of real urgency, a telephone call may also be made to alert *SOCA* to any special circumstances.
- 8.16 The *consent* request should be clear as to the reasons for knowledge or suspicion, the intended activity, and the nature of the consent requested. Great care is needed when requesting consent to cover the extent of the intended activity in a way that makes it clear to *SOCA* exactly what is being requested. Too narrow a *consent* request may mean repeated requests will be required causing issues of cost and efficiency to the *business* and possibly unnecessary *client* service impact. Too broad or ill-defined a *consent* may well result in *SOCA* having to refuse *consent* or possibly even determining the request is not validly made as it does not show clearly the act or acts to be undertaken which would otherwise be an offence under ss327-329, *POCA*.
- 8.17 *Consent* will frequently be received initially over the telephone from *SOCA*, and the name and contact number of the officer, and the *consent* reference should be noted on the *MLRO* records with the date and time of the call. Written confirmation ordinarily follows in due course but this may take several days and *MLROs* may rely on the telephone *consent*.
- 8.18 Once *consent* has been received by the *MLRO* under the provisions of s335 *POCA*, he should then (under the provisions of s336, *POCA*) promptly inform the engagement team affected and give them clearance to continue their work, and any other guidance they might require as regards *money laundering* matters.
- 8.19 If a period of 7 working days, starting the first working day after the *consent* request is made (the notice period), has elapsed with no refusal having been received, consent is deemed to have been given and the activity may be allowed to continue.

### Refusal of consent

- 8.20 If *consent* is refused during the notice period, then a further 31 days must elapse, starting with the day on which the consent is refused, before the activity may continue (the moratorium period). It may be that during either the notice period, or the moratorium period, that action is taken by law enforcement which means that the activity may no longer be able to be continued (eg, confiscation or other enforcement action may occur).
- 8.21 If no action has been taken to restrain the activity during the moratorium period, the activity may continue as planned.

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## EXEMPTIONS FOR BANKS AND DEPOSIT TAKERS

- 8.22 The Serious Organised Crime and Police Act 2005 put in place a threshold provision in *POCA* (ss327-329) that allows banks and deposit takers to continue to operate an account with an activity which potentially constitutes *money laundering* provided this relates to transactions worth £250 or less or as laid down from time to time in statutory instruments. Note that this change does not affect the requirement to report

suspicious, does not constitute a 'de-minimis' provision, and is **not** available to providers of *defined services*.<sup>8</sup>

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<sup>8</sup> See JMLSG *Guidance* for details on the change in thresholds for banks and deposit taking institutions.

## SECTION 9 – POST SAR ACTIONS

### KEY POINTS

- Once a SAR has been submitted, the *business* needs to consider whether or not the content of the SAR requires any change to, or even cessation in, any related *client* relationship.
- In addition, careful consideration needs to be given to reconciling the need to fulfil professional duties, whilst avoiding the risks of *tipping off*.
- A SAR may be followed by requests for further information from law enforcement or prosecuting agencies, both informal and by means of relevant orders. *Businesses* need to have in place procedures for checking the validity of requests, and for ensuring a proper response is made.

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### CONTINUING WORK IN CONNECTION WITH A REPORTED MATTER

#### Client relationships

- 9.1 *Businesses* do not have to stop working after submission of a SAR unless a *consent* has been requested, in which case all or part of *client* work may well require to be suspended until consent is received. In cases where *consent* has been requested and refused, the work which was the subject of the request will need to be suspended.
- 9.2 However, even where consent was not required, where a SAR involves a *client* as a suspect, *businesses* may wish to consider whether the behaviour observed is such that for professional reasons the *business* no longer wishes to act.
- 9.3 Generally, if following a report of suspicion a *business* wishes for its own commercial or ethical reasons to exit a relationship, there is nothing to prevent this provided the way the exit is communicated does not constitute *tipping off*. This also applies to the *prejudicing an investigation* offence outlined below.
- 9.4 If a decision is made to terminate a *client* relationship, a *business* should follow its normal procedures in this regard, whilst always bearing in mind the need to avoid *tipping off*.

#### Balancing professional work and POCA requirements

- 9.5 Normal commercial enquiries to understand a transaction carried out in the course of an engagement will not generally lead to *tipping off*, although care should be exercised to avoid either making a disclosure prohibited under ss333A-333D, POCA (see section 2.19 of this *Guidance*) or making accusations or suggesting that any person is guilty of an offence. It is important to confine enquiries to those required in the ordinary course of business and not attempt to investigate a matter unless that is within the scope of the professional work commissioned.
- 9.6 Continuation of work may require discussion with *client* senior management of matters relating to suspicions formed. This may be of particular importance in audit relationships. Care must be taken to select appropriate, and non-complicit, members of senior management for such discussion whilst always bearing in mind the need to avoid *tipping off*.

- 9.7 In more complex circumstances, consultation with law enforcement may be necessary before enquiries are continued, but in most cases a common sense approach will resolve the issue. Note that neither SOCA nor law enforcement may give consent to *tipping off*, but discussions with them are still valuable.
- 9.8 *Businesses* may wish to consult the *MLRO* or other suitable specialist (for example a solicitor) regularly if there are *tipping off* concerns, and in particular it is important that before any document referring to the subject matter of a report is released to a third party the *MLRO* is consulted and, in extreme cases, law enforcement. Some typical examples of documents released to third parties are shown below as an aide memoire:
- public audit or other attest reports;
  - public record reports to regulators;
  - confidential reports to regulators (eg to the *FSA* under relevant auditing standards);
  - provision of information to sponsors or other statements in connection with Rule 2.12 of the UK Stock Exchange Listing Rules;
  - reports under the Companies Directors Disqualification Act 1986;
  - reports under s218 of the Insolvency Act 1986;
  - Companies Act statements on resignation as auditors;
  - professional clearance/etiquette letters;
  - communications to *clients* of intention to resign.
- 9.9 In particular, audit resignations require statements to be filed at Companies House and the contents of such statements require careful consideration to ensure that statutory and professional duties are met, without including such information as may constitute *tipping off*. There is no legal mechanism for obtaining clearance from SOCA for the contents of such statements or other documents relating to resignation. However, *businesses* may well wish in cases of complexity to discuss the matter with SOCA or the relevant law enforcement agency in order to understand their perspective and document such discussion.
- 9.10 *MLROs* may on occasion need advice to assist them in formulating their instructions to the *business*. Legal advice may be sought from a suitably skilled and knowledgeable professional legal adviser, and recourse may also be had to helplines and support services provided by professional bodies. Discussion with SOCA and law enforcement may well be valuable, but *MLROs* should bear in mind these authorities are not able to advise, and nor are they entitled to dictate how professional relationships should be conducted.

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## REQUESTS FOR FURTHER INFORMATION

### Requests from SOCA or Law Enforcement Agencies

- 9.11 SOCA or a Law Enforcement Authority may contact a *business* (usually the *MLRO*) or an *individual* to ask for further information about a *SAR* it/he has submitted. Before responding, it is recommended that a verification process is undertaken to ensure the person making contact is a bona fide member of SOCA/law enforcement. This may be most simply achieved by taking a caller's name and agency/force details, and then calling the main switchboard of the agency/force to be put through to the person.

- 9.12 To the extent that the request is simply aimed at clarifying the content of a SAR, *businesses/individuals* may respond without the need for any further process.
- 9.13 However, if the request is for production of documents, or provision of information additional to the SAR, it is recommended that *businesses/individuals* require the relevant agency to use its powers of compulsion before they respond. This is not intended to be non co-operative, and indeed *businesses/individuals* are recommended to engage in constructive dialogue with SOCA/law enforcement, including as to the content and drafting of the request, but is intended to protect *businesses/individuals* from allegations that they breached confidentiality. *Client* or other third party consent is not required in cases of compulsion, and nor should it be sought due to the risk of *tipping off*.
- 9.14 Before responding to orders for production of information, *businesses/individuals* should ensure they understand:
- the authority under which the request is made;
  - the extent of the information requested;
  - the required timing and manner of the production of information; and
  - what information should be excluded eg, that subject to legal privilege,

If in any doubt, *businesses/individuals* should seek legal advice. *Businesses* should document their consideration of the issues.

- 9.15 None of the notices or orders will require the production of information that is subject to legal privilege or legal professional privilege. Terms used in the various relevant Acts of Parliament and the way the terms are defined vary slightly and it may be appropriate to take legal advice if unsure. The interaction of the *privilege reporting exemption* with the carve-outs for privileged material in the notices and orders outlined below is not clear, and has yet to be tested. This is a complex area of law. If *individuals* or *businesses* are unsure as to whether certain documents fall within the privileged category or not, they should not include these documents in initial disclosure and, before the expiry of the time allowed for disclosure, should inform the person to whom the information is to be provided that they believe they have material subject to privilege and request that, if they think it necessary to gain access to this material, the relevant agency appoint independent counsel to opine as to whether the material is disclosable, or not. The opinion of counsel may then be complied with.
- 9.16 Before passing across information to an officer, *businesses* should require the person identify themselves by eg showing a warrant card and a copy of the relevant order, or *businesses* may attend the premises of the relevant agency to hand over the information.
- 9.17 Orders for production of information may be received under a variety of legislation. In each case, production may be required in hard copy even where stored on a computer, or in electronic form where stored as such. Those which most commonly flow from SARs include the following:
- Production Orders under the provisions of POCA

Production Orders are made under s354, POCA, and are made only by a judge in respect of a confiscation investigation, or a *money laundering* investigation. The maximum period for compliance will be 7 days starting with the day on which the order is made unless the judge thinks a shorter period should be applied. Failure to comply is treated as breach of a Court Order and penalties will be applied as

such. There is no requirement to produce documents which are privileged, being material which a person would be entitled to refuse to produce on grounds of privilege in the High Court. For the interaction of this provision with the *privilege reporting exemption*, see section 9.15 of this *Guidance*.

- Disclosure Notices under the provisions of *SOCPA*

A disclosure notice may be issued by an investigating authority (the Director of Public Prosecutions, the Director of Revenue and Customs Prosecutions and the Lord Advocate or their permitted delegates under s60, *SOCPA*) in respect of certain offences only. These are broadly those listed in Schedule 2 (Schedule 4 in Scotland) to *POCA*, offences under ss15-18, *TA 2000*, certain duty offences, false accounting (s17, Theft Act 1968 in England and Wales) and certain matters concerning attempts at/conspiracy to commit certain offences. S61, *SOCPA* should be referred to in the case of any such notice being received to check it is in respect of a qualifying offence. ss62-65, *SOCPA* then set out the procedures in respect of the issue of the notice, and the response to it. The provisions of the notice will govern the extent of the information to be provided, and the timing, place and manner of disclosure. There is no requirement to produce documents or answer questions where the matter is subject to legal professional privilege, or legal privilege (as defined in s412, *POCA*. For the interaction of this provision with the *privilege reporting exemption*, see section 9.15. Failure, without reasonable excuse, to comply is a criminal offence and penalties of up to two years imprisonment and/or an unlimited fine may be levied.

- S2 notices issued by the Serious Fraud Office under the provisions of the Criminal Justice Act 1987.

Under s2, Criminal Justice Act 1987, staff authorised by the Director of the Serious Fraud Office have powers to require a person to answer questions, provide information or produce documents for the purposes of an investigation. Written notice is given where the Serious Fraud Office exercise these powers. In urgent cases, the Serious Fraud Office may require immediate compliance with a notice, but frequently will give a period of time for compliance. There is no requirement to produce documents which are privileged, being material which a person would be entitled to refuse to produce on grounds of privilege in the High Court. Failure to comply is a criminal offence punishable with imprisonment for up to 6 months and/or a fine not exceeding level 5 on the standard scale. For the interaction of this provision with the *privilege reporting exemption*, see section 9.15 of this *Guidance*.

## **Requests arising from a change of professional advisor (professional enquiries)**

### Requests regarding identification information

- 9.18 In such a case the disclosure request may be made under the provisions of Regulation 17, reliance, or the new adviser may simply want copies of identification evidence, in order to assist it in satisfying its own identification procedures. *Businesses* should not release confidential information without the *client's* consent. If reliance is being placed on the *business*, it should follow the guidance in section 5.36 above in relation to record keeping.



## Requests for information regarding suspicious activity

- 9.19 In general, it is recommended that such requests are declined as the *tipping off* offence in the *regulated sector* greatly restricts the ability to make such disclosures. However, to the extent that the request is within the provisions of s333C, *POCA* (section 2.19 of this *Guidance*) information may be provided (but there is no obligation to do so).

### **Data Protection Act - Subject Access Requests**

- 9.20 Under the Data Protection Act 1998 *businesses* are exempted from disclosure under a subject access request where disclosure would be or is likely to be prejudicial to the prevention or detection of crime or the capture or conviction of offenders. Where personal data is held on a subject and relates to knowledge or suspicion of *money laundering* (ie, it has been processed for the purpose of the prevention or detection of crime) it is not required to be disclosed under a subject access request if disclosure may constitute a *tipping off* offence. This exception should be applied to internal **and** SAR reporting records.
- 9.21 Guidance has been issued by HM Treasury ([www.hm-treasury.gov.uk/media/D/F/money\\_laundering.pdf](http://www.hm-treasury.gov.uk/media/D/F/money_laundering.pdf)) supporting the position that where granting access would amount to '*tipping off*' then the s29 Data Protection Act exemption would apply.
- 9.22 It is recommended that *businesses* document any considerations surrounding the decision to grant or refuse access to information requested in such circumstances (known as a 'subject access request').

## GLOSSARY

|  |   |
|--|---|
| <i>2007 Regulations</i>                            | Statutory Instrument 2007 no 2157 - Financial Services “The Money Laundering Regulations 2007”  |
| <i>Alerting a money launderer</i>                  | Disclosures that do not constitute <i>tipping off</i> but which nonetheless alert the money launderer to the suspicion regarding their activities.  |
| <i>Accountancy Services</i>                        | <i>Accountancy services</i> includes for the purpose of this <i>Guidance</i> any service provided under a contract for services (ie, not a contract of employment) which pertains to the recording, review, analysis, calculation or reporting of financial information.  |
| <i>Anti-Money Laundering Supervisory Authority</i> | Bodies identified by Regulation 23, <i>2007 Regulations</i> as being empowered to supervise the compliance of <i>individuals</i> and <i>businesses</i> with the <i>2007 Regulations</i> . The professional bodies designated as <i>anti-money laundering supervisory authorities</i> are listed in Schedule 3 to the <i>2007 Regulations</i> .  |
| <i>Businesses</i>                                  | A company, partnership or other organisation undertaking <i>defined services</i> . This includes accountancy practices, whether structured as partnerships, sole practitioners or corporate practices.  |
| <i>Business relationship</i>                       | A business, professional or commercial relationship between a relevant person (ie someone to whom the Regulations 2007 apply) and a customer, which is expected by the relevant person, at the time when the contact is established, to have an element of duration.  |
| CCAB   | Consultative Committee of Accountancy Bodies: body representing the Institute of Chartered Accountants in England and Wales; the Institute of Chartered Accountants of Scotland; the Institute of Chartered Accountants in Ireland; the Association of Chartered Certified Accountants; the Chartered Institute of Management Accountants; and the Chartered Institute of Public and Finance and Accountancy. |
| <i>Client</i>                                      | A person in a <i>business relationship</i> , or carrying out an occasional transaction, with a <i>business</i> .  |
| <i>Consent</i>                                     | Permission given, generally by SOCA, for the carrying out of any action that would constitute a <i>money laundering</i> offence in the absence of that permission. The definition and ruling legislation for the giving of consent is in s335, <i>POCA</i> , which also deals with the passing of the consent from the <i>MLRO</i> to the <i>individual</i> concerned (s336).                                 |
| <i>Credit institution</i>                          | Has the meaning given by Regulation 3(2), <i>2007 Regulations</i> .   |
| <i>Criminal Conduct</i>                            | Conduct that is an offence in any part of the UK as well as conduct occurring elsewhere that would have been an offence if it had taken place in the UK. There are very limited exceptions to this for conduct which is both known to be legal in the country in which it is committed and which falls within the specific exceptions set out in orders made by the Secretary of State.                       |
| <i>Criminal Property</i>                           | The benefit of <i>criminal conduct</i> where the alleged offender knows or suspects that the property in question represents such a benefit (s340, <i>POCA</i> )  |
| <i>Customer due diligence</i>                      | The process by which KYC information is gathered, and the identity of a <i>client</i> is established and verified, for both new and existing clients.   |

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|---------------------------------------|--|
| <i>Defined services</i>               | Activities carried on, in the course of business by <i>businesses</i> or <i>individuals</i> as an auditor, <i>external accountant</i> , <i>insolvency practitioner</i> or <i>tax adviser</i> (Regulation 3(c), <i>2007 Regulations</i> ), or as trust and company service providers (Regulation 3(e), <i>2007 Regulations</i> ). It also includes persons providing services under the Designated Professional Body provisions of Part XX, s326 <i>FSMA 2000</i> or otherwise providing financial services under the oversight of their professional body.   |
| <i>EEA</i>                            | European Economic Area countries, which are the European Union member states plus EFTA (European Free Trade Association) member states.  |
| <i>Enhanced due diligence</i>         | Additional due diligence steps that must be applied in situations where there is a higher risk of <i>money laundering</i> or <i>terrorist financing</i> and in a number of specific situations (Regulation 14), of which two are relevant to providers of <i>defined services</i> ; where the <i>client</i> has not been physically present for identification purposes, if a <i>business relationship</i> or occasional transaction is to be undertaken with a politically exposed person ( <i>PEP</i> ).   |
| <i>External accountant</i>            | Means a firm or sole practitioner who by way of business provides <i>accountancy services</i> to other persons, when providing such services (Regulation 3(7), <i>2007 Regulations</i> ).  |
| <i>FATF</i>                           | Financial Action Task Force, created by G7 nations to fight money laundering.  |
| <i>Financial institution</i>          | Has the meaning given by Regulation 3(3), <i>2007 Regulations</i>  |
| <i>Financial restrictions</i>         | See Glossary annex B   |
| <i>FSA</i>                            | Financial Services Authority: statutory regulator of most financial services providers under the Financial Services and Markets Act 2000.  |
| <i>FSMA 2000</i>                      | Financial Services and Markets Act 2000  |
| <i>Guidance</i>                       | <p><i>Guidance</i> which is</p> <ul style="list-style-type: none"> <li>(a) issued by a supervisory authority or any other appropriate body;</li> <li>(b) approved by the Treasury; and</li> <li>(c) published in a manner approved by the Treasury as suitable in their opinion to bring the <i>Guidance</i> to the attention of persons likely to be affected by it.</li> </ul> <p>In this <i>Guidance</i>, the term has been used for <i>Guidance</i> for which Treasury approval has been applied, and is expected to be obtained, as well as that which already has Treasury approval. The circumstances in which Courts and others are required to take the <i>Guidance</i> into account in determining whether an offence has been committed are set out in <i>POCA</i> and the <i>2007 Regulations</i>.</p> <p>Any use of the term “guidance” outside this definition, has not been italicised in this <i>Guidance</i>.</p> |
| <i>Individuals</i>                    | Includes sole practitioners and the partners, directors, subcontractors, consultants and employees of <i>businesses</i> .  |
| <i>Independent legal professional</i> | Provider of legal or notarial services as defined in Regulation 3(9) in the <i>2007 Regulations</i> .  |
| <i>Internal Report</i>                | A report made to the <i>MLRO</i> in a <i>business</i> .  |

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|---|---|
| <i>Insolvency practitioner</i>            | Means any person who acts as an <i>insolvency practitioner</i> within the meaning of s 388 Insolvency Act 1986 or Article 3 of the Insolvency (Northern Ireland) Order 1989 (Regulation 3(6), <i>2007 Regulations</i> ).  |
| <i>JMLSG</i>                              | Joint Money Laundering Steering Group: body representing UK Trade Associations in the Financial Services Industry and aiming to promote good anti- <i>money laundering</i> practices and give relevant practical <i>Guidance</i> .  |
| <i>Money laundering</i>                   | For the purposes of this <i>Guidance</i> , <i>money laundering</i> is defined to include those offences relating to terrorist finance, which require to be <i>reported</i> under the <i>TA 2000</i> , as well as the <i>money laundering offences</i> as defined in <i>POCA</i> .   |
| <i>Money laundering directive</i>         | References in this <i>Guidance</i> are to the 3 <sup>rd</sup> Money Laundering Directive (DIRECTIVE 2005/60/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing) available from: <a href="http://eur-lex.europa.eu/LexUriServ/site/en/oj/2005/l_309/l_30920051125en00150036.pdf">http://eur-lex.europa.eu/LexUriServ/site/en/oj/2005/l_309/l_30920051125en00150036.pdf</a>   |
| <i>MLRO</i>                               | Money Laundering Reporting Officer. This term is used to describe the <i>nominated officer</i> appointed under Regulation 20(2)(d), <i>2007 Regulations</i> and as referred to in s331, <i>POCA</i> .   |
| <i>Money Laundering Reporting Officer</i> | see <i>MLRO</i> above   |
| <i>Money laundering offences</i>          | One of the three <i>money laundering offences</i> defined under ss327-329, <i>POCA</i> . In summary the offences comprise the following activities, where a person: <ul style="list-style-type: none"> <li>• <b>conceals</b>, disguises, converts or transfers <i>criminal property</i>, or removes <i>criminal property</i> from England and Wales, or from Scotland or from Northern Ireland (s327);</li> <li>• enters into or becomes concerned in an <b>arrangement</b> which he knows or suspects facilitates (by whatever means) the acquisition, retention, use or control of <i>criminal property</i> by or on behalf of another person (s328); or</li> <li>• <b>acquires</b>, uses or has possession of <i>criminal property</i> except where adequate consideration was given for the property (s329).</li> </ul> |
| <i>Nominated Officer</i>                  | Office required to be appointed by <i>businesses</i> carrying on business in the <i>regulated sector</i> . See <i>MLRO</i> above.   |
| <i>Overseas conduct exemption</i>         | Exemption from reporting requirement where an act is reasonably believed to have taken place outside of the UK, and the act was known to be lawful when committed under the criminal law of the place where the act was committed, and the maximum sentence if the act had been committed in the UK would have been less than 12 months (except in the case of an act which would be an offence under the Gaming Act 1968, the Lotteries and Amusements Act 1976 or under ss23 or 25, <i>FSMA</i> ).  |
| <i>PEPs</i>                               | Politically exposed persons, as defined in the <i>2007 Regulations</i> paragraph 14(5) and paragraph 4(1)(a) of Schedule 2. See also sections 5.27 to 5.29 above.   |
| <i>POCA</i>                               | Proceeds of Crime Act 2002  |
| <i>Prejudicing an</i>                     | A 'related' <i>money laundering</i> offence, defined under s342, <i>POCA</i> . In summary, it captures the making of any disclosure that is likely to prejudice an  |

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|---|---|
| <i>investigation</i>                    | investigation or falsifying, concealing, or destroying, any documents that are relevant to a <i>money laundering</i> investigation, or being complicit in such behaviour.   |
| <i>Predicate offence</i>                | Means the underlying offence or any offence as a result of which <i>criminal property</i> has been generated.   |
| <i>Privilege reporting exemption</i>    | An exemption from reporting suspicions formed on the basis of information received in privileged circumstances (see Sections 7.26-7.46 of this <i>Guidance</i> ).   |
| <i>Regulated investment market</i>      | Within the EEA, has the meaning given by point 14 of Article 4(1) of the Markets in Financial Instruments Directive (MiFID); and outside the EEA, means a regulated financial market which subjects companies whose securities are admitted to trading to disclosure obligations which are contained in international standards and are equivalent to the specified disclosure obligations.   |
| <i>Regulated Sector</i>                 | Defined in Proceeds of Crime Act Schedule 9 Part 1 (includes those who provide the <i>defined services</i> ).   |
| <i>Relevant professional adviser</i>    | An accountant, auditor or <i>tax adviser</i> who is a member of a professional body which is established for accountants, auditors or <i>tax advisers</i> (as the case may be); and which makes provision for (a) testing the competence of those seeking admission to membership of such a body as a condition for such admission; and (b) imposing and maintaining professional and ethical standards for its members, as well as imposing sanctions for non-compliance with those standards. |
| <i>Required Disclosure</i>              | The identity of the suspect (if known), the information or other matter on which the knowledge or suspicion of <i>money laundering</i> (or reasonable grounds for such) is based and the whereabouts of the laundered property (if known).  |
| <i>SAR</i>                              | Suspicious activity report made to <i>SOCA</i>  |
| <i>SAR Glossary of Terms</i>            | Glossary of terms used by <i>SOCA</i> to assist in relating/providing a theme to different SARs to increase effective mining of data by <i>SOCA</i> and Law Enforcement. The use of the terms is not mandatory.   |
| <i>Shell bank</i>                       | means a <i>credit institution</i> , or an institution engaged in equivalent activities, incorporated in a jurisdiction in which it has no physical presence involving meaningful decision-making and management, and which is unaffiliated with a regulated financial group   |
| <i>Simplified due diligence</i>         | The phrase used in the <i>2007 Regulations</i> (Regulation 13) which means that a <i>business</i> is not required to apply the <i>customer due diligence</i> measures set out in Regulation 7 where the <i>business</i> has reasonable grounds for believing that a <i>client</i> falls into the relevant categories.   |
| <i>SOCA</i>                             | Serious Organised Crime Agency. <i>SOCA</i> is an intelligence-led agency with law enforcement powers, responsible for reducing the social and individual harm of serious organised crime. Reports of known or suspected <i>money laundering</i> must be made to <i>SOCA</i> .  |
| <i>SOCPA</i>                            | Serious Organised Crime and Police Act 2005   |
| <i>Specified disclosure obligations</i> | See Annex A to the Glossary   |
| <i>Specified interest</i>               | A vested interest which is:   |

- in possession or in remainder or reversion (or, in Scotland, in fee); and
- defeasible or indefeasible.

A 'vested interest' is an interest which to which an entitlement already exists (whether immediately - 'in possession'; or in the future, following the ending of another interest - 'in remainder' or 'in reversion'). It is in contrast to an interest which is merely 'contingent'; a contingent interest is an interest which will only arise on the happening of a particular event, such as surviving to a particular date or surviving a particular person. Determining whether an interest is vested or contingent requires careful analysis. For example, if a trust provides that A has a life interest, and that B has an interest which takes effect on A's death, both A and B will have vested interests and, if B does not survive A, B's interest will devolve as part of B's estate; however, if B's interest is expressed to take effect on A's death only if he (B) is then living, B's interest (which will fail if he predeceases A) is merely contingent.

A defeasible interest is one which may be defeated, generally by the exercise of a power under the trust deed; an indefeasible interest is one which cannot be defeated. In the examples given above, A and B both have indefeasible interests. It is important that a defeasible vested interest is not mistaken for a contingent interest. A defeasible vested interest will take effect unless and until it is defeated; a contingent interest on the other hand will not take effect unless and until the event on which it is contingent arises.

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|-----------------------------------|---|
| <i>Suspicious Activity Report</i> | Otherwise known as a SAR. See SAR above   |
| <i>TA 2000</i>                    | The Terrorism Act 2000 (as amended by the Anti-Terrorism, Crime and Security Act 2001 and the Terrorism Act 2006)   |
| <i>TA 2006</i>                    | The Terrorism Act 2006  |
| <i>Tax adviser</i>                | Means a firm or sole practitioner who by way of business provides advice about the tax affairs of other persons, when providing such services (Regulation 3(8), 2007 Regulations). Tax compliance services, eg, assisting in the completion and submission of tax returns is, for the purpose of this <i>Guidance</i> , included within the term "advice about the tax affairs of other persons".   |
| <i>Terrorist financing</i>        | Means an offence under (Regulation 2 2007 Regulations):<br>(a) s15 (fund raising), 16 (use and possession, 17 (funding arrangements), 18 (money laundering) or 63 (terrorist finance: jurisdiction), TA 2000;<br>(b) para 7(2) or (3), Schedule 3 to the Anti-Terrorism, Crime and Security Act 2001(a) (freezing orders);<br>(c) article 7, 8 or 10 of the Terrorism (United Nations Measures) Order 2006(b);<br>or<br>(d) article 7, 8 or 10 of the Al-Qaida and Taliban (United Nations Measures) Order 2006(c).                                     |
| <i>Terrorist offences</i>         | The terrorist offences relate to fundraising (inviting another to provide money or other property with the intention or reasonable cause to suspect it is intended to be used for the purposes of terrorism), using or possessing terrorist funds (receiving or possessing money or other property with the intention or reasonable cause to suspect it is intended to be used for the purposes of terrorism), entering into funding arrangements (making arrangements as a result of which money or other property is or may be made available for the |

purposes of terrorism with the intention or reasonable cause to suspect it is intended to be used for the purposes of terrorism), money laundering, disclosing information relating to the commission of an offence (similar to *tipping off*), or failing to make a disclosure in the regulated sector. (ss19 and 21A TA 2000 (as amended))

|                           |   |
|---------------------------|---|
| <i>Terrorist property</i> | Means:<br>(a) money or other property which is likely to be used for the purposes of terrorism (including any resources of a proscribed organisation),<br>(b) proceeds of the commission of acts of terrorism, and<br>(c) proceeds of acts carried out for the purposes of terrorism. |
| <i>Tipping off</i>        | A 'related' <i>money laundering</i> offence for the regulated sector, defined under s 333A-D, <i>POCA</i>   |
| <i>Transaction</i>        | The provision of any advice by a <i>business</i> or <i>individual</i> to a <i>client</i> by way of business, or the handling of the <i>client's</i> finances by way of business.  |

## **Glossary Annex A – The Specified Disclosure Obligations**

### **DETAILS OF THE “SPECIFIED DISCLOSURE OBLIGATIONS” REFERRED TO IN REGULATION 13 (3) MLR2007 RE SIMPLIFIED DUE DILIGENCE**

DIRECTIVE 2003/6/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 28 January 2003 on insider dealing and market manipulation (market abuse)

#### Article 6

1. Member States shall ensure that issuers of financial instruments inform the public as soon as possible of inside information which directly concerns the said issuers.

Without prejudice to any measures taken to comply with the provisions of the first subparagraph, Member States shall ensure that issuers, for an appropriate period, post on their Internet sites all inside information that they are required to disclose publicly.

2. An issuer may under his own responsibility delay the public disclosure of inside information, as referred to in paragraph 1, such as not to prejudice his legitimate interests provided that such omission would not be likely to mislead the public and provided that the issuer is able to ensure the confidentiality of that information. Member States may require that an issuer shall without delay inform the competent authority of the decision to delay the public disclosure of inside information.

3. Member States shall require that, whenever an issuer, or a person acting on his behalf or for his account, discloses any inside information to any third party in the normal exercise of his employment, profession or duties, as referred to in Article 3(a), he must make complete and effective public disclosure of that information, simultaneously in the case of an intentional disclosure and promptly in the case of a non-intentional disclosure.

The provisions of the first subparagraph shall not apply if the person receiving the information owes a duty of confidentiality, regardless of whether such duty is based on a law, on regulations, on articles of association or on a contract.

Member States shall require that issuers, or persons acting on their behalf or for their account, draw up a list of those persons working for them, under a contract of employment or otherwise, who have access to inside information. Issuers and persons acting on their behalf or for their account shall regularly update this list and transmit it to the competent authority whenever the latter requests it.

4. Persons discharging managerial responsibilities within an issuer of financial instruments and, where applicable, persons closely associated with them, shall, at least, notify to the competent authority the existence of transactions conducted on their own account relating to shares of the said issuer, or to derivatives or other financial instruments linked to them. Member States shall ensure that public access to information concerning such transactions, on at least an individual basis, is readily available as soon as possible.

DIRECTIVE 2003/71/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 4 November 2003 on the prospectus to be published when securities are offered to the public or admitted to trading and amending Directive 2001/34/EC

#### Article 3

Obligation to publish a prospectus

1. Member States shall not allow any offer of securities to be made to the public within their territories without prior publication of a prospectus.

2. The obligation to publish a prospectus shall not apply to the following types of offer:

(a) an offer of securities addressed solely to qualified investors; and/or

(b) an offer of securities addressed to fewer than 100 natural or legal persons per Member State, other than qualified investors; and/or

(c) an offer of securities addressed to investors who acquire securities for a total consideration of at least EUR 50000 per investor, for each separate offer; and/or



(d) an offer of securities whose denomination per unit amounts to at least EUR 50000; and/or

(e) an offer of securities with a total consideration of less than EUR 100000, which limit shall be calculated over a period of 12 months.

However, any subsequent resale of securities which were previously the subject of one or more of the types of offer mentioned in this paragraph shall be regarded as a separate offer and the definition set out in Article 2(1)(d) shall apply for the purpose of deciding whether that resale is an offer of securities to the public. The placement of securities through financial intermediaries shall be subject to publication of a prospectus if none of the conditions (a) to (e) are met for the final placement.

3. Member States shall ensure that any admission of securities to trading on a regulated market situated or operating within their territories is subject to the publication of a prospectus.

#### Article 5

##### The prospectus

1. Without prejudice to Article 8(2), the prospectus shall contain all information which, according to the particular nature of the issuer and of the securities offered to the public or admitted to trading on a regulated market, is necessary to enable investors to make an informed assessment of the assets and liabilities, financial position, profit and losses, and prospects of the issuer and of any guarantor, and of the rights attaching to such securities. This information shall be presented in an easily analysable and comprehensible form.

2. The prospectus shall contain information concerning the issuer and the securities to be offered to the public or to be admitted to trading on a regulated market. It shall also include a summary. The summary shall, in a brief manner and in non-technical language, convey the essential characteristics and risks associated with the issuer, any guarantor and the securities, in the language in which the prospectus was originally drawn up. The summary shall also contain a warning that:

(a) it should be read as an introduction to the prospectus;

(b) any decision to invest in the securities should be based on consideration of the prospectus as a whole by the investor;

(c) where a claim relating to the information contained in a prospectus is brought before a court, the plaintiff investor might, under the national legislation of the Member States, have to bear the costs of translating the prospectus before the legal proceedings are initiated; and

(d) civil liability attaches to those persons who have tabled the summary including any translation thereof, and applied for its notification, but only if the summary is misleading, inaccurate or inconsistent when read together with the other parts of the prospectus.

Where the prospectus relates to the admission to trading on a regulated market of non-equity securities having a denomination of at least EUR 50000, there shall be no requirement to provide a summary except when requested by a Member State as provided for in Article 19(4).

3. Subject to paragraph 4, the issuer, offeror or person asking for the admission to trading on a regulated market may draw up the prospectus as a single document or separate documents. A prospectus composed of separate documents shall divide the required information into a registration document, a securities note and a summary note. The registration document shall contain the information relating to the issuer. The securities note shall contain the information concerning the securities offered to the public or to be admitted to trading on a regulated market.

4. For the following types of securities, the prospectus can, at the choice of the issuer, offeror or person asking for the admission to trading on a regulated market consist of a base prospectus containing all relevant information concerning the issuer and the securities offered to the public or to be admitted to trading on a regulated market:

(a) non-equity securities, including warrants in any form, issued under an offering programme;

(b) non-equity securities issued in a continuous or repeated manner by credit institutions,

(i) where the sums deriving from the issue of the said securities, under national legislation, are placed in assets which provide sufficient coverage for the liability deriving from securities until their maturity date;

(ii) where, in the event of the insolvency of the related credit institution, the said sums are intended, as a priority, to repay the capital and interest falling due, without prejudice to the provisions of Directive 2001/24/EC of the European Parliament and of the Council of 4 April 2001 on the reorganisation and winding up of credit institutions(14).

The information given in the base prospectus shall be supplemented, if necessary, in accordance with Article 16, with updated information on the issuer and on the securities to be offered to the public or to be admitted to trading on a regulated market.

If the final terms of the offer are not included in either the base prospectus or a supplement, the final terms shall be provided to investors and filed with the competent authority when each public offer is made as soon as practicable and if possible in advance of the beginning of the offer. The provisions of Article 8(1)(a) shall be applicable in any such case.

5. In order to take account of technical developments on financial markets and to ensure uniform application of this Directive, the Commission shall, in accordance with the procedure referred to in Article 24(2), adopt implementing measures concerning the format of the prospectus or base prospectus and supplements.

#### Article 7

##### Minimum information

1. Detailed implementing measures regarding the specific information which must be included in a prospectus, avoiding duplication of information when a prospectus is composed of separate documents, shall be adopted by the Commission in accordance with the procedure referred to in Article 24(2). The first set of implementing measures shall be adopted by 1 July 2004.

2. In particular, for the elaboration of the various models of prospectuses, account shall be taken of the following:

(a) the various types of information needed by investors relating to equity securities as compared with non-equity securities; a consistent approach shall be taken with regard to information required in a prospectus for securities which have a similar economic rationale, notably derivative securities;

(b) the various types and characteristics of offers and admissions to trading on a regulated market of non-equity securities. The information required in a prospectus shall be appropriate from the point of view of the investors concerned for non-equity securities having a denomination per unit of at least EUR 50000;

(c) the format used and the information required in prospectuses relating to non-equity securities, including warrants in any form, issued under an offering programme;

(d) the format used and the information required in prospectuses relating to non-equity securities, in so far as these securities are not subordinated, convertible, exchangeable, subject to subscription or acquisition rights or linked to derivative instruments, issued in a continuous or repeated manner by entities authorised or regulated to operate in the financial markets within the European Economic Area;

(e) the various activities and size of the issuer, in particular SMEs. For such companies the information shall be adapted to their size and, where appropriate, to their shorter track record;

(f) if applicable, the public nature of the issuer.

3. The implementing measures referred to in paragraph 1 shall be based on the standards in the field of financial and non-financial information set out by international securities commission organisations, and in particular by IOSCO and on the indicative Annexes to this Directive.

#### Article 8

##### Omission of information

1. Member States shall ensure that where the final offer price and amount of securities which will be offered to the public cannot be included in the prospectus:

(a) the criteria, and/or the conditions in accordance with which the above elements will be determined or, in the case of price, the maximum price, are disclosed in the prospectus; or  
(b) the acceptances of the purchase or subscription of securities may be withdrawn for not less than two working days after the final offer price and amount of securities which will be offered to the public have been filed.

The final offer price and amount of securities shall be filed with the competent authority of the home Member State and published in accordance with the arrangements provided for in Article 14(2).

2. The competent authority of the home Member State may authorise the omission from the prospectus of certain information provided for in this Directive or in the implementing measures referred to in Article 7(1), if it considers that:

(a) disclosure of such information would be contrary to the public interest; or

(b) disclosure of such information would be seriously detrimental to the issuer, provided that the omission would not be likely to mislead the public with regard to facts and circumstances essential for an informed assessment of the issuer, offeror or guarantor, if any, and of the rights attached to the securities to which the prospectus relates; or

(c) such information is of minor importance only for a specific offer or admission to trading on a regulated market and is not such as will influence the assessment of the financial position and prospects of the issuer, offeror or guarantor, if any.

3. Without prejudice to the adequate information of investors, where, exceptionally, certain information required by implementing measures referred to in Article 7(1) to be included in a prospectus is inappropriate to the issuer's sphere of activity or to the legal form of the issuer or to the securities to which the prospectus relates, the prospectus shall contain information equivalent to the required information. If there is no such information, this requirement shall not apply.

4. In order to take account of technical developments on financial markets and to ensure uniform application of this Directive, the Commission shall, in accordance with the procedure referred to in Article 24(2), adopt implementing measures concerning paragraph 2.

#### Article 10

##### Information

1. Issuers whose securities are admitted to trading on a regulated market shall at least annually provide a document that contains or refers to all information that they have published or made available to the public over the preceding 12 months in one or more Member States and in third countries in compliance with their obligations under Community and national laws and rules dealing with the regulation of securities, issuers of securities and securities markets. Issuers shall refer at least to the information required pursuant to company law directives, Directive 2001/34/EC and Regulation (EC) No 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards(15).

2. The document shall be filed with the competent authority of the home Member State after the publication of the financial statement. Where the document refers to information, it shall be stated where the information can be obtained.

3. The obligation set out in paragraph 1 shall not apply to issuers of non-equity securities whose denomination per unit amounts to at least EUR 50000.

4. In order to take account of technical developments on financial markets and to ensure uniform application of this Directive, the Commission may, in accordance with the procedure referred to in Article 24(2), adopt implementing measures concerning paragraph 1. These measures will relate only to the method of publication of the disclosure requirements mentioned in paragraph 1 and will not entail new disclosure requirements. The first set of implementing measures shall be adopted by 1 July 2004.

#### Article 14

##### Publication of the prospectus

1. Once approved, the prospectus shall be filed with the competent authority of the home Member State and shall be made available to the public by the issuer, offeror or person asking for admission to trading on a regulated market as soon as practicable and in any

case, at a reasonable time in advance of, and at the latest at the beginning of, the offer to the public or the admission to trading of the securities involved. In addition, in the case of an initial public offer of a class of shares not already admitted to trading on a regulated market that is to be admitted to trading for the first time, the prospectus shall be available at least six working days before the end of the offer.

2. The prospectus shall be deemed available to the public when published either:

(a) by insertion in one or more newspapers circulated throughout, or widely circulated in, the Member States in which the offer to the public is made or the admission to trading is sought; or

(b) in a printed form to be made available, free of charge, to the public at the offices of the market on which the securities are being admitted to trading, or at the registered office of the issuer and at the offices of the financial intermediaries placing or selling the securities, including paying agents; or

(c) in an electronic form on the issuer's website and, if applicable, on the website of the financial intermediaries placing or selling the securities, including paying agents; or

(d) in an electronic form on the website of the regulated market where the admission to trading is sought; or

(e) in electronic form on the website of the competent authority of the home Member State if the said authority has decided to offer this service.

A home Member State may require issuers which publish their prospectus in accordance with (a) or (b) also to publish their prospectus in an electronic form in accordance with (c).

3. In addition, a home Member State may require publication of a notice stating how the prospectus has been made available and where it can be obtained by the public.

4. The competent authority of the home Member State shall publish on its website over a period of 12 months, at its choice, all the prospectuses approved, or at least the list of prospectuses approved in accordance with Article 13, including, if applicable, a hyperlink to the prospectus published on the website of the issuer, or on the website of the regulated market.

5. In the case of a prospectus comprising several documents and/or incorporating information by reference, the documents and information making up the prospectus may be published and circulated separately provided that the said documents are made available, free of charge, to the public, in accordance with the arrangements established in paragraph 2. Each document shall indicate where the other constituent documents of the full prospectus may be obtained.

6. The text and the format of the prospectus, and/or the supplements to the prospectus, published or made available to the public, shall at all times be identical to the original version approved by the competent authority of the home Member State.

7. Where the prospectus is made available by publication in electronic form, a paper copy must nevertheless be delivered to the investor, upon his request and free of charge, by the issuer, the offeror, the person asking for admission to trading or the financial intermediaries placing or selling the securities.

8. In order to take account of technical developments on financial markets and to ensure uniform application of the Directive, the Commission shall, in accordance with the procedure referred to in Article 24(2), adopt implementing measures concerning paragraphs 1, 2, 3 and 4. The first set of implementing measures shall be adopted by 1 July 2004.

#### Article 16

##### Supplements to the prospectus

1. Every significant new factor, material mistake or inaccuracy relating to the information included in the prospectus which is capable of affecting the assessment of the securities and which arises or is noted between the time when the prospectus is approved and the final closing of the offer to the public or, as the case may be, the time when trading on a regulated market begins, shall be mentioned in a supplement to the prospectus. Such a supplement shall be approved in the same way in a maximum of seven working days and published in accordance with at least the same arrangements as were applied when the original prospectus was published. The summary, and any translations thereof, shall also be

supplemented, if necessary to take into account the new information included in the supplement.

2. Investors who have already agreed to purchase or subscribe for the securities before the supplement is published shall have the right, exercisable within a time limit which shall not be shorter than two working days after the publication of the supplement, to withdraw their acceptances.

DIRECTIVE 2004/109/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 15 December 2004 on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market and amending Directive 2001/34/EC

#### Article 4

##### Annual financial reports

1. The issuer shall make public its annual financial report at the latest four months after the end of each financial year and shall ensure that it remains publicly available for at least five years.

2. The annual financial report shall comprise:

(a) the audited financial statements;

(b) the management report; and

(c) statements made by the persons responsible within the issuer, whose names and functions shall be clearly indicated, to the effect that, to the best of their knowledge, the financial statements prepared in accordance with the applicable set of accounting standards give a true and fair view of the assets, liabilities, financial position and profit or loss of the issuer and the undertakings included in the consolidation taken as a whole and that the management report includes a fair review of the development and performance of the business and the position of the issuer and the undertakings included in the consolidation taken as a whole, together with a description of the principal risks and uncertainties that they face.

3. Where the issuer is required to prepare consolidated accounts according to the Seventh Council Directive 83/349/EEC of 13 June 1983 on consolidated accounts [15], the audited financial statements shall comprise such consolidated accounts drawn up in accordance with Regulation (EC) No 1606/2002 and the annual accounts of the parent company drawn up in accordance with the national law of the Member State in which the parent company is incorporated.

Where the issuer is not required to prepare consolidated accounts, the audited financial statements shall comprise the accounts prepared in accordance with the national law of the Member State in which the company is incorporated.

4. The financial statements shall be audited in accordance with Articles 51 and 51a of the Fourth Council Directive 78/660/EEC of 25 July 1978 on the annual accounts of certain types of companies [16] and, if the issuer is required to prepare consolidated accounts, in accordance with Article 37 of Directive 83/349/EEC.

The audit report, signed by the person or persons responsible for auditing the financial statements, shall be disclosed in full to the public together with the annual financial report.

5. The management report shall be drawn up in accordance with Article 46 of Directive 78/660/EEC and, if the issuer is required to prepare consolidated accounts, in accordance with Article 36 of Directive 83/349/EEC.

6. The Commission shall, in accordance with the procedure referred to in Article 27(2), adopt implementing measures in order to take account of technical developments in financial markets and to ensure the uniform application of paragraph 1. The Commission shall in particular specify the technical conditions under which a published annual financial report, including the audit report, is to remain available to the public. Where appropriate, the Commission may also adapt the five-year period referred to in paragraph 1.

#### Article 5

##### Half-yearly financial reports

1. The issuer of shares or debt securities shall make public a half-yearly financial report covering the first six months of the financial year as soon as possible after the end of the relevant period, but at the latest two months thereafter. The issuer shall ensure that the half-yearly financial report remains available to the public for at least five years.

2. The half-yearly financial report shall comprise:

(a) the condensed set of financial statements;

(b) an interim management report; and

(c) statements made by the persons responsible within the issuer, whose names and functions shall be clearly indicated, to the effect that, to the best of their knowledge, the condensed set of financial statements which has been prepared in accordance with the applicable set of accounting standards gives a true and fair view of the assets, liabilities, financial position and profit or loss of the issuer, or the undertakings included in the consolidation as a whole as required under paragraph 3, and that the interim management report includes a fair review of the information required under paragraph 4.

3. Where the issuer is required to prepare consolidated accounts, the condensed set of financial statements shall be prepared in accordance with the international accounting standard applicable to the interim financial reporting adopted pursuant to the procedure provided for under Article 6 of Regulation (EC) No 1606/2002.

Where the issuer is not required to prepare consolidated accounts, the condensed set of financial statements shall at least contain a condensed balance sheet, a condensed profit and loss account and explanatory notes on these accounts. In preparing the condensed balance sheet and the condensed profit and loss account, the issuer shall follow the same principles for recognising and measuring as when preparing annual financial reports.

4. The interim management report shall include at least an indication of important events that have occurred during the first six months of the financial year, and their impact on the condensed set of financial statements, together with a description of the principal risks and uncertainties for the remaining six months of the financial year. For issuers of shares, the interim management report shall also include major related parties transactions.

5. If the half-yearly financial report has been audited, the audit report shall be reproduced in full. The same shall apply in the case of an auditors' review. If the half-yearly financial report has not been audited or reviewed by auditors, the issuer shall make a statement to that effect in its report.

6. The Commission shall, in accordance with the procedure referred to in Article 27(2), adopt implementing measures in order to take account of technical developments on financial markets and to ensure the uniform application of paragraphs 1 to 5 of this Article.

The Commission shall, in particular:

(a) specify the technical conditions under which a published half-yearly financial report, including the auditors' review, is to remain available to the public;

(b) clarify the nature of the auditors' review;

(c) specify the minimum content of the condensed balance sheet and profit and loss accounts and explanatory notes on these accounts, where they are not prepared in accordance with the international accounting standards adopted pursuant to the procedure provided for under Article 6 of Regulation (EC) No 1606/2002.

Where appropriate, the Commission may also adapt the five-year period referred to in paragraph 1.

#### Article 6

##### Interim management statements

1. Without prejudice to Article 6 of Directive 2003/6/EC, an issuer whose shares are admitted to trading on a regulated market shall make public a statement by its management during the first six-month period of the financial year and another statement by its management during the second six-month period of the financial year. Such statement shall be made in a period between ten weeks after the beginning and six weeks before the end of the relevant six-month period. It shall contain information covering the period between the beginning of the relevant six-month period and the date of publication of the statement. Such a statement shall provide:

- an explanation of material events and transactions that have taken place during the relevant period and their impact on the financial position of the issuer and its controlled undertakings, and

- a general description of the financial position and performance of the issuer and its controlled undertakings during the relevant period.

2. Issuers which, under either national legislation or the rules of the regulated market or of their own initiative, publish quarterly financial reports in accordance with such legislation or rules shall not be required to make public statements by the management provided for in paragraph 1.

3. The Commission shall provide a report to the European Parliament and the Council by 20 January 2010 on the transparency of quarterly financial reporting and statements by the management of issuers to examine whether the information provided meets the objective of allowing investors to make an informed assessment of the financial position of the issuer. Such a report shall include an impact assessment on areas where the Commission considers proposing amendments to this Article.

#### Article 14

1. Where an issuer of shares admitted to trading on a regulated market acquires or disposes of its own shares, either itself or through a person acting in his own name but on the issuer's behalf, the home Member State shall ensure that the issuer makes public the proportion of its own shares as soon as possible, but not later than four trading days following such acquisition or disposal where that proportion reaches, exceeds or falls below the thresholds of 5 % or 10 % of the voting rights. The proportion shall be calculated on the basis of the total number of shares to which voting rights are attached.

2. The Commission shall, in accordance with the procedure referred to in Article 27(2), adopt implementing measures in order to take account of technical developments in financial markets and to ensure the uniform application of paragraph 1.

#### Article 16

##### Additional information

1. The issuer of shares admitted to trading on a regulated market shall make public without delay any change in the rights attaching to the various classes of shares, including changes in the rights attaching to derivative securities issued by the issuer itself and giving access to the shares of that issuer.

2. The issuer of securities, other than shares admitted to trading on a regulated market, shall make public without delay any changes in the rights of holders of securities other than shares, including changes in the terms and conditions of these securities which could indirectly affect those rights, resulting in particular from a change in loan terms or in interest rates.

3. The issuer of securities admitted to trading on a regulated market shall make public without delay of new loan issues and in particular of any guarantee or security in respect thereof. Without prejudice to Directive 2003/6/EC, this paragraph shall not apply to a public international body of which at least one Member State is member.

#### Article 17

##### Information requirements for issuers whose shares are admitted to trading on a regulated market

1. The issuer of shares admitted to trading on a regulated market shall ensure equal treatment for all holders of shares who are in the same position.

2. The issuer shall ensure that all the facilities and information necessary to enable holders of shares to exercise their rights are available in the home Member State and that the integrity of data is preserved. Shareholders shall not be prevented from exercising their rights by proxy, subject to the law of the country in which the issuer is incorporated. In particular, the issuer shall:

(a) provide information on the place, time and agenda of meetings, the total number of shares and voting rights and the rights of holders to participate in meetings;

(b) make available a proxy form, on paper or, where applicable, by electronic means, to each person entitled to vote at a shareholders' meeting, together with the notice concerning the meeting or, on request, after an announcement of the meeting;

(c) designate as its agent a financial institution through which shareholders may exercise their financial rights; and

(d) publish notices or distribute circulars concerning the allocation and payment of dividends and the issue of new shares, including information on any arrangements for allotment, subscription, cancellation or conversion.

3. For the purposes of conveying information to shareholders, the home Member State shall allow issuers the use of electronic means, provided such a decision is taken in a general meeting and meets at least the following conditions:

(a) the use of electronic means shall in no way depend upon the location of the seat or residence of the shareholder or, in the cases referred to in Article 10(a) to (h), of the natural persons or legal entities;

(b) identification arrangements shall be put in place so that the shareholders, or the natural persons or legal entities entitled to exercise or to direct the exercise of voting rights, are effectively informed;

(c) shareholders, or in the cases referred to in Article 10(a) to (e) the natural persons or legal entities entitled to acquire, dispose of or exercise voting rights, shall be contacted in writing to request their consent for the use of electronic means for conveying information and, if they do not object within a reasonable period of time, their consent shall be deemed to be given. They shall be able to request, at any time in the future, that information be conveyed in writing, and

(d) any apportionment of the costs entailed in the conveyance of such information by electronic means shall be determined by the issuer in compliance with the principle of equal treatment laid down in paragraph 1.

4. The Commission shall, in accordance with the procedure provided for in Article 27(2), adopt implementing measures in order to take account of technical developments in financial markets, to take account of developments in information and communication technology and to ensure the uniform application of paragraphs 1, 2 and 3. It shall, in particular, specify the types of financial institution through which a shareholder may exercise the financial rights provided for in paragraph 2(c).

#### Article 18

Information requirements for issuers whose debt securities are admitted to trading on a regulated market

1. The issuer of debt securities admitted to trading on a regulated market shall ensure that all holders of debt securities ranking *pari passu* are given equal treatment in respect of all the rights attaching to those debt securities.

2. The issuer shall ensure that all the facilities and information necessary to enable debt securities holders to exercise their rights are publicly available in the home Member State and that the integrity of data is preserved. Debt securities holders shall not be prevented from exercising their rights by proxy, subject to the law of country in which the issuer is incorporated. In particular, the issuer shall:

(a) publish notices, or distribute circulars, concerning the place, time and agenda of meetings of debt securities holders, the payment of interest, the exercise of any conversion, exchange, subscription or cancellation rights, and repayment, as well as the right of those holders to participate therein;

(b) make available a proxy form on paper or, where applicable, by electronic means, to each person entitled to vote at a meeting of debt securities holders, together with the notice concerning the meeting or, on request, after an announcement of the meeting; and

(c) designate as its agent a financial institution through which debt securities holders may exercise their financial rights.

3. If only holders of debt securities whose denomination per unit amounts to at least EUR 50000 or, in the case of debt securities denominated in a currency other than Euro whose denomination per unit is, at the date of the issue, equivalent to at least EUR 50000, are to be



invited to a meeting, the issuer may choose as venue any Member State, provided that all the facilities and information necessary to enable such holders to exercise their rights are made available in that Member State.

4. For the purposes of conveying information to debt securities holders, the home Member State, or the Member State chosen by the issuer pursuant to paragraph 3, shall allow issuers the use of electronic means, provided such a decision is taken in a general meeting and meets at least the following conditions:

(a) the use of electronic means shall in no way depend upon the location of the seat or residence of the debt security holder or of a proxy representing that holder;

(b) identification arrangements shall be put in place so that debt securities holders are effectively informed;

(c) debt securities holders shall be contacted in writing to request their consent for the use of electronic means for conveying information and if they do not object within a reasonable period of time, their consent shall be deemed to be given. They shall be able to request, at any time in the future, that information be conveyed in writing; and

(d) any apportionment of the costs entailed in the conveyance of information by electronic means shall be determined by the issuer in compliance with the principle of equal treatment laid down in paragraph 1.

5. The Commission shall, in accordance with the procedure provided for in Article 27(2), adopt implementing measures in order to take account of technical developments in financial markets, to take account of developments in information and communication technology and to ensure the uniform application of paragraphs 1 to 4. It shall, in particular, specify the types of financial institution through which a debt security holder may exercise the financial rights provided for in paragraph 2(c).

#### Article 19

##### Home Member State control

1. Whenever the issuer, or any person having requested, without the issuer's consent, the admission of its securities to trading on a regulated market, discloses regulated information, it shall at the same time file that information with the competent authority of its home Member State. That competent authority may decide to publish such filed information on its Internet site.

Where an issuer proposes to amend its instrument of incorporation or statutes, it shall communicate the draft amendment to the competent authority of the home Member State and to the regulated market to which its securities have been admitted to trading. Such communication shall be effected without delay, but at the latest on the date of calling the general meeting which is to vote on, or be informed of, the amendment.

2. The home Member State may exempt an issuer from the requirement under paragraph 1 in respect of information disclosed in accordance with Article 6 of Directive 2003/6/EC or Article 12(6) of this Directive.

3. Information to be notified to the issuer in accordance with Articles 9, 10, 12 and 13 shall at the same time be filed with the competent authority of the home Member State.

4. In order to ensure the uniform application of paragraphs 1, 2 and 3, the Commission shall, in accordance with the procedure referred to in Article 27(2), adopt implementing measures.

The Commission shall, in particular, specify the procedure in accordance with which an issuer, a holder of shares or other financial instruments, or a person or entity referred to in Article 10, is to file information with the competent authority of the home Member State under paragraphs 1 or 3, respectively, in order to:

(a) enable filing by electronic means in the home Member State;

(b) coordinate the filing of the annual financial report referred to in Article 4 of this Directive with the filing of the annual information referred to in Article 10 of Directive 2003/71/EC.

#### Article 30

##### Transitional provisions

1. By way of derogation from Article 5(3) of this Directive, the home Member State may exempt from disclosing financial statements in accordance with Regulation (EC) No

1606/2002 issuers referred to in Article 9 of that Regulation for the financial year starting on or after 1 January 2006.

2. Notwithstanding Article 12(2), a shareholder shall notify the issuer at the latest two months after the date in Article 31(1) of the proportion of voting rights and capital it holds, in accordance with Articles 9, 10 and 13, with issuers at that date, unless it has already made a notification containing equivalent information before that date.

Notwithstanding Article 12(6), an issuer shall in turn disclose the information received in those notifications no later than three months after the date in Article 31(1).

3. Where an issuer is incorporated in a third country, the home Member State may exempt such issuer only in respect of those debt securities which have already been admitted to trading on a regulated market in the Community prior to 1 January 2005 from drawing up its financial statements in accordance with Article 4(3) and its management report in accordance with Article 4(5) as long as

(a) the competent authority of the home Member State acknowledges that annual financial statements prepared by issuers from such a third country give a true and fair view of the issuer's assets and liabilities, financial position and results;

(b) the third country where the issuer is incorporated has not made mandatory the application of international accounting standards referred to in Article 2 of Regulation (EC) No 1606/2002; and

(c) the Commission has not taken any decision in accordance with Article 23(4)(ii) as to whether there is an equivalence between the abovementioned accounting standards and

- the accounting standards laid down in the law, regulations or administrative provisions of the third country where the issuer is incorporated, or
- the accounting standards of a third country such an issuer has elected to comply with.

4. The home Member State may exempt issuers only in respect of those debt securities which have already been admitted to trading on a regulated market in the Community prior to 1 January 2005 from disclosing half-yearly financial report in accordance with Article 5 for 10 years following 1 January 2005, provided that the home Member State had decided to allow such issuers to benefit from the provisions of Article 27 of Directive 2001/34/EC at the point of admission of those debt securities.

## Glossary Annex B

### HM Treasury consolidated list of persons designated as being subject to financial restrictions.

This includes targets listed by the United Nations, European Union and United Kingdom under legislation relating to current financial restrictions regimes. The purpose of the HM Treasury list is to draw together in one place all the names of designated persons for the various financial restrictions regimes effective in the UK.

### General legal requirements

The UK imposes financial restrictions on persons and entities following their designation at the United Nations and/or European Union. The UK also operates a domestic counter-terrorism regime, where the Government decides to impose financial restrictions on certain persons and entities.

Financial restrictions in the UK are governed by various pieces of legislation. In all circumstances, where an asset freeze is imposed, it is unlawful to deal with the funds or other assets of the designated person or make payments to them or for their benefit

A list of all financial restrictions currently in force in the UK is maintained by the Treasury's Asset Freezing Unit. The Consolidated List of persons designated as being subject to financial restrictions can be found on the HM Treasury web site at: <http://www.hm-treasury.gov.uk/financialsanctions>

Further information on financial restrictions can also be found via this website.

There are specific financial restrictions targeted at the Al-Qaida network and Terrorism

Under the relevant legislation it is a criminal offence for any natural or legal person to:

- a) Deal with the funds of designated persons
- b) Make funds and economic resources, and in the case of Terrorism financial services, available, directly or indirectly to or for the benefit of designated persons, or
- c) Knowingly and intentionally participate in activities that would directly or indirectly circumvent the financial restrictions or enable or facilitate the commission of an offence relating to a) and b) above.

**“Deal with”** means:

- (a) In respect of funds -
  - Use, alter, move, allow access to or transfer
  - Deal with in any other way that would result in any change in volume, amount, location, ownership, possession, character or destination, or
  - Make any other change that would enable use, including portfolio management and
- (b) In respect of economic resources -
  - Use to obtain funds, goods or services in any way, including (but not limited to) by selling, hiring or mortgaging the resources.

The purpose of this legislation imposing financial restrictions is primarily to prevent the diversion of funds to terrorism and terrorist purposes.

HM Treasury has the power to grant licenses exempting certain transactions from the financial restrictions. Requests to disapply the financial restrictions in relation to a

designated person are considered by the Treasury on a case-by-case basis to ensure that there is no risk of funds being diverted to terrorism. To apply for a licence, please contact the Asset Freezing Unit at HM Treasury using the contact details below.

## **Businesses**

Businesses need to have appropriate policies and procedures in place to monitor payments in order to prevent breaches of the financial restrictions legislation.

For manual checking, businesses can register with the HM Treasury Asset Freezing Unit update service (directly or via a third party).

If checking is automated, businesses will need to ensure that the relevant software includes checks against the latest consolidated list.

The Asset Freezing Unit may also be contacted to provide guidance and to assist with any concerns regarding financial restrictions at:

Asset Freezing Unit

Tel: 020 7270 5664/5454

Fax: 020 7451 7677

E mail: [assetfreezingunit@hm-treasury.gov.uk](mailto:assetfreezingunit@hm-treasury.gov.uk)

In the event that a customer or a payee is identified as a designated person payments must not proceed unless a licence is granted by the Treasury, as this would be a breach of the financial restrictions. The Treasury should be informed immediately and the transaction suspended pending their advice. No funds should be returned to the designated person. The firm may also need to consider whether there is an obligation also to report to SOCA under the Proceeds of Crime Act 2002 or the Terrorism Act 2000.

Written reports can be made to the Asset Freezing Unit at:

The Asset Freezing Unit

HM Treasury

1 Horse Guards Road

London SW1A 2HQ

## APPENDIX A

# SUPPLEMENTARY ANTI-MONEY LAUNDERING GUIDANCE FOR THE TAX PRACTITIONER

*Draft guidance for those providing tax services in the United Kingdom, on the prevention of money laundering and the countering of terrorist financing.*

*This Guidance is issued by*

- *the Institute of Chartered Accountants in England and Wales,*
- *the Chartered Institute of Taxation,*
- *the Association of Taxation Technicians,*
- *the Association of Chartered Certified Accountants,*
- *the Chartered Institute of Management Accountants; and*
- *HM Revenue and Customs*

*as an Appendix to the anti-money laundering guidance released by the Consultative Committee of Accountancy Bodies (CCAB).*

This supplementary Guidance is not stand alone Guidance; it must be read in conjunction with the CCAB's anti money laundering guidance to which this Guidance is an appendix. It focuses on the interaction between anti money laundering compliance and tax offences and covers the issues that a tax practitioner is most likely to encounter in practice.

The comments received on the exposure draft of this guidance have been considered and incorporated where appropriate. HM Treasury approval of this guidance is being sought. This will mean, if granted, that the Courts must consider the content of the Guidance when determining whether an accountant's or tax practitioner's conduct gives rise to an offence under either the Proceeds of Crime Act 2002 or the Money Laundering Regulations 2007.

# **SUPPLEMENTARY ANTI MONEY LAUNDERING GUIDANCE FOR THE TAX PRACTITIONER**

## **Contents**

- 1. About this supplementary guidance**
- 2. How to use this supplementary guidance**
- 3. Tax practitioners, MLR 2007 and POCA**
- 4. Overview of the tax sector**
- 5. What are the money laundering risks in the tax sector?**
- 6. Tax offences**
- 7. Reluctance to correct past errors**
- 8. Intention to underpay tax**
- 9. Tax evasion**
- 10. Failure to obtain Treasury consent**
- 11. Indirect tax**
- 12. The privilege reporting exemption**
- 13. Customer due diligence**

**Appendix 1: Money Laundering and disclosures to HMRC**

**Appendix 2: Examples of when the privilege reporting exemption might apply**

**Appendix 3: Examples of when the privilege reporting exemption is unlikely to apply**

## **Glossary and interpretation**

- |           |                 |   |
|-----------|-----------------|---|
| <b>1.</b> | <b>CCAB</b>     | <b>The Consultative Committee of Accountancy Bodies</b> |
|           | <b>CDD</b>      | <b>Customer Due Diligence</b>                           |
|           | <b>CEMA</b>     | <b>Customs and Excise Management Act 1979</b>           |
|           | <b>HMRC</b>     | <b>Her Majesty's Revenue and Customs</b>                |
|           | <b>ICTA</b>     | <b>Income and Corporation Taxes Act 1988</b>            |
|           | <b>JMLSG</b>    | <b>Joint Money Laundering Steering Group</b>            |
|           | <b>MLR 2007</b> | <b>Money Laundering Regulations 2007</b>                |
|           | <b>MLRO</b>     | <b>Money Laundering Reporting Officer</b>               |
|           | <b>POCA</b>     | <b>Proceeds of Crime Act 2002</b>                       |
|           | <b>SAR</b>      | <b>Suspicious Activity Report</b>                       |
|           | <b>SOCA</b>     | <b>The Serious Organised Crime Agency</b>               |
|           | <b>TMA</b>      | <b>The Taxes Management Act 1970</b>                    |
|           | <b>UK</b>       | <b>United Kingdom</b>                                   |
|           | <b>VATA</b>     | <b>Value Added Tax Act 1994</b>                         |

2. Words importing the masculine gender include the feminine, words in the singular include the plural and words in the plural include the singular.

**Note: This guidance is incomplete on its own. It must be read in conjunction with the CCAB's Anti Money Laundering guidance.**

## **1. ABOUT THIS SUPPLEMENTARY GUIDANCE**

- 1.1 This supplementary guidance has been developed by the Institute of Chartered Accountants in England and Wales, the Chartered Institute of Taxation, the Association of Taxation Technicians, the Association of Chartered Certified Accountants, the Chartered Institute of Management Accountants and HMRC for professionals providing tax services.
- 1.2 This supplementary guidance uses the descriptive term 'tax practitioner' for someone in business offering tax services. The MLR 2007 uses the term 'tax adviser' and defines a tax adviser as

'a firm or sole practitioner who by way of business provides advice about the tax affairs of other persons, when providing such services'.

The meaning of 'advice' is widely interpreted. For the purpose of this and the CCAB guidance, tax compliance services, ie assisting in the completion and submission of tax returns, is included within the term. It was considered that, for the purposes of this supplementary guidance, the term 'tax practitioner' minimises the risk of someone assuming that MLR 2007 does not apply to their business because they provide tax compliance services.

- 1.3 It is intended that approval for this supplementary guidance will be sought from the Treasury in due course. As noted in the CCAB's guidance approval means that the Courts must have regard to the guidance in deciding whether businesses or individuals affected by it have committed an offence under the MLR 2007 or ss 330-331 POCA.

## **2. HOW TO USE THIS SUPPLEMENTARY GUIDANCE**

- 2.1 This supplementary guidance is for professionals providing tax services. It focuses on the interaction between anti money laundering compliance and tax offences and those issues that the tax practitioner is most likely to encounter. It is not intended to be a comprehensive guide to tax offences. It is not stand alone guidance – it must be read in conjunction with the CCAB AML guidance. The broad interpretation of 'tax adviser' means that this guidance cannot cover every aspect of tax work but the principles set out in the CCAB guidance and in this guidance apply to all taxes and duties.
- 2.2 A tax practitioner must have a clear understanding of his obligations under the anti Money Laundering legislation. Detailed guidance is given in the CCAB guidance as follows:

|           |   |
|-----------|---|
| Section 1 | About this guidance                               |
| Section 2 | The offences                                      |
| Section 3 | Anti money laundering systems and controls        |
| Section 4 | The risk based approach to Customer Due Diligence |

|           |                                |
|-----------|--------------------------------|
| Section 5 | Customer Due Diligence         |
| Section 6 | Internal reporting             |
| Section 7 | Role of MLRO and SAR reporting |
| Section 8 | Consent                        |
| Section 9 | Post SAR actions               |

2.3 Where a tax practitioner is uncertain of his obligations under the anti-money laundering legislation he should seek specialist help.

### **3. TAX PRACTITIONERS, MLR 2007 AND POCA**

3.1 The obligations placed on a tax practitioner under MLR 2007 and POCA are covered in the CCAB guidance.

3.2 Paragraph 1.14 of that guidance sets out the role of the supervisory authorities and advises tax practitioners who are in business of the requirement to be supervised by a supervisory authority.

3.3 A tax practitioner should be aware of HMRC's responsibility under MLR 2007 to regulate trust and company service providers, which may impinge upon the work they undertake for their clients. However if the tax practitioner is supervised by another supervisory authority for other tax and accounting services, that supervisory authority can act as supervisor for the trust and company service work.

3.4 Whilst this supplementary guidance focuses on tax offences, a tax practitioner should be aware of the potential need to report to SOCA (or to his firm's MLRO where he is not a sole practitioner) knowledge or suspicion of proceeds derived from any crime which he encounters in the course of his work as a tax practitioner.

3.5 In particular, a tax practitioner should also take proper care, under Section 328 POCA, to ensure he does not become concerned in an arrangement which he knows or suspects facilitates (by whatever means) the acquisition, retention, use or control of criminal property by or on behalf of another person when assisting clients.

### **4. OVERVIEW OF THE TAX SECTOR**

4.1 Tax work covers a broad range of activities from routine compliance work to complex tax planning.

4.2 Tax compliance includes the processing and submission of returns to the tax authorities.

4.3 Tax planning looks at advising on and structuring tax affairs in a tax efficient manner. This can sometimes involve the use of trusts, offshore entities and tax favourable regimes.



## **5. WHAT ARE THE MONEY LAUNDERING RISKS IN THE TAX SECTOR?**

5.1 The money laundering risk areas that a tax practitioner may encounter in practice include the following:

- (a) Where a client's actions in respect of his tax affairs create proceeds of crime, for example:
- a client's refusal to correct errors (both for the past and on an ongoing basis); or
  - a client's deliberate under declaration of profits/income/gain or deliberate overstatement of expenses/losses.
- (b) Where during the course of dealing with a client's tax affairs it becomes apparent that the client is holding proceeds of crime derived from criminal activity which may or may not be tax related.

5.2 The tax practitioner needs to be alert to the risk of assisting or facilitating the laundering of proceeds of crime whether through the evasion of taxes or otherwise. For example, where a client puts significant importance on maintaining the anonymity of beneficiaries or owners or in keeping confidential the structure of a complex plan ostensibly intended to minimise legally a tax liability, then the possibility that the funds involved are derived from the proceeds of crime should be kept in mind.

## **6. TAX OFFENCES**

### **6.1 Introduction**

6.1.1 There are a number of tax offences which can give rise to the proceeds of crime and SARs. These are discussed further below. When a tax practitioner has identified proceeds of crime, he (or his firm's MLRO where he is not a sole practitioner) should consider carefully whether the privilege reporting exemption applies before submitting a SAR. See section 12 below and section 7 of the CCAB guidance.

6.1.2 A tax practitioner is not required to be an expert in criminal law but he would be expected to be aware of the boundaries between deliberate understatement or other tax evasion and simple cases of error or genuine differences in the interpretation of tax law and be able to identify conduct in relation to direct and indirect tax which is punishable by the criminal law. There will be no question of criminality where the client has adopted in good faith, honestly and without mis-statement a technical position with which HMRC disagrees.

6.1.3 The main areas where offences may arise in direct tax are:

- tax evasion, including making false returns (including supporting documents), accounts or financial statements or deliberate failure to submit returns;
- deliberate refusal to correct known errors; and less commonly
- failure to obtain consent under s765 ICTA

## **6.2 Taxes Management Act 1970 ('TMA') tax 'offences'**

- 6.2.1 The TMA provides a civil penalty regime covering both fraudulent and negligent conduct. It is only fraudulent or dishonest conduct which is reportable under POCA. The money laundering legislation is only concerned with the proceeds of criminal conduct. Therefore, it is only that conduct which the law treats as criminal offences which can lead to money laundering issues.
- 6.2.2 Where conduct may attract a civil penalty under the TMA but may also, on the particular facts, amount to criminal conduct then the conduct is criminal. By way of example only, knowingly assisting in the preparation of an incorrect return etc could give rise to a civil penalty under s99 TMA, but the conduct concerned would typically amount to a criminal offence (such as false accounting or cheating HMRC) as well. Any case where fraudulent conduct is suspected should be reported unless the privilege reporting exemption applies. See section 12 below and section 7 of CCAB guidance

## **6.3 Prosecution policy – the need to report**

- 6.3.1 In the tax environment, there are many circumstances in which the tax authorities have a long and established practice of dealing with matters on a civil basis. A policy view is taken that this is a more cost effective approach and that the interest and penalties that can be charged on a civil basis constitute sufficient restitution and deterrent.
- 6.3.2 This is the case across direct tax and VAT where criminal prosecutions are very much the exception.
- 6.3.3 However, the practices or anticipated practices of HMRC are irrelevant to the reporting obligations under POCA. If a tax practitioner suspects that a criminal offence may have been committed, and that there may be or may have been proceeds, whether actual or prospective proceeds, then unless the privilege reporting exemption applies (see section 12 below and section 7 of the CCAB guidance), he is obliged to report to SOCA (or to his firm's MLRO where he is not a sole practitioner) irrespective of the fact that a criminal prosecution may in the member's view be highly unlikely in practice.

## **7. RELUCTANCE TO CORRECT PAST ERRORS**

### **7.1 Innocent or negligent error – direct tax**

- 7.1.1 It is not uncommon for tax practitioners to become aware of errors in or omissions in current or in past years from clients' tax returns or any calculations or statements appertaining to any liability or an underpayment of tax, for example because a payment date has been missed. If the tax practitioner has no cause to doubt that these came about as a result of innocent mistake or negligence then he will not have

formed a suspicion. However, in some cases, the tax practitioner may form a suspicion that the original irregularity was criminal in nature and should make a report unless the privilege reporting exemption applies (see section 12 below and section 7 of the CCAB guidance).

## **7.2 Innocent or negligent error – indirect tax**

7.2.1 In the case of indirect tax, see section 11 below on handling the original error.

## **7.3 Unwillingness or refusal to disclose to the tax authorities**

7.3.1 Where a client indicates that he is unwilling or refuses to disclose the matter to HMRC in order to avoid paying the tax due, the client appears to have formed criminal intent and hence the reporting obligation arises unless the privilege reporting exemption applies (see section 12 below and section 7 of the CCAB guidance). A tax practitioner will need to be careful in applying the privilege exemption when the client has expressed clear intention to evade taxes and needs to consider whether the crime/fraud exception applies. The tax practitioner should also consider whether he can continue to act and consult his professional body's guidance on such matters. This paragraph applies equally to potential clients for whom the tax practitioner has declined to act.

## **7.4 Adjusting subsequent returns**

7.4.1 Where the law permits the correction of small errors by subsequent tax adjustments, and the original error was not attributable to any criminal conduct, then the adjustment itself will not give rise to the need to report, since no crime will have been committed. However, it should be noted that the legislation does apply to any conduct which constitutes the laundering of the proceeds of any criminal offence however small the amount involved.

## **8. Intention to underpay tax**

8.1.1 A client may suggest that he will in the future underpay tax which would be tax evasion and a money laundering offence when it occurs.

8.1.2 A tax practitioner can and should apply his professional body's normal ethical guidance to persuade the client to comply with the law. Should the client's intention in this regard still remain in doubt, the tax practitioner should consider carefully whether he can commence or continue to act.

8.1.3 A SAR may well be required in such cases once there are proceeds of crime, depending upon the facts and circumstances and whether the privilege reporting exemption applies (see section 12 below and section 7 of the CCAB guidance). As

in 7.3.1 above a tax practitioner will need to be careful in applying the privilege exemption when the client has expressed clear intention to evade taxes.

## **9. TAX EVASION**

### **9.1 General**

9.1.1 Where a tax practitioner knows or suspects, or has reasonable grounds for knowing or suspecting, that a client or other party is engaged in tax evasion in the UK or overseas, this will clearly amount to one or more of a number of possible criminal offences, such as theft, obtaining pecuniary advantage by fraud, false accounting, cheating HMRC, the offence of fraudulent evasion of income tax under s 144 Finance Act 2000 or a range of specific indirect tax offences (see section 11 below). Unless the privilege reporting exemption applies (see section 12 below and section 7 of the CCAB guidance) a tax practitioner should report the matter to SOCA (or to his firm's MLRO where he is not a sole practitioner) immediately.

9.1.2 If the suspected evasion is of taxes outside the UK, in circumstances which would be a criminal offence if the conduct occurred in the UK, this should also be reported immediately unless it is known to be lawful under the criminal law applying in that country and that conduct, if carried out in the UK, would attract a maximum sentence in the UK of less than twelve months, except as prescribed by order.

As in other cases, this is unless the privilege reporting exemption applies (see section 12 below and section 7 of the CCAB guidance). There are other very limited exceptions regarding the reporting of overseas criminal conduct; see 2.4 and 2.5 of CCAB guidance.

9.1.3 A tax practitioner can and should apply the principles set out in his professional body's normal ethical guidance to persuade the client to act properly. A tax practitioner will need to consider carefully whether he can continue to act if the client refuses to make a full disclosure to HMRC.

### **9.2 Civil Investigation of Fraud (CIF) Procedures**

9.2.1 In circumstances where a potential or current client asks a member to act in the making of a CIF disclosure to HMRC a suspicion of tax evasion will often, but not always, arise.

9.2.2 A tax practitioner should be aware that notification to HMRC is not a substitute for a report to SOCA. Where appropriate a report must also be made to SOCA as soon as the tax practitioner has knowledge or suspicion or reasonable grounds for knowledge or suspicion that tax has intentionally not been paid when due. The tax practitioner (or his firm's MLRO where he is not a sole practitioner) should consider carefully whether the privilege reporting exemption applies (see section 12 below and section 7 of the CCAB guidance) before submitting a SAR.

- 9.2.3 There may be occasions where the tax practitioner does not hold sufficient information to make a detailed disclosure of his client's tax evasion to HMRC at the same time as he (or his firm's MLRO where he is not a sole practitioner) submits a SAR to SOCA. However the tax practitioner will be keen to protect his client's position by notifying HMRC of the tax evasion before SOCA does so that the case may be regarded as a voluntary disclosure. The practicalities of this situation are covered in a Question and Answer note agreed with HMRC attached as Appendix 1.

## **10. FAILURE TO OBTAIN TREASURY CONSENT – S765 ICTA**

- 10.1.1 This section is relevant to members who deal with transactions by companies with international aspects - those transactions that may require consent relate to the creation or issuing or transferring of shares or debentures.
- 10.1.2 Under s766 ICTA 1988 companies, their officers and advisers may be guilty of criminal offences if a transaction requiring special consent under s765(1) takes place without such consent. The person needs to know that the actions were unlawful under s765(1) in order to be guilty of a criminal offence (s766(1)). In practice this is of limited assistance in cases of innocent oversight because s766(2) puts the burden of proof as to the person's state of knowledge on to the individual in the case of directors.
- 10.1.3 The next question is whether there are proceeds. If a client has undertaken a tax planning transaction for which Treasury consent was needed and would have been unlikely to have been granted, the tax not paid as a result of the planning would constitute proceeds from the crime. In other circumstances there may be no proceeds, but this will need to be considered on the facts. Where there are proceeds, the tax practitioner should finally consider whether the alleged offender knew or suspected that the proceeds arose from criminal conduct. The tax practitioner would usually advise the client that a criminal offence may have occurred, so that the client would then have the requisite knowledge.
- 10.1.4 When a tax practitioner realises that there has or may have been a breach of s765 ICTA, he (or his firm's MLRO where he is not a sole practitioner) will need to consider making a SAR based on the factors discussed above. He should also bear in mind whether the privilege reporting exemption applies (see section 12 below and section 7 of the CCAB guidance). The tax practitioner should also consider what other action is appropriate, for example, advising the client to notify HMRC.

## **11. INDIRECT TAX**

### **11.1 Overview**

- 11.1.1 Where indirect tax is concerned, innocent or negligent errors may be criminal offences as strict liability is imposed by such as s167 (3) CEMA which provides:

*'If any person –*

- (a) makes or signs, or causes to be made or signed, or delivers or causes to be delivered to the Commissioners or any officer, any declaration, notice, certificate or other document whatsoever; or*
- (b) makes any statement in answer to any question put to him by an officer which he is required by or under any enactment to answer,*

*being a document or statement produced or made for any purpose of any assigned matter, which is untrue in any material particular, then, without prejudice to subsection (4) below, he shall be liable on summary conviction to a penalty of level 4 on the standard scale'.*

'Assigned matter' is defined in section 1 of CEMA as meaning 'any matter in relation to which the Commissioners are for the time being required in pursuance of any enactment to perform any duties'.

- 11.1.2 This broadly makes most errors, however innocent, criminal offences in VAT and all other indirect taxes. The fact that VAT matters are in practice handled under the civil penalties regime in most circumstances is irrelevant (see section 6.3 above) to the fact that there is an offence under s167(3) CEMA. However an innocent or negligent error will not fall to be classed as money laundering where the person making the error was not aware/did not suspect that they had committed a criminal offence.
- 11.1.3 Property is only criminal property for the purposes of POCA if it not only constitutes or represents benefit from criminal conduct, but the 'alleged offender knows or suspects that it constitutes or represents such a benefit' (s340(3)POCA). A client who has knowledge of s167 CEMA will 'know or suspect' that they are in receipt of funds once they become aware of the error or mistake so the normal SAR regime applies. There is no presumption that the client is aware of the strict liability offence in s167(3) and a practitioner does not have to investigate the client's knowledge, but should make a judgement based on his knowledge of the client. If a practitioner believes a report is necessary but that the client made an error or innocent mistake they should consider making reference to this opinion in any SAR they make.
- 11.1.4 Where the practitioner suspects that the irregularity may have amounted to tax evasion or tax fraud, the need to make a SAR should be considered on the usual basis and in the same way as for direct tax. There are large numbers of specific criminal offences in the indirect taxes legislation and these are outlined in paragraphs 11.2 and 11.3 below. However in essence they all amount to variations on tax evasion and involve some intent to avoid paying the correct amount of tax.
- 11.1.5 Unwillingness or refusal to correct indirect tax errors should be treated as set out in 7.3 above.

## 11.2 Other offences applicable across indirect tax

11.2.1 There is a range of crimes in the Customs and Excise legislation, covering such areas as:

- the bribing of a Commissioner, officer or appointed or authorised person;
- the obstructing of an officer performing any duty, or similar conduct;
- production, signing etc of untrue documents and statements;
- the counterfeiting or falsifying of documents;
- obstructing, or failing to assist in, the inspection of a computer;
- the breaching of conditions applied in respect of relief from VAT conferred on specified classes of persons, such as members of visiting forces; and
- the failure to furnish a supplementary declaration under the Intrastat procedure.

In addition there is the common law offence of Cheating the Public Revenue.

11.2.2 There are a number of other offences relating to particular indirect taxes and excise duties, such as stamp duty and stamp duty land tax, alcohol, tobacco products and mineral oil duties, betting and gaming duty, aggregates levy etc. The legislation in respect of these duties, taxes and levies provides the offences specific to them.

11.2.3 As VAT is the indirect tax most commonly advised upon by tax practitioners further details about specific offences applicable to VAT is given in 11.3 below.

## 11.3 Specific offences applicable in VAT

### 11.3.1 ***Fraudulent evasion of VAT (s 72(1) VATA)***

A person who is knowingly concerned in, or is taking steps with a view to, the fraudulent evasion of VAT by him or any other person is liable under this offence. A person's conduct may amount to fraudulent evasion under this provision if he understates payments due to the Commissioners for a prescribed accounting period. In certain circumstances the over claiming of VAT (eg a refund in respect of bad debts) may also result in fraudulent evasion. If proceeds arose from such conduct, this would also constitute money laundering.

### 11.3.2 ***Production, furnishing or sending of false documents and statements (s72 (3) VATA)***

This involves the production, furnishing or sending of a false document with the intent to deceive. In addition, it includes knowingly or recklessly making a false statement. If proceeds arose from such conduct, this would also constitute money laundering.

### 11.3.3 ***Conduct which must have involved an offence (s72(8) VATA)***

Where a person's conduct during any specified period must have involved the commission by him of one or more of the offences listed above, then, regardless of whether the specifics of the offence(s) are known, he is guilty of an offence. The purpose of this provision is to cover cases where it can be proved that an offence has

been committed during a period spanning a number of prescribed accounting periods, but it is not clear to what extent it was committed in any particular prescribed accounting period within the total period concerned. It is only one offence, even if it covers more than one period. If proceeds arose from such conduct, this would also constitute money laundering.

**11.3.4 *The possession and dealing in goods on which VAT has been evaded (s72(10) VATA)***

A person commits an offence, and is liable to penalties, if, having reason to believe that tax has been or will be evaded on them, he either acquires possession of any goods; deals with any goods; or accepts the supply of any services. If proceeds arose from such conduct, this would also constitute money laundering.

**11.3.5 *Supplying of goods or service without providing security (s72(11) VATA)***

A person who is required, under VAT Act 1994 Schedule 11 para 4(2), to give security for the further payment of VAT as a prerequisite for making taxable supplies and who makes those supplies without the provision of security, has committed an offence. If proceeds arose from such conduct, this would also constitute money laundering.

## **12. THE PRIVILEGE REPORTING EXEMPTION**

12.1.1 A tax practitioner should be aware that the privilege reporting exemption does not apply to 'information or other matter which is communicated or given with the intention of furthering a criminal purpose'.

12.1.2 A tax practitioner should read this section in conjunction with paragraphs 7.26 – 7.46 of the CCAB guidance which covers the privilege reporting exemption and the crime/fraud exception in detail.

12.1.3 In summary a tax practitioner who is a professional legal adviser or a 'relevant professional adviser' who suspects or has reasonable grounds for knowing or suspecting that another person is engaged in money laundering is prohibited from making a money laundering report where the knowledge or suspicion comes to him in 'privileged circumstances'.

12.1.4 Relevant professional adviser is defined in s330(14) POCA as

*'an accountant, auditor or tax adviser who is a member of a professional body which is established for accountants, auditors or tax advisers (as the case may be) and which makes provision for*

*(a) testing of competence of those seeking admission to membership of such a body as a condition for such admission; and*

*(b) imposing and maintaining professional and ethical standards for its members as well as imposing sanctions for non-compliance with those standards.'*

12.1.5 The legislation does not list the professional bodies which meet the criteria but the CCAB bodies, the Chartered Institute of Taxation and the Association of Taxation Technicians meet the criteria and hence their members may be considered to be 'relevant professional advisers'



12.1.6 Privileged circumstances is defined at s330(10) POCA as

*'Information or other matter comes to a professional legal adviser or other relevant professional adviser in privileged circumstances if it is communicated or given to him:*

- (a) by (or by a representative of) a client of his in connection with the giving by the adviser of legal advice to the client;*
- (b) by (or by a representative of) a person seeking legal advice from the adviser; or*
- (c) by a person in connection with legal proceedings or contemplated legal proceedings.'*

12.1.7 The CCAB gives guidance on when the privilege reporting exemption might apply. The CIOT and ATT took Counsel's opinion on the privilege reporting exemption and how it might affect their members. This advice included examples of when the privilege reporting exemption might apply and is unlikely to apply. Those examples together with the CCAB's are attached as Appendices 2 and 3.

### **13. CUSTOMER DUE DILIGENCE (CDD)**

13.1.1 Customer due diligence and beneficial ownership is considered in detail in Section 5 of the CCAB guidance and a tax practitioner should refer to that guidance in the first instance. A tax practitioner may be called upon to advise another professional firm. Unless there is a clear agreement between the firms that the advising firm is intended to form a client relationship with the other firm's client, or unless the advising firm comes into contact with and/or enters into a dialogue with the other firm's client, the other firm is the client of the advising firm and accordingly must be made subject to CDD.

13.1.2 In cases where the advising firm's involvement is also with the other firm's client, then the other firm's client must also be made subject to CDD. It may be possible for the advising firm to rely on the other firm's CDD of the client but there are strict criteria which must be met; see paragraphs 5.33 – 5.41 of the CCAB guidance.

