



Regulatory Developments

STATUS

1. The report is open but the appendices are considered confidential.

EXECUTIVE SUMMARY

2. The paper (which is a standing item) summarises key regulatory developments of possible relevance to the activities of Professional Standards and the development of policy. This includes consultations and consultation feedbacks that have recently been published. This report provides a summary of these in the appendix and has provided some further commentary on those documents that are considered of immediate interest.
3. This document discusses the following in more detail;
 - a) The withdrawal of ACCA from Approved Regulator status for probate
 - b) The issue by Chartered Accountants Ireland (CAI) of new audit regulations for Ireland
 - c) The consultation by Cilex Regulation on changes to consumer protection
4. The government's summary of responses to the White paper on restoring trust in audit and corporate governance, and the proposed steps forward, was issued on 31 May. A summary of the key points has been prepared for the IRB by the Chief Officer. A more detailed analysis will be performed on the next few weeks and reported on at the October board.
5. Professional Standards continues to maintain close relationships with the 7 other legal services regulators, facilitating the leverage of best practice and joint opportunities.

RECOMMENDATIONS

6. The board are asked to note the content and the appendices and to ask questions of staff where further information is required.
7. The board are asked to approve the classification of the paper as open and identify where redaction may be appropriate, as has been highlighted in yellow. Also agree to the non-disclosure of the appendices.

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NEW AUDIT REGULATIONS ISSUED BY CAI FOR IRELAND

13. On 6 April 2022 CAI issued new audit regulations for Ireland. Up until then the regulations in place for Ireland were the joint regulations issued by ICAEW/CAI/ICAS for the UK and Ireland issued in January 2020. Separate regulations for the UK only were issued in January 2021 following the completion date on Brexit of 31 December 2020.

14. In July 2021 ICAEW ceased to be a regulator in Ireland, and in December 2021 ICAS followed suit. This left CAI as the sole user of the joint audit regulations and they have concluded that it is simpler for practitioners to have two separate sets for the two jurisdictions rather than a consolidated one, especially as divergence between the two countries continues to increase. The UK regulations continue to be shared across the three bodies with ICAEW holding the pen.
15. There are two elements within the new Irish regulations which are of interest and could influence the direction of the UK regulations which are under review at the moment for minor adjustments and the ICAEW DBL changes. These are CPD and the appointment of alternates.
16. The CPD rules follow the IAASA guidelines and require a greater amount of specificity and application to the conduct of CPD. To this end CAI have added a regulation 3.17A to the standard CPD regulation (3.17) which requires a Recognised Individual to take part in appropriate programmes of education, achieve learning outcomes specified in IES8, maintain Irish law specific knowledge in three of the IES standards, ensure complete records maintained and make annual declaration of compliance. As the ICAEW CPD approach is developed the audit regulations will be amended and reference the CAI 3.17A as appropriate.
17. The guidelines issued by ICAEW for alternates indicate that sole practitioners may find it helpful to identify a fellow practitioner who might be able to step in and help administer the practice should the practitioner be taken ill, die or otherwise become indisposed from servicing their clients. This process is compulsory for firms that hold client money under the Client Money Regulations and therefore it applies across all ICAEW Probate licensed firms for example. IAASA have considered that this requirement should extend to all sole practitioners that offer audit services. This has been incorporated in CAI's Irish audit regulations as regulation 2.02(f). Were we to consider such an approach this would affect 850 of our current 2400 licensed firms that are sole practitioners.

CONSULTATION BY CILEX REGULATION (CR) ON CHANGES TO CONSUMER PROTECTION

18. The consultation issued in May is setting out an approach to addressing the lack of available insurance cover for its compensation scheme by requiring its firms to use a third party managed account (TPMA) to manage the client money and therefore obviate the need to hold a compensation scheme fund. After the insurer of the CILEX compensation fund withdrew from the market, CILEX and CRL introduced interim arrangements which have provided a self-insured fund of £500,000. However, this position, whilst providing some protection to consumers, is not sustainable by CR in the longer term, as one claim had the potential to exhaust the fund.
19. CRL has researched how the risk to client money held by a firm is treated by other regulators and has identified that by introducing a TPMA to replace a firm's client account, the requirement for a large cash, or insurance-backed compensation fund may be removed. For example, barristers are not permitted to hold client money and instead use TPMAs to undertake this function. Their regulator, the Bar Standards Board, does not therefore have a compensation fund.
20. Whilst both the Solicitors Regulation Authority (SRA) and the Council for Licensed Conveyancers (CLC) do have self-funded compensation arrangements, both regulators have amended their accounts rules to enable solicitor and licenced conveyancer firms who operate a TPMA to cease contributions to their compensation arrangements.

21. To ensure that CRL has mitigated the residual risks in introducing the changes outlined in this consultation, CRL proposes to retain residual compensation arrangements to cover risks in relation to holding non-client money and to cover the residual risk from the withdrawal of the previous compensation arrangements under a reducing scale over the following 5 years.
22. TPMA's were explored in 2014 as part of the joint regulator initiative reporting to Shailesh Vara, but the recommendations were not followed up by government though clearly explored by certain of the other regulators.

LEARNING FROM LEGAL SERVICE BEST PRACTICE

24. At the last IRB meeting it was observed that there were a number of good regulatory processes adopted by legal regulators which we could usefully learn from. Our ability to leverage these is aided by our participation in a number of joint legal regulator working groups which include;
- a) Legal regulators forum
 - b) Legal regulators research forum where ICAEW research as well as PS are represented
 - c) Legal regulators EDI forum where ICAEW Diversity Manager and PS are present
 - d) LSB's MTCOG meeting which is addressing best practice for consumer engagement
 - e) Legal Choices governance and steering groups which feed in ideas on legal education
25. In addition the regulators regularly communicate with each other on best practice areas; ICAEW is currently leading on one issue relating to the remuneration and assessment of committee and tribunal members.
26. Key achievements through liaison with the other legal regulators have included;
- a) Effective update on client engagement letters throughout ICAEW due to joint research
 - b) Best practice marketing for accountancy as well as legal service clients
 - c) Internal governance arrangements
 - d) Disciplinary reporting protocols
 - e) Consistent and de-politicised diversity monitoring questions
27. Our continued engagement with the other bodies through these mechanisms build helpful contacts and achieve a higher degree of quality. This approach will be sustained in the coming months.

APPENDICES

	Appendix Name	For consideration or for reference	No of pages
Appendix A	Review of consultations and feedback June	Reference	2
Appendix B	Review of consultations and feedback April	Reference	2

Executive Director	Duncan Wiggetts Chief Officer Professional Standards
Author	Peter James Head of Regulatory Policy
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