



Audit Regulations Update

STATUS

1. The report is open with certain paragraphs highlighted in yellow redacted due to confidentiality. The appendices are considered confidential until they become published as part of a consultation.

EXECUTIVE SUMMARY

2. Audit regulations have been drafted to recognise the separate licensing of auditors of PIE entities being introduced by the FRC, together with some other updates and amendments. These have been exposed to the IRB Audit Sub-group with a briefing paper and they have made due diligence enquiries. A copy of the briefing paper is attached at appendix I. The audit regulations are attached as appendices A and B and a commentary which will form the basis of communication to firms is at appendix C.
3. The sub-group were asked to consider in particular policy issues associated with the appointment of alternates, CPD requirements and the sanctioning of RIs by the Audit Registration Committee. Feedback has been given to the sub-group on their queries and some additional information is supplied below in this paper.
4. The regulations are subject to feedback from a public consultation and the comments of the FRC, and are set to take effect from 5 December 2022. However this feedback is not expected to require significant alterations affecting overall policy.

RECOMMENDATIONS

5. The IRB are asked to;
 - a) Approve the revised audit regulations as currently drafted
 - b) Agree the following policy changes;
 - i. Appointment of alternates by sole practitioners
 - ii. Requirements for CPD compliance
 - iii. Application of regulatory penalties to Responsible Individuals
 - c) Empower the Chief Officer to agree final alterations and where required also the IRB sub-committee.
 - d) Confirm the publication of this document subject to the relevant redactions.

ALTERNATES

6. Additional information with regard to the appointment of alternates supplied to the sub-group included the points below.
7. The policy on alternates has been in place for over 20 years. The practice for sole practitioners is recommended as part of guidance to Practice Assurance Standard 4 but not compulsory except where client money is held. In January 2018 there were around 8,000 sole practitioners of which 1200 held client money. 400 of those 1200 were also licensed for audit. A further 50 sole AIs reported alternate arrangements even though not holding client money. At the same date there were 1200 sole practitioners licensed for audit (figure at 31 August 842) so over a third of them already should be in compliance. The policy is the same across the three institutes.
8. The cost administratively of capturing this data is not significant. Data fields are already in place in PRO and Dynamics and the question is already asked on audit application forms. The 12 month transition period allows these changes to be gradually implemented in the 12 month cycle of the Annual return.
9. In line with the Hampton principles the regulations are considered to be proportionate, cost effective and targeted. [REDACTED]. Here we can see cost effectiveness through requiring practices to sort out their own succession issues rather than leaving it to Regulatory Practice to sort them out. As probate regulators we should be seen to be alive to these sorts of issues. The graph showing RI ages on the sub-group paper indicates a peak moving into the 70's age group and a greater risk for PS.
10. Examples where Regulatory Support have been asked to make interventions regarding ailing sole practitioners in recent months are as follows;

[REDACTED]

[REDACTED]

CPD

11. The regulation as drafted is not as specific as perhaps it could be simply not to pre-empt developments elsewhere on the Institute’s initiative around more rigorous CPD requirements and the recording of this. Future revisions can then incorporate the finalised CPD approach and reflect AI and other mechanisms.

SANCTIONS BY THE ARC AGAINST RECOGNISED INDIVIDUALS

12. In terms of Audit Registration Committee (ARC) penalising RIs we will only be giving ARC the powers that the Investigation Committee (IC) has now to deal with minor/technical breaches by way of consenting to a penalty – indeed short-cutting the existing process and improving speed of regulatory outcome. A strong example is that of failing to meet the CPD criteria where the RI themselves are clearly at fault and the firm are collateral damage. Anything integrity-related would continue to be referred to the IC/Disciplinary Committee route, as would serious audit-quality issues so it really is only a limited type of breach that ARC would penalise. We do not have recent examples of a case where ARC wanted to issue a financial sanction against the RI but had to refer to the IC to do it as ARC didn’t have the powers, but that is in part because less focus was given on CPD in the past.
13. It has been queried if this affects the balance of the IDRs. This is not thought to be the case. The ARC is empowered to deal with “firm” and one third of our audit firms are sole practitioners. It seems illogical that RIs who are in a multi-partner firm are not subject to the same rules. Similar principles have been applied to the Practice Assurance Committee, and we do not think there needs to be amendment to the IDRs.

PROSPECTIVE ENFORCEMENT DATE

14. Although there has been a recent trend to make enforcement retrospective, regulation 1.06 indicates that the regulations only apply in respect of acts committed after date of commencement of the new regulations. This is a fundamental concept in the rule of law which we are required to have regard to under the LSA07. The citizen should not be retrospectively tried for something that was not law at the time the act was committed. Relevant case law is Lord Kerr in Walker v Innospec Limited and others 2017 and Bennion’s Statutory Interpretation, 6th ed (2013), Comment on Code section 97.

APPENDICES

	Appendix Name	For consideration or for reference	No of pages
Appendix I	Paper submitted to the IRB Audit sub-group	Reference	8
Appendix A	Draft Audit Regulations - Clean	Reference	95
Appendix B	Draft Audit Regulations – Track changes	Consideration	95
Appendix C	Schedule of changes to audit regulations	Consideration	8

Executive Director	Duncan Wiggetts Chief Officer Professional Standards
Author	Peter James Head of Regulatory Policy
Date of report	29 September 2022