**Money Laundering and disclosures to HMRC:  
A Questions and Answers guidance note**

This note is an updated version of a note originally agreed between HMRC, the Association of Taxation Technicians and the Chartered Institute of Taxation

**Object of note**

*To provide guidance about the practical effect of the money laundering legislation on disclosures of tax evasion by tax practitioners.*

**Questions and answers**

- 1. Will the money laundering requirements make any difference to HMRC's willingness to use Code of Practice 9 or in local offices their willingness to come to a settlement without prosecution?**

HMRC have confirmed that the money laundering requirements will not affect enquiries under Code of Practice 9 or local office procedures.

- 2. Which government departments should I as a tax practitioner inform when I am approached by an individual who tells me that he wants to make a full disclosure of undeclared taxable income and/or gains?**

Traditionally, you as a tax practitioner, having taken instructions and collected all necessary information from your client, will have informed the relevant office within HMRC, depending on the circumstances.

But if you have reasonable grounds for knowing or suspecting that your client has intentionally evaded tax then the money laundering laws will also apply. You, or your Money Laundering Reporting Officer (MLRO) if you have one, will be obliged also to make a report to SOCA in the specified form unless the privilege reporting exemption applies. Where you have a MLRO, you must notify him or her and they will in turn consider whether a report should be made to SOCA. See Section 7 of the CCAB anti money laundering guidance regarding the need to appoint a MLRO where you do not have one.

- 3. Should I make a report to SOCA when I receive a CoP 9 enquiry letter from HMRC?**

It is your knowledge or suspicion that counts rather than HMRC's suspicion. You should make up your own mind whether such a letter gives you grounds for making a report applying the criteria in Section 330 POCA 2002, ie do you know or suspect, or have reasonable grounds for knowing or suspecting, that the client is engaged in money laundering as defined at Chapter 2 of the CCAB anti money laundering guidance.

- 4. When should I make a report to SOCA?**

The money laundering legislation says that SOCA must be told 'as soon as is practicable after the information or other matter' that gave rise to the knowledge or suspicion was received.

- 5. It is possible that the potential client may not instruct me at all. Will HMRC monitor me as the tax practitioner named in the SOCA report to see if a disclosure emerges, and if so for how long?**

HMRC recognize that the potential client may go elsewhere (or nowhere) for advice. They have said they have no intention of monitoring reputable practitioners after SOCA reports have been submitted.

- 6. Once I have told SOCA, what happens next assuming no other agency is involved?**

SOCA will pass reports to a special intelligence unit within HMRC in the first instance. The unit will consider whether it is suitable for investigation towards criminal prosecution. If it is not, the case will either be considered for enquiry under a Civil Code of Practice or be referred to HMRC's Centre for Research and Intelligence in Llanishen, Cardiff. Where it is considered appropriate to pass intelligence on to relevant staff in taxpayer-facing offices neither the fact that the intelligence has come from SOCA, nor the identity of the original source of the intelligence, is disclosed.

- 7. Does the need to report to SOCA before I am ready to tell HMRC affect the timing of my providing information to HMRC about my client's undeclared income and or gains? Although I have made a report to SOCA when approached by a potential client with a tax disclosure to make, I may not immediately be able to approach HMRC because I will have to be formally instructed and the approach to HMRC approved by the client. Collecting and collating the information will inevitably take time especially where several individuals or entities are involved. How long will HMRC regard as a reasonable period before the approach is made while leaving the option of using CoP 9 open?**

HMRC have confirmed that a delay would not jeopardise the CoP 9 approach where it would otherwise be available provided that the taxpayer is taking active steps to regularise their affairs. Doing nothing involves the risk that a CoP 9 enquiry may not be available and that prosecution may follow; or at least that penalty abatements are at risk.

One option, having obtained the client's permission, is to put down a marker by writing to HMRC, saying you have been instructed by a named client to act for them in coming to a settlement about undeclared income or gains. You would also provide a date by which you expect to be able to let HMRC have these details.

- 8. To which HMRC office should I send the marker letter?**

Under these circumstances all letters should be sent to the Centre for Research and Intelligence, Ty Glas Road, Llanishen, Cardiff, CF4 5YF.

- 9. How long a time period for providing the information would HMRC consider reasonable in my 'marker' notification?**

It will depend on the circumstances of each case but HMRC have indicated that they will take a reasonable approach.

Your estimated timetable will obviously depend on your assessment of the likely complexity of your client's affairs.

**10. What happens if I miss my self-imposed deadline set out in my marker letter?**

HMRC appreciate that the information may be difficult to obtain. You should obviously inform HMRC if you wish to extend your self-imposed deadline. You will need to update HMRC from time to time to reassure them that the client is taking active steps to help you move matters forward.

**11. What is the position where HMRC already had concerns about a taxpayer and the money laundering notification is the trigger for the raid or the launch of an investigation? HMRC may not be prepared to wait, possibly due to concerns that documents might be destroyed. Would a CoP 9 enquiry still be a possibility for my client if the normal conditions are met (for example if the raid does not indicate that my client is unsuitable for a CoP 9 enquiry)?**

HMRC have informed us that receipt of a report from SOCA or your 'marker' notification will not necessarily make them deviate from their proposed course of action. HMRC will look at the SOCA report in context of all other information available to them regarding a case when prioritizing the cases for investigation.

**12. Will HMRC wait for a reasonable period of time before launching an enquiry on receipt of a report from SOCA?**

In the majority of cases, given the time it would take for SOCA to pass information to HMRC and for HMRC to consider what action to take, the time lag between the report to SOCA and the making of a voluntary disclosure to HMRC may not be an issue in practice. You should monitor the receipt of acknowledgements to track progress. If you are concerned you could consider the use of a marker letter as discussed above.

### Examples of when the privilege reporting exemption might apply

For the privilege reporting exemption to apply the information must come to a legal professional adviser or a relevant professional adviser in privileged circumstances. Whether the privilege reporting exemption applies will depend on the specific facts of the case. These examples are intended as general guidance only and are not a substitute for seeking legal advice in cases of doubt.

#### Examples included in the CCAB guidance

- advice on taxation matters, where the tax adviser is giving advice on the interpretation or application of any element of tax law and in the process is assisting a client to understand his tax position;
- advice on the legal aspects of a take-over bid, for example on points under the Companies Act legislation;
- advice on duties of directors under the Companies Act;
- advice to directors on legal issues relating to the Insolvency Act 1986, eg, on the legal aspects of wrongful trading; and
- advice on employment law.

#### Further examples based on advice given to the CIOT and ATT

- advice on how to order or structure a client's tax affairs in a tax efficient manner;
- advice on disclosure obligations to the tax authorities, including advice given in the context of compliance work on reporting requirements and situations where previously there may have been failure to disclose.
- Suspicions derived from pre-existing documents may be covered by the reporting exemption where those documents come to the tax practitioner in privileged circumstances. For example, if a client asked for tax advice on settling past tax under declarations and provided copies of bank statements or invoices or past tax returns in order that the tax adviser could advise, that information could be regarded as having come to the adviser in privileged circumstances.

#### **Examples where relevant professional advisers might fall within privileged circumstances as regards litigation privilege include:**

- assisting a client by taking witness statements from him or from third parties in respect of litigation;
- representing a client, as permitted, at a tax tribunal; and
- when instructed as an expert witness by a solicitor on behalf of a client in respect of litigation.

**Examples of when the privilege reporting exemption is unlikely to apply**

Examples included in the CCAB guidance

It should be noted that conducting audit work does not of itself give rise to privileged circumstances for this purpose, as the relevant professional adviser is neither providing legal advice, nor is he instructed in respect of litigation. Nor do routine book-keeping, accounts preparation or tax compliance assignments, though privileged circumstances may arise if the client requests or the adviser gives legal advice on an informal basis during the course of such an assignment

Further examples based on advice given to the CIOT and ATT

- Information uncovered during tax compliance work, for example spotting that personal expenditure had been claimed as a business expense in a previous year.
- Information uncovered during a tax due diligence assignment or other agreed upon procedures exercise which is for the purposes of producing an evaluation report or an assurance based opinion (other than an audit) to the client or a third party.
- Information provided by or communications received direct from any third party particularly if no advice has been sought in respect of the underlying detailed content by the client. For example, receipt of information or communications when acting as the client's tax agent.
- Information received about the client's or a third party's affairs which is outside the scope of the tax services in respect of which the adviser has been engaged.



## Ethical considerations for probate practitioners

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### Technical Enquiries Service

Issued: January 2016

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This helpsheet is intended for members with an ICAEW probate licence acting in a professional rather than a personal capacity herein after referred to as the probate practitioner. This guidance should be read in conjunction with the guidance on [Accountants and Legal Services](#). Working for no fee, gain or reward in a personal capacity as an executor is permissible without a legal services authorisation.

### The personal representative

When someone dies, the personal representative is the person who administers the deceased person's estate.

An executor is named in the will (if there is no will, or they are not named in the will, they are known as the administrator) and stands in the place of the deceased in order to wind-up their estate and distribute it in accordance with the will or the law of intestacy. The fiduciary nature of the role resembles that of the trustee, but executors' powers are wider, as is the scope of their responsibilities. They satisfy claims against the estate, and distribute the estate assets to the beneficiaries. As such they have a duty toward the beneficiaries.

The probate practitioner may have been:

- named in a will and is acting as the or one of the executors; or
- may have been engaged by those entitled to be appointed executors or administrators of an estate to assist with obtaining probate.

If acting as an executor you will need to ensure not only that you are competent to carry out the work but that the will allows for a charge for the work. If acting as agent for the executors or personal representatives of the estate you must still consider the extent to which you are competent to carry out the work. Ensure the terms of the engagement are clear on the scope of the work and what is being charged for.

### Professional competence and due care

Members are expected to comply with the ICAEW Code of Ethics when undertaking any professional activities, whether or not these come within the definition of legal activities, including the requirements for professional competence and due care (see [Code of Ethics A section 130](#)). This means members should only undertake work which they are competent to provide, rather than undertake work merely because it is not specifically prohibited. They should maintain professional knowledge and skill at the level required to ensure that clients or employers receive competent professional service and act diligently in accordance with applicable technical and professional standards when providing professional services.

Members may have previously performed elements of a probate engagement such as preparation of estate accounts or inheritance tax work, but would have been unable to complete the entire process without being licensed so to do. Those now taking on the probate application should also ensure competence in the areas of new work, as well as the overall process.

Members should be aware that if they provide advice that would normally be given by a qualified lawyer, on the basis that they hold themselves out to be similarly qualified (ie, that they possess the

expertise of a solicitor or other lawyer), the standard of care against which that duty may be measured at common law could be increased from that of the reasonably competent practitioner acting in accordance with the standards reasonably adopted in his or her profession, to the standard of care expected of a reasonably competent legal specialist.

The fundamental ethical requirement for due care encompasses the responsibility to act in accordance with the requirements of an assignment, carefully, thoroughly and on a timely basis. This is particularly important in a probate engagement given that complaints may arise if there is delay in administration or failure to communicate with the personal representatives or beneficiaries. Good record keeping will also be essential to maintain both security and continuity of service, and avoid any part of the administration from being overlooked.

Due care is of utmost importance in estate administration since executors may be responsible for, amongst other things, keeping insurance on property up to date, investing excess cash and achieving the best possible price when selling estate assets.

Members should ensure that they undertake appropriate training in accordance with the [ICAEW qualification requirements](#), as well as satisfying the general requirement to carry out [CPD](#) (continuing professional development). Without this, quite apart from not satisfying the [ICAEW Probate Regulations](#), you may not be acting in the client's best interests.

An executor can be either:

- a professional, or
- a lay person(s) such as a family member or beneficiary, who could engage a professional if they wished.

When promoting their services members should take this into account. For straightforward estates, a professional executor may not be necessary.

There may be occasion when providing services such as probate, that an executor has the responsibility to run a business of the estate: this may be in the context of achieving a sale or on an ongoing basis pending distribution of the estate. You should check the will carefully, and consider the nature of the business. If you are expected to run the business you will need to assess your ability to do this competently. Some wills give executors power to continue business and be indemnified for any loss, or name a specific individual to deal with the running of the business.

An insolvent estate must be administered in the best interests of the creditors, not the beneficiaries. If legacies are paid before debts are settled, the executors will be liable to refund the value of any legacies improperly paid from the estate. Payments made to the executor by an insolvent estate may also have to be repaid, with interest. It is advisable to seek the advice of an Insolvency Practitioner in such cases.

For further detail on the expectations of an accountant in public practice with respect to considering a duty of care see [ICAEW's Code of Ethics B \(sections 241.2 – 241.8 inclusive\)](#).

Members undertaking tax work should also refer to the following guidance issued on a pan-professional basis, [Professional Conduct in relation to Taxation](#).

Members providing new categories of services to clients will also need to ensure that these are covered within the scope of their [Professional Indemnity Insurance \(PII\)](#).

## **Independence and conflicts of interest**

Code of Ethics B Section 220.1 states:

*'A professional accountant in public practice shall also take reasonable steps to identify circumstances that could pose a conflict of interest. Such circumstances may create threats to compliance with the fundamental principles. For example, a threat to objectivity may be created when the interests of two clients differ. A threat to objectivity or confidentiality may also be created when a professional accountant in public practice performs services for clients whose interests are*



*in conflict or the clients are in dispute with each other in relation to the matter or transaction in question.*

*Subject to the specific provisions, there is, however, nothing improper in a professional accountant in public practice having two clients whose interests are in conflict.'*

However, Code of Ethics 220.2 also provides that *before accepting or continuing a client relationship or specific engagement, the professional accountant in public practice shall evaluate the significance of any threats created by business interests or relationships with the client or a third party.*

Members already offering services which require independence from the client should consider the impact of providing other services to that client. See ICAEW's [Code of Ethics B \(section 290\)](#) which gives further guidance on audit and review engagement independence and legal services.

Below are some examples of conflicts that may arise during a probate engagement.

### **Conflict 1**

**I have been asked to act by a personal representative of the deceased who is also one of the beneficiaries. Do I have a conflict of interest?**

A conflict may arise here as executors have a legal duty to manage the estate for the benefit of the beneficiaries as a whole. The member must act objectively and on the instructions taken from the executors as a body and not individual executors.

It will be helpful for the member to make clear their obligations and in what capacity (or role) they are acting. If the executor appears to be acting to his own interest, and not that of the other beneficiaries, then the member is advised to explain the obligations of an executor, and if necessary should withdraw from the engagement, first considering who else should be informed.

The circumstances may be difficult and emotions running high. A family feud may arise if beneficiaries disagree over the distributions or the content of the will even if it appears to be clear. However, if the engagement becomes contentious you may not be in a position to continue to act as the ICAEW Probate License only covers non-contentious probate. The probate practitioner must cease to act as soon as the probate becomes contentious and should refer to a practitioner licensed to perform contentious work such as a solicitor.

The probate practitioner would evaluate the significance of any threats and apply safeguards when necessary to eliminate the threats or reduce them to an acceptable level. These may include safeguards such as clear communication in the engagement letter that you are only acting for the executor(s) in their capacity as such, the executors obtaining third party advice for matters such as asset valuation or investment and ensuring transparency and recommending open lines of communication vis a vis the other beneficiaries, particularly when it comes to unassigned property but this is a matter for the executors to determine. See Confidentiality and Legal Privilege (below).

If in the circumstances adequate safeguards are not able to reduce any threat to an acceptable level the probate practitioner should decline to act.

### **Conflict 2**

**I have been asked to take on a probate engagement by a client who is one of the executors of an estate which includes shares in the family business for which I have previously acted in another (non-assurance) capacity. The client is now the sole director for the family business and the shares in the estate are to be put on trust under the will. Are there any issues here?**

If dealing with a family business with which you have been previously engaged it will be important to consider your pre-existing relationships with the various family members. When considering objectivity, matters may be complicated if one particular family member was your key point of contact, as you may be perceived as being more likely to favour that individual.

In addition to the safeguards in Conflict 1 (above) a further possible safeguard could be the agreed sharing of detailed information regarding previous dealings with the family members (subject to confidentiality requirements) by the executor. If, ultimately, you can't be, and be seen to be, impartial then you should not act.

### **Conflict 3**

**During the initial stages of my engagement I realise that one of the creditors of the deceased's estate is a client of my firm. Am I still able to act?**

As long as you can remain objective then there is nothing to prevent you from acting but be aware of the perceived threat and the safeguards you can deploy Code of Ethics 220.2. There are various factors and legislative provisions that a personal representative must take into account in deciding the order of payment of debts and so to a certain extent this will act as an in-built safeguard. The situation should also be disclosed to the clients.

### **Conflict 4**

**The relationship between the executors and the beneficiaries is breaking down. What can I do?**

Encourage the executors to talk to the beneficiaries to resolve their differences or seek the advice of a professional mediator. If non-contentious probate becomes contentious then you may need to resign but will need to cease to act and recommend the appointment of a legal practitioner licensed to perform contentious work (such as a solicitor) in such circumstances. See Conflict 1.

### **Conflict 5**

**I am the sole executor for the owner of a business that I audit. Can I continue to act?**

There is a significant conflict of interest here in that you can't be responsible for running a business (or holding shares in a business) that you audit. APB Ethical Standard 2 would require immediate resignation if the auditor found themselves holding a financial interest and or management role with the audited entity. Alternatively the probate practitioner should renounce their right to be appointed executor. Hopefully this status will be spotted before the individual passes away, such that someone else can be identified to act as executor or administrator to continue to hold the shares and run the business without impairing the audit independence. Interestingly, with adequate safeguards following APB Ethical Standard 5 you can be appointed as probate practitioner to assist an executor.

### **Conflict 6**

**I already hold power of attorney for my client. Does taking on executorship present a conflict?**

The existing power of attorney will end when the client dies. Presumably the probate practitioner had considered and safeguarded against any threats to the fundamental principles when taking the power of attorney. On death, any assets held will now belong to the estate and therefore be the responsibility of the executor. For convenience this might well be the same person.

### **Further Guidance on Conflicts**

More general guidance on conflicts of interest can be found in the [Code of Ethics B \(section 220\)](#). You should always keep file notes of your advice and the decisions you have made. Even where family relationships appear cordial at first this may change.

Always think about perception and be particularly cautious where you have undertaken work involving valuation, unequal shares or unusual disposals. When acting as a sole executor a member should be especially alert to objectivity issues and consider whether it would be more appropriate to delegate the work to another firm or member.

[APB ethical standard 5 \(revised\), 'Non-audit services provided to audited entities'](#), gives guidance on, and may prohibit, the carrying out of certain work where there is a pre-existing audit relationship. Also mention ES2 financial interests as the estate may contain shares in a company the firm audits.

### **The terms of the engagement**

If you are a named executor in a will then you will want to ensure that the testator includes appropriate clauses about charging, recovery of costs from the estate and estate administration in the will itself. You should refuse nomination or renounce rights after death if they are not included unless you intend to act in person without reward. This is not just an exercise in risk management but also ensures that there is clarity upon the testator's death.

If you are acting in the capacity of agent then it is the executors who are the client and your engagement letter should therefore be addressed to them. It may be helpful to agree what information and progress updates can be shared with beneficiaries by the executors. Where there are under-age beneficiaries, any discussions should take place with their representatives or guardians.

Even where you are appointed under the will as sole executor we recommend that the beneficiaries receive a copy of a letter of engagement addressed to oneself so that they understand the basis on which the work is being carried out, despite them not having any contractual right to interfere or rights to the information. As usual, terms should be clear and unambiguous with the scope of your services clearly defined. For example your work might include all or some of the following:

- Tax advice/compliance
- Estate administration
- Some executorships might include a continuing role as trustee (please see our guidance on Acting as a Trustee for more information).
- Valuation services
- Sale or transfer of property
- Investment activity connected with the estate
- Estate accounts
- Services directive disclosures
- Complaints ICAEW and LeO

The above is not an exhaustive list and the precise scope of your work should be discussed. In particular, and if possible, it would be useful to discuss and confirm the scope of the work and your current terms and basis for charging with the testator prior to death acknowledging these may change over time.

Fees should be fair and reasonable and clear. A fixed fee or hourly rate might be appropriate.

The engagement letter should also detail provisions regarding document retention (see below).

### **Confidentiality and legal privilege**

As discussed above the personal representatives are the client (including the probate practitioner if appointed) and as such information relevant to the engagement should only be shared with them. They decide what to disclose to the beneficiaries. However, it may be helpful to agree with the client what information and progress updates can be shared with beneficiaries so as to facilitate cordial resolution of the engagement.

[Code of Ethics A \(section 140\)](#) discusses confidentiality in more detail.

It is also important for the member to distinguish between information that is confidential and that which is legally privileged.

Legal advice privilege preserves the confidentiality of communication between clients and their legal practitioner when seeking advice on legal issues, including legal rights or obligations. It is an important constitutional right of the clients of legal practitioners, which should be respected by members while complying (to the extent that they can) with any possibly conflicting legal requirements on themselves.

Legal advice privilege extends to 'relevant lawyers and authorised persons'. This means that firms accredited by ICAEW for probate will be classified as an authorised person under the Act. As such legal advice privilege will apply in relation to probate services and related services, including estate administration, provided by them or under their supervision.

By way of example, whilst a court order can compel the disclosure of confidential information, it cannot compel the release of a legally privileged communication. Legal advice privilege is an absolute right and cannot be overridden by any other interest.

## Document retention

This guidance should be read in conjunction with [Documents and Records: Ownership, Lien and Rights of Access regulations](#), and ICAEW's [Document retention](#) and [Data Protection](#) helpsheets.

- An original will is the property of the estate and there is no set time limit for which it should be retained by an executor, which might be indefinitely. The engagement letter should be specific. An original will should not be destroyed without first consulting the client;
- Documents prepared for the client which have been paid for belong to the client;
- Documents prepared by the firm for its benefit belong to the firm. These will generally be internal documents for which the client has not been charged, for example protective records drafted by the firm.

When considering whether documents should be disposed of you should note that claims on the personal estate of a deceased person can be brought within 12 years from the date which the right to receive the share or interest accrued ([s.22 Limitation Act 1980](#)). Documents should therefore be retained until the risk of a claim has passed.

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# ICAEW CODE OF ETHICS

## SECTION 1 - APPROACH, SCOPE AND AUTHORITY

*(This Code of Ethics applies from 1 January 2011, unless stated otherwise. Where guidance relates to projects or engagements commencing prior to that date, previous guidance may be applied up to completion of the project or engagement. Transitional arrangements are available in respect of section 290.)*

### **Introduction**

### **Approach**

### **Scope**

### **Authority**

### **Relationship with other ethical requirements**

### **Sources of guidance**

## **Introduction**

- 1.1** *One of the principal objects of the Royal Charter is to maintain a high standard of efficiency and professional conduct by members\* of ICAEW. The Code of Ethics (‘this Code’) applies to all members\* of ICAEW (which for the purposes of this Code also includes affiliates\*, provisional members\*, and employees of a member firm\* or an affiliate\*) and member firms\* where relevant. These are referred to in the remainder of this Code as professional accountants\*.*
- 1.2** *Professional accountants\* have a responsibility to take into consideration the public interest (considered in more detail in paragraph 100.1) and to maintain the reputation of the accountancy profession. Personal self-interest must not prevail over those duties. This Code helps professional accountants\* to meet these obligations by providing them with ethical guidance. Failure to follow this Code may lead to a professional accountant\* becoming liable to disciplinary action as outlined in the Disciplinary Bye-laws 4, 5, 6 and 6A available at ([www.icaew.com/regulations](http://www.icaew.com/regulations)).*

## **Approach**

- 1.3** *Guidance is given in the form of fundamental principles and illustrations of how they are to be applied in specific situations. These are available at ICAEW’s web site [www.icaew.com/ethics](http://www.icaew.com/ethics). The fundamental principles are drawn from the duties owed by professional accountants\*, whether in practice or not, and from the requirements of the Royal Charter. They are framed in broad and general terms and constitute basic requirements of professional behaviour. The illustrations provide guidance on what is expected of professional accountants\* in relation to particular situations that commonly arise either in practice or in business. The value of this principles-based approach is that it avoids excessive legalism by not having to anticipate every contingency, whilst at the same time being helpful in giving examples of problem situations. In some*

\* See Definitions for parts A, B and C

*instances, prohibitions or mandatory actions arise from the analysis of threats: these are considered further in paragraph 100.12.*

## **Scope**

- 1.4** *Professional accountants\* shall follow the guidance contained in the fundamental principles in all of their professional and business activities whether carried out with or without reward and in other circumstances where to fail to do so would bring discredit to the profession. This Code also includes a number of specific requirements, which are shown by use of the word 'shall'. This means that a professional accountant\* shall follow the requirements, including prohibitions or mandatory actions, where circumstances are the same as, or analogous to, those addressed by those requirements. Failure to follow such guidance may be justified in those rare circumstances where to follow a precise prohibition or mandated action would result in failure to adhere to the fundamental principles.*
- 1.5** *For convenience, the illustrations in this Code are grouped into parts applicable principally to professional accountants\* working in public practice, business and insolvency respectively, but professional accountants\* may find any of them of use in relevant circumstances.*
- 1.6** *Professional accountants\* shall be guided not merely by the terms but also by the spirit of this Code and the fact that particular conduct does not appear among a list of examples does not prevent it amounting to misconduct.*
- 1.7** *Professional accountants\* shall ensure that work for which they are responsible, which is undertaken by others on their behalf, is carried out in accordance with the requirements of this Code.*
- 1.8** *Member firms\* are reminded that this Code applies to their employees, whether members\* or not, and that they are responsible for applying this requirement.*
- 1.9** *Certain areas of work are reserved by statute to professional accountants\* who are in practice, whether or not with other persons, namely investment business, insolvency and audit. In these areas professional accountants\* may be subject to rules laid down by laws and regulation, breach of which can give rise to disciplinary proceedings against the professional accountant\*.*
- 1.10** *If the advice in this Code conflicts with laws and regulations, professional accountants\* are bound to follow the laws and regulations.*
- 1.11** *Professional accountants\* working overseas shall comply with this Code unless to do so would breach local laws and regulations.*

## **Authority**

- 1.12** *In determining whether or not a complaint is proved, the Investigation and Disciplinary Committees may have regard to any code of practice, ethical or technical, and to any regulations affecting professional accountants\*, laid down or approved by the ICAEW's Council.*

\* See Definitions for parts A, B and C



**1.13** *Paragraph 100.2 notes that safeguards are required to be put into place to eliminate or reduce the threats to an acceptable level\*. In the event of a complaint, the Investigation and Disciplinary Committees will consider the matter, including whether a reasonable and informed third party would conclude, weighing all the specific facts and circumstances available to the professional accountant\* at that time, that compliance with the fundamental principles is compromised.*

### **Relationship with other ethical requirements**

**1.14** *Except as noted below, this Code has been derived from the International Ethics Standards Board of Accountants (IESBA) Code of Ethics issued in July 2009 by the International Federation of Accountants. Accordingly, compliance with the remainder of this Code will ensure compliance with the principles of the IESBA Code. Paragraph numbering in the rest of this Code replicates that used in the IESBA Code of Ethics, except in respect of:*

- *Sections 221, 241 and Part D which have no direct equivalent in the IESBA Code of Ethics;*
- *Wording in italics in the other sections, where additional discussion and/or requirements have been considered by Council to be useful or necessary. The fact that wording is or is not in italics does not indicate any differences in the degree of importance that shall be attached to it.*
- *A direct link has been retained to paragraph numbering in the IESBA Code of Ethics. However, as a result of the additional discussion and requirements noted above, and deletion of material that is not applicable to the professional accountants\* of ICAEW, the paragraph referencing in this Code is not necessarily consecutive.*

**1.15** *In accordance with UK legislation, ICAEW has adopted, as regards auditor independence\* requirements, the Ethical Standards for Auditors, issued by the Auditing Practices Board ('APB'). Therefore, when conducting audit engagements\* in accordance with ISAs (UK and Ireland), professional accountants\* shall comply with the requirements of the APB's Ethical Standards for Auditors, including Provisions Available for Small Entities (ES-PASE) ([www.frc.org.uk/apb/publications/ethical.cfm](http://www.frc.org.uk/apb/publications/ethical.cfm)). For other audit and assurance engagements\* ICAEW's Code may apply (see 1.17 below).*

**1.16** *The APB has stated, in ISA (UK and Ireland) 200, that it is not aware of any significant instances where the relevant parts of IESBA Code of Ethics are more restrictive than the APB's Ethical Standards.*

**1.17** *The independence\* requirements to be adopted for different types of assurance engagement\*, are set out below:*

\* See Definitions for parts A, B and C

| <b>Type of assurance engagement*</b>                                   | <b>Independence* requirements to be followed</b>   |
|--|--|
| <i>Audit engagements* in accordance with ISAs (UK and Ireland)</i>     | <i>The APB's Ethical Standards for Auditors (<a href="http://www.frc.org.uk/apb/publications/ethical.cfm">www.frc.org.uk/apb/publications/ethical.cfm</a>)</i> |
| <i>Audit engagements* performed in accordance with other standards</i> | <i>Section 290 of this Code or if more convenient to apply, the independence* requirements of the APB's Ethical Standards for Auditors.</i>                    |
| <i>Review engagements* (see appendix to section 290)</i>               | <i>Section 290 of this Code or if more convenient to apply, the independence* requirements of the APB's Ethical Standards for Auditors.</i>                    |
| <i>Other types of assurance engagements*</i>                           | <i>Section 291 of this Code.</i>   |

**1.18** *Note that the Statements of Investment Circular Reporting Standards (SIRS), issued by the APB require compliance with the APB's Ethical Standard for Reporting Accountants (ESRA). Accordingly, any professional accountant in public practice\* issuing a report that states that the work has been carried out in accordance with the SIRS will need to comply with the independence\* requirements of the ESRA.*

### **Sources of Guidance**

- 1.19** *Professional accountants\* who are in doubt as to their ethical position may seek advice from the following sources, available to all members\* of ICAEW:*
- *ICAEW's Technical Advisory Services by e-mail: [ethics@icaew.com](mailto:ethics@icaew.com) or phone +44 (0)1908 248 250. This service is confidential and the advisors are free from the duty to report professional misconduct within ICAEW. Further information on the Technical Advisory Services can be found at [www.icaew.com/ethicsadvice](http://www.icaew.com/ethicsadvice), along with helpsheets and answers to a number of frequently asked questions.*
  - *The Support Members Scheme. This is wider in scope than the Technical Advisory Services. The Support Members Scheme is run by volunteer members of the ICAEW from a wide range of backgrounds. It is a confidential, free service exempt from the duty to report misconduct and provides advice and help to members\* in difficulties. A member\* can contact the Support Members Scheme by phone on +44 (0) 800 917 3526.*

\* See Definitions for parts A, B and C



- 1.20** *Seeking advice from the Technical Advisory Services does not discharge a professional accountant's\* duty to report misconduct, including their own misconduct (see 'The duty to report misconduct' at [www.icaew.com/regulations](http://www.icaew.com/regulations)).*
- 1.21** *A professional accountant\* is encouraged to consider taking legal advice to resolve issues arising from the application of laws and regulations to particular situations relating to confidentiality, disclosure, privilege, self-incrimination and other areas.*
- 1.22** *Additional information on ethics, including case studies is available at [www.icaew.com/ethics](http://www.icaew.com/ethics). These case studies provide practical guidance for resolving ethical dilemmas on topics such as conflicts of interest, confidentiality and questionable accounting and business practices.*

\* See Definitions for parts A, B and C

## PART A - GENERAL APPLICATION OF THIS CODE

|            |  |
|------------|--|
| <b>100</b> | <b>Introduction and Fundamental Principles</b> |
| <b>110</b> | <b>Integrity</b>                               |
| <b>120</b> | <b>Objectivity</b>                             |
| <b>130</b> | <b>Professional Competence and Due Care</b>    |
| <b>140</b> | <b>Confidentiality</b>                         |
| <b>150</b> | <b>Professional Behaviour</b>                  |
|            | <i>Appendix to Part A</i>                      |

### SECTION 100 - INTRODUCTION AND FUNDAMENTAL PRINCIPLES

- 100.1** A distinguishing mark of the accountancy profession is its acceptance of the responsibility to act in the public interest.

*Acting in the public interest involves having regard to the legitimate interests of clients, government, financial institutions, employers, employees, investors, the business and financial community and others who rely upon the objectivity and integrity of the accounting profession to support the propriety and orderly functioning of commerce. This reliance imposes a public interest responsibility on the profession. Professional accountants\* shall take into consideration the public interest and reasonable and informed public perception in deciding whether to accept or continue with an engagement or appointment, bearing in mind that the level of the public interest will be greater in larger entities and entities which are in the public eye.*

Therefore, a professional accountant's\* responsibility is not exclusively to satisfy the needs of an individual client or employer. In acting in the public interest, a professional accountant\* shall observe and comply with this Code. If a professional accountant\* is prohibited from complying with certain parts of this Code by law or regulation, the professional accountant\* shall comply with all other parts of this Code.

- 100.2** This Code contains *four* parts. Part A establishes the fundamental principles of professional ethics for professional accountants\* and provides a conceptual framework that professional accountants\* shall apply to:
- (a) Identify threats to compliance with the fundamental principles;
  - (b) Evaluate the significance of the threats identified; and
  - (c) Apply safeguards, when necessary, to eliminate the threats or reduce them to an acceptable level\*. Safeguards are necessary when the professional accountant\* determines that the threats are not at a level at which a reasonable and informed third party would be likely to conclude, weighing all the specific facts and circumstances available

\* See Definitions for parts A, B and C

to the professional accountant\* at that time, that compliance with the fundamental principles is not compromised.

A professional accountant\* shall use professional judgment in applying this conceptual framework.

*Where a professional accountant\* decides to accept or continue an engagement, appointment, task or employment in a situation where a significant threat to the fundamental principles has been identified, the professional accountant\* is expected to be able to demonstrate that the availability and effectiveness of safeguards has been considered and that it was reasonable to conclude that those safeguards will adequately preserve their compliance with the fundamental principles. It may be useful to document the reasoning and other evidence which supports the evaluation of threats and safeguards to such an extent that it enables a reasonable and informed third party to conclude that the decisions are acceptable.*

**100.3** Parts B and C describe how the conceptual framework applies in certain situations. They provide examples of safeguards that may be appropriate to address threats to compliance with the fundamental principles. They also describe situations where safeguards are not available to address the threats, and consequently, the circumstance or relationship creating the threats shall be avoided. Part B applies to professional accountants\* in public practice. Part C applies to professional accountants in business\*. Professional accountants in public practice may also find Part C relevant to their particular circumstances. *Part D deals with professional accountants\* undertaking insolvency work.*

**100.4** The use of the word “shall” in this Code imposes a requirement on the professional accountant\* or firm\* to comply with the specific provision in which “shall” has been used. Compliance is required unless an exception is permitted by this Code. (See 1.4)

### **Fundamental Principles**

- 100.5** A professional accountant\* shall comply with the following fundamental principles:
- (a) **Integrity** – to be straightforward and honest in all professional and business relationships.
  - (b) **Objectivity** – to not allow bias, conflict of interest or undue influence of others to override professional or business judgments.
  - (c) **Professional Competence and Due Care** – to maintain professional knowledge and skill at the level required to ensure that a client or employer receives competent professional services\* based on current developments in practice, legislation and techniques and act diligently and in accordance with applicable technical and professional standards.
  - (d) **Confidentiality** – to respect the confidentiality of information acquired as a result of professional and business relationships and, therefore, not disclose any such information to third parties without proper and specific authority, unless there is a legal or professional right or duty to

\* See Definitions for parts A, B and C

disclose, nor use the information for the personal advantage of the professional accountant\* or third parties.

- (e) **Professional Behaviour** – to comply with relevant laws and regulations and avoid any action that discredits the profession.

Each of these fundamental principles is discussed in more detail in sections 110–150.

### **Conceptual Framework Approach**

- 100.6** The circumstances in which professional accountants\* operate may create specific threats to compliance with the fundamental principles. It is impossible to define every situation that creates threats to compliance with the fundamental principles and specify the appropriate action. In addition, the nature of engagements and work assignments may differ and, consequently, different threats may be created, requiring the application of different safeguards. Therefore, this Code establishes a conceptual framework that requires a professional accountant\* to identify, evaluate, and address threats to compliance with the fundamental principles. The conceptual framework approach assists professional accountants\* in complying with the ethical requirements of this Code and meeting their responsibility to act in the public interest. It accommodates many variations in circumstances that create threats to compliance with the fundamental principles and can deter a professional accountant\* from concluding that a situation is permitted if it is not specifically prohibited.
- 100.7** When a professional accountant\* identifies threats to compliance with the fundamental principles and, based on an evaluation of those threats, determines that they are not at an acceptable level\*, the professional accountant\* shall determine whether appropriate safeguards are available and can be applied to eliminate the threats or reduce them to an acceptable level\*. In making that determination, the professional accountant\* shall exercise professional judgment and take into account whether a reasonable and informed third party, weighing all the specific facts and circumstances available to the professional accountant\* at the time, would be likely to conclude that the threats would be eliminated or reduced to an acceptable level\* by the application of the safeguards, such that compliance with the fundamental principles is not compromised.
- 100.8** A professional accountant\* shall evaluate any threats to compliance with the fundamental principles when the professional accountant\* knows, or could reasonably be expected to know, of circumstances or relationships that may compromise compliance with the fundamental principles.
- 100.9** A professional accountant\* shall take qualitative as well as quantitative factors into account when evaluating the significance of a threat. When applying the conceptual framework, a professional accountant\* may encounter situations in which threats cannot be eliminated or reduced to an acceptable level\*, either because the threat is too significant or because appropriate safeguards are not available or cannot be applied. In such situations, the professional accountant\* shall decline or discontinue the specific professional service\* involved or, when necessary, resign from the engagement (in the case of a professional accountant in public practice\*) or the employing organisation (in the case of a professional accountant in business\*).

\* See Definitions for parts A, B and C

- 100.10** A professional accountant\* may inadvertently violate a provision of this Code. Depending on the nature and significance of the matter, such an inadvertent violation may be deemed not to compromise compliance with the fundamental principles provided, once the violation is discovered, the violation is corrected promptly and any necessary safeguards are applied.
- 100.11** When a professional accountant\* encounters unusual circumstances in which the application of a specific requirement of the Code would result in a disproportionate outcome or an outcome that may not be in the public interest, it is recommended that the professional accountant\* consult with ICAEW (see *Sources of Guidance in section 1 of this Code*) or the relevant regulator.
- 100.12** Threats may be created by a broad range of relationships and circumstances. When a relationship or circumstance creates a threat, such a threat could compromise, or could be perceived to compromise, a professional accountant's\* compliance with the fundamental principles. A circumstance or relationship may create more than one threat, and a threat may affect compliance with more than one fundamental principle. Threats fall into one or more of the following categories:
- (a) Self-interest threat — the threat that a financial or other interest will inappropriately influence the professional accountant's\* judgment or behaviour;
  - (b) Self-review threat — the threat that a professional accountant\* will not appropriately evaluate the results of a previous judgment made or service performed by the professional accountant\*, or by another individual within the professional accountant's\* firm\* or employing organisation, on which the accountant will rely when forming a judgment as part of providing a current service;
  - (c) Advocacy threat — the threat that a professional accountant\* will promote a client's or employer's position to the point that the professional accountant's\* objectivity is compromised;
  - (d) Familiarity threat — the threat that due to a long or close relationship with a client or employer, a professional accountant\* will be too sympathetic to their interests or too accepting of their work; and
  - (e) Intimidation threat — the threat that a professional accountant\* will be deterred from acting objectively because of actual or perceived pressures, including attempts to exercise undue influence over the professional accountant\*.

Parts B and C of this Code explain how these categories of threats may be created for professional accountants\* in public practice and professional accountants in business\*, respectively. Professional accountants in public practice may also find Part C relevant to their particular circumstances. *Part D deals with professional accountants\* undertaking insolvency work.*

*Professional accountants\* shall note that each of the categories of threat discussed above may arise in relation to the professional accountant's\* own person or in relation to connected persons such as members of their family or partners\* or persons who are close to the professional accountants\* for*

\* See Definitions for parts A, B and C

*some other reason, for instance by reason of a past or present association, obligation or indebtedness.*

### **Threats and Safeguards**

**100.13** Safeguards are actions or other measures that may eliminate threats or reduce them to an acceptable level\*. They fall into two broad categories:

- (a) Safeguards created by the profession, legislation or regulation; and
- (b) Safeguards in the work environment.

**100.14** Safeguards created by the profession, legislation or regulation include:

- Educational, training and experience requirements for entry into the profession.
- Continuing professional development requirements.
- Corporate governance regulations.
- Professional standards.
- Professional or regulatory monitoring and disciplinary procedures.
- External review by a legally empowered third party of the reports, returns, communications or information produced by a professional accountant\*.

**100.15** Parts B and C of this Code discuss safeguards in the work environment for professional accountants\* in public practice and professional accountants in business\*, respectively.

**100.16** Certain safeguards may increase the likelihood of identifying or deterring unethical behaviour. Such safeguards, which may be created by the accounting profession, legislation, regulation, or an employing organisation, include:

- Effective, well-publicised complaint systems operated by the employing organisation, the profession or a regulator, which enable colleagues, employers and members of the public to draw attention to unprofessional or unethical behaviour.
- An explicitly stated duty to report breaches of ethical requirements.

### **Ethical Conflict Resolution**

**100.17** A professional accountant\* may be required to resolve a conflict in complying with the fundamental principles.

**100.18** When initiating either a formal or informal conflict resolution process, the following factors, either individually or together with other factors, may be relevant to the resolution process:

- (a) Relevant facts;
- (b) *Relevant parties*;

\* See Definitions for parts A, B and C

- (c) Ethical issues involved;
- (d) Fundamental principles related to the matter in question;
- (e) Established internal procedures; and
- (f) Alternative courses of action.

Having considered the relevant factors, a professional accountant\* shall determine the appropriate course of action, weighing the consequences of each possible course of action. If the matter remains unresolved, the professional accountant\* may wish to consult with other appropriate persons within the firm\* or employing organisation for help in obtaining resolution.

*It will generally be preferable for the ethical conflict to be resolved within the employing organisation before consulting individuals outside the employing organisation.*

- 100.19** Where a matter involves a conflict with, or within, an organisation, a professional accountant\* shall determine whether to consult with those charged with governance\* of the organisation, such as the board of directors or the audit committee\*.
- 100.20** It may be in the best interests of the professional accountant\* to document the substance of the issue, the details of any discussions held, and the decisions made concerning that issue.
- 100.21** If a significant conflict cannot be resolved, a professional accountant\* may consider obtaining professional advice from *ICAEW* or from legal advisors. The professional accountant\* generally can obtain guidance on ethical issues without breaching the fundamental principle of confidentiality if the matter is discussed with *ICAEW's ethics helpline* or with a legal advisor under the protection of legal privilege. Instances in which the professional accountant\* may consider obtaining legal advice vary. For example, a professional accountant\* may have encountered a fraud, the reporting of which could breach the professional accountant's\* responsibility to respect confidentiality. The professional accountant\* may consider obtaining legal advice in that instance to determine whether there is a requirement to report.

*Further information on sources of guidance is available in section 1.*

- 100.22** If, after exhausting all relevant possibilities, the ethical conflict remains unresolved, a professional accountant\* shall, where possible, refuse to remain associated with the matter creating the conflict. The professional accountant\* shall determine whether, in the circumstances, it is appropriate to withdraw from the engagement team\* or specific assignment, or to resign altogether from the engagement, the firm\* or the employing organisation.

*More detailed guidance on the ethical conflict resolution process is available in the Appendix to Part A.*

\* See Definitions for parts A, B and C

## **SECTION 110 - INTEGRITY**

- 110.1** The principle of integrity imposes an obligation on all professional accountants\* to be straightforward and honest in all professional and business relationships. Integrity also implies fair dealing and truthfulness.

*It follows that a professional accountant's\* advice and work must be uncorrupted by self-interest and not be influenced by the interests of other parties.*

- 110.2** A professional accountant\* shall not knowingly be associated with reports, returns, communications or other information where the professional accountant\* believes that the information:

- (a) Contains a materially false or misleading statement;
- (b) Contains statements or information furnished recklessly; or
- (c) Omits or obscures information required to be included where such omission or obscurity would be misleading.

When a professional accountant\* becomes aware that the accountant has been associated with such information, the accountant shall take steps to be disassociated from that information.

- 110.3** A professional accountant\* will be deemed not to be in breach of paragraph 110.2 if the professional accountant\* provides a modified report in respect of a matter contained in paragraph 110.2.

*Further discussion on integrity, which is not part of the Code requirements, is available at [www.icaew.com/ethics](http://www.icaew.com/ethics).*

## **SECTION 120 – OBJECTIVITY**

- 120.1** The principle of objectivity imposes an obligation on all professional accountants\* not to compromise their professional or business judgment because of bias, conflict of interest or the undue influence of others.

*Objectivity is the state of mind which has regard to all considerations relevant to the task in hand but no other.*

- 120.2** A professional accountant\* may be exposed to situations that may impair objectivity. It is impracticable to define and prescribe all such situations. A professional accountant\* shall not perform a professional service\* if a circumstance or relationship biases or unduly influences the accountant's professional judgment with respect to that service.

## **SECTION 130 – PROFESSIONAL COMPETENCE AND DUE CARE**

- 130.1** The principle of professional competence and due care imposes the following obligations on all professional accountants\*:

\* See Definitions for parts A, B and C



- (a) To maintain professional knowledge and skill at the level required to ensure that clients or employers receive competent professional service\*; and
  - (b) To act diligently in accordance with applicable technical and professional standards when providing professional services\*.
- 130.2** Competent professional service\* requires the exercise of sound judgment in applying professional knowledge and skill in the performance of such service. Professional competence may be divided into two separate phases:
- (a) Attainment of professional competence; and
  - (b) Maintenance of professional competence.
- 130.3** The maintenance of professional competence requires a continuing awareness and an understanding of relevant technical, professional and business developments. Continuing professional development enables a professional accountant\* to develop and maintain the capabilities to perform competently within the professional environment.
- Further guidance on continuing professional development is available at [www.icaew.com/cpd](http://www.icaew.com/cpd) and in the Regulations relating to learning and professional development which are available at [www.icaew.com/regulations](http://www.icaew.com/regulations).*
- 130.4** Diligence encompasses the responsibility to act in accordance with the requirements of an assignment, carefully, thoroughly and on a timely basis.
- 130.5** A professional accountant\* shall take reasonable steps to ensure that those working under the professional accountant's\* authority in a professional capacity have appropriate training and supervision.
- 130.6** Where appropriate, a professional accountant\* shall make clients, employers or other users of the accountant's professional services\* aware of the limitations inherent in the services.

## SECTION 140-CONFIDENTIALITY

### The Principle of Confidentiality

- 140.0** *The principle of confidentiality is not only to keep information confidential, but also to take all reasonable steps to preserve confidentiality. Whether information is confidential or not will depend on its nature. A safe and proper approach for professional accountants\* to adopt is to assume that all unpublished information about a client's or employer's affairs, however gained, is confidential. Some clients or employers may regard the mere fact of their relationship with a professional accountant\* as being confidential.*
- 140.1** The principle of confidentiality imposes an obligation on all professional accountants\* to refrain from:
- (a) Disclosing outside the firm\* or employing organisation confidential information acquired as a result of professional and business

\* See Definitions for parts A, B and C

relationships without proper and specific authority or unless there is a legal or professional right or duty to disclose; and

- (b) Using confidential information acquired as a result of professional and business relationships to their personal advantage or the advantage of third parties.

*Professional accountants in public practice\* must not disclose confidential information to a client even though the information is relevant to an engagement for, or would be beneficial to, that client.*

*Where professional accountants in public practice\* have confidential information which affects an assurance report, or other report which requires a professional accountant\* to state their opinion, the professional accountant\* cannot provide an opinion which they already know, from whatever source, to be untrue. If the professional accountant in public practice\* is to continue the engagement, the professional accountant\* must resolve this disparity. In order to do so, the professional accountant\* is entitled to apply normal procedures and to make such enquiries in order to enable the professional accountant\* to obtain that same information but from another source. Under no circumstances, however, shall there be any disclosure of confidential information outside the firm\*.*

**140.2** A professional accountant\* shall maintain confidentiality, including in a social environment, being alert to the possibility of inadvertent disclosure, particularly to a close business associate or a close or immediate family\* member.

**140.3** A professional accountant\* shall maintain confidentiality of information disclosed by a prospective client or employer.

*This requirement extends not only to clients, past and present, but also to third parties from or about whom information has been received in confidence. The principle of confidentiality clearly does not prevent an employee from using the skills acquired while working with a former employer in undertaking a new role with a different organisation. Professional accountants\* shall neither use nor appear to use special knowledge which could only have been acquired with access to confidential information. It is a matter of judgement as to the dividing line which separates experience gained from special knowledge acquired.*

**140.4** A professional accountant\* shall maintain confidentiality of information within the firm\* or employing organisation.

**140.5** A professional accountant\* shall take reasonable steps to ensure that staff under the professional accountant's\* control and persons from whom advice and assistance is obtained respect the professional accountant's\* duty of confidentiality.

*Member firms\* shall ensure that all who work on their behalf are trained in, and understand:*

- *The importance of confidentiality;*

\* See Definitions for parts A, B and C

- *The importance of identifying any conflicts of interest and confidentiality issues between clients, or between themselves or the firm and a client, in relation to a current or prospective engagement; and*
- *The procedures the firm\* has in place for the recognition and consideration of possible conflicts of interest and confidentiality issues.*

**140.6** The need to comply with the principle of confidentiality continues even after the end of relationships between a professional accountant\* and a client or employer. When a professional accountant\* changes employment or acquires a new client, the professional accountant\* is entitled to use prior experience. The professional accountant\* shall not, however, use or disclose any confidential information either acquired or received as a result of a professional or business relationship.

**140.6a** *Detailed guidance on conflicts of interest, including situations where such conflicts may result in threats (or perceived threats) to preservation of confidentiality, are included in section 220.*

## **Disclosure of Confidential Information**

**140.7** The following are circumstances where professional accountants\* are or may be required to disclose confidential information or when such disclosure may be appropriate:

- (a) Disclosure is permitted by law and is authorised by the client or the employer;
- (b) Disclosure is required by law, for example:
  - (i) Production of documents or other provision of evidence in the course of legal proceedings; or
  - (ii) Disclosure to the appropriate public authorities of infringements of the law that come to light; and

*Where required by law or regulations to disclose confidential information, for example as a result of anti-money laundering or anti-terrorist legislation, or in connection with legal proceedings involving either themselves or their employing organisation, professional accountants\* shall always disclose that information in compliance with relevant legal requirements. Professional accountants\* shall take care when communicating relevant facts to others relating to known or suspected money laundering or terrorist activities. Under the UK Money Laundering Regulations 2007, the Terrorism Act 2000 and the Terrorism Act 2006, it is a criminal offence to 'tip off' a money launderer or terrorist. For further discussion, please refer to the money laundering legislation and guidance available at [www.icaew.com/moneylaundering](http://www.icaew.com/moneylaundering).*

- (c) There is a professional duty or right to disclose, when not prohibited by law:

\* See Definitions for parts A, B and C

- (i) To comply with the quality review of *ICAEW* or professional regulator or professional body;
- (ii) To respond to an inquiry or investigation by *ICAEW* or regulatory body;
- (iii) To protect the professional interests of a professional accountant\* in legal proceedings; or
- (iv) To comply with technical standards and ethics requirements.

*A professional accountant\* may disclose confidential information to third parties, when not obliged to do so by law or regulations, if the disclosure can be justified in the public interest and is not contrary to laws and regulations. Before making such disclosure, professional accountants\* are encouraged to obtain legal or professional advice regarding their duties and obligations in the context of their professional and business relationships, and possible protection under the UK Public Interest Disclosure Act 1998. Further guidance on disclosure in the public interest is available in 'Professional conduct and disclosure in relation to defaults or unlawful acts' at [www.icaew.com/regulations](http://www.icaew.com/regulations).*

*Confidentiality and privilege is a complex area. For example, information which is confidential may not be privileged and, therefore, may be admissible in court proceedings. Privilege is a difficult area, quite distinct from confidentiality, and it is recommended that further advice be taken if a professional accountant\* is in doubt as to the action to be taken.*

*Guidance on money laundering reporting requirements in privileged circumstances is included in Technical Release 02/06, available at [www.icaew.com/technicalreleases](http://www.icaew.com/technicalreleases).*

**140.8** In deciding whether to disclose confidential information, relevant factors to consider include:

- (a) Whether the interests of all parties, including third parties whose interests may be affected, could be harmed if the client or employer consents to the disclosure of information by the professional accountant\*;
- (b) Whether all the relevant information is known and substantiated, to the extent it is practicable; when the situation involves unsubstantiated facts, incomplete information or unsubstantiated conclusions, professional judgment shall be used in determining the type of disclosure to be made, if any;
- (c) The type of communication that is expected and to whom it is addressed; and
- (d) Whether the parties to whom the communication is addressed are appropriate recipients.
- (e) *Whether or not the information is privileged, either under Legal Professional Privilege or in Privileged Circumstances under section*

\* See Definitions for parts A, B and C

330 of the UK Proceeds of Crime Act 2002 (see Technical Release 02/06); and

- (f) *The legal and regulatory obligations and the possible implications of disclosure for the professional accountant\*.*

**140.9** *The paragraphs above deal with professional accountants\* treatment of confidential information belonging to a client or employer. There is another context in which professional accountants\* will be given or may obtain information which they must handle sensitively. Professional accountants\* may be approached in confidence with information about alleged illegal or improper actions on the part of employees or management of the business for which the informant works or with which the informant has some other relationship. Professional accountants\* may receive that information because of being trusted by the informant, or may receive it in connection with work their firm\* is carrying out for the informant's employer.*

*Whatever the circumstances in which the information comes to professional accountants\*, the professional accountants\* shall:*

- *Advise informants to pass the information to their employer through the medium of the employer's own internal procedures (if they exist);*
- *Use their best endeavours to protect the identity of the informant, taking care not to mislead the informant as to the extent to which this can be done, and shall only cause the employer to be made aware of the informant's identity where this cannot be avoided; and*
- *Take care in determining the quality of the information and how best to use it, if at all.*

**140.10** *For a more detailed explanation of the operation of the provisions of the UK Public Interest Disclosure Act 1998, professional accountants\* are referred to ICAEW Technical Releases 16/99 'Receipt of Information in Confidence by Auditors' and 17/99 'Public Interest Disclosure Act 1998' ([www.icaew.com/technicalreleases](http://www.icaew.com/technicalreleases)).*

## **SECTION 150 – PROFESSIONAL BEHAVIOUR**

**150.1** The principle of professional behaviour imposes an obligation on all professional accountants\* to comply with relevant laws and regulations and avoid any action that the professional accountant\* knows or should know may discredit the profession. This includes actions that a reasonable and informed third party, weighing all the specific facts and circumstances available to the professional accountant\* at that time, would be likely to conclude adversely affects the good reputation of the profession.

*Professional accountants\* shall conduct themselves with courtesy and consideration towards all with whom they come into contact when performing their work.*

\* See Definitions for parts A, B and C

- 150.2** In marketing and promoting themselves and their work, professional accountants\* shall not bring the profession into disrepute. Professional accountants shall be honest and truthful and not:
- (a) Make exaggerated claims for the services they are able to offer, the qualifications they possess, or experience they have gained; or
  - (b) Make disparaging references or unsubstantiated comparisons to the work of others.

## **APPENDIX TO PART A – FURTHER GUIDANCE ON ETHICAL CONFLICT RESOLUTION**

### ***Further guidance on the matters discussed in paragraph 100.18:***

(a) *Relevant facts*

*Seek to establish the known facts of the situation and any limitations. It may not be possible to obtain all relevant facts but the professional accountant\* may be able to obtain more background information to address the limitations by:*

- *Referring to the organisation’s policy, procedures, code of conduct and previous history;*
- *Discussing the matter with parties internal and external to the organisation. For example trusted managers and colleagues.*

(b) *Relevant parties*

*Consider affected parties ranging from individuals, organisations to society. The parties to be considered include, but are not limited to, employees, employers, shareholders, consumers/clients, investors, government and the community at large.*

(c) *Ethical issues involved*

*Analyse the professional, organisational and personal ethical issues of the matter.*

(d) *Fundamental principles related to the matter in question*

*Refer to the guidance contained in this Code in order to establish which fundamental principles are affected by the situation.*

(e) *Established internal procedures*

*Refer to the employing organisation’s internal procedures and also consider which parties ought to be involved in the ethical conflict resolution process, in what role and at what stage. For example, the professional accountant\* needs to consider when it would be appropriate to refer to external sources for help, such as ICAEW (see paragraphs 1.19 to 1.22 of this Code for sources of advice and guidance).*

\* See Definitions for parts A, B and C

*Professional accountants\* may find it useful to discuss the ethical conflict issue within the organisation with the following parties:*

- *Immediate superior;*
- *The next level of management;*
- *A corporate governance body, for example, the audit committee\*;*
- *Other departments in the organisation which include, but are not limited to, legal, audit and human resources departments.*

(f) *Alternative courses of action*

*In considering courses of action, the professional accountant\* is encouraged to consider the following:*

- *The organisation's policies, procedures and guidelines;*
- *Applicable laws and regulations;*
- *Universal values and principles adopted by society;*
- *Long term and short term consequences;*
- *Symbolic consequences;*
- *Private and public consequences.*

*When evaluating the suggested course of action, a professional accountant\* is expected to test the adequacy of the suggested course of action by considering the following:*

- *Have all consequences associated with the course of action been discussed and evaluated?*
- *Is there any reason why the suggested course of action will not stand the test of time?*
- *Would a similar course of action be undertaken in a similar situation?*
- *Would the suggested course of action stand scrutiny from peers, family and friends?*

\* See Definitions for parts A, B and C

## PART B—PROFESSIONAL ACCOUNTANTS IN PUBLIC PRACTICE

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### SECTION 200 – INTRODUCTION

**200.1** This Part of the Code describes how the conceptual framework contained in Part A applies in certain situations to professional accountants in public practice\*. This Part does not describe all of the circumstances and relationships that could be encountered by a professional accountant in public practice\* that create or may create threats to compliance with the fundamental principles. Therefore, the professional accountant in public practice\* is encouraged to be alert for such circumstances and relationships.

**200.2** A professional accountant in public practice\* shall not knowingly engage in any business, occupation, or activity that impairs or might impair integrity, objectivity or the good reputation of the profession and as a result would be incompatible with the fundamental principles.

#### Fundamental Principles

**200.2a** *A professional accountant\* shall comply with the following fundamental principles:*

- (a) **Integrity** – *to be straightforward and honest in all professional and business relationships*
- (b) **Objectivity** – *to not allow bias, conflict of interest or undue influence of others to override professional or business judgments.*

\* See Definitions for parts A, B and C



- (c) **Professional Competence and Due Care** – to maintain professional knowledge and skill at the level required to ensure that a client or employer receives competent professional services\* based on current developments in practice, legislation and techniques and act diligently and in accordance with applicable technical and professional standards.
- (d) **Confidentiality** – to respect the confidentiality of information acquired as a result of professional and business relationships and, therefore, not disclose any such information to third parties without proper and specific authority, unless there is a legal or professional right or duty to disclose, nor use the information for the personal advantage of the professional accountant\* or third parties.
- (e) **Professional Behaviour** – to comply with relevant laws and regulations and avoid any action that discredits the profession.

### Threats and Safeguards

**200.3** Compliance with the fundamental principles may potentially be threatened by a broad range of circumstances and relationships. The nature and significance of the threats may differ depending on whether they arise in relation to the provision of services to an audit client\* and whether the audit client\* is a public interest entity\*, to an assurance client\* that is not an audit client\*, or to a non-assurance client\*.

Threats fall into one or more of the following categories:

- (a) Self-interest;
- (b) Self-review;
- (c) Advocacy;
- (d) Familiarity; and;
- (e) Intimidation.

These threats are discussed further in Part A of this Code.

*The paragraphs below set out examples of the circumstances that may result in threat and the types of safeguards that may be applicable, depending on the particular circumstances. They are not an exhaustive list nor do they imply that such circumstances will always create a significant threat. Regard should be had to the specific requirements in sections 210 to 291, when the circumstances are the same as, or analogous to, those addressed by them.*

**200.4** Examples of circumstances that create self-interest threats for a professional accountant in public practice\* include:

- A member of the assurance team\* having a direct financial interest\* in the assurance client\*.
- A firm\* having undue dependence on total fees from a client.
- A member of the assurance team\* having a significant close business relationship with an assurance client\*.

\* See Definitions for parts A, B and C

- A firm\* being concerned about the possibility of losing a significant client.
- A member of the audit team\* entering into employment negotiations with the audit client\*.
- A firm\* entering into a contingent fee\* arrangement relating to an assurance engagement\*.
- A professional accountant\* discovering a significant error when evaluating the results of a previous professional service\* performed by a member of the professional accountant's\* firm\*.

**200.5** Examples of circumstances that create self-review threats for a professional accountant in public practice\* include:

- A firm\* issuing an assurance report on the effectiveness of the operation of financial systems after designing or implementing the systems.
- A firm\* having prepared the original data used to generate records that are the subject matter of the assurance engagement\*.
- A member of the assurance team\* being, or having recently been, a director\* or officer\* of the client.
- A member of the assurance team\* being, or having recently been, employed by the client in a position to exert significant influence over the subject matter of the engagement.
- The firm\* performing a service for an assurance client\* that directly affects the subject matter information of the assurance engagement\*.

**200.6** Examples of circumstances that create advocacy threats for a professional accountant in public practice\* include:

- The firm\* promoting shares in an audit client\*.
- A professional accountant\* acting as an advocate on behalf of an audit client\* in litigation or disputes with third parties.

**200.7** Examples of circumstances that create familiarity threats for a professional accountant in public practice\* include:

- A member of the engagement team\* having a close or immediate family\* member who is a director\* or officer\* of the client.
- A member of the engagement team\* having a close or immediate family\* member who is an employee of the client who is in a position to exert significant influence over the subject matter of the engagement.
- A director\* or officer\* of the client or an employee in a position to exert significant influence over the subject matter of the engagement having recently served as the engagement partner\*.

\* See Definitions for parts A, B and C

- A professional accountant\* accepting gifts or preferential treatment from a client, unless the value is trivial or inconsequential.
- Senior personnel having a long association with the assurance client\*.

**200.8** Examples of circumstances that create intimidation threats for a professional accountant in public practice\* include:

- A firm\* being threatened with dismissal from a client engagement.
- An audit client\* indicating that it will not award a planned non-assurance contract to the firm\* if the firm\* continues to disagree with the client's accounting treatment for a particular transaction.
- A firm\* being threatened with litigation by the client.
- A firm\* being pressured to reduce inappropriately the extent of work performed in order to reduce fees.
- A professional accountant\* feeling pressured to agree with the judgment of a client employee because the employee has more expertise on the matter in question.
- A professional accountant\* being informed by a partner\* of the firm\* that a planned promotion will not occur unless the accountant agrees with an audit client's\* inappropriate accounting treatment.

**200.9** Safeguards that may eliminate or reduce threats to an acceptable level\* fall into two broad categories:

- (a) Safeguards created by the profession, legislation or regulation; and
- (b) Safeguards in the work environment.

Examples of safeguards created by the profession, legislation or regulation are described in paragraph 100.14 of Part A of this Code.

**200.10** A professional accountant in public practice\* shall exercise judgment to determine how best to deal with threats that are not at an acceptable level\*, whether by applying safeguards to eliminate the threat or reduce it to an acceptable level\* or by terminating or declining the relevant engagement. In exercising this judgment, a professional accountant in public practice\* shall consider whether a reasonable and informed third party, weighing all the specific facts and circumstances available to the professional accountant\* at that time, would be likely to conclude that the threats would be eliminated or reduced to an acceptable level\* by the application of safeguards, such that compliance with the fundamental principles is not compromised. This consideration will be affected by matters such as the significance of the threat, the nature of the engagement and the structure of the firm\*.

\* See Definitions for parts A, B and C

**200.11** In the work environment, the relevant safeguards will vary depending on the circumstances. Work environment safeguards comprise firm\*-wide safeguards and engagement-specific safeguards.

**200.12** Examples of firm-wide safeguards in the work environment include:

- Leadership of the firm\* that stresses the importance of compliance with the fundamental principles.
- Leadership of the firm\* that establishes the expectation that members of an assurance team\* will act in the public interest.
- Policies and procedures to implement and monitor quality control of engagements.
- Documented policies regarding the need to identify threats to compliance with the fundamental principles, evaluate the significance of those threats, and apply safeguards to eliminate or reduce the threats to an acceptable level\* or, when appropriate safeguards are not available or cannot be applied, terminate or decline the relevant engagement.
- Documented internal policies and procedures requiring compliance with the fundamental principles.
- Policies and procedures that will enable the identification of interests or relationships between the firm\* or members of engagement teams\* and clients.
- Policies and procedures to monitor and, if necessary, manage the reliance on revenue received from a single client.
- Using different partners\* and engagement teams\* with separate reporting lines for the provision of non-assurance services to an assurance client\*.
- Policies and procedures to prohibit individuals who are not members of an engagement team\* from inappropriately influencing the outcome of the engagement.
- Timely communication of a firm's\* policies and procedures, including any changes to them, to all partners\* and professional staff, and appropriate training and education on such policies and procedures.
- Designating a member of senior management to be responsible for overseeing the adequate functioning of the firm's\* quality control system.
- Advising partners\* and professional staff of assurance clients\* and related entities from which independence\* is required.
- A disciplinary mechanism to promote compliance with policies and procedures.

\* See Definitions for parts A, B and C

- Published policies and procedures to encourage and empower staff to communicate to senior levels within the firm\* any issue relating to compliance with the fundamental principles that concerns them.

**200.13** Examples of engagement-specific safeguards in the work environment include:

- Having a professional accountant\* who was not involved with the non-assurance service review the non-assurance work performed or otherwise advise as necessary.
- Having a professional accountant\* who was not a member of the assurance team\* review the assurance work performed or otherwise advise as necessary.
- Consulting an independent third party, such as a committee of independent directors\*, a professional regulatory body or another professional accountant\*.
- Discussing ethical issues with those charged with governance\* of the client.
- Disclosing to those charged with governance\* of the client the nature of services provided and extent of fees charged.
- Involving another firm\* to perform or re-perform part of the engagement.
- Rotating senior assurance team\* personnel.

**200.14** Depending on the nature of the engagement, a professional accountant in public practice\* may also be able to rely on safeguards that the client has implemented. However it is not possible to rely solely on such safeguards to reduce threats to an acceptable level\*.

**200.15** Examples of safeguards within the client's systems and procedures include:

- The client requires persons other than management to ratify or approve the appointment of a firm\* to perform an engagement.
- The client has competent employees with experience and seniority to make managerial decisions.
- The client has implemented internal procedures that ensure objective choices in commissioning non-assurance engagements\*.
- The client has a corporate governance structure that provides appropriate oversight and communications regarding the firm's\* services.

**200.16** *Professional accountants\* who are in doubt as to their ethical position may seek advice from the ICAEW's Technical Advisory Services by email: [ethics@icaew.com](mailto:ethics@icaew.com) or phone +44 (0)1908 248 250. Further information on guidance is available in section 1, paragraphs 1.19 to 1.22.*

\* See Definitions for parts A, B and C

## SECTION 210 - PROFESSIONAL APPOINTMENT

**210.0** *Clients have the right to choose their accountants, whether as auditors or professional advisers, and to change their accountants if they so desire. Professional accountants\* have the right to choose for whom they act.*

### Client Acceptance

**210.1** Before accepting a new client relationship, a professional accountant in public practice\* shall determine whether acceptance would create any threats to compliance with the fundamental principles. Potential threats to integrity or professional behaviour may be created from, for example, questionable issues associated with the client (its owners, management or activities).

**210.2** Client issues that, if known, could threaten compliance with the fundamental principles include, for example, client involvement in illegal activities (such as money laundering), dishonesty or questionable financial reporting practices.

*Further information relating to money laundering legislation and guidance is included in paragraph 210.13.*

**210.3** A professional accountant in public practice\* shall evaluate the significance of any threats and apply safeguards when necessary to eliminate them or reduce them to an acceptable level\*.

Examples of such safeguards include:

- Obtaining knowledge and understanding of the client, its owners, managers and those responsible for its governance and business activities; or
- Securing the client's commitment to improve corporate governance practices or internal controls.

**210.4** Where it is not possible to reduce the threats to an acceptable level\*, the professional accountant in public practice\* shall decline to enter into the client relationship.

**210.5** It is recommended that a professional accountant in public practice\* periodically review acceptance decisions for recurring client engagements.

### Engagement Acceptance

**210.6** The fundamental principle of professional competence and due care imposes an obligation on a professional accountant in public practice\* to provide only those services that the professional accountant in public practice\* is competent to perform. Before accepting a specific client engagement, a professional accountant in public practice\* shall determine whether acceptance would create any threats to compliance with the fundamental principles. For example, a self-interest threat to professional competence and due care is created if the

\* See Definitions for parts A, B and C

engagement team\* does not possess, or cannot acquire, the competencies necessary to properly carry out the engagement.

- 210.7** A professional accountant in public practice\* shall evaluate the significance of threats and apply safeguards, when necessary, to eliminate them or reduce them to an acceptable level\*. Examples of such safeguards include:
- Acquiring an appropriate understanding of the nature of the client's business, the complexity of its operations, the specific requirements of the engagement and the purpose, nature and scope of the work to be performed.
  - Acquiring knowledge of relevant industries or subject matters.
  - Possessing or obtaining experience with relevant regulatory or reporting requirements.
  - Assigning sufficient staff with the necessary competencies.
  - Using experts where necessary.
  - Agreeing on a realistic time frame for the performance of the engagement.
  - Complying with quality control policies and procedures designed to provide reasonable assurance that specific engagements are accepted only when they can be performed competently.

- 210.8** When a professional accountant in public practice\* intends to rely on the advice or work of an expert, the professional accountant in public practice\* shall determine whether such reliance is warranted. Factors to consider include: reputation, expertise, resources available and applicable professional and ethical standards. Such information may be gained from prior association with the expert or from consulting others.

### **Changes in a Professional Appointment**

- 210.9** A professional accountant in public practice\* who is asked to replace another professional accountant in public practice\*, or who is considering tendering for an engagement currently held by another professional accountant in public practice\*, shall determine whether there are any reasons, professional or otherwise, for not accepting the engagement, such as circumstances that create threats to compliance with the fundamental principles that cannot be eliminated or reduced to an acceptable level\* by the application of safeguards. For example, there may be a threat to professional competence and due care if a professional accountant in public practice\* accepts the engagement before knowing all the pertinent facts.

*Upon being asked to accept an appointment, professional accountants\* shall undertake the same procedures with all accountants, irrespective of whether the accountant works in public practice or not.*

\* See Definitions for parts A, B and C

**210.10** A professional accountant in public practice\* shall evaluate the significance of any threats. Depending on the nature of the engagement, this may require direct communication with the existing accountant\* to establish the facts and circumstances regarding the proposed change so that the professional accountant in public practice\* can decide whether it would be appropriate to accept the engagement. For example, the apparent reasons for the change in appointment may not fully reflect the facts and may indicate disagreements with the existing accountant\* that may influence the decision to accept the appointment.

*Having been asked to accept an appointment, the professional accountant in public practice\* shall at least seek to contact the existing accountant\*. The appropriate procedures are considered further in the Appendix to this Section.*

**210.11** Safeguards shall be applied when necessary to eliminate any threats or reduce them to an acceptable level\*. Examples of such safeguards include:

- When replying to requests to submit tenders, stating in the tender that, before accepting the engagement, contact with the existing accountant\* will be requested so that inquiries may be made as to whether there are any professional or other reasons why the appointment shall not be accepted;
- Asking the existing accountant\* to provide known information on any facts or circumstances that, in the existing accountant's\* opinion, the proposed accountant needs to be aware of before deciding whether to accept the engagement; or
- Obtaining necessary information from other sources.

When the threats cannot be eliminated or reduced to an acceptable level\* through the application of safeguards, a professional accountant in public practice\* shall, unless there is satisfaction as to necessary facts by other means, decline the engagement.

*Counsel has advised that as far as UK law is concerned, an existing accountant\* who communicates to a prospective accountant matters damaging to the client or to any individuals concerned with the client's business will have a strong measure of protection were any action for defamation to be brought against the existing accountant\* in that the communication will be protected by qualified privilege. This means that the existing accountant\* shall not be liable to pay damages for defamatory statements even if they turn out to be untrue, provided that they are made without malice. There is little likelihood of an existing accountant\* being held to have acted maliciously provided that:*

- *Only what is sincerely believed to be true is stated; and*
- *Reckless imputations are not made against a client or connected individuals for which there can be no reason to believe they are true.*

\* See Definitions for parts A, B and C



- 210.12** A professional accountant in public practice\* may be asked to undertake work that is complementary or additional to the work of the existing accountant\*. Such circumstances may create threats to professional competence and due care resulting from, for example, a lack of or incomplete information. The significance of any threats shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level\*. An example of such a safeguard is notifying the existing accountant\* of the proposed work, which would give the existing accountant\* the opportunity to provide any relevant information needed for the proper conduct of the work.

*In circumstances where the professional accountant\* is asked to undertake work which is relevant to the work of the existing accountant\*, the professional accountant\* shall notify the existing accountant\* of the proposed work, unless the client provides acceptable reasons why the existing accountant\* cannot be informed. The professional accountant\* ought to be aware of the risks of undertaking such work without the advantage of communicating with the other accountant. Further guidance on providing second opinions is available in section 230 of this Code.*

- 210.13** An existing accountant\* is bound by confidentiality. Whether that professional accountant\* is permitted or required to discuss the affairs of a client with a proposed accountant will depend on the nature of the engagement and on:

- (a) Whether the client's permission to do so has been obtained; or
- (b) The legal or ethical requirements relating to such communications and disclosure, which may vary by jurisdiction.

Circumstances where the professional accountant\* is or may be required to disclose confidential information or where such disclosure may otherwise be appropriate are set out in section 140 of Part A of this Code.

*However, care must be taken when communicating all relevant facts to a professional accountant\* in situations where the existing accountant\* knows or suspects that their client is involved in money laundering or a terrorist activity. Under the UK Money Laundering Regulations 2007, the Terrorism Act 2000 and the Terrorism Act 2006, it is a criminal offence to 'tip off' a money launderer or terrorist. Accordingly:*

- *The prospective accountant shall not specifically enquire whether the existing accountant\* has reported suspicions of money laundering or terrorism. Such questions place the existing accountant\* in a difficult position and are likely not to be answered. In addition, the prospective accountant shall not ask the existing accountant\* whether client identification or 'knowing your client' procedures have been carried out under anti-money laundering legislation. The prospective accountant has responsibility for obtaining information for client identification and 'knowing your client' and this cannot be delegated to the existing accountant\*.*
- *Disclosure of money laundering or terrorist suspicion reporting by the existing accountant\* to the potential successor shall be avoided because this information may be discussed with the client or former client.*

\* See Definitions for parts A, B and C

*For further discussion, please refer to the money laundering legislation and guidance ([www.icaew.com/moneylaundering](http://www.icaew.com/moneylaundering)) and the ICAEW's Ethics Advisory helpsheet on 'changes in professional appointments' ([www.icaew.com/ethicsadvice](http://www.icaew.com/ethicsadvice) )*

- 210.14** A professional accountant in public practice\* will generally need to obtain the client's permission, preferably in writing, to initiate discussion with an existing accountant\*. Once that permission is obtained, the existing accountant\* shall comply with relevant legal and other regulations governing such requests. Where the existing accountant\* provides information, it shall be provided honestly and unambiguously. If the proposed accountant is unable to communicate with the existing accountant\*, the proposed accountant shall take reasonable steps to obtain information about any possible threats by other means, such as through inquiries of third parties or background investigations of senior management or those charged with governance\* of the client.

*If the client fails or refuses to grant the existing accountant\* permission to discuss the client's affairs with the proposed successor, the existing accountant\* shall report this fact to the prospective accountant who shall consider carefully the reason for such failure or refusal when determining whether or not to accept nomination/appointment.*

- 210.15** *Guidance on appropriate procedures to be adopted by professional accountants\* relating to changes in professional appointments is included as an Appendix to this Section.*

#### **Transfer of Records**

- 210.16** *An existing accountant\* shall deal promptly with any reasonable request for the transfer of records and may have the right of particular lien if there are unpaid fees (see section 240 of this Code and 'Documents and records: ownership, lien and right of access' at [www.icaew.com/regulations](http://www.icaew.com/regulations)). The courts have held that no lien can exist over books or documents of a registered company which, either by statute or by articles of association of the company, have to be available for public inspection (see 'Documents and records: ownership, lien and rights of access' at [www.icaew.com/regulations](http://www.icaew.com/regulations)). It may be necessary for professional accountants\* to obtain legal advice prior to the exercise of a lien.*

*If the existing accountant\* has fees outstanding from a client they are entitled to mention this to the potential successor. However, if this is as a result of genuine reservations by the client, this may not be a reason to withhold cooperation with a successor. It may be useful to consider the section on fee disputes in 'Duty on firms to investigate complaints – guidance on how to handle or avoid them' at [www.icaew.com/regulations](http://www.icaew.com/regulations).*

- 210.17** *The prospective accountant often asks the existing accountant\* for information as to the client's affairs. If the client is unable to provide the information and lack thereof might prejudice the client's interests, such information shall be promptly given. In such circumstances, no charge shall normally be made unless there is good reason to the contrary. An example of such a reason would be that a*

\* See Definitions for parts A, B and C

significant amount of work is involved. Where a charge is made, the arrangements shall comply with section 240 of this Code.

- 210.18** Attention is drawn to Chapter 3 of the Audit Regulations and Guidance ([www.icaew.com/regulations](http://www.icaew.com/regulations)) relating to access to all relevant information held by the existing accountant in respect of the last audit report and Technical Release AAF 01/08 Access to Information by Successor Auditors ([www.icaew.com/technicalreleases](http://www.icaew.com/technicalreleases)).

## **Appendix to Section 210 – Changes in Professional Appointments Procedures**

### **Prospective Accountants**

- 1 *In the majority of cases, the appropriate procedures for any professional accountant\* who is invited to act in succession to another, whether the changeover is at the insistence of the client or of the existing accountant\*, is to:*
  - *Explain to the prospective client that there is a professional duty to communicate with the existing accountant\*; and*
  - *Request the client (i) to confirm the proposed change in accountant to the existing accountant\* and (ii) to authorise the existing accountant\* to co-operate with the prospective accountant; and*
  - *Write to the existing accountant\* regarding the prospective involvement with the client and request disclosure of any issue or circumstance which might be relevant to the successor's decision to accept or decline the appointment (making oral enquiry if no written reply is forthcoming).*
- 2 *When these procedural steps have been taken, the prospective accountant shall consider, in light of the information received from the existing accountant\*, or any other factors, including conclusions reached following discussion with the client, whether:*
  - *To accept the engagement, or*
  - *Accept it only after having addressed any factors arising from the information received from the existing accountant\* (this may include imposing conditions on acceptance), or*
  - *Decline it.*
- 3 *The prospective accountant shall ordinarily treat in confidence any information provided by the existing accountant\*, unless it is needed to be disclosed to perform the role required (such as making investigations into matters which need the perspective of the client's officers\* or senior employees).*

\* See Definitions for parts A, B and C

- 4 *In circumstances where the enquiries referred to above are not answered, the prospective accountant shall write to the existing accountant\* by recorded delivery service stating an intention to accept the engagement in the absence of a reply within a specific and reasonable period. The prospective accountant is entitled to assume that the existing accountant's\* silence implies there was no adverse comment to be made, although this does not obviate the requirement in 210.9 to consider all appropriate circumstances.*
- 5 *A professional accountant\* who is nominated as a joint auditor shall communicate with all existing auditors and be guided by similar principles to those set out in relation to nomination as an auditor. Where it is proposed that a joint audit appointment becomes a sole appointment, the surviving auditor shall communicate formally with the other joint auditor as though for a new appointment.*
- 6 *A professional accountant\* invited to accept nomination on the death of a sole practitioner shall endeavour to obtain such information as may be needed from the latter's alternate (where appropriate), the administrators of the estate, or other source.*
- 7 *If the prospective accountant accepts the engagement, the prospective accountant shall comply with the relevant legal and regulatory requirements as indicated in paragraph 13.*

**Existing accountants\***

- 8 *The appropriate procedure for any professional accountant\* who receives any communication in terms of the above paragraphs, whether or not the professional accountant\* is still in office, is to:*
  - *Answer promptly any communication from the potential successor about the client's affairs; and*
  - *Confirm whether there are any matters about those affairs which the prospective accountant ought to know, explaining them meaningfully, or confirm there are no such matters.*
- 9 *If the existing accountant\* has made one or more suspicious activity reports relating to money laundering or terrorism, the existing accountant\* shall not disclose that fact to the prospective accountant, or make other disclosures that could amount to tipping off. However, the existing accountant's\* legal and professional obligations remain. In order to meet these obligations, the existing accountant\* can undertake one or more of the following actions:*
  - *Contact the relevant investigating authority, for example, the Serious Organised Crime Agency (SOCA), to ascertain if appropriate wording can be agreed in a communication;*
  - *Include a factual reference to the irregularities; (further discussion is included in the ICAEW's Ethics Advisory Services Practice Helpsheet on Changes in Professional Appointments ([www.icaew.com/ethicsadvice](http://www.icaew.com/ethicsadvice)));*

\* See Definitions for parts A, B and C

- Consider seeking legal advice.

Guidance on money laundering reporting requirements in privileged circumstances is included in Technical Release 02/06, available at [www.icaew.com/technicalreleases](http://www.icaew.com/technicalreleases).

- 10** The above actions are also relevant when the existing accountant\* is preparing the required statement of circumstances in accordance with Section 519 of the UK Companies Act 2006, or other similar statutory provisions, of matters connected with ceasing to hold office which, the auditor believes, shall be brought to the notice of the professional accountants\*, shareholders or creditors of the client or under the relevant professional and other regulatory bodies. Further guidance can be found in Chapter 3 of the 2008 Audit Regulations and Guidance ([www.icaew.com/regulations](http://www.icaew.com/regulations)).
- 11** It is best practice for the prospective accountant and the existing accountant\* to record in writing such discussions as are referred to in the paragraphs above.
- 12** Where the professional accountant\* decides to accept nomination/appointment having been given notice of any matters which are the subject of contention between the existing accountant\* and the client, the professional accountant\* shall be prepared, if requested to do so, to demonstrate to the professional and regulatory investigating authorities that proper consideration has been given to those matters and the relevant legal, regulatory and ethical requirements have been met.

### **Further Information**

- 13** Professional accountants'\* attention is drawn to additional guidance as follows:

- Chapter 3 of the 2008 Audit Regulations and Guidance ([www.icaew.com/regulations](http://www.icaew.com/regulations)), in particular technical standards relating to changes in professional appointments and access to relevant information relating to the signed audit report.
- ISQC (UK & Ireland) – quality control for firms that perform audits and reviews of historical financial information\*, and other assurance and related services engagements ([www.frc.org.uk/apb/publications](http://www.frc.org.uk/apb/publications)).
- Statement of Auditing Standards ([www.frc.org.uk/apb/publications](http://www.frc.org.uk/apb/publications)):

ISA 240 (UK and Ireland) – The auditor's responsibility to consider fraud in an audit of financial statements\*;

ISA 250 (UK and Ireland) – Consideration of laws and regulations in an audit of financial statements\*;

ISA 510 (UK and Ireland) Initial engagements – opening balances and continuing engagements – opening balances.

\* See Definitions for parts A, B and C

- *Practice Note 12 (Revised) 'Money laundering'* ([www.frc.org.uk/apb/publications](http://www.frc.org.uk/apb/publications)).
- *Anti-money laundering for the Accountancy Sector* ([www.icaew.com/regulations](http://www.icaew.com/regulations)).
- *Technical Release 02/06 – 'Guidance on changes to the money laundering reporting requirements: the exemption from reporting knowledge or suspicion of money laundering formed in privileged circumstances'* ([www.icaew.com/technicalreleases](http://www.icaew.com/technicalreleases)).
- *Practice Helpsheet – Changes in a professional appointment* ([www.icaew.com/ethicsadvice](http://www.icaew.com/ethicsadvice)).

## SECTION 220 - CONFLICTS OF INTEREST

**220.1** A professional accountant in public practice\* shall take reasonable steps to identify circumstances that could pose a conflict of interest. Such circumstances may create threats to compliance with the fundamental principles. For example, a threat to objectivity may be created when a professional accountant in public practice\* competes directly with a client or has a joint venture or similar arrangement with a major competitor of a client. A threat to objectivity or confidentiality may also be created when a professional accountant in public practice\* performs services for clients whose interests are in conflict or the clients are in dispute with each other in relation to the matter or transaction in question.

*Subject to the specific provisions, there is, however, nothing improper in a professional accountant in public practice\* having two clients whose interests are in conflict.*

**220.2** A professional accountant in public practice\* shall evaluate the significance of any threats and apply safeguards when necessary to eliminate the threats or reduce them to an acceptable level\*. Before accepting or continuing a client relationship or specific engagement, the professional accountant in public practice\* shall evaluate the significance of any threats created by business interests or relationships with the client or a third party.

*A test is whether a reasonable and informed observer would perceive that the objectivity of professional accountants\* or their firms\* is likely to be impaired. The professional accountants\* or their firms\* shall be able to satisfy themselves and the client that any conflict can be managed with available safeguards. Attention is also drawn to the ethical conflict resolution process in Part A.*

**220.3** Depending upon the circumstances giving rise to the conflict, application of one of the following safeguards is generally necessary:

\* See Definitions for parts A, B and C

- (a) Notifying the client of the firm's\* business interest or activities that may represent a conflict of interest and obtaining their consent to act in such circumstances; or
- (b) Notifying all known relevant parties that the professional accountant in public practice\* is acting for two or more parties in respect of a matter where their respective interests are in conflict and obtaining their consent to so act; or
- (c) Notifying the client that the professional accountant in public practice\* does not act exclusively for any one client in the provision of proposed services (for example, in a particular market sector or with respect to a specific service) and obtaining their consent to so act.

*Professional accountants\*\* attention is drawn to section 240 Fees and other types of remuneration and section 241 Agencies and referrals which provide additional guidance on the ethical and legal considerations relating to these areas, including fiduciary relationships and accounting for commission and other benefits.*

**220.4** The professional accountant\* shall also determine whether to apply one or more of the following additional safeguards:

- (a) The use of separate engagement teams\*;
- (b) Procedures to prevent access to information (e.g., strict physical separation of such teams, confidential and secure data filing);
- (c) Clear guidelines for members of the engagement team\* on issues of security and confidentiality;
- (d) The use of confidentiality agreements signed by employees and partners\* of the firm\*; and
- (e) Regular review of the application of safeguards by a senior individual not involved with relevant client engagements.

**220.4a** *Where a conflict of interest arises, the preservation of confidentiality, and the perception thereof will be of paramount importance. Therefore firms\* shall deploy safeguards, which generally will take the form of information barriers. These information barriers may include the following features:*

- *Ensuring that there is, and continues to be, no overlap between the teams servicing the relevant clients and that each has separate internal reporting lines;*
- *Physically separating, and restricting access to, departments providing different professional services\*, or creating such divisions within departments if necessary, so that confidential information about one client is not accessible by anyone providing services to another client where their interests conflict;*

\* See Definitions for parts A, B and C

- *Setting strict and carefully defined procedures for dealing with any apparent need to disseminate information beyond a barrier and for maintaining proper records where this occurs.*

*The professional accountant\* shall ensure that the adequacy and effectiveness of the barriers are closely and independently monitored and that appropriate disciplinary sanctions are applied for breaches of them. The overall arrangements shall regularly be reviewed by a designated senior partner\*.*

*Professional accountants\* shall note that it has been suggested by the courts that in some circumstances information barriers must be constructed as part of the organisational structure of the firm\* to be effective, rather than on an ad hoc basis.*

**220.4b** *If client service issues render it impracticable to put in place such safeguards or suitable alternatives, it is important that relevant parties, who have conflicts of interest which may result in threats to preservation of confidentiality, are made aware of and agree to the professional accountant\* continuing to act for them.*

**220.5** *Where a conflict of interest creates a threat to one or more of the fundamental principles, including objectivity, confidentiality, or professional behaviour, that cannot be eliminated or reduced to an acceptable level\* through the application of safeguards, the professional accountant in public practice\* shall not accept a specific engagement or shall resign from one or more conflicting engagements.*

**220.6** *Where a professional accountant in public practice\* has requested consent from a client to act for another party (which may or may not be an existing client) in respect of a matter where the respective interests are in conflict and that consent has been refused by the client, the professional accountant in public practice\* shall not continue to act for one of the parties in the matter giving rise to the conflict of interest.*

*Professional accountants\*\* attention is drawn to section 221, Corporate Finance Advice, section 290, Independence\* – Audit and review engagements\*, section 400, Code of Ethics for Insolvency Practitioners, for guidance on issues arising from certain corporate finance activities, reporting assignments, and insolvency appointments.*

## **SECTION 221 CORPORATE FINANCE ADVICE**

*(Updated as regards to changes in legislation as at 1 April 2010)*

### **Introduction**

**221.0** *The nature of corporate finance activities is wide ranging. Therefore, the threats to a professional accountant's objectivity, integrity and independence\* will depend on the nature of the corporate finance activities being provided and the particular circumstances and relationships involved.*

\* See Definitions for parts A, B and C



## **Categories of Corporate Finance Activity**

**221.1** *Categories of activity covered by this section are as follows:*

- (a) general corporate finance advice;*
- (b) acting as adviser in relation to takeovers and mergers;*
- (c) underwriting and marketing or placing securities on behalf of a client; and*
- (d) acting as sponsor, nominated adviser or corporate adviser under the Listing Rules, the AIM Rules and the ISDX (formerly PLUS) Rules respectively.*

**221.2** *Professional accountants\* shall note that the guidance given in relation to general corporate finance advice is applicable to all categories of activity.*

### **General Principles applicable to all Professional Accountants\***

#### **Statutory and Other Regulatory Requirements**

**221.3** *Professional accountants\* must be aware of and comply with legislative and regulatory measures and professional guidance governing corporate finance assignments. As a guide, a list of legislative and regulatory measures current at 1 April 2010 is given in Appendix 1 to this section but professional accountants\* shall ensure that they are aware of the most up-to-date legislative and regulatory requirements.*

**221.4** *Professional accountants\* are required to comply with the City Code on Takeovers and Mergers ('the City Code') (see Appendix 2 to this Section) in respect of all relevant takeover transactions involving companies governed by the City Code and shall treat the general principles of the City Code as best practice guidance in respect of other takeover transactions.*

**221.5** *Professional accountants\* proposing to provide corporate finance advice to a client or his employer shall at the outset draw attention to the legislative and regulatory responsibilities which will apply to the client or his employer. The professional accountant\* shall make clear to the client or his employer that, where necessary, legal advice shall be taken. The professional accountant\* shall also draw attention to his own responsibilities outlined in this Code and if appropriate, the Auditing Practices Board's Ethical Standards for Auditors ([www.frc.org.uk/apb/publications/ethical.cfm](http://www.frc.org.uk/apb/publications/ethical.cfm)) and the Auditing Practices Board's Ethical Standards for Reporting Accountants ([www.frc.org.uk/apb/publications/ethical.cfm](http://www.frc.org.uk/apb/publications/ethical.cfm)).*

#### **Acquisition Searches**

**221.6** *It may be appropriate for a professional accountant\* to conduct an acquisition search which could identify another client or his employer as a target provided the search is based solely on information which is not confidential to that client.*

#### **Interests of Shareholders and Owners**

**221.7** *Professional accountants\* shall remain aware when giving advice that they shall have regard to the interests of all shareholders and owners unless they are specifically acting for a single or defined group thereof. This is particularly so*

\* See Definitions for parts A, B and C

*when advising on a proposal which is stated to be agreed by directors\* and/or majority shareholders or owners.*

### **Preparation of Documents**

- 221.8** *Any document shall be prepared in accordance with normal professional standards of integrity and objectivity and with a proper degree of care. All statements or observations therein must be capable, taken individually or as a whole, of being justified on an objective examination of the available facts.*
- 221.9** *In order to differentiate the roles and responsibilities of the various advisers, professional accountants\* shall ensure that these roles and responsibilities are clearly described in all public documents and circulars and that each adviser is named.*
- 221.10** *Professional accountants\* intending to comment on published audited accounts shall act in accordance with paragraphs 221.20-22 below.*

### **Overseas Transactions**

- 221.11** *This section has been drafted with regard to the situation in the UK and the Republic of Ireland. Professional accountants\* shall apply the spirit of the guidance, subject to local legislation and regulation, to overseas transactions of a similar nature.*

### **General Corporate Finance Advice Applicable to Professional Accountants in Public Practice\***

- 221.12** *The nature of corporate finance activities is so wide ranging that all the threats to the fundamental principles identified in section 100 and section 200, can arise when professional accountants in public practice\* provide corporate finance advice to both assurance clients\* and non-assurance clients: the self-interest threat, the self-review threat, the advocacy threat, the familiarity threat and the intimidation threat.*

*When advising a non-assurance client there can be no objection to a professional accountant in public practice\* accepting an engagement which is designed primarily with a view to advancing that client's case, though the professional accountant in public practice\* shall be aware that the self-interest threat could arise. Where a non-assurance client has received advice over a period of time on a series of related or unrelated transactions it is likely that, additionally, the familiarity threat may exist. But where a professional accountant in public practice\* advises an assurance client\* which is subject to a takeover bid or where a professional accountant in public practice\* acts as sponsor, nominated adviser or corporate adviser to an assurance client\* involved in the issue of securities, the self-interest threat will become more acute and the advocacy threat will arise.*

*Some corporate finance activities such as marketing or underwriting of securities contain so strong an element of advocacy as to be incompatible with the objectivity required for the reporting roles of an auditor or reporting accountant. Even where the activities of an auditor or reporting accountant are restricted to ensuring their clients' compliance with the Listing Rules, the AIM Rules or the ISDX (formerly PLUS) Rules it is likely that a self-review threat could arise.*

\* See Definitions for parts A, B and C

- 221.13** *It may be in the best interests of a company for corporate finance advice to be provided by its auditor and there is nothing improper in the professional accountant in public practice\* supporting an assurance client\* in this way.*
- 221.14** *A professional accountant in public practice's\* objectivity may be seriously threatened if their role involves undertaking the management responsibilities of an assurance client\*. Co-ordination tasks, such as initiating and organising meetings, issuing timetables and reporting progress, are unlikely to threaten reporting objectivity. When involved in negotiations on behalf of an assurance client\*, the professional accountant in public practice\* shall ensure that he does not assume the role of taking decisions for a client which would prejudice reporting objectivity. Accordingly, the professional accountant in public practice\* shall ensure that the client takes full responsibility for the final decisions arising from any such negotiations.*

### **Conflict of Interest**

- 221.15** *Professional accountants in public practice\* shall be aware of the danger of a conflict of interest arising. All reasonable steps shall be taken to ascertain whether a conflict of interest exists or is likely to arise in the future between a professional accountant in public practice\* and his clients, both with regard to new clients and to the changing circumstances of existing clients, and including any implications arising from the possession of confidential information.*
- 221.16** *The attention of professional accountants in public practice\* is directed to section 220, 'Conflicts of interest' and to the safeguards indicated in paragraphs 220.3 and 220.4 of that section. Where there appears to be a conflict of interest between clients but after careful consideration the professional accountant in public practice\* believes that either the conflict is not material or is unlikely seriously to prejudice the interests of any of those clients and that its safeguards are sufficient, the professional accountant in public practice\* may accept or continue the engagement. Unless client confidentiality considerations dictate otherwise it would be advisable, if appropriate, to seek the clients' consent. Considerations that lead to a conclusion to accept or continue the engagement shall be explicitly recorded.*
- 221.17** *Where a professional accountant in public practice\* acts or continues to act for two or more clients having obtained consent, if appropriate, in accordance with the previous paragraphs, safeguards will need to be implemented to manage any conflict which arises. The safeguards may include:*
- (a) the use of different partners\* and teams for different clients, each having separate internal reporting lines;*
  - (b) all necessary steps being taken to prevent the leakage of confidential information between different teams and sections within the firm\*;*
  - (c) regular review of the situation by a senior partner\* or compliance officer not personally involved with either client; and*
  - (d) advising the clients to seek additional independent advice, where it is appropriate.*

\* See Definitions for parts A, B and C

*Any decision on the part of a sole practitioner shall take account of the fact that the safeguards at (a) to (c) of the above paragraph will not be available to him or her. Similar considerations apply to small firms where the number of partners\* is insufficient to spread the work as indicated above.*

- 221.18** *Where a conflict of interest is so fundamental that it cannot be managed effectively by the implementation of appropriate safeguards and is likely seriously to prejudice the interests of a client, the engagement shall not be accepted or continued even if all relevant clients consent to the engagement.*
- 221.19** *Where a professional accountant in public practice\* is required for any reason to disengage from an existing client, the professional accountant in public practice\* shall do so as speedily as practicable having regard to the interest of the client.*

### **Documents for Client and Public Use**

- 221.20** *In the case of a document prepared solely for the client and its professional advisers, it shall be a condition of the engagement that the document shall not be disclosed to any third party without the firm's\* prior written consent.*
- 221.21** *A professional accountant in public practice\* is, in the absence of any indication to the contrary, entitled to assume that a company's published financial information that has been reported on by a professional accountant in public practice\* has been prepared properly and in accordance with all relevant Accounting Standards. If a professional accountant in public practice\* is commenting in a public document on such financial information and where scope for alternative accounting treatment exists, and the accuracy of the comment or observation is dependent on an assumption as to the actual accounting treatment chosen, that assumption must be stated, together with any other assumptions material to the commentary. Where the professional accountant in public practice\* is not in possession of sufficient information to warrant a clear opinion this shall be declared in the document.*
- 221.22** *A professional accountant in public practice\* must take responsibility for anything published under his name, provided he consented to such publication, and the published document shall make clear the client for whom the professional accountant in public practice\* is acting. To prevent misleading or out-of-context quotations, it shall be a condition of the engagement that, if anything less than the full document is to be published, the text and its context shall be expressly agreed with the professional accountant in public practice\*.*

### **Takeovers and Mergers**

#### **City Code Transactions**

- 221.23** *Professional accountants in public practice\* are reminded that, if in doubt as to the propriety of any aspect of a City Code transaction with which they are involved, they shall consult the Panel on Takeovers and Mergers ('the Takeover Panel'). (See Appendix 2 of this section).*
- 221.24** *Where a professional accountant in public practice\* finds itself acting as auditor or reporting accountant for two or more parties involved in a transaction subject to the City Code, a perceived conflict of interest may arise. In such*

\* See Definitions for parts A, B and C

*circumstances (subject to paragraph 221.26 below) a professional accountant in public practice\* may act for more than one party, including both offeror and offeree companies as auditor, as reporting accountants, and in the provision of incidental advice consistent with these roles but must implement adequate safeguards (see paragraph 221.17 above).*

### **Lead Advisers in City Code Transactions**

- 221.25** *For the purposes of this Section, a 'lead adviser' is the professional accountant in public practice\* primarily responsible for advising on, organising and presenting an offer or the response to an offer. This definition would include an 'independent financial adviser' required under Rule 3 of the City Code.*
- 221.26** *In no circumstances shall a professional accountant in public practice\* be a lead adviser to more than one party involved in a transaction subject to the City Code. Where a professional accountant in public practice\* finds itself acting in an auditor or reporting accountant role for any party involved in a transaction subject to the City Code, the professional accountant in public practice\* shall not act as lead adviser for any party involved, save in the circumstances set out below in paragraphs 221.27–221.29.*
- 221.27** *A professional accountant in public practice\* who is auditor to a target company may be requested to act as lead adviser to a bidder on an offer subject to the City Code. Where the bid is hostile, it is likely that the professional accountant in public practice's\* objectivity will be perceived to be prejudiced by its possession of material confidential information on the target and it will not therefore be able to advise on the offer. However, if the bid is agreed, the professional accountant in public practice\* may be able to act or continue to act as lead adviser to the bidder with the agreement of the target and subject to the prior approval of the Takeover Panel. The professional accountant in public practice\* shall obtain confirmation from its clients that their interests would not be prejudiced if the professional accountant in public practice\* were to act or continue to act in both capacities.*
- 221.28** *Where a professional accountant in public practice\* is acting as lead adviser to a company which is involved in a bid subject to the City Code, conflicts of interest for the professional accountant in public practice\* may arise due to an existing relationship with a second or subsequent bidder. Providing that the relationship with the second or subsequent bidder is confined to that of auditor or reporting accountant, and subject to the prior approval of the Takeover Panel, the professional accountant in public practice\* may continue to act as lead adviser, providing that it is satisfied that the implementation of safeguards (see paragraph 221.27 above) provides the necessary level of protection to each of the clients involved.*
- 221.29** *Where a professional accountant in public practice\* is requested to act as lead adviser to a target company in relation to a bid which is subject to the City Code from a company which is an existing assurance client\*, they may act as lead adviser to the target company only with the prior approval of the Takeover Panel.*

\* See Definitions for parts A, B and C

*The ethical guidance for professional accountants in public practice\* seeking to act for more than one party in a takeover transaction subject to the City Code is summarised in Appendix 3 to this section. Appendix 3 has been prepared only as a useful reference and is not intended to form part of this section.*

### **Transactions not Subject to the City Code**

**221.30** *Where a takeover is not subject to the City Code, and there is no substantial public interest involved, a professional accountant in public practice\* may, subject to the implementation of appropriate safeguards (see paragraphs 221.16 and 221.17 above), provide financial advice to both sides or to competing bidders. However, the professional accountant in public practice\* shall not act as lead adviser to both the target and a bidder in respect of such a transaction. The professional accountant in public practice\* shall be alive to the possibility of conflicts of interest arising in relation to minority interests and shall ensure that any such conflicts are addressed. Where appropriate, the advisory client and minority interests shall be advised as to the desirability of the minority interests appointing a wholly independent adviser.*

### **Underwriting and Marketing of Shares**

**221.31** *A professional accountant in public practice\* who is an auditor or reporting accountant shall not deal in, underwrite or promote shares for their client (see also APB's Ethical Standard 5 and APB's Ethical Standard for Reporting Accountants ([www.frc.org.uk/apb/publications/ethical.cfm](http://www.frc.org.uk/apb/publications/ethical.cfm))). Involvement of this kind would give rise to an advocacy threat, self-review threat and self-interest threat such that the professional accountant in public practice's\* objectivity and independence\* would be threatened.*

**221.32** *It may be appropriate:*

- (a) for an auditor or reporting accountant otherwise to assist a client in raising capital; or*
- (b) for an auditor or reporting accountant otherwise to provide independent advice to a client, or its professional advisers, in connection with the issue or sale of shares or securities to the public; or*
- (c) for an auditor or reporting accountant otherwise to provide advice as sponsor, as an Alternative Investment Market (AIM) nominated adviser or as a ISDX (formerly PLUS) corporate adviser to a company as set out below.*

*In these situations the professional accountant in public practice\* shall adopt steps similar to those described in paragraph 220.3 and 220.4 of section 220 and, additionally, set up procedures to review and identify any potential conflicts of interest which could compromise the professional accountant in public practice's\* objectivity.*

### **Sponsors, Nominated Advisers and Corporate Advisers**

**221.33** *The attention of professional accountants in public practice\* is drawn to:*

\* See Definitions for parts A, B and C

- (a) *the UK Listing Authority's Listing Rules when a firm\* accepts the responsibilities of a sponsor;*
- (b) *the London Stock Exchange's AIM Rules and, AIM Rules for Nominated Advisers (which include the Eligibility Criteria for Nominated Advisers.) AIM's requirement is that for AIM companies to maintain their trading facility they shall have a nominated adviser at all times. In this context professional accountants in public practice\* shall have in place procedures to enable them to identify whether any conflicts exist or are likely to arise in the future before acting as a nominated adviser. Professional accountants in public practice\* shall note the policy of the London Stock Exchange that it will not normally allow a nominated adviser to be the reporting accountant to the issuer unless appropriate safeguards are in place as set out in paragraph 221.17 above. Furthermore, professional accountants in public practice\* shall note that the London Stock Exchange does not permit a nominated adviser to act for any other party to a transaction or takeover other than its AIM client company. In cases of doubt, professional accountants in public practice\* shall consult the London Stock Exchange.*
- (c) *the ISDX (formerly PLUS) Rules and in particular the ISDX Corporate Advisers Handbook when acting as a Corporate Adviser defined by the ISDX Rules. ISDX's requirement is that for ISDX companies to maintain their trading facility they shall have a corporate adviser at all times. In this context professional accountants in public practice\* shall have in place procedures to enable them to identify whether any conflicts exist or are likely to arise in the future before acting as a corporate adviser. Professional accountants in public practice\* shall note that ISDX does not permit a corporate adviser to act for any other party to a transaction or takeover other than its ISDX client company. In cases of doubt, professional accountants in public practice\* shall consult ISDX.*

**221.34** *Considerable care needs to be taken if a professional accountant in public practice\* is also to act as sponsor, nominated adviser or corporate adviser to an assurance client\*. A threat to the objectivity of the auditor or reporting accountant can arise as the duties of a sponsor, nominated adviser or corporate adviser are different from those of an auditor or reporting accountant and are owed to a different party. Although it is quite possible that no conflict will arise between the two roles, professional accountants in public practice\* need to recognise the possibility of conflicts arising, particularly if the role of sponsor, nominated adviser or corporate adviser is to include any advocacy of the directors'\* views or if the transaction is to involve any issue of securities. To comply with the requirements of paragraph 221.31 above, where there is an issue of securities associated with such a transaction, a separate broker shall be appointed to take responsibility for any underwriting or marketing of the company's shares.*

## **Appendix 1 to Section 221 – Corporate Finance Advice**

### **Information on Statutory and Other Regulatory and Professional Requirements**

\* See Definitions for parts A, B and C

*For the assistance of professional accountants\* a list of the relevant legislative and regulatory measures and professional guidance is set out below. This reflects the position as at **1 April 2010**. Professional accountants\* shall be aware that this list may be subject to variation in the future and when undertaking corporate finance assignments professional accountants\* shall ensure they are aware of the current status of the list.*

- 1 *The Financial Services and Markets Act 2000, the Companies Act 1985 as amended, the Companies Act 2006, Part V of the Criminal Justice Act 1993 and, where applicable, the requirements of the Financial Services Authority's Handbook ([www.fsa.gov.uk/Pages/handbook](http://www.fsa.gov.uk/Pages/handbook)) or the ICAEW's Designated Professional Body Handbook ([www.icaew.com/dpb](http://www.icaew.com/dpb)).*
  - 2 *The City Code on Takeovers and Mergers (the 'City Code').*
  - 3 *The Financial Services Authority Handbook which includes:*
    - *the Listing Rules;*
    - *the Prospectus Rules;*
    - *the Disclosure and Transparency Rules; and*
    - *the London Stock Exchange's AIM Rules and AIM Rules for Nominated Advisers (which include the Eligibility Criteria for Nominated Advisers)*
  - 4 *The ISDX (formerly PLUS) Market Corporate Adviser Handbook.*
  - 5 *The Admission and Disclosure Standards of the London Stock Exchange.*
  - 6 *The Auditing Practices Board's Ethical Standards, in particular ES 5 Non-Audit Services Provided to Audit clients\* and the Ethical Standard for Reporting Accountants ([www.frc.org.uk/apb/publications](http://www.frc.org.uk/apb/publications)).*
- And in the Republic of Ireland:*
- 7 *Investment Intermediaries Act, 1995 as amended by the Investor Compensation Act, 1998 and the Insurance Act, 2000 ('IIA'), and where applicable the requirements of the Central Bank of Ireland's Rule Book or the ICAEW's Investment Business Regulations and Guidance.*
  - 8 *Irish Takeover Panel Act, 1997.*
  - 9 *The Listing Rules of the Irish Stock Exchange: the IEX Rules.*
  - 10 *Code of Conduct issued by the Central Bank of Ireland under Section 37 of the IIA, as amended by S. 30 of the Insurance Act 2000.*
  - 11 *European Communities (Takeover Bids (Directive 2004/25/EC) Regulations 2006 (RoI).*

\* See Definitions for parts A, B and C



- 12 *Investment Funds, Companies and Miscellaneous Provisions Act, 2005 (RoI).*
- 13 *Market Abuse (Directive 2003/6/EC) Regulations 2005 (RoI).*
- 14 *Prospectus (Directive 2003/71/EC) Regulations 2005.*

#### **Appendix 2 to Section 221 – Corporate Finance Advice**

- 1 *A professional accountant in public practice\* who provides takeover services for clients is required to comply with the City Code and with all rulings made and guidance issued under it by the Panel on Takeovers and Mergers ('the Takeover Panel').*
- 2 *Accordingly a professional accountant in public practice\* proposing to provide takeover services to a client shall at the outset:*
  - (a) *explain that these responsibilities will apply; and*
  - (b) *include in the terms of the engagement recognition of the professional accountant in public practice's\* obligation to comply with the City Code including any steps which the professional accountant in public practice\* may be obliged to take in performing those responsibilities. A specimen clause for the engagement letter is set out in paragraph 3 below.*

#### **Specimen Clause for Engagement Letters**

- 3 *The client agrees and acknowledges that where the services provided by the professional accountant in public practice\* relate to a transaction within the scope of the City Code, the client and the professional accountant in public practice\* will comply with the provisions of the City Code and will observe the terms of the guidance published by the Institutes of Chartered Accountants relevant to such services or transactions. In particular, the client acknowledges that:*
  - (a) *if the client or its advisers or agents fail to comply with the City Code then the professional accountant in public practice\* may withdraw from acting for the client; and*
  - (b) *the professional accountant in public practice\* is obliged to supply to the Takeover Panel any information, books, documents or other records concerning the services or transaction which the Takeover Panel may require.*

#### **Scope of Takeover Services**

- 4 *Takeover services means any professional services\* provided by a professional accountant in public practice\* to a client in connection with a transaction to which the City Code applies.*
- 5 *The kinds of activities most commonly relevant for this purpose include:*
  - (a) *acting as financial adviser to one of the parties (for example, as 'Rule 3 adviser' to the offeree company);*

\* See Definitions for parts A, B and C

- (b) *reporting on profit forecasts and/or valuations for the purposes of takeover documents;*
- (c) *conducting acquisition searches for clients, and introducing clients to other parties with a view to effecting transactions;*
- (d) *advising in relation to acquisitions and disposals of securities of companies which are subject to City Code.*
- (e) *acting as a reporting accountant where both the City Code and the Listing Rules or Take Over Rules apply.*

**6** *Whilst the City Code does not define precisely the range of activities and transactions within its scope, paragraph 3 of the Introduction to the City Code describes the companies and transactions which are subject to the City Code. In practice, those engaged in providing takeover services rarely experience difficulty in determining whether the City Code is or may be relevant to the activities proposed to be undertaken for any particular client. In cases of any doubt the Takeover Panel shall be consulted.*

### **Special Responsibilities**

- 7** *A professional accountant in public practice\* who has provided or is providing takeover services to a client shall:*
- (a) *supply to the Takeover Panel any information, books, documents or other records concerning the relevant transaction or arrangement which the Takeover Panel may properly require and which are in the possession or under the control of the professional accountant in public practice\*; and*
  - (b) *otherwise render all such assistance as the professional accountant in public practice\* is reasonably able to give to the Takeover Panel, provided that in each case the relevant information, books, documents or other records were acquired by the professional accountant in public practice\* in the course of providing the relevant takeover services.*
- 8** *Except with the consent of the Takeover Panel, a professional accountant in public practice\* shall not provide or continue to provide any takeover services to any person if the Takeover Panel has stated that it considers that such a person is not likely to comply with the standards of conduct for the time being expected in the United Kingdom concerning the practices of those involved in takeovers, mergers or substantial acquisitions of shares and the Takeover Panel has not subsequently indicated a change in this view. A person to whom this paragraph applies will normally have been named in a statement published by the Takeover Panel, inter alia, for the purposes of Rule 4.3.1 of the Financial Services Authority's Handbook on Market Conduct.*
- 9** *If professional accountants in public practice\* have included in the engagement letter agreed with the client a provision as outlined in paragraph 3 above, they will be able to discharge their responsibilities under paragraph 7 and/or 8 above, without any breach of confidentiality or duty to the client. While professional accountants in public practice\* shall include such a provision, it is*

\* See Definitions for parts A, B and C

recognised that, on occasion, compliance with such responsibilities may still involve a breach of confidentiality to a third party or a breach of some other duty owed to the client. In such circumstances this Appendix is not applicable.

**The Financial Services and Markets Act 2000**

**10** The provision of corporate finance services may require authorisation by the Financial Services Authority or a licence under the Designated Professional Body arrangements. However, this guidance applies to all professional accountants in public practice\* whether authorised/licensed or not.

**Appendix 3 to Section 221 – Corporate Finance Advice**

**Guidance for firms\* seeking to act for more than one party in a takeover subject to the City Code**

This table is intended for illustrative purposes only and shall be read in conjunction with section 221, Corporate Finance Advice.

|   | <b>Bid Situation</b>                  | <b>Target</b> | <b>Bidder</b> | <b>Subsequent Bidder</b> | <b>Comments</b>   |
|---|---------------------------------------|---------------|---------------|--------------------------|---|
| A | Agreed – relationship with one bidder | Ass           | Ass           | -                        | Permitted – see paragraph 221.24                                      |
| B |                                       | Adv           | Ass           | -                        | Permitted by agreement with the Takeover Panel – see paragraph 221.29 |
| C |                                       | Ass           | Adv           | -                        | Permitted with conditions – see paragraph 221.27                      |
| D |                                       | Adv           | Adv           | -                        | Prohibited – see paragraph 221.26                                     |
| E | Hostile one bidder                    | Ass           | Ass           | -                        | Permitted with conditions – see paragraph                             |

\* See Definitions for parts A, B and C

|   |                           |     |     |     |   |
|---|---------------------------|-----|-----|-----|---|
|   |                           |     |     |     | 221.24  |
| F |                           | Adv | Ass | -   | Permitted by agreement with the Takeover Panel – see paragraph 221.29 |
| G |                           | Ass | Adv | -   | Prohibited – see paragraph 221.26 and 221.27                          |
| H |                           | Adv | Adv | -   | Prohibited – see paragraph 221.26                                     |
| I | Subsequent bidder emerges | Ass | Ass | Ass | Permitted – see paragraph 221.24                                      |
| J |                           | Ass | -   | Ass | Permitted - see paragraph 221.24                                      |
| K |                           | Adv | -   | Ass | Permitted – see paragraph 221.28                                      |
| L |                           | Ass | -   | Adv | Prohibited – see paragraph 221.26                                     |
| M |                           | Adv | -   | Adv | Prohibited – see paragraph 221.26                                     |
| N | Acting for rival bidders  | -   | Ass | Ass | Permitted – see paragraph 221.24                                      |

\* See Definitions for parts A, B and C

|   |  |   |     |     |                                   |
|---|--|---|-----|-----|-----------------------------------|
| O |  | - | Adv | Ass | Permitted – see paragraph 221.28  |
| P |  | - | Ass | Adv | Prohibited – see paragraph 221.26 |
| Q |  | - | Adv | Adv | Prohibited – see paragraph 221.26 |

*In all of the above cases where professional accountants in public practice\* may be permitted to act for more than one party, the professional accountants in public practice\* must consider the potential threats and put in place the appropriate safeguards as set out in paragraph 221.33. Furthermore, where stated, permission for the professional accountant in public practice\* to act for more than one party shall be obtained from the Takeover Panel.*

**Key**

*Adv Professional accountant in public practice\* acts as lead adviser (see paragraph 221.17)*

*Ass Professional accountant in public practice\* acts as auditor or reporting accountant.*

*As regards the application of this guidance to non-audit assurance engagements\*, professional accountant in public practice’s\* attention is drawn to the explanatory note contained in the Definitions to Parts A, B and C.*

**Notes**

- 1 *This matrix does not address a reverse takeover situation, where the offeror is required by the City Code to appoint advisers.*
- 2 *The matrix does not cover the takeover of private companies, except those which are subject to the City Code. Private companies are subject to the general requirements of this Code.*

**SECTION 230 - SECOND OPINIONS**

**230.0** *Opinions expressed informally by a professional accountant\* may be acted on, and professional accountants\* shall bear in mind the potential consequences of those opinions. Oral opinions shall as a matter of good practice, because of legal implications, be confirmed in writing as soon as practicable after giving the opinion. If a professional accountant\* is asked for a ‘general opinion’ (one relative to a hypothetical situation not related to specific entities or*

\* See Definitions for parts A, B and C

*circumstances), whether written or oral, the professional accountant\* shall ensure that the recipient of the opinion understands that it has been given in the context of that particular hypothetical situation only.*

- 230.1** Situations where a professional accountant in public practice\* is asked to provide a second opinion on the application of accounting, auditing, reporting or other standards or principles to specific circumstances or transactions by or on behalf of a company or an entity that is not an existing client may create threats to compliance with the fundamental principles. For example, there may be a threat to professional competence and due care in circumstances where the second opinion is not based on the same set of facts that were made available to the existing accountant\* or is based on inadequate evidence. The existence and significance of any threat will depend on the circumstances of the request and all the other available facts and assumptions relevant to the expression of a professional judgment.

*This section does not apply to expert evidence assignments, opinions pursuant to litigation and opinions provided to other firms\* and their clients jointly.*

- 230.2** When asked to provide such an opinion, a professional accountant in public practice\* shall evaluate the significance of any threats and apply safeguards when necessary to eliminate them or reduce them to an acceptable level\*. Examples of such safeguards include seeking client permission to contact the existing accountant\*, describing the limitations surrounding any opinion in communications with the client and providing the existing accountant\* with a copy of the opinion.

*A professional accountant\* providing a second opinion will normally need to seek contact with the existing accountant\* (particularly if the existing accountant\* is engaged as auditor) and the client in order to:*

- *Ascertain the circumstances in which the consultation has been made; and*
- *Be apprised of all the facts relevant to the issue at the time the opinion is given.*

- 230.3** If the company or entity seeking the opinion will not permit communication with the existing accountant\*, a professional accountant in public practice\* shall determine whether, taking all the circumstances into account, it is appropriate to provide the opinion sought.

*If the client will not allow the opinion-giver to carry out any of the steps referred to above, the opinion-giver must normally decline to act (particularly if the existing accountant\* is engaged as auditor).*

## **SECTION 240 - FEES AND OTHER TYPES OF REMUNERATION**

- 240.0** *ICAEW does not set charge-out rates or otherwise prescribe the basis for calculating fees, nor does it ordinarily investigate complaints relating solely to the quantum of fees charged. However, professional accountants in public*

\* See Definitions for parts A, B and C

*practice\* have certain professional responsibilities in relation to fees as set out in the following paragraphs.*

- 240.1** When entering into negotiations regarding professional services\*, a professional accountant in public practice\* may quote whatever fee is deemed appropriate. The fact that one professional accountant in public practice\* may quote a fee lower than another is not in itself unethical. Nevertheless, there may be threats to compliance with the fundamental principles arising from the level of fees quoted. For example, a self-interest threat to professional competence and due care is created if the fee quoted is so low that it may be difficult to perform the engagement in accordance with applicable technical and professional standards for that price.
- 240.2** The existence and significance of any threats created will depend on factors such as the level of fee quoted and the services to which it applies. The significance of any threat shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level\*. Examples of such safeguards include:
- Making the client aware of the terms of the engagement and, in particular, the basis on which fees are charged and which services are covered by the quoted fee.
  - Assigning appropriate time and qualified staff to the task.
- 240.2a** *The basis on which fees will be calculated shall be discussed and explained at the earliest opportunity together with, where practicable, the estimated initial fee. Fees shall be determined by reference to:*
- *The seniority and professional expertise of the persons necessarily engaged on the work;*
  - *The time expended by each;*
  - *The degree of risk and responsibility which the work entails;*
  - *The nature of the client's business, the complexity of its operation and the work to be performed;*
  - *The priority and importance of the work to the client;*
  - *Expenses properly incurred.*
- 240.2b** *The arrangements agreed shall be confirmed in writing prior to the commencement of any engagement, normally in an engagement letter, including a confirmation of any estimate, quotation or other indication, and where the basis of future fees will differ from that of initial fees, the basis on which such fees will be rendered. Where there is no engagement letter the professional accountant in public practice\* shall confirm the initial discussion in writing to the client as soon as practicable.*

\* See Definitions for parts A, B and C

- 240.2c** *In the case of assurance work, and in particular audit work, professional accountants in public practice\* who obtain work having quoted levels of fees which they have reason to believe are significantly lower than existing fees or, for example, those quoted by other tendering firms\*, shall be aware that their objectivity and the quality of their work may appear to be threatened by self-interest in securing the client. Such professional accountants in public practice\* shall ensure that their work complies with relevant standards, guidelines and regulations and, in particular, quality control procedures.*
- 240.2d** *In the event of a complaint being made to ICAEW where fees were a feature in obtaining or retaining the work, professional accountants in public practice\* shall demonstrate that:*
- *The work done was in accordance with relevant standards; and*
  - *The client was not misled as to the basis on which fees for the current and/or subsequent years are to be determined.*
- 240.3** Contingent fees\* are widely used for certain types of non-assurance engagements\*.<sup>1</sup> They may, however, create threats to compliance with the fundamental principles in certain circumstances. They may create a self-interest threat to objectivity. The existence and significance of such threats will depend on factors including:
- The nature of the engagement.
  - The range of possible fee amounts.
  - The basis for determining the fee.
  - Whether the outcome or result of the transaction is to be reviewed by an independent third party.
- 240.4** The significance of any such threats shall be evaluated and safeguards applied when necessary to eliminate or reduce them to an acceptable level\*. Examples of such safeguards include:
- An advance written agreement with the client as to the basis of remuneration.
  - Disclosure to intended users of the work performed by the professional accountant in public practice\* and the basis of remuneration.
  - Quality control policies and procedures.
  - Review by an independent third party of the work performed by the professional accountant in public practice\*.

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<sup>1</sup> Contingent fees\* for non-assurance services provided to audit clients\* and other assurance clients\* are discussed in sections 290 and 291 of this Part of the Code.



**240.4a** *In some formal appointments under insolvency legislation, in particular bankruptcies, liquidations and administrations, the remuneration of the professional accountant in public practice\* may, by statute, be based on a percentage of:*

- *Realisations or the value of the property with which the professional accountant in public practice\* has to deal; and/or*
- *Distributions.*

Consequently, it may not be possible to base the fee on the principle in paragraph 240.4 above.

**240.4b** *In some circumstances, such as advising on a management buy-in or buy-out, the raising of venture capital, acquisition searches or sales mandates, where no professional opinion is given, it may not be appropriate to charge fees save on a contingent fee\* basis: to require otherwise might deprive potential clients of professional assistance, for example where the capacity of the client to pay is dependent upon the success or failure of the venture.*

**240.4c** *Due diligence assignments, particularly those performed in relation to a prospective transaction, typically involve a high level of risk and responsibility. A higher fee may be charged for such work in respect of a completed transaction than for the same transaction if it is not completed, for whatever reason, provided that the difference reflects any additional risk and responsibility.*

#### **Fee Information and Disputes**

**240.4d** *A professional accountant in public practice\* shall furnish, either in the fee account or subsequently on request, and without further charge, such details as are reasonable to enable the client to understand the basis on which the fee account has been prepared.*

**240.4e** *Where fees rendered without prior agreement exceed, by more than a reasonable amount, a quotation or estimate or indication of fees given by a professional accountant in public practice\*, the professional accountant in public practice\* shall be prepared to provide the client with a full and detailed explanation of the excess and to take steps to resolve speedily any dispute which arises.*

**240.4f** *A professional accountant in public practice\* whose fees have not been paid may be entitled to retain certain books and papers of a client by exercising a lien and may refuse to pass on information to the client or the successor accountant until those fees are paid (but see section 210, 'Professional appointment'). However, a professional accountant in public practice\* who so acts shall be prepared to take reasonable and prompt steps to resolve any dispute relating to the amount of that fee. In respect of any fee dispute, a professional accountant in public practice\* shall be aware of the fee arbitration services offered by ICAEW.*

**240.4g** *Overdue fees may give rise to a perceived or real self-interest threat (see section 280). Similar considerations apply to work-in-progress for a client if billing is unduly deferred.*

\* See Definitions for parts A, B and C

## Referrals and Commissions

- 240.5** In certain circumstances, a professional accountant in public practice\* may receive a referral fee or commission relating to a client. For example, where the professional accountant in public practice\* does not provide the specific service required, a fee may be received for referring a continuing client to another professional accountant in public practice\* or other expert. A professional accountant in public practice\* may receive a commission from a third party (e.g., a software vendor) in connection with the sale of goods or services to a client. Accepting such a referral fee or commission creates a self-interest threat to objectivity and professional competence and due care.
- 240.6** A professional accountant in public practice\* may also pay a referral fee to obtain a client, for example, where the client continues as a client of another professional accountant in public practice\* but requires specialist services not offered by the existing accountant\*. The payment of such a referral fee also creates a self-interest threat to objectivity and professional competence and due care.
- 240.7** The significance of the threat shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level\*. Examples of such safeguards include:
- Disclosing to the client any arrangements to pay a referral fee to another professional accountant\* for the work referred.
  - Disclosing to the client any arrangements to receive a referral fee for referring the client to another professional accountant in public practice\*.
  - Obtaining advance agreement from the client for commission arrangements in connection with the sale by a third party of goods or services to the client.

*Remuneration of employees would not normally be included within the scope of the payments addressed above.*

- 240.7a** *A fiduciary relationship between a professional accountant in public practice\* and his or her client will arise where the accountant acts as the client's agent; and/or where the accountant gives professional advice to the client so as to give rise to a relationship which the law would regard as one of 'trust and confidence'. Where a fiduciary relationship exists at the time between a professional accountant in public practice\* and a client, the professional accountant in public practice\* is legally bound to account to the client for any commission, fee or other benefit received from a third party at any time. ICAEW is advised that the effect is that a professional accountant in public practice\* will require the informed consent of the client if the professional accountant in public practice\* is to retain the commission, fee or other benefit or any part of it. If professional accountants in public practice\* are in doubt as to whether the circumstances give rise to a fiduciary relationship, they are recommended to seek appropriate legal advice.*

\* See Definitions for parts A, B and C

**240.7b** *Under the general law, professional accountants\* must adopt one of the following courses in respect of commission receivable<sup>2</sup>:*

(a) *Account to the client for the commission or other benefit*

*This could be effected:*

- *By payment of the whole commission or benefit to the client, or*
- *By deducting the amount received from the fees otherwise chargeable to the client and by showing such deduction on the face of the bill.*

(b) *Obtain the client's advance consent to each receipt of commission*

*This involves obtaining consent before the commission is received and the firm\* must disclose, in advance, the actual amount of the commission (or its basis of calculation) and the terms and timing of its payment.*

(c) *Obtain the client's advance general consent to the member's\* retaining commission.*

*This could be by way of the engagement letter, or by a supplementary agreement, containing explicit wording permitting such retention, such as the following:*

*'In some circumstances, commissions or other benefits may become payable to us [or to one of our associates] in respect of transactions we [or such associates] arrange for you, in which case you will be notified in writing of the amount and terms of payment. [The fees that would otherwise be payable by you as described above will [or will not] be abated by such amounts.] You consent to such commission or other benefits being retained by us [or, as the case may be, by our associates,] without our, [or their,] being liable to account to you for any such amounts.'*

*Note:*

- i. *Before the client agrees to any such provision, examples must be given of likely commissions that may be received and the likely amounts, and it shall be emphasised that these are only examples and may not cover all receipts in the future. If, in the future, abnormally large commissions are received which were not envisaged when the engagement letter was signed, it would be advisable to obtain specific consent to the retention of those commissions in order to meet any assertion that retention of such commission was not authorised by the engagement letter.*
- ii. *Any further provision which indicated likely levels of commission, and then continued 'Commissions of less than £X will be retained by us, and commissions of more than £X will be divided equally*

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<sup>2</sup> Professional accountants\* are reminded that where detailed regulatory requirements cover the same issues as this Code, the regulatory requirements prevail where these are more onerous.

\* See Definitions for parts A, B and C

*between yourselves and ourselves' might be effective. Members\* are advised, however, to consult with their lawyers before including such a provision.*

- iii. *Where an existing client of the member\* is to sign a new engagement letter containing such a provision as is referred to above, the firm\* shall explain that, in the absence of the signed engagement letter, the firm\* could retain the commission only if the client gave full and informed consent on each occasion after receiving full disclosure of the amount involved, whereas, once the letter is signed, the firm\* can keep the commission.*

**(d) Obtain the client's subsequent consent**

*If the member\* does not obtain the client's consent in one of the ways referred to in paragraph 240.7b above, the commission may still be able to be retained if the client subsequently expressly consents to such retention (on the basis of full disclosure of the amount, terms and timing of payment).*

**240.7c** *Alternatively professional accountants\* will be able to retain the commission if the client (with knowledge of all relevant facts) impliedly consents by acquiescing in such retention, for instance by deciding to proceed with the transaction having been notified both of the fact that the firm\* will receive commission and of the full details of that commission.*

**240.7d** *Even where a fiduciary relationship does not exist, where a professional accountant in public practice\* becomes aware that any commission, fee or other benefit may be received (directly or indirectly), there shall be disclosed to the client in writing:*

- *That commission or benefit will result or is likely to result, and*
- *When the fact is known, that such commission or benefit will be received, and*
- *As early as possible, the amount and terms of the benefit to the professional accountant in public practice\*.*

**240.7e** *As regards payments of referral fees, professional accountants in public practice\* have a responsibility to ascertain that a referral manner is in accordance with this Code because professional accountants in public practice\* must not do, or be seen to do, through others what they may not do themselves. To this end, professional accountants in public practice\* shall consider whether there are any indications that the work or client has been initially procured in an unprofessional manner.*

*In addition, where needed to complete a referred engagement properly, professional accountants in public practice\* shall:*

\* See Definitions for parts A, B and C

- Satisfy themselves as to the competence and professional standards of staff within their firm\* whose work on the engagement it would be their duty to review; and
- Ensure their right of direct access to the client and, in appropriate circumstances, render their own fee account to the client.

**240.7f** *In the case of insolvency work, Insolvency Practitioners shall have regard to Part D of this code.*

**240.7g** *Where an invitation to conduct a statutory audit comes other than directly from the client, the professional accountant in public practice\* shall first ensure that the audit appointment has properly been made in accordance with statute. It shall be made clear to all interested parties on all relevant documents that the professional accountant in public practice\* is acting as principal, with all that that function implies. In those circumstances, professional accountants in public practice\* shall deal directly with the client and shall render their own fee account in addition to complying with the other requirements above.*

**240.8** A professional accountant in public practice\* may purchase all or part of another firm\* on the basis that payments will be made to individuals formerly owning the firm\* or to their heirs or estates. Such payments are not regarded as commissions or referral fees for the purpose of paragraphs 240.5–240.7 above.

*Attention is drawn to additional requirements in respect of agency and referral arrangements, in section 241.*

## **SECTION 241 AGENCIES AND REFERRALS (revised 1 January 2013)**

**241.1** *When referring or receiving referred work or when establishing agency arrangements, which are in effect permanent arrangements for making referrals, professional accountants in public practice\* are required to assess threats to compliance with the fundamental principles and to apply safeguards. A referral covers a formal request made in the course of a professional relationship for advice on the selection of a potential professional adviser and may also cover an informal request, regardless of whether there is an existing relationship.*

*Attention is drawn to additional requirements in respect of referral fee arrangements, in section 240.*

### **Duty of Care**

**241.2** *In making a referral, a duty of care may arise. The extent of a duty of care varies according to the circumstances, including whether the exchange or provision of information was solicited or not. A greater duty of care will arise for matters which are reasonably expected to be within a professional accountant in public practice's\* knowledge or where a fee is charged. A professional accountant in public practice\* needs to look at this from the client's or enquirer's point of view and what their expectations would be of what a professional accountant in public practice\* would*

\* See Definitions for parts A, B and C

be expected to know:

- *Where a referral fee is received, or where the service referred to is in a professional or finance – related sphere, the client (or enquirer) can reasonably presume knowledge by the professional accountant in public practice\*. Any limitation of knowledge would clearly need to be explained.*
- *Where the enquiry relates to a service outside the normal sphere of expertise of an accountant and no referral fee is contemplated, then it is reasonable to presume that the enquiry is being made in a personal capacity, unless circumstances suggest otherwise. It is still advisable to express any limitations of knowledge and to clarify, in case of doubt, that any opinion is based on personal experience rather than in a professional capacity.*

**241.3** *When making a referral, disclosure of relevant knowledge limitations shall be considered. Professional accountants in public practice\* shall consider whether it would be in their interest for such knowledge limitations to be disclosed in writing, according to the circumstances. Factors that a professional accountant in public practice\* shall consider when making such a decision include:*

- *The nature of the professional relationship with the enquirer (an existing client, someone who could reasonably be considered to be making the enquiry as a prospective client or a casual enquiry).*
- *The context in which the enquiry is made. Is it professional or personal, casual or formal?*
- *The nature of the personal relationship. Does the enquirer know the professional accountant in public practice\* is a Chartered Accountant and are they consulting them as a respected professional?*
- *The scope of enquiry and whether a referral fee is contemplated, as considered in section 240.*
- *The enquirer's expectations.*

**241.4** *A referral arises typically, when the professional accountant in public practice\* does not have the expertise and/or resource in house to undertake the potential engagement. It follows that the professional accountant in public practice\* will not necessarily know enough to be able completely to assess whether the third party is the optimum choice or not. This is an inevitable limitation in most referrals, and what the referral is based on will vary. However, the professional accountant in public practice\* shall consider the fitness for purpose of the third party to address the client's needs.*

**241.5** *In making that consideration, the professional accountant in public practice\*:*

- *Can take account of the professional or regulatory status of the prospective referee;*
- *Is not normally expected to have to make additional enquiries about the prospective referee and can make the assessment based on what is already known.*

**241.6** *A referral shall not normally be made to a third party even with a disclaimer, when, taking into account known factors, the professional accountant in public practice\* knows of a better alternative. If the client or enquirer insists on being referred to a particular third party and the professional accountant in public practice\* believes there is a better alternative, the reference may be made but the client or enquirer shall be made aware of the professional accountant in public practice's\* concerns. Where the referral relates to an end product or service, rather than an intermediary,*

\* See Definitions for parts A, B and C

*and the professional accountant in public practice\* knows there are other alternatives but does not know if they are better, this shall be explained.*

**241.7** *If there is a relationship with the third party, for example a family connection or an automatic referral arrangement, there are clear self-interest or familiarity threats and the connection shall be disclosed. This is particularly important where a professional accountant in public practice\* is considering recommending the products of another supplier with which there is an agency, and/or a principal\* or employee of the professional accountant in public practice's\* firm\* is a principal\* or officer\* of the other supplier. If in substance there is a one-to-one relationship between the professional accountant in public practice\* and the third party (for example, the professional accountant in public practice\* is the only accountant in the area and the third party is the only solicitor), which implies automatic referral, this shall also be disclosed.*

**241.8** *In summary, professional accountants in public practice\* shall:*

- *Consider any factors they are aware of that would indicate the proposed third party is not fit for purpose in terms of the potential engagement. The professional accountant in public practice\* shall take into account what a reasonable person might expect a Chartered Accountant to know;*
- *Make clients (or enquirers), that are proposed to be referred, aware of limitations in knowledge;*
- *Disclose any referral arrangement;*
- *Ensure that any contractual arrangement does not override the needs of an individual client.*

#### **Establishing Agencies**

**241.9** *The guidance which follows is intended to assist professional accountants in public practice\* in their arrangements with other suppliers of services and products.*

**241.10** *This section addresses agreements that in effect provide for permanent arrangements for referrals. The issues are considered to be similar to those above for referrals in general except that an agency contract will usually bind the agent in terms of whom it can refer to for particular types of work. When professional accountants in public practice\* are considering the establishment of an agency, the terms of the agency contract (actual or implied) shall not require exclusive referral of all clients regardless of suitability. For example, professional accountants in public practice\* shall not be party to an agency by which they are constrained to channel all funds received by it for investment into a single bank/building society. Such a clause would make important safeguards inoperable.*

**241.11** *Before accepting appointment as auditor of another entity of which they are an agent, professional accountants in public practice\* shall consider whether the agency constitutes a material business relationship. See section 290, 'Independence – audit and review engagements' and Section 291 – Independence – other assurance engagements*

**241.12** *Professional accountants in public practice\* shall not, because of the self-interest threat, enter into any financial arrangements with another supplier either personally or through their firm\* which would prejudice the objectivity of themselves or their firm\*.*

\* See Definitions for parts A, B and C

- 241.13** *Before accepting or continuing an agency with another supplier, professional accountants in public practice\* shall satisfy themselves that their ability to discharge their professional obligations to their clients is not compromised.*
- 241.14** *A professional accountant in public practice\* shall not in any circumstances conduct its practice in such a manner as to give the impression that the professional accountant\* is a principal rather than an agent. This would include considering signs on premises and any other outward signs or literature used. This would relate in particular to agencies with entities such as banks and building societies, where confusion as to status can arise (see also 'The names and letterheads of practising firms' at [www.icaew.com/regulations](http://www.icaew.com/regulations).)*
- 241.15** *For the arrangements for firms in Ireland see annex 1*

### **Investment Business Agencies and Introductions**

- 241.16** *When considering referrals of investment business ('introductions') or the establishment of investment business agencies, professional accountants in public practice\* shall apply the general principles and requirements set out in the previous Sections. However, they will also need to consider:*
- *Whether the introduction or agency is permitted by regulation; and*
  - *Whether the status of the third party investment business provider is compatible with the requirement to give objective advice.*
- 241.17** *For the arrangements regarding Investment Business Agencies and Introductions see Annex 2.*

### **Annex 1**

#### **Arrangements in Ireland**

*Firms\* in Ireland must be authorised under the Investment Intermediaries Act, 1995 to hold an agency with a building society and that arrangement shall relate solely to deposit taking and not for example relate to products of a particular insurance company or unit trust organisation for which the building society is an appointed representative. Firms\* holding building society agencies must ensure that their agency agreement contains no obligation which would cause, or would be perceived to cause, them to breach the provisions of either the Act or the Institute of Chartered Accountants in Ireland's Investment Business Regulations and Guidance. Firms\* cannot hold agencies with banks.*

### **Annex 2**

#### **Investment Business Agencies and Introductions**

##### Regulated activities under the Financial Services and Markets Act 2000 (United Kingdom)

- 1** *In order to make a decision about whether an introduction is a regulated activity, the professional accountant in public practice\* must look at how the introduction is made and also what type of investment the client is considering (such as life assurance and pensions, unit trusts, shares, mortgages or general insurance). A regulated introduction can only be made under the terms of the Act by a firm\* which is licensed by ICAEW as a Designated Professional Body ('DPB') (a licensed firm\*) or a firm\* which is authorised by the Financial Services Authority ('authorised'). Unauthorised / unlicensed firms\* are restricted in that they can only*

\* See Definitions for parts A, B and C



make introductions for general financial advice where no specific type of investment is referred to, or for a restricted range of investments, such as shares and unit trusts.

- 2 Further guidance on the difference between a regulated introduction and the provision of information in respect of insurance business, and the regulatory consequences thereof, is set out in Schedule 6 to Part 3 of the DPB Handbook, available at [www.icaew.com/dpb](http://www.icaew.com/dpb).
- 3 Having established that an introduction can be made in compliance with regulatory requirements, professional accountants in public practice\* shall bear in mind the need to provide their clients with objective advice, in compliance with these ethical standards.
- 4 Professional accountants in public practice\* can become appointed representatives of another authorised firm\*. When selecting which authorised firm\* to become an appointed representative of, professional accountants in public practice\* shall again bear in mind the need to provide their clients with objective advice.

Regulated Activities under the Investment Intermediaries Act, 1995 (...Ireland)

- 5 Professional accountants in public practice\* may only make an introduction or refer clients to another authorised firm\* if they are themselves authorised to conduct investment business under the Investment Intermediaries Act 1995 and where required hold an appropriate letter of appointment.
- 6 Professional accountants in public practice\* when selecting an authorised firm\* shall bear in mind the need to provide their clients with objective advice.

Status of Investment Business Providers

- 7 Authorised firms\* within the United Kingdom can fall into the following categories:\*

| <b>Type of firm*</b>   | <b>What recommendations the firm* can make</b>  | <b>Can there generally be introductions to this type of firm*?</b> |
|--|---|--|
| <i>Independent</i>   | <p>a) A firm provides independent advice across all markets and all retail investment products</p> <p>b) A firm provides independent advice in respect of a relevant market that does not include all retail investment products (but does include all retail investment products within the relevant market)</p> | <p>Yes (9 below)</p> <p>Depends (see 10 below)</p>                 |
| <i>Restricted</i>  | A firm provides restricted advice (being advice which is not independent as described in a and b above)   | Depends on scope of choice 11 below)                               |
| Further information and the definitions of independent and restricted is available in the FSA Handbook |   |  |

\* See Definitions for parts A, B and C

8 *Authorised firms\* within Ireland can fall into the following categories:\**

| <b>Type of firm*</b> | <b>What recommendations the firm* can make</b>   | <b>Can there generally be introductions to this type of firm*?</b> |
|----------------------|--|--|
| <i>Independent</i>   | <i>Recommend products from the whole market and offer clients the ability to pay by fee. Only these firms* can describe themselves as independent financial advisers. The client may be able to elect for the adviser to be paid by commission</i> | <i>Yes (9 below)</i>   |
| <i>Multi-agency</i>  | <i>Recommend the products of more than one product provider with whom the firm* has agreements, but recommends on less than the whole market.</i>  | <i>Depends on scope of choice 11 below)</i>                        |
| <i>Tied</i>          | <i>Recommend the products of one product provider.</i>   | <i>No</i>  |

- 9 *An introduction to independent firms\* (category (a) only for the UK table above) would be likely to meet the requirement to give objective advice but professional accountants\* in public practice are reminded of the general requirements above.*
- 10 *Whether professional accountants in public practice\* may make recommendations to firms providing independent advice in respect of a relevant market that does not include all retail investment products (category (b) in the UK table above) will depend upon whether the relevant markets covered are appropriate to the client's requirements and on whether, within those markets, the firm\* places business with the product providers who account for a large majority of the relevant market or offer the sector of the market which is most suitable for the client's needs. The latter aspect is discussed further in 11 below in the context of restricted advice but similar principles apply. Professional accountants should apply the guidance in Sections 241.1 to 241.8 above.*
- 11 *Professional accountants in public practice\* may in some situations be able to introduce to restricted firms\* and still comply with the ethical requirements (however, see paragraphs 1-3 above as to whether the introduction can only be made by a DPB licensed firm\* or an FSA authorised firm\*, if it is a 'regulated' activity). Clearly the principal threat is that clients might not be offered the most appropriate choice. The professional accountant in public practice\* shall assess the client's requirements and whether the restricted firm\* places business with the product providers who account for a large majority of the relevant market or offer the sector of the market which is most suitable for the client's needs. However, members\* must ensure that in making such an assessment, they are not effectively making their own recommendation unless they are able to do so under the terms of*

\* See Definitions for parts A, B and C

*a licence or authorisation. The professional accountant in public practice\* may decide that this does not restrict the client's access to the range of product providers to an extent where there is any potential detriment. The professional accountant in public practice\* shall make the client aware of restrictions in the range of investments offered by the firm\* to which the client is being referred. Whether an introduction to a restricted firm will be acceptable will depend on the particular circumstances and the scope of the available choice and professional accountants should apply the guidance in Sections 241.1 to 241.8 above.*

- 12** *Similar considerations to those noted above apply to whether a professional accountant in public practice\* shall become an appointed representative under the Financial Services and Markets Act 2000. Thus, for example, a professional firm\* cannot become an appointed representative for regulated investment business, of a restricted firm\* if the agency agreement would obliged the firm\* to make referrals to the principal in all circumstances and the firm\* would be unable to provide objective advice.*

## **SECTION 250 - MARKETING PROFESSIONAL SERVICES\***

**250.1** When a professional accountant in public practice\* solicits new work through advertising or other forms of marketing, there may be a threat to compliance with the fundamental principles. For example, a self-interest threat to compliance with the principle of professional behaviour is created if services, achievements, or products are marketed in a way that is inconsistent with that principle.

**250.2** A professional accountant in public practice\* shall not bring the profession into disrepute when marketing professional services\*. The professional accountant in public practice\* shall be honest and truthful and not:

- (a) Make exaggerated claims for services offered, qualifications possessed, or experience gained; or
- (b) Make disparaging references or unsubstantiated comparisons to the work of another.

*In particular, where professional accountants in public practice\* seek to make comparisons of their promotional material between their practices or services and those of others, great care will be required. In particular, they shall ensure that such comparisons:*

- *Are objective and not misleading;*
- *Relate to the same services;*
- *Are factual and verifiable; and*
- *Do not discredit or denigrate the practice or services of others.*

*Particular care is needed in unclear or subjective claims of size or quality. For example, it is impossible to know whether a claim to be 'the largest firm' in an area is a reference to the number of partners\* or staff, the number of offices\* or*

\* See Definitions for parts A, B and C

*the amount of fee income. A claim to be 'the best firm' is unlikely to be able to be substantiated.*

If the professional accountant in public practice\* is in doubt about whether a proposed form of advertising\* or marketing is appropriate, the professional accountant in public practice\* shall consider consulting with ICAEW.

- 250.3** *A professional accountant in public practice\* shall ensure that all advertisements, including letterheads, invoices and other practice documents, comply with the law and conform with the requirements of the relevant Advertising Standards Authority (for example, the British Code of Advertising) notably, as to legality, decency, clarity, honesty and truthfulness.*
- 250.4** *If reference is made in promotional material to fees, the basis on which the fees are calculated, or to hourly or other charging rates, the greatest care shall be taken to ensure that such reference does not mislead as to the precise range of services and the time commitment that the reference is intended to cover. Professional accountants in public practice\* are unlikely to be able to comply with the requirements of 250.2 if making a comparison in such material between their fees and the fees of another accounting practice, whether members\* or not. A professional accountant in public practice\* may offer a free consultation at which fees are discussed.*
- 250.5** *Professional accountants in public practice\* shall never promote or seek to promote their services, or the services of other professional accountants in public practice\*, in such a way, or to such an extent, as to amount to harassment of a potential client.*
- It shall be noted that special rules apply in relation to the conduct of Insolvency Practice and licensed practitioners shall have regard to the relevant legislation and to Part D. Similarly professional accountants in public practice\* whose firm\* is registered for the conduct of investment business shall have recourse to the relevant Investment Business Regulations.*
- 250.6** *Further guidance on marketing professional services\* is available to members in a helpsheet from the Ethics Advisory Services ([www.icaew.com/ethicsadvice](http://www.icaew.com/ethicsadvice)). See also sections 210, 'Professional appointment' and 230, 'Second opinions'.*

## **SECTION 260 - GIFTS AND HOSPITALITY**

- 260.1** A professional accountant in public practice\*, or an immediate or close family\* member, may be offered gifts and hospitality from a client. Such an offer may create threats to compliance with the fundamental principles. For example, a self-interest or familiarity threat to objectivity may be created if a gift from a client is accepted; an intimidation threat to objectivity may result from the possibility of such offers being made public.
- 260.2** The existence and significance of any threat will depend on the nature, value, and intent of the offer. Where gifts or hospitality are offered that a reasonable and informed third party, weighing all the specific facts and circumstances,

\* See Definitions for parts A, B and C

would consider trivial and inconsequential, a professional accountant in public practice\* may conclude that the offer is made in the normal course of business without the specific intent to influence decision making or to obtain information. In such cases, the professional accountant in public practice\* may generally conclude that any threat to compliance with the fundamental principles is at an acceptable level\*.

- 260.3** A professional accountant in public practice\* shall evaluate the significance of any threats and apply safeguards when necessary to eliminate the threats or reduce them to an acceptable level\*. When the threats cannot be eliminated or reduced to an acceptable level\* through the application of safeguards, a professional accountant in public practice\* shall not accept such an offer.
- 260.4** *Further guidance on dealing with gifts and hospitality in an assurance engagement\* is available in paragraph 290.230.*

## **SECTION 270 - CUSTODY OF CLIENT ASSETS**

- 270.1** A professional accountant in public practice\* shall not assume custody of client monies or other assets unless permitted to do so by law and, if so, in compliance with any additional legal duties imposed on a professional accountant in public practice\* holding such assets.
- 270.2** The holding of client assets creates threats to compliance with the fundamental principles; for example, there is a self-interest threat to professional behaviour and may be a self interest threat to objectivity arising from holding client assets. A professional accountant in public practice\* entrusted with money (or other assets) belonging to others shall therefore:
- (a) Keep such assets separately from personal or firm\* assets;
  - (b) Use such assets only for the purpose for which they are intended;
  - (c) At all times be ready to account for those assets and any income, dividends, or gains generated, to any persons entitled to such accounting; and
  - (d) Comply with all relevant laws and regulations relevant to the holding of and accounting for such assets.

*Regulations on the procedures required to be adopted by professional accountants\* holding client monies are available in the 'Clients' money regulations', available at [www.icaew.com/regulations](http://www.icaew.com/regulations). For firms\* licensed by ICAEW under the Designated Professional Bodies arrangements, additional requirements are included in Chapter 4 of the Designated Professional Bodies Handbook ([www.icaew.com/dpb](http://www.icaew.com/dpb)).*

- 270.3** As part of client and engagement acceptance procedures for services that may involve the holding of client assets, a professional accountant in public practice\* shall make appropriate inquiries about the source of such assets and

\* See Definitions for parts A, B and C

consider legal and regulatory obligations. For example, if the assets were derived from illegal activities, such as money laundering, a threat to compliance with the fundamental principles would be created. In such situations, the professional accountant\* may consider seeking legal advice.

*Further guidance on money laundering regulation and legislation is available in 'Anti-money laundering guidance for the accountancy sector' available at [www.icaew.com/regulations](http://www.icaew.com/regulations).*

*See also 'Document and records: ownership, lien and rights of access' at [www.icaew.com/regulations](http://www.icaew.com/regulations).*

## **SECTION 280 - OBJECTIVITY—ALL SERVICES**

- 280.1** A professional accountant in public practice\* shall determine when providing any professional service\* whether there are threats to compliance with the fundamental principle of objectivity resulting from having interests in, or relationships with, a client or its directors\*, officers\* or employees. For example, a familiarity threat to objectivity may be created from a family or close personal or business relationship.
- 280.2** A professional accountant in public practice\* who provides an assurance service shall be independent of the assurance client\*. Independence\* of mind and in appearance is necessary to enable the professional accountant in public practice\* to express a conclusion, and be seen to express a conclusion, without bias, conflict of interest, or undue influence of others. Sections 290 and 291 provide specific guidance on independence\* requirements for professional accountants\* in public practice when performing assurance engagements\*.
- 280.3** The existence of threats to objectivity when providing any professional service\* will depend upon the particular circumstances of the engagement and the nature of the work that the professional accountant in public practice\* is performing.
- 280.4** A professional accountant in public practice\* shall evaluate the significance of any threats and apply safeguards when necessary to eliminate them or reduce them to an acceptable level\*. Examples of such safeguards include:
- Withdrawing from the engagement team\*.
  - Supervisory procedures.
  - Terminating the financial or business relationship giving rise to the threat.
  - Discussing the issue with higher levels of management within the firm\*.
  - Discussing the issue with those charged with governance\* of the client.

If safeguards cannot eliminate or reduce the threat to an acceptable level\*, the professional accountant\* shall decline or terminate the relevant engagement.

## SECTION 290 – INDEPENDENCE\* – AUDIT AND REVIEW ENGAGEMENTS

### Introduction

- 290.0a** *In accordance with UK legislation, ICAEW has adopted, as regards auditor independence\* requirements, the Ethical Standards for Auditors, issued by the Auditing Practices Board ('APB'). Therefore, when conducting audit engagements\* in accordance with ISAs (UK and Ireland), professional accountants\* shall comply with the requirements of the APB's Ethical Standards for Auditors, including Provisions Available for Small Entities (ES-PASE) ([www.frc.org.uk/apb/publications/ethical.cfm](http://www.frc.org.uk/apb/publications/ethical.cfm)). For other audit and assurance engagements\* ICAEW's Code may apply (see 290.0c below).*
- 290.0b** *The APB has stated, in ISA (UK and Ireland) 200, that it is not aware of any significant instances where the relevant parts of the IESBA Code of Ethics are more restrictive than the APB's Ethical Standards.*
- 290.0c** *The independence\* requirements to be adopted for different types of assurance engagement\*, are set out below:*

| <b>Type of assurance engagement*</b>                                   | <b>Independence* requirements to be followed</b>  |
|--|---|
| <i>Audit engagements* in accordance with ISAs (UK and Ireland)</i>     | <i>The APB's Ethical Standards for Auditors (<a href="http://www.frc.org.uk/apb/publications/ethical.cfm">www.frc.org.uk/apb/publications/ethical.cfm</a> )</i> |
| <i>Audit engagements* performed in accordance with other standards</i> | <i>Section 290 of this Code or if more convenient to apply, the independence* requirements of the APB's Ethical Standards for Auditors.</i>                     |
| <i>Review engagements* (see appendix to section 290)</i>               | <i>Section 290 of this Code or if more convenient to apply, the independence* requirements of the APB's Ethical Standards for Auditors.</i>                     |
| <i>Other types of assurance engagements*</i>                           | <i>Section 291 of this Code.</i>  |

- 290.0d** *Note that the Statements of Investment Circular Reporting Standards (SIRS), issued by the APB require compliance with the APB's Ethical Standard for Reporting Accountants (ESRA). Accordingly, any professional accountant in public practice\* issuing a report that states that the work has been carried out in accordance with the SIRS will need to comply with the independence\* requirements of the ESRA.*

\* See Definitions for parts A, B and C

## Structure of Section

**290.1** This section addresses the independence\* requirements for audit engagements\* and review engagements\*, which are assurance engagements\* in which a professional accountant in public practice\* expresses a conclusion on financial statements\*. Such engagements comprise audit and review engagements\* to report on a complete set of financial statements\* and a single financial statement\*. independence\* requirements for assurance engagements\* that are not audit or review engagements\* are addressed in section 291.

**290.2** In certain circumstances involving audit engagements\* where the audit report includes a restriction on use and distribution and provided certain conditions are met, the independence\* requirements in this section may be modified as provided in paragraphs 290.500 to 290.514. The modifications are not permitted in the case of an audit of financial statements\* required by law or regulation.

**290.3** In this section, the term(s):

- “Audit,” “audit team\*,” “audit engagement\*,” “audit client\*” and “audit report” includes review, review team\*, review engagement\*, review client\* and review report; and
- “Firm\*” includes network firm\*, except where otherwise stated.

### A Conceptual Framework Approach to independence\*

**290.4** In the case of audit engagements\*, it is in the public interest and, therefore, required by this Code of Ethics, that members of audit teams\*, firms and network firms\* shall be independent of audit clients\*.

**290.5** The objective of this section is to assist firms and members of audit teams\* in applying the conceptual framework approach described below to achieving and maintaining independence\*.

**290.6** Independence\* comprises:

(a) independence\* of Mind

The state of mind that permits the expression of a conclusion without being affected by influences that compromise professional judgment, thereby allowing an individual to act with integrity and exercise objectivity and professional scepticism.

(b) independence\* in Appearance

The avoidance of facts and circumstances that are so significant that a reasonable and informed third party would be likely to conclude, weighing all the specific facts and circumstances, that a firm's\*, or a member of the audit team's\*, integrity, objectivity or professional scepticism has been compromised.

\* See Definitions for parts A, B and C



**290.7** The conceptual framework approach shall be applied by professional accountants\* to:

- (a) Identify threats to independence\*;
- (b) Evaluate the significance of the threats identified; and
- (c) Apply safeguards, when necessary, to eliminate the threats or reduce them to an acceptable level\*.

When the professional accountant\* determines that appropriate safeguards are not available or cannot be applied to eliminate the threats or reduce them to an acceptable level\*, the professional accountant\* shall eliminate the circumstance or relationship creating the threats or decline or terminate the audit engagement\*.

A professional accountant\* shall use professional judgment in applying this conceptual framework.

**290.8** Many different circumstances, or combinations of circumstances, may be relevant in assessing threats to independence\*. It is impossible to define every situation that creates threats to independence\* and to specify the appropriate action. Therefore, this Code establishes a conceptual framework that requires firms and members of audit teams\* to identify, evaluate, and address threats to independence\*. The conceptual framework approach assists professional accountants\* in practice in complying with the ethical requirements in this Code. It accommodates many variations in circumstances that create threats to independence\* and can deter a professional accountant\* from concluding that a situation is permitted if it is not specifically prohibited.

**290.9** Paragraphs 290.100 and onwards describe how the conceptual framework approach to independence\* is to be applied. These paragraphs do not address all the circumstances and relationships that create or may create threats to independence\*.

**290.10** In deciding whether to accept or continue an engagement, or whether a particular individual may be a member of the audit team\*, a firm\* shall identify and evaluate threats to independence\*. If the threats are not at an acceptable level\*, and the decision is whether to accept an engagement or include a particular individual on the audit team\*, the firm\* shall determine whether safeguards are available to eliminate the threats or reduce them to an acceptable level\*. If the decision is whether to continue an engagement, the firm\* shall determine whether any existing safeguards will continue to be effective to eliminate the threats or reduce them to an acceptable level\* or whether other safeguards will need to be applied or whether the engagement needs to be terminated. Whenever new information about a threat to independence\* comes to the attention of the firm\* during the engagement, the firm\* shall evaluate the significance of the threat in accordance with the conceptual framework approach.

\* See Definitions for parts A, B and C

- 290.11** Throughout this section, reference is made to the significance of threats to independence\*. In evaluating the significance of a threat, qualitative as well as quantitative factors shall be taken into account.
- 290.12** This section does not, in most cases, prescribe the specific responsibility of individuals within the firm\* for actions related to independence\* because responsibility may differ depending on the size, structure and organisation of a firm\*. The firm\* is required by International Standards on Quality Control to establish policies and procedures designed to provide it with reasonable assurance that independence\* is maintained when required by relevant ethical requirements. In addition, International Standards on Auditing require the engagement partner\* to form a conclusion on compliance with the independence\* requirements that apply to the engagement.

### **Networks\* and Network firms\***

- 290.13** If a firm\* is deemed to be a network firm\*, the firm\* shall be independent of the audit clients\* of the other firms within the network\* (unless otherwise stated in this Code). The independence\* requirements in this section that apply to a network firm\* apply to any entity, such as a consulting practice or professional law practice, that meets the definition of a network firm\* irrespective of whether the entity itself meets the definition of a firm\*.
- 290.14** To enhance their ability to provide professional services\*, firms frequently form larger structures with other firms and entities. Whether these larger structures create a network\* depends on the particular facts and circumstances and does not depend on whether the firms and entities are legally separate and distinct. For example, a larger structure may be aimed only at facilitating the referral of work, which in itself does not meet the criteria necessary to constitute a network\*. Alternatively, a larger structure might be such that it is aimed at co-operation and the firms share a common brand name, a common system of quality control, or significant professional resources and consequently is deemed to be a network\*.
- 290.15** The judgment as to whether the larger structure is a network\* shall be made in light of whether a reasonable and informed third party would be likely to conclude, weighing all the specific facts and circumstances, that the entities are associated in such a way that a network\* exists. This judgment shall be applied consistently throughout the network\*.
- 290.16** Where the larger structure is aimed at co-operation and it is clearly aimed at profit or cost sharing among the entities within the structure, it is deemed to be a network\*. However, the sharing of immaterial costs does not in itself create a network\*. In addition, if the sharing of costs is limited only to those costs related to the development of audit methodologies, manuals, or training courses, this would not in itself create a network\*. Further, an association between a firm\* and an otherwise unrelated entity to jointly provide a service or develop a product does not in itself create a network\*.
- 290.17** Where the larger structure is aimed at cooperation and the entities within the structure share common ownership, control or management, it is deemed to be a network\*. This could be achieved by contract or other means.

\* See Definitions for parts A, B and C

- 290.18** Where the larger structure is aimed at co-operation and the entities within the structure share common quality control policies and procedures, it is deemed to be a network\*. For this purpose, common quality control policies and procedures are those designed, implemented and monitored across the larger structure.
- 290.19** Where the larger structure is aimed at co-operation and the entities within the structure share a common business strategy, it is deemed to be a network\*. Sharing a common business strategy involves an agreement by the entities to achieve common strategic objectives. An entity is not deemed to be a network firm\* merely because it co-operates with another entity solely to respond jointly to a request for a proposal for the provision of a professional service\*.
- 290.20** Where the larger structure is aimed at co-operation and the entities within the structure share the use of a common brand name, it is deemed to be a network\*. A common brand name includes common initials or a common name. A firm\* is deemed to be using a common brand name if it includes, for example, the common brand name as part of, or along with, its firm\* name, when a partner\* of the firm\* signs an audit report.
- 290.21** Even though a firm\* does not belong to a network\* and does not use a common brand name as part of its firm\* name, it may give the appearance that it belongs to a network\* if it makes reference in its stationery or promotional materials to being a member of an association of firms. Accordingly, if care is not taken in how a firm\* describes such memberships, a perception may be created that the firm\* belongs to a network\*.
- 290.22** If a firm\* sells a component of its practice, the sales agreement sometimes provides that, for a limited period of time, the component may continue to use the name of the firm\*, or an element of the name, even though it is no longer connected to the firm\*. In such circumstances, while the two entities may be practicing under a common name, the facts are such that they do not belong to a larger structure aimed at co-operation and are, therefore, not network firms\*. Those entities shall determine how to disclose that they are not network firms\* when presenting themselves to outside parties.
- 290.23** Where the larger structure is aimed at co-operation and the entities within the structure share a significant part of professional resources, it is deemed to be a network\*. Professional resources include:
- Common systems that enable firms to exchange information such as client data, billing and time records;
  - Partners\* and staff;
  - Technical departments that consult on technical or industry specific issues, transactions or events for assurance engagements\*;
  - Audit methodology or audit manuals; and
  - Training courses and facilities.

\* See Definitions for parts A, B and C

**290.24** The determination of whether the professional resources shared are significant, and therefore the firms are network firms\*, shall be made based on the relevant facts and circumstances. Where the shared resources are limited to common audit methodology or audit manuals, with no exchange of personnel or client or market information, it is unlikely that the shared resources would be significant. The same applies to a common training endeavour. Where, however, the shared resources involve the exchange of people or information, such as where staff are drawn from a shared pool, or a common technical department is created within the larger structure to provide participating firms with technical advice that the firms are required to follow, a reasonable and informed third party is more likely to conclude that the shared resources are significant.

#### **Public interest entities\***

**290.25** Section 290 contains additional provisions that reflect the extent of public interest in certain entities. For the purpose of this section, public interest entities\* are:

- (a) All listed entities\*; and
- (b) Any entity:
  - (i) Defined by regulation or legislation as a public interest entity\* or
  - (ii) For which the audit is required by regulation or legislation to be conducted in compliance with the same independence\* requirements that apply to the audit of listed entities\*. Such regulation may be promulgated by any relevant regulator, including an audit regulator.

**290.26** Firms are encouraged to determine whether to treat additional entities, or certain categories of entities, as public interest entities\* because they have a large number and wide range of stakeholders. Factors to be considered include:

- The nature of the business, such as the holding of assets in a fiduciary capacity for a large number of stakeholders. Examples may include financial institutions, such as banks and insurance companies, and pension funds;
- Size; and
- Number of employees.

#### **Related Entities**

**290.27** In the case of an audit client\* that is a listed entity\*, references to an audit client\* in this section include related entities of the client (unless otherwise stated). For all other audit clients\*, references to an audit client\* in this section include related entities over which the client has direct or indirect control. When the audit team\* knows or has reason to believe that a relationship or circumstance involving another related entity\* of the client is relevant to the evaluation of the firm's\* independence\* from the client, the audit team\* shall

\* See Definitions for parts A, B and C

include that related entity\* when identifying and evaluating threats to independence\* and applying appropriate safeguards.

### **Those charged with governance\***

**290.28** Even when not required by the Code, applicable auditing standards, law or regulation, regular communication is encouraged between the firm\* and those charged with governance\* of the audit client\* regarding relationships and other matters that might, in the firm's\* opinion, reasonably bear on independence\*. Such communication enables those charged with governance\* to:

- (a) consider the firm's\* judgments in identifying and evaluating threats to independence\*,
- (b) consider the appropriateness of safeguards applied to eliminate them or reduce them to an acceptable level\*, and
- (c) take appropriate action. Such an approach can be particularly helpful with respect to intimidation and familiarity threats.

### **Documentation**

**290.29** Documentation provides evidence of the professional accountant's\* judgments in forming conclusions regarding compliance with independence\* requirements. The absence of documentation is not a determinant of whether a firm\* considered a particular matter nor whether it is independent.

The professional accountant\* shall document conclusions regarding compliance with independence\* requirements, and the substance of any relevant discussions that support those conclusions. Accordingly:

- (a) When safeguards are required to reduce a threat to an acceptable level\*, the professional accountant\* shall document the nature of the threat and the safeguards in place or applied that reduce the threat to an acceptable level\*; and
- (b) When a threat required significant analysis to determine whether safeguards were necessary and the professional accountant\* concluded that they were not because the threat was already at an acceptable level\*, the professional accountant\* shall document the nature of the threat and the rationale for the conclusion.

### **Engagement Period**

**290.30** Independence\* from the audit client\* is required both during the engagement period and the period covered by the financial statements\*. The engagement period starts when the audit team\* begins to perform audit services. The engagement period ends when the audit report is issued. When the engagement is of a recurring nature, it ends at the later of the notification by either party that the professional relationship has terminated or the issuance of the final audit report.

\* See Definitions for parts A, B and C

- 290.31** When an entity becomes an audit client\* during or after the period covered by the financial statements on which the firm will express an opinion\*, the firm\* shall determine whether any threats to independence\* are created by:
- Financial or business relationships with the audit client\* during or after the period covered by the financial statements\* but before accepting the audit engagement\*; or
  - Previous services provided to the audit client\*.
- 290.32** If a non-assurance service was provided to the audit client\* during or after the period covered by the financial statements\* but before the audit team\* begins to perform audit services and the service would not be permitted during the period of the audit engagement\*, the firm\* shall evaluate any threat to independence\* created by the service. If a threat is not at an acceptable level\*, the audit engagement\* shall only be accepted if safeguards are applied to eliminate any threats or reduce them to an acceptable level\*. Examples of such safeguards include:
- Not including personnel who provided the non-assurance service as members of the audit team\*;
  - Having a professional accountant\* review the audit and non-assurance work as appropriate; or
  - Engaging another firm\* to evaluate the results of the non-assurance service or having another firm\* re-perform the non-assurance service to the extent necessary to enable it to take responsibility for the service.

### **Mergers and Acquisitions**

- 290.33** When, as a result of a merger or acquisition, an entity becomes a related entity\* of an audit client\*, the firm\* shall identify and evaluate previous and current interests and relationships with the related entity\* that, taking into account available safeguards, could affect its independence\* and therefore its ability to continue the audit engagement\* after the effective date of the merger or acquisition.
- 290.34** The firm\* shall take steps necessary to terminate, by the effective date of the merger or acquisition, any current interests or relationships that are not permitted under this Code. However, if such a current interest or relationship cannot reasonably be terminated by the effective date of the merger or acquisition, for example, because the related entity\* is unable by the effective date to effect an orderly transition to another service provider of a non-assurance service provided by the firm\*, the firm\* shall evaluate the threat that is created by such interest or relationship. The more significant the threat, the more likely the firm's\* objectivity will be compromised and it will be unable to continue as auditor. The significance of the threat will depend upon factors such as:
- The nature and significance of the interest or relationship;

\* See Definitions for parts A, B and C

- The nature and significance of the related entity\* relationship (for example, whether the related entity\* is a subsidiary or parent); and
- The length of time until the interest or relationship can reasonably be terminated.

The firm\* shall discuss with those charged with governance\* the reasons why the interest or relationship cannot reasonably be terminated by the effective date of the merger or acquisition and the evaluation of the significance of the threat.

**290.35** If those charged with governance\* request the firm\* to continue as auditor, the firm\* shall do so only if:

- (a) the interest or relationship will be terminated as soon as reasonably possible and in all cases within six months of the effective date of the merger or acquisition;
- (b) any individual who has such an interest or relationship, including one that has arisen through performing a non-assurance service that would not be permitted under this section, will not be a member of the engagement team\* for the audit or the individual responsible for the engagement quality control review\*; and
- (c) appropriate transitional measures will be applied, as necessary, and discussed with those charged with governance\*. Examples of transitional measures include:
  - Having a professional accountant\* review the audit or non-assurance work as appropriate;
  - Having a professional accountant\*, who is not a member of the firm\* expressing the opinion on the financial statements\*, perform a review that is equivalent to an engagement quality control review\*; or
  - Engaging another firm\* to evaluate the results of the non-assurance service or having another firm\* re-perform the non-assurance service to the extent necessary to enable it to take responsibility for the service.

**290.36** The firm\* may have completed a significant amount of work on the audit prior to the effective date of the merger or acquisition and may be able to complete the remaining audit procedures within a short period of time. In such circumstances, if those charged with governance\* request the firm\* to complete the audit while continuing with an interest or relationship identified in 290.33, the firm\* shall do so only if it:

- (a) Has evaluated the significance of the threat created by such interest or relationship and discussed the evaluation with those charged with governance\*;

\* See Definitions for parts A, B and C

- (b) Complies with the requirements of paragraph 290.35(b)–(c); and
- (c) Ceases to be the auditor no later than the issuance of the audit report.

**290.37** When addressing previous and current interests and relationships covered by paragraphs 290.33 to 290.36, the firm\* shall determine whether, even if all the requirements could be met, the interests and relationships create threats that would remain so significant that objectivity would be compromised and, if so, the firm\* shall cease to be the auditor.

**290.38** The professional accountant\* shall document any interests or relationships covered by paragraphs 290.34 and 36 that will not be terminated by the effective date of the merger or acquisition and the reasons why they will not be terminated, the transitional measures applied, the results of the discussion with those charged with governance\*, and the rationale as to why the previous and current interests and relationships do not create threats that would remain so significant that objectivity would be compromised.

### **Other Considerations**

**290.39** There may be occasions when there is an inadvertent violation of this section. If such an inadvertent violation occurs, it generally will be deemed not to compromise independence\* provided the firm\* has appropriate quality control policies and procedures in place, equivalent to those required by International Standards on Quality Control, to maintain independence\* and, once discovered, the violation is corrected promptly and any necessary safeguards are applied to eliminate any threat or reduce it to an acceptable level\*. The firm\* shall determine whether to discuss the matter with those charged with governance\*.

Paragraphs 290.40 to 290.99 are intentionally left blank.

### **Application of the Conceptual Framework Approach to independence\***

**290.100** Paragraphs 290.102 to 290.231 describe specific circumstances and relationships that create or may create threats to independence\*. The paragraphs describe the potential threats and the types of safeguards that may be appropriate to eliminate the threats or reduce them to an acceptable level\* and identify certain situations where no safeguards could reduce the threats to an acceptable level\*. The paragraphs do not describe all of the circumstances and relationships that create or may create a threat to independence\*. The firm\* and the members of the audit team\* shall evaluate the implications of similar, but different, circumstances and relationships and determine whether safeguards, including the safeguards in paragraphs 200.12 to 200.15, can be applied when necessary to eliminate the threats to independence\* or reduce them to an acceptable level\*.

**290.101** Paragraphs 290.102 to 290.126 contain references to the materiality of a financial interest\*, loan\*, or guarantee, or the significance of a business relationship. For the purpose of determining whether such an interest is material to an individual, the combined net worth of the individual and the individual's immediate family\* members may be taken into account.

\* See Definitions for parts A, B and C



## **Financial interests\***

**290.102** Holding a financial interest\* in an audit client\* may create a self-interest threat. The existence and significance of any threat created depends on:

- (a) the role of the person holding the financial interest\*,
- (b) whether the financial interest\* is direct or indirect, and
- (c) the materiality of the financial interest\*.

**290.103** Financial interests\* may be held through an intermediary (e.g. a collective investment vehicle, estate or trust). The determination of whether such financial interests\* are direct or indirect will depend upon whether the beneficial owner has control over the investment vehicle or the ability to influence its investment decisions. When control over the investment vehicle or the ability to influence investment decisions exists, this Code defines that financial interest\* to be a direct financial interest\*. Conversely, when the beneficial owner of the financial interest\* has no control over the investment vehicle or ability to influence its investment decisions, this Code defines that financial interest\* to be an indirect financial interest\*.

**290.104** If a member of the audit team\*, a member of that individual's immediate family\* or a firm\* has a direct financial interest\* or a material indirect financial interest\* in the audit client\*, the self-interest threat created would be so significant that no safeguards could reduce the threat to an acceptable level\*. Therefore, none of the following shall have a direct financial interest\* or a material indirect financial interest\* in the client: a member of the audit team\*; a member of that individual's immediate family\*; or the firm\*.

**290.105** When a member of the audit team\* has a close family\* member who the audit team\* member knows has a direct financial interest\* or a material indirect financial interest\* in the audit client\*, a self-interest threat is created. The significance of the threat will depend on factors such as:

- The nature of the relationship between the member of the audit team\* and the close family\* member; and
- The materiality of the financial interest\* to the close family\* member.

The significance of the threat shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level\*. Examples of such safeguards include:

- The close family\* member disposing, as soon as practicable, of all of the financial interest\* or disposing of a sufficient portion of an indirect financial interest\* so that the remaining interest is no longer material;
- Having a professional accountant\* review the work of the member of the audit team\*; or

\* See Definitions for parts A, B and C

- Removing the individual from the audit team\*.

**290.106** If a member of the audit team\*, a member of that individual's immediate family\*, or a firm\* has a direct or material indirect financial interest\* in an entity that has a controlling interest in the audit client\*, and the client is material to the entity, the self-interest threat created would be so significant that no safeguards could reduce the threat to an acceptable level\*. Therefore, none of the following shall have such a financial interest\*: a member of the audit team\*; a member of that individual's immediate family\*; and the firm\*.

**290.107** The holding by a firm's\* retirement benefit plan of a direct or material indirect financial interest\* in an audit client\* creates a self-interest threat. The significance of the threat shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level\*.

**290.108** If other partners\* in the office\* in which the engagement partner\* practices in connection with the audit engagement\*, or their immediate family\* members, hold a direct financial interest\* or a material indirect financial interest\* in that audit client\*, the self-interest threat created would be so significant that no safeguards could reduce the threat to an acceptable level\*. Therefore, neither such partners\* nor their immediate family\* members shall hold any such financial interests\* in such an audit client\*.

**290.109** The office\* in which the engagement partner\* practices in connection with the audit engagement\* is not necessarily the office\* to which that partner\* is assigned. Accordingly, when the engagement partner\* is located in a different office\* from that of the other members of the audit team\*, professional judgment shall be used to determine in which office\* the partner\* practices in connection with that engagement.

**290.110** If other partners\* and managerial employees who provide non-audit services to the audit client\*, except those whose involvement is minimal, or their immediate family\* members, hold a direct financial interest\* or a material indirect financial interest\* in the audit client\*, the self-interest threat created would be so significant that no safeguards could reduce the threat to an acceptable level\*. Accordingly, neither such personnel nor their immediate family\* members shall hold any such financial interests\* in such an audit client\*.

**290.111** Despite paragraphs 290.108 and 290.110, the holding of a financial interest\* in an audit client\* by an immediate family\* member of :

- a partner\* located in the office\* in which the engagement partner\* practices in connection with the audit engagement\*, or
- a partner\* or managerial employee who provides non-audit services to the audit client\*, is deemed not to compromise independence\* if the financial interest\* is received as a result of the immediate family\* member's employment rights (e.g., through pension or share option plans) and, when necessary, safeguards are applied to eliminate any threat to independence\* or reduce it to an acceptable level\*.

\* See Definitions for parts A, B and C

However, when the immediate family\* member has or obtains the right to dispose of the financial interest\* or, in the case of a stock option, the right to exercise the option, the financial interest\* shall be disposed of or forfeited as soon as practicable.

**290.112** A self-interest threat may be created if the firm\* or a member of the audit team\*, or a member of that individual's immediate family\*, has a financial interest\* in an entity and an audit client\* also has a financial interest\* in that entity. However, independence\* is deemed not to be compromised if these interests are immaterial and the audit client\* cannot exercise significant influence over the entity. If such interest is material to any party, and the audit client\* can exercise significant influence over the other entity, no safeguards could reduce the threat to an acceptable level\*. Accordingly, the firm\* shall not have such an interest and any individual with such an interest shall, before becoming a member of the audit team\*, either:

- (a) Dispose of the interest; or
- (b) Dispose of a sufficient amount of the interest so that the remaining interest is no longer material.

**290.113** A self-interest, familiarity or intimidation threat may be created if a member of the audit team\*, or a member of that individual's immediate family\*, or the firm\*, has a financial interest\* in an entity when a director\*, officer\* or controlling owner of the audit client\* is also known to have a financial interest\* in that entity. The existence and significance of any threat will depend upon factors such as:

- The role of the professional on the audit team\*;
- Whether ownership of the entity is closely or widely held;
- Whether the interest gives the investor the ability to control or significantly influence the entity; and
- The materiality of the financial interest\*.

The significance of any threat shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level\*. Examples of such safeguards include:

- Removing the member of the audit team\* with the financial interest\* from the audit team\*; or
- Having a professional accountant\* review the work of the member of the audit team\*.

**290.114** The holding by a firm\*, or a member of the audit team\*, or a member of that individual's immediate family\*, of a direct financial interest\* or a material indirect financial interest\* in the audit client\* as a trustee creates a self-interest threat. Similarly, a self-interest threat is created when:

\* See Definitions for parts A, B and C

- (a) a partner\* in the office\* in which the engagement partner\* practices in connection with the audit,
- (b) other partners\* and managerial employees who provide non-assurance services to the audit client\*, except those whose involvement is minimal, or
- (c) their immediate family\* members,

hold a direct financial interest\* or a material indirect financial interest\* in the audit client\* as trustee.

Such an interest shall not be held unless:

- (a) Neither the trustee, nor an immediate family\* member of the trustee, nor the firm\* are beneficiaries of the trust;
- (b) The interest in the audit client\* held by the trust is not material to the trust;
- (c) The trust is not able to exercise significant influence over the audit client\*; and
- (d) The trustee, an immediate family\* member of the trustee, or the firm\* cannot significantly influence any investment decision involving a financial interest\* in the audit client\*.

**290.115** Members of the audit team\* shall determine whether a self-interest threat is created by any known financial interests\* in the audit client\* held by other individuals including:

- (a) Partners\* and professional employees of the firm\*, other than those referred to above, or their immediate family\* members; and
- (b) Individuals with a close personal relationship with a member of the audit team\*.

Whether these interests create a self-interest threat will depend on factors such as:

- The firm's\* organisational, operating and reporting structure; and
- The nature of the relationship between the individual and the member of the audit team\*.

The significance of any threat shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level\*. Examples of such safeguards include:

- Removing the member of the audit team\* with the personal relationship from the audit team\*;

\* See Definitions for parts A, B and C

- Excluding the member of the audit team\* from any significant decision-making concerning the audit engagement\*; or
- Having a professional accountant\* review the work of the member of the audit team\*.

**290.116** If a firm\* or a partner\* or employee of the firm\*, or a member of that individual's immediate family\*, receives a direct financial interest\* or a material indirect financial interest\* in an audit client\*, for example, by way of an inheritance, gift or as a result of a merger and such interest would not be permitted to be held under this section, then:

- (a) If the interest is received by the firm\*, the financial interest\* shall be disposed of immediately, or a sufficient amount of an indirect financial interest\* shall be disposed of so that the remaining interest is no longer material;
- (b) If the interest is received by a member of the audit team\*, or a member of that individual's immediate family\*, the individual who received the financial interest\* shall immediately dispose of the financial interest\*, or dispose of a sufficient amount of an indirect financial interest\* so that the remaining interest is no longer material; or
- (c) If the interest is received by an individual who is not a member of the audit team\*, or by an immediate family\* member of the individual, the financial interest\* shall be disposed of as soon as possible, or a sufficient amount of an indirect financial interest\* shall be disposed of so that the remaining interest is no longer material. Pending the disposal of the financial interest\*, a determination shall be made as to whether any safeguards are necessary.

**290.117** When an inadvertent violation of this section as it relates to a financial interest\* in an audit client\* occurs, it is deemed not to compromise independence\* if:

- (a) The firm\* has established policies and procedures that require prompt notification to the firm\* of any breaches resulting from the purchase, inheritance or other acquisition of a financial interest\* in the audit client\*;
- (b) The actions in paragraph 290.116 (a)–(c) are taken as applicable; and
- (c) The firm\* applies other safeguards when necessary to reduce any remaining threat to an acceptable level\*. Examples of such safeguards include:
  - Having a professional accountant\* review the work of the member of the audit team\*; or
  - Excluding the individual from any significant decision-making concerning the audit engagement\*.

\* See Definitions for parts A, B and C

The firm\* shall determine whether to discuss the matter with those charged with governance\*.

### **Loans\* and Guarantees**

- 290.118** A loan\* or a guarantee of a loan\*, to a member of the audit team\*, or a member of that individual's immediate family\*, or the firm\* from an audit client\* that is a bank or a similar institution may create a threat to independence\*. If the loan\* or guarantee is not made under normal lending procedures, terms and conditions, a self-interest threat would be created that would be so significant that no safeguards could reduce the threat to an acceptable level\*. Accordingly, neither a member of the audit team\*, a member of that individual's immediate family\*, nor a firm\* shall accept such a loan\* or guarantee.
- 290.119** If a loan\* to a firm\* from an audit client\* that is a bank or similar institution is made under normal lending procedures, terms and conditions and it is material to the audit client\* or firm\* receiving the loan\*, it may be possible to apply safeguards to reduce the self-interest threat to an acceptable level\*. An example of such a safeguard is having the work reviewed by a professional accountant\* from a network firm\* that is neither involved with the audit nor received the loan\*.
- 290.120** A loan\*, or a guarantee of a loan\*, from an audit client\* that is a bank or a similar institution to a member of the audit team\*, or a member of that individual's immediate family\*, does not create a threat to independence\* if the loan\* or guarantee is made under normal lending procedures, terms and conditions. Examples of such loans\* include home mortgages, bank overdrafts, car loans\* and credit card balances.
- 290.121** If the firm\* or a member of the audit team\*, or a member of that individual's immediate family\*, accepts a loan\* from, or has a borrowing guaranteed by, an audit client\* that is not a bank or similar institution, the self-interest threat created would be so significant that no safeguards could reduce the threat to an acceptable level\*, unless the loan\* or guarantee is immaterial to both (a) the firm\* or the member of the audit team\* and the immediate family\* member, and (b) the client.
- 290.122** Similarly, if the firm\* or a member of the audit team\*, or a member of that individual's immediate family\*, makes or guarantees a loan\* to an audit client\*, the self-interest threat created would be so significant that no safeguards could reduce the threat to an acceptable level\*, unless the loan\* or guarantee is immaterial to both (a) the firm\* or the member of the audit team\* and the immediate family\* member, and (b) the client.
- 290.123** If a firm\* or a member of the audit team\*, or a member of that individual's immediate family\*, has deposits or a brokerage account with an audit client\* that is a bank, broker or similar institution, a threat to independence\* is not created if the deposit or account is held under normal commercial terms.

\* See Definitions for parts A, B and C

## Business Relationships

**290.124** A close business relationship between a firm\*, or a member of the audit team\*, or a member of that individual's immediate family\*, and the audit client\* or its management, arises from a commercial relationship or common financial interest\* and may create self-interest or intimidation threats. Examples of such relationships include:

- Having a financial interest\* in a joint venture with either the client or a controlling owner, director\*, officer\* or other individual who performs senior managerial activities for that client.
- Arrangements to combine one or more services or products of the firm\* with one or more services or products of the client and to market the package with reference to both parties.
- Distribution or marketing arrangements under which the firm\* distributes or markets the client's products or services, or the client distributes or markets the firm's\* products or services.

Unless any financial interest\* is immaterial and the business relationship is insignificant to the firm\* and the client or its management, the threat created would be so significant that no safeguards could reduce the threat to an acceptable level\*. Therefore, unless the financial interest\* is immaterial and the business relationship is insignificant, the business relationship shall not be entered into, or it shall be reduced to an insignificant level or terminated.

In the case of a member of the audit team\*, unless any such financial interest\* is immaterial and the relationship is insignificant to that member, the individual shall be removed from the audit team\*.

If the business relationship is between an immediate family\* member of a member of the audit team\* and the audit client\* or its management, the significance of any threat shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level\*.

**290.125** A business relationship involving the holding of an interest by the firm\*, or a member of the audit team\*, or a member of that individual's immediate family\*, in a closely-held entity when the audit client\* or a director\* or officer\* of the client, or any group thereof, also holds an interest in that entity does not create threats to independence\* if:

- (a) The business relationship is insignificant to the firm\*, the member of the audit team\* and the immediate family\* member, and the client;
- (b) The financial interest\* is immaterial to the investor or group of investors; and
- (c) The financial interest\* does not give the investor, or group of investors, the ability to control the closely-held entity.

\* See Definitions for parts A, B and C

**290.126** The purchase of goods and services from an audit client\* by the firm\*, or a member of the audit team\*, or a member of that individual's immediate family\*, does not generally create a threat to independence\* if the transaction is in the normal course of business and at arm's length. However, such transactions may be of such a nature or magnitude that they create a self-interest threat. The significance of any threat shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level\*. Examples of such safeguards include:

- Eliminating or reducing the magnitude of the transaction; or
- Removing the individual from the audit team\*.

### **Family and Personal Relationships**

**290.127** Family and personal relationships between a member of the audit team\* and a director\* or officer\* or certain employees (depending on their role) of the audit client\* may create self-interest, familiarity or intimidation threats. The existence and significance of any threats will depend on a number of factors, including the individual's responsibilities on the audit team\*, the role of the family member or other individual within the client and the closeness of the relationship.

**290.128** When an immediate family\* member of a member of the audit team\* is:

- (a) A director\* or officer\* of the audit client\*; or
- (b) An employee in a position to exert significant influence over the preparation of the client's accounting records or the financial statements on which the firm\* will express an opinion\*,

or was in such a position during any period covered by the engagement or the financial statements\*, the threats to independence\* can only be reduced to an acceptable level\* by removing the individual from the audit team\*. The closeness of the relationship is such that no other safeguards could reduce the threat to an acceptable level\*. Accordingly, no individual who has such a relationship shall be a member of the audit team\*.

**290.129** Threats to independence\* are created when an immediate family\* member of a member of the audit team\* is an employee in a position to exert significant influence over the client's financial position, financial performance or cash flows. The significance of the threats will depend on factors such as:

- The position held by the immediate family\* member; and
- The role of the professional on the audit team\*.

The significance of the threat shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level\*. Examples of such safeguards include:

- Removing the individual from the audit team\*; or

\* See Definitions for parts A, B and C



- Structuring the responsibilities of the audit team\* so that the professional does not deal with matters that are within the responsibility of the immediate family\* member.

**290.130** Threats to independence\* are created when a close family\* member of a member of the audit team\* is:

- (a) A director\* or officer\* of the audit client\*; or
- (b) An employee in a position to exert significant influence over the preparation of the client's accounting records or the financial statements on which the firm\* will express an opinion\*.

The significance of the threats will depend on factors such as:

- The nature of the relationship between the member of the audit team\* and the close family\* member;
- The position held by the close family\* member; and
- The role of the professional on the audit team\*.

The significance of the threat shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level\*. Examples of such safeguards include:

- Removing the individual from the audit team\*; or
- Structuring the responsibilities of the audit team\* so that the professional does not deal with matters that are within the responsibility of the close family\* member.

**290.131** Threats to independence\* are created when a member of the audit team\* has a close relationship with a person who is not an immediate or close family\* member, but who is a director\* or officer\* or an employee in a position to exert significant influence over the preparation of the client's accounting records or the financial statements on which the firm\* will express an opinion\*. A member of the audit team\* who has such a relationship shall consult in accordance with firm\* policies and procedures. The significance of the threats will depend on factors such as:

- The nature of the relationship between the individual and the member of the audit team\*;
- The position the individual holds with the client; and
- The role of the professional on the audit team\*.

The significance of the threats shall be evaluated and safeguards applied when necessary to eliminate the threats or reduce them to an acceptable level\*. Examples of such safeguards include:

\* See Definitions for parts A, B and C

- Removing the professional from the audit team\*; or
- Structuring the responsibilities of the audit team\* so that the professional does not deal with matters that are within the responsibility of the individual with whom the professional has a close relationship.

**290.132** Self-interest, familiarity or intimidation threats may be created by a personal or family relationship between (a) a partner\* or employee of the firm\* who is not a member of the audit team\* and (b) a director\* or officer\* of the audit client\* or an employee in a position to exert significant influence over the preparation of the client's accounting records or the financial statements on which the firm\* will express an opinion\*. Partners\* and employees of the firm\* who are aware of such relationships shall consult in accordance with firm\* policies and procedures. The existence and significance of any threat will depend on factors such as:

- The nature of the relationship between the partner\* or employee of the firm\* and the director\* or officer\* or employee of the client;
- The interaction of the partner\* or employee of the firm\* with the audit team\*;
- The position of the partner\* or employee within the firm\*; and
- The position the individual holds with the client.

The significance of any threat shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level\*. Examples of such safeguards include:

- Structuring the partner's\* or employee's responsibilities to reduce any potential influence over the audit engagement\*; or
- Having a professional accountant\* review the relevant audit work performed.

**290.133** When an inadvertent violation of this section as it relates to family and personal relationships occurs, it is deemed not to compromise independence\* if:

- (a) The firm\* has established policies and procedures that require prompt notification to the firm\* of any breaches resulting from changes in the employment status of their immediate or close family\* members or other personal relationships that create threats to independence\*;
- (b) The inadvertent violation relates to an immediate family\* member of a member of the audit team\* becoming a director\* or officer\* of the audit client\* or being in a position to exert significant influence over the preparation of the client's accounting records or the financial statements on which the firm\* will express an opinion\*, and the relevant professional is removed from the audit team\*; and

\* See Definitions for parts A, B and C

- (c) The firm\* applies other safeguards when necessary to reduce any remaining threat to an acceptable level\*. Examples of such safeguards include:
- (i) Having a professional accountant\* review the work of the member of the audit team\*; or
  - (ii) Excluding the relevant professional from any significant decision-making concerning the engagement.

The firm\* shall determine whether to discuss the matter with those charged with governance\*.

### **Employment with an audit client\***

**290.134** Familiarity or intimidation threats may be created if a director\* or officer\* of the audit client\*, or an employee in a position to exert significant influence over the preparation of the client's accounting records or the financial statements on which the firm\* will express an opinion\*, has been a member of the audit team\* or partner\* of the firm\*.

**290.135** If a former member of the audit team\* or partner\* of the firm\* has joined the audit client\* in such a position and a significant connection remains between the firm\* and the individual, the threat would be so significant that no safeguards could reduce the threat to an acceptable level\*. Therefore, independence\* would be deemed to be compromised if a former member of the audit team\* or partner\* joins the audit client\* as a director\* or officer\*, or as an employee in a position to exert significant influence over the preparation of the client's accounting records or the financial statements on which the firm\* will express an opinion\*, unless:

- (a) The individual is not entitled to any benefits or payments from the firm\*, unless made in accordance with fixed pre-determined arrangements, and any amount owed to the individual is not material to the firm\*; and
- (b) The individual does not continue to participate or appear to participate in the firm's\* business or professional activities.

**290.136** If a former member of the audit team\* or partner\* of the firm\* has joined the audit client\* in such a position, and no significant connection remains between the firm\* and the individual, the existence and significance of any familiarity or intimidation threats will depend on factors such as:

- The position the individual has taken at the client;
- Any involvement the individual will have with the audit team\*;
- The length of time since the individual was a member of the audit team\* or partner\* of the firm\*; and

\* See Definitions for parts A, B and C

- The former position of the individual within the audit team\* or firm\*, for example, whether the individual was responsible for maintaining regular contact with the client's management or those charged with governance\*.

The significance of any threats created shall be evaluated and safeguards applied when necessary to eliminate the threats or reduce them to an acceptable level\*. Examples of such safeguards include:

- Modifying the audit plan;
- Assigning individuals to the audit team\* who have sufficient experience in relation to the individual who has joined the client; or
- Having a professional accountant\* review the work of the former member of the audit team\*.

**290.137** If a former partner\* of the firm\* has previously joined an entity in such a position and the entity subsequently becomes an audit client\* of the firm\*, the significance of any threat to independence\* shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level\*.

**290.138** A self-interest threat is created when a member of the audit team\* participates in the audit engagement\* while knowing that the member of the audit team\* will, or may, join the client some time in the future. Firm\* policies and procedures shall require members of an audit team\* to notify the firm\* when entering employment negotiations with the client. On receiving such notification, the significance of the threat shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level\*. Examples of such safeguards include:

- Removing the individual from the audit team\*; or
- A review of any significant judgments made by that individual while on the team.

**Audit clients\* that are public interest entities\***

**290.139** Familiarity or intimidation threats are created when a key audit partner\* joins the audit client\* that is a public interest entity\* as:

- (a) A director\* or officer\* of the entity; or
- (b) An employee in a position to exert significant influence over the preparation of the client's accounting records or the financial statements on which the firm\* will express an opinion\*.

Independence\* would be deemed to be compromised unless, subsequent to the partner\* ceasing to be a key audit partner\*, the public interest entity\* had issued audited financial statements\* covering a period of not less than twelve months and the partner\* was not a member of the audit team\* with respect to the audit of those financial statements\*.

\* See Definitions for parts A, B and C

**290.140** An intimidation threat is created when the individual who was the firm's\* Senior or Managing Partner\* (Chief Executive or equivalent) joins an audit client\* that is a public interest entity\* as:

- (a) an employee in a position to exert significant influence over the preparation of the entity's accounting records or its financial statements\*; or
- (b) a director\* or officer\* of the entity. Independence\* would be deemed to be compromised unless twelve months have passed since the individual was the Senior or Managing Partner\* (Chief Executive or equivalent) of the firm\*.

**290.141** Independence\* is deemed not to be compromised if, as a result of a business combination, a former key audit partner\* or the individual who was the firm's\* former Senior or Managing Partner\* is in a position as described in paragraphs 290.139 and 290.140, and:

- (a) The position was not taken in contemplation of the business combination;
- (b) Any benefits or payments due to the former partner\* from the firm\* have been settled in full, unless made in accordance with fixed pre-determined arrangements and any amount owed to the partner\* is not material to the firm\*;
- (c) The former partner\* does not continue to participate or appear to participate in the firm's\* business or professional activities; and
- (d) The position held by the former partner\* with the audit client\* is discussed with those charged with governance\*.

### **Temporary Staff Assignments**

**290.142** The lending of staff by a firm\* to an audit client\* may create a self-review threat. Such assistance may be given, but only for a short period of time and the firm's\* personnel shall not be involved in:

- (a) Providing non-assurance services that would not be permitted under this section; or
- (b) Assuming management responsibilities.

In all circumstances, the audit client\* shall be responsible for directing and supervising the activities of the loaned staff.

The significance of any threat shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level\*. Examples of such safeguards include:

- Conducting an additional review of the work performed by the loaned staff;

\* See Definitions for parts A, B and C

- Not giving the loaned staff audit responsibility for any function or activity that the staff performed during the temporary staff assignment; or
- Not including the loaned staff as a member of the audit team\*.

#### **Recent Service with an audit client\***

**290.143** Self-interest, self-review or familiarity threats may be created if a member of the audit team\* has recently served as a director\*, officer\*, or employee of the audit client\*. This would be the case when, for example, a member of the audit team\* has to evaluate elements of the financial statements\* for which the member of the audit team\* had prepared the accounting records while with the client.

**290.144** If, during the period covered by the audit report, a member of the audit team\* had served as a director\* or officer\* of the audit client\*, or was an employee in a position to exert significant influence over the preparation of the client's accounting records or the financial statements on which the firm\* will express an opinion\*, the threat created would be so significant that no safeguards could reduce the threat to an acceptable level\*. Consequently, such individuals shall not be assigned to the audit team\*.

**290.145** Self-interest, self-review or familiarity threats may be created if, before the period covered by the audit report, a member of the audit team\* had served as a director\* or officer\* of the audit client\*, or was an employee in a position to exert significant influence over the preparation of the client's accounting records or financial statements on which the firm\* will express an opinion\*. For example, such threats would be created if a decision made or work performed by the individual in the prior period, while employed by the client, is to be evaluated in the current period as part of the current audit engagement\*. The existence and significance of any threats will depend on factors such as:

- The position the individual held with the client;
- The length of time since the individual left the client; and
- The role of the professional on the audit team\*.

The significance of any threat shall be evaluated and safeguards applied when necessary to reduce the threat to an acceptable level\*. An example of such a safeguard is conducting a review of the work performed by the individual as a member of the audit team\*.

#### **Serving as a Director\* or Officer\* of an audit client\***

**290.146** If a partner\* or employee of the firm\* serves as a director\* or officer\* of an audit client\*, the self-review and self-interest threats created would be so significant that no safeguards could reduce the threats to an acceptable level\*. Accordingly, no partner\* or employee shall serve as a director\* or officer\* of an audit client\*.

\* See Definitions for parts A, B and C

**290.147** The position of Company Secretary has different implications in different jurisdictions. Duties may range from administrative duties, such as personnel management and the maintenance of company records and registers, to duties as diverse as ensuring that the company complies with regulations or providing advice on corporate governance matters. Generally, this position is seen to imply a close association with the entity.

**290.148** If a partner\* or employee of the firm\* serves as Company Secretary for an audit client\*, self-review and advocacy threats are created that would generally be so significant that no safeguards could reduce the threats to an acceptable level\*. Despite paragraph 290.146, when this practice is specifically permitted under local law, professional rules or practice, and provided management makes all relevant decisions, the duties and activities shall be limited to those of a routine and administrative nature, such as preparing minutes and maintaining statutory returns. In those circumstances, the significance of any threats shall be evaluated and safeguards applied when necessary to eliminate the threats or reduce them to an acceptable level\*.

**290.149** Performing routine administrative services to support a company secretarial function or providing advice in relation to company secretarial administration matters does not generally create threats to independence\*, as long as client management makes all relevant decisions.

### **Long Association of Senior Personnel (Including Partner\* Rotation) with an audit client\***

#### **General Provisions**

**290.150** Familiarity and self-interest threats are created by using the same senior personnel on an audit engagement\* over a long period of time. The significance of the threats will depend on factors such as:

- How long the individual has been a member of the audit team\*;
- The role of the individual on the audit team\*;
- The structure of the firm\*;
- The nature of the audit engagement\*;
- Whether the client's management team has changed; and
- Whether the nature or complexity of the client's accounting and reporting issues has changed.

The significance of the threats shall be evaluated and safeguards applied when necessary to eliminate the threats or reduce them to an acceptable level\*. Examples of such safeguards include:

- Rotating the senior personnel off the audit team\*;
- Having a professional accountant\* who was not a member of the audit team\* review the work of the senior personnel; or

\* See Definitions for parts A, B and C

- Regular independent internal or external quality reviews of the engagement.

**Audit clients\* that are public interest entities\***

**290.151** In respect of an audit of a public interest entity\*, an individual shall not be a key audit partner\* for more than seven years. After such time, the individual shall not be a member of the engagement team\* or be a key audit partner\* for the client for two years. During that period, the individual shall not participate in the audit of the entity, provide quality control for the engagement, consult with the engagement team\* or the client regarding technical or industry-specific issues, transactions or events or otherwise directly influence the outcome of the engagement.

**290.152** Despite paragraph 290.151, key audit partners\* whose continuity is especially important to audit quality may, in rare cases due to unforeseen circumstances outside the firm's\* control, be permitted an additional year on the audit team\* as long as the threat to independence\* can be eliminated or reduced to an acceptable level\* by applying safeguards. For example, a key audit partner\* may remain on the audit team\* for up to one additional year in circumstances where, due to unforeseen events, a required rotation was not possible, as might be the case due to serious illness of the intended engagement partner\*.

**290.153** The long association of other partners\* with an audit client\* that is a public interest entity\* creates familiarity and self-interest threats. The significance of the threats will depend on factors such as:

- How long any such partner\* has been associated with the audit client\*;
- The role, if any, of the individual on the audit team\*; and
- The nature, frequency and extent of the individual's interactions with the client's management or those charged with governance\*.

The significance of the threats shall be evaluated and safeguards applied when necessary to eliminate the threats or reduce them to an acceptable level\*. Examples of such safeguards include:

- Rotating the partner\* off the audit team\* or otherwise ending the partner's\* association with the audit client\*; or
- Regular independent internal or external quality reviews of the engagement.

**290.154** When an audit client\* becomes a public interest entity\*, the length of time the individual has served the audit client\* as a key audit partner\* before the client becomes a public interest entity\* shall be taken into account in determining the timing of the rotation. If the individual has served the audit client\* as a key audit partner\* for five years or less when the client becomes a public interest entity\*, the number of years the individual may continue to serve the client in that capacity before rotating off the engagement is seven years less the number of years already served. If the individual has served the audit client\* as a key

\* See Definitions for parts A, B and C



audit partner\* for six or more years when the client becomes a public interest entity\*, the partner\* may continue to serve in that capacity for a maximum of two additional years before rotating off the engagement.

**290.155** When a firm\* has only a few people with the necessary knowledge and experience to serve as a key audit partner\* on the audit of a public interest entity\*, rotation of key audit partners\* may not be an available safeguard. If an independent regulator in the relevant jurisdiction has provided an exemption from partner\* rotation in such circumstances, an individual may remain a key audit partner\* for more than seven years, in accordance with such regulation, provided that the independent regulator has specified alternative safeguards which are applied, such as a regular independent external review.

#### **Provision of Non-assurance Services to Audit clients\***

**290.156** Firms have traditionally provided to their audit clients\* a range of non-assurance services that are consistent with their skills and expertise. Providing non-assurance services may, however, create threats to the independence\* of the firm\* or members of the audit team\*. The threats created are most often self-review, self-interest and advocacy threats.

**290.157** New developments in business, the evolution of financial markets and changes in information technology make it impossible to draw up an all-inclusive list of non-assurance services that might be provided to an audit client\*. When specific guidance on a particular non-assurance service is not included in this section, the conceptual framework shall be applied when evaluating the particular circumstances.

**290.158** Before the firm\* accepts an engagement to provide a non-assurance service to an audit client\*, a determination shall be made as to whether providing such a service would create a threat to independence\*. In evaluating the significance of any threat created by a particular non-assurance service, consideration shall be given to any threat that the audit team\* has reason to believe is created by providing other related non-assurance services. If a threat is created that cannot be reduced to an acceptable level\* by the application of safeguards, the non-assurance service shall not be provided.

**290.159** Providing certain non-assurance services to an audit client\* may create a threat to independence\* so significant that no safeguards could reduce the threat to an acceptable level\*. However, the inadvertent provision of such a service to a related entity\*, division or in respect of a discrete financial statement\* item of such a client will be deemed not to compromise independence\* if any threats have been reduced to an acceptable level\* by arrangements for that related entity\*, division or discrete financial statement\* item to be audited by another firm\* or when another firm\* re-performs the non-assurance service to the extent necessary to enable it to take responsibility for that service.

**290.160** A firm\* may provide non-assurance services that would otherwise be restricted under this section to the following related entities of the audit client\*:

- (a) An entity, which is not an audit client\*, that has direct or indirect control over the audit client\*;

\* See Definitions for parts A, B and C

- (b) An entity, which is not an audit client\*, with a direct financial interest\* in the client if that entity has significant influence over the client and the interest in the client is material to such entity; or
- (c) An entity, which is not an audit client\*, that is under common control with the audit client\*.

If it is reasonable to conclude that (a) the services do not create a self-review threat because the results of the services will not be subject to audit procedures and (b) any threats that are created by the provision of such services are eliminated or reduced to an acceptable level\* by the application of safeguards.

**290.161** A non-assurance service provided to an audit client\* does not compromise the firm's\* independence\* when the client becomes a public interest entity\* if:

- (a) The previous non-assurance service complies with the provisions of this section that relate to audit clients\* that are not public interest entities\*;
- (b) Services that are not permitted under this section for audit clients\* that are public interest entities\* are terminated before or as soon as practicable after the client becomes a public interest entity\*; and
- (c) The firm\* applies safeguards when necessary to eliminate or reduce to an acceptable level\* any threats to independence\* arising from the service.

### **Management Responsibilities**

**290.162** Management of an entity performs many activities in managing the entity in the best interests of stakeholders of the entity. It is not possible to specify every activity that is a management responsibility. However, management responsibilities involve leading and directing an entity, including making significant decisions regarding the acquisition, deployment and control of human, financial, physical and intangible resources.

**290.163** Whether an activity is a management responsibility depends on the circumstances and requires the exercise of judgment. Examples of activities that would generally be considered a management responsibility include:

- Setting policies and strategic direction;
- Directing and taking responsibility for the actions of the entity's employees;
- Authorising transactions;
- Deciding which recommendations of the firm\* or other third parties to implement;
- Taking responsibility for the preparation and fair presentation of the financial statements\* in accordance with the applicable financial reporting framework; and

\* See Definitions for parts A, B and C

- Taking responsibility for designing, implementing and maintaining internal control.

**290.164** Activities that are routine and administrative, or involve matters that are insignificant, generally are deemed not to be a management responsibility. For example, executing an insignificant transaction that has been authorised by management or monitoring the dates for filing statutory returns and advising an audit client\* of those dates is deemed not to be a management responsibility. Further, providing advice and recommendations to assist management in discharging its responsibilities is not assuming a management responsibility.

**290.165** If a firm\* were to assume a management responsibility for an audit client\*, the threats created would be so significant that no safeguards could reduce the threats to an acceptable level\*. For example, deciding which recommendations of the firm\* to implement will create self-review and self-interest threats. Further, assuming a management responsibility creates a familiarity threat because the firm\* becomes too closely aligned with the views and interests of management. Therefore, the firm\* shall not assume a management responsibility for an audit client\*.

**290.166** To avoid the risk of assuming a management responsibility when providing non-assurance services to an audit client\*, the firm\* shall be satisfied that a member of management is responsible for making the significant judgments and decisions that are the proper responsibility of management, evaluating the results of the service and accepting responsibility for the actions to be taken arising from the results of the service. This reduces the risk of the firm\* inadvertently making any significant judgments or decisions on behalf of management. The risk is further reduced when the firm\* gives the client the opportunity to make judgments and decisions based on an objective and transparent analysis and presentation of the issues.

### **Preparing Accounting Records and Financial statements\***

#### **General Provisions**

**290.167** Management is responsible for the preparation and fair presentation of the financial statements\* in accordance with the applicable financial reporting framework. These responsibilities include:

- Originating or changing journal entries, or determining the account classifications of transactions; and
- Preparing or changing source documents or originating data, in electronic or other form, evidencing the occurrence of a transaction (for example, purchase orders, payroll time records, and customer orders).

**290.168** Providing an audit client\* with accounting and bookkeeping services, such as preparing accounting records or financial statements\*, creates a self-review threat when the firm\* subsequently audits the financial statements\*.

**290.169** The audit process, however, necessitates dialogue between the firm\* and management of the audit client\*, which may involve:

\* See Definitions for parts A, B and C

- the application of accounting standards or policies and financial statements\* disclosure requirements,
- the appropriateness of financial and accounting control and the methods used in determining the stated amounts of assets and liabilities, or
- proposing adjusting journal entries. These activities are considered to be a normal part of the audit process and do not, generally, create threats to independence\*.

**290.170** Similarly, the client may request technical assistance from the firm\* on matters such as resolving account reconciliation problems or analysing and accumulating information for regulatory reporting. In addition, the client may request technical advice on accounting issues such as the conversion of existing financial statements\* from one financial reporting framework to another (for example, to comply with group accounting policies or to transition to a different financial reporting framework such as International Financial Reporting Standards). Such services do not, generally, create threats to independence\* provided the firm\* does not assume a management responsibility for the client.

**Audit clients\* that are not public interest entities\***

**290.171** The firm\* may provide services related to the preparation of accounting records and financial statements\* to an audit client\* that is not a public interest entity\* where the services are of a routine or mechanical nature, so long as any self-review threat created is reduced to an acceptable level\*. Examples of such services include:

- Providing payroll services based on client-originated data;
- Recording transactions for which the client has determined or approved the appropriate account classification;
- Posting transactions coded by the client to the general ledger;
- Posting client-approved entries to the trial balance; and
- Preparing financial statements\* based on information in the trial balance.

In all cases, the significance of any threat created shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level\*. Examples of such safeguards include:

- Arranging for such services to be performed by an individual who is not a member of the audit team\*; or
- If such services are performed by a member of the audit team\*, using a partner\* or senior staff member with appropriate expertise who is not a member of the audit team\* to review the work performed.

\* See Definitions for parts A, B and C

### **Audit clients\* that are public interest entities\***

**290.172** Except in emergency situations, a firm\* shall not provide to an audit client\* that is a public interest entity\* accounting and bookkeeping services, including payroll services, or prepare financial statements on which the firm\* will express an opinion\* or financial information which forms the basis of the financial statements\*.

**290.173** Despite paragraph 290.172, a firm\* may provide accounting and bookkeeping services, including payroll services and the preparation of financial statements\* or other financial information, of a routine or mechanical nature for divisions or related entities of an audit client\* that is a public interest entity\* if the personnel providing the services are not members of the audit team\* and:

- (a) The divisions or related entities for which the service is provided are collectively immaterial to the financial statements on which the firm\* will express an opinion\*; or
- (b) The services relate to matters that are collectively immaterial to the financial statements\* of the division or related entity\*.

### **Emergency Situations**

**290.174** Accounting and bookkeeping services, which would otherwise not be permitted under this section, may be provided to audit clients\* in emergency or other unusual situations when it is impractical for the audit client\* to make other arrangements. This may be the case when (a) only the firm\* has the resources and necessary knowledge of the client's systems and procedures to assist the client in the timely preparation of its accounting records and financial statements\*, and (b) a restriction on the firm's\* ability to provide the services would result in significant difficulties for the client (for example, as might result from a failure to meet regulatory reporting requirements). In such situations, the following conditions shall be met:

- (a) Those who provide the services are not members of the audit team\*;
- (b) The services are provided for only a short period of time and are not expected to recur; and
- (c) The situation is discussed with those charged with governance\*.

### **Valuation Services**

#### **General Provisions**

**290.175** A valuation comprises the making of assumptions with regard to future developments, the application of appropriate methodologies and techniques, and the combination of both to compute a certain value, or range of values, for an asset, a liability or for a business as a whole.

**290.176** Performing valuation services for an audit client\* may create a self-review threat. The existence and significance of any threat will depend on factors such as:

\* See Definitions for parts A, B and C

- Whether the valuation will have a material effect on the financial statements\*.
- The extent of the client's involvement in determining and approving the valuation methodology and other significant matters of judgment.
- The availability of established methodologies and professional guidelines.
- For valuations involving standard or established methodologies, the degree of subjectivity inherent in the item.
- The reliability and extent of the underlying data.
- The degree of dependence on future events of a nature that could create significant volatility inherent in the amounts involved.
- The extent and clarity of the disclosures in the financial statements\*.

The significance of any threat created shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level\*. Examples of such safeguards include:

- Having a professional who was not involved in providing the valuation service review the audit or valuation work performed; or
- Making arrangements so that personnel providing such services do not participate in the audit engagement\*.

**290.177** Certain valuations do not involve a significant degree of subjectivity. This is likely the case where the underlying assumptions are either established by law or regulation, or are widely accepted and when the techniques and methodologies to be used are based on generally accepted standards or prescribed by law or regulation. In such circumstances, the results of a valuation performed by two or more parties are not likely to be materially different.

**290.178** If a firm\* is requested to perform a valuation to assist an audit client\* with its tax reporting obligations or for tax planning purposes and the results of the valuation will not have a direct effect on the financial statements\*, the provisions included in paragraph 290.191 apply.

**Audit clients\* that are not public interest entities\***

**290.179** In the case of an audit client\* that is not a public interest entity\*, if the valuation service has a material effect on the financial statements on which the firm\* will express an opinion\* and the valuation involves a significant degree of subjectivity, no safeguards could reduce the self-review threat to an acceptable level\*. Accordingly a firm\* shall not provide such a valuation service to an audit client\*.

\* See Definitions for parts A, B and C

**Audit clients\* that are public interest entities\***

**290.180** A firm\* shall not provide valuation services to an audit client\* that is a public interest entity\* if the valuations would have a material effect, separately or in the aggregate, on the financial statements on which the firm\* will express an opinion\*.

**Taxation Services**

**290.181** Taxation services comprise a broad range of services, including:

- Tax return preparation;
- Tax calculations for the purpose of preparing the accounting entries;
- Tax planning and other tax advisory services; and
- Assistance in the resolution of tax disputes.

While taxation services provided by a firm\* to an audit client\* are addressed separately under each of these broad headings; in practice, these activities are often interrelated.

**290.182** Performing certain tax services creates self-review and advocacy threats. The existence and significance of any threats will depend on factors such as (a) the system by which the tax authorities assess and administer the tax in question and the role of the firm\* in that process, (b) the complexity of the relevant tax regime and the degree of judgment necessary in applying it, (c) the particular characteristics of the engagement, and (d) the level of tax expertise of the client's employees.

**Tax Return Preparation**

**290.183** Tax return preparation services involve assisting clients with their tax reporting obligations by drafting and completing information, including the amount of tax due (usually on standardised forms) required to be submitted to the applicable tax authorities. Such services also include advising on the tax return treatment of past transactions and responding on behalf of the audit client\* to the tax authorities' requests for additional information and analysis (including providing explanations of and technical support for the approach being taken). Tax return preparation services are generally based on historical information and principally involve analysis and presentation of such historical information under existing tax law, including precedents and established practice. Further, the tax returns are subject to whatever review or approval process the tax authority deems appropriate. Accordingly, providing such services does not generally create a threat to independence\* if management takes responsibility for the returns including any significant judgments made.

**Tax Calculations for the Purpose of Preparing Accounting Entries**  
**Audit clients\* that are not public interest entities\***

**290.184** Preparing calculations of current and deferred tax liabilities (or assets) for an audit client\* for the purpose of preparing accounting entries that will be subsequently audited by the firm\* creates a self-review threat. The significance

\* See Definitions for parts A, B and C

of the threat will depend on (a) the complexity of the relevant tax law and regulation and the degree of judgment necessary in applying them, (b) the level of tax expertise of the client's personnel, and (c) the materiality of the amounts to the financial statements\*. Safeguards shall be applied when necessary to eliminate the threat or reduce it to an acceptable level\*. Examples of such safeguards include:

- Using professionals who are not members of the audit team\* to perform the service;
- If the service is performed by a member of the audit team\*, using a partner\* or senior staff member with appropriate expertise who is not a member of the audit team\* to review the tax calculations; or
- Obtaining advice on the service from an external tax professional.

**Audit clients\* that are public interest entities\***

**290.185** Except in emergency situations, in the case of an audit client\* that is a public interest entity\*, a firm\* shall not prepare tax calculations of current and deferred tax liabilities (or assets) for the purpose of preparing accounting entries that are material to the financial statements on which the firm\* will express an opinion\*.

**290.186** The preparation of calculations of current and deferred tax liabilities (or assets) for an audit client\* for the purpose of the preparation of accounting entries, which would otherwise not be permitted under this section, may be provided to audit clients\* in emergency or other unusual situations when it is impractical for the audit client\* to make other arrangements. This may be the case when (a) only the firm\* has the resources and necessary knowledge of the client's business to assist the client in the timely preparation of its calculations of current and deferred tax liabilities (or assets), and (b) a restriction on the firm's\* ability to provide the services would result in significant difficulties for the client (for example, as might result from a failure to meet regulatory reporting requirements). In such situations, the following conditions shall be met:

- (a) Those who provide the services are not members of the audit team\*;
- (b) The services are provided for only a short period of time and are not expected to recur; and
- (c) The situation is discussed with those charged with governance\*.

**Tax Planning and Other Tax Advisory Services**

**290.187** Tax planning or other tax advisory services comprise a broad range of services, such as advising the client how to structure its affairs in a tax efficient manner or advising on the application of a new tax law or regulation.

**290.188** A self-review threat may be created where the advice will affect matters to be reflected in the financial statements\*. The existence and significance of any threat will depend on factors such as:

\* See Definitions for parts A, B and C



- The degree of subjectivity involved in determining the appropriate treatment for the tax advice in the financial statements\*;
- The extent to which the outcome of the tax advice will have a material effect on the financial statements\*;
- Whether the effectiveness of the tax advice depends on the accounting treatment or presentation in the financial statements\* and there is doubt as to the appropriateness of the accounting treatment or presentation under the relevant financial reporting framework;
- The level of tax expertise of the client's employees;
- The extent to which the advice is supported by tax law or regulation, other precedent or established practice; and
- Whether the tax treatment is supported by a private ruling or has otherwise been cleared by the tax authority before the preparation of the financial statements\*.

For example, providing tax planning and other tax advisory services where the advice is clearly supported by tax authority or other precedent, by established practice or has a basis in tax law that is likely to prevail does not generally create a threat to independence\*.

**290.189** The significance of any threat shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level\*. Examples of such safeguards include:

- Using professionals who are not members of the audit team\* to perform the service;
- Having a tax professional, who was not involved in providing the tax service, advise the audit team\* on the service and review the financial statement\* treatment;
- Obtaining advice on the service from an external tax professional; or
- Obtaining pre-clearance or advice from the tax authorities.

**290.190** Where the effectiveness of the tax advice depends on a particular accounting treatment or presentation in the financial statements\* and:

- (a) The audit team\* has reasonable doubt as to the appropriateness of the related accounting treatment or presentation under the relevant financial reporting framework; and
- (b) The outcome or consequences of the tax advice will have a material effect on the financial statements on which the firm\* will express an opinion\*;

\* See Definitions for parts A, B and C

The self-review threat would be so significant that no safeguards could reduce the threat to an acceptable level\*. Accordingly, a firm\* shall not provide such tax advice to an audit client\*.

**290.191** In providing tax services to an audit client\*, a firm\* may be requested to perform a valuation to assist the client with its tax reporting obligations or for tax planning purposes. Where the result of the valuation will have a direct effect on the financial statements\*, the provisions included in paragraphs 290.175 to 290.180 relating to valuation services are applicable. Where the valuation is performed for tax purposes only and the result of the valuation will not have a direct effect on the financial statements\* (i.e. the financial statements\* are only affected through accounting entries related to tax), this would not generally create threats to independence\* if such effect on the financial statements\* is immaterial or if the valuation is subject to external review by a tax authority or similar regulatory authority. If the valuation is not subject to such an external review and the effect is material to the financial statements\*, the existence and significance of any threat created will depend upon factors such as:

- The extent to which the valuation methodology is supported by tax law or regulation, other precedent or established practice and the degree of subjectivity inherent in the valuation.
- The reliability and extent of the underlying data.

The significance of any threat created shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level\*. Examples of such safeguards include:

- Using professionals who are not members of the audit team\* to perform the service;
- Having a professional review the audit work or the result of the tax service; or
- Obtaining pre-clearance or advice from the tax authorities.

#### **Assistance in the Resolution of Tax Disputes**

**290.192** An advocacy or self-review threat may be created when the firm\* represents an audit client\* in the resolution of a tax dispute once the tax authorities have notified the client that they have rejected the client's arguments on a particular issue and either the tax authority or the client is referring the matter for determination in a formal proceeding, for example before a tribunal or court. The existence and significance of any threat will depend on factors such as:

- Whether the firm\* has provided the advice which is the subject of the tax dispute;
- The extent to which the outcome of the dispute will have a material effect on the financial statements on which the firm\* will express an opinion\*;

\* See Definitions for parts A, B and C

- The extent to which the matter is supported by tax law or regulation, other precedent, or established practice;
- Whether the proceedings are conducted in public; and
- The role management plays in the resolution of the dispute.

The significance of any threat created shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level\*. Examples of such safeguards include:

- Using professionals who are not members of the audit team\* to perform the service;
- Having a tax professional, who was not involved in providing the tax service, advise the audit team\* on the services and review the financial statement\* treatment; or
- Obtaining advice on the service from an external tax professional.

**290.193** Where the taxation services involve acting as an advocate for an audit client\* before a public tribunal or court in the resolution of a tax matter and the amounts involved are material to the financial statements on which the firm\* will express an opinion\*, the advocacy threat created would be so significant that no safeguards could eliminate or reduce the threat to an acceptable level\*. Therefore, the firm\* shall not perform this type of service for an audit client\*. What constitutes a “public tribunal or court” shall be determined according to how tax proceedings are heard in the particular jurisdiction.

**290.194** The firm\* is not, however, precluded from having a continuing advisory role (for example, responding to specific requests for information, providing factual accounts or testimony about the work performed or assisting the client in analysing the tax issues) for the audit client\* in relation to the matter that is being heard before a public tribunal or court.

## **Internal Audit Services**

### **General Provisions**

**290.195** The scope and objectives of internal audit activities vary widely and depend on the size and structure of the entity and the requirements of management and those charged with governance\*. Internal audit activities may include:

- (a) Monitoring of internal control – reviewing controls, monitoring their operation and recommending improvements thereto;
- (b) Examination of financial and operating information – reviewing the means used to identify, measure, classify and report financial and operating information, and specific inquiry into individual items including detailed testing of transactions, balances and procedures;
- (c) Review of the economy, efficiency and effectiveness of operating activities including non-financial activities of an entity; and

\* See Definitions for parts A, B and C

- (d) Review of compliance with laws, regulations and other external requirements, and with management policies and directives and other internal requirements.

**290.196** Internal audit services involve assisting the audit client\* in the performance of its internal audit activities. The provision of internal audit services to an audit client\* creates a self-review threat to independence\* if the firm\* uses the internal audit work in the course of a subsequent external audit. Performing a significant part of the client's internal audit activities increases the possibility that firm\* personnel providing internal audit services will assume a management responsibility. If the firm's\* personnel assume a management responsibility when providing internal audit services to an audit client\*, the threat created would be so significant that no safeguards could reduce the threat to an acceptable level\*. Accordingly, a firm's\* personnel shall not assume a management responsibility when providing internal audit services to an audit client\*.

**290.197** Examples of internal audit services that involve assuming management responsibilities include:

- (a) Setting internal audit policies or the strategic direction of internal audit activities;
- (b) Directing and taking responsibility for the actions of the entity's internal audit employees;
- (c) Deciding which recommendations resulting from internal audit activities shall be implemented;
- (d) Reporting the results of the internal audit activities to those charged with governance\* on behalf of management;
- (e) Performing procedures that form part of the internal control, such as reviewing and approving changes to employee data access privileges;
- (f) Taking responsibility for designing, implementing and maintaining internal control; and
- (g) Performing outsourced internal audit services, comprising all or a substantial portion of the internal audit function, where the firm\* is responsible for determining the scope of the internal audit work and may have responsibility for one or more of the matters noted in (a)–(f).

**290.198** To avoid assuming a management responsibility, the firm\* shall only provide internal audit services to an audit client\* if it is satisfied that:

- (a) The client designates an appropriate and competent resource, preferably within senior management, to be responsible at all times for internal audit activities and to acknowledge responsibility for designing, implementing, and maintaining internal control;

\* See Definitions for parts A, B and C

- (b) The client's management or those charged with governance\* reviews, assesses and approves the scope, risk and frequency of the internal audit services;
- (c) The client's management evaluates the adequacy of the internal audit services and the findings resulting from their performance;
- (d) The client's management evaluates and determines which recommendations resulting from internal audit services to implement and manages the implementation process; and
- (e) The client's management reports to those charged with governance\* the significant findings and recommendations resulting from the internal audit services.

**290.199** When a firm\* uses the work of an internal audit function, International Standards on Auditing require the performance of procedures to evaluate the adequacy of that work. When a firm\* accepts an engagement to provide internal audit services to an audit client\*, and the results of those services will be used in conducting the external audit, a self-review threat is created because of the possibility that the audit team\* will use the results of the internal audit service without appropriately evaluating those results or exercising the same level of professional scepticism as would be exercised when the internal audit work is performed by individuals who are not members of the firm\*. The significance of the threat will depend on factors such as:

- The materiality of the related financial statement\* amounts;
- The risk of misstatement of the assertions related to those financial statement\* amounts; and
- The degree of reliance that will be placed on the internal audit service.

The significance of the threat shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level\*. An example of such a safeguard is using professionals who are not members of the audit team\* to perform the internal audit service.

**Audit clients\* that are public interest entities\***

**290.200** In the case of an audit client\* that is a public interest entity\*, a firm\* shall not provide internal audit services that relate to:

- (a) A significant part of the internal controls over financial reporting;
- (b) Financial accounting systems that generate information that is, separately or in the aggregate, significant to the client's accounting records or financial statements on which the firm\* will express an opinion\*; or
- (c) Amounts or disclosures that are, separately or in the aggregate, material to the financial statements on which the firm\* will express an opinion\*.

\* See Definitions for parts A, B and C

## **IT Systems Services**

### **General Provisions**

**290.201** Services related to information technology (“IT”) systems include the design or implementation of hardware or software systems. The systems may aggregate source data, form part of the internal control over financial reporting or generate information that affects the accounting records or financial statements\*, or the systems may be unrelated to the audit client’s\* accounting records, the internal control over financial reporting or financial statements\*. Providing systems services may create a self-review threat depending on the nature of the services and the IT systems.

**290.202** The following IT systems services are deemed not to create a threat to independence\* as long as the firm’s\* personnel do not assume a management responsibility:

- (a) Design or implementation of IT systems that are unrelated to internal control over financial reporting;
- (b) Design or implementation of IT systems that do not generate information forming a significant part of the accounting records or financial statements\*;
- (c) Implementation of “off-the-shelf” accounting or financial information reporting software that was not developed by the firm\* if the customisation required to meet the client’s needs is not significant; and
- (d) Evaluating and making recommendations with respect to a system designed, implemented or operated by another service provider or the client.

### **Audit clients\* that are not public interest entities\***

**290.203** Providing services to an audit client\* that is not a public interest entity\* involving the design or implementation of IT systems that (a) form a significant part of the internal control over financial reporting or (b) generate information that is significant to the client’s accounting records or financial statements on which the firm\* will express an opinion\* creates a self-review threat.

**290.204** The self-review threat is too significant to permit such services unless appropriate safeguards are put in place ensuring that:

- (a) The client acknowledges its responsibility for establishing and monitoring a system of internal controls;
- (b) The client assigns the responsibility to make all management decisions with respect to the design and implementation of the hardware or software system to a competent employee, preferably within senior management;
- (c) The client makes all management decisions with respect to the design and implementation process;

\* See Definitions for parts A, B and C

- (d) The client evaluates the adequacy and results of the design and implementation of the system; and
- (e) The client is responsible for operating the system (hardware or software) and for the data it uses or generates.

**290.205** Depending on the degree of reliance that will be placed on the particular IT systems as part of the audit, a determination shall be made as to whether to provide such non-assurance services only with personnel who are not members of the audit team\* and who have different reporting lines within the firm\*. The significance of any remaining threat shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level\*. An example of such a safeguard is having a professional accountant\* review the audit or non-assurance work.

**Audit clients\* that are public interest entities\***

**290.206** In the case of an audit client\* that is a public interest entity\*, a firm\* shall not provide services involving the design or implementation of IT systems that (a) form a significant part of the internal control over financial reporting or (b) generate information that is significant to the client's accounting records or financial statements on which the firm\* will express an opinion\*.

**Litigation Support Services**

**290.207** Litigation support services may include activities such as acting as an expert witness, calculating estimated damages or other amounts that might become receivable or payable as the result of litigation or other legal dispute, and assistance with document management and retrieval. These services may create a self-review or advocacy threat.

**290.208** If the firm\* provides a litigation support service to an audit client\* and the service involves estimating damages or other amounts that affect the financial statements on which the firm\* will express an opinion\*, the valuation service provisions included in paragraphs 290.175 to 290.180 shall be followed. In the case of other litigation support services, the significance of any threat created shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level\*.

**Legal Services**

**290.209** For the purpose of this section, legal services are defined as any services for which the person providing the services must either be admitted to practice law before the courts of the jurisdiction in which such services are to be provided or have the required legal training to practice law. Such legal services may include, depending on the jurisdiction, a wide and diversified range of areas including both corporate and commercial services to clients, such as contract support, litigation, mergers and acquisition legal advice and support and assistance to clients' internal legal departments. Providing legal services to an entity that is an audit client\* may create both self-review and advocacy threats.

**290.210** Legal services that support an audit client\* in executing a transaction (e.g., contract support, legal advice, legal due diligence and restructuring) may create

\* See Definitions for parts A, B and C

self-review threats. The existence and significance of any threat will depend on factors such as:

- The nature of the service;
- Whether the service is provided by a member of the audit team\*; and
- The materiality of any matter in relation to the client's financial statements\*.

The significance of any threat created shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level\*. Examples of such safeguards include:

- Using professionals who are not members of the audit team\* to perform the service; or
- Having a professional who was not involved in providing the legal services provide advice to the audit team\* on the service and review any financial statement\* treatment.

**290.211** Acting in an advocacy role for an audit client\* in resolving a dispute or litigation when the amounts involved are material to the financial statements on which the firm\* will express an opinion\* would create advocacy and self-review threats so significant that no safeguards could reduce the threat to an acceptable level\*. Therefore, the firm\* shall not perform this type of service for an audit client\*.

**290.212** When a firm\* is asked to act in an advocacy role for an audit client\* in resolving a dispute or litigation when the amounts involved are not material to the financial statements on which the firm\* will express an opinion\*, the firm\* shall evaluate the significance of any advocacy and self-review threats created and apply safeguards when necessary to eliminate the threat or reduce it to an acceptable level\*. Examples of such safeguards include:

- Using professionals who are not members of the audit team\* to perform the service; or
- Having a professional who was not involved in providing the legal services advise the audit team\* on the service and review any financial statement\* treatment.

**290.213** The appointment of a partner\* or an employee of the firm\* as General Counsel for legal affairs of an audit client\* would create self-review and advocacy threats that are so significant that no safeguards could reduce the threats to an acceptable level\*. The position of General Counsel is generally a senior management position with broad responsibility for the legal affairs of a company, and consequently, no member of the firm\* shall accept such an appointment for an audit client\*.

\* See Definitions for parts A, B and C



## **Recruiting Services**

### **General Provisions**

**290.214** Providing recruiting services to an audit client\* may create self-interest, familiarity or intimidation threats. The existence and significance of any threat will depend on factors such as:

- The nature of the requested assistance; and
- The role of the person to be recruited.

The significance of any threat created shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level\*. In all cases, the firm\* shall not assume management responsibilities, including acting as a negotiator on the client's behalf, and the hiring decision shall be left to the client.

The firm\* may generally provide such services as reviewing the professional qualifications of a number of applicants and providing advice on their suitability for the post. In addition, the firm\* may interview candidates and advise on a candidate's competence for financial accounting, administrative or control positions.

### **Audit clients\* that are public interest entities\***

**290.215** A firm\* shall not provide the following recruiting services to an audit client\* that is a public interest entity\* with respect to a director\* or officer\* of the entity or senior management in a position to exert significant influence over the preparation of the client's accounting records or the financial statements on which the firm\* will express an opinion\*:

- Searching for or seeking out candidates for such positions; and
- Undertaking reference checks of prospective candidates for such positions.

## **Corporate Finance Services**

**290.216** Providing corporate finance services such as:

- assisting an audit client\* in developing corporate strategies,
- identifying possible targets for the audit client\* to acquire,
- advising on disposal transactions,
- assisting finance raising transactions, and
- providing structuring advice

may create advocacy and self-review threats. The significance of any threat shall be evaluated and safeguards applied when necessary to eliminate the

\* See Definitions for parts A, B and C

threat or reduce it to an acceptable level\*. Examples of such safeguards include:

- Using professionals who are not members of the audit team\* to provide the services; or
- Having a professional who was not involved in providing the corporate finance service advise the audit team\* on the service and review the accounting treatment and any financial statement\* treatment.

**290.217** Providing a corporate finance service, for example advice on the structuring of a corporate finance transaction or on financing arrangements that will directly affect amounts that will be reported in the financial statements\* on which the firm\* will provide an opinion may create a self-review threat. The existence and significance of any threat will depend on factors such as:

- The degree of subjectivity involved in determining the appropriate treatment for the outcome or consequences of the corporate finance advice in the financial statements\*;
- The extent to which the outcome of the corporate finance advice will directly affect amounts recorded in the financial statements\* and the extent to which the amounts are material to the financial statements\*; and
- Whether the effectiveness of the corporate finance advice depends on a particular accounting treatment or presentation in the financial statements\* and there is doubt as to the appropriateness of the related accounting treatment or presentation under the relevant financial reporting framework.

The significance of any threat shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level\*. Examples of such safeguards include:

- Using professionals who are not members of the audit team\* to perform the service; or
- Having a professional who was not involved in providing the corporate finance service to the client advise the audit team\* on the service and review the accounting treatment and any financial statement\* treatment.

**290.218** Where the effectiveness of corporate finance advice depends on a particular accounting treatment or presentation in the financial statements\* and:

- (a) The audit team\* has reasonable doubt as to the appropriateness of the related accounting treatment or presentation under the relevant financial reporting framework; and
- (b) The outcome or consequences of the corporate finance advice will have a material effect on the financial statements on which the firm\* will express an opinion\*;

\* See Definitions for parts A, B and C

The self-review threat would be so significant that no safeguards could reduce the threat to an acceptable level\*, in which case the corporate finance advice shall not be provided.

**290.219** Providing corporate finance services involving promoting, dealing in, or underwriting an audit client's\* shares would create an advocacy or self-review threat that is so significant that no safeguards could reduce the threat to an acceptable level\*. Accordingly, a firm\* shall not provide such services to an audit client\*.

## **Fees**

### **Fees - Relative Size**

**290.220** When the total fees from an audit client\* represent a large proportion of the total fees of the firm\* expressing the audit opinion, the dependence on that client and concern about losing the client creates a self-interest or intimidation threat. The significance of the threat will depend on factors such as:

- The operating structure of the firm\*;
- Whether the firm\* is well established or new; and
- The significance of the client qualitatively and/or quantitatively to the firm\*.

The significance of the threat shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level\*. Examples of such safeguards include:

- Reducing the dependency on the client;
- External quality control reviews; or
- Consulting a third party, such as a professional regulatory body or a professional accountant\*, on key audit judgments.

**290.221** A self-interest or intimidation threat is also created when the fees generated from an audit client\* represent a large proportion of the revenue from an individual partner's\* clients or a large proportion of the revenue of an individual office\* of the firm\*. The significance of the threat will depend upon factors such as:

- The significance of the client qualitatively and/or quantitatively to the partner\* or office\*; and
- The extent to which the remuneration of the partner\*, or the partners\* in the office\*, is dependent upon the fees generated from the client.

The significance of the threat shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level\*. Examples of such safeguards include:

- Reducing the dependency on the audit client\*;

\* See Definitions for parts A, B and C

- Having a professional accountant\* review the work or otherwise advise as necessary; or
- Regular independent internal or external quality reviews of the engagement.

Audit clients\* that are public interest entities\*

**290.222** Where an audit client\* is a public interest entity\* and, for two consecutive years, the total fees from the client and its related entities (subject to the considerations in paragraph 290.27) represent more than 15% of the total fees received by the firm\* expressing the opinion on the financial statements\* of the client, the firm\* shall disclose to those charged with governance\* of the audit client\* the fact that the total of such fees represents more than 15% of the total fees received by the firm\*, and discuss which of the safeguards below it will apply to reduce the threat to an acceptable level\*, and apply the selected safeguard:

- Prior to the issuance of the audit opinion on the second year's financial statements\*, a professional accountant\*, who is not a member of the firm\* expressing the opinion on the financial statements\*, performs an engagement quality control review\* of that engagement or a professional regulatory body performs a review of that engagement that is equivalent to an engagement quality control review\* ("a pre-issuance review"); or
- After the audit opinion on the second year's financial statements\* has been issued, and before the issuance of the audit opinion on the third year's financial statements\*, a professional accountant\*, who is not a member of the firm\* expressing the opinion on the financial statements\*, or a professional regulatory body performs a review of the second year's audit that is equivalent to an engagement quality control review\* ("a post-issuance review").

When the total fees significantly exceed 15%, the firm\* shall determine whether the significance of the threat is such that a post-issuance review would not reduce the threat to an acceptable level\* and, therefore, a pre-issuance review is required. In such circumstances a pre-issuance review shall be performed.

Thereafter, when the fees continue to exceed 15% each year, the disclosure to and discussion with those charged with governance\* shall occur and one of the above safeguards shall be applied. If the fees significantly exceed 15%, the firm\* shall determine whether the significance of the threat is such that a post-issuance review would not reduce the threat to an acceptable level\* and, therefore, a pre-issuance review is required. In such circumstances a pre-issuance review shall be performed.

### **Fees - Overdue**

**290.223** A self-interest threat may be created if fees due from an audit client\* remain unpaid for a long time, especially if a significant part is not paid before the issue of the audit report for the following year. Generally the firm\* is expected to require payment of such fees before such audit report is issued. If fees remain

\* See Definitions for parts A, B and C

unpaid after the report has been issued, the existence and significance of any threat shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level\*. An example of such a safeguard is having an additional professional accountant\* who did not take part in the audit engagement\* provide advice or review the work performed. The firm\* shall determine whether the overdue fees might be regarded as being equivalent to a loan\* to the client and whether, because of the significance of the overdue fees, it is appropriate for the firm\* to be re-appointed or continue the audit engagement\*.

### **Contingent fees\***

**290.224** Contingent fees\* are fees calculated on a predetermined basis relating to the outcome of a transaction or the result of the services performed by the firm\*. For the purposes of this section, a fee is not regarded as being contingent if established by a court or other public authority.

**290.225** A contingent fee\* charged directly or indirectly, for example through an intermediary, by a firm\* in respect of an audit engagement\* creates a self-interest threat that is so significant that no safeguards could reduce the threat to an acceptable level\*. Accordingly, a firm\* shall not enter into any such fee arrangement.

**290.226** A contingent fee\* charged directly or indirectly, for example through an intermediary, by a firm\* in respect of a non-assurance service provided to an audit client\* may also create a self-interest threat. The threat created would be so significant that no safeguards could reduce the threat to an acceptable level\* if:

- (a) The fee is charged by the firm\* expressing the opinion on the financial statements\* and the fee is material or expected to be material to that firm\*;
- (b) The fee is charged by a network firm\* that participates in a significant part of the audit and the fee is material or expected to be material to that firm\*;  
or
- (c) The outcome of the non-assurance service, and therefore the amount of the fee, is dependent on a future or contemporary judgment related to the audit of a material amount in the financial statements\*.

Accordingly, such arrangements shall not be accepted.

**290.227** For other contingent fee\* arrangements charged by a firm\* for a non-assurance service to an audit client\*, the existence and significance of any threats will depend on factors such as:

- The range of possible fee amounts;
- Whether an appropriate authority determines the outcome of the matter upon which the contingent fee\* will be determined;

\* See Definitions for parts A, B and C

- The nature of the service; and
- The effect of the event or transaction on the financial statements\*.

The significance of any threats shall be evaluated and safeguards applied when necessary to eliminate the threats or reduce them to an acceptable level\*. Examples of such safeguards include:

- Having a professional accountant\* review the relevant audit work or otherwise advise as necessary; or
- Using professionals who are not members of the audit team\* to perform the non-assurance service.

### **Compensation and Evaluation Policies**

**290.228** A self-interest threat is created when a member of the audit team\* is evaluated on or compensated for selling non-assurance services to that audit client\*. The significance of the threat will depend on:

- The proportion of the individual's compensation or performance evaluation that is based on the sale of such services;
- The role of the individual on the audit team\*; and
- Whether promotion decisions are influenced by the sale of such services.

The significance of the threat shall be evaluated and, if the threat is not at an acceptable level\*, the firm\* shall either revise the compensation plan or evaluation process for that individual or apply safeguards to eliminate the threat or reduce it to an acceptable level\*. Examples of such safeguards include:

- Removing such members from the audit team\*; or
- Having a professional accountant\* review the work of the member of the audit team\*.

**290.229** A key audit partner\* shall not be evaluated on or compensated based on that partner's\* success in selling non-assurance services to the partner's\* audit client\*. This is not intended to prohibit normal profit-sharing arrangements between partners\* of a firm\*.

### **Gifts and Hospitality**

**290.230** Accepting gifts or hospitality from an audit client\* may create self-interest and familiarity threats. If a firm\* or a member of the audit team\* accepts gifts or hospitality, unless the value is trivial and inconsequential, the threats created would be so significant that no safeguards could reduce the threats to an acceptable level\*. Consequently, a firm\* or a member of the audit team\* shall not accept such gifts or hospitality.

\* See Definitions for parts A, B and C

## **Actual or Threatened Litigation**

**290.231** When litigation takes place, or appears likely, between the firm\* or a member of the audit team\* and the audit client\*, self-interest and intimidation threats are created. The relationship between client management and the members of the audit team\* must be characterised by complete candour and full disclosure regarding all aspects of a client's business operations. When the firm\* and the client's management are placed in adversarial positions by actual or threatened litigation, affecting management's willingness to make complete disclosures, self-interest and intimidation threats are created. The significance of the threats created will depend on such factors as:

- The materiality of the litigation; and
- Whether the litigation relates to a prior audit engagement\*.

The significance of the threats shall be evaluated and safeguards applied when necessary to eliminate the threats or reduce them to an acceptable level\*. Examples of such safeguards include:

- If the litigation involves a member of the audit team\*, removing that individual from the audit team\*; or
- Having a professional review the work performed.

If such safeguards do not reduce the threats to an acceptable level\*, the only appropriate action is to withdraw from, or decline, the audit engagement\*.

Paragraphs 290.232 to 290.499 are intentionally left blank.

## **Reports that Include a Restriction on Use and Distribution**

### **Introduction**

**290.500** The independence\* requirements in section 290 apply to all audit engagements\*. However, in certain circumstances involving audit engagements\* where the report includes a restriction on use and distribution, and provided the conditions described in 290.501 to 290.502 are met, the independence\* requirements in this section may be modified as provided in paragraphs 290.505 to 290.514. These paragraphs are only applicable to an audit engagement\* on special purpose financial statements\* (a) that is intended to provide a conclusion in positive or negative form that the financial statements\* are prepared in all material respects, in accordance with the applicable financial reporting framework, including, in the case of a fair presentation framework, that the financial statements\* give a true and fair view or are presented fairly, in all material respects, in accordance with the applicable financial reporting framework, and (b) where the audit report includes a restriction on use and distribution. The modifications are not permitted in the case of an audit of financial statements\* required by law or regulation.

**290.501** The modifications to the requirements of section 290 are permitted if the intended users of the report (a) are knowledgeable as to the purpose and

\* See Definitions for parts A, B and C

limitations of the report, and (b) explicitly agree to the application of the modified independence\* requirements. Knowledge as to the purpose and limitations of the report may be obtained by the intended users through their participation, either directly or indirectly through their representative who has the authority to act for the intended users, in establishing the nature and scope of the engagement. Such participation enhances the ability of the firm\* to communicate with intended users about independence\* matters, including the circumstances that are relevant to the evaluation of the threats to independence\* and the applicable safeguards necessary to eliminate the threats or reduce them to an acceptable level\*, and to obtain their agreement to the modified independence\* requirements that are to be applied.

**290.502** The firm\* shall communicate (for example, in an engagement letter) with the intended users regarding the independence\* requirements that are to be applied with respect to the provision of the audit engagement\*. Where the intended users are a class of users (for example, lenders in a syndicated loan\* arrangement) who are not specifically identifiable by name at the time the engagement terms are established, such users shall subsequently be made aware of the independence\* requirements agreed to by the representative (for example, by the representative making the firm's\* engagement letter available to all users).

**290.503** If the firm\* also issues an audit report that does not include a restriction on use and distribution for the same client, the provisions of paragraphs 290.500 to 290.514 do not change the requirement to apply the provisions of paragraphs 290.1 to 290.232 to that audit engagement\*.

**290.504** The modifications to the requirements of section 290 that are permitted in the circumstances set out above are described in paragraphs 290.505 to 290.514. Compliance in all other respects with the provisions of section 290 is required.

#### **Public interest entities\***

**290.505** When the conditions set out in paragraphs 290.500 to 290.502 are met, it is not necessary to apply the additional requirements in paragraphs 290.100 to 290.232 that apply to audit engagements\* for public interest entities\*.

#### **Related Entities**

**290.506** When the conditions set out in paragraphs 290.500 to 290.502 are met, references to audit client\* do not include its related entities. However, when the audit team\* knows or has reason to believe that a relationship or circumstance involving a related entity\* of the client is relevant to the evaluation of the firm's\* independence\* of the client, the audit team\* shall include that related entity\* when identifying and evaluating threats to independence\* and applying appropriate safeguards.

#### **Networks\* and Network firms\***

**290.507** When the conditions set out in paragraphs 290.500 to 290.502 are met, reference to the firm\* does not include network firms\*. However, when the firm\* knows or has reason to believe that threats are created by any interests and relationships of a network firm\*, they shall be included in the evaluation of threats to independence\*.

\* See Definitions for parts A, B and C



**Financial interests\*, Loans\* and Guarantees, Close Business Relationships and Family and Personal Relationships**

**290.508** When the conditions set out in paragraphs 290.500 to 290.502 are met, the relevant provisions set out in paragraphs 290.102 to 290.145 apply only to the members of the engagement team\*, their immediate family\* members and close family\* members.

**290.509** In addition, a determination shall be made as to whether threats to independence\* are created by interests and relationships, as described in paragraphs 290.102 to 290.145, between the audit client\* and the following members of the audit team\*:

- (a) Those who provide consultation regarding technical or industry specific issues, transactions or events; and
- (b) Those who provide quality control for the engagement, including those who perform the engagement quality control review\*.

An evaluation shall be made of the significance of any threats that the engagement team\* has reason to believe are created by interests and relationships between the audit client\* and others within the firm\* who can directly influence the outcome of the audit engagement\*, including those who recommend the compensation of, or who provide direct supervisory, management or other oversight of the audit engagement\* partner\* in connection with the performance of the audit engagement\* (including those at all successively senior levels above the engagement partner\* through to the individual who is the firm's\* Senior or Managing Partner\* (Chief Executive or equivalent)).

**290.510** An evaluation shall also be made of the significance of any threats that the engagement team\* has reason to believe are created by financial interests\* in the audit client\* held by individuals, as described in paragraphs 290.108 to 290.111 and paragraphs 290.113 to 290.115.

**290.511** Where a threat to independence\* is not at an acceptable level\*, safeguards shall be applied to eliminate the threat or reduce it to an acceptable level\*.

**290.512** In applying the provisions set out in paragraphs 290.106 and 290.115 to interests of the firm\*, if the firm\* has a material financial interest\*, whether direct or indirect, in the audit client\*, the self-interest threat created would be so significant that no safeguards could reduce the threat to an acceptable level\*. Accordingly, the firm\* shall not have such a financial interest\*.

**Employment with an Audit Client\***

**290.513** An evaluation shall be made of the significance of any threats from any employment relationships as described in paragraphs 290.134 to 290.138. Where a threat exists that is not at an acceptable level\*, safeguards shall be applied to eliminate the threat or reduce it to an acceptable level\*. Examples of safeguards that might be appropriate include those set out in paragraph 290.136.

\* See Definitions for parts A, B and C

## **Provision of Non-Assurance Services**

**290.514** If the firm\* conducts an engagement to issue a restricted use and distribution report for an audit client\* and provides a non-assurance service to the audit client\*, the provisions of paragraphs 290.156 to 290.232 shall be complied with, subject to paragraphs 290.504 to 290.507.

### **Appendix to Section 290 – Nature of Assurance Engagements\***

- 1** *The IESBA and ICAEW Codes include two different sets of requirements to ensure independence\* is maintained in assurance engagements\*. If the engagement is an audit engagement\*, or a review engagement\*, the requirements of section 290 apply (or the APB Ethical Standards – see 290.0c). For other assurance engagements\*, section 291 applies.*
- 2** *To assist professional accountants in public practice\* determine which section to apply, set out below are a number of examples of engagements typically undertaken and an indication of whether they would normally be regarded as audit or review (thus section 290 or APB) or other assurance (thus section 291).*
- 3** *As individual engagements can vary, even within categories, professional accountants in public practice\* should consider the examples as indicative rather than definitive and should have regard to the nature of the conclusion to be given. In particular they should have regard to the definitions of ‘review engagement’\* and ‘financial statements’\* in the IESBA and ICAEW Codes, which are:*

*“Review engagement - An assurance engagement, conducted in accordance with International Standards on Review Engagements or equivalent, in which a professional accountant in public practice expresses a conclusion on whether, on the basis of the procedures which do not provide all the evidence that would be required in an audit, anything has come to the accountant’s attention that causes the accountant to believe that the financial statements are not prepared, in all material respects, in accordance with an applicable financial reporting framework.”*

*“Financial statements - A structured representation of historical financial information, including related notes, intended to communicate an entity’s economic resources or obligations at a point in time or the changes therein for a period of time in accordance with a financial reporting framework. The related notes ordinarily comprise a summary of significant accounting policies and other explanatory information. The term can relate to a complete set of financial statements, but it can also refer to a single financial statement, for example, a balance sheet, or a statement of revenues and expenses, and related explanatory notes.”*

- 4** *Taken together, the key elements in determining that an assurance engagement\* is a review engagement\* are:*
  - *the subject matter: historical financial information, and*

\* See Definitions for parts A, B and C

- *the nature of the report: limited procedures but nothing has come to attention to indicate the information is not prepared in accordance with the applicable financial reporting framework.*

*Examples of engagements that would normally be considered to be audit or review engagements\* (section 290 or APB)*

- *Statutory or other audits, or engagements possessing the characteristics of an audit (i.e. involving a 'true and fair' or 'fairly presents' conclusion).*
- *Review in accordance with ISRE 2410 (UK and Ireland): review of interim financial information performed by independent auditor of the entity, or ISRE 2400: engagements to review financial statements*
- *Review in accordance with the ICAEW Assurance Service.*
- *Independent Examination of Charities: again historical financial information and a negative opinion indicating no evidence of non compliance with a specified framework*
- *Public sector year-end audits*
- *Special report on the abbreviated accounts of a small company (the report must be prepared by the auditors, who as such, should apply section 290/APB).*

*Examples of engagements that would normally be considered to be other assurance engagements (section 291)*

- *Assurance reports on internal controls of service organisations, conducted in accordance with, for example, AAF 01/06 .*
- *Assurance reports on the outsourced provision of information services and information processing services , conducted in accordance with, for example, ITF 01/07.*
- *Any assurance conducted based on AAF 02/07 A framework for assurance reports on third party operations.*
- *Any assurance engagements on prospective financial or non-financial information.*
- *Any other assurance engagements\* based on ISAE 3000 including narrative information, greenhouse gas and sustainability reports if conducted outside the scope of annual accounts.*
- *Independent accountant's report on grant claims, conducted in accordance with, for example, AAF 01/10*

\* See Definitions for parts A, B and C

*Note that for all of the above and any other engagements, if the professional accountant in public practice\* is also the auditor of the entity, section 290/ APB Ethical standards will already have to be followed. No additional compliance with section 291 is necessary in such circumstances.*

## **Transitional Provisions**

### **Effective Date**

This Code is effective on January 1, 2011; early adoption is permitted. This Code is subject to the following transitional provisions:

### **Public interest entities\***

1. Section 290 of the Code contains additional independence\* provisions when the audit or review client\* is a public interest entity\*. The additional provisions that are applicable because of the new definition of a public interest entity\* or the guidance in paragraph 290.26 are effective on January 1, 2012. For partner\* rotation requirements, the transitional provisions contained in paragraphs 2 and 3 below apply

### **Partner\* Rotation**

2. For a partner\* who is subject to the rotation provisions in paragraph 290.151 because the partner\* meets the definition of the new term “key audit partner\*,” and the partner\* is neither the engagement partner\* nor the individual responsible for the engagement quality control review\*, the rotation provisions are effective for the audits or reviews of financial statements\* for years beginning on or after December 15, 2011. For example, in the case of an audit client\* with a calendar year-end, a key audit partner\*, who is neither the engagement partner\* nor the individual responsible for the engagement quality control review\*, who had served as a key audit partner\* for seven or more years (i.e., the audits of 2003 – 2010), would be required to rotate after serving for one more year as a key audit partner\* (i.e., after completing the 2011 audit).
3. For an engagement partner\* or an individual responsible for the engagement quality control review\* who immediately prior to assuming either of these roles served in another key audit partner\* role for the client, and who, at the beginning of the first fiscal year beginning on or after December 15, 2010, had served as the engagement partner\* or individual responsible for the engagement quality control review\* for six or fewer years, the rotation provisions are effective for the audits or reviews of financial statements\* for years beginning on or after December 15, 2011. For example, in the case of an audit client\* with a calendar year-end, a partner\* who had served the client in another key audit partner\* role for four years (i.e., the audits of 2002-2005) and subsequently as the engagement partner\* for five years (i.e., the audits of 2006-2010) would be required to rotate after serving for one more year as the engagement partner\* (i.e., after completing the 2011 audit).

### **Non-assurance services**

4. Paragraphs 290.156-290.219 address the provision of non-assurance services to an audit or review client\*. If, at the effective date of the Code, services are being provided to an audit or review client\* and the services were permissible under the June 2005 Code (revised July 2006) but are either prohibited or subject to restrictions under the revised Code, the firm\* may continue providing

\* See Definitions for parts A, B and C

such services only if they were contracted for and commenced prior to January 1, 2011, and are completed before July 1, 2011.

**Fees - Relative Size**

5. Paragraph 290.222 provides that, in respect of an audit or review client\* that is a public interest entity\*, when the total fees from that client and its related entities (subject to the considerations in paragraph 290.27) for two consecutive years represent more than 15% of the total fees of the firm\* expressing the opinion on the financial statements\*, a pre- or post-issuance review (as described in paragraph 290.222) of the second year's audit shall be performed. This requirement is effective for audits or reviews of financial statements\* covering years that begin on or after December 15, 2010. For example, in the case of an audit client\* with a calendar year end, if the total fees from the client exceeded the 15% threshold for 2011 and 2012, the pre- or post-issuance review would be applied with respect to the audit of the 2012 financial statements\*.

**Compensation and Evaluation Policies**

6. Paragraph 290.229 provides that a key audit partner\* shall not be evaluated or compensated based on that partner's\* success in selling non-assurance services to the partner's\* audit client\*. This requirement is effective on January 1, 2012. A key audit partner\* may, however, receive compensation after January 1, 2012 based on an evaluation made prior to January 1, 2012 of that partner's\* success in selling non-assurance services to the audit client\*.

\* See Definitions for parts A, B and C

## SECTION 291 – INDEPENDENCE – OTHER ASSURANCE ENGAGEMENTS

### Structure of Section

- 291.1** This section addresses independence\* requirements for assurance engagements\* that are not audit or review engagements\*. *As indicated in paragraphs 1.14 to 1.17* independence\* requirements for audit and review engagements\* are addressed in section 290. If the assurance client\* is also an audit or review client\*, the requirements in section 290 also apply to the firm\*, network firms\* and members of the audit or review team\*. In certain circumstances involving assurance engagements\* where the assurance report includes a restriction on use and distribution and provided certain conditions are met, the independence\* requirements in this section may be modified as provided in 291.21 to 291.27.
- 291.2** Assurance engagements\* are designed to enhance intended users' degree of confidence about the outcome of the evaluation or measurement of a subject matter against criteria. The International Framework for Assurance engagements\* (the Assurance Framework) issued by the International Auditing and Assurance Standards Board describes the elements and objectives of an assurance engagement\* and identifies engagements to which International Standards on Assurance engagements\* (ISAEs) apply. For a description of the elements and objectives of an assurance engagement\*, refer to the Assurance Framework.
- 291.3** Compliance with the fundamental principle of objectivity requires being independent of assurance clients\*. In the case of assurance engagements\*, it is in the public interest and, therefore, required by this Code of Ethics, that members of assurance teams\* and firms be independent of assurance clients\* and that any threats that the firm\* has reason to believe are created by a network firm's\* interests and relationships be evaluated. In addition, when the assurance team\* knows or has reason to believe that a relationship or circumstance involving a related entity\* of the assurance client\* is relevant to the evaluation of the firm's\* independence\* from the client, the assurance team\* shall include that related entity\* when identifying and evaluating threats to independence\* and applying appropriate safeguards.

### A Conceptual Framework Approach to independence\*

- 291.4** The objective of this section is to assist firms and members of assurance teams\* in applying the conceptual framework approach described below to achieving and maintaining independence\*.
- 291.5** Independence\* comprises:
- (a) Independence\* of Mind

The state of mind that permits the expression of a conclusion without being affected by influences that compromise professional judgment, thereby allowing

\* See Definitions for parts A, B and C

an individual to act with integrity and exercise objectivity and professional scepticism.

(b) Independence\* in Appearance

The avoidance of facts and circumstances that are so significant that a reasonable and informed third party would be likely to conclude, weighing all the specific facts and circumstances, that a firm's\*, or a member of the assurance team's\*, integrity, objectivity or professional scepticism has been compromised.

**291.6** The conceptual framework approach shall be applied by professional accountants\* to:

- (a) Identify threats to independence\*;
- (b) Evaluate the significance of the threats identified; and
- (c) Apply safeguards when necessary to eliminate the threats or reduce them to an acceptable level\*.

When the professional accountant\* determines that appropriate safeguards are not available or cannot be applied to eliminate the threats or reduce them to an acceptable level\*, the professional accountant\* shall eliminate the circumstance or relationship creating the threats or decline or terminate the assurance engagement\*.

A professional accountant\* shall use professional judgment in applying this conceptual framework.

**291.7** Many different circumstances, or combinations of circumstances, may be relevant in assessing threats to independence\*. It is impossible to define every situation that creates threats to independence\* and to specify the appropriate action. Therefore, this Code establishes a conceptual framework that requires firms and members of assurance teams\* to identify, evaluate, and address threats to independence\*. The conceptual framework approach assists professional accountants\* in public practice in complying with the ethical requirements in this Code. It accommodates many variations in circumstances that create threats to independence\* and can deter a professional accountant\* from concluding that a situation is permitted if it is not specifically prohibited.

**291.8** Paragraphs 291.100 and onwards describe how the conceptual framework approach to independence\* is to be applied. These paragraphs do not address all the circumstances and relationships that create or may create threats to independence\*.

**291.9** In deciding whether to accept or continue an engagement, or whether a particular individual may be a member of the assurance team\*, a firm\* shall identify and evaluate any threats to independence\*. If the threats are not at an acceptable level\*, and the decision is whether to accept an engagement or include a particular individual on the assurance team\*, the firm\* shall determine

\* See Definitions for parts A, B and C

whether safeguards are available to eliminate the threats or reduce them to an acceptable level\*. If the decision is whether to continue an engagement, the firm\* shall determine whether any existing safeguards will continue to be effective to eliminate the threats or reduce them to an acceptable level\* or whether other safeguards will need to be applied or whether the engagement needs to be terminated. Whenever new information about a threat comes to the attention of the firm\* during the engagement, the firm\* shall evaluate the significance of the threat in accordance with the conceptual framework approach.

**291.10** Throughout this section, reference is made to the significance of threats to independence\*. In evaluating the significance of a threat, qualitative as well as quantitative factors shall be taken into account.

**291.11** This section does not, in most cases, prescribe the specific responsibility of individuals within the firm\* for actions related to independence\* because responsibility may differ depending on the size, structure and organisation of a firm\*. The firm\* is required by International Standards on Quality Control to establish policies and procedures designed to provide it with reasonable assurance that independence\* is maintained when required by relevant ethical standards.

#### **Assurance engagements\***

**291.12** As further explained in the Assurance Framework, in an assurance engagement\* the professional accountant in public practice\* expresses a conclusion designed to enhance the degree of confidence of the intended users (other than the responsible party) about the outcome of the evaluation or measurement of a subject matter against criteria.

**291.13** The outcome of the evaluation or measurement of a subject matter is the information that results from applying the criteria to the subject matter. The term “subject matter information” is used to mean the outcome of the evaluation or measurement of a subject matter. For example, the Framework states that an assertion about the effectiveness of internal control (subject matter information) results from applying a framework for evaluating the effectiveness of internal control, such as COSO<sup>1</sup> or CoCo<sup>2</sup> (criteria), to internal control, a process (subject matter).

**291.14** Assurance engagements\* may be assertion-based or direct reporting. In either case, they involve three separate parties: a professional accountant in public practice\*, a responsible party and intended users.

**291.15** In an assertion-based assurance engagement\*, the evaluation or measurement of the subject matter is performed by the responsible party, and the subject

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<sup>1</sup> “Internal Control – Integrated Framework” The Committee of Sponsoring Organisations of the Treadway Commission.

<sup>2</sup> “Guidance on Assessing Control – The CoCo Principles” Criteria of Control Board, The Canadian Institute of Chartered Accountants.

\* See Definitions for parts A, B and C



matter information is in the form of an assertion by the responsible party that is made available to the intended users.

- 291.16** In a direct reporting assurance engagement\*, the professional accountant in public practice\* either directly performs the evaluation or measurement of the subject matter, or obtains a representation from the responsible party that has performed the evaluation or measurement that is not available to the intended users. The subject matter information is provided to the intended users in the assurance report.

**Assertion-based Assurance engagements\***

- 291.17** In an assertion-based assurance engagement\*, the members of the assurance team\* and the firm\* shall be independent of the assurance client\* (the party responsible for the subject matter information, and which may be responsible for the subject matter). Such independence\* requirements prohibit certain relationships between members of the assurance team\* and (a) directors\* or officers\*, and (b) individuals at the client in a position to exert significant influence over the subject matter information. Also, a determination shall be made as to whether threats to independence\* are created by relationships with individuals at the client in a position to exert significant influence over the subject matter of the engagement. An evaluation shall be made of the significance of any threats that the firm\* has reason to believe are created by network firm\*<sup>3</sup> interests and relationships.

- 291.18** In the majority of assertion-based assurance engagements\*, the responsible party is responsible for both the subject matter information and the subject matter. However, in some engagements, the responsible party may not be responsible for the subject matter. For example, when a professional accountant in public practice\* is engaged to perform an assurance engagement\* regarding a report that an environmental consultant has prepared about a company's sustainability practices for distribution to intended users, the environmental consultant is the responsible party for the subject matter information but the company is responsible for the subject matter (the sustainability practices).

- 291.19** In assertion-based assurance engagements\* where the responsible party is responsible for the subject matter information but not the subject matter, the members of the assurance team\* and the firm\* shall be independent of the party responsible for the subject matter information (the assurance client\*). In addition, an evaluation shall be made of any threats the firm\* has reason to believe are created by interests and relationships between a member of the assurance team\*, the firm\*, a network firm\* and the party responsible for the subject matter.

**Direct Reporting Assurance engagements\***

- 291.20** In a direct reporting assurance engagement\*, the members of the assurance team\* and the firm\* shall be independent of the assurance client\* (the party responsible for the subject matter). An evaluation shall also be made of any

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<sup>3</sup> See paragraphs 290.13 to 290.24 for guidance on what constitutes a network firm\*.

\* See Definitions for parts A, B and C

threats the firm\* has reason to believe are created by network firm\* interests and relationships.

### **Reports that Include a Restriction on Use and Distribution**

- 291.21** In certain circumstances where the assurance report includes a restriction on use and distribution, and provided the conditions in this paragraph and in 291.22 are met, the independence\* requirements in this section may be modified. The modifications to the requirements of section 291 are permitted if the intended users of the report (a) are knowledgeable as to the purpose, subject matter information and limitations of the report and (b) explicitly agree to the application of the modified independence\* requirements. Knowledge as to the purpose, subject matter information, and limitations of the report may be obtained by the intended users through their participation, either directly or indirectly through their representative who has the authority to act for the intended users, in establishing the nature and scope of the engagement. Such participation enhances the ability of the firm\* to communicate with intended users about independence\* matters, including the circumstances that are relevant to the evaluation of the threats to independence\* and the applicable safeguards necessary to eliminate the threats or reduce them to an acceptable level\*, and to obtain their agreement to the modified independence\* requirements that are to be applied.
- 291.22** The firm\* shall communicate (for example, in an engagement letter) with the intended users regarding the independence\* requirements that are to be applied with respect to the provision of the assurance engagement\*. Where the intended users are a class of users (for example, lenders in a syndicated loan\* arrangement) who are not specifically identifiable by name at the time the engagement terms are established, such users shall subsequently be made aware of the independence\* requirements agreed to by the representative (for example, by the representative making the firm's\* engagement letter available to all users).
- 291.23** If the firm\* also issues an assurance report that does not include a restriction on use and distribution for the same client, the provisions of paragraphs 291.25 to 291.27 do not change the requirement to apply the provisions of paragraphs 291.1 to 291.159 to that assurance engagement\*. If the firm\* also issues an audit report, whether or not it includes a restriction on use and distribution, for the same client, the provisions of section 290 shall apply to that audit engagement\*.
- 291.24** The modifications to the requirements of section 291 that are permitted in the circumstances set out above are described in paragraphs 291.25 to 291.27. Compliance in all other respects with the provisions of section 291 is required.
- 291.25** When the conditions set out in paragraphs 291.21 and 291.22 are met, the relevant provisions set out in paragraphs 291.104 to 291.134 apply to all members of the engagement team\*, and their immediate and close family\* members. In addition, a determination shall be made as to whether threats to independence\* are created by interests and relationships between the assurance client\* and the following other members of the assurance team\*:

\* See Definitions for parts A, B and C

- (a) Those who provide consultation regarding technical or industry specific issues, transactions or events; and
- (b) Those who provide quality control for the engagement, including those who perform the engagement quality control review\*.

An evaluation shall also be made, by reference to the provisions set out in paragraphs 291.104 to 291.134, of any threats that the engagement team\* has reason to believe are created by interests and relationships between the assurance client\* and others within the firm\* who can directly influence the outcome of the assurance engagement\*, including those who recommend the compensation, or who provide direct supervisory, management or other oversight, of the assurance engagement\* partner\* in connection with the performance of the assurance engagement\*.

**291.26** Even though the conditions set out in paragraphs 291.21 to 291.22 are met, if the firm\* had a material financial interest\*, whether direct or indirect, in the assurance client\*, the self-interest threat created would be so significant that no safeguards could reduce the threat to an acceptable level\*. Accordingly, the firm\* shall not have such a financial interest\*. In addition, the firm\* shall comply with the other applicable provisions of this section described in paragraphs 291.113 to 291.159.

**291.27** An evaluation shall also be made of any threats that the firm\* has reason to believe are created by network firm\* interests and relationships.

### **Multiple Responsible Parties**

**291.28** In some assurance engagements\*, whether assertion-based or direct reporting, there might be several responsible parties. In determining whether it is necessary to apply the provisions in this section to each responsible party in such engagements, the firm\* may take into account whether an interest or relationship between the firm\*, or a member of the assurance team\*, and a particular responsible party would create a threat to independence\* that is not trivial and inconsequential in the context of the subject matter information. This will take into account factors such as:

- The materiality of the subject matter information (or of the subject matter) for which the particular responsible party is responsible; and
- The degree of public interest associated with the engagement.

If the firm\* determines that the threat to independence\* created by any such interest or relationship with a particular responsible party would be trivial and inconsequential, it may not be necessary to apply all of the provisions of this section to that responsible party.

### **Documentation**

**291.29** Documentation provides evidence of the professional accountant's\* judgments in forming conclusions regarding compliance with independence\* requirements.

\* See Definitions for parts A, B and C

The absence of documentation is not a determinant of whether a firm\* considered a particular matter nor whether it is independent.

The professional accountant\* shall document conclusions regarding compliance with independence\* requirements, and the substance of any relevant discussions that support those conclusions. Accordingly:

- (a) When safeguards are required to reduce a threat to an acceptable level\*, the professional accountant\* shall document the nature of the threat and the safeguards in place or applied that reduce the threat to an acceptable level\*; and
- (b) When a threat required significant analysis to determine whether safeguards were necessary and the professional accountant\* concluded that they were not because the threat was already at an acceptable level\*, the professional accountant\* shall document the nature of the threat and the rationale for the conclusion.

### **Engagement Period**

- 291.30** Independence\* from the assurance client\* is required both during the engagement period and the period covered by the subject matter information. The engagement period starts when the assurance team\* begins to perform assurance services with respect to the particular engagement. The engagement period ends when the assurance report is issued. When the engagement is of a recurring nature, it ends at the later of the notification by either party that the professional relationship has terminated or the issuance of the final assurance report.
- 291.31** When an entity becomes an assurance client\* during or after the period covered by the subject matter information on which the firm\* will express a conclusion, the firm\* shall determine whether any threats to independence\* are created by:
- (a) Financial or business relationships with the assurance client\* during or after the period covered by the subject matter information but before accepting the assurance engagement\*; or
  - (b) Previous services provided to the assurance client\*.
- 291.32** If a non-assurance service was provided to the assurance client\* during or after the period covered by the subject matter information but before the assurance team\* begins to perform assurance services and the service would not be permitted during the period of the assurance engagement\*, the firm\* shall evaluate any threat to independence\* created by the service. If any threat is not at an acceptable level\*, the assurance engagement\* shall only be accepted if safeguards are applied to eliminate any threats or reduce them to an acceptable level\*. Examples of such safeguards include:
- Not including personnel who provided the non-assurance service as members of the assurance team\*;

\* See Definitions for parts A, B and C

- Having a professional accountant\* review the assurance and non-assurance work as appropriate; or
- Engaging another firm\* to evaluate the results of the non-assurance service or having another firm\* re-perform the non-assurance service to the extent necessary to enable it to take responsibility for the service.

However, if the non-assurance service has not been completed and it is not practical to complete or terminate the service before the commencement of professional services\* in connection with the assurance engagement\*, the firm\* shall only accept the assurance engagement\* if it is satisfied:

- (a) The non-assurance service will be completed within a short period of time; or
- (b) The client has arrangements in place to transition the service to another provider within a short period of time.

During the service period, safeguards shall be applied when necessary. In addition, the matter shall be discussed with those charged with governance\*.

### **Other Considerations**

**291.33** There may be occasions when there is an inadvertent violation of this section. If such an inadvertent violation occurs, it generally will be deemed not to compromise independence\* provided the firm\* has appropriate quality control policies and procedures in place equivalent to those required by International Standards on Quality Control to maintain independence\* and, once discovered, the violation is corrected promptly and any necessary safeguards are applied to eliminate any threat or reduce it to an acceptable level\*. The firm\* shall determine whether to discuss the matter with those charged with governance\*.

Paragraphs 291.34 to 291.99 are intentionally left blank.

### **Application of the Conceptual Framework Approach to independence\***

**291.100** Paragraphs 291.104 to 291.159 describe specific circumstances and relationships that create or may create threats to independence\*. The paragraphs describe the potential threats and the types of safeguards that may be appropriate to eliminate the threats or reduce them to an acceptable level\* and identify certain situations where no safeguards could reduce the threats to an acceptable level\*. The paragraphs do not describe all of the circumstances and relationships that create or may create a threat to independence\*. The firm\* and the members of the assurance team\* shall evaluate the implications of similar, but different, circumstances and relationships and determine whether safeguards, including the safeguards in paragraphs 200.11 to 200.14 can be applied when necessary to eliminate the threats to independence\* or reduce them to an acceptable level\*.

**291.101** The paragraphs demonstrate how the conceptual framework approach applies to assurance engagements\* and are to be read in conjunction with paragraph 291.28 which explains that, in the majority of assurance engagements\*, there is

\* See Definitions for parts A, B and C

one responsible party and that responsible party is the assurance client\*. However, in some assurance engagements\* there are two or more responsible parties. In such circumstances, an evaluation shall be made of any threats the firm\* has reason to believe are created by interests and relationships between a member of the assurance team\*, the firm\*, a network firm\* and the party responsible for the subject matter. For assurance reports that include a restriction on use and distribution, the paragraphs are to be read in the context of paragraphs 291.21 to 291.27.

**291.102** Interpretation 2005-01 provides further guidance on applying the independence\* requirements contained in this section to assurance engagements\*.

**291.103** Paragraphs 291.104 to 291.120 contain references to the materiality of a financial interest\*, loan\*, or guarantee, or the significance of a business relationship. For the purpose of determining whether such an interest is material to an individual, the combined net worth of the individual and the individual's immediate family\* members may be taken into account.

#### **Financial interests\***

**291.104** Holding a financial interest\* in an assurance client\* may create a self-interest threat. The existence and significance of any threat created depends on:

- (a) the role of the person holding the financial interest\*,
- (b) whether the financial interest\* is direct or indirect, and
- (c) the materiality of the financial interest\*.

**291.105** Financial interests\* may be held through an intermediary (e.g. a collective investment vehicle, estate or trust). The determination of whether such financial interests\* are direct or indirect will depend upon whether the beneficial owner has control over the investment vehicle or the ability to influence its investment decisions. When control over the investment vehicle or the ability to influence investment decisions exists, this Code defines that financial interest\* to be a direct financial interest\*. Conversely, when the beneficial owner of the financial interest\* has no control over the investment vehicle or ability to influence its investment decisions, this Code defines that financial interest\* to be an indirect financial interest\*.

**291.106** If a member of the assurance team\*, a member of that individual's immediate family\* or a firm\* has a direct financial interest\* or a material indirect financial interest\* in the assurance client\*, the self-interest threat created would be so significant that no safeguards could reduce the threat to an acceptable level\*. Therefore, none of the following shall have a direct financial interest\* or a material indirect financial interest\* in the client: a member of the assurance team\*; a member of that individual's immediate family\* member; or the firm\*.

**291.107** When a member of the assurance team\* has a close family\* member who the assurance team\* member knows has a direct financial interest\* or a material

\* See Definitions for parts A, B and C

indirect financial interest\* in the assurance client\*, a self-interest threat is created. The significance of the threat will depend on factors such as

- The nature of the relationship between the member of the assurance team\* and the close family\* member; and
- The materiality of the financial interest\* to the close family\* member.

The significance of the threat shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level\*. Examples of such safeguards include:

- The close family\* member disposing, as soon as practicable, of all of the financial interest\* or disposing of a sufficient portion of an indirect financial interest\* so that the remaining interest is no longer material;
- Having a professional accountant\* review the work of the member of the assurance team\*; or
- Removing the individual from the assurance team\*.

**291.108** If a member of the assurance team\*, a member of that individual's immediate family\*, or a firm\* has a direct or material indirect financial interest\* in an entity that has a controlling interest in the assurance client\*, and the client is material to the entity, the self-interest threat created would be so significant that no safeguards could reduce the threat to an acceptable level\*. Therefore, none of the following shall have such a financial interest\*: a member of the assurance team\*; a member of that individual's immediate family\*; and the firm\*.

**291.109** The holding by a firm\* or a member of the assurance team\*, or a member of that individual's immediate family\*, of a direct financial interest\* or a material indirect financial interest\* in the assurance client\* as a trustee creates a self-interest threat. Such an interest shall not be held unless:

- (a) Neither the trustee, nor an immediate family\* member of the trustee, nor the firm\* are beneficiaries of the trust;
- (b) The interest in the assurance client\* held by the trust is not material to the trust;
- (c) The trust is not able to exercise significant influence over the assurance client\*; and
- (d) The trustee, an immediate family\* member of the trustee, or the firm\* cannot significantly influence any investment decision involving a financial interest\* in the assurance client\*.

**291.110** Members of the assurance team\* shall determine whether a self-interest threat is created by any known financial interests\* in the assurance client\* held by other individuals including:

\* See Definitions for parts A, B and C

- Partners\* and professional employees of the firm\*, other than those referred to above, or their immediate family\* members; and
- Individuals with a close personal relationship with a member of the assurance team\*.

Whether these interests create a self-interest threat will depend on factors such as:

- The firm's\* organisational, operating and reporting structure; and
- The nature of the relationship between the individual and the member of the assurance team\*.

The significance of any threat shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level\*. Examples of such safeguards include:

- Removing the member of the assurance team\* with the personal relationship from the assurance team\*;
- Excluding the member of the assurance team\* from any significant decision-making concerning the assurance engagement\*; or
- Having a professional accountant\* review the work of the member of the assurance team\*.

**291.111** If a firm\*, a member of the assurance team\*, or an immediate family\* member of the individual, receives a direct financial interest\* or a material indirect financial interest\* in an assurance client\*, for example, by way of an inheritance, gift or as a result of a merger, and such interest would not be permitted to be held under this section, then:

- (a) If the interest is received by the firm\*, the financial interest\* shall be disposed of immediately, or a sufficient amount of an indirect financial interest\* shall be disposed of so that the remaining interest is no longer material, or
- (b) If the interest is received by a member of the assurance team\*, or a member of that individual's immediate family\*, the individual who received the financial interest\* shall immediately dispose of the financial interest\*, or dispose of a sufficient amount of an indirect financial interest\* so that the remaining interest is no longer material.

**291.112** When an inadvertent violation of this section as it relates to a financial interest\* in an assurance client\* occurs, it is deemed not to compromise independence\* if:

- (a) The firm\* has established policies and procedures that require prompt notification to the firm\* of any breaches resulting from the purchase,

\* See Definitions for parts A, B and C



inheritance or other acquisition of a financial interest\* in the assurance client\*;

- (b) The actions taken in paragraph 291.111(a) – (b) are taken as applicable; and
- (c) The firm\* applies other safeguards when necessary to reduce any remaining threat to an acceptable level\*. Examples of such safeguards include:
  - (i) Having a professional accountant\* review the work of the member of the assurance team\*; or
  - (ii) Excluding the individual from any significant decision-making concerning the assurance engagement\*.

The firm\* shall determine whether to discuss the matter with those charged with governance\*.

### **Loans\* and Guarantees**

**291.113** A loan\*, or a guarantee of a loan\*, to a member of the assurance team\*, or a member of that individual's immediate family\*, or the firm\* from an assurance client\* that is a bank or a similar institution, may create a threat to independence\*. If the loan\* or guarantee is not made under normal lending procedures, terms and conditions, a self-interest threat would be created that would be so significant that no safeguards could reduce the threat to an acceptable level\*. Accordingly, neither a member of the assurance team\*, a member of that individual's immediate family\*, nor a firm\* shall accept such a loan\* or guarantee.

**291.114** If a loan\* to a firm\* from an assurance client\* that is a bank or similar institution is made under normal lending procedures, terms and conditions and it is material to the assurance client\* or firm\* receiving the loan\*, it may be possible to apply safeguards to reduce the self-interest threat to an acceptable level\*. An example of such a safeguard is having the work reviewed by a professional accountant\* from a network firm\* that is neither involved with the assurance engagement\* nor received the loan\*.

**291.115** A loan\*, or a guarantee of a loan\*, from an assurance client\* that is a bank or a similar institution to a member of the assurance team\*, or a member of that individual's immediate family\*, does not create a threat to independence\* if the loan\* or guarantee is made under normal lending procedures, terms and conditions. Examples of such loans\* include home mortgages, bank overdrafts, car loans\* and credit card balances.

**291.116** If the firm\* or a member of the assurance team\*, or a member of that individual's immediate family\*, accepts a loan\* from, or has a borrowing guaranteed by, an assurance client\* that is not a bank or similar institution, the self-interest threat created would be so significant that no safeguards could reduce the threat to an acceptable level\*, unless the loan\* or guarantee is

\* See Definitions for parts A, B and C

immaterial to both the firm\*, or the member of the assurance team\* and the immediate family\* member, and the client.

**291.117** Similarly, if the firm\*, or a member of the assurance team\*, or a member of that individual's immediate family\*, makes or guarantees a loan\* to an assurance client\*, the self-interest threat created would be so significant that no safeguards could reduce the threat to an acceptable level\*, unless the loan\* or guarantee is immaterial to both the firm\*, or the member of the assurance team\* and the immediate family\* member, and the client.

**291.118** If a firm\* or a member of the assurance team\*, or a member of that individual's immediate family\*, has deposits or a brokerage account with an assurance client\* that is a bank, broker, or similar institution, a threat to independence\* is not created if the deposit or account is held under normal commercial terms.

### **Business Relationships**

**291.119** A close business relationship between a firm\*, or a member of the assurance team\*, or a member of that individual's immediate family\*, and the assurance client\* or its management arises from a commercial relationship or common financial interest\* and may create self-interest or intimidation threats. Examples of such relationships include:

- Having a financial interest\* in a joint venture with either the client or a controlling owner, director\* or officer\* or other individual who performs senior managerial activities for that client.
- Arrangements to combine one or more services or products of the firm\* with one or more services or products of the client and to market the package with reference to both parties.
- Distribution or marketing arrangements under which the firm\* distributes or markets the client's products or services, or the client distributes or markets the firm's\* products or services.

Unless any financial interest\* is immaterial and the business relationship is insignificant to the firm\* and the client or its management, the threat created would be so significant that no safeguards could reduce the threat to an acceptable level\*. Therefore, unless the financial interest\* is immaterial and the business relationship is insignificant, the business relationship shall not be entered into, or shall be reduced to an insignificant level or terminated.

In the case of a member of the assurance team\*, unless any such financial interest\* is immaterial and the relationship is insignificant to that member, the individual shall be removed from the assurance team\*.

If the business relationship is between an immediate family\* member of a member of the assurance team\* and the assurance client\* or its management, the significance of any threat shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level\*.

\* See Definitions for parts A, B and C

**291.120** The purchase of goods and services from an assurance client\* by the firm\*, or a member of the assurance team\*, or a member of that individual's immediate family\*, does not generally create a threat to independence\* if the transaction is in the normal course of business and at arm's length. However, such transactions may be of such a nature or magnitude that they create a self-interest threat. The significance of any threat shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level\*. Examples of such safeguards include:

- Eliminating or reducing the magnitude of the transaction; or
- Removing the individual from the assurance team\*.

### **Family and Personal Relationships**

**291.121** Family and personal relationships between a member of the assurance team\* and a director\* or officer\* or certain employees (depending on their role) of the assurance client\*, may create self-interest, familiarity or intimidation threats. The existence and significance of any threats will depend on a number of factors, including the individual's responsibilities on the assurance team\*, the role of the family member or other individual within the client, and the closeness of the relationship.

**291.122** When an immediate family\* member of a member of the assurance team\* is:

- (a) A director\* or officer\* of the assurance client\*, or
- (b) An employee in a position to exert significant influence over the subject matter information of the assurance engagement\*,

or was in such a position during any period covered by the engagement or the subject matter information, the threats to independence\* can only be reduced to an acceptable level\* by removing the individual from the assurance team\*. The closeness of the relationship is such that no other safeguards could reduce the threat to an acceptable level\*. Accordingly, no individual who has such a relationship shall be a member of the assurance team\*.

**291.123** Threats to independence\* are created when an immediate family\* member of a member of the assurance team\* is an employee in a position to exert significant influence over the subject matter of the engagement. The significance of the threats will depend on factors such as:

- The position held by the immediate family\* member; and
- The role of the professional on the assurance team\*.

The significance of the threat shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level\*. Examples of such safeguards include:

- Removing the individual from the assurance team\*; or

\* See Definitions for parts A, B and C

- Structuring the responsibilities of the assurance team\* so that the professional does not deal with matters that are within the responsibility of the immediate family\* member.

**291.124** Threats to independence\* are created when a close family\* member of a member of the assurance team\* is:

- A director\* or officer\* of the assurance client\*; or
- An employee in a position to exert significant influence over the subject matter information of the assurance engagement\*.

The significance of the threats will depend on factors such as:

- The nature of the relationship between the member of the assurance team\* and the close family\* member;
- The position held by the close family\* member; and
- The role of the professional on the assurance team\*.

The significance of the threat shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level\*. Examples of such safeguards include:

- Removing the individual from the assurance team\*; or
- Structuring the responsibilities of the assurance team\* so that the professional does not deal with matters that are within the responsibility of the close family\* member.

**291.125** Threats to independence\* are created when a member of the assurance team\* has a close relationship with a person who is not an immediate or close family\* member, but who is a director\* or officer\* or an employee in a position to exert significant influence over the subject matter information of the assurance engagement\*. A member of the assurance team\* who has such a relationship shall consult in accordance with firm\* policies and procedures. The significance of the threats will depend on factors such as:

- The nature of the relationship between the individual and the member of the assurance team\*;
- The position the individual holds with the client; and
- The role of the professional on the assurance team\*.

The significance of the threats shall be evaluated and safeguards applied when necessary to eliminate the threats or reduce them to an acceptable level\*. Examples of such safeguards include:

- Removing the professional from the assurance team\*; or

\* See Definitions for parts A, B and C

- Structuring the responsibilities of the assurance team\* so that the professional does not deal with matters that are within the responsibility of the individual with whom the professional has a close relationship.

**291.126** Self-interest, familiarity or intimidation threats may be created by a personal or family relationship between (a) a partner\* or employee of the firm\* who is not a member of the assurance team\* and (b) a director\* or officer\* of the assurance client\* or an employee in a position to exert significant influence over the subject matter information of the assurance engagement\*. The existence and significance of any threat will depend on factors such as:

- The nature of the relationship between the partner\* or employee of the firm\* and the director\* or officer\* or employee of the client;
- The interaction of the partner\* or employee of the firm\* with the assurance team\*;
- The position of the partner\* or employee within the firm\*; and
- The role of the individual within the client.

The significance of any threat shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level\*. Examples of such safeguards include:

- Structuring the partner's\* or employee's responsibilities to reduce any potential influence over the assurance engagement\*; or
- Having a professional accountant\* review the relevant assurance work performed.

**291.127** When an inadvertent violation of this section as it relates to family and personal relationships occurs, it is deemed not to compromise independence\* if:

- (a) The firm\* has established policies and procedures that require prompt notification to the firm\* of any breaches resulting from changes in the employment status of their immediate or close family\* members or other personal relationships that create threats to independence\*;
- (b) The inadvertent violation relates to an immediate family\* member of a member of the assurance team\* becoming a director\* or officer\* of the assurance client\* or being in a position to exert significant influence over the subject matter information of the assurance engagement\*, and the relevant professional is removed from the assurance team\*; and
- (c) The firm\* applies other safeguards when necessary to reduce any remaining threat to an acceptable level\*. Examples of such safeguards include:
  - Having a professional accountant\* review the work of the member of the assurance team\*; or

\* See Definitions for parts A, B and C

- Excluding the relevant professional from any significant decision-making concerning the engagement.

The firm\* shall determine whether to discuss the matter with those charged with governance\*.

### **Employment with Assurance Clients\***

**291.128** Familiarity or intimidation threats may be created if a director\* or officer\* of the assurance client\*, or an employee who is in a position to exert significant influence over the subject matter information of the assurance engagement\*, has been a member of the assurance team\* or partner\* of the firm\*.

**291.129** If a former member of the assurance team\* or partner\* of the firm\* has joined the assurance client\* in such a position, the existence and significance of any familiarity or intimidation threats will depend on factors such as:

- The position the individual has taken at the client;
- Any involvement the individual will have with the assurance team\*;
- The length of time since the individual was a member of the assurance team\* or partner\* of the firm\*; and
- The former position of the individual within the assurance team\* or firm\*, for example, whether the individual was responsible for maintaining regular contact with the client's management or those charged with governance\*.

In all cases the individual shall not continue to participate in the firm's\* business or professional activities.

The significance of any threats created shall be evaluated and safeguards applied when necessary to eliminate the threats or reduce them to an acceptable level\*. Examples of such safeguards include:

- Making arrangements such that the individual is not entitled to any benefits or payments from the firm\*, unless made in accordance with fixed pre-determined arrangements.
- Making arrangements such that any amount owed to the individual is not material to the firm\*;
- Modifying the plan for the assurance engagement\*;
- Assigning individuals to the assurance team\* who have sufficient experience in relation to the individual who has joined the client; or
- Having a professional accountant\* review the work of the former member of the assurance team\*.

\* See Definitions for parts A, B and C

**291.130** If a former partner\* of the firm\* has previously joined an entity in such a position and the entity subsequently becomes an assurance client\* of the firm\*, the significance of any threats to independence\* shall be evaluated and safeguards applied when necessary, to eliminate the threat or reduce it to an acceptable level\*.

**291.131** A self-interest threat is created when a member of the assurance team\* participates in the assurance engagement\* while knowing that the member of the assurance team\* will, or may, join the client some time in the future. Firm\* policies and procedures shall require members of an assurance team\* to notify the firm\* when entering employment negotiations with the client. On receiving such notification, the significance of the threat shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level\*. Examples of such safeguards include:

- Removing the individual from the assurance team\*; or
- A review of any significant judgments made by that individual while on the team.

#### **Recent Service with an Assurance client\***

**291.132** Self-interest, self-review or familiarity threats may be created if a member of the assurance team\* has recently served as a director\*, officer\*, or employee of the assurance client\*. This would be the case when, for example, a member of the assurance team\* has to evaluate elements of the subject matter information the member of the assurance team\* had prepared while with the client.

**291.133** If, during the period covered by the assurance report, a member of the assurance team\* had served as director\* or officer\* of the assurance client\*, or was an employee in a position to exert significant influence over the subject matter information of the assurance engagement\*, the threat created would be so significant that no safeguards could reduce the threat to an acceptable level\*. Consequently, such individuals shall not be assigned to the assurance team\*.

**291.134** Self-interest, self-review or familiarity threats may be created if, before the period covered by the assurance report, a member of the assurance team\* had served as director\* or officer\* of the assurance client\*, or was an employee in a position to exert significant influence over the subject matter information of the assurance engagement\*. For example, such threats would be created if a decision made or work performed by the individual in the prior period, while employed by the client, is to be evaluated in the current period as part of the current assurance engagement\*. The existence and significance of any threats will depend on factors such as:

- The position the individual held with the client;
- The length of time since the individual left the client; and
- The role of the professional on the assurance team\*.

\* See Definitions for parts A, B and C

The significance of any threat shall be evaluated and safeguards applied when necessary to reduce the threat to an acceptable level\*. An example of such a safeguard is conducting a review of the work performed by the individual as part of the assurance team\*.

#### **Serving as a Director\* or Officer\* of an Assurance client\***

- 291.135** If a partner\* or employee of the firm\* serves a director\* or officer\* of an assurance client\*, the self-review and self-interest threats would be so significant that no safeguards could reduce the threats to an acceptable level\*. Accordingly, no partner\* or employee shall serve as a director\* or officer\* of an assurance client\*.
- 291.136** The position of Company Secretary has different implications in different jurisdictions. Duties may range from administrative duties, such as personnel management and the maintenance of company records and registers, to duties as diverse as ensuring that the company complies with regulation or providing advice on corporate governance matters. Generally, this position is seen to imply a close association with the entity.
- 291.137** If a partner\* or employee of the firm\* serves as Company Secretary for an assurance client\*, self-review and advocacy threats are created that would generally be so significant that no safeguards could reduce the threats to an acceptable level\*. Despite paragraph 291.135, when this practice is specifically permitted under local law, professional rules or practice, and provided management makes all relevant decisions, the duties and activities shall be limited to those of a routine and administrative nature, such as preparing minutes and maintaining statutory returns. In those circumstances, the significance of any threats shall be evaluated and safeguards applied when necessary to eliminate the threats or reduce them to an acceptable level\*.
- 291.138** Performing routine administrative services to support a company secretarial function or providing advice in relation to company secretarial administration matters does not generally create threats to independence\*, as long as client management makes all relevant decisions.

#### **Long Association of Senior Personnel with Assurance clients\***

- 291.139** Familiarity and self-interest threats are created by using the same senior personnel on an assurance engagement\* over a long period of time. The significance of the threats will depend on factors such as:
- How long the individual has been a member of the assurance team\*;
  - The role of the individual on the assurance team\*;
  - The structure of the firm\*;
  - The nature of the assurance engagement\*;
  - Whether the client's management team has changed; and

\* See Definitions for parts A, B and C



- Whether the nature or complexity of the subject matter information has changed.

The significance of the threats shall be evaluated and safeguards applied when necessary to eliminate the threats or reduce them to an acceptable level\*. Examples of such safeguards include:

- Rotating the senior personnel off the assurance team\*;
- Having a professional accountant\* who was not a member of the assurance team\* review the work of the senior personnel; or
- Regular independent internal or external quality reviews of the engagement.

### **Provision of Non-assurance Services to Assurance clients\***

**291.140** Firms have traditionally provided to their assurance clients\* a range of non-assurance services that are consistent with their skills and expertise. Providing non-assurance services may, however, create threats to the independence\* of the firm\* or members of the assurance team\*. The threats created are most often self-review, self-interest and advocacy threats.

**291.141** When specific guidance on a particular non-assurance service is not included in this section, the conceptual framework shall be applied when evaluating the particular circumstances.

**291.142** Before the firm\* accepts an engagement to provide a non-assurance service to an assurance client\*, a determination shall be made as to whether providing such a service would create a threat to independence\*. In evaluating the significance of any threat created by a particular non-assurance service, consideration shall be given to any threat that the assurance team\* has reason to believe is created by providing other related non-assurance services. If a threat is created that cannot be reduced to an acceptable level\* by the application of safeguards the non-assurance service shall not be provided.

### **Management Responsibilities**

**291.143** Management of an entity performs many activities in managing the entity in the best interests of stakeholders of the entity. It is not possible to specify every activity that is a management responsibility. However, management responsibilities involve leading and directing an entity, including making significant decisions regarding the acquisition, deployment and control of human, financial, physical and intangible resources.

**291.144** Whether an activity is a management responsibility depends on the circumstances and requires the exercise of judgment. Examples of activities that would generally be considered a management responsibility include:

- Setting policies and strategic direction;
- Directing and taking responsibility for the actions of the entity's employees;

\* See Definitions for parts A, B and C

- Authorising transactions;
- Deciding which recommendations of the firm\* or other third parties to implement; and
- Taking responsibility for designing, implementing and maintaining internal control.

**291.145** Activities that are routine and administrative, or involve matters that are insignificant, generally are deemed not to be a management responsibility. For example, executing an insignificant transaction that has been authorised by management or monitoring the dates for filing statutory returns and advising an assurance client\* of those dates is deemed not to be a management responsibility. Further, providing advice and recommendations to assist management in discharging its responsibilities is not assuming a management responsibility.

**291.146** Assuming a management responsibility for an assurance client\* may create threats to independence\*. If a firm\* were to assume a management responsibility as part of the assurance service, the threats created would be so significant that no safeguards could reduce the threats to an acceptable level\*. Accordingly, in providing assurance services to an assurance client\*, a firm\* shall not assume a management responsibility as part of the assurance service. If the firm\* assumes a management responsibility as part of any other services provided to the assurance client\*, it shall ensure that the responsibility is not related to the subject matter and subject matter information of an assurance engagement\* provided by the firm\*.

**291.147** To avoid the risk of assuming a management responsibility related to the subject matter or subject matter information of the assurance engagement\*, the firm\* shall be satisfied that a member of management is responsible for making the significant judgments and decisions that are the proper responsibility of management, evaluating the results of the service and accepting responsibility for the actions to be taken arising from the results of the service. This reduces the risk of the firm\* inadvertently making any significant judgments or decisions on behalf of management. This risk is further reduced when the firm\* gives the client the opportunity to make judgments and decisions based on an objective and transparent analysis and presentation of the issues.

### **Other Considerations**

**291.148** Threats to independence\* may be created when a firm\* provides a non-assurance service related to the subject matter information of an assurance engagement\*. In such cases, an evaluation of the significance of the firm's\* involvement with the subject matter information of the engagement shall be made, and a determination shall be made of whether any self-review threats that are not at an acceptable level\* can be reduced to an acceptable level\* by the application of safeguards.

**291.149** A self-review threat may be created if the firm\* is involved in the preparation of subject matter information which is subsequently the subject matter information of an assurance engagement\*. For example, a self-review threat would be

\* See Definitions for parts A, B and C

created if the firm\* developed and prepared prospective financial information and subsequently provided assurance on this information. Consequently, the firm\* shall evaluate the significance of any self-review threat created by the provision of such services and apply safeguards when necessary to eliminate the threat or reduce it to an acceptable level\*.

**291.150** When a firm\* performs a valuation that forms part of the subject matter information of an assurance engagement\*, the firm\* shall evaluate the significance of any self-review threat and apply safeguards when necessary to eliminate the threat or reduce it to an acceptable level\*.

## **Fees**

### **Fees - Relative Size**

**291.151** When the total fees from an assurance client\* represent a large proportion of the total fees of the firm\* expressing the conclusion, the dependence on that client and concern about losing the client creates a self-interest or intimidation threat. The significance of the threat will depend on factors such as:

- The operating structure of the firm\*;
- Whether the firm\* is well established or new; and
- The significance of the client qualitatively and/or quantitatively to the firm\*.

The significance of the threat shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level\*. Examples of such safeguards include:

- Reducing the dependency on the client;
- External quality control reviews; or
- Consulting a third party, such as a professional regulatory body or a professional accountant\*, on key assurance judgments.

**291.152** A self-interest or intimidation threat is also created when the fees generated from an assurance client\* represent a large proportion of the revenue from an individual partner's\* clients. The significance of the threat shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level\*. An example of such a safeguard is having an additional professional accountant\* who was not a member of the assurance team\* review the work or otherwise advise as necessary.

### **Fees - Overdue**

**291.153** A self-interest threat may be created if fees due from an assurance client\* remain unpaid for a long time, especially if a significant part is not paid before the issue of the assurance report, if any, for the following period. Generally the firm\* is expected to require payment of such fees before any such report is issued. If fees remain unpaid after the report has been issued, the existence and significance of any threat shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level\*. An

\* See Definitions for parts A, B and C

example of such a safeguard is having another professional accountant\* who did not take part in the assurance engagement\* provide advice or review the work performed. The firm\* shall determine whether the overdue fees might be regarded as being equivalent to a loan\* to the client and whether, because of the significance of the overdue fees, it is appropriate for the firm\* to be re-appointed or continue the assurance engagement\*.

### **Contingent fees\***

- 291.154** Contingent fees\* are fees calculated on a predetermined basis relating to the outcome of a transaction or the result of the services performed by the firm\*. For the purposes of this section, fees are not regarded as being contingent if established by a court or other public authority.
- 291.155** A contingent fee\* charged directly or indirectly, for example through an intermediary, by a firm\* in respect of an assurance engagement\* creates a self-interest threat that is so significant that no safeguards could reduce the threat to an acceptable level\*. Accordingly, a firm\* shall not enter into any such fee arrangement.
- 291.156** A contingent fee\* charged directly or indirectly, for example through an intermediary, by a firm\* in respect of a non-assurance service provided to an assurance client\* may also create a self-interest threat. If the outcome of the non-assurance service, and therefore, the amount of the fee, is dependent on a future or contemporary judgment related to a matter that is material to the subject matter information of the assurance engagement\*, no safeguards could reduce the threat to an acceptable level\*. Accordingly, such arrangements shall not be accepted.
- 291.157** For other contingent fee\* arrangements charged by a firm\* for a non-assurance service to an assurance client\*, the existence and significance of any threats will depend on factors such as:
- The range of possible fee amounts;
  - Whether an appropriate authority determines the outcome of the matter upon which the contingent fee\* will be determined;
  - The nature of the service; and
  - The effect of the event or transaction on the subject matter information.

The significance of any threats shall be evaluated and safeguards applied when necessary to eliminate the threats or reduce them to an acceptable level\*. Examples of such safeguards include:

- Having a professional accountant\* review the relevant assurance work or otherwise advise as necessary; or
- Using professionals who are not members of the assurance team\* to perform the non-assurance service.

\* See Definitions for parts A, B and C

## **Gifts and Hospitality**

**291.158** Accepting gifts or hospitality from an assurance client\* may create self-interest and familiarity threats. If a firm\* or a member of the assurance team\* accepts gifts or hospitality, unless the value is trivial and inconsequential, the threats created would be so significant that no safeguards could reduce the threats to an acceptable level\*. Consequently, a firm\* or a member of the assurance team\* shall not accept such gifts or hospitality.

## **Actual or Threatened Litigation**

**291.159** When litigation takes place, or appears likely, between the firm\* or a member of the assurance team\* and the assurance client\*, self-interest and intimidation threats are created. The relationship between client management and the members of the assurance team\* must be characterised by complete candour and full disclosure regarding all aspects of a client's business operations. When the firm\* and the client's management are placed in adversarial positions by actual or threatened litigation, affecting management's willingness to make complete disclosures self-interest and intimidation threats are created. The significance of the threats created will depend on such factors as:

- The materiality of the litigation; and
- Whether the litigation relates to a prior assurance engagement\*.

The significance of the threats shall be evaluated and safeguards applied when necessary to eliminate the threats or reduce them to an acceptable level\*. Examples of such safeguards include:

- If the litigation involves a member of the assurance team\*, removing that individual from the assurance team\*; or
- Having a professional review the work performed.

If such safeguards do not reduce the threats to an acceptable level\*, the only appropriate action is to withdraw from, or decline, the assurance engagement\*.

### **Interpretation 2005-01 (Revised July 2009 to conform to changes resulting from the IESBA's project to improve the clarity of the Code)**

#### Application of section 291 to Assurance engagements\* that are not Financial statement\* Audit engagements\*

This interpretation provides guidance on the application of the independence\* requirements contained in section 291 to assurance engagements\* that are not financial statement\* audit engagements\*.

This interpretation focuses on the application issues that are particular to assurance engagements\* that are not financial statement\* audit engagements\*. There are other matters noted in section 291 that are relevant in the consideration of independence\* requirements for all assurance engagements\*. For example, paragraph 291.3 states that an evaluation shall be made of any threats the firm\* has reason to believe are created by

\* See Definitions for parts A, B and C

a network firm's\* interests and relationships. It also states that when the assurance team\* has reason to believe that a related entity\* of such an assurance client\* is relevant to the evaluation of the firm's\* independence\* of the client, the assurance team\* shall include the related entity\* when evaluating threats to independence\* and when necessary applying safeguards. These matters are not specifically addressed in this interpretation.

As explained in the International Framework for Assurance engagements\* issued by the International Auditing and Assurance Standards Board, in an assurance engagement\*, the professional accountant in public practice\* expresses a conclusion designed to enhance the degree of confidence of the intended users other than the responsible party about the outcome of the evaluation or measurement of a subject matter against criteria.

#### **Assertion-Based Assurance engagements\***

In an assertion-based assurance engagement\*, the evaluation or measurement of the subject matter is performed by the responsible party, and the subject matter information is in the form of an assertion by the responsible party that is made available to the intended users.

In an assertion-based assurance engagement\* independence\* is required from the responsible party, which is responsible for the subject matter information and may be responsible for the subject matter.

In those assertion-based assurance engagements\* where the responsible party is responsible for the subject matter information but not the subject matter, independence\* is required from the responsible party. In addition, an evaluation shall be made of any threats the firm\* has reason to believe are created by interests and relationships between a member of the assurance team\*, the firm\*, a network firm\* and the party responsible for the subject matter.

#### **Direct Reporting Assurance engagements\***

In a direct reporting assurance engagement\*, the professional accountant in public practice\* either directly performs the evaluation or measurement of the subject matter, or obtains a representation from the responsible party that has performed the evaluation or measurement that is not available to the intended users. The subject matter information is provided to the intended users in the assurance report.

In a direct reporting assurance engagement\* independence\* is required from the responsible party, which is responsible for the subject matter.

#### **Multiple Responsible Parties**

In both assertion-based assurance engagements\* and direct reporting assurance engagements\* there may be several responsible parties. For example, a public accountant in public practice may be asked to provide assurance on the monthly circulation statistics of a number of independently owned newspapers. The assignment could be an assertion based assurance engagement\* where each newspaper measures its circulation and the statistics are presented in an assertion that is available to the intended users. Alternatively, the assignment could be a direct reporting assurance engagement\*, where there is no assertion and there may or may not be a written representation from the newspapers.

\* See Definitions for parts A, B and C

In such engagements, when determining whether it is necessary to apply the provisions in section 291 to each responsible party, the firm\* may take into account whether an interest or relationship between the firm\*, or a member of the assurance team\*, and a particular responsible party would create a threat to independence\* that is not trivial and inconsequential in the context of the subject matter information. This will take into account:

- The materiality of the subject matter information (or the subject matter) for which the particular responsible party is responsible; and
- The degree of public interest that is associated with the engagement.

If the firm\* determines that the threat to independence\* created by any such relationships with a particular responsible party would be trivial and inconsequential it may not be necessary to apply all of the provisions of this section to that responsible party.

**Example**

The following example has been developed to demonstrate the application of section 291. It is assumed that the client is not also a financial statement\* audit client\* of the firm\*, or a network firm\*.

A firm\* is engaged to provide assurance on the total proven oil reserves of 10 independent companies. Each company has conducted geographical and engineering surveys to determine their reserves (subject matter). There are established criteria to determine when a reserve may be considered to be proven which the professional accountant in public practice\* determines to be suitable criteria for the engagement.

The proven reserves for each company as at December 31, 20X0 were as follows:

|            | <b>Proven oil reserves thousands of barrels</b> |
|------------|---|
| Company 1  | 5,200   |
| Company 2  | 725   |
| Company 3  | 3,260   |
| Company 4  | 15,000  |
| Company 5  | 6,700   |
| Company 6  | 39,126  |
| Company 7  | 345   |
| Company 8  | 175   |
| Company 9  | 24,135  |
| Company 10 | 9,635   |

\* See Definitions for parts A, B and C

|              |                |
|--------------|----------------|
| <b>Total</b> | <b>104,301</b> |
|--------------|----------------|

The engagement could be structured in differing ways:

#### Assertion-Based Engagements

- A1 Each company measures its reserves and provides an assertion to the firm\* and to intended users.
- A2 An entity other than the companies measures the reserves and provides an assertion to the firm\* and to intended users.

#### Direct Reporting Engagements

- D1 Each company measures the reserves and provides the firm\* with a written representation that measures its reserves against the established criteria for measuring proven reserves. The representation is not available to the intended users.
- D2 The firm\* directly measures the reserves of some of the companies.

#### Application of Approach

- A1 Each company measures its reserves and provides an assertion to the firm\* and to intended users.

There are several responsible parties in this engagement (companies 1-10). When determining whether it is necessary to apply the independence\* provisions to all of the companies, the firm\* may take into account whether an interest or relationship with a particular company would create a threat to independence\* that is not at an acceptable level\*. This will take into account factors such as:

- The materiality of the company's proven reserves in relation to the total reserves to be reported on; and
- The degree of public interest associated with the engagement (paragraph 291.28).

For example Company 8 accounts for 0.17% of the total reserves, therefore a business relationship or interest with Company 8 would create less of a threat than a similar relationship with Company 6, which accounts for approximately 37.5% of the reserves.

Having determined those companies to which the independence\* requirements apply, the assurance team\* and the firm\* are required to be independent of those responsible parties that would be considered to be the assurance client\* (paragraph 291.28).

- A2 An entity other than the companies measures the reserves and provides an assertion to the firm\* and to intended users.

\* See Definitions for parts A, B and C



The firm\* shall be independent of the entity that measures the reserves and provides an assertion to the firm\* and to intended users (paragraph 291.19). That entity is not responsible for the subject matter and so an evaluation shall be made of any threats the firm\* has reason to believe are created by interests/relationships with the party responsible for the subject matter (paragraph 291.19). There are several parties responsible for the subject matter in this engagement (Companies 1-10). As discussed in example A1 above, the firm\* may take into account whether an interest or relationship with a particular company would create a threat to independence\* that is not at an acceptable level\*.

- D1 Each company provides the firm\* with a representation that measures its reserves against the established criteria for measuring proven reserves. The representation is not available to the intended users.

There are several responsible parties in this engagement (Companies 1-10). When determining whether it is necessary to apply the independence\* provisions to all of the companies, the firm\* may take into account whether an interest or relationship with a particular company would create a threat to independence\* that is not at an acceptable level\*. This will take into account factors such as:

- The materiality of the company's proven reserves in relation to the total reserves to be reported on; and
- The degree of public interest associated with the engagement. (Paragraph 291.28).

For example, Company 8 accounts for 0.17% of the reserves, therefore a business relationship or interest with Company 8 would create less of a threat than a similar relationship with Company 6 that accounts for approximately 37.5% of the reserves.

Having determined those companies to which the independence\* requirements apply, the assurance team\* and the firm\* shall be independent of those responsible parties that would be considered to be the assurance client\* (paragraph 291.28).

- D2 The firm\* directly measures the reserves of some of the companies.

The application is the same as in example D1.

## PART C—PROFESSIONAL ACCOUNTANTS IN BUSINESS

|     |  |
|-----|--|
| 300 | Introduction                             |
| 310 | Potential Conflicts                      |
| 320 | Preparation and Reporting of Information |
| 330 | Acting with Sufficient Expertise         |
| 340 | Financial Interests                      |
| 350 | Inducements                              |

### SECTION 300 - INTRODUCTION

**300.1** This Part of the Code describes how the conceptual framework contained in Part A applies in certain situations to professional accountants in business\*. This Part does not describe all of the circumstances and relationships that could be encountered by a professional accountant in business\* that create or may create threats to compliance with the fundamental principles. Therefore, the professional accountant in business\* is encouraged to be alert for such circumstances and relationships.

*Professional accountants in business\* shall also read Part A which sets out the fundamental principles and conceptual framework that professional accountants\* are required to adhere to. It may also be helpful for professional accountants in business\* to refer to other parts of this Code in relevant circumstances: for example, sections 221, 'Corporate finance advice', and 241, 'Agencies and referrals.'*

**300.2** Investors, creditors, employers and other sectors of the business community, as well as governments and the public at large, all may rely on the work of professional accountants in business\*. Professional accountants in business may be solely or jointly responsible for the preparation and reporting of financial and other information, which both their employing organisations and third parties may rely on. They may also be responsible for providing effective financial management and competent advice on a variety of business-related matters.

*Professional accountants in business\* are engaged in an executive or non-executive capacity in such areas as commerce, industry, the public and service sectors (including public sector bodies), education, the not for profit sector, regulatory bodies or professional bodies.*

**300.3** A professional accountant in business\* may be a salaried employee, a partner\*, director\* (whether executive or non-executive), an owner manager, a volunteer or another working for one or more employing organisation. The legal form of the relationship with the employing organisation, if any, has no bearing on the ethical responsibilities incumbent on the professional accountant\* in business.

\* See Definitions for parts A, B and C

*Professional accountants\* are reminded that this Code applies to all their professional and business activities, with and without reward.*

- 300.4** A professional accountant in business\* has a responsibility to further the legitimate aims of the accountant's employing organisation. This Code does not seek to hinder a professional accountant in business\* from properly fulfilling that responsibility, but addresses circumstances in which compliance with the fundamental principles may be compromised.
- 300.5** A professional accountant in business\* may hold a senior position within an organisation. The more senior the position, the greater will be the ability and opportunity to influence events, practices and attitudes. A professional accountant in business\* is expected, therefore, to encourage an ethics-based culture in an employing organisation that emphasises the importance that senior management places on ethical behaviour.
- 300.6** A professional accountant in business\* shall not knowingly engage in any business, occupation, or activity that impairs or might impair integrity, objectivity or the good reputation of the profession and as a result would be incompatible with the fundamental principles.

### **Fundamental Principles**

- 300.6a** *A professional accountant\* shall comply with the following fundamental principles:*
- (a) ***Integrity*** – *to be straightforward and honest in all professional and business relationships.*
  - (b) ***Objectivity*** – *to not allow bias, conflict of interest or undue influence of others to override professional or business judgments*
  - (c) ***Professional Competence and Due Care*** – *to maintain professional knowledge and skill at the level required to ensure that a client or employer receives competent professional services\* based on current developments in practice, legislation and techniques and act diligently and in accordance with applicable technical and professional standards.*
  - (d) ***Confidentiality*** – *to respect the confidentiality of information acquired as a result of professional and business relationships and, therefore, not disclose any such information to third parties without proper and specific authority, unless there is a legal or professional right or duty to disclose, nor use the information for the personal advantage of the professional accountant\* or third parties.*
  - (e) ***Professional Behaviour*** – *to comply with relevant laws and regulations and avoid any action that discredits the profession.*
- 300.7** Compliance with the fundamental principles may potentially be threatened by a broad range of circumstances and relationships. Threats fall into one or more of the following categories:
- (a) Self-interest;

\* See Definitions for parts A, B and C

- (b) Self-review;
- (c) Advocacy;
- (d) Familiarity; and;
- (e) Intimidation.

These threats are discussed further in Part A of this Code.

**300.8** Examples of circumstances that may create self-interest threats for a professional accountant in business\* include:

- Holding a financial interest\* in, or receiving a loan\* or guarantee from the employing organisation.
- Participating in incentive compensation arrangements offered by the employing organisation.
- Inappropriate personal use of corporate assets.
- Concern over employment security.
- Commercial pressure from outside the employing organisation.

**300.9** An example of a circumstance that creates a self-review threat for a professional accountant in business\* is determining the appropriate accounting treatment for a business combination after performing the feasibility study that supported the acquisition decision.

**300.10** When furthering the legitimate goals and objectives of their employing organisations, professional accountants in business\* may promote the organisation's position, provided any statements made are neither false nor misleading. Such actions generally would not create an advocacy threat.

**300.11** Examples of circumstances that may create familiarity threats for a professional accountant in business\* include:

- Being responsible for the employing organisation's financial reporting when an immediate or close family\* member employed by the entity makes decisions that affect the entity's financial reporting.
- Long association with business contacts influencing business decisions.
- Accepting a gift or preferential treatment, unless the value is trivial and inconsequential.

**300.12** Examples of circumstances that may create intimidation threats for a professional accountant in business\* include:

- Threat of dismissal or replacement of the professional accountant in business\* or a close or immediate family\* member over a disagreement

\* See Definitions for parts A, B and C

about the application of an accounting principle or the way in which financial information is to be reported.

- A dominant personality attempting to influence the decision making process, for example with regard to the awarding of contracts or the application of an accounting principle.

**300.13** Safeguards that may eliminate or reduce threats to an acceptable level\* fall into two broad categories:

- (a) Safeguards created by the profession, legislation or regulation; and
- (b) Safeguards in the work environment.

Examples of safeguards created by the profession, legislation or regulation are detailed in paragraph 100.14 of Part A of this Code.

**300.14** Safeguards in the work environment include:

- The employing organisation's systems of corporate oversight or other oversight structures.
- The employing organisation's ethics and conduct programs.
- Recruitment procedures in the employing organisation emphasising the importance of employing high calibre competent staff.
- Strong internal controls.
- Appropriate disciplinary processes.
- Leadership that stresses the importance of ethical behaviour and the expectation that employees will act in an ethical manner.
- Policies and procedures to implement and monitor the quality of employee performance.
- Timely communication of the employing organisation's policies and procedures, including any changes to them, to all employees and appropriate training and education on such policies and procedures.
- Policies and procedures to empower and encourage employees to communicate to senior levels within the employing organisation any ethical issues that concern them without fear of retribution.
- Consultation with another appropriate professional accountant\*.

**300.15** In circumstances where a professional accountant in business\* believes that unethical behaviour or actions by others will continue to occur within the employing organisation, the professional accountant in business\* may consider obtaining legal advice. In those extreme situations where all available safeguards have been exhausted and it is not possible to reduce the threat to

\* See Definitions for parts A, B and C

an acceptable level\*, a professional accountant in business\* may conclude that it is appropriate to *disassociate from the task and/or* resign from the employing organisation.

**300.16** *To assist professional accountants\* to determine an appropriate course of action when faced with a situation which could threaten their compliance with the fundamental principles the following sections give examples of specific areas of activity which could give rise to ethical dilemmas and the action which could be taken in response. This is not a comprehensive list of examples but aims to cover the key areas most likely to be encountered by professional accountants\*. Illustrative case studies of how the guidance might be applied in example situations are available at [www.icaew.com/ethics](http://www.icaew.com/ethics).*

**300.17** *Professional accountants\* who are in doubt as to their ethical position may seek advice from the ICAEW's Technical Advisory Services by e-mail: [ethics@icaew.com](mailto:ethics@icaew.com) or phone +44 (0)1908 248 250. Further guidance on sources of advice is available in section 1.*

## **SECTION 310 – POTENTIAL CONFLICTS**

**310.1** A professional accountant in business\* shall comply with the fundamental principles. There may be times, however, when a professional accountant's\* responsibilities to an employing organisation and professional obligations to comply with the fundamental principles are in conflict. A professional accountant in business\* is expected to support the legitimate and ethical objectives established by the employer and the rules and procedures drawn up in support of those objectives. Nevertheless, where a relationship or circumstance creates a threat to compliance with the fundamental principles, a professional accountant in business\* shall apply the conceptual framework approach described in section 100 to determine a response to the threat.

**310.2** As a consequence of responsibilities to an employing organisation, a professional accountant in business\* may be under pressure to act or behave in ways that could create threats to compliance with the fundamental principles. Such pressure may be explicit or implicit; it may come from a supervisor, manager, director\* or another individual within the employing organisation. A professional accountant in business\* may face pressure to:

- Act contrary to law or regulation.
- Act contrary to technical or professional standards.
- Facilitate unethical or illegal earnings management strategies.
- Lie to others, or otherwise intentionally mislead (including misleading by remaining silent) others, in particular:
  - The auditors of the employing organisation; or
  - Regulators.

\* See Definitions for parts A, B and C

- Issue, or otherwise be associated with, a financial or non-financial report that materially misrepresents the facts, including statements in connection with, for example:
  - The financial statements\*;
  - Tax compliance;
  - Legal compliance; or
  - Reports required by securities regulators.

**310.3** The significance of any threats arising from such pressures, such as intimidation threats, shall be evaluated and safeguards applied when necessary to eliminate them or reduce them to an acceptable level\*. Examples of such safeguards include:

- Obtaining advice, where appropriate, from within the employing organisation, an independent professional advisor or *ICAEW* (see section 1 of this Code).
- Using a formal dispute resolution process within the employing organisation.
- Seeking legal advice.

*Informal discussions with fellow professional accountants in business\* or in practice may assist in clarifying the steps needed to be taken.*

## **SECTION 320 - PREPARATION AND REPORTING OF INFORMATION**

**320.1** Professional accountants in business are often involved in the preparation and reporting of information that may either be made public or used by others inside or outside the employing organisation. Such information may include financial or management information, for example, forecasts and budgets, financial statements\*, management's discussion and analysis, and the management letter of representation provided to the auditors during the audit of the entity's financial statements\*. A professional accountant in business\* shall prepare or present such information fairly, honestly and in accordance with relevant professional standards so that the information will be understood in its context.

**320.2** A professional accountant in business\* who has responsibility for the preparation or approval of the general purpose financial statements\* of an employing organisation shall be satisfied that those financial statements\* are presented in accordance with the applicable financial reporting standards.

**320.3** A professional accountant in business\* shall take reasonable steps to maintain information for which the professional accountant in business\* is responsible in a manner that:

\* See Definitions for parts A, B and C

- (a) Describes clearly the true nature of business transactions, assets, or liabilities;
- (b) Classifies and records information in a timely and proper manner; and
- (c) Represents the facts accurately and completely in all material respects.

**320.4** Threats to compliance with the fundamental principles, for example, self-interest or intimidation threats to objectivity or professional competence and due care, are created where a professional accountant in business\* is pressured (either externally or by the possibility of personal gain) to become associated with misleading information or to become associated with misleading information through the actions of others.

*Accordingly, professional accountants\* shall not be associated with reports, returns, communications or other information where they believe that the information:*

- *Contains a materially false or misleading statement;*
- *Contains statements or information furnished recklessly;*
- *Omits or obscures information required to be included where such omission or obscurity would be misleading.*

**320.5** The significance of such threats will depend on factors such as the source of the pressure and the degree to which the information is, or may be, misleading. The significance of the threats shall be evaluated and safeguards applied when necessary to eliminate them or reduce them to an acceptable level\*. Such safeguards include consultation with superiors within the employing organisation, the audit committee\* or those charged with governance\* of the organisation, or with *ICAEW*.

**320.6** Where it is not possible to reduce the threat to an acceptable level\*, a professional accountant in business\* shall refuse to be or remain associated with information the professional accountant\* determines is misleading. A professional accountant in business\* may have been unknowingly associated with misleading information. Upon becoming aware of this, the professional accountant in business\* shall take steps to be disassociated from that information. In determining whether there is a requirement to report, the professional accountant in business\* may consider obtaining legal advice. In addition, the professional accountant\* may consider whether to resign.

## **SECTION 330 - ACTING WITH SUFFICIENT EXPERTISE**

**330.1** The fundamental principle of professional competence and due care requires that a professional accountant in business\* only undertake significant tasks for which the professional accountant in business\* has, or can obtain, sufficient specific training or experience. A professional accountant in business\* shall not

\* See Definitions for parts A, B and C



intentionally mislead an employer as to the level of expertise or experience possessed, nor shall a professional accountant in business\* fail to seek appropriate expert advice and assistance when required.

**330.2** Circumstances that create a threat to a professional accountant in business\* performing duties with the appropriate degree of professional competence and due care include having:

- Insufficient time for properly performing or completing the relevant duties.
- Incomplete, restricted or otherwise inadequate information for performing the duties properly.
- Insufficient experience, training and/or education.
- Inadequate resources for the proper performance of the duties.

**330.3** The significance of the threat will depend on factors such as the extent to which the professional accountant in business\* is working with others, relative seniority in the business, and the level of supervision and review applied to the work. The significance of the threat shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level\*. Examples of such safeguards include:

- Obtaining additional advice or training.
- Ensuring that there is adequate time available for performing the relevant duties.
- Obtaining assistance from someone with the necessary expertise.
- Consulting, where appropriate, with:
  - Superiors within the employing organisation;
  - Independent experts; or
  - *ICAEW*.

**330.4** When threats cannot be eliminated or reduced to an acceptable level\*, professional accountants in business\* shall determine whether to refuse to perform the duties in question. If the professional accountant in business\* determines that refusal is appropriate, the reasons for doing so shall be clearly communicated.

## **SECTION 340 - FINANCIAL INTERESTS\***

**340.1** Professional accountants in business may have financial interests\*, or may know of financial interests\* of immediate or close family\* members, that, in certain circumstances, may create threats to compliance with the fundamental

\* See Definitions for parts A, B and C

principles. For example, self-interest threats to objectivity or confidentiality may be created through the existence of the motive and opportunity to manipulate price sensitive information in order to gain financially. Examples of circumstances that may create self-interest threats include situations where the professional accountant in business\* or an immediate or close family\* member:

- Holds a direct or indirect financial interest\* in the employing organisation and the value of that financial interest\* could be directly affected by decisions made by the professional accountant in business\*;
- Is eligible for a profit related bonus and the value of that bonus could be directly affected by decisions made by the professional accountant in business\*;
- Holds, directly or indirectly, share options in the employing organisation, the value of which could be directly affected by decisions made by the professional accountant in business\*;
- Holds, directly or indirectly, share options in the employing organisation which are, or will soon be, eligible for conversion; or
- May qualify for share options in the employing organisation or performance related bonuses if certain targets are achieved.

**340.2** The significance of any threat shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level\*. In evaluating the significance of any threat, and, when necessary, determining the appropriate safeguards to be applied to eliminate the threat or reduce it to an acceptable level\*, a professional accountant in business\* shall evaluate the nature of the financial interest\*. This includes evaluating the significance of the financial interest\* and determining whether it is direct or indirect. What constitutes a significant or valuable stake in an organisation will vary from individual to individual, depending on personal circumstances. Examples of such safeguards include:

- Policies and procedures for a committee independent of management to determine the level or form of remuneration of senior management.
- Disclosure of all relevant interests and of any plans to trade in relevant shares to those charged with the governance of the employing organisation, in accordance with any internal policies.
- Consultation, where appropriate, with superiors within the employing organisation.
- Consultation, where appropriate, with those charged with the governance of the employing organisation or relevant professional bodies.
- Internal and external audit procedures.

\* See Definitions for parts A, B and C

- Up-to-date education on ethical issues and on the legal restrictions and other regulations around potential insider trading.

**340.3** A professional accountant in business\* shall neither manipulate information nor use confidential information for personal gain.

## **SECTION 350 – INDUCEMENTS**

### **Receiving Offers**

**350.1** A professional accountant in business\* or an immediate or close family\* member may be offered an inducement. Inducements may take various forms, including gifts, hospitality, preferential treatment, and inappropriate appeals to friendship or loyalty.

**350.2** Offers of inducements may create threats to compliance with the fundamental principles. When a professional accountant in business\* or an immediate or close family\* member is offered an inducement, the situation shall be evaluated. Self-interest threats to objectivity or confidentiality are created when an inducement is made in an attempt to unduly influence actions or decisions, encourage illegal or dishonest behaviour, or obtain confidential information. Intimidation threats to objectivity or confidentiality are created if such an inducement is accepted and it is followed by threats to make that offer public and damage the reputation of either the professional accountant in business\* or an immediate or close family\* member.

**350.3** The existence and significance of any threats will depend on the nature, value and intent behind the offer. If a reasonable and informed third party, weighing all the specific facts and circumstances, would consider the inducement insignificant and not intended to encourage unethical behaviour, then a professional accountant in business\* may conclude that the offer is made in the normal course of business and may generally conclude that there is no significant threat to compliance with the fundamental principles.

**350.4** The significance of any threats shall be evaluated and safeguards applied when necessary to eliminate them or reduce them to an acceptable level\*. When the threats cannot be eliminated or reduced to an acceptable level\* through the application of safeguards, a professional accountant in business\* shall not accept the inducement. As the real or apparent threats to compliance with the fundamental principles do not merely arise from acceptance of an inducement but, sometimes, merely from the fact of the offer having been made, additional safeguards shall be adopted. A professional accountant in business\* shall evaluate any threats created by such offers and determine whether to take one or more of the following actions:

- (a) Informing higher levels of management or those charged with governance\* of the employing organisation immediately when such offers have been made;

\* See Definitions for parts A, B and C

- (b) Informing third parties of the offer – for example, *ICAEW* or the employer of the individual who made the offer; a professional accountant in business\* may however, consider seeking legal advice before taking such a step; and
- (c) Advising immediate or close family\* members of relevant threats and safeguards where they are potentially in positions that might result in offers of inducements, for example, as a result of their employment situation; and
- (d) Informing higher levels of management or those charged with governance\* of the employing organisation where immediate or close family\* members are employed by competitors or potential suppliers of that organisation.

### **Making Offers**

- 350.5** A professional accountant in business\* may be in a situation where the professional accountant in business\* is expected, or is under other pressure, to offer inducements to influence the judgment or decision-making process of an individual or organisation, or obtain confidential information.
- 350.6** Such pressure may come from within the employing organisation, for example, from a colleague or superior. It may also come from an external individual or organisation suggesting actions or business decisions that would be advantageous to the employing organisation, possibly influencing the professional accountant in business\* improperly.
- 350.7** A professional accountant in business\* shall not offer an inducement to improperly influence professional judgment of a third party.
- 350.8** Where the pressure to offer an unethical inducement comes from within the employing organisation, the professional accountant\* shall follow the principles and guidance regarding ethical conflict resolution set out in Part A of this Code.

\* See Definitions for parts A, B and C

## DEFINITIONS FOR PARTS A, B AND C

### Acceptable level

A level at which a reasonable and informed third party would be likely to conclude, weighing all the specific facts and circumstances available to the professional accountant\* at that time, that compliance with the fundamental principles is not compromised.

### Advertising

The communication to the public of information as to the services or skills provided by professional accountants\* in public practice with a view to procuring professional business.

### Affiliates

*A person granted affiliate status by ICAEW under its regulations.*

### Assurance client

The responsible party that is the person (or persons) who:

- (a) In a direct reporting engagement, is responsible for the subject matter; or
- (b) In an assertion-based engagement, is responsible for the subject matter information and may be responsible for the subject matter.

### Assurance engagement

An engagement in which a professional accountant in public practice\* expresses a conclusion designed to enhance the degree of confidence of the intended users other than the responsible party about the outcome of the evaluation or measurement of a subject matter against criteria.

(For guidance on assurance engagements see the International Framework for Assurance engagements issued by the International Auditing and Assurance Standards Board which describes the elements and objectives of an assurance engagement and identifies engagements to which International Standards on Auditing (ISAs), International Standards on Review engagements (ISREs) and International Standards on Assurance engagements (ISAEs) apply.) [www.ifac.org/IAASB/Pronouncements.php](http://www.ifac.org/IAASB/Pronouncements.php).

### Assurance team

- (a) All members of the engagement team\* for the assurance engagement\*;
- (b) All others within a firm\* who can directly influence the outcome of the assurance engagement\*, including:
  - (i) those who recommend the compensation of, or who provide direct supervisory, management or other oversight of the assurance engagement partner\* in connection with the performance of the assurance engagement\*;

\* See Definitions for parts A, B and C

- (ii) those who provide consultation regarding technical or industry specific issues, transactions or events for the assurance engagement\*; and
- (iii) those who provide quality control for the assurance engagement\*, including those who perform the engagement quality control review\* for the assurance engagement\*.

### **Audit client**

An entity in respect of which a firm\* conducts an audit engagement\*. When the client is a listed entity\*, audit client will always include its related entities. When the audit client is not a listed entity\*, audit client includes those related entities over which the client has direct or indirect control.

### **Audit engagement**

A reasonable assurance engagement\* in which a professional accountant in public practice\* expresses an opinion whether financial statements\* are prepared, in all material respects (or give a true and fair view or are presented fairly, in all material respects), in accordance with an applicable financial reporting framework, such as an engagement conducted in accordance with International Standards on Auditing. This includes a Statutory Audit, which is an audit required by legislation or other regulation.

### **Audit team**

- (a) All members of the engagement team\* for the audit engagement\*;
- (b) All others within a firm\* who can directly influence the outcome of the audit engagement\*, including:
  - (i) Those who recommend the compensation of, or who provide direct supervisory, management or other oversight of the engagement partner\* in connection with the performance of the audit engagement\* including those at all successively senior levels above the engagement partner\* through to the individual who is the firm's\* Senior or Managing Partner\* (Chief Executive or equivalent);
  - (ii) Those who provide consultation regarding technical or industry-specific issues, transactions or events for the engagement; and
  - (iii) Those who provide quality control for the engagement, including those who perform the engagement quality control review\* for the engagement; and
- (c) All those within a network firm\* who can directly influence the outcome of the audit engagement\*.

### **Audit committee**

*Those charged with governance\*. This may be a separate committee or the full Board.*

\* See Definitions for parts A, B and C

**Close family**

A parent, child or sibling who is not an immediate family\* member.

**Contingent fee**

A fee calculated on a predetermined basis relating to the outcome of a transaction or the result of the services performed by the firm\*. A fee that is established by a court or other public authority is not a contingent fee\*.

**Direct financial interest**

A financial interest\*:

- Owned directly by and under the control of an individual or entity (including those managed on a discretionary basis by others); or
- Beneficially owned through a collective investment vehicle, estate, trust or other intermediary over which the individual or entity has control, or the ability to influence investment decisions.

**Director or officer**

Those charged with the governance of an entity, or acting in an equivalent capacity, regardless of their title, which may vary from jurisdiction to jurisdiction.

**Engagement partner**

The partner\* or other person in the firm\* who is responsible for the engagement and its performance, and for the report that is issued on behalf of the firm\*, and who, where required, has the appropriate authority from a professional, legal or regulatory body.

**Engagement quality control review**

A process designed to provide an objective evaluation, on or before the report is issued, of the significant judgments the engagement team\* made and the conclusions it reached in formulating the report.

**Engagement team**

All partners\* and staff performing the engagement, and any individuals engaged by the firm\* or a network firm\* who perform assurance procedures on the engagement. This excludes external experts\* engaged by the firm\* or a network firm\*.

**Existing accountant**

A professional accountant in public practice\* currently holding an audit appointment or carrying out accounting, taxation, consulting or similar professional services\* for a client.

\* See Definitions for parts A, B and C

## **External expert**

An individual (who is not a partner\* or a member of the professional staff, including temporary staff, of the firm\* or a network firm\*) or organisation possessing skills, knowledge and experience in a field other than accounting or auditing, whose work in that field is used to assist the professional accountant\* in obtaining sufficient appropriate evidence.

## **Financial interest**

An interest in equity or other security, debenture, loan\* or other debt instrument of an entity, including rights and obligations to acquire such an interest and derivatives directly related to such interest.

## **Financial statements**

A structured representation of historical financial information\*, including related notes, intended to communicate an entity's economic resources or obligations at a point in time or the changes therein for a period of time in accordance with a financial reporting framework. The related notes ordinarily comprise a summary of significant accounting policies and other explanatory information. The term can relate to a complete set of financial statements, but it can also refer to a single financial statement, for example, a balance sheet, or a statement of revenues and expenses, and related explanatory notes.

## **Financial statements on which the firm will express an opinion**

In the case of a single entity, the financial statements\* of that entity. In the case of consolidated financial statements\*, also referred to as group financial statements\*, the consolidated financial statements\*.

## **Firm**

- (a) *A member firm\**;
- (b) An entity that controls a *member firm\**, through ownership, management or other means; and
- (c) An entity controlled by a *member firm\**, through ownership, management or other means.

## **Historical financial information**

Information expressed in financial terms in relation to a particular entity, derived primarily from that entity's accounting system, about economic events occurring in past time periods or about economic conditions or circumstances at points in time in the past.

## **Immediate family**

A spouse (or equivalent) or dependent.

\* See Definitions for parts A, B and C



## **Independence**

Independence\* is:

- (a) independence of mind – the state of mind that permits the expression of a conclusion without being affected by influences that compromise professional judgment, thereby allowing an individual to act with integrity, and exercise objectivity and professional scepticism
- (b) independence in appearance – the avoidance of facts and circumstances that are so significant that a reasonable and informed third party would be likely to conclude, weighing all the specific facts and circumstances, that a firm's\*, or a member of the audit or assurance team's\*, integrity, objectivity or professional scepticism has been compromised.

## **Indirect financial interest**

A financial interest\* beneficially owned through a collective investment vehicle, estate, trust or other intermediary over which the individual or entity has no control or ability to influence investment decisions.

## **Key audit partner**

The engagement partner\*, the individual responsible for the engagement quality control review\*, and other audit partners\*, if any, on the engagement team\* who make key decisions or judgments on significant matters with respect to the audit of the financial statements on which the firm\* will express an opinion\*. Depending upon the circumstances and the role of the individuals on the audit, "other audit partners\*" may include, for example, audit partners\* responsible for significant subsidiaries or divisions.

## **Listed entity**

An entity whose shares, stock or debt are quoted or listed on a recognised stock exchange, or are marketed under the regulations of a recognised stock exchange or other equivalent body.

## **Loan**

*A sum of money lent, whether direct or through a third party, with the intention that it will be repaid with or without interest.*

## **Member**

*A member of ICAEW, an affiliate\*, an employee of a member firm\* or affiliate\*, or a provisional member.*

## **Member firm**

*This means, for the purposes of this Code:*

- (a) *A member\* engaged in public practice as a sole practitioner, or*

\* See Definitions for parts A, B and C

- (b) *A partnership engaged in public practice of which more than 50 per cent of the right to vote on all, or substantially all, matters of substance at meetings of the partnership is held by members\*;* or
- (c) *A limited liability partnership engaged in public practice of which more than 50 per cent of the rights to vote on all, or substantially all, matters of substance at meetings of the partnership is held by members\*;* or
- (d) *Any body corporate (other than a limited liability partnership) engaged in public practice of which:*
  - (i) *50 per cent or more of the directors\* are members\*;* and
  - (ii) *More than 50 per cent of the nominal value of the voting shares is held by members\*;* and
  - (iii) *More than 50 per cent of the aggregate in nominal value of the voting and non-voting shares is held by members\*.*

### **Network**

A larger structure:

- (a) That is aimed at co-operation; and
- (b) That is clearly aimed at profit or cost sharing or shares common ownership, control or management, common quality control policies and procedures, common business strategy, the use of a common brand-name, or a significant part of professional resources.

### **Network firm**

A firm\* or entity that belongs to a network\*.

### ***Partner or principal***

*References to a partner or principal of a firm\* include the following:*

- *A partner/principal;*
- *A sole-practitioner;*
- *A director\* of a corporate firm\*;*
- *A member of a limited liability partnership;*
- *An employee of a corporate firm\* who is:*
  - *A responsible individual within the meaning of the Audit Regulations;*
  - *A licensed insolvency practitioner; or*

\* See Definitions for parts A, B and C

- *Defined as such in circumstances determined by Council*

### **Office**

A distinct sub-group, whether organised on geographical or practice lines.

### **Professional accountant**

An individual who is a member\* of an IFAC member body.

### **Professional accountant in business**

A professional accountant\* employed or engaged in an executive or non-executive capacity in such areas as commerce, industry, service, the public sector, education, the not for profit sector, regulatory bodies or professional bodies, or a professional accountant\* contracted by such entities.

*A professional accountant in business may be a salaried employee, a partner\*, director\* (whether executive or non-executive), an owner manager, a volunteer, or another working for one or more employing organisations. The legal form of the relationship with the employing organisation, if any, has no bearing on the ethical responsibilities incumbent on the professional accountant in business.*

### **Professional accountant in public practice**

A professional accountant\*, irrespective of functional classification (e.g., audit, tax or consulting) in a firm\* that provides professional services\*. This term is also used to refer to a firm\* of professional accountants in public practice.

### **Professional service**

Services requiring accountancy or related skills performed by a professional accountant\* including accounting, auditing, taxation, management consulting and financial management services.

### ***Provisional member***

*A person:*

- (a) *who is training under a training agreement; or has registered their period of approved training*
- (b) *who has trained under such agreement or period of approved training and is eligible either to sit for the ACA examinations of ICAEW or, having successfully sat those examinations, to apply for membership;*

*and for the purposes only of this definition an order under bye-law 22(7) (d) of the Disciplinary Bye-laws (concerning eligibility to sit examinations) shall be disregarded.*

\* See Definitions for parts A, B and C

### **Public interest entity**

- (a) A listed entity\*; and
- (b) An entity (a) defined by regulation or legislation as a public interest entity or (b) for which the audit is required by regulation or legislation to be conducted in compliance with the same independence\* requirements that apply to the audit of listed entities\*. Such regulation may be promulgated by any relevant regulator, including an audit regulator.

### **Related entity**

An entity that has any of the following relationships with the client:

- (a) An entity that has direct or indirect control over the client if the client is material to such entity;
- (b) An entity with a direct financial interest\* in the client if that entity has significant influence over the client and the interest in the client is material to such entity;
- (c) An entity over which the client has direct or indirect control;
- (d) An entity in which the client, or an entity related to the client under (c) above, has a direct financial interest\* that gives it significant influence over such entity and the interest is material to the client and its related entity (c); and
- (e) An entity which is under common control with the client (a “sister entity”) if the sister entity and the client are both material to the entity that controls both the client and sister entity.

### **Review client**

An entity in respect of which a firm\* conducts a review engagement\*.

### **Review engagement**

An assurance engagement\*, conducted in accordance with International Standards on Review engagements or equivalent, in which a professional accountant in public practice\* expresses a conclusion on whether, on the basis of the procedures which do not provide all the evidence that would be required in an audit, anything has come to the accountant’s attention that causes the accountant to believe that the financial statements\* are not prepared, in all material respects, in accordance with an applicable financial reporting framework.

### **Review team**

- (a) All members of the engagement team\* for the review engagement\*; and
- (b) All others within a firm\* who can directly influence the outcome of the review engagement\*, including:

\* See Definitions for parts A, B and C

- (i) Those who recommend the compensation of, or who provide direct supervisory, management or other oversight of the engagement partner\* in connection with the performance of the review engagement\* including those at all successively senior levels above the engagement partner\* through to the individual who is the firm's\* Senior or Managing Partner\* (Chief Executive or equivalent);
  - (ii) Those who provide consultation regarding technical or industry specific issues, transactions or events for the engagement; and
  - (iii) Those who provide quality control for the engagement, including those who perform the engagement quality control review\* for the engagement; and
- (c) All those within a network firm\* who can directly influence the outcome of the review engagement\*.

### **Special purpose financial statements**

Financial statements\* prepared in accordance with a financial reporting framework designed to meet the financial needs of specified users

### **Those charged with governance**

The persons with responsibility for overseeing the strategic direction of the entity and obligations related to the accountability of the entity. This includes overseeing the financial reporting process.

**See also section 1.4 for a discussion of the use of the word 'shall'**

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\* See Definitions for parts A, B and C

## ***INSOLVENCY PRACTITIONERS (PART D)***

### ***Effective from 1 January 2009. Code of Ethics for insolvency practitioners.***

*On 1 January 2014 a minor change was made to paragraph 400.3 of the code. The change clarifies that the requirements set out in Part D have the same status and authority as those in the rest of the Code of Ethics. This is explained in paragraph 1.4 of section 1 of the Code.*

*Insolvency Practitioners\* should also read Part A which sets out the fundamental principles and conceptual framework that they are required to adhere to. It may also be helpful for insolvency practitioners to refer to other parts of the Code in relevant circumstances.*

## ***PART 1 GENERAL APPLICATION OF THE CODE***

### ***The Practice of Insolvency***

#### ***Introduction***

- 400.1 *This Code is intended to assist Insolvency Practitioners\* meet the obligations expected of them by providing professional and ethical guidance.*
- 400.2 *This Code applies to all Insolvency Practitioners\*. Insolvency Practitioners should take steps to ensure that the Code is applied in all professional work relating to an insolvency appointment\*, and to any professional work that may lead to such an insolvency appointment\*. Although an insolvency appointment\* will be of the Insolvency Practitioner\* personally rather than his practice\*, he should ensure that the standards set out in this Code are applied to all members of the insolvency team\*.*
- 400.3 *It is this Code, and the spirit that underlies it, that governs the conduct of Insolvency Practitioners\*.*

#### ***Fundamental Principles***

- 400.4 *An Insolvency Practitioner\* is required to comply with the following fundamental principles:*

##### ***(a) Integrity***

*An Insolvency Practitioner\* should be straightforward and honest in all professional and business relationships.*

##### ***(b) Objectivity***

*An Insolvency Practitioner\* should not allow bias, conflict of interest or undue influence of others to override professional or business judgements.*

\* See Definitions for Part D

**(c) Professional Competence and Due Care**

*An Insolvency Practitioner\* has a continuing duty to maintain professional knowledge and skill at the level required to ensure that a client or employer receives competent professional service based on current developments in practice, legislation and techniques. An Insolvency Practitioner\* should act diligently and in accordance with applicable technical and professional standards when providing professional services.*

**(d) Confidentiality**

*An Insolvency Practitioner\* should respect the confidentiality of information acquired as a result of professional and business relationships and should not disclose any such information to third parties without proper and specific authority unless there is a legal or professional right or duty to disclose. Confidential information acquired as a result of professional and business relationships should not be used for the personal advantage of the Insolvency Practitioner\* or third parties.*

**(e) Professional Behaviour**

*An Insolvency Practitioner\* should comply with relevant laws and regulations and should avoid any action that discredits the profession. Insolvency Practitioners\* should conduct themselves with courtesy and consideration towards all with whom they come into contact when performing their work.*

**Framework Approach**

400.5 *The framework approach is a method which Insolvency Practitioners\* can use to identify actual or potential threats to the fundamental principles and determine whether there are any safeguards that might be available to offset them. The framework approach requires an Insolvency Practitioner\* to:*

- (a) take reasonable steps to identify any threats to compliance with the fundamental principles;*
- (b) evaluate any such threats; and*
- (c) respond in an appropriate manner to those threats.*

400.6 *Throughout this Code there are examples of threats and possible safeguards. These examples are illustrative and should not be considered as exhaustive lists of all relevant threats or safeguards. It is impossible to define every situation that creates a threat to compliance with the fundamental principles or to specify the safeguards that may be available.*

**Identification of threats to the fundamental principles**

400.7 *An Insolvency Practitioner\* should take reasonable steps to identify the existence of any threats to compliance with the fundamental principles which arise during the course of his professional work.*

400.8 *An Insolvency Practitioner\* should take particular care to identify the existence of threats which exist prior to or at the time of taking an insolvency appointment\* or which, at that stage, it may reasonably be expected might arise during the course of such an insolvency appointment\*. Sections insolvency appointments and*

\* See Definitions for Part D

*professional and personal relationships below contain particular factors an Insolvency Practitioner\* should take into account when deciding whether to accept an insolvency appointment\*.*

400.9 *In identifying the existence of any threats, an Insolvency Practitioner\* should have regard to relationships whereby the practice\* is held out as being part of a national or an international association.*

400.10 *Many threats fall into one or more of five categories:*

- (a) **Self-interest threats:** *which may occur as a result of the financial or other interests of a practice\* or an Insolvency Practitioner\* or of a close or immediate family\* member of an individual within the practice\*;*
- (b) **Self-review threats:** *which may occur when a previous judgement made by an individual within the practice\* needs to be re-evaluated by the Insolvency Practitioner\*;*
- (c) **Advocacy threats:** *which may occur when an individual within the practice\* promotes a position or opinion to the point that subsequent objectivity may be compromised;*
- (d) **Familiarity threats:** *which may occur when, because of a close relationship, an individual within the practice\* becomes too sympathetic or antagonistic to the interests of others; and*
- (e) **Intimidation threats:** *which may occur when an Insolvency Practitioner\* may be deterred from acting objectively by threats, actual or perceived.*

400.11 *The following paragraphs give examples of the possible threats that an Insolvency Practitioner\* may face.*

400.12 *Examples of circumstances that may create self-interest threats for an Insolvency Practitioner\* include:*

- (a) *An individual within the practice\* having an interest in a creditor or potential creditor with a claim which requires subjective adjudication.*
- (b) *Concern about the possibility of damaging a business relationship.*
- (c) *Concerns about potential future employment.*

400.13 *Examples of circumstances that may create self-review threats include:*

- (a) *The acceptance of an insolvency appointment\* in respect of an entity\* where an individual within the practice\* has recently been employed by or seconded to that entity\*.*
- (b) *An Insolvency Practitioner\* or the practice\* has carried out professional work of any description, including sequential insolvency appointments\*, for that entity\*.*

*Such self-review threats may diminish over the passage of time.*

400.14 *Examples of circumstances that may create advocacy threats include:*

\* See Definitions for Part D



- (a) *Acting in an advisory capacity for a creditor of an entity\*.*
- (b) *Acting as an advocate for a client in litigation or dispute with an entity\*.*

400.15 *Examples of circumstances that may create familiarity threats include:*

- (a) *An individual within the practice\* having a close relationship with any individual having a financial interest in the insolvent entity\*.*
- (b) *An individual within the practice\* having a close relationship with a potential purchaser of an insolvent's assets and/or business.*

*In this regard a close relationship includes both a close professional relationship and a close personal relationship.*

400.16 *Examples of circumstances that may create intimidation threats include:*

- (a) *The threat of dismissal or replacement being used to :*
  - (i) *Apply pressure not to follow regulations, this Code, any other applicable code, technical or professional standards.*
  - (ii) *Exert influence over an insolvency appointment\* where the Insolvency Practitioner\* is an employee rather than a principal\* of the practice.*
- (b) *Being threatened with litigation.*
- (c) *The threat of a complaint being made to the Insolvency Practitioner\*'s authorising body\*.*

### **Evaluation of threats**

400.17 *An Insolvency Practitioner\* should take reasonable steps to evaluate any threats to compliance with the fundamental principles that he has identified.*

400.18 *In particular, an Insolvency Practitioner\* should consider what a reasonable and informed third party, having knowledge of all relevant information, including the significance of the threat, would conclude to be acceptable.*

### **Possible Safeguards**

400.19 *Having identified and evaluated a threat to the fundamental principles an Insolvency Practitioner\* should consider whether there any safeguards that may be available to reduce the threat to an acceptable level. The relevant safeguards will vary depending on the circumstances. Generally safeguards fall into two broad categories. Firstly, safeguards created by the profession, legislation or regulation. Secondly, safeguards in the work environment. In the insolvency context safeguards in the work environment can include safeguards specific to an insolvency appointment\*. These are considered in section insolvency appointments below. In addition, safeguards can be introduced across the practice. These safeguards seek to create a work environment in which threats are identified and the introduction of appropriate safeguards is encouraged. Some examples include:*

\* See Definitions for Part D

- (a) *Leadership that stresses the importance of compliance with the fundamental principles.*
- (b) *Policies and procedures to implement and monitor quality control of engagements.*
- (c) *Documented policies regarding the identification of threats to compliance with the fundamental principles, the evaluation of the significance of these threats and the identification and the application of safeguards to eliminate or reduce the threats, other than those that are trivial, to an acceptable level.*
- (d) *Documented internal policies and procedures requiring compliance with the fundamental principles.*
- (e) *Policies and procedures to consider the fundamental principles of this Code before the acceptance of an insolvency appointment\*.*
- (f) *Policies and procedures regarding the identification of interests or relationships between individuals within the practice\* and third parties.*
- (g) *Policies and procedures to prohibit individuals who are not members of the insolvency team\* from inappropriately influencing the outcome of an insolvency appointment\*.*
- (h) *Timely communication of a practice's\* policies and procedures, including any changes to them, to all individuals within the practice\*, and appropriate training and education on such policies and procedures.*
- (i) *Designating a member of senior management to be responsible for overseeing the adequate functioning of the safeguarding system.*
- (j) *A disciplinary mechanism to promote compliance with policies and procedures.*
- (k) *Published policies and procedures to encourage and empower individuals within the practice\* to communicate to senior levels within the practice and/or the Insolvency Practitioner\* any issue relating to compliance with the fundamental principles that concerns them.*

\* See Definitions for Part D

## ***PART 2 SPECIFIC APPLICATION OF THE CODE***

### **Insolvency Appointments**

400.20 *The practice of insolvency is principally governed by statute and secondary legislation and in many cases is subject ultimately to the control of the Court. Where circumstances are dealt with by statute or secondary legislation, an Insolvency Practitioner\* must comply with such provisions. An Insolvency Practitioner\* must also comply with any relevant judicial authority relating to his conduct and any directions given by the Court.*

400.21 *An Insolvency Practitioner\* should act in a manner appropriate to his position as an officer of the Court (where applicable) and in accordance with any quasi-judicial, fiduciary or other duties that he may be under.*

400.22 *Before agreeing to accept any insolvency appointment\* (including a joint appointment), an Insolvency Practitioner\* should consider whether acceptance would create any threats to compliance with the fundamental principles. Of particular importance will be any threats to the fundamental principle of objectivity created by conflicts of interest or by any significant professional or personal relationships. These are considered in more detail below.*

400.23 *In considering whether objectivity or integrity may be threatened, an Insolvency Practitioner\* should identify and evaluate any professional or personal relationship (see section dealing with the assets of an entity\* below) which may affect compliance with the fundamental principles. The appropriate response to the threats arising from any such relationships should then be considered, together with the introduction of any possible safeguards.*

400.24 *Generally, it will be inappropriate for an Insolvency Practitioner\* to accept an insolvency appointment\* where a threat to the fundamental principles exists or may reasonably be expected might arise during the course of the insolvency appointment\* unless:*

- (a) *disclosure is made, prior to the insolvency appointment\*, of the existence of such a threat to the Court or to the creditors on whose behalf the Insolvency Practitioner\* would be appointed to act and no objection is made to the Insolvency Practitioner\* being appointed; and*
- (b) *safeguards are or will be available to eliminate or reduce that threat to an acceptable level. If the threat is other than trivial, safeguards should be considered and applied as necessary to reduce them to an acceptable level, where possible.*

400.25 *The following safeguards may be considered:*

- (a) *Involving and/or consulting another Insolvency Practitioner\* from within the practice\* to review the work done.*
- (b) *Consulting an independent third party, such as a committee of creditors, an authorising body\* or another Insolvency Practitioner\*.*
- (c) *Involving another Insolvency Practitioner\* to perform part of the work, which may include another Insolvency Practitioner\* taking a joint*

\* See Definitions for Part D

*appointment where the conflict arises during the course of the insolvency appointment\*.*

- (d) Obtaining legal advice from a solicitor or barrister with appropriate experience and expertise.*
- (e) Changing the members of the insolvency team\*.*
- (f) The use of separate Insolvency Practitioners\* and/or staff.*
- (g) Procedures to prevent access to information by the use of information barriers (e.g. strict physical separation of such teams, confidential and secure data filing).*
- (h) Clear guidelines for individuals within the practice\* on issues of security and confidentiality.*
- (i) The use of confidentiality agreements signed by individuals within the practice\*.*
- (j) Regular review of the application of safeguards by a senior individual within the practice\* not involved with the insolvency appointment\*.*
- (k) Terminating the financial or business relationship that gives rise to the threat.*
- (l) Seeking directions from the court.*

*400.26 As regards joint appointments, where an Insolvency Practitioner\* is specifically precluded by this Code from accepting an insolvency appointment\* as an individual, a joint appointment will not be an appropriate safeguard and will not make accepting the insolvency appointment\* appropriate.*

*400.27 In deciding whether to take an insolvency appointment\* in circumstances where a threat to the fundamental principles has been identified, the Insolvency Practitioner\* should consider whether the interests of those on whose behalf he would be appointed to act would best be served by the appointment of another Insolvency Practitioner\* who did not face the same threat and, if so, whether any such appropriately qualified and experienced other Insolvency Practitioner\* is likely to be available to be appointed.*

*400.28 An Insolvency Practitioner\* will encounter situations where no safeguards can reduce a threat to an acceptable level. Where this is the case, an Insolvency Practitioner\* should conclude that it is not appropriate to accept an insolvency appointment\*.*

*400.29 Following acceptance, any threats should continue to be kept under appropriate review and an Insolvency Practitioner\* should be mindful that other threats may come to light or arise. There may be occasions when the Insolvency Practitioner\* is no longer in compliance with this Code because of changed circumstances or something which has been inadvertently overlooked. This would generally not be an issue provided the Insolvency Practitioner\* has appropriate quality control policies and procedures in place to deal with such matters and, once discovered, the matter is corrected promptly and any necessary safeguards are applied. In deciding whether to continue an insolvency appointment\* the Insolvency Practitioner\* may take into account the wishes of the creditors, who after full*

\* See Definitions for Part D

*disclosure has been made have the right to retain or replace the Insolvency Practitioner\*.*

*400.30 In all cases an Insolvency Practitioner\* will need to exercise his judgment to determine how best to deal with an identified threat. In exercising his judgment, an Insolvency Practitioner\* should consider what a reasonable and informed third party, having knowledge of all relevant information, including the significance of the threat and the safeguards applied, would conclude to be acceptable. This consideration will be affected by matters such as the significance of the threat, the nature of the work and the structure of the practice\*.*

### **Conflicts of interest**

*400.31 An Insolvency Practitioner\* should take reasonable steps to identify circumstances that could pose a conflict of interest. Such circumstances may give rise to threats to compliance with the fundamental principles. Examples of where a conflict of interest may arise are where:*

- (a) An Insolvency Practitioner\* has to deal with claims between the separate and conflicting interests of entities over whom he is appointed.*
- (b) There are a succession of or sequential insolvency appointments\* (see section on the application of the framework to specific situations).*
- (c) A significant relationship has existed with the entity\* or someone connected with the entity\* (see also section on professional and personal relationships)*

*400.32 Some of the safeguards listed at 400.25 may be applied to reduce the threats created by a conflict of interest to an acceptable level. Where a conflict of interest arises, the preservation of confidentiality will be of paramount importance; therefore, the safeguards used should generally include the use of effective information barriers.*

### **Practice mergers**

*400.33 Where practices merge, they should subsequently be treated as one for the purposes of assessing threats to the fundamental principles. At the time of the merger, existing insolvency appointments\* should be reviewed and any threats identified. Principals\* and employees of the merged practice become subject to common ethical constraints in relation to accepting new insolvency appointments\* to clients of either of the former practices\*. However, existing insolvency appointments\* which are rendered in apparent breach of the Code by such a merger need not be determined automatically, provided that a considered review of the situation by the practice\* discloses no obvious and immediate ethical conflict.*

*400.34 Where an individual within the practice\* has, in any former practice\*, undertaken work upon the affairs of an entity\* in a capacity that is incompatible with an insolvency appointment\* of the new practice\*, the individual should not work or be employed on that assignment.*

### **Transparency**

*400.35 Both before and during an insolvency appointment\* an Insolvency Practitioner\* may acquire personal information that is not directly relevant to the insolvency or*

\* See Definitions for Part D

*confidential commercial information relating to the affairs of third parties. The information may be such that others might expect that confidentiality would be maintained.*

*400.36 Nevertheless an Insolvency Practitioner\* in the role as office holder has a professional duty to report openly to those with an interest in the outcome of the insolvency. An Insolvency Practitioner\* should always report on his acts and dealings as fully as possible given the circumstances of the case, in a way that is transparent and understandable. An Insolvency Practitioner\* should bear in mind the expectations of others and what a reasonable and informed third party would consider appropriate.*

### **Professional Competence and due care**

*400.37 Prior to accepting an insolvency appointment\* the Insolvency Practitioner\* should ensure that he is satisfied that the following matters have been considered:*

- (a) Obtaining knowledge and understanding of the entity\*, its owners, managers and those responsible for its governance and business activities.*
- (b) Acquiring an appropriate understanding of the nature of the entity's\* business, the complexity of its operations, the specific requirements of the engagement and the purpose, nature and scope of the work to be performed.*
- (c) Acquiring knowledge of relevant industries or subject matters.*
- (d) Possessing or obtaining experience with relevant regulatory or reporting requirements.*
- (e) Assigning sufficient staff with the necessary competencies.*
- (f) Using experts where necessary.*
- (g) Complying with quality control policies and procedures designed to provide reasonable assurance that specific engagements are accepted only when they can be performed competently.*

*400.38 The fundamental principle of professional competence and due care requires that an Insolvency Practitioner\* should only accept an insolvency appointment\* when the Insolvency Practitioner\* has sufficient expertise. For example, a self interest threat to the fundamental principle of professional competence and due care is created if the Insolvency Practitioner\* or the insolvency team\* does not possess or cannot acquire the competencies necessary to carry out the insolvency appointment\*. Expertise will include appropriate training, technical knowledge, knowledge of the entity\* and the business with which the entity\* is concerned.*

*400.39 Maintaining and acquiring professional competence requires a continuing awareness and understanding of relevant technical and professional developments, including:*

- (a) Developments in insolvency legislation.*
- (b) Statements of Insolvency Practice.*

\* See Definitions for Part D

- (c) *The regulations of their authorising body\*, including any continuing professional development requirements.*
- (d) *Guidance issued by their authorising body\* or the Insolvency Service.*
- (e) *Technical issues being discussed within the profession.*

\* See Definitions for Part D

## **Professional and personal relationships**

400.40 *The environment in which Insolvency Practitioners\* work and the relationships formed in their professional and personal lives can lead to threats to the fundamental principle of objectivity.*

### **Identifying relationships**

400.41 *In particular, the principle of objectivity may be threatened if any individual within the practice\*, the close or immediate family\* of an individual within the practice\* or the practice\* itself, has or has had a professional or personal relationship which relates to the insolvency appointment\* being considered.*

400.42 *Professional or personal relationships may include (but are not restricted to) relationships with:-*

- (a) the entity\*;*
- (b) any director or shadow director or former director or shadow director of the entity\*;*
- (c) shareholders of the entity\*;*
- (d) any principal\* or employee of the entity\*;*
- (e) business partners of the entity\*;*
- (f) companies or entities controlled by the entity\*;*
- (g) companies which are under common control;*
- (h) creditors (including debenture holders) of the entity\*;*
- (i) debtors of the entity\*;*
- (j) close or immediate family\* of the entity\*(if an individual) or its officers (if a corporate body);*
- (k) others with commercial relationships with the practice\*.*

400.43 *Safeguards within the practice should include policies and procedures to identify relationships between individuals within the practice\* and third parties in a way that is proportionate and reasonable in relation to the insolvency appointment\* being considered.*

### **Is the relationship significant to the conduct of the insolvency appointment\*?**

400.44 *Where a professional or personal relationship of the type described in paragraph 400.41 has been identified the Insolvency Practitioner\* should evaluate the impact of the relationship in the context of the insolvency appointment\* being sought or considered. Issues to consider in evaluating whether a relationship creates a threat to the fundamental principles may include the following:*

\* See Definitions for Part D



- (a) *The nature of the previous duties undertaken by a practice during an earlier relationship with the entity\*.*
- (b) *The impact of the work conducted by the practice on the financial state and/or the financial stability of the entity\* in respect of which the insolvency appointment\* is being considered.*
- (c) *Whether the fee received for the work by the practice\* is or was significant to the practice\* itself or is or was substantial.*
- (d) *How recently any professional work was carried out. It is likely that greater threats will arise (or may be seen to arise) where work has been carried out within the previous three years. However, there may still be instances where, in respect of non-audit work, any threat is at an acceptable level. Conversely, there may be situations whereby the nature of the work carried out was such that a considerably longer period should elapse before any threat can be reduced to an acceptable level.*
- (e) *Whether the insolvency appointment\* being considered involves consideration of any work previously undertaken by the practice\* for that entity\*.*
- (f) *The nature of any personal relationship and the proximity of the Insolvency Practitioner\* to the individual with whom the relationship exists and, where appropriate, the proximity of that individual to the entity\* in relation to which the insolvency appointment\* relates.*
- (g) *Whether any reporting obligations will arise in respect of the relevant individual with whom the relationship exists (e.g. an obligation to report on the conduct of directors and shadow directors of a company to which the insolvency appointment\* relates).*
- (h) *The nature of any previous duties undertaken by an individual within the practice\* during any earlier relationship with the entity\*.*
- (i) *The extent of the insolvency team's\* familiarity with the individuals connected with the entity\*.*

*400.45 Having identified and evaluated a relationship that may create a threat to the fundamental principles, the Insolvency Practitioner\* should consider his response including the introduction of any possible safeguards to reduce the threat to an acceptable level.*

*400.46 Some of the safeguards which may be considered to reduce the threat created by a professional or personal relationship to an acceptable level are considered in paragraph 400.25. Other safeguards may include:*

- (a) *Withdrawing from the insolvency team\*.*
- (b) *Terminating (where possible) the financial or business relationship giving rise to the threat.*
- (c) *Disclosure of the relationship and any financial benefit received by the practice\* (whether directly or indirectly) to the entity\* or to those on whose behalf the Insolvency Practitioner\* would be appointed to act.*

*400.47 An Insolvency Practitioner\* may encounter situations in which no or no reasonable*

*\* See Definitions for Part D*

*safeguards can be introduced to eliminate a threat arising from a professional or personal relationship, or to reduce it to an acceptable level. In such situations, the relationship in question will constitute a **significant** professional relationship ('Significant Professional Relationship') or a **significant** personal relationship ('Significant Personal Relationship'). Where this is case the Insolvency Practitioner\* should conclude that it is not appropriate to take the insolvency appointment\*.*

*400.48 Consideration should always be given to the perception of others when deciding whether to accept an insolvency appointment\*. Whilst an Insolvency Practitioner\* may regard a relationship as not being significant to the insolvency appointment\*, the perception of others may differ and this may in some circumstances be sufficient to make the relationship significant.*

\* See Definitions for Part D

### ***Dealing with the assets of an entity\****

*400.49 Actual or perceived threats (for example self interest threats) to the fundamental principles may arise when during an insolvency appointment\*, an Insolvency Practitioner\* realises assets.*

*400.50 Save in circumstances which clearly do not impair the Insolvency Practitioner's\* objectivity, Insolvency Practitioners\*appointed to any insolvency appointment\* in relation to an entity\*, should not themselves acquire, directly or indirectly, any of the assets of an entity\*, nor knowingly permit any individual within the practice\*, or any close or immediate family member\* of the Insolvency Practitioner\* or of an individual within the practice\*, directly or indirectly, to do so.*

*400.51 Where the assets and business of an insolvent company are sold by an Insolvency Practitioner\* shortly after appointment on pre-agreed terms, this could lead to an actual or perceived threat to objectivity. The sale may also be seen as a threat to objectivity by creditors or others not involved in the prior agreement. The threat to objectivity may be eliminated or reduced to an acceptable level by safeguards such as obtaining an independent valuation of the assets or business being sold, or the consideration of other potential purchasers.*

*400.52 It is also particularly important for an Insolvency Practitioner\* to take care to ensure (where to do so does not conflict with any legal or professional obligation) that his decision making processes are transparent, understandable and readily identifiable to all third parties who may be affected by the sale or proposed sale.*

\* See Definitions for Part D

## **Obtaining specialist advice and services**

*400.53 When an Insolvency Practitioner\* intends to rely on the advice or work of another, the Insolvency Practitioner\* should evaluate whether such reliance is warranted. The Insolvency Practitioner\* should consider factors such as reputation, expertise, resources available and applicable professional and ethical standards. Any payment to the third party should reflect the value of the work undertaken.*

*400.54 Threats to the fundamental principles (for example familiarity threats and self interest threats) can arise if services are provided by a regular source independent of the practice\*.*

*400.55 Safeguards should be introduced to reduce such threats to an acceptable level. These safeguards should ensure that a proper business relationship is maintained between the parties and that such relationships are reviewed periodically to ensure that best value and service is being obtained in relation to each insolvency appointment\*. Additional safeguards may include clear guidelines and policies within the practice on such relationships. An Insolvency Practitioner\* should also consider disclosure of the existence of such business relationships to the general body of creditors or the creditor's committee if one exists.*

*400.56 Threats to the fundamental principles can also arise where services are provided from within the practice or by a party with whom the practice, or an individual within the practice\*, has a business or personal relationship. An Insolvency Practitioner\* should take particular care in such circumstances to ensure that the best value and service is being provided.*

\* See Definitions for Part D

## **Fees and other types of remuneration**

### **Prior to accepting an insolvency appointment\***

400.57 *Where an engagement may lead to an insolvency appointment\*, an Insolvency Practitioner\* should make any party to the work aware of the terms of the work and, in particular, the basis on which any fees are charged and which services are covered by those fees.*

400.58 *Where an engagement may lead to an insolvency appointment\*, Insolvency Practitioners\* should not accept referral fees or commissions unless they have established safeguards to reduce the threats created by such fees or commissions to an acceptable level.*

400.59 *Safeguards may include disclosure in advance of any arrangements. If after receiving any such payments, an Insolvency Practitioner\* accepts an insolvency appointment\*, the amount and source of any fees or commissions received should be disclosed to creditors.*

### **After accepting an insolvency appointment\***

400.60 *During an insolvency appointment\*, accepting referral fees or commissions represents a significant threat to objectivity. Such fees or commissions should not therefore be accepted other than where to do so is for the benefit of the insolvent estate.*

400.61 *If such fees or commissions are accepted they should only be accepted for the benefit of the estate; not for the benefit of the Insolvency Practitioner\* or the practice\*.*

400.62 *Further, where such fees or commissions are accepted an Insolvency Practitioner\* should consider making disclosure to creditors.*

\* See Definitions for Part D

## **Obtaining insolvency appointments\***

400.63 *The special nature of insolvency appointments\* makes the payment or offer of any commission for or the furnishing of any valuable consideration towards, the introduction of insolvency appointments\* inappropriate. This does not, however, preclude an arrangement between an Insolvency Practitioner\* and an employee whereby the employee's remuneration is based in whole or in part on introductions obtained for the Insolvency Practitioner\* through the efforts of the employee.*

400.64 *When an Insolvency Practitioner\* seeks an insolvency appointment\* or work that may lead to an insolvency appointment\* through advertising or other forms of marketing, there may be threats to compliance with the fundamental principles.*

400.65 *When considering whether to accept an insolvency appointment\* an Insolvency Practitioner\* should satisfy himself that any advertising or other form of marketing pursuant to which the insolvency appointment\* may have been obtained is or has been:*

- (a) *Fair and not misleading.*
- (b) *Avoids unsubstantiated or disparaging statements.*
- (c) *Complies with relevant codes of practice and guidance in relation to advertising.*

400.66 *Advertisements and other forms of marketing should be clearly distinguishable as such and be legal, decent, honest and truthful.*

400.67 *If reference is made in advertisements or other forms of marketing to fees or to the cost of the services to be provided, the basis of calculation and the range of services that the reference is intended to cover should be provided. Care should be taken to ensure that such references do not mislead as to the precise range of services and the time commitment that the reference is intended to cover.*

400.68 *An Insolvency Practitioner\* should never promote or seek to promote his services, or the services of another Insolvency Practitioner\*, in such a way, or to such an extent as to amount to harassment.*

400.69 *Where an Insolvency Practitioner\* or the practice\* advertises for work via a third party, the Insolvency Practitioner\* is responsible for ensuring that the third party follows the above guidance.*

\* See Definitions for Part D

## **Gifts and hospitality**

*400.70 An Insolvency Practitioner\*, or a close or immediate family\* member, may be offered gifts and hospitality. In relation to an insolvency appointment\*, such an offer will give rise to threats to compliance with the fundamental principles. For example, self-interest threats may arise if a gift is accepted and intimidation threats may arise from the possibility of such offers being made public.*

*400.71 The significance of such threats will depend on the nature, value and intent behind the offer. In deciding whether to accept any offer of a gift or hospitality the Insolvency Practitioner\* should have regard to what a reasonable and informed third party having knowledge of all relevant information would consider to be appropriate. Where such a reasonable and informed third party would consider the gift to be made in the normal course of business without the specific intent to influence decision making or obtain information the Insolvency Practitioner\* may generally conclude that there is no significant threat to compliance with the fundamental principles.*

*400.72 Where appropriate, safeguards should be considered and applied as necessary to eliminate any threats to the fundamental principles or reduce them to an acceptable level. If an Insolvency Practitioner\* encounters a situation in which no or no reasonable safeguards can be introduced to reduce a threat arising from offers of gifts or hospitality to an acceptable level he should conclude that it is not appropriate to accept the offer.*

*400.73 An Insolvency Practitioner\* should also not offer or provide gifts or hospitality where this would give rise to an unacceptable threat to compliance with the fundamental principles.*

\* See Definitions for Part D

## **Record keeping**

*400.74 It will always be for the Insolvency Practitioner\* to justify his actions. An Insolvency Practitioner\* will be expected to be able to demonstrate the steps that he took and the conclusions that he reached in identifying, evaluating and responding to any threats, both leading up to and during an insolvency appointment\*, by reference to written contemporaneous records.*

*400.75 The records an Insolvency Practitioner\* maintains, in relation to the steps that he took and the conclusions that he reached, should be sufficient to enable a reasonable and informed third party to reach a view on the appropriateness of his actions.*

\* See Definitions for Part D



## ***THE APPLICATION OF THE FRAMEWORK TO SPECIFIC SITUATIONS***

### ***Introduction to specific situations***

400.76 *The following examples describe specific circumstances and relationships that will create threats to compliance with the fundamental principles. The examples may assist an Insolvency Practitioner\* and the members of the insolvency team\* to assess the implications of similar, but different, circumstances and relationships.*

400.77 *The examples are divided into three parts. Part 1 contains examples which do not relate to a previous or existing insolvency appointment\*. Part 2 contains examples that do relate to a previous or existing insolvency appointment\*. Part 3 contains some examples under Scottish law. The examples are not intended to be exhaustive.*

### ***PART 1 - EXAMPLES THAT DO NOT RELATE TO A PREVIOUS OR EXISTING INSOLVENCY APPOINTMENT\****

400.78 *The following situations involve a professional relationship which does not consist of a previous insolvency appointment\*.*

#### ***400.79 Insolvency appointment following audit related work***

***Relationship:*** *The practice\* or an individual within the practice\* has previously carried out audit related work within the previous 3 years.*

***Response:*** *A Significant Professional Relationship will arise: an Insolvency Practitioner\* should conclude that it is not appropriate to take the insolvency appointment\*.*

*Where audit related work was carried out more than three years before the proposed date of the appointment of the Insolvency Practitioner\* a threat to compliance with the fundamental principles may still arise. The Insolvency Practitioner\* should evaluate any such threat and consider whether the threat can be eliminated or reduced to an acceptable level by the existence or introduction of safeguards.*

*This restriction does not apply where the insolvency appointment\* is in a members' voluntary liquidation; an Insolvency Practitioner\* may normally take an appointment as liquidator. However, the Insolvency Practitioner\* should consider whether there are any other circumstances that give rise to an unacceptable threat to compliance with the fundamental principles. Further, the Insolvency Practitioner\* should satisfy himself that the directors' declaration of solvency is likely to be substantiated by events.*

#### ***400.80 Appointment as Investigating Accountant at the instigation of a creditor***

***Previous relationship:*** *The practice\* or an individual within the practice\* was instructed by, or at the instigation of, a creditor or other party having a financial interest in an entity\*, to investigate, monitor or advise on its affairs.*

***Response:*** *A Significant Professional Relationship would not normally arise in these circumstances provided that:-*

\* See Definitions for Part D

- (a) *there has not been a direct involvement by an individual within the practice\* in the management of the entity\*; and*
- (b) *the practice\* had its principal client relationship with the creditor or other party, rather than with the company or proprietor of the business; and*
- (c) *the entity\* was aware of this.*

*An Insolvency Practitioner\* should however consider all the circumstances before accepting an insolvency appointment\*, including the effect of any discussions or lack of discussions about the financial affairs of the company with its directors, and whether such circumstances give rise to an unacceptable threat to compliance with the fundamental principles.*

*Where such an investigation was conducted at the request of, or at the instigation of, a secured creditor who then requests an Insolvency Practitioner\* to accept an insolvency appointment\* as an administrator or administrative receiver, the Insolvency Practitioner\* should satisfy himself that the company, acting by its board of directors, does not object to him taking such an insolvency appointment\*. If the secured creditor does not give prior warning of the insolvency appointment\* to the company or if such warning is given and the company objects but the secured creditor still wishes to appoint the Insolvency Practitioner\*, he should consider whether the circumstances give rise to an unacceptable threat to compliance with the fundamental principles.*

## ***PART 2 - EXAMPLES RELATING TO PREVIOUS OR EXISTING INSOLVENCY APPOINTMENTS\****

400.81 *The following situations involve a prior professional relationship that involves a previous or existing insolvency appointment\*:-*

### ***400.82 Insolvency appointment following an appointment as Administrative or other Receiver***

***Previous appointment:*** *An individual within the practice\* has been administrative or other receiver.*

***Proposed appointment:*** *Any insolvency appointment\*.*

***Response:*** *An Insolvency Practitioner\* should not accept any insolvency appointment\*.*

*This restriction does not, however, apply where the individual within the practice\* was appointed a receiver by the Court. In such circumstances, the Insolvency Practitioner\* should however consider whether any other circumstances which give rise to an unacceptable threat to compliance with the fundamental principles.*

### ***400.83 Administration or Liquidation following appointment as Supervisor of a Voluntary Arrangement***

***Previous appointment:*** *An individual within the practice\* has been supervisor of a company voluntary arrangement.*

***Proposed appointment:*** *Administrator or liquidator.*

\* See Definitions for Part D

**Response:** An Insolvency Practitioner\* may normally accept an appointment as administrator or liquidator. However the Insolvency Practitioner\* should consider whether there are any circumstances that give rise to an unacceptable threat to compliance with the fundamental principles.

#### 400.84 **Liquidation following appointment as Administrator**

**Previous Appointment:** An individual within the practice\* has been administrator.

**Proposed Appointment:** Liquidator.

**Response:** An Insolvency Practitioner\* may normally accept an appointment as liquidator provided he has complied with the relevant legislative requirements. However, the Insolvency Practitioner\* should also consider whether there are any circumstances that give rise to an unacceptable threat to compliance with the fundamental principles.

#### 400.85 **Conversion of Members' Voluntary Liquidation into Creditors' Voluntary Liquidation**

**Previous appointment:** An individual within the practice\* has been the liquidator of a company in a members' voluntary liquidation.

**Proposed appointment:** Liquidator in a creditors' voluntary liquidation, where it has been necessary to convene a creditors' meeting.

**Response:** Where there has been a Significant Professional Relationship, an Insolvency Practitioner\* may continue or accept an appointment (subject to creditors' approval) only if he concludes that the company will eventually be able to pay its debts in full, together with interest.

However, the Insolvency Practitioner\* should consider whether there are any other circumstances that give rise to an unacceptable threat to compliance with the fundamental principles.

#### 400.86 **Bankruptcy following appointment as Supervisor of an Individual Voluntary Arrangement**

**Previous appointment:** An individual within the practice\* has been supervisor of an individual voluntary arrangement.

**Proposed Appointment:** Trustee in bankruptcy.

**Response:** An Insolvency Practitioner\* may normally accept an appointment as trustee in bankruptcy. However, the Insolvency Practitioner\* should consider whether there are any circumstances that give rise to an unacceptable threat to compliance with the fundamental principles.

\* See Definitions for Part D

### ***PART 3 - EXAMPLES IN RESPECT OF CASES CONDUCTED UNDER SCOTTISH LAW***

#### **400.87 *Sequestration following appointment as Trustee under a Trust Deed for creditors***

***Previous appointment:*** An individual within the practice\* has been trustee under a trust deed for creditors.

***Proposed appointment:*** Interim trustee or trustee in sequestration.

***Response*** An Insolvency Practitioner\* may normally accept an appointment as an interim trustee or trustee in sequestration. However, the Insolvency Practitioner\* should consider whether there are any circumstances that give rise to an unacceptable threat to compliance with the fundamental principles.

#### **400.88 *Sequestration where the Accountant in Bankruptcy is Trustee following appointment as Trustee under a Trust Deed for creditors***

***Previous appointment:*** An individual within the practice\* has been trustee under a trust deed for creditors.

***Proposed appointment:*** Agent for the Accountant in Bankruptcy in sequestration.

***Response:*** An Insolvency Practitioner\* may normally accept an appointment as agent for the Accountant in Bankruptcy. However, the Insolvency Practitioner\* should consider whether there are any circumstances that give rise to an unacceptable threat to compliance with the fundamental principles.

\* See Definitions for Part D

## ***DEFINITIONS***

|                                       |  |
|---------------------------------------|--|
| <i>Authorising body</i>               | <i>A body declared to be a recognised professional body or a competent authority under any legislation governing the administration of insolvency in the United Kingdom.</i>   |
| <i>Close or immediate family</i>      | <i>A spouse (or equivalent), dependant, parent, child or sibling.</i>  |
| <i>Entity</i>                         | <i>Any natural or legal person or any group of such persons, including a partnership.</i>  |
| <i>He/she</i>                         | <i>In this Code, he is to be read as including she.</i>  |
| <i>Individual within the practice</i> | <i>The Insolvency Practitioner*, any principals in the practice and any employees within the practice.</i>   |
| <i>Insolvency appointment</i>         | <i>A formal appointment:</i><br><i>(a) which, under the terms of legislation must be undertaken by an Insolvency Practitioner; or</i><br><i>(b) as a nominee or supervisor of a voluntary arrangement.</i>   |
| <i>Insolvency Practitioner</i>        | <i>An individual who is authorised or recognised to act as an Insolvency Practitioner in the United Kingdom by an authorising body*. For the purpose of the application of this Code only, the term Insolvency Practitioner also includes an individual who acts as a nominee or supervisor of a voluntary arrangement.</i>  |
| <i>Insolvency team</i>                | <i>Any person under the control or direction of an Insolvency Practitioner.</i>  |
| <i>Practice</i>                       | <i>The organisation in which the Insolvency Practitioner* practises.</i>   |
| <i>Principal</i>                      | <i>In respect of a practice*:</i><br><i>(a) which is a company: a director;</i><br><i>(b) which is a partnership: a partner;</i><br><i>(c) which is a limited liability partnership: a member;</i><br><i>(d) which is comprised of a sole practitioner: that person;</i><br><br><i>Alternatively any person within the practice* who is held out as being a director, partner or member.</i> |

\* See Definitions for Part D

### Comparison of services that accountancy firms can currently do with those they could do once licence is obtained

| <b>TAXATION SERVICES</b>  |   |
|---|---|
| <b>Services currently provided by accountancy firms</b>   | <b>Reserved legal activities that could be carried out if licensed</b>  |
| A. Conduct of litigation and rights of audience   | A. Conduct of Litigation and rights of audience   |
| 1. Civil procedure:   | 1. Civil procedure – county courts and High Court:  |
| <ul style="list-style-type: none"> <li>(a) Tax investigations</li> <li>(b) Tax Tribunal – first-tier and upper tribunal – Tax investigations and appeals of HMRC decisions</li> <li>(c) Contractual Disclosure Facility used by HMRC to investigate suspected cases of tax fraud under Code of Practice 9.</li> </ul>                                     | <ul style="list-style-type: none"> <li>(a) HMRC litigation proceedings in civil courts to recover tax debt. This can be by way of civil litigation proceedings and/or insolvency proceedings depending on the amount of the debt.</li> <li>(b) Defending civil proceedings under the Proceeds of Crime Act 2002 Part 5 - referred by HMRC to the Serious Organised Crime Agency for recovery of proceeds of crime relating to 'VAT Carousel Fraud'</li> </ul> |
| 2. Criminal procedure:  | 2. Criminal procedure:  |
| <ul style="list-style-type: none"> <li>(a) Tax investigations</li> <li>(b) Contractual Disclosure Facility (CDF) used by HMRC to investigate suspected cases of tax fraud under Code of Practice 9.</li> <li>(c) Advising solicitors who are defending clients in criminal proceedings</li> <li>(d) Litigation/forensic support to prosecutors</li> </ul> | <ul style="list-style-type: none"> <li>(a) Representing clients in relation to cases involving tax fraud/evasion.</li> <li>(b) Strict liability offences (strict liability in the sense that no mens rea is required but there could be some limited statutory defences) for failure to disclose offshore income and or gains. [the Government is currently consulting on the details of these].</li> </ul>   |

|  |   |
|--|---|
| (e) Appearance in court as expert witness  |   |
| B. Reserved Instruments:   | B. Reserved Instruments:  |
| (a) Treasury functions – advice on investments and trusts                                    | <p>(a) Preparation of documents relating to court proceedings (unless, immediately before the appointed day, no restriction was placed on the persons entitled to carry on that activity).</p> <p>(b) Preparation of trust deeds</p> <p>[NB – Important driving factors in both the decision to create a trust and in the choice of trust are tax implications, in particular, inheritance tax]</p> |
| C. Notarial Services:  | C. Notarial Services:   |
| <p>(a) Transfer pricing</p> <p>(b) Estate administration</p> <p>(c) Indirect Taxes (VAT)</p> | <p>In relation to:</p> <p>(a) Transfer pricing</p> <p>(b) Estate administration for overseas property – tax issues</p> <p>(c) Indirect taxes (VAT)</p> <p>- translation and/or authentication of documentation</p>  |
| D. Administration of Oaths:  | D. Administration of Oaths:   |
| (a) Litigation support to solicitors – assisting with drafting of complex legal documents    | (a) Administering oaths (will complement litigation services)   |

## Entitlement to carry out a reserved legal activity

### INTRODUCTION

1. The question of whether a person (individual or body (corporate or unincorporated))<sup>1</sup> is entitled to carry on a reserved legal activity is governed solely by the provisions of the Legal Services Act 2007 (the Act)<sup>2</sup>. Section 13(2) states that a person is entitled to carry on a reserved legal activity where the person is an “authorised person” or an “exempt person” in relation to that reserved legal activity.
2. Under section 18 of the Act, an “authorised person” is:
  - (a) person who has been authorised to carry out the reserved legal activity by a relevant approved regulator; or
  - (b) a licensable body, which by virtue of its license<sup>3</sup>, is authorised to carry out the reserved legal activity by a licensing authority.
3. Section 20(6) of the Act states that: “An approved regulator may authorise persons to carry on any activity which is a reserved legal activity in respect of which it is a relevant approved regulator”.
4. An approved regulator is a “relevant approved regulator” in relation to a reserved legal activity if the approved regulator is designated by Part 1, or under Part 2 of Schedule 4 of the Act in relation to that reserved legal activity.<sup>4</sup>
5. An approved regulator is a “licensing authority” if it is designated as a licensing authority under Part 1 of Schedule 10 and whose licensing rules are approved for the purposes of the Act<sup>5</sup>
6. Therefore provided ICAEW’s applications to become an approved regulator under Part 2 of Schedule 4 of the Act, and to become a licensing authority under Part 1 of Schedule 10 of the Act, are approved, ICAEW may authorise and license persons (individuals and bodies) to provide all the further reserved legal activities of:
  - (a) Rights of audience
  - (b) Conduct of litigation
  - (c) Reserved instrument activities
  - (d) Notarial activities
  - (e) Administration of oaths

### ICAEW’S APPLICATION TO BECOME AN APPROVED REGULATOR AND LICENSING AUTHORITY FOR NOTARIAL SERVICES

#### The right to carry out notarial activities and their definition.

7. The Master of Faculties is currently the sole regulator appointed under Part 1 of Schedule 4 of the Legal Services Act 2007. However, as with all other reserved legal

<sup>1</sup> A “person“ is defined in section 2007 of the Legal Services Act 2007 as included “a body of persons (corporate and unincorporated).”

<sup>2</sup> Section 13(1) Legal Services Act 2007

<sup>3</sup> Granted under Part 5 of the Legal Services Act 2007

<sup>4</sup> Section 20(3)(a) of the Legal Services Act 2007

<sup>5</sup> Part 5 section 73(1)(b) of the Legal Services Act 2007



services, the right to carry out notarial services is governed solely by the Legal Services Act 2007 (section 13 of the Act), not the legislation relating to Public Notaries such as the Public Notaries Act 1801.

8. Notarial services are defined in the Act as activities which, immediately before the *appointed day*, were *customarily* carried on by virtue of enrolment as a notary in accordance with section 1 of the Public Notaries Act 1801 (c.79).
  - (a) “Appointed day” is defined in the Act as – “...the day appointed for the coming into force of section 13 (entitlement to carry on a reserved legal activity),” as outlined in paragraph 1 above.
  - (b) Section 1 of the Public Notaries Act 1801 (c.79) states: “From Aug. 1, 1801, no person in England shall act as a Publick Notary, unless duly admitted..

From and after the first day of August one thousand eight hundred and one, no person in England shall be created to act as a publick notary, F1..., unless such person shall have been duly sworn, admitted, and inrolled, F2 . . . in the court wherein notaries have been accustomedly sworn, admitted, and inrolled.”

9. Although section 1 states that no person can act as a notary without being admitted, the Legal Services Act does not appear to prevent someone who is not ‘admitted’ from carrying out notarial activities provided they are a person authorised by an approved regulator or licensing authority under the Act.
10. Therefore section 1 of the Public Notaries Act 1801 appears only to be relevant in so far as it assists in *defining* what notarial services are ie, the services that could be provided before section 13 of the Act came into force, by virtue of an a person’s enrolment as a notary in accordance with section 1 of the Public Notaries Act 1801,
11. Therefore provided ICAEW’s applications to become an approved regulator under Part 2 of Schedule 4 of the Act and a licensing authority under Part 1 of Schedule 10 of the Act are approved, ICAEW may authorise and license persons to provide the reserved legal activity of notarial services as defined in paragraph 8 above.

### Regulatory arrangements

12. Part 2 of Schedule 4 of the Act and Part 1 of Schedule 10 of the Act include the requirement that the applications be accompanied by the applicant’s proposed regulatory arrangements and licensing rules which must include regulations as to the education and training which persons must receive, and any other requirements which must be met by or in respect of them, in order for them to be authorised.
13. The Act states in section 21(1) that ....references to the “regulatory arrangements” of a body are to –
  - (a) Its arrangements for authorising persons to carry on reserved legal activities,
  - (b) Its arrangements (if any) for authorising persons to provide immigration advice or immigration services,
  - (c) Its practice rules,
  - (d) Its conduct rules,
  - (e) Its disciplinary arrangements in relation to regulated persons (including its discipline rules),
  - (f) Its qualification regulations,
  - (g) Its indemnification arrangements,

- (h) Its compensation arrangements,
- (i) Any of its other rules or regulations (however they may be described), and any other arrangements, which apply to or in relation to regulated persons, other than those made for the purposes of any function the body has to represent or promote the interests of persons regulated by it, and
- (j) Its licensing rules (if any), so far as not within paragraphs 9a) to (i), (whether or not those arrangements, rules or regulations are contained in, or made under, an enactment.

14. Therefore, an important part of these regulatory arrangements are;

- its regulations as to the education and training which persons must receive, and any other requirements which must be met by or in respect of them, in order for them to be authorised; and
- its rules as to the conduct required of persons in carrying on any activity by virtue of the authority to conduct the reserved legal activity.

### Qualification arrangements

15. As set out in ICAEW's Authorisation and Qualification Framework (Annex 2) the proposed qualification requirements for applicants applying to ICAEW to conduct notarial activities will be those set out in paragraph 12(4) of Part 2 of Schedule 5 of the Act (which relates to the transitional arrangements) namely:

An applicant who is a notary and who either –

- '(a) has in force a practising certificate as a solicitor issued under the Solicitors Act 1974 (c.47), and is duly entered in the Court of Faculties of the Archbishop of Canterbury in accordance with rules made by the Master of the Faculties, or
- (b) has in force a practising certificate as a public notary issued by the said Court of Faculties in accordance with rules so made.

16. We are confident that this will assure the Legal Services Board and also the Master of Faculties that notaries working within an ICAEW accredited entity would be:

- (a) qualified to and therefore able to work at the same standard as those working in entities regulated by the Master of Faculties; and
- (b) be subject to the same professional rules of practice and conduct as notaries working in entities regulated by the Master of Faculties (subject to any regulatory conflict (please see below));

17. This will also ensure that ICAEW complies with the professional principals of the Act, as set out in section 1 paragraph (3) namely:

- (a) that authorised persons should act with independence and integrity
- (b) that authorised persons should maintain proper standards of work,
- (c) that authorised persons should act in the best interests of their clients, and
- (d) that the affairs of clients should be kept confidential

### Regulatory conflict

18. Section 21 of the Act states that a Regulatory Arrangement includes a body's practice rules and section 52 of the Act states that:
- (1) The regulatory arrangements of an approved regulator must make such provision as is reasonably practicable to prevent regulatory conflicts
  - (2) For the purposes of this section and section 53, a regulatory conflict is a conflict between -
    - (a) A requirement of the approved regulator's regulatory arrangements, and
    - (b) A requirement of the regulatory arrangements of another approved regulator.
19. If ICAEW's application to regulate notarial services, as an approved regulator and licensing authority, is approved, it is our intention to work closely with the Master of Faculties (and, if necessary other approved regulators for example the Solicitors Regulation Authority), to ensure, as much as is reasonably practicable, that there is no regulatory conflict.
20. ICAEW is aware that the duties of notaries are largely regulated by rules made by the Master of Faculties under the authority granted by s.57 of the Courts and Legal Services Act 1990. This is confirmed in the key publication that notaries refer to, namely "Brooke's Notary" which states that "...pursuant to this section, the Master has made rules relating, inter alia, to the practice and conduct of notaries, the keeping of records and accounts and the handling by notaries of clients' moneys.
21. ICAEW has reviewed these rules made by the Master of Faculties, and most particularly, the Notaries Practice Rules 2014, and can see nothing in these rules which would prevent a notary from working in an entity regulated by ICAEW, whether as a "principal" as defined in our draft Legal Services Regulations (Annex 1) or as an employee of such an entity.
22. Although paragraph 11.1 of the Notaries Practice Rules 2014 states:
- "Save as permitted by rule 11.2 a notary who is the employee of a non-notary shall not perform any notarial act as part of his employment or do or perform any notarial act for his employer or his employer's holding, associated or subsidiary company."
- Paragraph 11.2 states:
- "A notary may act for a person who is also the client of a qualified legal practitioner or firm of qualified legal practitioners by which he is employed but he shall take all proper and reasonable steps in the exercise of his notarial practice to maintain his independence of his employer and in particular he shall:
- 11.2.1 ensure that his independence and integrity as a notary is fully recognised in writing in any contract of employment entered into by him; and
  - 11.2.2 annually send to his employer a written statement of professional independence in a form approved by the Master from time to time, and shall declare in his application for a notarial practising certificate that he has complied with this rule."

23. Therefore as:

- (a) a “qualified legal practitioner” is defined in these rules as: “a person qualified to provide legal services to the public in England and Wales”; and
- (b) a “firm” is defined in these rules as including “a sole practitioner and professional partnership (which expression shall include a limited liability partnership and any other body corporate) the members of which are authorised to conduct legal practice as such.”;

Rule 11.2 appears to allow a notary to be employed by a firm (“a firm of qualified legal practitioners”) authorised by ICAEW to provide notarial services under our proposed Legal Services Regulation 2.2;

24. Furthermore, as:

- (a) a “qualified legal practitioner” is defined in these rules as –“a person qualified to provide legal services to the public in England and Wales”; and
- (b) a “person” is defined as including a “body corporate or unincorporated association or group of person”:

25. Rule 11.2 appears to also allow a notary to be employed by a firm “licensed by ICAEW to provide notarial services as such a licensed entity would be a “person (which includes a body corporate or unincorporated association or group of person, in addition to an individual) qualified to provide legal services to the public in England and Wales

26. The Notaries Practice Rules 2014 also appear to allow notaries to carry on business with others (who are not their employers) provided they comply with their duty to “Act impartially in respect of Notarial Acts” and in particular must not perform any notarial act which involves or may affect:

- his own affairs, including matters in which he is personally interested jointly with another person;
- the affairs of his spouse or partner or a person to whom the notary is engaged to be married (for the purpose of this sub-rule, “partner” means a person with whom the notary cohabits or with whom he has a sexual relationship and includes a partner of the same sex);
- the affairs of a person to whom he is directly and closely related;
- the affairs of a person with whom he is in a professional partnership or by whom he is employed or from whom he receives a benefit by being provided with office accommodation or other facilities for his notarial practice;
- the affairs of a person who has appointed the notary to be his attorney which concern a matter within the scope of the power of attorney granted;
- the affairs of a trust of which he is a trustee or of an estate where he is a personal representative of the deceased;
- the affairs of a body corporate of whose board of directors or governing body he is a member;
- the affairs of an employee of the notary;
- the affairs of a partnership of which he is a member or of a company in which the notary holds shares either exceeding five percent of the issued share capital or having a market value exceeding such figure as the Master may from time to time specify.

27. Should this interpretation of the Notaries Practice Rules 2014 be challenged and it is asserted that the Notarial Practice Rules 2014 and/or any other of the regulatory arrangements of the Master of Faculties, prevent persons authorised to conduct notarial activities from working in an entity either authorised and/or licensed by ICAEW under regulations 2.2 and 2.3 of our proposed Legal Services Regulations (Annex XX). We would assert in response that such regulatory arrangements would be in breach of the Master of Faculties duties (as an approved regulator) under the Legal Services Act to - promote the regulatory objectives of the Act (section 28) – most particularly relating to:
- improving access to justice
  - promoting competition in the provision of services within subsection (2);
  - encouraging an independent, strong, diverse and effective legal profession
28. Furthermore, creating regulatory arrangements which prevent an approved regulator and licensing authority which has received designation to authorise persons to conduct notarial activities from regulating those activities would frustrate the intentions of the Legal Services Act 2007.
29. Should such conflict occur, as stated above, we will work closely with the Master of Faculties to ensure, as much as is reasonably practicable, that this regulatory conflict is removed. However, we are aware that, if this does not prove possible or practicable, section 52 of the Act states that:
- ‘(3) Subsection (4) applies where a body is authorised by an approved regulator (“the entity regulator”) to carry out an activity which is a reserved legal activity.
- (4) If a conflict arises between –
- (a) A requirement of the regulatory arrangements of the entity regulator, in relation to the body authorised by the entity regulator or an employee or manager of the body (“an entity requirement”), and
- (b) A requirement of the regulatory arrangements of another approved regulator in relation to an employee or manager of the body who is authorised by it to carry on a reserved legal activity (“an individual requirement”)
- The entity requirement prevails over the individual requirement’.
30. Furthermore, as stated in section 12 of this application, since 2010 we have been involved in an inter-regulator working group that has been considering the issues around regulatory conflict in multi-disciplinary practices and ABS. This has led to the creation of a Multi-Disciplinary Practices Framework MoU, a copy of which is contained in Annex 24. We are a signatory to this MoU, which provides a framework for cooperation, coordination and the exchange of information between regulators and professional bodies. Although a non-binding document, it sets out a statement of intent comprising principles to which all signatories agree to adhere, as far as they practically and lawfully can. These include the principles that regulators and professional bodies should:
- work together to establish arrangements to prevent and resolve regulatory conflicts;
  - work together to agree common standards of regulation;
  - share information where it is lawful and in the public interest to do so;

- cooperate and coordinate investigation to ensure that regulatory costs and duplication are minimised as far as possible; and
  - ensure client money and the financial interests of consumers are protected.
31. If an individual working within an ICAEW accredited firm is, or may be, in breach of our regulatory arrangements, we will liaise, and coordinate our investigations, with the relevant approved regulator. Although it is generally anticipated under the MoU that the entity regulator will lead investigations in these circumstances, we will approach the relevant approved regulator to discuss the process and determine who should lead the investigation. We will seek, where possible, to resolve any regulatory conflicts, and will share with other regulators the outcome of our investigations. Where possible, we will admit information obtained from other regulators within our own disciplinary processes.



## APPLICATION TO APPOINT: AUTHORISED INDIVIDUAL HEAD OF LEGAL PRACTICE; OR HEAD OF FINANCE AND ADMINISTRATION

### Introduction

This form is for accredited probate firms that wish to appoint a new authorised individual. An authorised individual is an individual who is authorised to conduct, or control the undertaking of, probate work on behalf of an accredited probate firm.

The form is also for licensed firms seeking to appoint a Head of Legal Practice (HoLP) or a Head of Finance and Administration (HoFA).

An application is needed even if the individual was previously approved as an authorised individual in another accredited probate firm, or if the individual was previously appointed as HoLP or HoFA in a firm licensed to carry on reserved legal activities under the Legal Services Act 2007 (the Act).

An accredited probate firm is either:

- an **authorised firm**: all principals\* (ie, directors, partners or members of an LLP) and shareholders need to be individually authorised to conduct probate work; or
- a **licensed firm**: not all principals or shareholders of the firm are authorised, although at least one principal must be.

\* If you are applying to become an accredited firm, and if a principal of your firm is a corporate body, please call + 44 (0)1908 546 302 for further information.

An accredited probate firm must appoint a contact partner. If that accredited probate firm is a licensed firm, this will be the HoLP. A licensed firm must also appoint a HoFA.

The duties and responsibilities of an authorised individual, a HoLP or a HoFA are set out in the Probate Regulations.

Before an individual can act as an authorised individual, HoLP or HoFA, they must apply to ICAEW. The individual may not act as an authorised individual, HoLP or HoFA until the firm has received formal notification from ICAEW that their application has been approved.

If this application is for authorised individual status and the individual's probate qualification makes them eligible to apply under probate regulation 4.1(c) (section 3 (c) of this form), you must include a basic Disclosure and Barring Service check for the individual (see [www.disclosurescotland.co.uk](http://www.disclosurescotland.co.uk)) which was made within three months of the date of the application. If the application is for HoLP or HoFA a standard check will need to be carried out for which a fee is payable by you. We will undertake such checks.

### How to complete this application form

|  |  |
|--|--|
| The firm's contact partner (who will be the HoLP in a licensed firm)       | should complete sections 1 – 4 on the firm's behalf and sign section 9.                              |
| If a firm is applying to become accredited for probate for the first time, | the individual who is proposed to act as the contact partner or HoLP should complete sections 1 - 4. |
| The individual to be appointed   | should complete sections 5 – 8 and sign section 10.  |

Where necessary, we give guidance before the section. Please read this before you complete the question.

Fill in this form electronically, using the TAB key to move from one answer to the next. If you need more space for an answer, please attach additional sheets.

If you have any questions as you fill in the form, please call +44 (0)1908 546 302. This may avoid delays in dealing with your application.

## 1 Firm details

|             |     |
|-------------|-----|
| Firm name   |     |
| Firm number | C00 |

## 2 Individual to be appointed

**Authorised individuals (AIs):** the individuals who can undertake, or control the undertaking of, probate work on the firm's behalf. Only principals and employees can be AIs, not consultants or subcontractors.

**Head of Finance and Administration (HoFA):** the individual appointed by a licensed firm and who is responsible for taking all reasonable steps to ensure that the firm complies with the requirements in regulation 3.8 (clients' assets) and who is not disqualified under the Legal Services Act 2007 from acting as a HoFA and who must report any breach of those requirements to ICAEW as soon as reasonably practicable.

**Head of Legal Practice (HoLP):** the authorised individual appointed by a licensed firm who is responsible for taking all reasonable steps to ensure that:

- the licensed firm and its principals and employees comply with their duties under these regulations (other than regulation 3.8); and
- non-authorised persons do not do anything which causes or substantially contributes to any breach of these regulations by the firm or by any authorised person who is a principal or employee of the firm;

and who is not disqualified under the Legal Services Act 2007 from acting as a HoLP and who must report any breach of those requirements to ICAEW as soon as reasonably practicable.

For definitions of a HoFA and a HoLP, please see section 1 of the Probate Regulations which can be found at: [icaew.com/probate](http://icaew.com/probate).

In relation to licensed firms, the Act requires the HoLP to be an authorised individual. There is no requirement for the HoFA to be an authorised individual, although it is generally expected that they will hold an appropriate accountancy or finance qualification.

Professional body: if the individual is a member of a professional body please give the name.

|   |                                    |                          |
|---|------------------------------------|--------------------------|
| Which status is this application for?                       | Authorised individual              | <input type="checkbox"/> |
|   | Head of Legal Practice             | <input type="checkbox"/> |
|   | Head of Finance and Administration | <input type="checkbox"/> |
| Name  |                                    |                          |
| Name of professional body                                   |                                    |                          |
| Professional body member number (if known)                  |                                    |                          |
| Individual's email address                                  |                                    |                          |
| Individual's address  |                                    |                          |
| Address of firm's office that individual will be located at |                                    |                          |
| Date of birth   |                                    |                          |
| Is this individual  | a principal in the firm?           | <input type="checkbox"/> |
|   | an employee?                       | <input type="checkbox"/> |
| If an employee, who do they report to?                      |                                    |                          |
| Does this individual hold a practising certificate?         | Select Y/N                         |                          |



### 3. Qualifications

Applicants for designation as Authorised Individual (AI) and Head of Legal Practice (HoLP) (who must also be an AI) should complete this section.

#### (a) Applications under regulation 4.1(a)

An individual who is a member of ICAEW (or other eligible accountancy body<sup>1</sup>) who has attended a course and passed an assessment which covered at least the subjects set out in regulation 4.1(a).

Please give details of:

|   |  |
|---|--|
| the title of the course attended  |  |
| the provider of the course  |  |
| the length of the course (if studied by webinar please state)   |  |
| the content of the course   |  |
| how the course was assessed   |  |
| the provider of the assessment  |  |
| the pass mark of the assessment   |  |
| the mark the individual was awarded for the assessment  |  |
| Please attach the individual's certificate confirming that they have passed the assessment  |  |
| Details of the experience the individual has had in relation to wills, probate and estate administration (if any) over the last 24 months |  |

#### (b) Applications under regulation 4.1(b)

An individual who holds a qualification issued or recognised by an approved regulator (other than ICAEW) that entitles the individual to undertake probate work.

|  |  |
|--|--|
| Qualification held by individual   |  |
| The approved regulator that issued or approved the qualification   |  |
| Date the qualification was granted   |  |
| Please attach the individual's certificate confirming that they have been awarded the qualification  |  |
| Details of the experience the individual has had in relation to wills, probate and estate administration (if any) over the last 24 months. |  |

---

<sup>1</sup> Institute of Chartered Accountants of Scotland;  
Chartered Accountants Ireland;  
Institute of Chartered Accountants in Australia;  
New Zealand Institute of Chartered Accountants;  
South African Institute of Chartered Accountants; Institute of Chartered Accountants of Zimbabwe;  
Canadian Institute of Chartered Accountants

**(c) Applications under regulation 4.1(c)**

An individual who is otherwise qualified to undertake probate work so as to satisfy ICAEW that it should approve their designation as an authorised individual.

Please give details of:

|  |                          |
|--|--------------------------|
| the course or qualification attended/held by the individual  |                          |
| the provider of the course or body which issued or approved the qualification  |                          |
| the date the individual attended the course or the date the qualification was granted  |                          |
| the course or qualification content (continue on a separate sheet if necessary)  |                          |
| how the course or qualification was assessed   |                          |
| name of assessment provider  |                          |
| the pass mark of the assessment  |                          |
| the mark that you were awarded for the assessment  |                          |
| How many additional sheets have you attached?  |                          |
| Please attach the individual's certificate confirming that they have passed the assessment   |                          |
| Details of the experience the individual has had in relation to wills, probate and estate administration (if any) over the last 24 months  |                          |
| How many additional sheets have you attached?  |                          |
| I have provided evidence that the individual's qualification covers all the Probate Regulation 4.1c qualification criteria except: <ul style="list-style-type: none"><li>• The Legal Services Act 2007 and how it applies to probate work (1.1) and</li><li>• ICAEW guide to dealing with vulnerable clients (2.8)</li></ul> I therefore confirm that the individual has read and understood the information relating to these two criteria. These can be found in the further information section on <a href="http://icaew.com/probate">icaew.com/probate</a> | <input type="checkbox"/> |

**(d) Applicants for designation as Head of Finance and Administration (HoFA)**

|   |  |
|---|--|
| Qualification held by individual  |  |
| Qualification granted by  |  |
| Date the qualification was granted  |  |
| Please attach the individual's certificate confirming that they have been awarded the qualification |  |

#### 4. Maintaining competence

|   |                          |
|---|--------------------------|
| Please mark those activities which are, or will be, used by the individual to maintain competence and keep up to date on probate legislation, regulation and related matters. |                          |
| Online/e-learning   | <input type="checkbox"/> |
| DVD subscription  | <input type="checkbox"/> |
| Update services   | <input type="checkbox"/> |
| In-house courses  | <input type="checkbox"/> |
| In-house technical discussion groups  | <input type="checkbox"/> |
| Training consortium or another firm's in-house courses  | <input type="checkbox"/> |
| ICAEW or district society courses   | <input type="checkbox"/> |
| Other commercial courses  | <input type="checkbox"/> |
| Local discussion groups   | <input type="checkbox"/> |
| Private reading: technical papers, accountancy journals, legal journals, articles, newsletters  | <input type="checkbox"/> |
| Access to technical library   | <input type="checkbox"/> |
| Focused discussion with more experienced colleagues   | <input type="checkbox"/> |
| Other (please give details)   | <input type="checkbox"/> |
| Will individual training records be maintained for the applicant?   | Select Y/N               |

The individual to be appointed should complete sections 5 to 8 as appropriate.

#### 5. Previous status (authorised individual and HoLP only)

| Have you previously been approved as an authorised individual or HoLP  |                        |                        |                               |   | Select Y/N |   |
|--|------------------------|------------------------|-------------------------------|---|------------|---|
| If 'Yes', please fill in one row for every firm in which you were authorised and indicate which body regulated the firm. If you ceased to be an authorised individual and/or HoLP more than six months ago, please give, on a separate sheet, a brief summary of the work you have undertaken in the intervening period (if any) and how you will ensure your probate knowledge is up to date. |                        |                        |                               |   |            |   |
| Firm name  | Firm number (if known) | Firm's regulatory body | Authorised individual or HoLP | Period as authorised individual or HoLP |            | Reason for ceasing as authorised individual or HoLP |
|  |                        |                        |                               | From (mm/yy)                            | To (mm/yy) |   |
|  |                        |                        |                               |   |            |   |
|  |                        |                        |                               |   |            |   |
|  |                        |                        |                               |   |            |   |
|  |                        |                        |                               |   |            |   |
|  |                        |                        |                               |   |            |   |

|   |  |
|---|--|
| How many additional sheets have you attached? |  |
|---|--|

**6. Previous status (HoFA only)**

|  |            |
|--|------------|
| Have you previously been approved as a HoFA? | Select Y/N |
|--|------------|

If 'Yes', please fill in one row for every firm in which you were the HoFA and indicate which body regulated the firm.

| Firm name | Firm number<br>(if known) | Firm's regulatory body | Period as HoFA |            | Reason for<br>ceasing as<br>HoFA |
|-----------|---------------------------|------------------------|----------------|------------|----------------------------------|
|           |                           |                        | From (mm/yy)   | To (mm/yy) |                                  |
|           |                           |                        |                |            |                                  |
|           |                           |                        |                |            |                                  |
|           |                           |                        |                |            |                                  |
|           |                           |                        |                |            |                                  |
|           |                           |                        |                |            |                                  |
|           |                           |                        |                |            |                                  |

## 7. Disqualification

|   |            |
|---|------------|
| Have you previously been disqualified from being a principal, employee, HoLP or HoFA of a firm eligible to be licensed under the Act?       | Select Y/N |
| If 'Yes', please give details of the dates you were disqualified, the reasons for disqualification, and whether you are still disqualified. |            |

## 8. Fit and proper

The Act requires individuals to be fit and proper to carry out probate work. An individual who is to be appointed as a HoLP, HoFA or AI must satisfy ICAEW that they are fit and proper.

If you have any doubts about your fit and proper status, please call +44 (0)1908 546 302 for advice.

If you answer 'Yes' to any question in this section, you will **not** automatically be refused approved status. The Probate Committee may, however, wish to make further enquiries before reaching a decision.

If the Probate Committee subsequently finds out about any matters which you did not disclose, this will be viewed very seriously. It could jeopardise your approved status.

If you answer 'Yes', you will need to give further details on a separate sheet.

Questions 1 – 10 apply to the individual to be appointed as an authorised individual, HoLP or HoFA. Questions 11 – 15 apply to the individual's current firm and any previous firms (including sole practices) in which the individual was a principal at the time any of the listed events occurred.

The word 'firm' indicates all sole practitioners; principals; sole directors; sole shareholders of a corporate practice; authorised individuals and previous practices.

Applicants for AI status and firms only **do not** need to mention cautions or offences that are spent for the purposes of the Rehabilitation of Offenders Act 1974 or offences committed before the age of 17 (unless committed within the last 10 years). There is no need to mention road traffic offences that did not lead to a prison sentence.

Applicants for HoLP and HoFA should answer all questions and disclose spent convictions and cautions **but should not** disclose protected\* cautions or convictions or road traffic offences that did not lead to a prison sentence.

\*The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (as amended) was amended in May 2013 to bring it in line with the European Convention on Human Rights. The main changes were the introduction of 'protected' cautions and convictions. As a result of the changes, questions we ask about convictions and cautions do not apply to protected cautions and convictions. Failure to disclose such convictions and cautions cannot be considered as prima facie evidence of dishonesty. The Disclosure and Barring Service (DBS) will filter any protected convictions and cautions, so they will not appear on standard disclosures.

Guidance and criteria on the filtering of these cautions and convictions can be found on the Disclosure and Barring Service website at [gov.uk/government/publications/dbs-filtering-guidance](http://gov.uk/government/publications/dbs-filtering-guidance)

| <b>Financial integrity and reliability</b>   |            |
|--|------------|
| 1. Have you within the last 10 years, in the UK or elsewhere, failed to satisfy any debt adjudged due and payable by you as a judgment debtor under an order of a court in the United Kingdom or elsewhere; or made any compromise or arrangement with your creditors; or otherwise failed to satisfy creditors in full?               | Select Y/N |
| 2. Have you ever been declared bankrupt or been the subject of a bankruptcy court order in the United Kingdom or elsewhere, or has a bankruptcy petition ever been served on you?  | Select Y/N |
| 3. If 'Yes', has this order been discharged?   | Select Y/N |
| 4. Have you ever signed a trust deed for a creditor, made an assignment for the benefit of creditors, or made any arrangements for the payment of a composition to creditors?  | Select Y/N |
| <b>Convictions or civil liabilities</b>  |            |
| 5. Have you at any time been cautioned for, or pleaded guilty to, or been found guilty of, any offence?  | Select Y/N |
| If 'Yes', - in the case of a caution please give details of the offence and the date of the caution. In the case of a conviction, please give details of the court which convicted you, the offence, the penalty imposed and date of conviction. Please attach additional sheet if necessary.  |            |
| 6. Have you ever been the subject of any civil action relating to your professional or business activities which has resulted in a judgment or finding against you by a court, or a settlement (other than a settlement consisting only of the dismissal by consent of a claim against you and the payment of its costs) being agreed? | Select Y/N |
| 7. Have you ever been disqualified by a court from being a director, or from acting in the management or conduct of the affairs, of any company?   | Select Y/N |
| <b>Good reputation and character</b>   |            |
| 8. Have you ever been:   |            |
| a. refused (or been a principal in a firm that has been refused) the right or been restricted in the right to carry on any trade, business or profession for which a specific licence, registration or other authority is required;  | Select Y/N |
| b. investigated about allegations of misconduct or malpractice in connection with your professional activities which resulted in a formal complaint being proved but no disciplinary order being made;   | Select Y/N |
| c. the subject of disciplinary procedures by a professional body or employer resulting in a finding against you;   | Select Y/N |
| d. reprimanded, excluded, disciplined or publicly criticised by any professional body which you belong to or have belonged to;   | Select Y/N |
| e. refused entry to or excluded from membership of any profession or vocation;   | Select Y/N |
| f. dismissed from any office or employment or asked to resign from any office, employment or firm;   | Select Y/N |
| g. reprimanded, warned about future conduct, censured, disciplined, or publicly criticised by any regulatory body, or any officially appointed enquiry or any other body   | Select Y/N |

|   |            |
|---|------------|
| concerned with the regulation of a financial, professional or other business activity;  |            |
| h. the subject of a court order at the instigation of any regulatory body, or any officially appointed enquiry concerned with the regulation of a financial, professional or other business activity? | Select Y/N |
| 9. Are you currently undergoing any investigation or disciplinary procedures as described above?  | Select Y/N |

Questions 10 – 15 apply to your current firm and any previous firms (including sole practices) in which you were a partner, member, director or shareholder at the time any of the listed events occurred.

| <b>Financial integrity and reliability</b>  |               |
|---|---------------|
| 10. In the last 10 years did any such firm make any compromise or arrangement with its creditors, or otherwise fail to satisfy creditors in full?   | Select Y/N    |
| 11. In the last 10 years was any such firm the subject of any insolvency proceedings?   | Please select |
| <b>Civil liabilities</b>  |               |
| 12. In the last five years, was any such firm the subject of any civil action relating to its professional or business activities which resulted in a judgment or finding against it by a court, or a settlement (other than a settlement consisting only of the dismissal by consent of a claim against it and the payment of its costs) being agreed? | Please select |
| <b>Good reputation and character</b>  |               |
| 13. In the last 10 years, was any such firm:  |               |
| a. convicted by a court of any criminal offence;  | Please select |
| b. refused or restricted in the right to carry on any trade, business or profession for which a specific licence, registration or other authority is required;  | Please select |
| c. refused entry to any professional body or trade association, or did it decide not to continue with an application;   | Please select |
| d. reprimanded, warned about future conduct, disciplined or publicly criticised by any professional or regulatory body;   | Please select |
| e. made the subject of a court order at the instigation of any professional or regulatory body;   | Please select |
| f. investigated on allegations of misconduct or malpractice in connection with its professional or business activities that resulted in a formal complaint being proved but no disciplinary order being made?   | Please select |
| 14. Is any such firm currently undergoing any investigation or disciplinary procedures as described above?  | Please select |
| 15. Is there any other information relevant to any of the above questions, which you wish to disclose to ICAEW? If 'Yes', please supply details on a separate sheet.  | Please select |

## 9. Signature and confirmation of the contact partner or Head of Legal Practice

I certify that, to the best of my knowledge and belief, the information in or provided with this application is a true and accurate statement of the firm's and the individual's circumstances.

I confirm that the individual named in this application:

- has been proposed as an authorised individual or HoLP or HoFA by me in my capacity as the contact partner of the firm whose name is given in section 1;
- is fit and proper to be a HoLP, HoFA or authorised individual (as appropriate); and
- is not able to act as a HoLP, HoFA or authorised individual until the firm has received formal notification from ICAEW that this application has been approved.

If the application is for the appointment of an authorised individual, I confirm that the named individual:

- is competent to conduct, and control the undertaking of, probate work; and
- is required by the firm to plan and control any probate work undertaken at the firm.

If the application is for the appointment of a HoLP or HoFA, I confirm that the named individual:

- is competent to undertake this role;
- is of sufficient seniority to ensure that their instructions in relation to probate work are acted upon by the firm's principals and employees; and
- will have the freedom to report any breach of the Probate Regulations to ICAEW.

If this application is approved, I confirm that the individual will, at all times, be required to comply with the Probate Regulations.

I understand that none of ICAEW, its officers, staff, members of its Council or committees, their servants or agents can be held liable to the firm, a person, or an individual, in damages for any act or omission arising out of the performance of any of their functions under the Legal Services Act 2007, or connected with the granting of authorisation or a licence, the enforcement of the probate regulations or the monitoring of compliance with the probate regulations in any respect, unless the act or omission is shown to have been in bad faith.

Signature of the contact partner or Head of Legal Practice \_\_\_\_\_

Name

Date

Signature of the Managing or Senior Partner (if different to Contact Partner) \_\_\_\_\_

Name

Date

## 10. Signature and confirmation of the individual to be appointed

I certify that, to the best of my knowledge and belief, the information in or provided with this application is a true and accurate statement of my circumstances.

If this application is approved, I undertake that I will, at all times, comply with the Probate Regulations.

I understand that, if I leave this firm, my status will cease. If I join another firm and intend to carry out work as a HoLP, HoFA or authorised individual, I will need to submit a fresh application.

I acknowledge that ICAEW may make enquiries of or about me as it deems necessary, including carrying out verification checks of the information contained in this application.

I acknowledge that, if applying for Authorised Individual status under regulation 4.1(c) (section 3(c) of this form), I must include a Disclosure and Barring Service check (see [gov.uk/disclosure-barring-service](http://gov.uk/disclosure-barring-service)) which was made within three months of the date of this application.

I acknowledge that, if applying for HoLP or HoFA status, ICAEW will undertake a Disclosure and Barring Service check on me.

I understand that none of ICAEW, its officers, staff, members of its Council or committees, their servants or agents can be held liable to the firm, a person, or an individual, in damages for an act or omission arising out of the performance of any of their functions under the Legal Services Act 2007, or connected with the



granting of authorisation or a licence, the enforcement of the Probate Regulations or the monitoring of compliance with the Probate Regulations in any respect, unless the act or omission is shown to have been in bad faith.

Signature of individual to be appointed \_\_\_\_\_

Name

Date

**11. Checklist**

Before you return the completed application form, please check you have:

|   |                          |
|---|--------------------------|
| • answered every question;  | <input type="checkbox"/> |
| • checked that sections 9 and 10 have been signed;  | <input type="checkbox"/> |
| • made a copy of the completed form for your records  | <input type="checkbox"/> |
| • attached all additional sheets ; and  | <input type="checkbox"/> |
| • included a Disclosure and Barring Service check for any authorised individual applying under probate regulation 4.1(c) (section 3(c) of this form). | <input type="checkbox"/> |

Now return your signed and completed form with any additional sheets to:

Regulatory Support  
ICAEW  
Metropolitan House  
321 Avebury Boulevard  
Milton Keynes  
MK9 2FZ UK

We will send you an acknowledgement as soon as we receive your application.

** Using your personal information**

We will treat any personal information collected on this form in accordance with data protection legislation. We will use your information to carry out our responsibilities as a regulator and as a professional body. To do this, we will share your information with other organisations as required by law.

We may transfer your information outside the European Economic Area (EEA) eg, to one of our offices. These countries may not have similar data protection laws to the EEA so, if we do transfer your information, we will take the necessary steps to ensure that your privacy rights are still protected.

For more information about our data protection policy, please go to [icaew.com/dataprotection](http://icaew.com/dataprotection).



## APPLICATION FOR PROBATE AFFILIATE STATUS

All principals (ie, partners, members of an LLP or directors) in a firm accredited for probate by ICAEW must be either:

- members of ICAEW;
- members of the Institute of Chartered Accountants of Scotland (ICAS);
- members of Chartered Accountants Ireland (CAI);
- members of another approved regulator under the Legal Services Act 2007 (the Act);
- accredited probate firms;
- registered auditors;
- DPB-licensed firms; or
- affiliates of ICAEW under the Audit, DPB, Insolvency or Use of the description regulations.

If the applicant is not one of the above, please submit an application form for each principal who is to become a probate affiliate.

### How to complete this application form

Fill in this form electronically, using the TAB key to move from one answer to the next. If you need more space for an answer, please attach additional sheets.

|  |   |
|--|---|
| The firm's contact partner (who will be the Head of Legal Practice in a licensed firm) | should complete sections 1 and 2 on the firm's behalf and sign section 8. |
| The person who is applying for probate affiliate status                                | should complete sections 3 and 4 and sign section 7.                      |
| The person's referees  | should complete and sign section 5.                                       |

Where necessary, we give guidance before each section. Please read this before you complete the questions in each section.

If you have any questions as you are filling in the form, please call +44 (0)1908 546 302. This may avoid delays in dealing with your application.

If you are a licensed firm, you should consider if you also need to make an application for approval of a non-authorised owner. You should refer to that application form to decide if the applicant for probate affiliate status is also a non-authorised owner (ie, partner, member of a LLP, director or shareholder) with a material interest.

If this application is for an individual who will be an authorised person, the Head of Legal Practice or the Head of Finance and Administration, you need to complete that application form as well.

## 1 Firm details

|             |     |
|-------------|-----|
| Firm name   |     |
| Firm number | C00 |

## 2 Details of principal (or body) applying for affiliate status

| ICAEW use A/   |  |                                     |  |
|--|--|-------------------------------------|--|
| Principal applying   |  | Corporate body applying             |  |
| Title (eg, Mr, Mrs, Ms, Dr)  |  | Name of firm                        |  |
| Surname of principal   |  | Firm address                        |  |
| First names of principal   |  |                                     |  |
| Date of birth of principal   |  |                                     |  |
| Address  |  |                                     |  |
| Home phone number  |  | Firm phone number                   |  |
| Email (this will give you access to <a href="http://icaew.com">icaew.com</a> ) |  | Companies House registration number |  |
| Address of firm's office at which affiliate will be located.                   |  |                                     |  |

### Corporate applicants

Please set out, on a separate sheet, the following details relating to the corporate applicant.

|  |  |
|--|--|
| <ul style="list-style-type: none"> <li>In the case of a limited company,</li> </ul>    | please provide: <ul style="list-style-type: none"> <li>the names and addresses of the directors; and</li> <li>the names and addresses of the shareholders and their percentage share of the company's shareholding.</li> </ul> |
| <ul style="list-style-type: none"> <li>For a limited liability partnership,</li> </ul> | please provide the names and addresses of the members and their percentage voting rights.  |
| <ul style="list-style-type: none"> <li>In all cases,</li> </ul>                        | please indicate which directors, shareholders or members are ICAEW members.  |

## 3 Previous affiliate status

|  |                      |
|--|----------------------|
| Has ICAEW granted affiliate status to this person or body on a previous occasion, eg, audit registration?      | Select Y/N from list |
| If 'Yes', please give details of the firm in which they were a principal and the dates they were an affiliate. |                      |
| Name of previous firm  |                      |
| Number of previous firm (if known)   | C00                  |
| Affiliate number (if known)  |                      |
| From   | DD MM YYYY           |
| To   | DD MM YYYY           |

#### 4 Fit and proper

Applicants for affiliate status are required to demonstrate that they are fit and proper.

Please answer the following questions and, if necessary, provide additional information in a covering letter or on a separate sheet. In the case of a corporate applicant, the answers should be for each shareholder, director or member.

There is no need to mention cautions or offences which are spent for the purposes of the Rehabilitation of Offenders Act 1974, offences committed before the age of 17 (unless committed within the last 10 years) or road traffic offences that did not lead to a prison sentence.

| Financial integrity and reliability |   |                  |
|-------------------------------------|---|------------------|
| 1                                   | Have you, within the last 10 years, in the UK or elsewhere, failed to satisfy any debt adjudged due and payable by you as a judgment debtor under an order of a court in the United Kingdom or elsewhere; or made any compromise arrangement with your creditors; or otherwise failed to satisfy creditors in full?                 | Select from list |
|                                     | If 'Yes', please give details.  |                  |
| 2                                   | Have you ever been declared bankrupt or been the subject of a bankruptcy order by a court in the United Kingdom or elsewhere; or has a bankruptcy order petition ever been served on you?   | Select from list |
|                                     | If 'Yes', please give details.  |                  |
|                                     | If 'Yes', has this order been discharged?   | Select from list |
| 3                                   | Have you ever signed a trust deed for a creditor, made an assignment for the benefit of creditors or made any arrangement for the payment of a composition to creditors?  | Select from list |
|                                     | If 'Yes', please give details.  |                  |
| Convictions or civil liabilities    |   |                  |
| 4                                   | Have you at any time been cautioned for or pleaded guilty to, or been found guilty of, any offences?  | Select from list |
|                                     | If 'Yes' - , - in the case of a caution please give details of the offence and the date of the caution. In the case of a conviction, - please give details of the court which convicted you, the offence, the penalty imposed and date of conviction and attach an additional sheet if necessary.                                   |                  |
| 5                                   | Have you ever been the subject of any civil action relating to your professional or business activities which has resulted in a judgment or finding against you by a court, or a settlement (other than a settlement consisting only of the dismissal by consent of a claim against you and the payment of its costs) being agreed? | Select from list |
|                                     | If 'Yes', please give details.  |                  |
| 6                                   | Have you ever been disqualified by a court from being a director, or from acting in the management or conduct of the affairs, of any company?   | Select from list |
|                                     | If 'Yes', please give details.  |                  |

| Good reputation and character |   |                  |
|-------------------------------|---|------------------|
| 7                             | Have you, in the United Kingdom or elsewhere, ever been refused (or been the principal in a firm that has been refused) the right or been restricted in the right to carry on any trade, business or profession for which a specific licence, registration or other authority is required?                                  | Select from list |
|                               | If 'Yes', please give details.  |                  |
| 8                             | Have you, in the United Kingdom or elsewhere, ever been the subject of an investigation into allegations of misconduct or malpractice in connection with your professional activities, which resulted in a formal complaint being proved but no disciplinary order being made?  | Select from list |
|                               | If 'Yes', please give details.  |                  |
| 9                             | Have you, in the United Kingdom or elsewhere, ever been the subject of disciplinary procedures against you resulting in a finding by a professional body or employer?   | Select from list |
|                               | If 'Yes', please give details.  |                  |
| 10                            | Have you, in the United Kingdom or elsewhere, ever been reprimanded, excluded, otherwise disciplined or publicly criticised by any professional body to which you belong or have belonged?  | Select from list |
|                               | If 'Yes', please give details.  |                  |
| 11                            | Have you, in the United Kingdom or elsewhere, ever been refused entry to, or excluded from, membership of any profession or vocation?   | Select from list |
|                               | If 'Yes', please give details.  |                  |
| 12                            | Have you, in the United Kingdom or elsewhere, ever been dismissed, or asked to resign, from any office, employment or firm?   | Select from list |
|                               | If 'Yes', please give details.  |                  |
| 13                            | Have you, in the United Kingdom or elsewhere, ever been reprimanded, warned about future conduct, censured, disciplined, or publicly criticised by, any regulatory authority, or any officially appointed enquiry, or any other body concerned with the regulation of a financial, professional or other business activity? | Select from list |
|                               | If 'Yes', please give details.  |                  |
| 14                            | Have you, in the United Kingdom or elsewhere, ever been the subject of a court order at the instigation of any regulatory body, or any officially appointed enquiry concerned with the regulation of a financial, professional or other business activity?  | Select from list |
|                               | If 'Yes', please give details.  |                  |
| 15                            | Are you currently undergoing investigation or disciplinary procedures as described in 8, 9 or 10?   | Select from list |
|                               | If 'Yes', please give details.  |                  |

Questions 16 – 21 apply to your current firm and any previous firms (including sole practices) in which you were a partner, member, director or shareholder at the time any of the events occurred.

| <b>Financial integrity and reliability</b> |   |                  |
|--|---|------------------|
| 16   | In the last 10 years, did any such firm make any compromise or arrangement with its creditors, or otherwise fail to satisfy creditors in full?  | Select from list |
|  | If 'Yes', please give details.  |                  |
| 17   | In the last 10 years, was any such firm the subject of any insolvency proceedings?  | Select from list |
|  | If 'Yes', please give details.  |                  |
| <b>Civil liabilities</b>                   |   |                  |
| 18   | In the last five years, was any such firm the subject of any civil action relating to its professional or business activities which resulted in a judgment or finding against it by a court, or a settlement (other than a settlement consisting only of the dismissal by consent of a claim against it and the payment of its costs) being agreed? | Select from list |
|  | If 'Yes', please give details.  |                  |
| <b>Good reputation and character</b>       |   |                  |
| 19   | In the last 10 years, was any such firm:  |                  |
|  | a. convicted by a court of any criminal offence;  | Select from list |
|  | b. refused or restricted in the right to carry on any trade, business or profession for which a specific licence, registration or other authority is required;  | Select from list |
|  | c. refused entry to any professional body or trade association, or did it decide not to continue with an application;   | Select from list |
|  | d. reprimanded, warned about future conduct, disciplined or publicly criticised by any professional or regulatory body;   | Select from list |
|  | e. made the subject of a court order at the instigation of any professional or regulatory body;   | Select from list |
|  | f. investigated on allegations of misconduct or malpractice in connection with its professional or business activities that resulted in a formal complaint being proved but no disciplinary order being made?   | Select from list |
| 20   | Is any such firm currently undergoing any investigation or disciplinary procedures as described above?  | Select from list |
|  | If 'Yes', please give details.  |                  |
| 21   | Is there any other information relevant to any of the above questions which you wish to disclose to ICAEW? If 'Yes', please supply details on a separate sheet.   | Select from list |
|  | If 'Yes', please give details.  |                  |

**Questions 22-26 apply to corporate body applicants only**

|    |   |                  |
|----|---|------------------|
| 22 | Has the corporate entity ever been the subject of an effective resolution passed by the shareholders (or, in the case of a limited liability partnership, by its members) for it to be wound up or had a winding-up order made against it on grounds of insolvency? | Select from list |
|    | If 'Yes', please give details.  |                  |
| 23 | Has the corporate entity ever had an administration order made against it on grounds of insolvency?   | Select from list |
|    | If 'Yes', please give details.  |                  |

|    |  |                  |
|----|--|------------------|
| 24 | Has the corporate entity ever had a receiver appointed by a creditor or by a court on the application of a creditor?   | Select from list |
|    | If 'Yes', please give details.   |                  |
| 25 | Has the corporate entity, in the United Kingdom or elsewhere, ever been refused the right or been restricted in the right to carry on any trade, business or profession for which a specific licence, registration or other authority is required? | Select from list |
|    | If 'Yes', please give details.   |                  |
| 26 | Is the corporate entity currently undergoing investigation or disciplinary procedures as described in 8, 9 or 10?  | Select from list |
|    | If 'Yes', please give details.   |                  |

## 5 Declaration by two chartered accountants

This declaration should be signed by the two most senior chartered accountant principals in the firm.

If there are only two principals in an applicant's firm, of whom one is the applicant, the chartered accountant principal and a member of ICAEW who is **not** an employee of the firm should sign the declaration and confirmation.

If the applicant is a corporate body, two independent chartered accountants will need to sign the declaration below rather than a principal within the company.

### First referee

|  |                  |
|--|------------------|
| I confirm that, in my opinion, the applicant is a fit and proper person to be granted probate affiliate status with ICAEW. |                  |
| Name   |                  |
| Firm name  |                  |
| Member body  | Select from list |
| Membership number  |                  |
| Date of qualification (dd/mm/yyyy)   |                  |
| I have known the applicant for   | years            |
| Signature  |                  |
| Date   |                  |

### Second referee

|  |                  |
|--|------------------|
| I confirm that, in my opinion, the applicant is a fit and proper person to be granted probate affiliate status with ICAEW. |                  |
| Name   |                  |
| Firm name  |                  |
| Member body  | Select from list |
| Membership number  |                  |
| Date of qualification (dd/mm/yyyy)   |                  |
| I have known the applicant for   | years            |

|           |            |
|-----------|------------|
| Signature |            |
| Date      | DD MM YYYY |

## 6 Signature and confirmations of the applicant for probate affiliate status

I hereby apply to the Council to be accepted as an affiliate of ICAEW under ICAEW's Probate Regulations.

I certify that the details provided in this application are correct.

I know of no reason why there should be any doubts regarding my being a fit and proper person to be an affiliate of ICAEW.

If accepted as an affiliate, I undertake to comply with the Royal Charter, bye-laws and regulations which, at the time of acceptance and thereafter, are in force.

In particular, I will:

- observe and uphold the ethical and professional standards of ICAEW;
- perform faithfully and promptly any service that I am retained or employed to undertake in my professional capacity;
- provide promptly and willingly all such information and assistance as I am able, if asked to do so by ICAEW in pursuance of its duties; and
- pay the appropriate annual affiliate fee when due.

I understand that I shall not be entitled to call myself a chartered accountant and that probate affiliate status does not confer any rights, acknowledgements, status or designatory letters on an affiliate or entitle an affiliate to be publicly represented as having such.

I acknowledge that, if accepted as a probate affiliate, I shall be subject to the disciplinary processes of ICAEW for any failure to comply with its bye-laws or regulations, or the undertakings in this application.

Signature

---

Full name of applicant

Date

DD MM YYYY

## 7 Signature and confirmations of the firm's contact partner or Head of Legal Practice (HoLP)

I certify that, to the best of my knowledge and belief, the information in or provided with this application is a true and accurate statement of the firm's and the individual's circumstances.

Signature

---

Full name of the firm's contact partner or HoLP

Date

DD MM YYYY

## 8 Additional notes

The Royal Charter, bye-laws, Probate Regulations and Guidance and Code of Ethics are published at [icaew.com/regulations](http://icaew.com/regulations). The probate contact partner or HoLP in your firm should keep a copy of the Probate Regulations and Guidance.



## 9 Submit your form

Save your completed form to your computer. Print a copy, sign it and send your application, together with a cheque payable to CHARTAC, to:

Regulatory Support  
ICAEW  
Metropolitan House  
321 Avebury Boulevard  
Milton Keynes  
MK9 2FZ  
UK

### Using your personal information

We will treat any personal information collected on this form in accordance with data protection legislation. We will use your information for administration, communication and research, so we will sometimes share it with our business partners. We will also use your information to carry out our responsibilities as a regulator and as a professional body. To do this, we will share your information with other organisations as required by law.

We may transfer your information outside the European Economic Area (EEA) eg, to one of our offices. These countries may not have similar data protection laws to the EEA, so if we do transfer your information, we will take the necessary steps to ensure that your privacy rights are still protected.

For more information about our data protection policy, please go to [icaew.com/dataprotection](https://www.icaew.com/dataprotection)



## APPLICATION TO APPROVE A NON-AUTHORISED OWNER OF A LICENSED FIRM

Please use this form to apply to ICAEW for approval of a person (either an entity or an individual) as a non-authorised owner (ie, partner or member of a LLP or shareholder) with a material interest in a licensed firm.

In accordance with the Legal Services Act 2007 (the Act) and the Probate Regulations, ICAEW is required to approve all 'owners' of a licensed firm who are not authorised to undertake probate work. This only applies in cases where the person (either on their own or together with their associates) holds, or intends to hold, a material interest in the firm or the parent undertaking of the firm. Such persons, together with their associates, need to be approved as 'fit to own' a material interest in a licensed firm. For definitions of a material interest and associates please see below.

A firm wishing to apply to ICAEW to become a licensed firm must be satisfied, and confirm to the ICAEW, that each non-authorised person with a material interest (together with their associates) is fit to own.

In addition, a firm that is already licensed must seek approval for any non-authorised person who, together with any associates, intends to hold a material interest in the firm.

A non-authorised owner is:

- a person who is a partner (including both salaried and equity partners);
- a member of a limited liability partnership;
- a director; or
- shareholder of a company;

who is not individually authorised to undertake probate work.

### Definition of material interest

A non-authorised owner holds a material interest in the licensed probate firm (the firm) if the person (together with any associates):

- holds at least 10% of the shares in the firm;
- is able to exercise significant influence over the firm's management by virtue of the person's shareholding in the firm;
- holds at least 10% of the shares in a parent undertaking (P) of the firm;
- is able to exercise significant influence over P's management by virtue of the person's shareholding in P;
- is entitled to exercise, or control the exercise of, voting power in the firm which, if it consists of voting rights, constitutes at least 10% of the voting rights in the firm;
- is able to exercise significant influence over the firm's management by virtue of the person's entitlement to exercise, or control the exercise of, voting rights in the firm;
- is entitled to exercise, or control the exercise of, voting power in P which, if it consists of voting rights, constitutes at least 10% of the voting rights in P; or  
is able to exercise significant influence over P's management by virtue of the person's entitlement to exercise, or control the exercise of, voting rights in P.

The above are all separate types of material interest. If a person holds more than one type of material interest, or subsequently acquires a different kind of interest, each type of material interest must be approved.

**Each person applying to be a non-authorised owner must complete a separate application form.**

**However, there's no need for an applicant's associate(s) to fill in any form. The applicant lists them in section 3 and the associate(s) simply sign(s) section 10 of the applicant's form.**

## Definition of associate

In determining if an interest is material, the interest held by a person in a firm will consist of the total of the interest held whether by that person and the interest held by any of their associates. 'Associate' is defined as:

- a. the person's spouse or civil partner;
- b. the person's child or stepchild if aged under 18;
- c. the trustee of any settlement under which the person has a life interest in possession;
- d. an undertaking of which the person is a director;
- e. any employee of the person;
- f. any partner in a firm (other than the licensed firm) of which the person is a partner;
- g. if the person is an undertaking, any director or subsidiary undertaking or any director or employee of such subsidiary undertaking;
- h. any person with whom the person has an agreement or arrangement regarding the acquisition, holding or disposal of any share or interest in the shareholding or voting rights referred to in the definition of material interest above; or  
any person with whom the person has an agreement or arrangement to act together in exercising their voting power in relation to the shareholding or voting rights referred to in the definition of material interest above.

If a person holds more than one type of material interest and has different associates for different types of interest, all must be listed.

Each associate, by virtue of Schedule 13 of the Act, effectively becomes a non-authorised person in their own right. **This form is designed to deal with their approval without the need for a separate form.**

If ICAEW has approved a non-authorised person to hold a specific type of material interest and that person then acquires a different kind of material interest, this needs to be approved by making a further application. No **approval** is needed if an existing material interest is increased or decreased but, under Probate Regulation 2.7I, notification is required.

An application is needed even if the person was previously approved as a non-authorised principal or shareholder of another licensed probate firm.

The firm may not conduct probate work until it has received formal notification from ICAEW that this application has been approved.

If the firm is already licensed and a person intends to hold a material interest in the firm, that person must be approved before the interest is acquired.

**We will carry out a standard Disclosure and Barring Service check on each person to be approved as a non-authorised owner listed in section 3 (not their associates). You will need to pay a fee for this check.**

### 1 How to complete this application form

|   |   |
|---|---|
| The Head of Legal Practice                  | should complete sections 2, 7 and 8 on behalf of the firm and sign section 8. |
| The person to be approved                   | should complete sections 3 to 6 and sign section 10.                          |
| Each associate of the person to be approved | should complete a copy of section 6 and sign section 10.                      |

Where necessary, we give guidance before each section. Please read the guidance before you complete the question.

Fill in this form electronically, using the TAB key to move from one answer to the next.

If you need more space for an answer, please attach additional sheets.

In these notes, the 'Act' refers to the Legal Services Act 2007.

If you have any questions as you fill in the form, please call +44 (0)1908 546 302. This may avoid delays in dealing with your application.

## 2 Firm details

|             |     |
|-------------|-----|
| Firm name   |     |
| Firm number | C00 |

## 3 Person to be approved

Please give details in the following table of the person to be approved as a non-authorized owner of a licensed firm and their associates (if any).

In the column 'Type of material interest', please enter the corresponding letter from the list on page 1 of this application form.

In the column 'Associate status', please enter the corresponding letter from the list on pages 1 and 2 of this application form.

The associate(s) will need to sign the confirmation at the end of this application

| Name | Address | Member no. | Email address | Date of birth | Type of material interest | Associate status | % of shares held | % of voting rights held |
|------|---------|------------|---------------|---------------|---------------------------|------------------|------------------|-------------------------|
|      |         |            |               |               |                           |                  |                  |                         |
|      |         |            |               |               |                           |                  |                  |                         |
|      |         |            |               |               |                           |                  |                  |                         |
|      |         |            |               |               |                           |                  |                  |                         |
|      |         |            |               |               |                           |                  |                  |                         |
|      |         |            |               |               |                           |                  |                  |                         |
|      |         |            |               |               |                           |                  |                  |                         |

|  |                  |
|--|------------------|
| Has any person in section 3 already been approved as a non-authorised owner or shareholder in this firm?   | Select from list |
| If 'Yes', please give the types of existing material interest that the applicant has in the firm. See the list on page 1 of this application form. |                  |

If any of the persons listed in the table above are corporate entities, please set out on a separate sheet, the following details relating to the entity:

|                                      |  |
|--------------------------------------|--|
| In the case of a limited company,    | <p>please provide:</p> <ul style="list-style-type: none"> <li>the names and addresses of the directors</li> <li>the names and addresses of the shareholders and their percentage share of the company's shareholding.</li> </ul> |
| For a limited liability partnership, | please provide the names and addresses of the members and their percentage voting rights.  |
| In all cases,                        | please indicate which directors, shareholders or members are ICAEW members.  |

#### 4 Other licensed firms

|   |                  |
|---|------------------|
| Has the applicant (or any associate) previously been an owner in another licensed firm? | Select from list |
|---|------------------|

If 'Yes', please fill in one row for every licensed firm in which the applicant (or any associate) was or is an owner.

| Firm name | Firm number (if known) | Firm's supervisory body | Period as a principal or shareholder |            |
|-----------|------------------------|-------------------------|--------------------------------------|------------|
|           |                        |                         | From (mm/yy)                         | To (mm/yy) |
|           |                        |                         |                                      |            |
|           |                        |                         |                                      |            |
|           |                        |                         |                                      |            |
|           |                        |                         |                                      |            |
|           |                        |                         |                                      |            |
|           |                        |                         |                                      |            |

## 5 Disqualification

The applicant to be approved must answer the following questions.

|   |                  |
|---|------------------|
| Have you (or any associate listed in section 3) previously been disqualified from being a principal, employee, Head of Legal Practice or Head of Finance and Administration in a licensed firm? | Select from list |
| Has a licensing authority ever objected to you (or any associate listed in section 3) holding a material interest in a licensed firm?   | Select from list |
| Has a licensing authority ever imposed conditions on you (or any associate listed in section 3) holding an interest in a licensed firm?   | Select from list |
| Have you (or any associate listed in section 3) ever acquired a material interest in a licensed firm that exceeds a limit specified in the licensing rules of its licensing authority?          | Select from list |
| Have you (or any associate listed in section 3) ever been disqualified as an authorised person?   | Select from list |
| If 'Yes', please give details of the dates of the licensing authority's decision(s); the reasons for the decision(s) and whether the restriction/disqualification is still in place.            |                  |

## 6 Fitness to own an interest in a licensed firm

All persons listed in section 3 must answer the following questions. **Please complete and submit a copy of this section for each person listed in section 3 with the name of the person at the top of the copy.**

The Act requires persons with an interest in accredited probate firms to be fit to own. A person who holds a material interest in a licensed firm must satisfy ICAEW that they are fit to own.

If you have any doubts about your fit and proper status, please call +44 (0)1908 248 250 for advice.

If you answer 'Yes' to any of the questions in this section, you will **not** automatically be refused authorised status. However, the Probate Committee may wish to make further enquiries before reaching a decision.

If the Probate Committee subsequently finds out about any matters which you did not disclose, this will be viewed very seriously.

**If you answer 'Yes', you will need to give further details on a separate sheet.**

All persons listed in section 3 must answer all questions.

**Associates** of persons to be approved as non-authorised owners do not need to mention offences which are spent for the purposes of the Rehabilitation of Offenders Act 1974, offences committed before the age of 17 (unless committed within the last 10 years) or road traffic offences that did not lead to a prison sentence.

**Persons to be approved as non-authorised owners** (not their associates) must disclose spent convictions and cautions **but should not** disclose protected\* cautions or convictions or road traffic offences that did not lead to a prison sentence.

\*The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (as amended) was amended in May 2013 to bring it in line with the European Convention on Human Rights. The main changes were the introduction of 'protected' cautions and convictions. As a result of the changes, questions we ask about convictions and cautions do not apply to protected cautions and convictions. Failure to disclose such convictions and cautions cannot be considered as prima facie evidence of dishonesty. The Disclosure and Barring Service (DBS) will filter any protected convictions and cautions, so they will not appear on standard disclosures.

Guidance and criteria on the filtering of these cautions and convictions can be found on the Disclosure and Barring Service website at [gov.uk/government/publications/dbs-filtering-guidance](http://gov.uk/government/publications/dbs-filtering-guidance)

|   |  |                  |
|---|--|------------------|
| Person's name   |  |                  |
| Questions 1 – 10 apply to the person to be approved as a non-authorised principal or shareholder. |  |                  |
| <b>Financial integrity and reliability</b>  |  |                  |
| 1.  | Have you, within the last 10 years, in the UK or elsewhere, failed to satisfy any debt adjudged due and payable by you as a judgment debtor under an order of a court in the United Kingdom or elsewhere; or made any compromise or arrangement with your creditors; or otherwise failed to satisfy creditors in full? | Select from list |
| 2.  | Have you ever been declared bankrupt or been the subject of a bankruptcy court order in the United Kingdom or elsewhere, or has a bankruptcy petition ever been served on you?   | Select from list |
| 3.  | If 'Yes', has this order been discharged?  | Select from list |
| 4.  | Have you ever signed a trust deed for a creditor, made an assignment for the benefit of creditors, or made any arrangements for the payment of a composition to creditors?   | Select from list |
| <b>Convictions or civil liabilities</b>   |  |                  |
| 5.  | Have you at any time pleaded guilty to, or been found guilty of, any offence?  | Select from list |

|  |                  |
|--|------------------|
| If 'Yes', please give details of the court which convicted you, the offence, the penalty imposed and date of conviction and attach additional sheets if necessary.   |                  |
| 6. Have you ever been the subject of any civil action relating to your professional or business activities which has resulted in a judgment or finding against you by a court, or a settlement (other than a settlement consisting only of the dismissal by consent of a claim against you and the payment of its costs) being agreed? | Select from list |
| 7. Have you ever been disqualified by a court from being a director, or from acting in the management or conduct of the affairs, of any company?   | Select from list |
| <b>Good reputation and character</b>   |                  |
| 8. Have you ever been disqualified by a court from being a director, or from acting in the management or conduct of the affairs of any company?  | Select from list |
| 9. Have you ever been:   |                  |
| a. refused the right, or been restricted in the right, to carry on any trade, business or profession for which a specific licence, registration or other authority is required or decided not to continue with an application;   | Select from list |
| b. investigated about allegations of misconduct or malpractice in connection with your professional activities which resulted in a formal complaint being proved but no disciplinary order being made;   | Select from list |
| c. the subject of disciplinary procedures by a professional body or employer resulting in a finding against you;   | Select from list |
| d. reprimanded, excluded, disciplined or publicly criticised by any professional body which you belong to or have belonged to;   | Select from list |
| e. refused entry to, or excluded from membership, of any profession or vocation;   | Select from list |
| f. dismissed, or asked to resign, from any office, employment or firm;   | Select from list |
| g. reprimanded, warned about future conduct, censured, disciplined, or publicly criticised by any regulatory body, or any officially appointed enquiry or any other body concerned with the regulation of a financial, professional or other business activity;  | Select from list |
| h. the subject of a court order at the instigation of any regulatory body, or any officially appointed enquiry concerned with the regulation of a financial, professional or other business activity?  | Select from list |
| 10. Are you currently undergoing any investigation or disciplinary procedures as described above?  | Select from list |

**Questions 11 – 15 apply to your current firm and any previous firms (including sole practices) in which you were a partner, member, director or shareholder at the time any of the events occurred.**

|  |                  |
|--|------------------|
| <b>Financial integrity and reliability</b>   |                  |
| 11. In the last 10 years, did any such firm make any compromise or arrangement with its creditors, or otherwise fail to satisfy creditors in full? | Select from list |
| 12. In the last 10 years, was any such firm the subject of any insolvency proceedings?   | Select from list |



| <b>Civil liabilities</b>  |                  |
|---|------------------|
| 13. In the last five years, was any such firm the subject of any civil action relating to its professional or business activities which resulted in a judgment or finding against it by a court, or a settlement (other than a settlement consisting only of the dismissal by consent of a claim against it and the payment of its costs) being agreed? | Select from list |
| <b>Good reputation and character</b>  |                  |
| 14. In the last 10 years, was any such firm:  |                  |
| a. convicted by a court of any criminal offence;  | Select from list |
| b. refused or restricted in the right to carry on any trade, business or profession for which a specific licence, registration or other authority is required;  | Select from list |
| c. refused entry to any professional body or trade association, or did it decide not to continue with an application;   | Select from list |
| d. reprimanded, warned about future conduct, disciplined or publicly criticised by any professional or regulatory body;   | Select from list |
| e. made the subject of a court order at the instigation of any professional or regulatory body;   | Select from list |
| f. investigated on allegations of misconduct or malpractice in connection with its professional or business activities that resulted in a formal complaint being proved but no disciplinary order being made?   | Select from list |
| 15. Is any such firm currently undergoing any investigation or disciplinary procedures as described above?  | Select from list |
| 16. Is there any other information relevant to any of the above questions, which you should disclose to ICAEW? (If 'Yes', please supply details on a separate sheet).   | Select from list |

Please give the number of 'fitness to own' forms included with this application

## 7 The regulatory objectives

This section should be completed by the firm's Head of Legal Practice.

The Act's regulatory objectives and professional principles are contained in section 1. ([legislation.gov.uk/ukpga/2007/29/section/1](http://legislation.gov.uk/ukpga/2007/29/section/1))

|   |                  |
|---|------------------|
| Are you aware of any issues that may compromise the regulatory objectives or professional principles set out in the Act if this application is approved? For example, is the applicant to be approved subject to any other duties that may conflict with the Act's regulatory objectives? | Select from list |
| If 'Yes', please give details of the possible issue and the steps that you have or will take to address this.   |                  |

## 8 Regulated persons

This section should be completed by the firm's Head of Legal Practice.

The Act requires non-authorised persons (whether principals, employees or shareholders) to comply with the duties set out in section 90 of the Act ([legislation.gov.uk/ukpga/2007/29/section/90](http://legislation.gov.uk/ukpga/2007/29/section/90)).

Essentially, this requires firms to ensure that non-authorised persons do not do anything which may lead the firm or any authorised individual to breach the Probate Regulations or their regulatory responsibilities under the Act.

|   |                  |
|---|------------------|
| Are you aware of any issues that may compromise the ability of the firm or any authorised individuals to comply with the Probate Regulations if this application is approved? | Select from list |
| If 'Yes', please give details of the possible issue and the steps that you have or will take to address this.   |                  |

## 9 Signature and confirmation of the Head of Legal Practice

I certify that, to the best of my knowledge and belief, the information in or provided with this application is a true and accurate statement of the firm's and the person's circumstances.

I confirm that:

- the person named in section 3 as a non-authorised owner holds or intends to hold, together with any associates, a material interest in this firm;
- the person's holding of the interest in this firm will not compromise the regulatory objectives set out in section 1 of the Act;
- the person's holding of the interest will not compromise the ability of this firm's principals and employees to comply at all times with the Probate Regulations and the professional principles contained in section 1 of the Act; and
- the person, together with any associates, is otherwise fit and proper to hold a material interest in this firm.

If this application is approved, I confirm that the person will be required to comply at all times with the Probate Regulations.

I confirm that (please delete the bullet that does not apply):

- until this application and this firm's application to be licensed are approved, this firm will not conduct probate work; or
- as a licensed firm, the person(s) named in section 3 will not acquire a material interest until this application is approved.

I understand that none of ICAEW, its officers, staff, members of its Council or committees, their servants or agents, can be held liable to the firm, a person, or an individual, in damages for any act or omission arising out of the performance of any of their functions under the Legal Services Act 2007, or connected with the

granting of authorisation or a licence, the enforcement of the Probate Regulations or the monitoring of compliance with the Probate Regulations in any respect, unless the act or omission is shown to have been in bad faith.

Signature of the Head of Legal Practice \_\_\_\_\_

Name

Date

**10 Signature and confirmation of the person to be approved. Each person in section 3 should sign below and, by doing so, makes the following declarations.**

I certify that, to the best of my knowledge and belief, the information in or provided with this application that is relevant to me is a true and accurate statement of my circumstances.

I acknowledge that ICAEW may make enquiries of, or about, me as it deems necessary (including carrying out verification checks of the information contained in this application).

I acknowledge that ICAEW may require me to provide documents/information in connection with my application or continued status as a non-authorized principal or shareholder and that any failure to provide this information is a criminal offence.

I acknowledge that ICAEW may disclose this information about me to other bodies as set out in Probate Regulation 2.26. If this application is approved, I undertake to comply with the Probate Regulations at all times.

I confirm that section 3 includes all my associates as defined at the beginning of this form, and I confirm that, to the best of my knowledge and belief, they are fit and proper persons.

I will not do anything that might compromise the integrity of probate work carried out by the firm.


I understand that, if my interest in the firm ends, approval as a non-authorized owner will cease. I understand that, if I acquire a material interest in another accredited probate firm, or if I acquire another kind of material interest in this firm, I will need to submit a fresh application.

I understand that none of ICAEW, its officers, staff, members of its Council or committees can be held liable to the firm, a person, or an individual, in damages for anything done or not done in dealing with any of the functions connected with registration under the Act or under the Probate Regulations, or enforcing the terms of either, or the monitoring of compliance with these regulations in any respect, unless the act or omission is shown to have been in bad faith.

| Name | Signature of person | Date       |
|------|---------------------|------------|
|      |                     | DD MM YYYY |
|      |                     | DD MM YYYY |
|      |                     | DD MM YYYY |
|      |                     | DD MM YYYY |
|      |                     | DD MM YYYY |
|      |                     | DD MM YYYY |
|      |                     | DD MM YYYY |

## 11 Checklist

|  |                          |
|--|--------------------------|
| Before you return the completed application form, please check you have: |                          |
| • answered every question;   | <input type="checkbox"/> |
| • checked that sections 9 and 10 have been signed;                       | <input type="checkbox"/> |
| • made a copy of the completed form for your records;                    | <input type="checkbox"/> |
| • attached all additional sheets; and                                    | <input type="checkbox"/> |
| • attached separate fitness to own declarations for each associate.      | <input type="checkbox"/> |

|  |   |
|--|---|
| <p>Now return your signed and completed form with any additional sheets to:</p> <p>Regulatory Support<br/>ICAEW<br/>Metropolitan House<br/>321 Avebury Boulevard<br/>Milton Keynes<br/>MK9 2FZ UK</p> <p>We will send you an acknowledgement as soon as we receive your application.</p> | <p> Using your personal information</p> <p>We will treat any personal information collected on this form in accordance with data protection legislation. We will use your information to carry out our responsibilities as a regulator and as a professional body. To do this, we will share your information with other organisations as required by law.</p> <p>We may transfer your information outside the European Economic Area (EEA) eg, to one of our offices. These countries may not have similar data protection laws to the EEA, so if we do transfer your information, we will take the necessary steps to ensure that your privacy rights are still protected.</p> <p>For more information about our data protection policy, please go to <a href="http://icaew.com/dataprotection">icaew.com/dataprotection</a></p> |
|--|---|



## APPLICATION TO BECOME AN ACCREDITED PROBATE FIRM

Firms may apply to become **accredited probate firms** under the Legal Services Act 2007 (the Act) either:

- as an **authorised firm**: all the principals, ie, directors, partners and members of a LLP (and shareholders in the case of a company) have to be individually authorised to undertake probate work; or
- as a **licensed firm**: not all the principals (and shareholders in the case of a company) **need to be** individually authorised to undertake probate work (although at least one principal needs to be); however, additional requirements apply.

If, in applying for probate, you intend to change the structure of your firm, this may affect your firm's eligibility to use the description 'chartered accountants' and be covered by the Practice Assurance scheme. We therefore recommend that you first consult the **Use of the description 'Chartered Accountants' Regulations** and the **Practice Assurance Scheme Regulations** before you make any change.

### How to complete this application form:

Where necessary, we give guidance before a section. Please read the guidance before you complete the questions in each section.

Fill in this form electronically, using the TAB key to move from one answer to the next. If you need more space for an answer, please attach additional sheets.

You will need to submit a separate application form for each individual who is to be authorised to conduct probate work on the firm's behalf. You can download these application forms from [icaew.com/probate](http://icaew.com/probate)

If you are applying to become a licensed firm, you will need to complete an application form for a Head of Legal Practice (HoLP) and Head of Finance and Administration (HoFA), and for any non-authorised person who is an owner and holds a material interest (see Probate Regulation 6.2) in the firm. You can download these application forms from [icaew.com/probate](http://icaew.com/probate)

Whether applying for authorisation or a licence, if your firm includes principals who are not members of ICAEW, the Institute of Chartered Accountants of Scotland (ICAS), Chartered Accountants Ireland (CAI) or another approved regulator, or are not already accredited probate firms, registered auditors, DPB-licensed firms or affiliates under other ICAEW regulations, these principals will need also to apply for probate affiliate status. You can download an application from [icaew.com/probate](http://icaew.com/probate)

Please enclose with your application a copy of the firm's proposed letterhead.

To be eligible for accreditation, a firm must have in place professional indemnity insurance (PII) as required by the PII and Probate Regulations. We recommend that you discuss with your PII broker whether coverage under any existing or any future PII policy will cover authorised work (as defined in section 1.6 of the Probate Regulations).

Please enclose a copy of the firm's PII policy schedule and your insurer's details with this application.

To complete section 22 on diversity, you will need to conduct an initial diversity monitoring exercise and/or consider what steps your firm will take periodically to monitor the

diversity of individuals in your firm **before** submitting your application.

The entity making this application may not hold itself out as an accredited probate firm until we have confirmed in writing that your application has been successful.

**Contact us**

If you have any questions as you fill in this form, please call +44 (0)1908 546 302. This may avoid delays in dealing with your application.

If you have any questions about using the description ‘chartered accountants’ please speak to our Advisory Services team on +44 (0)1908 248 250.

If you have any questions about the Practice Assurance scheme, please email [AMLR@icaew.com](mailto:AMLR@icaew.com).

**1 Application type**

Does your firm wish to apply for authorisation or a licence? Please tick the relevant box.

|   |                 |                          |
|---|-----------------|--------------------------|
| An authorised firm is one in which all the principals, ie, all partners, directors or members of a LLP (and shareholders in the case of a company) are individually authorised to conduct probate work.         | Authorised firm | <input type="checkbox"/> |
| A licensed firm is one in which <b>not</b> all principals (and shareholders in the case of a company) are individually authorised to conduct probate work (although at least one principal must be authorised). | Licensed firm   | <input type="checkbox"/> |

**2 Firm details**

|  |                  |  |
|--|------------------|--|
| Name of firm applying to become an accredited probate firm |                  |  |
| Firm number (if known)                                     | C00              |  |
| Is the firm a member of a group?                           | Select from list |  |
| If ‘Yes’, please provide details of the group.             |                  |  |

**3 Type of practice**

|  |                  |
|--|------------------|
| Is it a sole practice?                 | Select from list |
| Is it a partnership?                   | Select from list |
| Is it a limited liability partnership? | Select from list |
| Is it a corporate practice?            | Select from list |

#### 4 Principal office

Principal office: the office to which ICAEW will send all communications regarding a firm's probate accreditation.

Trading name: an alternative name used by the firm to practise under.

|   |                  |  |                  |                  |
|---|------------------|--|------------------|------------------|
| Address   |                  |  |                  | ICAEW use        |
|   |                  |  |                  | L00_-----        |
| Postcode  |                  |  |                  |                  |
| Phone   |                  |  |                  |                  |
| Company/LLP number (if applicable)  |                  | Is the registered office situated in England or Wales? | Select from list |                  |
| Firm's website address  |                  |  |                  |                  |
| Do you intend to conduct probate work from this office?   |                  |  |                  | Select from list |
| Trading name (if applicable)  |                  |  |                  |                  |
| Do you intend to use the trading name when conducting probate work?   |                  |  |                  | Select from list |
| Name and position in the firm of the probate contact partner.<br>In the case of a licensed firm, this will be the Head of Legal Practice. | Name             |  |                  | ICAEW use        |
|   | Position in firm |  |                  | L00_-----        |
| If the probate contact partner does not work from the principal office of the firm, please give their office address.                     |                  |  |                  |                  |
| Address   |                  |  |                  |                  |
| Postcode  |                  |  |                  |                  |
| Phone   |                  |  |                  |                  |
| Email address   |                  |  |                  |                  |

## 5 Other offices and trading names

Include all offices and trading names of the firm, excluding market day offices. Please continue on a separate sheet if necessary.

Trading name: an alternative name used by the firm to practise under.

|   |                        |
|---|------------------------|
| Trading name (if applicable)  |                        |
| Do you intend to use the trading name when conducting probate work? | Select from list       |
| Address 1   | ICAEW use<br>L00_----- |
| Postcode  |                        |
| Phone   |                        |
| Do you intend to conduct probate work from this office?             | Select from list       |

|   |                        |
|---|------------------------|
| Trading name (if applicable)  |                        |
| Do you intend to use the trading name when conducting probate work? | Select from list       |
| Address 2   | ICAEW use<br>L00_----- |
| Postcode  |                        |
| Phone   |                        |
| Do you intend to conduct probate work from this office?             | Select from list       |



## 6 Principals – sole practitioners, partners, directors, LLP members

In this section, please list all the **principals** of the firm, indicating those whom the firm wishes to designate as authorised individuals.

**Authorised individuals:** the individuals who can undertake, or control the undertaking of, probate work on the firm's behalf. Only principals and employees who hold a probate qualification are eligible to apply to become authorised individuals, not consultants or subcontractors. Where appropriate, each individual will need to complete a separate 'individual' application form which you can download from [icaew.com/probate](http://icaew.com/probate)

**Membership number:** if an individual is a member of ICAEW or another professional body, please give this number if known.

**Professional body:** if an individual is a member of a professional body (eg, ICAEW) please give name.

**Office:** the location of the office from which the principal or employee normally practises.

**Approved regulator:** the name of the approved regulator that has authorised the individual to conduct probate work or to whom they have applied.

Whether applying for authorisation or a licence, if any principal is not a member of ICAEW, ICAS, CAI, another approved regulator, or an affiliate under the ICAEW's Audit, Insolvency or Use of the description regulations or DPB Handbook, a probate affiliate form must be completed.

| Member no. | Surname | First names | Date of birth | Office location (eg, York) | Professional body | PC held Yes/No | Authorised individual Yes/No | Approved regulator | % of voting rights held |
|------------|---------|-------------|---------------|----------------------------|-------------------|----------------|------------------------------|--------------------|-------------------------|
|            |         |             |               |                            |                   | Select Y/N     | Select Y/N                   |                    |                         |
|            |         |             |               |                            |                   | Select Y/N     | Select Y/N                   |                    |                         |
|            |         |             |               |                            |                   | Select Y/N     | Select Y/N                   |                    |                         |
|            |         |             |               |                            |                   | Select Y/N     | Select Y/N                   |                    |                         |
|            |         |             |               |                            |                   | Select Y/N     | Select Y/N                   |                    |                         |
|            |         |             |               |                            |                   | Select Y/N     | Select Y/N                   |                    |                         |
|            |         |             |               |                            |                   | Select Y/N     | Select Y/N                   |                    |                         |
|            |         |             |               |                            |                   | Select Y/N     | Select Y/N                   |                    |                         |
|            |         |             |               |                            |                   | Select Y/N     | Select Y/N                   |                    |                         |
|            |         |             |               |                            |                   | Select Y/N     | Select Y/N                   |                    |                         |
|            |         |             |               |                            |                   | Select Y/N     | Select Y/N                   |                    |                         |

Please continue on a separate sheet if necessary.

## 7 Employee authorised individuals

Please list all the **employees** that the firm wishes to designate as authorised individuals and continue on a separate sheet if necessary.

**Authorised individuals:** the individuals who can undertake, or control the undertaking of, probate work on the firm's behalf. Only employees who hold a probate qualification are eligible to apply to become authorised individuals, not consultants or sub-contractors. Each individual listed below will need to complete a separate 'individual' application form which you can download from [icaew.com/probate](http://icaew.com/probate)

**Membership number:** if an individual is a member of ICAEW or another professional body, please give this number if known.

**Professional body:** if an individual is a member of a professional body (eg, ICAEW) please give name.

**Office:** the location of the office from which the principal or employee normally practises.

**Approved regulator:** the name of the approved regulator that has authorised the individual to conduct probate work.

| Member no. | Surname | First names | Date of birth | Office location<br>(eg, York) | Professional body | PC held<br>Yes/No | Approved regulator |
|------------|---------|-------------|---------------|-------------------------------|-------------------|-------------------|--------------------|
|            |         |             |               |                               |                   | Select Y/N        |                    |
|            |         |             |               |                               |                   | Select Y/N        |                    |
|            |         |             |               |                               |                   | Select Y/N        |                    |
|            |         |             |               |                               |                   | Select Y/N        |                    |
|            |         |             |               |                               |                   | Select Y/N        |                    |
|            |         |             |               |                               |                   | Select Y/N        |                    |
|            |         |             |               |                               |                   | Select Y/N        |                    |
|            |         |             |               |                               |                   | Select Y/N        |                    |
|            |         |             |               |                               |                   | Select Y/N        |                    |
|            |         |             |               |                               |                   | Select Y/N        |                    |
|            |         |             |               |                               |                   | Select Y/N        |                    |
|            |         |             |               |                               |                   | Select Y/N        |                    |
|            |         |             |               |                               |                   | Select Y/N        |                    |
|            |         |             |               |                               |                   | Select Y/N        |                    |

Please continue on a separate sheet if necessary.

## 8 Head of Legal Practice and Head of Finance and Administration

This section is only for firms applying to become licensed firms. If your firm wishes to become an authorised firm, please go to section 9.

Please provide details of the individuals your firm wishes to designate as Head of Legal Practice (HoLP) and Head of Finance and Administration (HoFA).

The HoLP must be an authorised individual. The same person can be both a HoLP and a HoFA.

|      | Member no. if known | Surname | First names | Date of birth | Office location (eg, York) | PC held Yes/No | Authorised individual Yes/No | Principal Yes/No | % of voting rights held (if relevant) |
|------|---------------------|---------|-------------|---------------|----------------------------|----------------|------------------------------|------------------|---------------------------------------|
| HOLP |                     |         |             |               |                            | Select Y/N     | Select Y/N                   |                  |                                       |
| HOFA |                     |         |             |               |                            | Select Y/N     | Select Y/N                   |                  |                                       |

## 9 Authorised individuals, Heads of Legal Practice, Head of Finance and Administration

All individuals who are to be designated as authorised individuals, Heads of Legal Practice or Heads of Finance and Administration must complete a separate application form for individuals. You can download this application form from [icaew.com/probate](http://icaew.com/probate). Please give the number of individual application forms you have enclosed with this application.

I have enclosed  application forms for individuals with this application.

## 10 Management board

Whether applying for authorisation or a licence, if the firm has a management board (this is the board of directors in the case of a company), please supply the following details and continue on a separate sheet if necessary. Please also provide, on a separate sheet, a chart showing the structure of the board and reporting lines for those conducting probate work.

| Member no. if known | Surname | First names | Office location (e.g. York) | Principal Yes/No | % voting rights in board | Authorised individual Yes/No | Approved regulator/Professional body |
|---------------------|---------|-------------|-----------------------------|------------------|--------------------------|------------------------------|--------------------------------------|
|                     |         |             |                             | Select Y/N       |                          | Select Y/N                   |                                      |
|                     |         |             |                             | Select Y/N       |                          | Select Y/N                   |                                      |
|                     |         |             |                             | Select Y/N       |                          | Select Y/N                   |                                      |
|                     |         |             |                             | Select Y/N       |                          | Select Y/N                   |                                      |
|                     |         |             |                             | Select Y/N       |                          | Select Y/N                   |                                      |

## 11 Compliance arrangements

|   |            |
|---|------------|
| Do you have compliance arrangements in place for the firm?  | Select Y/N |
| If you have answered 'No', please explain why you do not have compliance arrangements for the firm. |            |
| If you have answered 'Yes', please outline these arrangements on a separate sheet.                  |            |

## 12 Shareholders of a corporate practice

This section is for listing all the shareholders of the corporate practice and should be completed whether you are applying for authorisation or a licence. If your firm is not a corporate practice, go to the next section.

| Member/firm number if known | Full name and address of shareholder | % of total voting rights | Director, employee or other | Authorised individual Yes/No | Approved regulator |
|-----------------------------|--------------------------------------|--------------------------|-----------------------------|------------------------------|--------------------|
|                             |                                      |                          |                             | Select Y/N                   |                    |
|                             |                                      |                          |                             | Select Y/N                   |                    |
|                             |                                      |                          |                             | Select Y/N                   |                    |
|                             |                                      |                          |                             | Select Y/N                   |                    |
|                             |                                      |                          |                             | Select Y/N                   |                    |
|                             |                                      |                          |                             | Select Y/N                   |                    |
|                             |                                      |                          |                             | Select Y/N                   |                    |

## 13 Licensed firms: non-authorised owners and material interests (ie, partners, members of an LLP, directors or shareholders)

Under the Act there are special requirements for non-authorised owners who hold a material interest in a licensed firm. Such persons must complete a separate application form for non-authorised owners because ICAEW needs specifically to approve these persons. You can download this application form from [icaew.com/probate](http://icaew.com/probate)

In this section, please list all the non-authorised owners who hold a material interest in the firm and continue on a separate sheet if necessary.

The definition of what constitutes a material interest is set out in Probate Regulation 6.2. In determining whether the threshold for a material interest has been reached, the interests of the person's associates need also to be taken into account. The definition of 'associate' is set out in Probate Regulation 6.3.

| Member no. | Surname | First names | Date of birth | % interest in firm |
|------------|---------|-------------|---------------|--------------------|
|            |         |             |               |                    |
|            |         |             |               |                    |
|            |         |             |               |                    |

|  |  |  |  |  |
|--|--|--|--|--|
|  |  |  |  |  |
|  |  |  |  |  |

Please give the number of non-authorized owner application forms you have enclosed with this application.

**14 Probate connected entities**

|   |  |
|---|--|
| <b>Connections</b> – Please list any connected firm(s) accredited for probate with ICAEW or another approved regulator. |  |
| <b>Connected firm</b> - any practising firm which has one or more principals of your firm among its principals.         |  |
| Firm name   |  |
| Relationship with applicant firm  |  |
| Address   |  |
| Registered with   |  |
| Postcode  |  |
| Firm number (if known)  |  |

**15 Regulation and supervision**

|  |                        |            |
|--|------------------------|------------|
| Is the firm currently authorised for probate work, or has it (or any former entities) previously been authorised or applied to be authorised for probate work by another regulatory body in England and Wales? |                        | Select Y/N |
| If 'Yes', which body?  | Select from list       |            |
|  | Other (please specify) |            |
| Please provide details of the previous application.  |                        |            |

**16 Staff in each office**

The total number of principals and the total number of authorised individuals should agree with the totals in sections 6 and 7. Subcontractors and consultants should be included as staff in the appropriate column. These individuals cannot be authorised individuals.

| Office number or location. | Principals             |                            | Other staff            |                    |             | Total staff |
|----------------------------|------------------------|----------------------------|------------------------|--------------------|-------------|-------------|
|                            | Authorised Individuals | Non-authorised individuals | Authorised individuals | Professional staff | Admin staff |             |
| L00                        |                        |                            |                        |                    |             |             |
| L00                        |                        |                            |                        |                    |             |             |
| L00                        |                        |                            |                        |                    |             |             |
| L00                        |                        |                            |                        |                    |             |             |
| L00                        |                        |                            |                        |                    |             |             |
| L00                        |                        |                            |                        |                    |             |             |
| L00                        |                        |                            |                        |                    |             |             |
| L00                        |                        |                            |                        |                    |             |             |
| Total                      |                        |                            |                        |                    |             |             |

**17 Practice income**

For this purpose, fee income excludes the re-charge of out-of-pocket expenses and VAT. If the firm has not started trading, please give a forecast of the first year's trading figures in relation to probate work.

|  |   |
|--|---|
| Total fee income from all sources  | £ |
| Financial year ending (DD MM YYYY)   |   |
| Estimated annual fee income from probate and probate-related services (see section 17) | £ |

## 18 Nature of probate-related work

Does the firm wish to deliver any of the following probate-related services?

|  |            |
|--|------------|
| Will-writing services  | Select Y/N |
| Provision of advice in connection with the drafting of wills (eg, on IHT and trust planning)                             | Select Y/N |
| Activities carried out before the application for a grant of probate or letters of administration (eg, IHT calculations) | Select Y/N |
| Assistance to an executor with estate administration   | Select Y/N |
| Estate administration as an executor   | Select Y/N |
| Is the firm likely to hold clients' and/or estate monies in connection with the above activities?                        | Select Y/N |
| If you have ticked 'No' to all the above, please explain what nature of probate work you intend to do.                   |            |

**Although the above areas of probate-related work are not regulated by ICAEW, this information is required to help us understand your business.**

## 19 Statement on access to justice

It is a requirement of the Act that you **explain** how your firm's application to become an accredited probate firm will promote **access to justice**.

Examples of the type of explanation you might give are, access to justice may be promoted through improved access to services geographically or through technology. It may also be improved by making services more competitive for consumers or by delivering services in new ways. When setting out your explanation you should provide an analysis of how it specifically relates to your firm. Please continue on a separate sheet if necessary.

|  |
|--|
|  |
|--|

## 20 Statement on the regulatory objectives

For a list of the regulatory objectives and professional principles, please refer to section 1 of the Act, [legislation.gov.uk/ukpga/2007/29/contents](http://legislation.gov.uk/ukpga/2007/29/contents)

|  |            |
|--|------------|
| Are you aware of any issues affecting your firm that might compromise the regulatory objectives if this application is successful and you begin to undertake probate work?   | Select Y/N |
| Is anyone in your firm (including any owner or shareholder) subject to duties that might conflict with the firm's ability to carry out probate work in accordance with the probate regulations and the professional principles contained in the Act? | Select Y/N |
| If 'Yes', please outline the steps your firm will take to mitigate the risk of conflict and/or to address this issue.  |            |

## 21 Statement on improper influence

Firms are under an obligation to ensure that non-authorised persons (whether principals, employees or shareholders) do not influence improperly the conduct of probate work.

Please outline the steps your firm will take to ensure that authorised individuals can conduct probate work independently and free from influence that might compromise their ability to adhere to the probate regulations and the professional principles set down in the Act (see section 1 of the Act).

Does the firm have any contractual or other arrangements with another entity that may allow that other entity to have any influence that may affect, or could be perceived as affecting, how probate work is carried out?

Select Y/N

If 'Yes', please attach details of any safeguards designed to prevent such influence.

## 22 Diversity

One of the Legal Services Act's regulatory objectives is to encourage an independent, strong, diverse and effective legal profession ([legislation.gov.uk/ukpga/2007/29/contents](http://legislation.gov.uk/ukpga/2007/29/contents)).

To meet this objective the Legal Services Board (LSB) has published guidance stating that firms should have arrangements in place for monitoring periodically the diversity of individuals in their firm.

To satisfy the LSB's requirement, firms are encouraged to collect, collate and publish data on the diversity of their workforce. This information should also be supplied to ICAEW in summary format in order that ICAEW can publish data showing the diversity of the entire workforce of firms offering probate services. Only summary information will be reported and your firm will not be identified.

ICAEW has created a model questionnaire that firms can download and distribute to their staff. If firms do not have processes in place to ensure the anonymity of their staff, we provide the option of an online questionnaire. Go to [icaew.com/probate](http://icaew.com/probate) for more information.

Please outline the steps your firm will take periodically to monitor the diversity of the individuals in the firm.

\_\_\_\_\_

If these are available, please summarise the results of your initial diversity monitoring below and attach your results to this form when submitting your application. On a periodic basis, we will request updates to this information. (Should the information no be available at time of application a follow-up request will be made within six months of application).

Diversity monitoring results



### 23 Professional indemnity insurance

An accredited probate firm that is or intends to carry out authorised work (as defined in regulation 1.6 of the Probate Regulations) must have professional Indemnity Insurance (PII) under ICAEW's PII Regulations with a minimum level of indemnity of £500,000 per claim.

Please enclose a copy of your firm's PII policy schedule with this application which shows the entities and sums insured.

|   |         |
|---|---------|
| Cover arranged with (name of participating insurer) |         |
| Period of cover (DD MM YY)                          | from to |

### 24 Offices without an authorised individual

|  |            |
|--|------------|
| Will probate work be carried out from any office listed in section 5 where there is no resident authorised individual? | Select Y/N |
| If 'Yes', please set out details of the probate supervision arrangements at each of these offices.                     |            |

### 25 Fit and proper

The Act requires authorised persons to be fit and proper to carry out probate work. Under the Probate Regulations, any firm seeking accreditation must satisfy ICAEW that it is fit and proper. It is for each firm to ensure that all its principals, and those employees involved directly or indirectly with probate work, are fit and proper. The fit and proper requirement does not normally extend to administrative or secretarial staff but does cover practice support staff such as computer specialists.

If a firm has any doubts about the fit and proper status of any of its principals or employees, please contact Regulatory Support on +44 (0)1908 546 302.

If a firm has merged in the last 10 years, the questions relate to every constituent part of the merged firm.

A 'Yes' answer to any of the questions in this section will **not** automatically result in a firm being refused accreditation. The Probate Committee may, however, wish to make further enquiries before reaching a decision.

If the Probate Committee finds out about any matters which a firm does not disclose, this will be viewed very seriously. It could jeopardise the firm's application or continuing accreditation.

If you are a sole practitioner, or a sole director or sole shareholder of a corporate practice, these questions apply to you personally as well as to the firm.

The questions relate to all principals, authorised individuals and previous practices.

The answers will be 'Yes' or 'No', but a 'Yes' answer will need further explanation.

The word 'firm' indicates all sole practitioners; principals; sole directors; sole shareholders of a corporate practice; authorised individuals and previous practices.

|   |            |
|---|------------|
| <b>Financial integrity and reliability</b>  | Select Y/N |
| In the last 10 years, has the firm made any compromise or arrangement with its creditors, or otherwise failed to satisfy creditors in full? |            |
| In the last 10 years, has the firm been the subject of any insolvency proceedings?  | Select Y/N |

|   |                   |
|---|-------------------|
| <p><b>Civil liabilities</b></p> <p>In the last five years, has the firm (just the entity that is making this application) been the subject of any relevant civil action relating to its professional or business activities which resulted in a judgment or finding against it by a court, or a settlement (other than a settlement consisting only of the dismissal by consent of a claim against it and the payment of its costs) being agreed?</p> | <p>Select Y/N</p> |
| <p><b>Good reputation and character</b></p> <p>There is no need to mention cautions or offences which are spent for the purposes of the Rehabilitation of Offenders Act 1974 or, in the case of a firm which is a sole practice, offences committed by any individual before the age of 17 (unless committed within the last 10 years) or road traffic offences that did not lead to a prison sentence.</p>   |                   |
| <p>In the last 10 years, has the firm been:</p>   |                   |
| <ul style="list-style-type: none"> <li>• convicted by a court of any criminal offence;</li> </ul>   | <p>Select Y/N</p> |
| <ul style="list-style-type: none"> <li>• refused or restricted in the right to carry on any trade, business or profession for which a specific licence, registration or other authority is required;</li> </ul>   | <p>Select Y/N</p> |
| <ul style="list-style-type: none"> <li>• refused entry to any professional body or trade association; or did it decide not to continue with an application;</li> </ul>  | <p>Select Y/N</p> |
| <ul style="list-style-type: none"> <li>• reprimanded, warned about future conduct, disciplined or publicly criticised by any professional or regulatory body;</li> </ul>  | <p>Select Y/N</p> |
| <ul style="list-style-type: none"> <li>• made the subject of a court order at the instigation of any professional or regulatory body; or</li> </ul>   | <p>Select Y/N</p> |
| <ul style="list-style-type: none"> <li>• investigated on allegations of misconduct or malpractice in connection with its professional or business activities that resulted in a formal complaint being proved but no disciplinary order being made?</li> </ul>  | <p>Select Y/N</p> |
| <p>Is the firm currently undergoing any investigation or disciplinary procedures as described above?</p>  | <p>Select Y/N</p> |
| <p>If there has been any disciplinary issue(s) please state in the box what action your firm has taken in order to avoid this type of issue occurring in the future:</p>  |                   |
| <p>Is there any other information relevant to any of the above questions which the firm should disclose to ICAEW? If 'Yes', please specify details on a separate sheet.</p>   | <p>Select Y/N</p> |

## 26 Maintaining competence

Please tick the CPD activities which authorised individuals and others use regularly to maintain competence and keep up to date with probate legislation, regulations and related matters.

|  | Authorised individuals   | Employees engaged in probate work under supervision | Other                    |
|--|--------------------------|---|--------------------------|
| Online learning/e-learning   | <input type="checkbox"/> | <input type="checkbox"/>                            | <input type="checkbox"/> |
| DVD subscriptions  | <input type="checkbox"/> | <input type="checkbox"/>                            | <input type="checkbox"/> |
| Update services  | <input type="checkbox"/> | <input type="checkbox"/>                            | <input type="checkbox"/> |
| In-house courses   | <input type="checkbox"/> | <input type="checkbox"/>                            | <input type="checkbox"/> |
| In-house technical discussion groups   | <input type="checkbox"/> | <input type="checkbox"/>                            | <input type="checkbox"/> |
| Training consortium or another firm's in-house courses                               | <input type="checkbox"/> | <input type="checkbox"/>                            | <input type="checkbox"/> |
| ICAEW or district society courses  | <input type="checkbox"/> | <input type="checkbox"/>                            | <input type="checkbox"/> |
| Other commercial courses   | <input type="checkbox"/> | <input type="checkbox"/>                            | <input type="checkbox"/> |
| Local discussion groups  | <input type="checkbox"/> | <input type="checkbox"/>                            | <input type="checkbox"/> |
| Private reading: technical papers, accountancy/legal journals, articles, newsletters | <input type="checkbox"/> | <input type="checkbox"/>                            | <input type="checkbox"/> |
| Access to a technical library  | <input type="checkbox"/> | <input type="checkbox"/>                            | <input type="checkbox"/> |
| Focused discussion with more experienced colleagues                                  | <input type="checkbox"/> | <input type="checkbox"/>                            | <input type="checkbox"/> |
| Other (please give further details)  | <input type="checkbox"/> | <input type="checkbox"/>                            | <input type="checkbox"/> |

|   |            |
|---|------------|
| Will individual training records be maintained for all authorised individuals and employees involved in probate work? | Select Y/N |
| Name of the principal responsible for assessing the competence of staff engaged in probate work                       |            |
| Name of the principal responsible for ensuring that authorised individuals and staff receive relevant training        |            |
| Does the firm intend to use a probate manual and/or probate documentation?  | Select Y/N |
| If 'Yes', is this commercially available?   | Select Y/N |
| If 'Yes', please name the manual.   |            |
| Does the firm intend to subscribe to an updating service for the probate manual?                                      | Select Y/N |

If 'No', how do you propose keeping authorised individuals and employees in your firm up to date in probate law and practice?

## 27 Control of probate work

|   |            |  |            |
|---|------------|--|------------|
| Does the firm have appropriate arrangements to deal with:                   |            |  |            |
| fit and proper considerations   | Select Y/N | recruitment  | Select Y/N |
| independence and integrity  | Select Y/N | staff appraisal  | Select Y/N |
| confidentiality   | Select Y/N | training standards                                     | Select Y/N |
| conduct of probate work (including acting in the best interests of clients) | Select Y/N | discipline   | Select Y/N |
| recording of work done  | Select Y/N | reporting and supervisory responsibilities in the firm | Select Y/N |
| review procedures   | Select Y/N | complaints-handling                                    | Select Y/N |
|   |            | clients' money (if held)                               | Select Y/N |

## 28 Alternate arrangements

The next question is for sole authorised individuals, sole practitioners and corporate practices with only one shareholder or director.

You must have arrangements in place for the appointment of an alternate in the case of death or incapacity. Please refer to our helpsheet, Arrangements of alternates for sole principals in the UK, at [icaew.com/practicehelpsheets](http://icaew.com/practicehelpsheets)

Please provide the following information.

|   |            |
|---|------------|
| Alternate's name  |            |
| Alternate's home address  |            |
| Alternate's email address   |            |
| Is the alternate authorised to conduct probate work?  | Select Y/N |
| If 'Yes', please state the name of the alternate's approved regulator.  |            |
| If 'No', have you made the alternate aware that probate work must be handled by a person who is authorised to carry it out? | Select Y/N |

## 29 Signature and confirmations

I certify that, to the best of my knowledge and belief, the information in, or provided with, this application is a true and accurate statement of the firm's circumstances.

I confirm that:

- all relevant information has been disclosed;
- the control of this firm is in accordance with the Probate Regulations;
- I have taken steps to ensure that all principals and employees involved in probate work are fit and proper persons;
- this firm has professional indemnity insurance in place that covers authorised work as required by the PII and Probate Regulations; and
- this firm will comply with the Practice Assurance Regulations as if it were a member firm.

If this application is approved, I confirm that:

- this firm will comply with the Practice Assurance Regulations; if your firm is not a member firm, as defined in the Principal Bye-Laws which can be found at [icaew.com/regulations](http://icaew.com/regulations), you will be required to sign an agreement for Practice Assurance services. For further information about Practice Assurance fees please email [AMLR@icaew.com](mailto:AMLR@icaew.com);
- this firm will comply with the Probate Regulations at all times;
- this firm will notify ICAEW immediately of any matter which indicates the firm has, or may in the future, cease to comply with the Probate Regulations;
- this firm will deal with ICAEW in an open and cooperative manner and will inform ICAEW promptly of anything concerning the firm as required by the Probate Regulations
- this firm will inform all principals, employees and shareholders of the duties contained in sections 90 and 176 of the Act;
- this firm acknowledges that ICAEW may make enquiries of or about the firm, as it deems necessary;
- this firm acknowledges that ICAEW will publish a register containing the name, address and places of business of this firm as required by Section 87 of the Legal Services Act 2007;
- the firm acknowledges that ICAEW may publish, in such manner as it may determine, any information about the firm's status under the regulations;
- the firm acknowledges that ICAEW may disclose information about it to other bodies as set out in Probate Regulation 2.26.
- the firm will establish and maintain internal processes for handling complaints about probate work, and will deal cooperatively with the Legal Ombudsman and comply with his office's decisions as necessary;
- none of ICAEW, its officers, staff, members of its Council or committees, their servants or agents can be held liable to the firm, a person, or an individual, in damages for any act or omission arising out of the performance of any of their functions under the Legal Services Act 2007, or connected with the granting of authorisation or a licence, the enforcement of the Probate Regulations or the monitoring of compliance with the Probate Regulations in any respect, unless the act or omission is shown to have been in bad faith; and
- this firm will not accept probate work or hold itself out to be an accredited probate firm unless I have received confirmation in writing that this application has been successful.

Signature of sole practitioner or probate contact partner with overall responsibility for making sure the firm complies with the Probate Regulations and who has provided the above confirmations. In the case of a licensed firm, the probate contact partner will be the Head of Legal Practice.

Name

Date (DD MM YYYY)

I have attached a total of            additional sheets.

Registration fee, and fee for each Disclosure and Barring Service check made by ICAEW (for HoLP, HoFA, all non-authorized owners with a material interest) (if applicable)

If this application is being made as a result of a merger of existing accredited probate firms, or an incorporation of an existing accredited probate firm, and all fees have already been paid, the balance will be transferred to the new firm's account once accreditation has been approved.

Firms that are not the result of a merger or incorporation of existing accredited firms need to enclose a cheque for the relevant fee.

I enclose a cheque for £            (payable to Chartac) as payment for this year's registration fee. Please see fee scale at [icaew.com/probate](http://icaew.com/probate)

I enclose a cheque for £            (payable to Chartac) as payment for each Disclosure and Barring Service check made by ICAEW. Please see details of fees at [icaew.com/probate](http://icaew.com/probate)

You must send the applicable registration fees with this application form. The fees are calculated by reference to the number of principals, authorised individuals and offices as described in the fee scale.

You must also send the total fee for all Disclosure and Barring Service checks that ICAEW will need to carry out.

Your firm will receive a receipted invoice for these fees if the firm is accepted as eligible to be an accredited probate firm. If the application is not successful, we will refund registration fees.

If you withdraw your application before the Disclosure and Barring Service checks have been made by ICAEW we will refund the fees for those checks.

### 30 Completion checklist

Before you return the completed application form, please:

|   |                          |  |                          |
|---|--------------------------|--|--------------------------|
| • make sure you have completed all questions;   | <input type="checkbox"/> | • enclose a copy of the firm's proposed letterhead | <input type="checkbox"/> |
| • enclose a cheque for the registration fee and any applicable Disclosure and Barring Service check fees; | <input type="checkbox"/> | • sign and date the form;                          | <input type="checkbox"/> |
| • enclose a copy of the firm's PII policy schedule and your insurer's details;                            | <input type="checkbox"/> | • keep a copy of this form for your records; and   | <input type="checkbox"/> |
| • include any additional sheets with the form;  | <input type="checkbox"/> | • send it to the address below.                    | <input type="checkbox"/> |

We will send you an acknowledgement when we receive your application.

Please send this form to:

Regulatory Support, ICAEW  
Metropolitan House  
321 Avebury Boulevard  
Milton Keynes  
MK9 2FZ            UK



Using your personal information - We will treat any personal information collected on this form in accordance with data protection legislation. We will use your information to carry out our responsibilities as a regulator and as a professional body. To do this, we will share your information with other organisations as required by law.

We may transfer your information outside the European Economic Area (EEA) eg, to one of our offices. These countries may not have similar data protection laws to the EEA, so if we do transfer your information we will take the necessary steps to ensure that your privacy rights are still protected. For more information about our data protection policy, please go to [icaew.com/dataprotection](http://icaew.com/dataprotection)



## APPLICATION TO BECOME AN AUTHORISED BODY

### Introduction

This form is for a body wishing to apply for authorisation as a principal of and/or as an interest holder in the firm applying for probate accreditation.

In order to become authorised, all principals and owners of the body applying for authorisation must be authorised unless they collectively exercise or control the exercise of less than 10% of the voting rights in the body in which case they may remain non-authorised persons.

### How to complete this application form:

Where necessary, we give guidance before a section. Please read the guidance before you complete the questions in each section.

Fill in this form electronically, using the TAB key to move from one answer to the next. If you need more space for an answer, please attach additional sheets.

You will need to submit a separate application form for each individual who is to be authorised to conduct probate work on the body's behalf. You can download these application forms from [icaew.com/probate](http://icaew.com/probate)

If your body includes principals who are not members of ICAEW, the Institute of Chartered Accountants of Scotland (ICAS), Chartered Accountants Ireland (CAI) or another approved regulator, or are not already accredited probate firms, registered auditors, DPB-licensed firms or affiliates under other ICAEW regulations, these principals will need also to apply for probate affiliate status. You can download an application from [icaew.com/probate](http://icaew.com/probate)

To be eligible for authorisation, a body must have in place professional indemnity insurance (PII) as required by the PII and Probate Regulations. We recommend that you discuss with your PII broker whether coverage under any existing or any future PII policy will cover authorised work (as defined in section 1.6 of the Probate Regulations). Please enclose a copy of the body's PII policy schedule and your insurer's details with this application.

To complete section 19 on diversity, you will need to conduct an initial diversity monitoring exercise and/or consider what steps your firm will take periodically to monitor the diversity of individuals in your firm **before** submitting your application.

The entity making this application may not hold itself out as an authorised probate body until we have confirmed in writing that your application has been successful.

If you have any questions as you fill in this form, please call +44 (0)1908 546 302. This may avoid delays in dealing with your application.

## 1. Body details

|  |            |
|--|------------|
| Name of body applying to become an authorised probate body |            |
| Body number (if known)                                     | C00        |
| Is the body a member of a group?                           | Select Y/N |
| If 'Yes', please provide details of the group.             |            |

## 2 Type of practice

|  |            |
|--|------------|
| Is it a sole practice?                 | Select Y/N |
| Is it a partnership?                   | Select Y/N |
| Is it a limited liability partnership? | Select Y/N |
| Is it a corporate practice?            | Select Y/N |



### 3 Principal office

Principal office: the office to which ICAEW will send all communications regarding a body's probate authorisation.

Trading name: an alternative name used by the body to practise under.

|   |                  |  |            |
|---|------------------|--|------------|
| Address   |                  | ICAEW use  |            |
|   |                  | L00_-----  |            |
| Postcode  |                  |  |            |
| Phone   |                  |  |            |
| Company/LLP number (if applicable)  |                  | Is the registered office situated in England or Wales? | Select Y/N |
| Body's website address  |                  |  |            |
| Do you intend to conduct probate work from this office?   |                  | Select Y/N   |            |
| Trading name (if applicable)  |                  |  |            |
| Do you intend to use the trading name when conducting probate work?   |                  | Select Y/N   |            |
| Name and position in the body of the probate contact partner.   | Name             | ICAEW use  |            |
|   | Position in body | L00_-----  |            |
| If the probate contact partner does not work from the principal office of the body, please give their office address. |                  |  |            |
| Address   |                  |  |            |
| Postcode  |                  |  |            |
| Phone   |                  |  |            |
| Email address   |                  |  |            |

#### 4 Other offices and trading names

Include all offices and trading names of the body, excluding market day offices. Please continue on a separate sheet if necessary.

Trading name: an alternative name used by the body to practise under

|   |                        |
|---|------------------------|
| Trading name (if applicable)  |                        |
| Do you intend to use the trading name when conducting probate work? | Select Y/N             |
| Address 1   | ICAEW use<br>L00_----- |
| Postcode  |                        |
| Phone   |                        |
| Do you intend to conduct probate work from this office?             | Select Y/N             |

|   |                        |
|---|------------------------|
| Trading name (if applicable)  |                        |
| Do you intend to use the trading name when conducting probate work? | Select Y/N             |
| Address 2   | ICAEW use<br>L00_----- |
| Postcode  |                        |
| Phone   |                        |
| Do you intend to conduct probate work from this office?             | Select Y/N             |

## 5 Principals – sole practitioners, partners, directors, LLP members

In this section, please list all the **principals** of the body, indicating those whom the body wishes to designate as authorised individuals.

(All principals must be authorised unless they, collectively with other principals and/or owners, exercise or control the exercise of less than 10% of voting rights in which case they may remain non-authorised persons).

**Authorised individuals:** the individuals who can undertake, or control the undertaking of, probate work on the body’s behalf. Only principals and employees who hold a probate qualification are eligible to apply to become authorised individuals, not consultants or subcontractors. Where appropriate, each individual will need to complete a separate ‘individual’ application form which you can download from [icaew.com/probate](http://icaew.com/probate)

**Membership number:** if an individual is a member of ICAEW or another professional body, please give this number if known.

**Professional body:** if an individual is a member of a professional body (eg, ICAEW) please give name.

**Office:** the location of the office from which the principal or employee normally practises.

**Approved regulator:** the name of the approved regulator that has authorised the individual to conduct probate work or to whom they have applied.

If any principal is not a member of ICAEW, ICAS, CAI, another approved regulator, or an affiliate under the ICAEW’s Audit, Insolvency or Use of the description regulations or DPB Handbook, a probate affiliate form must be completed.

| Member no. | Surname | First names | Date of birth | Office location (eg, York) | Professional body | PC held Yes/No | Authorised individual Yes/No | Approved regulator | % of voting rights held |
|------------|---------|-------------|---------------|----------------------------|-------------------|----------------|------------------------------|--------------------|-------------------------|
|            |         |             |               |                            |                   | Select Y/N     | Select Y/N                   |                    |                         |
|            |         |             |               |                            |                   | Select Y/N     | Select Y/N                   |                    |                         |
|            |         |             |               |                            |                   | Select Y/N     | Select Y/N                   |                    |                         |
|            |         |             |               |                            |                   | Select Y/N     | Select Y/N                   |                    |                         |
|            |         |             |               |                            |                   | Select Y/N     | Select Y/N                   |                    |                         |
|            |         |             |               |                            |                   | Select Y/N     | Select Y/N                   |                    |                         |
|            |         |             |               |                            |                   | Select Y/N     | Select Y/N                   |                    |                         |
|            |         |             |               |                            |                   | Select Y/N     | Select Y/N                   |                    |                         |
|            |         |             |               |                            |                   | Select Y/N     | Select Y/N                   |                    |                         |
|            |         |             |               |                            |                   | Select Y/N     | Select Y/N                   |                    |                         |

Please continue on a separate sheet if necessary.

## 6 Employee authorised individuals

Please list all the **employees** that the body wishes to designate as authorised individuals and continue on a separate sheet if necessary.

**Authorised individuals:** the individuals who can undertake, or control the undertaking of, probate work on the body's behalf. Only employees who hold a probate qualification are eligible to apply to become authorised individuals, not consultants or sub-contractors. Each individual listed below will need to complete a separate 'individual' application form which you can download from [icaew.com/probate](http://icaew.com/probate)

**Membership number:** if an individual is a member of ICAEW or another professional body, please give this number if known.

**Professional body:** if an individual is a member of a professional body (eg, ICAEW) please give name.

**Office:** the location of the office from which the principal or employee normally practises.

**Approved regulator:** the name of the approved regulator that has authorised the individual to conduct probate work or to whom they have applied.

| Member no. | Surname | First names | Date of birth | Office location<br>(eg, York) | Professional body | PC held<br>Yes/No | Approved regulator |
|------------|---------|-------------|---------------|-------------------------------|-------------------|-------------------|--------------------|
|            |         |             |               |                               |                   | Select Y/N        |                    |
|            |         |             |               |                               |                   | Select Y/N        |                    |
|            |         |             |               |                               |                   | Select Y/N        |                    |
|            |         |             |               |                               |                   | Select Y/N        |                    |
|            |         |             |               |                               |                   | Select Y/N        |                    |
|            |         |             |               |                               |                   | Select Y/N        |                    |
|            |         |             |               |                               |                   | Select Y/N        |                    |
|            |         |             |               |                               |                   | Select Y/N        |                    |
|            |         |             |               |                               |                   | Select Y/N        |                    |
|            |         |             |               |                               |                   | Select Y/N        |                    |
|            |         |             |               |                               |                   | Select Y/N        |                    |
|            |         |             |               |                               |                   | Select Y/N        |                    |
|            |         |             |               |                               |                   | Select Y/N        |                    |
|            |         |             |               |                               |                   | Select Y/N        |                    |
|            |         |             |               |                               |                   | Select Y/N        |                    |

Please continue on a separate sheet if necessary.

**7 Authorised individuals**

All individuals who are to be designated as authorised individuals must complete a separate application form for individuals. You can download this application form from [icaew.com/probate](http://icaew.com/probate). Please give the number of individual application forms you have enclosed with this application.

I have enclosed  application forms for individuals with this application.

**8 Management board**

If the body has a management board (this is the board of directors in the case of a company), please supply the following details and continue on a separate sheet if necessary. Please also provide, on a separate sheet, a chart showing the structure of the board and reporting lines for those conducting probate work.

| Member no. if known | Surname | First names | Office location<br>(e.g. York) | Principal<br>Yes/No | % voting<br>rights in<br>board | Authorised<br>individual<br>Yes/No | Approved<br>regulator/Professional body |
|---------------------|---------|-------------|--------------------------------|---------------------|--------------------------------|------------------------------------|---|
|                     |         |             |                                | Select Y/N          |                                | Select Y/N                         |   |
|                     |         |             |                                | Select Y/N          |                                | Select Y/N                         |   |
|                     |         |             |                                | Select Y/N          |                                | Select Y/N                         |   |
|                     |         |             |                                | Select Y/N          |                                | Select Y/N                         |   |
|                     |         |             |                                | Select Y/N          |                                | Select Y/N                         |   |

**9 Compliance arrangements**

|   |            |
|---|------------|
| Do you have compliance arrangements in place for the firm?  | Select Y/N |
| If you have answered 'No', please explain why you do not have compliance arrangements for the firm. |            |
| If you have answered 'Yes', please outline these arrangements on a separate sheet.                  |            |

**10 Shareholders of a corporate practice**

This section is for listing all the shareholders of the corporate practice. If your body is not a corporate practice, go to the next section.

| Member/firm<br>number if<br>known | Full name and address of<br>shareholder | % of total<br>voting rights | Director, employee or<br>other | Authorised individual<br>Yes/No | Approved regulator |
|-----------------------------------|---|-----------------------------|--------------------------------|---------------------------------|--------------------|
|                                   |   |                             |                                | Select Y/N                      |                    |
|                                   |   |                             |                                | Select Y/N                      |                    |

|  |  |  |  |            |  |
|--|--|--|--|------------|--|
|  |  |  |  | Select Y/N |  |
|  |  |  |  | Select Y/N |  |
|  |  |  |  | Select Y/N |  |
|  |  |  |  | Select Y/N |  |
|  |  |  |  | Select Y/N |  |

**11 Non-authorised owners and their interests (ie, partners, members of an LLP, directors or shareholders)**

Under the Act all principals and owners of an authorised body must be authorised unless they collectively exercise or control the exercise of less than 10% of voting rights in which case they may remain non-authorised persons.

In this section, please list all the non-authorised persons who hold a permissible interest in the body and continue on a separate sheet if necessary.

| Member no. | Surname | First names | Date of birth | % interest in firm |
|------------|---------|-------------|---------------|--------------------|
|            |         |             |               |                    |
|            |         |             |               |                    |
|            |         |             |               |                    |
|            |         |             |               |                    |

**12 Probate connected entities**

**Connections** – Please list any connected firm(s) accredited for probate with ICAEW or another approved regulator.

**Connected firm** - any practising firm which has one or more principals of your firm among its principals.

|                                  |  |
|----------------------------------|--|
| Firm name                        |  |
| Relationship with applicant firm |  |
| Address                          |  |
| Registered with                  |  |
| Postcode                         |  |
| Firm number (if known)           |  |

### 13 Regulation and supervision

|  |                   |            |
|--|-------------------|------------|
| Is the body currently authorised for probate work, or has it (or any former entities) previously been authorised or applied to be authorised for probate work by another regulatory body in England and Wales? |                   | Select Y/N |
| If 'Yes', which body?  | Select from list) |            |
| If 'Other', please specify.  |                   |            |
| Please provide details of the previous application.  |                   |            |

### 14 Staff in each office

The total number of principals and the total number of authorised individuals should agree with the totals in sections 5 and 6. Subcontractors and consultants should be included as staff in the appropriate column. These individuals cannot be authorised individuals.

| Office number or location. | Principals             |                            | Other staff            |                    |             | Total staff |
|----------------------------|------------------------|----------------------------|------------------------|--------------------|-------------|-------------|
|                            | Authorised Individuals | Non-authorised individuals | Authorised individuals | Professional staff | Admin staff |             |
| L00                        |                        |                            |                        |                    |             |             |
| L00                        |                        |                            |                        |                    |             |             |
| L00                        |                        |                            |                        |                    |             |             |
| L00                        |                        |                            |                        |                    |             |             |
| L00                        |                        |                            |                        |                    |             |             |
| L00                        |                        |                            |                        |                    |             |             |
| L00                        |                        |                            |                        |                    |             |             |
| <b>Total</b>               |                        |                            |                        |                    |             |             |

### 15 Practice income

For this purpose, fee income excludes the re-charge of out-of-pocket expenses and VAT. If the body has not started trading, please give a forecast of the first year's trading figures in relation to probate work.

|                                   |   |
|-----------------------------------|---|
| Total fee income from all sources | £ |
|-----------------------------------|---|

|  |   |
|--|---|
| Financial year ending (DD MM YYYY)   |   |
| Estimated annual fee income from probate and probate-related services (see section 16) | £ |

## 16 Nature of probate-related work

Does the body wish to deliver any of the following probate-related services?

|  |            |
|--|------------|
| Will-writing services  | Select Y/N |
| Provision of advice in connection with the drafting of wills (eg, on IHT and trust planning)                             | Select Y/N |
| Activities carried out before the application for a grant of probate or letters of administration (eg, IHT calculations) | Select Y/N |
| Assistance to an executor with estate administration   | Select Y/N |
| Estate administration as an executor   | Select Y/N |
| Is the firm likely to hold clients' and/or estate monies in connection with the above activities?                        | Select Y/N |

Although the above areas of probate-related work are not regulated by ICAEW, this information is required to help us understand your business.

## 17 Statement on access to justice

It is a requirement of the Act that you explain how your body's application to become an authorised probate body will promote **access to justice**.

Examples of the type of explanation you might give are, access to justice may be promoted through improved access to services geographically or through technology. It may also be improved by making services more competitive for consumers or by delivering services in new ways. When setting out your explanation you should provide an analysis of how it specifically relates to your body.

|  |
|--|
|  |
|--|

## 18 Statement on the regulatory objectives

For a list of the regulatory objectives and professional principles, please refer to section 1 of the Act, [legislation.gov.uk/ukpga/2007/29/contents](http://legislation.gov.uk/ukpga/2007/29/contents)

|  |            |
|--|------------|
| Are you aware of any issues affecting your body that might compromise the regulatory objectives if this application is successful and you begin to undertake probate work?   | Select Y/N |
| Is anyone in your body (including any owner or shareholder) subject to duties that might conflict with the body's ability to carry out probate work in accordance with the probate regulations and the professional principles contained in the Act? | Select Y/N |
| If 'Yes', please outline the steps your firm will take to mitigate the risk of conflict and/or to address this issue.  |            |



## 19 Statement on improper influence

Authorised bodies are under an obligation to ensure that non-authorised persons (whether principals, employees or shareholders) do not influence improperly the conduct of probate work.

Please outline the steps your body will take to ensure that authorised individuals can conduct probate work independently and free from influence that might compromise their ability to adhere to the probate regulations and the professional principles set down in the Act (see section 1 of the Act).

Does the body have any contractual or other arrangements with another entity that may allow that other entity to have any influence that may affect, or could be perceived as affecting, how probate work is carried out?

Select Y/N

If 'Yes', please attach details of any safeguards designed to prevent such influence.

## 20 Diversity

One of the Legal Services Act's regulatory objectives is to encourage an independent, strong, diverse and effective legal profession ([legislation.gov.uk/ukpga/2007/29/contents](http://legislation.gov.uk/ukpga/2007/29/contents)).

To meet this objective the Legal Services Board (LSB) has published guidance stating that bodies should have arrangements in place for monitoring periodically the diversity of individuals in their body.

To satisfy the LSB's requirement, bodies are encouraged to collect, collate and publish data on the diversity of their workforce. This information should also be supplied to ICAEW in summary format in order that ICAEW can publish data showing the diversity of the entire workforce of bodies offering probate services. Only summary information will be reported and your body will not be identified.

ICAEW has created a model questionnaire that bodies can download and distribute to their staff. If bodies do not have processes in place to ensure the anonymity of their staff, we provide the option of an online questionnaire. Go to [icaew.com/probate](http://icaew.com/probate) for more information.

Please outline the steps your body will take periodically to monitor the diversity of the individuals in the body.

If these are available, please summarise the results of your initial diversity monitoring below and attach your results to this form when submitting your application. On a periodic basis, we will request updates to this information. (Should the information not be available at time of application a follow-up request will be made within six months of application).

Diversity monitoring results

## 21 Professional indemnity insurance

An authorised probate body that is or intends to carry out authorised work (as defined in regulation 1.6 of the Probate Regulations) must have professional indemnity Insurance (PII) under ICAEW's PII Regulations with a minimum level of indemnity of £500,000 per claim.

Please enclose a copy of your body's PII policy schedule with this application which shows the entities and sums insured.

|   |         |
|---|---------|
| Cover arranged with (name of participating insurer) |         |
| Period of cover (DD MM YY)                          | from to |

## 22 Offices without an authorised individual

|  |            |
|--|------------|
| Will probate work be carried out from any office listed in section 5 where there is no resident authorised individual? | Select Y/N |
| If 'Yes', please set out details of the probate supervision arrangements at each of these offices.                     |            |

## 23 Fit and proper

The Act requires authorised persons to be fit and proper to carry out probate work. Under the Probate Regulations, any body seeking authorisation must satisfy ICAEW that it is fit and proper. It is for each body to ensure that all its principals, and those employees involved directly or indirectly with probate work, are fit and proper. The fit and proper requirement does not normally extend to administrative or secretarial staff but does cover practice support staff such as computer specialists.

If a body has any doubts about the fit and proper status of any of its principals or employees, it should contact Regulatory Support on +44 (0)1908 546 302.

If a body has merged in the last 10 years, the questions relate to every constituent part of the merged body.

A 'Yes' answer to any of the questions in this section will **not** automatically result in a body being refused authorisation. The Probate Committee may, however, wish to make further enquiries before reaching a decision.

If the Probate Committee finds out about any matters which a body does not disclose, this will be viewed very seriously. It could jeopardise the body's application or continuing authorisation.

The questions relate to all principals, authorised individuals and previous practices.

The answers will be 'Yes' or 'No', but a 'Yes' answer will need further explanation.

The word 'body' indicates all sole practitioners; principals; sole directors; sole shareholders of a corporate practice; authorised individuals and previous practices.

|   |            |
|---|------------|
| <b>Financial integrity and reliability</b>  | Select Y/N |
| In the last 10 years, has the body made any compromise or arrangement with its creditors, or otherwise failed to satisfy creditors in full? | Select Y/N |
| In the last 10 years, has the body been the subject of any insolvency proceedings?  | Select Y/N |

|   |                   |
|---|-------------------|
| <p><b>Civil liabilities</b></p> <p>In the last five years, has the body (just the entity that is make this application) been the subject of any relevant civil action relating to its professional or business activities which resulted in a judgment or finding against it by a court, or a settlement (other than a settlement consisting only of the dismissal by consent of a claim against it and the payment of its costs) being agreed?</p> | <p>Select Y/N</p> |
| <p><b>Good reputation and character</b></p> <p>There is no need to mention cautions or offences which are spent for the purposes of the Rehabilitation of Offenders Act 1974 or, in the case of a body which is a sole practice, offences committed by any individual before the age of 17 (unless committed within the last 10 years) or road traffic offences that did not lead to a prison sentence.</p>   |                   |
| <p>In the last 10 years, has the body been:</p>   |                   |
| <ul style="list-style-type: none"> <li>• convicted by a court of any criminal offence;</li> </ul>   | <p>Select Y/N</p> |
| <ul style="list-style-type: none"> <li>• refused or restricted in the right to carry on any trade, business or profession for which a specific licence, registration or other authority is required;</li> </ul>   | <p>Select Y/N</p> |
| <ul style="list-style-type: none"> <li>• refused entry to any professional body or trade association; or did it decide not to continue with an application;</li> </ul>  | <p>Select Y/N</p> |
| <ul style="list-style-type: none"> <li>• reprimanded, warned about future conduct, disciplined or publicly criticised by any professional or regulatory body;</li> </ul>  | <p>Select Y/N</p> |
| <ul style="list-style-type: none"> <li>• made the subject of a court order at the instigation of any professional or regulatory body; or</li> </ul>   | <p>Select Y/N</p> |
| <ul style="list-style-type: none"> <li>• investigated on allegations of misconduct or malpractice in connection with its professional or business activities that resulted in a formal complaint being proved but no disciplinary order being made?</li> </ul>  | <p>Select Y/N</p> |
| <p>Is the body currently undergoing any investigation or disciplinary procedures as described above?</p>  | <p>Select Y/N</p> |
| <p>If there has been any disciplinary issue(s) please state in the box what action your firm has taken in order to avoid this type of issue occurring in the future:</p>  |                   |
| <p>Is there any other information relevant to any of the above questions which the body should disclose to ICAEW? If 'Yes', please specify details on a separate sheet.</p>   | <p>Select Y/N</p> |

## 24 Maintaining competence

Please tick the CPD activities which authorised individuals and others use regularly to maintain competence and keep up to date with probate legislation, regulations and related matters.

|   | Authorised individuals   | Employees engaged in probate work under supervision | Other                    |
|---|--------------------------|---|--------------------------|
| Online learning/e-learning  | <input type="checkbox"/> | <input type="checkbox"/>                            | <input type="checkbox"/> |
| DVD subscriptions   | <input type="checkbox"/> | <input type="checkbox"/>                            | <input type="checkbox"/> |
| Update services   | <input type="checkbox"/> | <input type="checkbox"/>                            | <input type="checkbox"/> |
| In-house courses  | <input type="checkbox"/> | <input type="checkbox"/>                            | <input type="checkbox"/> |
| In-house technical discussion groups  | <input type="checkbox"/> | <input type="checkbox"/>                            | <input type="checkbox"/> |
| Training consortium or another firm's in-house courses  | <input type="checkbox"/> | <input type="checkbox"/>                            | <input type="checkbox"/> |
| ICAEW or district society courses   | <input type="checkbox"/> | <input type="checkbox"/>                            | <input type="checkbox"/> |
| Other commercial courses  | <input type="checkbox"/> | <input type="checkbox"/>                            | <input type="checkbox"/> |
| Local discussion groups   | <input type="checkbox"/> | <input type="checkbox"/>                            | <input type="checkbox"/> |
| Private reading: technical papers, accountancy/legal journals, articles, newsletters                                  | <input type="checkbox"/> | <input type="checkbox"/>                            | <input type="checkbox"/> |
| Access to a technical library   | <input type="checkbox"/> | <input type="checkbox"/>                            | <input type="checkbox"/> |
| Focused discussion with more experienced colleagues   | <input type="checkbox"/> | <input type="checkbox"/>                            | <input type="checkbox"/> |
| Other (please give further details)   | <input type="checkbox"/> | <input type="checkbox"/>                            | <input type="checkbox"/> |
| Will individual training records be maintained for all authorised individuals and employees involved in probate work? | Select Y/N               |   |                          |
| Name of the principal responsible for assessing the competence of staff engaged in probate work                       |                          |   |                          |
| Name of the principal responsible for ensuring that authorised individuals and staff receive relevant training        |                          |   |                          |
| Does the body intend to use a probate manual and/or probate documentation?  | Select Y/N               |   |                          |
| If 'Yes', is this commercially available?   | Select Y/N               |   |                          |
| If 'Yes', please name the manual.   |                          |   |                          |
| Does the body intend to subscribe to an updating service for the probate manual?                                      | Select Y/N               |   |                          |

If 'No', how do you propose keeping authorised individuals and employees in your firm up to date in probate law and practice?

## 25 Control of probate work

|   |            |  |            |
|---|------------|--|------------|
| Does the body have appropriate arrangements to deal with:                   |            |  |            |
| fit and proper considerations   | Select Y/N | recruitment  | Select Y/N |
| independence and integrity  | Select Y/N | staff appraisal  | Select Y/N |
| confidentiality   | Select Y/N | training standards                                     | Select Y/N |
| conduct of probate work (including acting in the best interests of clients) | Select Y/N | discipline   | Select Y/N |
| recording of work done  | Select Y/N | reporting and supervisory responsibilities in the firm | Select Y/N |
| review procedures   | Select Y/N | complaints-handling                                    | Select Y/N |
|   |            | clients' money (if held)                               | Select Y/N |

## 26 Alternate arrangements

The next question is for sole practitioners or corporate practices with only one shareholder or director.

You must have arrangements in place for the appointment of an alternate in the case of death or incapacity. Please refer to our helpsheet *Arrangements of alternates for sole principals in the UK* at [icaew.com/practicehelpsheets](http://icaew.com/practicehelpsheets)

Please provide the following information.

|   |            |
|---|------------|
| Alternate's name  |            |
| Alternate's home address  |            |
| Alternate's email address   |            |
| Is the alternate authorised to conduct probate work?  | Select Y/N |
| If 'Yes', please state the name of the alternate's approved regulator.  |            |
| If 'No', have you made the alternate aware that probate work must be handled by a person who is authorised to carry it out? | Select Y/N |

## 27 Signature and confirmations

I certify that, to the best of my knowledge and belief, the information in, or provided with, this application is a true and accurate statement of the firm's circumstances.

I confirm that:

- all relevant information has been disclosed;
- the control of this body is in accordance with the Probate Regulations;
- I have taken steps to ensure that all principals and employees involved in probate work are fit and proper persons;
- this body has professional indemnity insurance in place that covers authorised work as required by the PII and Probate Regulations; and
- this body will comply with the Practice Assurance Regulations as if it were a member firm.

If this application is approved, I confirm that:

- this body will comply with the Practice Assurance Regulations; if your body is not a member firm, as defined in the Principal Bye-Laws which can be found at [icaew.com/regulations](http://icaew.com/regulations), you will be required to sign an agreement for Practice Assurance services. For further information about Practice Assurance fees please email [AMLR@icaew.com](mailto:AMLR@icaew.com);
- this body will comply with the Probate Regulations at all times;
- this body will notify ICAEW immediately of any matter which indicates the body has, or may in the future, cease to comply with the Probate Regulations;
- this body will deal with ICAEW in an open and cooperative manner and will inform ICAEW promptly of anything concerning the body as required by the Probate Regulations;
- this body will inform all principals, employees and shareholders of the duties contained in sections 90 and 176 of the Act;
- this body acknowledges that ICAEW may make enquiries of or about the body, as it deems necessary;
- the body acknowledges that ICAEW may publish, in such manner as it may determine, any information about the body's status under the regulations;
- the body acknowledges that ICAEW may disclose information about it to other bodies as set out in Probate Regulation 2.26;
- the body will establish and maintain internal processes for handling complaints about probate work, and will deal cooperatively with the Legal Ombudsman and comply with his office's decisions as necessary;
- none of ICAEW, its officers, staff, members of its Council or committees, their servants or agents can be held liable to the body, a person, or an individual, in damages for any act or omission arising out of the performance of any of their functions under the Legal Services Act 2007, or connected with the granting of authorisation or a licence, the enforcement of the Probate Regulations or the monitoring of compliance with the Probate Regulations in any respect, unless the act or omission is shown to have been in bad faith; and
- this body will not accept probate work or hold itself out to be an accredited probate body unless I have received confirmation in writing that this application has been successful.

Signature of sole practitioner or probate contact partner with overall responsibility for making sure the body complies with the Probate Regulations and who has provided the above confirmations.

---

Name

Date (DD MM YYYY)

I have attached a total of  additional sheets.

Registration fee, and fee for each Disclosure and Barring Service check made by ICAEW (for HoLP, HoFA, all non-authorized owners with a material interest) (if applicable).

If this application is being made as a result of a merger of existing accredited probate firms/bodies, or an incorporation of an existing accredited probate firm/body, and all fees have already been paid, the balance will be transferred to the new body's account once authorisation has been approved.

Bodies that are not the result of a merger or incorporation of existing accredited firms/bodies need to enclose a cheque for the relevant fee.

I enclose a cheque for £ (payable to Chartac) as payment for this year's registration fee. Please see fee scale at [icaew.com/probate](http://icaew.com/probate)

I enclose a cheque for £ (payable to Chartac) as payment for each Disclosure and Barring Service check made by ICAEW. Please see details of fees at [icaew.com/probate](http://icaew.com/probate)

You must send the applicable registration fees with this application form. The fees are calculated by reference to the number of principals, authorised individuals and offices as described in the fee scale. You must also send the total fee for all Disclosure and Barring Services checks that ICAEW will need to carry out.

Your firm will receive a receipted invoice for these fees if the body is accepted as eligible to be an authorised probate body. If the application is not successful, we will refund the registration fees.

If you withdraw your application before the Disclosure and Barring Service checks have been made by ICAEW we will refund the fees for those checks.

## 28 Completion checklist

Before you return the completed application form, please:

- |   |                          |
|---|--------------------------|
| • make sure you have completed all questions;   | <input type="checkbox"/> |
| • enclose a cheque for the registration fee and any applicable Disclosure and Barring Service check fees; | <input type="checkbox"/> |
| • enclose a copy of the firm's PII policy schedule and your insurer's details;                            | <input type="checkbox"/> |
| • include any additional sheets with the form;  | <input type="checkbox"/> |
| • sign and date the form;   | <input type="checkbox"/> |
| • keep a copy of this form for your records; and  | <input type="checkbox"/> |
| • send it to the address below.   | <input type="checkbox"/> |

We will send you an acknowledgement when we receive your application.

Please send this form to:

Regulatory Support,  
ICAEW  
Metropolitan House  
321 Avebury Boulevard  
Milton Keynes  
MK9 2FZ  
UK



### Using your personal information

We will treat any personal information collected on this form in accordance with data protection legislation. We will use your information to carry out our responsibilities as a regulator and as a professional body. To do this, we will share your information with other organisations as required by law.

We may transfer your information outside the European Economic Area (EEA) eg, to one of our offices. These countries may not have similar data protection laws to the EEA, so if we do transfer your information we will take the necessary steps to ensure that your privacy rights are still protected. For more information about our data protection policy, please go to [icaew.com/dataprotection](http://icaew.com/dataprotection)



## Legal services compensation scheme regulations

### 1 General

#### Authority and commencement

- 1.1. These [regulations](#) are made by the Council of [ICAEW](#), pursuant to Clause 16 of the Supplemental Royal Charter of 1948. They come into force on [date to be confirmed] and on this date, with immediate effect, they revoke the [Probate Compensation Scheme Regulations](#), and any pending [application](#) or appeal made under the [Probate Compensation Scheme Regulations](#) is deemed to have been made under these regulations.
- 1.2. Any notice or document may be served on [ICAEW](#) by sending it to:
- Professional Conduct Department  
ICAEW  
Metropolitan House  
321 Avebury Boulevard  
Milton Keynes  
MK9 2FZ
- 1.3. Subject as herein provided, any notice, decision, order or other document which needs to be served on any [applicant](#), [firm](#) or [accredited legal services firm](#) under these [regulations](#) will be delivered by hand, or sent by email, fax or post:
- if it is delivered by hand to the addressee, service will take effect immediately;
  - if sent by email, it will be sent to the most recent email address given by the addressee and service will take effect immediately;
  - if sent by fax, it will be sent to the most recent fax number given by the addressee and service will take effect immediately; or
  - if sent by post, it will be sent to the latest address given by the addressee and service will take effect two business days after posting.
- 1.4. Any requirement of the Legal Services Committee under these [regulations](#) will be communicated in writing.

#### Interpretation

- 1.5. The words listed below shall have the meanings given:

|  |  |
|--|--|
| <a href="#">Accreditation</a>                  | The process by which <a href="#">ICAEW</a> authorises or licenses persons to undertake authorised legal services work in accordance with the Legal Services Regulations. |
| <a href="#">Accredited legal services firm</a> | A <a href="#">firm</a> authorised or licensed under ICAEW's <a href="#">Legal Services Regulations</a> to conduct <a href="#">authorised legal services work</a> .       |
| <a href="#">Act</a>                            | Legal Services Act 2007  |
| <a href="#">Administration of oaths</a>        | As defined in Schedule 2, paragraph 8 of the Act   |
| <a href="#">Appeal Tribunal</a>                | The First-tier Tribunal established under the Tribunals, Courts and Enforcement Act 2007.  |
| <a href="#">Applicant</a>                      | A person (including an individual or a body corporate) who makes an <a href="#">application</a> for a <a href="#">grant</a> of compensation in                           |

accordance with these [regulations](#), but excluding a person as set out in [regulation 3.3](#).

### [Application](#)

A claim for the [grant](#) of compensation made in accordance with [regulation 7.1](#)

### [Authorised legal services work](#)

Conduct of one or more of the following six activities:

- [Rights of audience work](#) – as defined below
- [Conduct of litigation work](#) – as defined below
- [Reserved Instruments work](#) – as defined below
- [Probate work](#) – as defined below
- [Notarial activities](#) – as defined below
- [Administration of oaths](#) – as defined above

### [Authorised probate work](#)

- [Probate work](#)
- Following a grant of probate or letters of administration, work undertaken in collecting in the assets of an estate, settling the liabilities and distributing the remainder in accordance with a will or letters of administration.

### [Conduct of litigation work](#)

The conduct of litigation defined in Schedule 2 paragraph 4 of the Act provided that the proceedings are commenced by a [Tax Authority](#) or other prosecuting agency or body or against a [Tax Authority](#) and are or relate to:

- a. claims for the payment or recovery of [Tax](#) by a [Tax Authority](#) including insolvency proceedings commenced by a [Tax Authority](#) on account of the non-payment of [Tax](#). [However, except for appeals against a winding-up or a bankruptcy order, such [conduct of litigation work](#) does not extend to proceedings relating to issues arising after a court has made an order of winding-up or a bankruptcy order];
- b. claims for the repayment or recovery of sums from a [Tax Authority](#) on account of liabilities or perceived liabilities for [Tax](#), including related claims for interest, repayment supplements or for other compensation on account of a [Tax Authority](#) having the benefit of possession of money or the claimant suffering loss;
- c. decisions by a [Tax Authority](#) that relate to or are concerned with a [Tax](#) or which may directly or indirectly impact on the existence of a [Tax](#) liability or criminal or civil penalty relating to [Tax](#) (this includes, in particular, challenges to decisions made by [Tax Authorities](#) by judicial review or as a defence to claims by a [Tax Authority](#) or claims for compensation against a [Tax Authority](#) relating to such decisions); or

- d. criminal proceedings relating to the non-payment of any [Taxes](#) or any other act or omission relating or otherwise connected to a liability to pay or account for [Tax](#) including proceedings arising under the Proceeds of Crime Act 2002 relating to [Tax](#) liabilities;

and including the conduct of appeals from decisions (including procedural decisions) of a tribunal or court relating to such proceedings and any other proceedings challenging such decisions by a tribunal or court.

#### [Employee](#)

Anyone who carries out [authorised legal services work](#) and/or [authorised probate work](#) for an [accredited legal services firm](#) but excluding a [principal](#).

#### [Firm](#)

A [firm](#) includes a:

- sole practice;
- partnership;
- limited liability partnership; or
- body corporate.

#### [Grant](#)

The payment to an [applicant](#) in accordance with a decision of the [Legal Services Committee](#) under [regulation](#) 3.

#### [ICAEW](#)

The Institute of Chartered Accountants in England and Wales.

#### [Legal Services Committee](#)

The committee established under chapter 9 of the [Legal Services Regulations](#).

#### [Legal Services Compensation Scheme](#)

The [scheme](#) for the payment of [grants](#) made in accordance with these [regulations](#).

#### [Legal Services Regulations](#)

The ICAEW Regulations that set out the regulatory requirements for the [accredited legal services firms](#) and for the carrying out of [authorised legal services work](#) and/or [authorised probate work](#).

#### [Notarial activities](#)

As defined in Schedule 2, paragraph 7 of the Act

#### [Principal](#)

- an individual in sole practice (where the [firm](#) is a sole practice);
- a person who is a partner (including both salaried and equity partners) (where the [firm](#) is a partnership);
- a member of a limited liability partnership (where the [firm](#) is a limited liability partnership);
- a director (where the [firm](#) is a company);
- a member of the governing body (where the [firm](#) is an unincorporated body, other than a partnership); or

any individual or person who is held out as being a director, partner, member, or member of the governing body.

### Probate Compensation Scheme Regulations

The regulations relating to the Probate Compensation Scheme made by ICAEW's Council pursuant to clause 16 of the supplemental Royal Charter of 1948 which came into force on 22 September 2014.

### Probate work

As defined in Schedule 2 paragraph 6 of the Act – but restricted by the Legal Services Regulations to non-contentious probate work.

### Regulations

These Legal Services Compensation Scheme Regulations, as modified or amended from time to time.

### Reserved instrument work

Reserved instrument activities as defined in Schedule 2 paragraph 5 of the Act provided that such work:

- a. relates to or is connected with Tax advice that has been provided by the Authorised firm or an Accredited legal services firm undertaking the reserved instrument work (although the Tax advice does not have to be provided by an Authorised Individual acting on behalf of that firm); and
- b. is not work on an instrument that transfers or charges real property, however this limitation on the reserved instrument work that can be undertaken does not extend to work on a declaration of trust or a deed of appointment or other trust instrument which purports to declare, vary or alter the trusts upon which property (which may be or include real property) is held by trustees.

### Rights of audience work

The exercise of rights of audience as defined in Schedule 2 paragraph 3 of the Act provided that the proceedings are commenced by a Tax Authority or other prosecuting agency or body or against a Tax Authority and are or relate to:

- a. claims for the payment or recovery of Tax by a Tax Authority including insolvency proceedings commenced by a Tax Authority on account of the non-payment of Tax. [However, except for appeals against a winding-up or a bankruptcy order, such rights of audience work does not extend to proceedings relating to issues arising after a court has made an order of winding-up or a bankruptcy order];
- b. claims for the repayment or recovery of sums from a Tax Authority on account of liabilities or perceived liabilities for Tax, including related claims for interest, repayment supplements or for other compensation on account of a Tax

[Authority](#) having the benefit of possession of money or the claimant suffering loss;

- c. decisions by a [Tax Authority](#) that relate to or are concerned with a [Tax](#) or which may directly or indirectly impact on the existence of a [Tax](#) liability or criminal or civil penalty relating to [Tax](#) including, in particular, to challenges of decisions made by [Tax Authorities](#) by judicial review or as a defence to claims by a [Tax Authority](#) or claims for compensation against a [Tax Authority](#) relating to such decisions; or
- d. criminal proceedings relating to the non-payment of any [Taxes](#) or any other act or omission relating or otherwise connected to a liability to pay or account for [Tax](#) including proceedings arising under the Proceeds of Crime Act 2002 relating to [Tax](#) liabilities.

including the exercise of rights of audience on appeals from the decisions (including procedural decisions) of a tribunal or court relating to such proceedings or the exercise of rights of audience in any other proceedings challenging such decisions by a tribunal or court.

#### [Tax Authority](#)

HM Revenue and Customs, the National Crime Agency, HM Treasury or any other authority or body or department where charged with the collection of [Tax](#) or the formulation of policy or decisions relating to [Tax](#) and the First-tier Tribunal and the Upper Tribunal when making decisions in proceedings relating to [Tax](#) or any other tribunal when making decisions in proceedings relating to [Tax](#) where a party to the proceedings is a [Tax Authority](#).

#### [Tax](#)

Any taxes, duties (including customs and excise duties), contributions (including in particular national insurance contributions) and levies (including the apprenticeship levy) whether in the United Kingdom or any part of the United Kingdom or in any other jurisdiction and including any interest, surcharges and penalties relating to such liabilities.

- 1.6. In these [regulations](#), headings are for convenience only, and shall not affect interpretation.
- 1.7. In these [regulations](#) words importing the singular include the plural and vice versa. Words importing the masculine gender include the feminine and neuter. Words importing the neuter gender include both the masculine and feminine genders. These [regulations](#) will be governed by, and interpreted in accordance with, the laws of England and Wales.

#### Administration of the scheme

- 1.8. The [Legal Services Committee](#) is responsible for administering the [Legal Services Compensation Scheme](#) and for determining [applications](#) for compensation made under these [regulations](#).

## 2 The Legal Services Compensation Scheme

- 2.1. These [regulations](#) apply to:
  - a. [accredited legal services firms](#);
  - b. [firms](#) that were previously [accredited](#) in accordance with the Legal Services Regulations and any reference to [accredited legal services firms](#) shall include such [firms](#); and
  - c. [applicants](#).
- 2.2. An [accredited legal services firm](#) must pay any levy for ICAEW's [Legal Services Compensation Scheme](#) (whether a periodic contribution or special levy) as ICAEW may decide from time to time. This includes levies raised after the [firm's accreditation](#) has ceased but excludes levies relating to claims in respect of services provided by any [firm](#) wholly after the date of termination of the [firm's accreditation](#).
- 2.3. ICAEW may invest any money which forms part of the [Legal Services Compensation Scheme](#) in any investments in which trustees may invest under the general power of investment in section 3 of the Trustee Act 2000 (as restricted by sections 4 and 5 of that Act).
- 2.4. ICAEW may insure, in relation to the [Legal Services Compensation Scheme](#), for such purposes and on such terms as it considers appropriate.
- 2.5. ICAEW may borrow for the purposes of the [Legal Services Compensation Scheme](#) and charge investments which form part of the [Scheme](#) as security for borrowing by ICAEW for the purposes of the [Scheme](#).
- 2.6. The [Legal Services Compensation Scheme](#) may be applied by ICAEW for the following purposes (in addition to the making of [grants](#) in respect of [applications](#) for compensation):
  - a. payment of premiums on insurance policies effected under [regulation](#) 2.4;
  - b. repayment of money borrowed by ICAEW for the purposes of the [Legal Services Compensation Scheme](#) and payment of interest on any money so borrowed under [regulation](#) 2.5;
  - c. payment of any other costs, charges or expenses incurred by ICAEW in establishing, investing, maintaining, protecting, administering or applying the [Legal Services Compensation Scheme](#);
  - d. payment of any costs, charges or expenses incurred by the ICAEW in exercising its powers under Schedule 14 to the [Act](#) (intervention powers) or any intervention powers which it may have as an approved regulator under the [Act](#);
  - e. payment of any costs or damages incurred by ICAEW or its employees, agents, any member, officer, and any member of the [Legal Services Committee](#), as a result of proceedings against any of them for any act or omission made in good faith and in the exercise or purported exercise of any of their functions under these [regulations](#).

### 3 Grants from the Legal Services Compensation Scheme

- 3.1. A [grant](#) from the [Legal Services Compensation Scheme](#) is made wholly at the discretion of the [Legal Services Committee](#) and on such terms as the [Committee](#) deems appropriate. No person has a right to a [grant](#) enforceable at law.
- 3.2. In particular and for the avoidance of doubt, the [Legal Services Committee](#) may refuse to make a [grant](#) if payment could cause the [Legal Services Compensation Scheme](#) to exhaust the funds available for payment at the time of the decision on whether to make a [grant](#).
- 3.3. The [Legal Services Committee](#) will not make a [grant](#) in favour of an [applicant](#) which, if a body corporate or a registered charity, had an annual turnover in the last accounting year equal to, or exceeding, £1 million.

- 3.4. For a [grant](#) to be made from the [Legal Services Compensation Scheme](#), an [applicant](#) must satisfy the [Legal Services Committee](#) that:
- a. he has suffered loss in consequence of fraud or other dishonesty on the part of an [accredited legal services firm](#) or of any [principal](#) or [employee](#) of an [accredited legal services firm](#), in connection with their activities in the course of [authorised legal services work and/or authorised probate work](#); or
  - b. he has suffered loss in consequence of a failure to account for money which was received by an [accredited legal services firm](#), or the [principal](#) or [employee](#) of an [accredited legal services firm](#), in connection with their activities in the course of [authorised legal services work and/or authorised probate work](#).
- 3.5. A [grant](#) may be made, at the sole discretion of the [Legal Services Committee](#), as an interim measure and on such terms as the [Legal Services Committee](#) deems appropriate.

#### **4 Grants in respect of persons in default of regulatory requirements**

- 4.1. At the absolute discretion of the [Legal Services Committee](#) a [grant](#) may be made even if at the time of the relevant act or default by the [accredited legal services firm](#) or its [principal](#) or [employee](#):
- a. the [accreditation](#) of the [accredited legal services firm](#) had ceased under regulation 2.22 of the [Legal Services Regulations](#); or
  - b. the [accreditation](#) of the [accredited legal services firm](#) was suspended under chapter 10 of the [Legal Services Regulations](#); or
  - c. the [principal](#) or [employee](#) of the [accredited legal services firm](#) was disqualified under chapter 5 of the [Legal Services Regulations](#),
- provided that the [Legal Services Committee](#) is reasonably satisfied that the [applicant](#) at that time was unaware of the cessation, suspension or disqualification.

#### **5 Cases not covered by the Legal Services Compensation Scheme**

- 5.1. For the avoidance of doubt, a [grant](#) will not be made in respect of losses which:
- a. are the personal debts of an [accredited legal services firm](#) or a [principal](#) or [employee](#) of such a [firm](#) and where the facts would not otherwise give rise to an [application](#) to the [Legal Services Compensation Scheme](#);
  - b. result from, but do not form part of, any misappropriation of, or failure to account for, money or money's worth;
  - c. result from the trading debts or liabilities of the [accredited legal services firm](#);
  - d. amount to a claim for contractually agreed interest between the [applicant](#) and the [accredited legal services firm](#);
  - e. were not notified to the [Legal Services Committee](#) in accordance with [regulation](#) 7.1;
  - f. result from activities of the [accredited legal services firm](#) other than in its performance of [authorised legal services work and/or authorised probate work](#);
  - g. arise solely by reason of professional negligence by an [accredited legal services firm](#) or a [principal](#) or [employee](#) of such a [firm](#); or
  - h. arose at any time when the [firm](#) was not [accredited](#), save for the circumstances set out in [regulation](#) 4.1.

#### **6 Multi-party and multi-profession issues**



- 6.1. Where the loss has been sustained as a result of the combined activities of more than one party (eg, an [accredited legal services firm](#) conspires with a solicitor or is assisted by a negligent solicitor), the [Legal Services Committee](#) will consider the role of each contributing factor in causing the [applicant's](#) loss. The [Legal Services Committee](#) will base any [grant](#) on its assessment of that portion of the loss primarily attributable to the acts of the [accredited legal services firm](#). The [Legal Services Committee](#) may decide to make a [grant](#) on a pro-rata basis in accordance with its assessment of the importance of each contributing factor in the loss, or may reject an [application](#) in its entirety if it is of the opinion that the loss was primarily due to factors other than the fraud or dishonesty of the [accredited legal services firm](#), or its [principal\(s\)](#) or [employee\(s\)](#), or their failure to account for money which was received in connection with activities in the course of [authorised legal services work](#) and/or [authorised probate work](#).
- 6.2. When an individual who is individually regulated by another approved regulator (as set out in Schedule 4 of the [Act](#)) is practising as the [principal](#) or [employee](#) of an [ICAEW accredited legal services firm](#), [ICAEW](#) may, in its absolute discretion, consider an [application](#) in respect of that individual's act or default.

## 7 Applications: form and time limit

- 7.1. Every [application](#) must be delivered to [ICAEW](#), in such form as may from time to time be prescribed by [ICAEW](#), within twelve months after the loss first came, or reasonably should have come, to the knowledge of the [applicant](#). The [Legal Services Committee](#) may extend this period if satisfied that there are exceptional circumstances which justify the extension of the time limit.

## 8 Documentation in support

- 8.1. An [applicant](#) must provide such documentation as may be required by the [Legal Services Committee](#) including, when requested, a statement of truth. Failure to provide such documentation or to cooperate with the [Legal Services Committee](#) will be taken into account when determining the merits of the [application](#) and may be treated as a reason for withholding or reducing a [grant](#).

## 9 Exhausting other remedies

- 9.1. A [grant](#) will be refused where the loss is an insured risk or where, in the reasonable opinion of the [Legal Services Committee](#), the loss is capable of being made good by some other means.
- 9.2. A grant will be reduced where, and to the extent that, part of the loss is an insured risk or where, in the reasonable opinion of the [Legal Services Committee](#), is capable of being made good by some other means.
- 9.3. In particular the [Legal Services Committee](#) may, before deciding whether to make a [grant](#) or the amount of a [grant](#), require the [applicant](#) to:
  - a. pursue any civil remedy which may be available to the [applicant](#) in respect of the loss;
  - b. commence insolvency proceedings;
  - c. make a formal complaint to the police in respect of any dishonesty on the part of the [accredited legal services firm](#) or its [principal\(s\)](#) or [employee\(s\)](#); or
  - d. assist in the taking of any action against the [accredited legal services firm](#) or its [principal\(s\)](#) or [employee\(s\)](#).
- 9.4. If a [grant](#) is made (whether under [regulation](#) 3.5 or otherwise) before requiring the [applicant](#) to resort to other means of recovery, such [grant](#) will be made repayable to [ICAEW](#) in the event (and to the extent) that losses are recovered by such other means.

## 10 Notice to accredited firm

- 10.1. The Legal Services [Committee](#) shall not make a [grant](#) unless:



- a. a communication has been sent to the [accredited legal services firm](#) at its last known correspondence address, as set out in [regulation](#) 1.3, or to its representative informing the [accredited legal services firm](#) of the nature of the [application](#); and
  - b. at least eight days have elapsed since the date of receipt of such communication which, notwithstanding [regulation](#) 1.3, shall be regarded as the day following the date of the communication.
- 10.2. If it appears to the [Legal Services Committee](#) that any communication sent under [regulation](#) 10.1 will not come to the attention of the [accredited legal services firm](#) or its representative, then the [Legal Services Committee](#) may make a [grant](#) notwithstanding failure to comply with the provisions of this [regulation](#).

## 11 Costs

### Litigation costs

- 11.1. Where an [applicant](#) intends to institute or has already instituted civil proceedings for recovery of his loss and wishes to apply for a [grant](#) in respect of the costs of the proceedings, the [Legal Services Committee](#) will not consider making or increasing a [grant](#) in respect of such costs unless:
- a. they can be shown to be proportionate to the loss and the amount likely to be recovered; or
  - b. the proceedings are/were necessary for the making of the [application](#) for a [grant](#).

### Application costs

- 11.2. Where a [grant](#) is made, the [Legal Services Committee](#) may, in its absolute discretion, consider an [application](#) for a further [grant](#) in respect of any reasonable fees payable by the [applicant](#) to any professional adviser, provided that such costs were incurred wholly, necessarily and exclusively in connection with the preparation, submission and proof of the [application](#).

## 12 Maximum payment

- 12.1. Subject to [regulation](#) 12.2 the maximum total amount that may be granted pursuant to [applications](#) under this [scheme](#) in respect of [authorised legal services work](#) and/or authorised probate work in connection with any claim, or in connection with any claims which in the reasonable opinion of the [Legal Services Committee](#) are connected with each other, or in the case of [authorised probate work](#) in connection with any single estate, is limited to £500,000 (exclusive of any interest payable under [regulation](#) 17.1).
- 12.2. The maximum amount which the [Legal Services Committee](#) may determine shall be paid out of the [Legal Services Compensation Scheme](#) in any calendar year shall be:
- a. the amount determined by the [Legal Services Committee](#) which may be expected not to cause the [grants](#) payable in that year to exceed £5,000,000; plus
  - b. the amount of any money recovered in that year by the [Legal Services Compensation Scheme](#), net of VAT (if applicable), pursuant to the provisions of [regulation](#) 13.1 and available for payment in that year; plus
  - c. the amount of any sums so recovered in previous years and not disbursed and which are available for payment in the relevant year, net of VAT (if applicable).

Accordingly if, in the course of any such calendar year, it appears to the [Legal Services Committee](#), in its absolute discretion, that the total of such amounts is otherwise likely to be exceeded in that calendar year, then in the remainder of that calendar year it shall not determine that the full amount shall be paid in respect of any [application](#), but shall secure, as far as it reasonably can, that all [grants](#) it thereafter determines shall be made, taking into consideration any [grant](#) on account, are abated rateably one with another.

12.3. Where the [Legal Services Committee](#) has abated a [grant](#) under 12.2 it may, in its absolute discretion, at the end of the financial year of [ICAEW](#) in which the initial [grant](#) was made (the Grant Year) determine whether or not:

- a. the balance of the amount stated in the [application](#) or a part thereof; and
- b. interest on such balance;

should be paid in the next following year of [ICAEW](#) (the Following Year) and any such further [grant](#) shall be made out of funds available to the [Legal Services Committee](#) for the Following Year as provided in [regulation](#) 12.2.

### **13 Recovery and subrogation**

13.1. Where a [grant](#) is made otherwise than by way of loan, or where a [grant](#) is made by way of a loan and repayment of the loan is waived or otherwise the borrower has failed to repay part or all of the loan, [ICAEW](#) shall be subrogated to the rights and remedies of the person to whom or on whose behalf the [grant](#) is made (the recipient) to the extent of the amount of the [grant](#). In such event the recipient shall if required by [ICAEW](#) whether before or after the making of a [grant](#) and upon [ICAEW](#) giving to the recipient a sufficient indemnity against costs, prove in any insolvency and/or winding-up of the [accredited legal services firm](#) and/or sue for recovery of the loss in the name of the recipient but on behalf of [ICAEW](#). The recipient shall also comply with all proper and reasonable requirements of [ICAEW](#) for the purpose of giving effect to [ICAEW](#)'s rights and shall permit [ICAEW](#) to have conduct of such proceedings.

### **14 Reduction in grants**

14.1. Where an [applicant](#) or the [applicant](#)'s servant or agent has contributed to the loss as a result of his activities, omissions or behaviour whether before, during or after the event giving rise to the [application](#), the [Legal Services Committee](#) may, in the exercise of its absolute discretion and to the extent that it considers that such activity, omission or behaviour has contributed to the loss, reduce the amount of any [grant](#) or reject the [application](#) in its entirety.

### **15 Deduction from grants**

15.1. The [Legal Services Committee](#) may deduct from any [grant](#) the fees that would have been payable by the [applicant](#) to the [accredited legal services firm](#) so that the [applicant](#) will not be in a better position by reason of a [grant](#) than he would otherwise have been in had the loss not occurred.

15.2. The [Legal Services Committee](#) may deduct from any [grant](#) all monies already recovered by an [applicant](#) and monies which in its reasonable opinion either will be or should have been recovered.

### **16 Refusal of an application**

16.1. If the [Legal Services Committee](#) refuses to make a [grant](#) of either the whole or part of the amount applied for, the [applicant](#) will be informed in writing of the reasons for the decision.

16.2. If an [application](#) is refused in whole or in part, a further [application](#) for the same loss (or loss which includes the same loss) may not be made unless, in the reasonable opinion of the [Legal Services Committee](#), it is supported by substantial new relevant evidence, information or submissions in which case [ICAEW](#) may, in its absolute discretion, consider a renewed [application](#).

### **17 Interest**

17.1. The [Legal Services Committee](#) may in its absolute discretion pay interest to an [applicant](#) on a [grant](#) of compensation. Any interest shall accrue from a date three calendar months after the date on which all information necessary to determine the [application](#) was provided by the [applicant](#) to the [Legal Services Committee](#).

17.2. Any interest payable under [regulation](#) 17.1 shall be simple interest paid at a rate which is applied by HMRC in respect of Income Tax repayments.

## **18 Appeals**

18.1. If an [application](#) is refused in whole or in part, the [applicant](#) may appeal to the [Appeal Tribunal](#) in accordance with regulations 11.5 to 11.8 of the Legal Services Regulations as if the refusal of the application were a decision of the Review Committee under the Legal Services Regulations.



## CONTINUING PROFESSIONAL DEVELOPMENT (CPD) REGULATIONS

Effective from 1 July 2005.

1. Members shall co-operate with ICAEW, its staff and any Committee carrying out functions under Principal Bye law 56 1 (Continuing Professional Development).
2. Members shall supply any information requested under Principal Bye-law 56 (whether in the Annual Members' Profile or otherwise) promptly and in accordance with the terms specified. Information includes any evidence requested to demonstrate compliance with Continuing Professional Development. Such evidence may include records, documents and other information whether in hard copy or electronic form.
3. Where ICAEW has any issues or concerns relating to compliance with Principal Bye-law 56 these will be notified in writing to the member. The member shall, within 15 business days of receipt of such notification (or such longer period as may be allowed), provide a response in writing addressing such issues or concerns.
4. If a member is a CPD exempt member (as defined in these regulations) paragraphs (a) and (b) of Principal Bye-law 56 do not apply.
5. Members shall complete a certificate relating to compliance with Principal Bye-law 56 (whether included in the Annual Members' Profile or as otherwise directed by the Committee).
6. Where a member makes a complaint about the conduct of ICAEW staff responsible for administering the Continuing Professional Development arrangements and remains dissatisfied notwithstanding an explanation, the Committee shall appoint one of its members to review the complaint. The appointed Committee member shall consider written or oral representations from those concerned and all documents he considers relevant. He may make such enquiries as he deems appropriate and shall then report to the Committee.
7. The Committee may in exceptional cases accept Continuing Professional Development compliance with an approved overseas body as meeting the requirements of Principal Bye-law 56.

### Interpretation

8. In these CPD regulations unless the context otherwise requires or express reference is made, words and phrases in these regulations have the same meaning as in the Principal and Disciplinary Bye-laws.

### Powers of variation

9. The Committee shall have the power to vary or waive the above regulations.

## References

1. Principal Bye law 56 states - Except as may be provided in regulations a member shall
  - a. keep under review his needs for training and development having regard to the professional and other work he undertakes;
  - b. where such a review identifies a specific need for training or development act promptly to meet such need; and
  - c. certify annually to the Institute compliance with these provisions and, if requested by the Institute, provide such evidence of compliance as may be required.

## Definitions

### Annual Members' Profile

The questionnaire or similar document sent to members by ICAEW requesting information under the Regulations Governing the Information to be Supplied by Members.

### Business days

Normal working days excluding Saturdays, Sundays, Public and Bank holidays.

### Committee

The Committee appointed by Council for the purposes of the supervision of Continuing Professional Development under Principal Bye Law 56.

### Continuing Professional Development or (CPD)

Continuing Professional Development or (CPD) means the provisions of Principal Bye Law 56 namely that a member shall:

- a. keep under review his needs for training and development having regard to the professional and other work he undertakes;
- b. where such a review identifies a specific need for training or development act promptly to meet such need; and
- c. certify annually to the Institute compliance with these provisions and, if requested by the Institute, provide such evidence of compliance as may be required.

### Council

Council of ICAEW.

### CPD exempt member

A member who –

- a. provides no accountancy service (with or without reward); and
- b. provides no other service for reward; and
- c. does not act as a trustee, director of a body corporate or in any other capacity which carries with it an equivalent level of legal or financial responsibility; and
- d. has no intention of providing the services in (a), (b) or (c) of this paragraph in the future.

### ICAEW

Institute of Chartered Accountants in England and Wales.

### Member

A member of ICAEW and membership shall be construed accordingly.

### Work

- a. the provision of any accountancy service as defined in the Council Statement on Public Practice \*(with or without reward);
- b. the provision of any other service for reward;

- c. acting as a trustee, director of a body corporate or in any other capacity which carries with it an equivalent level of legal or financial responsibility.

\* Extract Council Statement on Public Practice Section 6.2. 'Accountancy services include preparing or advising upon accounts or financial information, auditing and financial reporting, insolvency, taxation and financial (or management) consultancy but in the case of consultancy work only where the principal consultancy activity is accountancy related.'



## PROBATE COMMITTEE TERMS OF REFERENCE

### Accountability

1. Although ICAEW has been designated as an approved regulator under the Legal Services Act 2007 (the Act) it has agreed that the Probate Committee will carry out its regulatory functions in relation to probate independently of ICAEW. The ICAEW Council and other boards and committees of ICAEW may not intervene directly into the work of the Committee. However, as the approved regulator, ICAEW will retain the right to request that the Legal Services Board (LSB) intervene into the Committee's arrangements if it is considered that the Committee is failing to discharge its functions in accordance with the Probate Regulations or the Act's regulatory objectives.
2. Before determining matters of policy, or making or amending regulations concerning the regulation of probate practitioners, the Committee is required to consult with the ICAEW Regulatory Board (IRB) and other interested parties as appropriate.

### Membership

3. The Committee is made up of 10 members of whom half are lay members.
4. The chair of the Committee is a lay member and will have a casting vote where required.
5. A lay member is defined as a person who has never qualified or practised as a professional accountant. Solicitors and persons with legal training may not be lay members.
6. Half the members of the committee will be practitioners with expertise in the regulated areas.
7. ICAEW office-holders are disqualified from membership of the Committee in accordance with Principal Bye-law 44. ICAEW Council and Board members may not serve on the Committee.

### Powers and authorities

8. Council has delegated responsibility for the following activities to the Committee:
  - a) ICAEW's functions as an approved regulator and licensing authority as set out more fully in the Probate Regulations, which include:
    - considering and determining applications for probate accreditation;

- considering and determining applications for authorised individual, Head of Legal Practice, Head of Finance and Administration, non-authorised owner or probate affiliate status;
  - monitoring compliance with the Probate Regulations;
  - taking regulatory action as required to secure compliance with the Probate Regulations;
  - referring matters to ICAEW's disciplinary committees as required;
  - compiling and maintaining a register of licensed firms and supplying this information to the Legal Services Board as required.
- b) ICAEW's functions under the Probate Compensation Scheme Regulations in determining applications for grants;
  - c) the development of ICAEW policy in relation to probate practitioners, in consultation with the IRB and other key stakeholders;
  - d) rule-setting and any amendments to the Probate Regulations and Probate Compensation Scheme Regulations in consultation with the LSB, the IRB and other stakeholders;
  - e) budget and fee-setting in relation to accredited probate firms, in consultation with the LSB, the IRB (and ICAEW Board where any proposed increase is above the rate of wage inflation); and
  - f) liaising freely with the LSB and other stakeholders on matters concerning probate practitioners and responding to requests for information from the LSB.

### ***Modus operandi***

9. The Committee will operate in accordance with the Probate Regulations and Probate Compensation Scheme Regulations.
10. In discharging its functions the Committee will have regard at all times to the public interest, and the regulatory objectives and requirements of the Legal Services Act 2007.
11. The Committee will have a quorum of five members, the majority of whom will be lay members.
12. There will be a review of the Committee's membership and function within 3 years.



**Business Plan Detailed Steps and Owners**

The plan is based on one area of additional service  
For each additional service add 15% to all activities

**Expanding the role of the current committee**

Review the requirements and terms of reference of the committee  
Draft the Committee's Terms of Reference  
Appointment of new members. Follow standard ICAEW governance approach to establishing a committee  
Funding may be required to support any recruitment, orientation and training

**Regulatory approvals and quality assurance visit methodology**

Those practitioners or firms wishing to provide the new services will need to seek authorisation to do so  
These firms will need to complete application forms and the detail supplied will need to meet the regulatory requirements in full

The ICAEW technical support team, part of the ICAEW enquiry centre, will confidentially support applicants.  
The ICAEW regulatory support team will administer the application process, and support both the practitioner and firm and the registration/oversight committee.  
The ICAEW annual returns team will undertake an annual data review including a PII validation process, in addition to the annual renewal process and data change management regulatory requirements.  
The ICAEW quality assurance department will oversee or action general monitoring, risk management and monitoring visits  
The costs of the regulatory process (based on agreed visit cycle), in line with the ICAEW self financing mechanism, will be met by application fees and annual subscription fees.  
Should the ICAEW receive very high volumes of new service applications the regulatory support and QAD team will be expanded to meet demand.

|  |          |          |
|--|----------|----------|
| Application forms and guidance notes   |          | 8 weeks  |
| Regulatory Support training on application and guidance  | Training | 2 weeks  |
| Develop scheme promotional literature and case study   |          | 3 weeks  |
| Place articles in ICAEW publications   |          | 6 weeks  |
| Develop online helpsheets and process flow diagrams  |          | 2 weeks  |
| In-house technical support and process/procedure training  | Training | 3 weeks  |
| Updating website and online functionality  |          | 4 weeks  |
| Regulatory Support training of online materials  | Training | 1 week   |
| Process pilot applications   |          | 4 weeks  |
| Process application (in line with current service standards) - no referral required to committee |          | 4 weeks  |
| Process application (in line with current service standards) - referral required to committee    |          | 7 weeks  |
| Establish appeals and ombudsman arrangements   |          | 20 weeks |
| Enhance annual return process  |          | 3 weeks  |
| Annual Returns team training on enhancements   | Training | 1 week   |
| Enhance PAWS quality assurance process   |          | 5 weeks  |
| QAD reviewers trained on PAWS system process   | Training | 1 week   |
| Monitoring reports and committee referral process  |          | 2 weeks  |

**Professional indemnity insurance**

Practitioners and firms will need to ensure that they have in place the appropriate professional indemnity insurance  
ICAEW has already starting to explore PII options with its current range of brokers.

|  |          |          |
|--|----------|----------|
| Negotiation with current brokers             |          | 12 weeks |
| Finalise and set up scheme                   |          | 6 weeks  |
| Annual Returns team training on enhancements | Training | 1 week   |

**Compensation fund**

ICAEW will expand its current client protection compensation scheme to cover new areas:

|  |          |          |
|--|----------|----------|
| Negotiation with insurers  |          | 12 weeks |
| Set up account   |          | 3 weeks  |
| Confirm level and mechanism of member contributions (see also fee calculation) |          | 4 weeks  |
| Finalise administrative arrangements (including training)                      | Training | 6 weeks  |

**Systems development, user testing and rollout to live**

|   |  |          |
|---|--|----------|
| Enhance annual return process   |  | 10 weeks |
| Annual return rollout to live   |  |          |
| Enhance Pentana Audit Work System (PAWS) quality assurance review process |  | 5 weeks  |
| Enhance VisualFiles application and case management process               |  | 10 weeks |
| VisualFiles rollout to live   |  |          |

**Owner**

|   |
|---|
| Head of Advisory<br>Regulatory and Practice Manager   |
| Annual Returns Supervisor   |
| QAD Director  |
| Professional Standards Head of Finance  |
| QAD Director  |
| Head of Regulation<br>Head of Regulation/Regulatory and Practice Mgr<br>Head of Marketing/Head of Regulation<br>Share Service Mgr/PCP<br>Head of Regulation<br>Head of Advisory<br>Digicomms Manager<br>Digicomms Manager/Regulatory and Practice Mgr |
| Regulatory and Practice Manager<br>Regulatory and Practice Manager/Committee Secretary<br>HMCTS and LeO   |
| Annual Returns Supervisor<br>Annual Returns Supervisor<br>QAD Director<br>QAD Director<br>QAD Director/Committee Secretary  |
| Head of Regulation<br>Head of Regulation<br>Head of Regulation/Annual return Supervisor   |
| Finance Director<br>Executive Director of Finance<br>Executive Director Professional Standards<br>Head of Regulation  |
| Annual Return project lead  |
| PAWS administrator<br>VF project lead   |

Wk1 Wk2 Wk3 Wk4 Wk5 Wk6 Wk7 Wk8 Wk9 Wk10 Wk11 Wk12 Wk13 Wk14 Wk15 Wk16 Wk17 Wk18 Wk19 Wk20

The plan is based on one area of additional service  
For each additional service add 15% to all activities

**Expanding the role of the current committee**

Review and recruitment of committee members 8 weeks  
Committee member training and orientation 2 weeks

**Regulatory approvals and quality assurance visit methodology**

Application forms and guidance notes 3 weeks  
Annual return and sentencing guidance updates 3 weeks  
Develop scheme promotional literature and case study 3 weeks  
Place articles in ICAEW publications 6 weeks  
Develop online helpsheets and process flow diagrams 2 weeks  
Updating website and online functionality 4 weeks  
Process pilot applications 4 weeks  
Process application (in line with current service standards) - no referral required to committee 4 weeks  
Process application (in line with current service standards) - referral required to committee 7 weeks  
Monitoring reports and committee referral process 2 weeks  
Establish appeals and ombudsman arrangements 20 weeks

Regulatory Support training on application and guidance Training 1 week  
In-house technical support and process/procedure training Training 3 weeks  
Regulatory Support training of online materials Training 1 week  
Annual Returns team training on enhancements Training 1 week  
QAD reviewers trained on PAWS system process Training 1 week

**Professional indemnity insurance**

Negotiation with current brokers 12 weeks  
Finalise and set up scheme 6 weeks  
Annual Returns team training on enhancements Training 1 week

**Compensation fund**

Negotiation with insurers 12 weeks  
Set up account 3 weeks  
Confirm level and mechanism of member contributions (see also fee calculation) 4 weeks  
Finalise administrative arrangements (including training) Training 6 weeks

**Systems development, user testing and rollout to live**

Enhance annual return process 10 weeks - Exact timing dependent on annual development cycle  
Annual return rollout to live - Dependent on annual release date (usually Q1)  
Enhance Pentana Audit Work System (PAWS) quality assurance review process 5 weeks - Exact timing dependent on development cycle  
Enhance VisualFiles application and case management process 10 weeks - Exact timing dependent on annual development cycle  
VisualFiles rollout to live - Dependent on annual release date

ANNEX 22

**ICAEW FEE SCALES FOR THE REGULATION OF THE FURTHER RESERVED LEGAL ACTIVITIES**

**FEE SCALES**

**AUTHORISED FIRM**

Feescale for single RLS registration (Probate as base)  
CoL, RoA and RiA

|                                       | Offices |         |        |
|---------------------------------------|---------|---------|--------|
|                                       | 1       | 2 to 10 | 10+    |
| No. of principals, Als and affiliates |         |         |        |
|                                       | £       | £       | £      |
| 1                                     | 350     | 610     | 1,070  |
| 2 to 5                                | 610     | 1,070   | 1,880  |
| 6 to 9                                | 1,070   | 1,880   | 3,300  |
| 10 to 50                              | 1,880   | 3,300   | 5,790  |
| 50+                                   | 3,760   | 6,600   | 11,580 |

Feescale for dual RLS registration (Probate base discounted)  
NS and AoO ONLY

|                                       | Offices |         |       |
|---------------------------------------|---------|---------|-------|
|                                       | 1       | 2 to 10 | 10+   |
| No. of principals, Als and affiliates |         |         |       |
|                                       | £       | £       | £     |
| 1                                     | 70      | 122     | 214   |
| 2 to 5                                | 122     | 214     | 376   |
| 6 to 9                                | 214     | 376     | 660   |
| 10 to 50                              | 376     | 660     | 1,158 |
| 50+                                   | 752     | 1,320   | 2,316 |

Feescale for two RLS registration (including probate)  
Note, NS + AoO has its own feescale

|                                       | Offices |         |        |
|---------------------------------------|---------|---------|--------|
|                                       | 1       | 2 to 10 | 10+    |
| No. of principals, Als and affiliates |         |         |        |
|                                       | £       | £       | £      |
| 1                                     | 525     | 915     | 1,605  |
| 2 to 5                                | 915     | 1,605   | 2,820  |
| 6 to 9                                | 1,605   | 2,820   | 4,950  |
| 10 to 50                              | 2,820   | 4,950   | 8,685  |
| 50+                                   | 5,640   | 9,900   | 17,370 |

Feescale for more than two RLS registrations (including probate)

|                                       | Offices |         |        |
|---------------------------------------|---------|---------|--------|
|                                       | 1       | 2 to 10 | 10+    |
| No. of principals, Als and affiliates |         |         |        |
|                                       | £       | £       | £      |
| 1                                     | 875     | 1,525   | 2,675  |
| 2 to 5                                | 1,525   | 2,675   | 4,700  |
| 6 to 9                                | 2,675   | 4,700   | 8,250  |
| 10 to 50                              | 4,700   | 8,250   | 14,475 |
| 50+                                   | 9,400   | 16,500  | 28,950 |

Conduct of litigation CoL  
Rights of audience RoA  
Reserved instrument activities RiA  
Notarial services NS  
Administration of oaths AoO

**FEESCALES****LICENSED FIRM**

Feescale for single RLS registration (Probate as base)  
CoL, RoA and RIA

|                                       | Offices |         |        |
|---------------------------------------|---------|---------|--------|
|                                       | 1       | 2 to 10 | 10+    |
| No. of principals, AIs and affiliates |         |         |        |
|                                       | £       | £       | £      |
| 1                                     | 350     | 610     | 1,070  |
| 2 to 5                                | 1,220   | 2,140   | 3,760  |
| 6 to 9                                | 2,140   | 3,760   | 6,600  |
| 10 to 50                              | 3,760   | 6,600   | 11,580 |
| 50+                                   | 7,520   | 13,200  | 23,160 |

Feescale for dual RLS registration (Probate base discounted)  
NS and AoO ONLY

|                                       | Offices |         |       |
|---------------------------------------|---------|---------|-------|
|                                       | 1       | 2 to 10 | 10+   |
| No. of principals, AIs and affiliates |         |         |       |
|                                       | £       | £       | £     |
| 1                                     | 70      | 122     | 214   |
| 2 to 5                                | 244     | 428     | 752   |
| 6 to 9                                | 428     | 752     | 1,320 |
| 10 to 50                              | 752     | 1,320   | 2,316 |
| 50+                                   | 1,504   | 2,640   | 4,632 |

Feescale for two RLS registration (including probate)  
Note, NS + AoO has its own feescale

|                                       | Offices |         |        |
|---------------------------------------|---------|---------|--------|
|                                       | 1       | 2 to 10 | 10+    |
| No. of principals, AIs and affiliates |         |         |        |
|                                       | £       | £       | £      |
| 1                                     | 525     | 915     | 1,605  |
| 2 to 5                                | 1,830   | 3,210   | 5,640  |
| 6 to 9                                | 3,210   | 5,640   | 9,900  |
| 10 to 50                              | 5,640   | 9,900   | 17,370 |
| 50+                                   | 11,280  | 19,800  | 34,740 |

Feescale for more than two RLS registrations (including probate)

|                                       | Offices |         |        |
|---------------------------------------|---------|---------|--------|
|                                       | 1       | 2 to 10 | 10+    |
| No. of principals, AIs and affiliates |         |         |        |
|                                       | £       | £       | £      |
| 1                                     | 875     | 1,525   | 2,675  |
| 2 to 5                                | 3,050   | 5,350   | 9,400  |
| 6 to 9                                | 5,350   | 9,400   | 16,500 |
| 10 to 50                              | 9,400   | 16,500  | 28,950 |
| 50+                                   | 18,800  | 33,000  | 57,900 |

Conduct of litigation  
Rights of audience  
Reserved instrument activities  
Notarial services  
Administration of oaths

CoL  
RoA  
RiA  
NS  
AoO



## LEGAL SERVICES COMMITTEE TERMS OF REFERENCE

### Accountability

1. Although ICAEW has been designated as an approved regulator under the Legal Services Act 2007 (the Act) it has agreed that the Legal Services Committee will carry out its regulatory functions in relation to legal services independently of ICAEW. The ICAEW Council and other boards and committees of ICAEW may not intervene directly into the work of the Committee. However, as the approved regulator, ICAEW will retain the right to request that the Legal Services Board (LSB) intervene into the Committee's arrangements if it is considered that the Committee is failing to discharge its functions in accordance with the Legal Services Regulations or the Act's regulatory objectives.
2. Before determining matters of policy, or making or amending regulations concerning the regulation of legal services practitioners, the Committee is required to consult with the ICAEW Regulatory Board (IRB) and other interested parties as appropriate. The IRB will also monitor the operational effectiveness of the Legal Services Committee but will not review the Committee's individual decisions.

### Membership

3. The Committee is made up of not fewer than 12 members of whom at least the required number must be lay members.
4. The required number for this purpose is:
  - (a) one half of the total number of members of the Committee; or
  - (b) if the total number of the number of members of the Committee is not divisible by two, one half of the first higher number that is so divisible.
5. The chair of the Committee is a lay member and will have a casting vote where required.
6. A lay member is defined as a person who has never qualified or practised as a professional accountant. Solicitors and persons with legal training may not be lay members.
7. Half the members of the committee will be practitioners with expertise in the regulated areas.
8. ICAEW office-holders are disqualified from membership of the Committee in accordance with Principal Bye-law 44. ICAEW Council and Board members may not serve on the Committee.

## **Powers and authorities**

9. Council has delegated responsibility for the following activities to the Committee:
  - a) ICAEW's functions as an approved regulator and licensing authority as set out more fully in the Legal Services Regulations, which include:
    - considering and determining applications for legal services accreditation;
    - considering and determining applications for authorised individual, Head of Legal Practice, Head of Finance and Administration, non-authorised owner or legal services affiliate status;
    - monitoring compliance with the Legal Services Regulations;
    - taking regulatory action as required to secure compliance with the Legal Services Regulations;
    - referring matters to ICAEW's disciplinary committees as required;
    - compiling and maintaining a register of licensed firms and supplying this information to the Legal Services Board as required.
  - b) ICAEW's functions under the Legal Services Compensation Scheme Regulations in determining applications for grants;
  - c) the development of ICAEW policy in relation to legal services practitioners, in consultation with the IRB and other key stakeholders;
  - d) rule-setting and any amendments to the Legal Services Regulations and Legal Services Compensation Scheme Regulations in consultation with the LSB, the IRB and other stakeholders;
  - e) budget and fee-setting in relation to accredited probate firms, in consultation with the LSB, the IRB (and ICAEW Board where any proposed increase is above the rate of wage inflation); and
  - f) liaising freely with the LSB and other stakeholders on matters concerning legal services practitioners and responding to requests for information from the LSB.

## ***Modus operandi***

10. The Committee will operate in accordance with the Legal Services Regulations and Legal Services Compensation Scheme Regulations.
11. In discharging its functions the Committee will have regard at all times to the public interest, and the regulatory objectives and requirements of the Legal Services Act 2007.
12. At any meeting the Committee will have a quorum of five members, a minimum of three of whom will be lay members.
13. There will be a review of the Committee's membership and function within 3 years.

## Framework Memorandum of Understanding

### Licensed Bodies as Multi-Disciplinary Practices Constituted as Alternative Business Structures

This Memorandum was signed on 2 May 2012 but with effect from 1 April 2013, the Financial Services Authority, one of the parties to this memorandum, ceased to exist and their responsibilities, so far as is relevant to this memorandum, have been transferred to the Financial Conduct Authority. Accordingly, all references to the FSA in this memorandum have been replaced with 'FCA'. The parties to this memorandum intend the 3 years referred to in paragraph 23 of this memorandum to continue to run from the original date of 2 May 2012

#### Introduction

1. The Legal Services Act 2007 (LSA 2007) provides a licensing framework that permits licensed bodies (LBs) to provide reserved legal services alongside non-reserved and non-legal services. This facilitates the creation of alternative business structures (ABS) which can provide a potentially wide range of services. This may lead to the establishment of firms (including individuals within them) that are subject to the oversight of one or more regulators or professional bodies. This memorandum of understanding seeks to clarify so far as is practicable the roles of the regulators and professional bodies. One of the purposes of this memorandum of understanding is to contribute to the requirements of section 54 LSA 2007 (set out in full in Annex 2) to “make such provision as is reasonably practicable and, in all the circumstances, appropriate—
  - (a) to prevent external regulatory conflicts;
  - (b) to provide for the resolution of any external regulatory conflicts which arise; and
  - (c) to prevent unnecessary duplication of regulatory provisions made by an external regulatory body”.
2. This memorandum of understanding also takes into account the Guidance (relevant extracts of which are set out in Annex 3) issued by the Legal Services Board requiring a single framework memorandum of understanding to be implemented by all relevant bodies and provide a mechanism to resolve overlaps in ways which:
  - (a) provide the best form of consumer protection and redress;

- (b) minimise confusion for market participants; and
  - (c) reduce/remove conflict in the future.
- 3. This memorandum of understanding recognises that regulators and professional bodies have duties to exercise various functions (sometimes deriving from statute) autonomously and in the public interest or with the public interest in mind. Co-operation and appropriate information sharing should provide clarity for consumers and regulated businesses and should also reduce regulatory cost by minimising duplication of effort by all concerned.
- 4. The parties to this memorandum of understanding (“the Regulators”) are:
  - 4.1 approved regulators as defined in the LSA 2007 (and which, for the avoidance of doubt, means entities which exercise the regulatory functions of bodies specified as approved regulators in the LSA 2007);
  - 4.2 licensing authorities as defined in the LSA 2007; and
  - 4.3 other regulators or professional bodies which do not come within 4.1 or 4.2 but which oversee the conduct of their members or of other persons within their jurisdiction and who, for the purposes of this memorandum of understanding, are involved in LBs.
- 5. This memorandum of understanding records non-binding arrangements between the Regulators, which are bodies that regulate, inspect, or oversee the carrying on of various activities by individuals and LBs. This memorandum also records a mutual understanding of the public interest in proper co-operation and co-ordination, particularly in the light of the obligation on approved regulators and licensing authorities to act in a way which is compatible with the regulatory objectives set out in section 1 of the LSA 2007 (see Annex 1). It provides a framework for co-operation, co-ordination and exchange of information in order to facilitate effective public protection and working relationships. It does not create legal rights or liabilities, but is a statement of intent, comprising principles to which the signatories will adhere so far as they practicably and lawfully can.
- 6. Approved regulators are required to act compatibly with the regulatory objectives set out in section 1 of the LSA 2007. Approved regulators acknowledge that other regulators have their own statutory or nonstatutory objectives.



## Principles

7. The regulatory objectives in the LSA 2007 establish the key guiding principles of this memorandum of understanding. Further agreed principles are set out below to assist in a fuller understanding of how the Regulators will communicate and cooperate to facilitate the proper exercise of their functions, avoid duplication, avoid conflict between differing regulatory arrangements, and seek to ensure that consumers and others do not suffer detriment as a result of failure to co-operate or co-ordinate.

### *Sharing of information*

8. Where it is lawful and in the public interest to do so, the Regulators agree to disclose information to one or other of the Regulators that is a signatory to this memorandum of understanding as provided in Annex 4. It is acknowledged that the FCA may only disclose confidential information where such disclosure is permitted under the Financial Services and Markets Act 2000 or the Financial Services and Markets Act 2000 (Disclosure of Confidential Information Regulations) 2001.

### *Co-ordinated oversight: minimising duplication so far as is reasonably practicable*

9. The Regulators will co-operate where appropriate in co-ordinating oversight and investigation (and related matters such as consequential action) so that:
  - 9.1 action is effective in protecting the public;
  - 9.2 investigations are not prejudiced; and
  - 9.3 regulatory cost is proportionate.
10. Investigations will usually be undertaken or led by the regulator of the entity rather than any particular individual within it.
11. When one of the Regulators identifies that an investigation of an LB or a person within it is desirable, it will endeavour to identify whether any other of the Regulators has a proper interest in the issues or persons to be investigated and, if so, discuss the proposed investigation with a view to agreeing whether one of the Regulators or both should pursue an investigation.

12. It is desirable to minimise the risk of duplicative and potentially inconsistent acts and decisions on the same facts by the Regulators and tribunals or committees before which they bring cases. The risks include:
  - 12.1 the same or similar issues of fact are subject to dispute in more than one forum;
  - 12.2 witnesses and respondents are engaged in parallel or sequential proceedings on the same facts;
  - 12.3 cost is unnecessarily imposed on respondents and the Regulators; and
  - 12.4 decisions are inconsistent.
  
13. While acknowledging that there are legal and practical difficulties (such as differences between the rules of independent tribunals), the following working principles are agreed as outcomes which the Regulators would wish to achieve (acknowledging also the differing structures of Regulators' investigation and disciplinary processes):
  - 13.1 the evidence obtained by one of the Regulators should be admissible in action by others:
    - 13.1.1 the Regulators' rules should permit the admission of such evidence;
    - 13.1.2 the Regulators should make submissions at an appropriate time to any independent tribunal or committee to the effect that its rules should permit the admission of such evidence; and
    - 13.1.3 the Regulators should make submissions and applications in individual cases, so far as is appropriate and lawful, to support the principle that such evidence be admitted.
  - 13.2 The formal findings of other Regulators or of any court or tribunal in matters conducted by another of the Regulators should be admissible in the proceedings of, or conducted by, recipient Regulators as evidence of the facts found.
  
14. Any of the Regulators who provide evidence or findings to another of the Regulators will co-operate so far as is reasonably practicable in making that evidence formally available for the purposes of proceedings by or involving the recipient Regulator, such as by the provision of live witnesses and/or written evidence.

15. Regulators will notify other Regulators of findings against the latter's members or those they regulate.

*Protecting the financial interests of consumers*

16. It is agreed that: **The FCA will maintain requirements for an LB to arrange adequate protection for client money , such that -**
  - 16.1 client money held by an LB should be held separately from other money it holds, **where possible** and client money held in relation to the provision of legal services should be held in accordance with the requirements of the relevant/appropriate regulating authority ; and
  - 16.2 the overarching principle is that clients' money must be protected at all times.
17. The Regulators will work together to reduce **material** differences in respect of the treatment of clients' money by those they regulate. Standards and definitions should be as similar as possible and guidance should be agreed so far as possible to assist LBs to deal with complex situations.
18. The Regulators will work together to assist consumers to understand what activities of an LB are, and are not, subject to regulatory protections and in particular indemnity insurance and compensation arrangements.
19. Where there is loss to clients or others that may be covered by indemnity insurance or other compensation arrangements (such as a compensation fund or scheme), the Regulators will so far as reasonably practicable, and, subject to matters in the control of independent statutory compensation schemes, endeavour:
  - 19.1 to signpost consumers to the appropriate insurance or compensation scheme systematically and in response to individual queries;
  - 19.2 to minimise complexity and delay for consumers and others involved in any claim or application for compensation;
  - 19.3 to promptly resolve any uncertainty as to liability, jurisdiction or coverage of insurance or compensation schemes and provide clear guidance to the consumer as to how to pursue recovery, and (if such uncertainty cannot be promptly and conclusively resolved), to seek to ensure that consumers' claims or applications are dealt

with by one insurer or compensation scheme, on the basis that ultimate responsibility for such claims or applications is subsequently resolved between the insurer or compensation scheme and such other applicable insurer or compensation scheme; and

- 19.4 to work towards insurance and compensation schemes that formalise the approach described above, perhaps by powers vested in the Regulator to direct particular insurers or schemes initially to deal with claims or applications on the basis that responsibility will be resolved subsequently.

#### *Resolution of regulatory conflicts*

20. The Regulators will work together to seek to establish appropriate arrangements to prevent and where necessary to resolve regulatory conflicts. This may include:

- 20.1 further memoranda of understanding dealing with particular subjects in more detail;

- 20.2 the establishment or continuation of working groups to reduce inconsistency or uncertainty in regulatory obligations where appropriate;

- 20.3 informal resolution mechanisms for procedural issues such as prompt resolution of disagreement about how investigations should be sequenced or co-ordinated; and

- 20.4 formal resolution mechanisms for issues that create risk to consumers such as those that might otherwise cause delay in the processing or payment of compensation.

#### *Transparency*

21. The Regulators will work together to agree common standards as to:

- 21.1 information to be provided to consumers about the status of the person acting for them, who regulates them and how to complain;

- 21.2 signposting of consumers to the correct complaints or redress scheme;

- 21.3 transparency in the publication of regulatory decisions; and

- 21.4 clarity and transparency for regulated businesses in understanding how they are regulated.

*General*

22. The Regulators will provide each other with points of contact to ensure prompt co-operation and communication on practical and other issues arising.
23. This memorandum of understanding may be reviewed at any time at the request of one of the Regulators but will in any event be reviewed within 3 years of its date.
24. This memorandum is a public document and may be published by any Regulator.

**The date of this memorandum of understanding is 2 May 2012**

Signatories:

*[Note these have separately been signed by the relevant regulators but not in a consolidated document]*

A. Approved regulators who have signed up to this memorandum

|   |
|---|
|   |
| Solicitors Regulation Authority   |
| Bar Standards Board, part of the Bar Council  |
| Council for Licensed Conveyancers   |
| CILEx Regulation, part of the Institute of Legal Executives group   |
| The Patent Regulation Board (established by The Chartered Institute of Patent Attorneys) and the Trade Mark Regulation Board (established by The Institute of Trade Mark Attorneys) (together The Intellectual Property Regulation Board) each signing pursuant to Clause 5 of the Delegation Agreement dated [2nd] December 2009 |
| Institute of Chartered Accountants of England and Wales   |

B. External regulatory/professional bodies:

|                             |
|-----------------------------|
|                             |
| Financial Conduct Authority |
| The Law Society of Scotland |

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|--|
| Royal Institution of Chartered Surveyors |
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| National Federation of Property Professionals |
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| Institute of Chartered Accountants of Scotland |
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| Ministry of Justice acting as Claims Management Regulator |
|---|

<sup>i</sup> The additional text in bold in paras 16 and 17 applies only to the FCA version of the MoU.



# ICAEW OFFICE HOLDERS AND EXECUTIVES

## President – Hilary Lindsay

Hilary Lindsay is the President of ICAEW for 2016-17; in that role she chairs its board and has been a member of its Council for over a decade. As President she also is Patron of CABA, the ICAEW wellbeing arm, and chair of the CCAB Board. In 2011-12 she was President of AAT (the Association of Accounting Technicians).

Hilary is passionate about personal development and in 2013 completed doctoral research with The Open University into the roles of continuing professional development and lifelong learning in the accountancy profession. She has since published academic articles and a book in this area. She is an award-winning lecturer in finance and management for their Business School and a researcher and supervisor on the OU Doctorate in Education programme.

Hilary is chair of Axiom Housing Association and recently completed a nine year term as a trustee of CABA. She has been involved with Northampton Samaritans for twenty years and has run several marathons to raise funds for them.

She is the first academic and second woman to become President of ICAEW. Hilary lives in Northampton with her husband Colin. Their joint interests include their allotment, art appreciation and walking.

## The Deputy-President – Nick Parker

Nick Parker is Deputy President of ICAEW, and he is a tax partner with RSM UK. He has had a wide portfolio of clients including professional partnerships and UK subsidiaries of overseas parent companies, but he has mainly specialised in the SME sector.

During his time on Council he has chaired a variety of committees including the Members Board, the Committee of Council and the Audit Committee. He was Chairman of Council for three years.

During his career, Nick has lived in Hampshire and has worked in London, Edinburgh, Southampton and Basingstoke. He is married with two grown up sons, one who is an equine surgeon and the other who is an equine yard manager.

In his spare time he likes to undertake adventures – he trekked to the base camp of Everest, trekked in Patagonia, sailed from Sydney to Cape Town across the Southern Ocean as part of the Global Challenge Yacht race and most recently attempted to climb Mount Aconcagua in Argentina, the highest mountain in the Western hemisphere. He also held a private pilot's licence which has lapsed due to other commitments.

## The Vice-President – Paul Aplin

Paul Aplin, Vice President of ICAEW (elected 2016), joined A C Mole & Sons with an honours degree in biology and chemistry in 1980. He qualified as a Chartered Accountant in 1985; a member of the Chartered Institute of Taxation in 1989 and became the firm's first tax partner in 1992.

He has served as Chairman ICAEW Tax Faculty and until May 2016 chaired its Technical Committee. He writes for various tax and accountancy journals and is regularly quoted on tax issues in the national press. He is a member of the Tax Journal editorial board. Paul acts for a wide range of personal and company tax clients.

Paul was named Tax Personality of the Year in the 2007 UK Tax Awards for the part he played in persuading the government to reverse its decision to shorten the tax return filing deadline. He received the Outstanding Industry Contribution award in the 2013 British Accountancy Awards and was listed as 7th in the Accountancy Age 2014 "Financial Power List" of people who influence tax and financial policy in the UK. He was appointed OBE in The Queen's Birthday Honours List 2009 for public service and services to the accountancy profession

Away from the office he is a keen hill walker and climber, with a 21,000' Himalayan and many high Alpine peaks to his credit; his other interests include photography (he is a licentiate of the Royal Photographic Society), keeping ducks and walking his border collie.

### **Michael Izza - Chief Executive Officer**

Michael has been ICAEW Chief Executive since 2006. Under his leadership, ICAEW has started to transform itself into an international professional accountancy body, headquartered in the UK. A key part of his role is to promote the contribution made by members and the profession as a driver of business and economic confidence and growth across the world.

As a leader of the profession, Michael regularly meets ministers and regulators globally to facilitate ICAEW's activity and is a regular media commentator on issues facing the profession and business community internationally.

Prior to becoming Chief Executive, Michael was ICAEW's Executive Director of Finance and Operations and Chief Operating Officer.

In 2008 – 2009 he chaired three Treasury working groups tasked with identifying valuers for state-owned financial services companies. He was also chair of an international taskforce set up by the Leading Group to examine the relative merits of an international financial transactions tax. He has also been a member of the UK government-convened Small Business Economic Forum.

Prior to joining ICAEW, Michael worked at Spring Group Plc from 1997 to 2001 where he was managing director of several businesses and group finance director. From 1989 to 1996 he worked for Canadian company, John Labatt Ltd., latterly as managing director of the retail arm of the business with responsibility for public houses in the UK.

He qualified as a chartered accountant in 1986 with Coopers & Lybrand after graduating in law from Durham University, where he was also president of the student union. Michael has acted as a school governor for eleven years and as a trustee of several charities.

### **Vernon Soare - Chief Operating officer**

Vernon is an ICAEW board member and as Chief Operating Officer & Executive Director he is responsible for Finance Management, Information Technology, Communications, the Consultative Committee of Accountancy Bodies (CCAB), Public Sector, Marketing, Property Services and the Executive Office.

Internationally, Vernon also holds responsibility for ICAEW's International Capacity Building, the Middle East, Africa and South Asia region (MEASA) as well as ICAEW's presence in the rest of the world not covered by the Institute's international regional offices.

Vernon has been Professional Standards Director since joining ICAEW in 2006 and has considerable experience speaking to media on professional standards, regulation and insolvency.



Prior to joining ICAEW he was Policy and Technical Director at the Chartered Institute of Public Finance and Accountancy (CIPFA) and also worked for the Audit Commission.

Vernon is an ICAEW Chartered Accountant and has an undergraduate degree from Magdalen College, Oxford University and an MBA.

### **Sharron Gunn - Executive Director, Members, Commercial & Shared Services**

Sharron, previously Executive Director Commercial, takes on responsibility for the support of ICAEW's members in the UK and internationally with her role as Executive Director Members, Commercial & Shared Services. She will continue to lead on ICAEW's digital agenda and have responsibility for Greater China.

Sharron has been with ICAEW for nearly 15 years and was appointed Executive Director in 2011. She was previously Director of Member Services, launching a successful jobs website, a leadership development programme, and a range of other support services.

Sharron heads up a large team responsible for a variety of income generating activities including professional development programmes, affinity partnerships and sponsorship, online recruitment and One Moorgate Place. The department also develops new products and is a centre of excellence for digital development, event management and IP and publishing.

In 2009 Sharron transformed the members' facilities at ICAEW headquarters into the Business Centre, which is now a magnet for members. She also rebranded and launched One Moorgate Place – the institute's venue and restaurant – which has grown into a successful independent business.

One of the many services Sharron has launched helps members on a career break – women in particular – return to the accountancy profession. She is an advocate for ICAEW at events and in press on leadership, diversity and commercial operations.

She qualified as a Chartered Accountant in 1989. After leaving practice she worked as a financial accountant for a property developer before joining J Sainsbury plc in 1993. She held a variety of roles at the supermarket giant, including group management accountant, financial analyst, and commercial manager to the trading division.

### **Robert Hodgkinson - Executive Director, Technical**

Robert is responsible for ICAEW's technical strategy department which includes its seven specialist faculties in audit and assurance, corporate finance, finance and management, financial reporting, financial services, IT and tax.

Since joining ICAEW over a decade ago, Robert has been involved in a number of initiatives, including leading ICAEW's thought leadership programmes and its work in corporate governance, professional ethics and liability, sustainability and business law. He has considerable experience speaking to the media as a technical expert on audit, financial services and information technology. He is a board member and past chairman of the Natural Capital Coalition. From 2007 to 2013 he was a member of the board of the International Federation of Accountants (IFAC) and has previously represented the UK accounting profession as a vice-president of the European Federation of Accountants (FEE) and as chairman of its Auditing Working Party. Prior to that he chaired ICAEW's Financial Reporting Committee.

Robert was educated at the Manchester Grammar School and Corpus Christi College, Oxford where he studied Philosophy, Politics & Economics. In 1980 he joined Arthur Andersen, qualifying as an ICAEW Chartered Accountant in 1983 and became a partner in 1992.

## **Mark Protherough – Executive Director, Learning and Professional Development**

Mark is Executive Director for Learning and Professional Development for the ICAEW and a member of the ICAEW Board. He is responsible for the strategic development and implementation of the ACA qualification.

Prior to joining ICAEW, Mark was Managing Director of Education, Training and Development at the Association of Chartered Certified Accountants. He is a Trustee of the British Accounting and Finance Association, Vice President Practice of the International Association for Accounting Educators and Research, a member of the Ofqual Vocational Advisory Group, chairs the Access Accounting Steering Group, and is a member the Global Accounting Alliance Education Directors Group, which he chaired 2013 - 2016.

He is also a member of the Common Content Oversight Group, and a member of the University of Hertfordshire Business School Advisory Board.

## **Duncan Wiggetts - Executive Director, Professional Standards**

Duncan is responsible for ICAEW's regulatory activities, ensuring members and firms act with the highest professional and ethical standards working with the new ICAEW Regulatory Board. He will also take forward ICAEW's growth into legal services regulation as well as implementing the changes to audit regulation as a result of the Statutory Audit Regulation and Directive.

He joined ICAEW in January 2014 as Director for Professional Conduct. He is a qualified solicitor and has previously held roles in private practice, specialising initially in commercial litigation and, subsequently, advising companies in relation to regulatory and criminal investigations. He has spent over 8 years working as a senior in-house counsel at PwC, initially as Director of the EMEA Litigation team and, subsequently, as Senior Counsel to PwC Eurofirms Assurance Risk Management team. He has also written and produced five educational films to improve standards of auditor ethics and corporate governance, the most recent of which, False Assurance, was at ICAEW.



**Michael Izza**  
Chief Executive

**Vernon Soare**  
Chief Operating Officer  
and Executive Director

Departmental responsibility:  
Finance, Capacity Building, CCAB,  
Communications, Executive,  
Information Technology, Marketing,  
Property Services & Facilities,  
Public Sector and Strategy

Geographical responsibility:  
MEASA and Rest of the World

Michael Armstrong - Middle East, Africa and South Asia Region

Sue Best - Marketing

Mark Campbell - International Capacity Building

Ross Campbell - Public Sector

Ben Everitt - Strategy

Andrew Fagg - Finance

Sharon Grant - CCAB

Caroline Kearns - Business Management

Harry McAadoo - Communications

Alison Stokes - Executive Office

Bill Wilson - IT & Property Services

**Sharron Gunn**  
Executive Director

Departmental responsibility:  
Business, Events, Intellectual Property,  
International Affairs, Members,  
Commercial & Shared Services  
(Digital and Publishing),  
Product Development and UK Regions

Geographical responsibility:  
United Kingdom and Greater China

Charles Carter - UK Regions

Amanda Digne-Malcolm - Members

Stephen Ibbotson - Commercial and Business

Kat Jefferiss - International Affairs

Lydia Lamdin - Professional Development

Jonathan Levy - Product Development

John Pearce - Digital & Publishing

Andie Wang - Greater China Region

**Robert Hodgkinson**  
Executive Director

Departmental responsibility:  
Technical Strategy

Geographical responsibility:  
Europe and the former Soviet Union

John Boulton - TSD Executive Office

Tony Bromell - Ethics, Law & Governance

Deborah Chaplin - Faculties

Martin Manuzi - Europe Region

**Mark Protherough**  
Executive Director

Departmental responsibility:  
Learning & Professional Development

Geographical responsibility:  
South East Asia

Mark Billington - South East Asia Region

Hazel Garvey - Business Development

Jonathan Jones - Policy & Strategy

Shaun Robertson - Qualifications

Sharon Spice - Global Student Recruitment

**Duncan Wiggetts**  
Executive Director

Departmental responsibility:  
Professional Standards

Matthew Downton - Finance & Business Support

Peter James - Regulatory Policy

Paul Simkins - Quality Assurance

Vacancy - Professional Conduct

Maura Owens - Human Resources

Farrokh Shahmir - Head of Internal Audit

  Chief Executive, Chief Operating Officer and Executive Directors (Board members)

  Direct Report to the Chief Executive

  Direct Report to an Executive Director



## CONSULTATION ON ICAEW'S DRAFT APPLICATION TO AUTHORISE AND LICENSE FURTHER RESERVED LEGAL ACTIVITIES

ICAEW will consult with the following stakeholders on its draft application. They will be alerted by email to the consultation.

ICAEW Members Board

ICAEW Practice Committee

ICAEW Tax Faculty Board

ICAEW Business Law Committee

The Legal Services Board

Legal Services Consumer Panel

Competition and Markets Authority

Judicial Office for England and Wales (the Lord Chief Justice)

Ministry of Justice

Legal Ombudsman

The Law Society of England and Wales

Solicitors Regulation Authority

The Bar Council

Bar Standards Board

The Master of Faculties

The Chartered Institute of Legal Executives

CILEx Regulation

The Council for Licensed Conveyancers

The Chartered Institute of Patent Attorneys

The Institute of Trade Mark Attorneys

The Association of Law Costs Draftsmen

Institute of Chartered Accountants of Scotland (ICAS)

The Association of Chartered Certified Accountants (ACCA)

Chartered Institute of Public Finance and Accountancy (CIPFA)

Chartered Institute of Management Accountants (CIMA)

Chartered Institute of Taxation

Financial Conduct Authority

Financial Reporting Council

The Insolvency Service

Trading Standards Institute

Department for Business, Innovation and Skills (BIS)

HM Revenue and Customs (HMRC)

HM Treasury

Which?

Citizen's Advice Bureau

The Intellectual Property Regulation Board (IPReg)

Law Society of Scotland

Royal Institution of Chartered Surveyors (RICS)

National Federation of Property Professionals (NofPP)

Irish Auditing and Accounting Supervisory Authority (IAASA)

Chartered Accountants Ireland

Chartered Accountants Regulatory Board (CARB) – Ireland

Ombudsman Services

Financial Ombudsman



# REPORT ON SURVEY APPLICATION TO REGULATE FURTHER RESERVED LEGAL ACTIVITIES

## OVERVIEW

To support the ICAEW application to the Legal Service Board, a research project was undertaken to ascertain firms likely interest in applying to ICAEW for reserved legal services accreditation. Given its significance, it was important that the approach undertaken to establish the level of demand was robust. Research was conducted among ICAEW firms which currently offer tax services and employ up to 50 partners. See more details on the approach in the Appendix.

The research findings indicate that there is demand for reserved legal services accreditation; currently most of ICAEW firms are not accredited to offer these types of services. However, those interested are price sensitive, hence the final level of demand will be affected by the proposed costs as well as the communication of businesses benefits that the accreditation would bring. Nearly all of these firms lack properly qualified staff to provide the services – most would train existing employee but many would also employ properly qualified staff.

## APPENDIX - RESERVED LEGAL SERVICES RESEARCH

Research was carried out among ICAEW firms which currently offer tax services. It was done by telephone to ensure a good representation of different types of firms as well as that responses given are robust and reliable.

254 telephone interviews were conducted in total. The number and profile of these firms were:

- Sole Practitioners – 50
- 2 to 5 partners – 100
- 6 up to 50 partners – 104

More interviews were carried out among 6 to 50 partners as this group was seen as the key target group. At the start of interview firms were screened out to check that they offer tax services. When the research was completed, statistical weighting was applied to the results to ensure that the sample profile reflects the profile of ICAEW firms.

Research findings were then extrapolated to the target population of ICAEW firms to provide an approximate number of those likely to apply for accreditation. The research results were extrapolated to this target population – 5,339 firms in total:

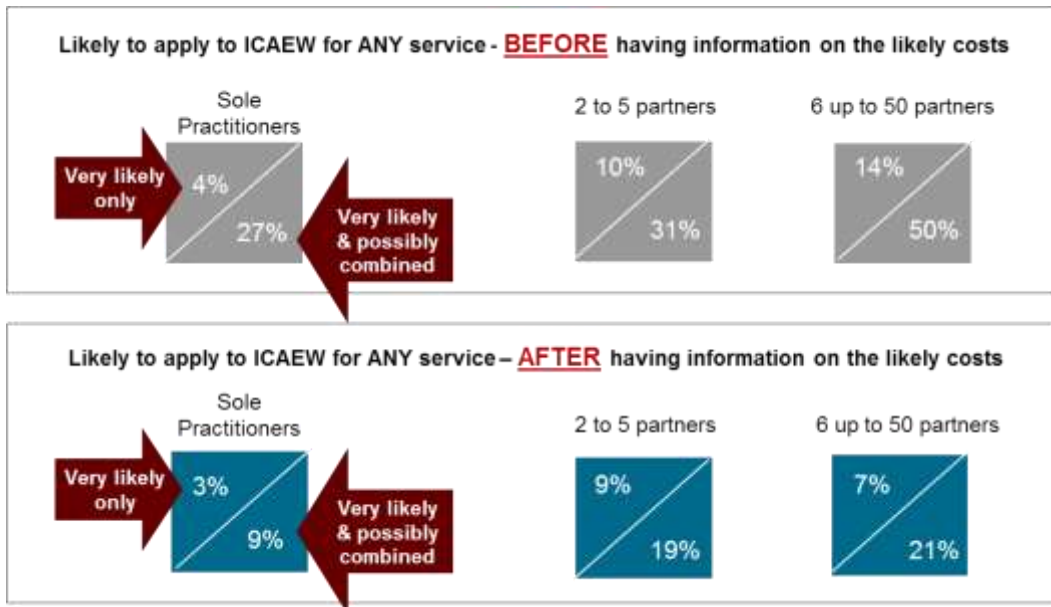
- Sole Practitioners - 2,708
- 2 to 5 partners – 2,289
- 6 up to 50 partners – 342

Sole practitioners aged 60+ and firms based in Scotland were excluded from the research as well as those with 50+ partners. With the large firms (50+ partners) ICAEW has regular contacts where their likely interest in applying for accreditation can be discussed.

## FINDINGS

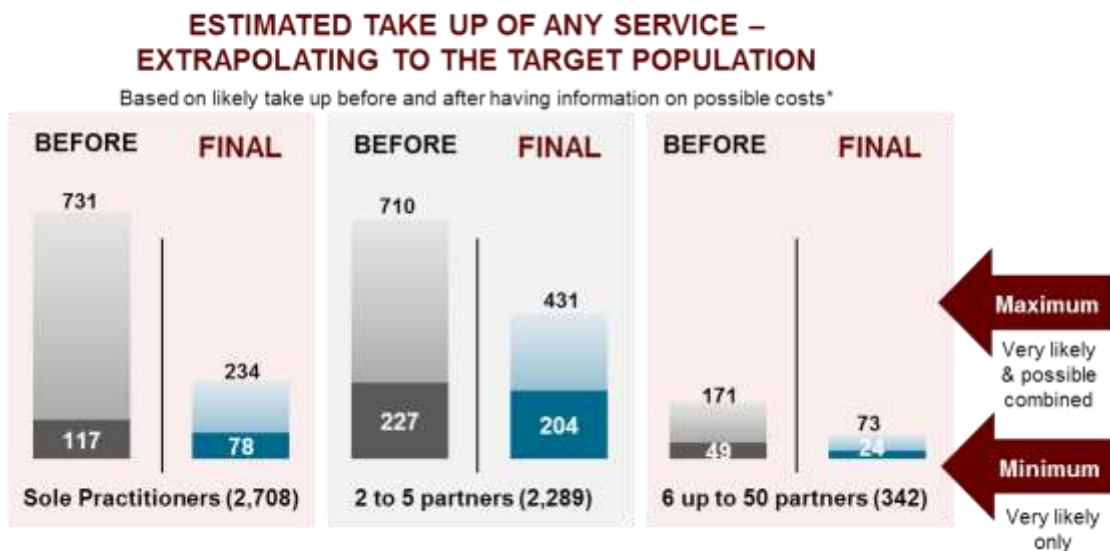
The research suggests that there is demand for reserved legal services accreditation, with the highest appeal among ICAEW firms with 6 up to 50 partners. Majority of firms expect to register no more than one office.

However, firms are price sensitive - level of demand falls once information on the likely costs is introduced (costs shown were based on probate accreditation and training costs). Consequently, firms are less likely to apply to any service and/or to apply for fewer services/register fewer offices/train fewer people.



Firms anticipate that they will need to consider the application more closely to understand what is required to help them decide whether to apply or not. It is worth noting that firms were provided with no information on business benefits of carrying out reserved legal activities and also on operating as an ABS.

Currently, most ICAEW firms are not accredited to offer these services, hence there is an opportunity for ICAEW to expand the services it regulates. However, the final level of demand will be affected by the proposed costs as well as the communication of businesses benefits that the accreditation would bring.

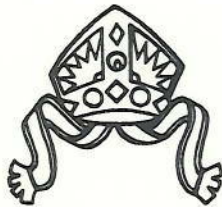


Nearly all of those firms interested in applying lack properly qualified staff to provide the services – most would train existing employee and many would also employ properly qualified staff. Firms expect to train up to 2 (firms with 2 to 5 partners) or 3 people (firms with 6 up to 50 partners).



FACULTY OFFICE  
OF THE  
ARCHBISHOP OF CANTERBURY

PETER F.B. BEESLEY, LL.B., Joint Registrar  
HOWARD J. DELLAR, B.A., M.A., Joint Registrar  
STEPHEN J. BORTON, Chief Clerk



ANNEX 29  
1 THE SANCTUARY  
WESTMINSTER

LONDON SW1P 3JT

**Please Note:**  
DX 145940 WESTMINSTER 4



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Tel: 020 7222 5381 Ext.7168 (Notaries Public) Fax: 020 7222 7502  
Office hours: 10am - 4pm Monday - Friday

Our Ref: 7126/HJD/NDT/HC

Ms Patricia Adair  
Regulatory Policy Manager  
Professional Standards  
INSTITUTE OF CHARTERED ACCOUNTANTS  
OF ENGLAND AND WALES  
DX 877 LONDON-CITY

27 April 2016

Dear Ms Adair

ICAEW's proposed application to regulate further reserved legal activities

I refer to your consultation document in relation to ICAEW's draft application to the Legal Services Board to become an Approved Regulator and Licensing Authority for additional reserved legal activities. I am grateful to you for consulting me, as currently the sole approved regulator for notarial activities, on the proposals and for the additional information provided following our meeting and the attempts made to clarify and refine your proposals in Mr Soare's letter of 24<sup>th</sup> March.

I would stress that our main concern is the public interest and how we consider your proposal will impact on that in the light of the regulatory objectives set out at section 1 of the Legal Services Act 2007.

I am very concerned about the concept of provision of notarial services being carried out in accountancy-led firms for three reasons:

- I The inevitable impact on the exercise of independent judgement on the part of the person providing notarial services (which is the principal reason for Rule 11 of the Notaries Practice Rules 2014 and which would need to be amended if notaries were providing services in accountancy-led firms).
- II Concern over whether the notarial acts of persons employed in accountancy firms would be given the same recognition and status in foreign jurisdictions as at present; and
- III Whether as a result of the proposals the respect and prestige enjoyed by English and Welsh notaries abroad would be diminished.

Although I understand that the application has to include an application to become an Approved Regulator for legal services albeit that it is acting as the licensing authority which is the main aim, we are concerned about the first element of the application for Approved Regulator status for notarial acts, it being our understanding that this is now to cover all



notarial acts and not just acts relating to taxation. This opens the possibility that ICAEW might then see fit to approve the carrying out of notarial activities by persons who are not notaries authorised and admitted by the Master of the Faculties and qualified in accordance with the Notaries (Qualification) Rules 2013. To grant such a power to ICAEW is inappropriate in the absence of any provision of evidence as to what qualifications they would require of such persons.

We appreciate that you say that you would not use that power in practice because all the persons who you intend to regulate to offer notarial activities would be notaries admitted as individuals by the Master of the Faculties and holding a current practising certificate issued through the Faculty Office. However, unless some way can be found to ensure, by binding undertaking and precise legal wording, that in effect no one will be so permitted, we do not believe that this would be in the interests of the public.

No evidence has been supplied to us of any request either from accountancy-led firms to provide notarial services or from the public that they should wish to obtain notarial services from accountancy firms. Accordingly, we do not believe the application would either protect and promote the public interest, protect and promote the interests of consumers, improve access to justice, increase public understanding of the citizen's legal rights and duties, encourage an independent, strong, diverse and effective legal profession or promote competition in the provision of services (given the overriding requirement of independence).

We are also mindful of the Ministry of Justice's consultation on the legislative separation of the regulatory and representative functions within the legal professions and we do not believe that the ICAEW as "a world leading professional membership organisation that promotes, develops and supports...chartered accountants" should be seeking to extend its *regulatory* remit at the current time.

On the specific point made in Vernon Soare's letter of 24th March (at point 4) we do not accept that the Notaries Practice Rules 2014 would currently permit notaries to be employed in accountancy-led firms although I accept that if your application were approved it would be possible for the Rules to be amended in so far as they conflict with the proposals.

Finally, as the Approved Regulator of notaries public in England and Wales which office has never had or exercised any representative function, I am concerned to note that the ICAEW did not see fit to include the two representative membership bodies of the notarial profession in England and Wales (the Society of Scrivener Notaries and the Notaries Society) in the list of stakeholders to be consulted on its draft application.

Yours sincerely



**CHARLES GEORGE, QC**  
Master of the Faculties

cc: Neil Buckley, CEO, Legal Services Board  
Jonathan Coutts, Hon Secretary, Society of Scrivener Notaries  
Christopher Vaughan, Secretary, Notaries Society



Ms Michelle Jones  
ICAEW Professional Standards  
Metropolitan House  
321 Avebury Boulevard  
Milton Keynes MK9 2FZ

28 April 2016

Dear Sirs,

**ICAEW proposed application to the LSB to regulate notarial activities**

It has come to our attention that ICAEW proposes to apply to regulate certain reserved legal activities, including notarial activities.

We have since been advised by the Master of the Faculties as regulator that your intention (as communicated to him) is to seek authorisation in relation to all notarial activities. We are puzzled by this, as your published draft application states that authorisation is sought only in relation to services in the area of taxation.

We respect your organisation's work on behalf of chartered accountants but we do not think it would be in the public interest for you to be a regulator of notarial activities. We will therefore oppose in detail any formal application to the Legal Services Board.

Yours sincerely,

A handwritten signature in blue ink, appearing to read "J P Coutts".

J P Coutts

Honorary Secretary

cc  
Charles George QC, Master of the Faculties  
Mr Neil Buckley, CEO, Legal Services Board  
Mr Christopher Vaughan, Secretary, Notaries Society



**THE NOTARIES SOCIETY**

Old Church Chambers, 23 Sandhill Road, St James, Northampton NN5 5LH  
 DX 15620 Northampton 3 Telephone : 01604 758908  
 Secretary : Christopher Vaughan Fax : 01604 751960  
 Website : thenotariessociety.org.uk Email : secretary@thenotariessociety.org.uk



Ms Patricia Adair  
 Regulatory Policy Manager  
 Professional Standards  
 Institute of Chartered Accountants  
 Of England and Wales  
 DX 877  
 LONDON CITY

RECEIVED

- 9 MAY 2016

4 May 2016

Dear Ms Adair

**ICAEW proposed application to regulate the Notarial Profession**

I am writing to you in my capacity as Secretary of The Notaries Society which represents the majority of the Notarial profession in England and Wales.

Our Regulator, Charles George QC. The Master of the Faculties, has made us aware of your proposed application to regulate the Notarial profession and other providers of Reserved Legal Activities.

We understand that you seek to regulate "Entities" only, you should be aware that the vast majority of members of The Notaries Society are sole practitioners and therefore not "Entities" who can be regulated.

For the avoidance of doubt we do not think it would be in the public interest for Notaries whether or not Entities to be regulated by your Institute

If you do proceed to make an application to the Legal Services Board to be a Regulator of any part of the Notarial profession the Society will strongly oppose such an application.

Yours faithfully

**Christopher Vaughan**

24 March 2016

The Rt Worshipful Charles George, QC  
Master of Faculties  
Faculty of the Archbishop of Canterbury  
1 The Sanctuary  
Westminster  
London  
SW1P 3JP

Dear Mr George

### **ICAEW's proposed application to regulate further reserved legal activities**

Thank you for taking the time to meet with us last week to discuss our proposed application to the Legal Services Board to regulate further reserved legal activities.

As agreed I have set out below the matters that were discussed at this meeting and any conclusions that were drawn as a consequence.

#### **1. ICAEW's reasons for making the application to regulate the remaining five reserved legal activities and for restricting such regulation to taxation services only**

As advised at the meeting, ICAEW's reasons for making a further application to regulate the remaining reserved legal activities in addition to probate, are, firstly, to enable our member firms to be regulated by one regulator for both their accountancy and legal services rather than have dual regulation with ICAEW and the Solicitors Regulation Authority. Secondly, to improve access to justice by enabling firms to provide both accountancy and legal services in one firm which would also have the additional benefit of reducing costs to the consumer.

We also explained that the reason why ICAEW intends to restrict its regulation of these further reserved legal activities to taxation services is that Chartered Accountants are very experienced in the field of taxation and therefore the ability to provide such legal services would complement the work that accountants are already doing and would be an adjunct to the traditional accountancy practice. It would also enable firms to build on their probate services and extend their businesses in the area of personal wealth, tax and financial planning.

#### **2. The notarial services that relate to taxation**

We indicated that the main areas of taxation services that relate to notarial services are transfer pricing; and authorisation and translation of documents for use in overseas jurisdictions.

#### **3. Whether all notarial activities which ICAEW proposes to regulate will be carried out by qualified accountants and what is meant by "we are not proposing to superimpose alternative qualifications to those you apply to your members."**

The difference between entity and individual authorisation and regulation was explained and an assurance was given that ICAEW has no intention of regulating notaries as individuals. Rather, ICAEW's intention is to accredit firms to provide notarial services through a notary qualified,



admitted and individually regulated by the Master of Faculties. We indicated that Chartered Accountants would not be providing notarial services unless they were additionally qualified as a notary in their own right. We also pointed out that a reciprocal Memorandum of Understanding had been signed by the legal regulators to enable them to share information regarding the conduct of their regulated individuals who work in bodies regulated by another legal regulator.

#### **4. Notaries Practice Rules 2014**

The Notaries Practice Rules were discussed and there was an acknowledgement that these rules would permit notaries to be employed in both authorised and licensed firms regulated by ICAEW.

#### **5. Independence of notaries and their duty to provide notarial services to the public.**

The need for notaries to maintain their independence was discussed as was their duty to provide notarial services to the public. It was felt that restricting notarial services purely to taxation would compromise this independence and a notary's ability to discharge their public duty.

We commented that ICAEW was already considering lifting this restriction for notarial services following advice given by counsel that there was no need to place this restriction on notaries as they would be qualified, admitted and independently regulated by the Master of Faculties.

It was therefore agreed that, in order for notaries to maintain their independence, ICAEW should not place any restriction on the scope of notarial services carried out by notaries in ICAEW regulated firms.

#### **6. The work of notaries**

In conclusion you commented that, whilst your final opinion on our application will be decided purely in relation to what is in the public interest, you mentioned that the notarial profession may oppose ICAEW's application if it resulted in a loss of work for members. ICAEW can assure you that, for the reasons stated above, because ICAEW will be regulating the entity rather than the individual notary, this will not result in a loss of work for notaries but rather provide increased opportunities to work in different types of legal entities such as alternative business structures.

I hope you find this summary a fair reflection of the discussions and conclusions of our meeting and look forward to receiving any further feedback you may wish to give before our public consultation closes on 6 May 2016. Should you or your team have any further questions around the consultation by all means contact me or a member of my staff.

Yours sincerely,



**Vernon Soare**  
**Executive Director, Professional Standards**

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ANNEX 33



The Law Society

**ICAEW's reserved legal services application**  
The Law Society's response  
May 2016



## Introduction

1. The Institute of Chartered Accountants England and Wales (ICAEW) is consulting on its proposed application to the Legal Services Board (LSB) to become a regulator (approved regulator/licensing authority) for the five remaining reserved legal activities (i.e.: beyond probate) but only in so far as they relate to taxation services, which is seen as providing 'a natural link to the traditional accountancy practice'.
2. The ICAEW bases its application on the success of ICAEW's current probate regulation, as well as the processes put in place as a result of designation as an approved regulator and licensing authority for probate. This 'success' is measured purely in terms of numbers, firm size and geographical spread, with a direct link made from these factors to increasing competition, access to justice and, thus, the public interest. There is no tangible evidence, however, that there has been any increase in competition and, in particular, any increase in access to justice. The ICAEW's business case is not compelling (and based on research undertaken by the ICAEW with member firms only). Outside the large firms, there has been relatively little interest in offering other reserved legal activities, indicating that widening the ICAEW's regulatory capabilities is unlikely to have a major impact on the legal services market. If firms wished to be regulated in these areas, they could do so via regulation under the SRA.
3. We have specific concerns about the detail of the ICAEW's latest application for several reasons and these are discussed below.

## Limiting the application to taxation services

4. The Legal Services Act 2007 does not provide for designating a regulator in relation to part of a reserved legal activity (Part 2, Schedule 4 of the Legal Services Act). It would appear from the relevant provisions of the Act that the LSB would have to designate the ICAEW for all 'further reserved legal activities'. This is in reality therefore an unlimited application to regulate reserved legal activities and should be presented and treated as such.
5. If in practice the ICAEW chooses to authorise firms to carry out reserved legal activities within prescribed limits (i.e.: only in relation to taxation matters), there is a danger that clients will be confused about the limitations around reserved activities offerings and will fail to understand the extent of the services that can be provided by an accountant. Such consumer confusion could have an adverse impact on costs.
6. Although the ICAEW has developed guidance to allow firms to differentiate between tax services which relate to reserved legal activities and those that do not (so that reserved activity work can be identified and carried out in accordance with the ICAEW's Legal Services Regulations), the proposal does not define taxation services. For this guidance to be effective a definition of taxation services would need to be applied.



## Internal Governance

7. Following a review, the ICAEW is altering its internal governance structure to provide more independence for regulatory committees and also to increase lay representation on these committees to achieve a 50:50 lay/non-lay split. In addition, there is also a proposal to ring-fence matters, including appointments, within the regulatory committees. We would note that there is still, however, a direct reporting line from the Legal Services Committee through to the Professional Standards Board (to become the Regulatory Board) and then to the ICAEW Board, which in turn is responsible to Council. The latter two bodies cover both regulation and representative matters and do not have requirements around lay participation. The ICAEW's plans are therefore not in compliance with the LSB's Internal Governance Rules (IGRs), as applied to other legal regulators.
8. The ICAEW currently avoids the requirements of the IGRs because it is not an applicable approved regulator.

It seems likely that its proposed new regulatory powers will attract two categories of individuals:

1. Those qualified by another regulator e.g. solicitors or barristers who will undertake reserved activities but will not be undertaking accountancy activities
2. Accountants seeking to specialize in providing legal work who will wish to undertake reserved activities

i.e. authorised persons whose primary reason for being regulated by the ICAEW is to undertake reserved activities.

Given the likely change of status to an applicable approved regulator, the ICAEW will need to satisfy itself that it can comply with the IGRs before this application progresses any further.

## Education and training

9. We recognise that some accountants who provide advice to solicitors undertaking litigation in relation to tax, appear before tribunals and act as expert witnesses. This does not require the same knowledge or skills as undertaking litigation or advocacy in a court.
10. The ICAEW proposes that applicants will need to undertake certain courses in order to practise in these areas in the lower courts<sup>1</sup> (see schedule 1 and 2 of the draft Legal Services Regulations). There is, however, limited information about the depth of study that will be undertaken and we note that although the course cover areas of education and training covered by solicitors, the scope is narrower. This could mean that accountants undertaking reserved legal activities are unable to recognise elements that

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<sup>1</sup> In relation to authorisation to appear in higher courts, the ICAEW will require applicants to have been awarded a qualification by another legal regulator which awards such rights.

arise that are outside their area of expertise, and on which they should seek further advice.

11. We have made detailed comments on the education and training requirements below:
  - (a) The largest component by far is tax. Tax is imposed by statute on underlying legal constructs. There is therefore no such thing as pure tax law. To give advice on how tax is imposed to a proficient standard requires substantive legal knowledge of the underlying issues to which the legislation applies.
  - (b) The syllabus does not indicate the duration of the courses or depth of instruction. The courses should be equivalent to the instruction given on the Graduate Diploma in Law (GDL).
  - (c) Trusts allow for the devolution of property: real estate, shares in companies, works of art, chattels and intellectual property. To effectively devolve property would at a minimum require competence in the law of real property, the law of equity and equitable remedies and the rule in *Hastings Bass* and the rule against perpetuities.
  - (d) Civil Litigation and Advocacy modules will enable members of ICAEW to:
    - i. defend taxpayers in the County Court in relation to enforcement of debts in proceedings instituted by HMRC. Knowledge of tax law is an irrelevance in the County Court. A County Court judge may not make any determination of a liability to tax. If there is any issue of liability, the case would have to be remitted to the tax tribunal for determination. Issues in the County Court are likely to be –whether a stay may be ordered and whether time to pay can be arranged. While these issues are simple, issues of enforcement may be much more complex giving rise to consideration of real estate issues: co-ownership and joint ownership and trusts for sale, impact and rights of persons in occupation and the impact of the existence of a charge or mortgage. Given that members of the ICAEW are likely to be exempt from module 2, modules 1 and 3 seem to focus on structure and process and not on the substantive issues, described above, that would arise.
    - ii. defending a person in recovery proceedings who has been found guilty of VAT carousel fraud. These proceedings are not related to tax, the liability to pay having already been determined by the tax tribunal. The issue of recovery will raise the same sorts of issues as mentioned above. The law of equity and tracing will also be relevant. The education on the law of property accordingly seems to be inadequate.

The Society would argue, given the examples of the type of issues that would be considered in relation to tax proceedings, that the equivalent of the GDL would be required to ensure ICAEW members have a full grasp of all the relevant legal concepts.

An important part of developing the necessary skill set is having the ability to be trained by someone more experienced in that area for example a two year training

contract for solicitors or one year's pupillage for barristers. There is limited information about how firms will supervise those undertaking legal work and it may be difficult in firms where there is no previous experience of providing these services. We believe that the deficiency should be addressed in any potential application.

## **P11**

12. The suggested level of cover (£500k) is lower than the Law Society considers appropriate. The application indicates that suggested level of cover is, in part, a reflection of the no claims being made of the Probate Compensation Fund - which might be expected after only one year of regulating probate services. It is unlikely any probate claims will be made for several years but experience of the level of claims in probate suggest that there will be claims larger than £500K.
13. As accountants have not previously undertaken this type of work, it is unlikely they will have experience of assessing what level of cover they are likely to require. This is an area where training and guidance will be required.
14. Where accountants seek to limit their liability, the implications of so doing should be made clear to the client. Solicitors are required to make this very clear to the client and the outset and are not permitted to limit their liability to a level below that set out in the Minimum Terms and Conditions (MTC) currently set at £2million or £3 million dependent on the type of firm.

## **Business case**

15. The ICAEW's business case is not compelling (and is based only on research undertaken by the ICAEW with member firms<sup>2</sup>) and the research indicates that outside the large firms, there has been relatively little interest in offering reserved legal activities. If firms wished to be regulated in this area, they could do so via regulation under the SRA.
16. There is no evidence that either the ICAEW's move into probate regulation or the SRA's move to regulate accountancy firms for legal services has cut costs for consumers or increased competition. Nor is there any compelling evidence that allowing the ICAEW to regulate in these additional areas will do so. It may, however, create consumer confusion.

## **Legal professional privilege**

17. We note that a successful application by the ICAEW could lead to accountants being able to claim legal professional privilege in their tax work where the work involves a specified reserved activity e.g. litigation; advocacy; reserved instrument activities or probate. The Society would have concern about any extension of legal professional privilege beyond those qualified to practise under the Solicitors Regulation Authority or Bar Standards Board rules as other professionals do not have the same duties to their clients, or to

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<sup>2</sup> Re the potential for further expansion provided by ability to undertake further reserved activities

the courts. These duties are important in protecting a fundamental duty on which the administration of justice as a whole rests.

### **Ethical duties**

18. We will be keen to see that the ICAEW's proposed regulations for regulating authorised litigators and advocates includes a duty to the court and the administration of justice as overarching principles. We note that the proposed application only includes a commitment to expanding the Code of Ethics to include rules relating to litigation and advocacy including duties to the Court (see paragraph 4.33). The absence of similar requirements around conflicts of interest and general fiduciary duties undermines the ICAEW's ability to comply with the professional principle within the Legal Services Act that 'authorised person should act in the best interests of their clients'.<sup>3</sup>

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<sup>3</sup> Legal Services Act 2007, s1(3)(c)