



CONSULTATION ON PROPOSED PUBLIC INTEREST ENTITY AUDITOR REGISTRATION REGULATIONS

Issued 26 May 2022

ICAEW welcomes the opportunity to comment on the *Consultation on Proposed Public Interest Entity Auditor Registration Regulations* published by the Financial Reporting Council on 14 April 2022, a copy of which is available from this [link](#).

The FRC has allowed approximately five weeks for responses to this important consultation and is proposing an accelerated implementation timetable. We believe this timetable must be extended in the interests of consistency and audit quality. The transitional period should be extended to six months, to deal with the initial registration of a large number of firms and RIs. We outline in this response areas in which we believe further guidance is essential for consistent application. As a minimum, guidance must be issued prior to the commencement of the transitional period covering:

- information sharing protocols between the RSBs and the FRC
- the registration process: including what the FRC means by experience, competence, and sufficient and appropriate financial, non-financial and central resources, and suitable governance arrangements
- the type of information the FRC might request from firms or RIs to add to the PAR in the public interest
- urgent decisions.

Tight deadlines are proposed for the firms and RIs to be registered but none are set for the FRC. The FRC should as a minimum:

- give some indication of how long it will take to register a firm under normal circumstances
- set a deadline for completing its review of annual returns to avoid the precedent set by other audit regulators that issue reports long after the periods to which they relate, by which time the reports are ineffective
- extend to ten days, from the five working days proposed, for a firm to report its awareness of a breach of conditions or undertakings.

There are growing concerns about the lack of attractiveness of audit as a long-term career. The FRC should consider carefully the need to balance political pressures to appear to be enhancing requirements, and the long-term effect on audit quality if, as a direct result, the pool, and quality of auditors prepared to take on higher risk audits, shrinks. Extending the definition of PIEs exacerbates this problem, with firms publicly and privately withdrawing from entire sectors of the audit market.

For questions on this response please contact our Audit and Assurance Faculty at tdaf@icaew.com quoting REP 44/22.

This response of 26 May 2022 has been prepared by the ICAEW Audit and Assurance Faculty. Recognised internationally as a leading authority and source of expertise on audit and assurance issues, the faculty is responsible for audit and assurance submissions on behalf of ICAEW. The faculty has around 7,500 members drawn from practising firms and organisations of all sizes in the private and public sectors.

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KEY POINTS

SUPPORT FOR PROPOSALS, NEED FOR MORE GUIDANCE

1. We welcome this consultation on the registration of PIE auditors and are pleased to see the FRC moving ahead in this area. Subject to the observations below, we are broadly happy with these proposals which largely reflect the existing regimes operated by the RSBs. We are conscious that the FRC will wish to enhance, and be seen to enhance, the regime it has inherited and the comments in this response are intended to assist with that.
2. The FRC, firms and RIs to be registered, and the RSBs with which the FRC must share information, must be clear about what is expected of all parties. The consultation as it stands is insufficiently granular in a number of key areas to avoid the risk of inconsistent interpretation. The FRC needs to give more thought to the provision of examples and guidance generally if audit quality is to be improved.
3. The key areas to be addressed before the regulations are finalised are:
 - the transitional period: this should be extended to six months, to deal with the initial registration of a large number of firms and RIs
 - information sharing protocols between the RSBs and the FRC
 - guidance underpinning the registration process: including what the FRC means by experience, competence, and sufficient and appropriate financial, non-financial and central resources, and suitable governance arrangements, under sections 4 and 5. The guidance as it stands is inadequate
 - the type of information the FRC might request from firms or RIs to add to the PAR in the public interest
 - urgent decisions: more guidance and thought are needed on the process for urgent decisions. There are risks to the FRC in this area as well as the firms and RIs
 - deadlines: the FRC is proposing to set tight deadlines for the firms and RIs it will register but has set none for itself. It should as a minimum:
 - give some indication of how long it will take to register a firm under normal circumstances
 - commit to completing its review of annual returns within no longer than say, 60 days from the receipt of the return. The FRC should not follow the precedent set by some other high profile audit regulators, by issuing reports long after the periods to which they relate, by which time the reports are ineffective, and the firms have moved on
 - extend to ten days, from the five working days proposed, for a firm to report its awareness of a breach of conditions or undertakings.
4. Our concerns are described in detail in our responses to the questions below.

EFFECTIVE DATE

5. We believe that the transitional period should be extended to six months. The proposed effective date of September 2022, to be preceded by a transitional period, is unnecessarily aggressive for such a high-profile and important process that needs to work effectively.

PUBLIC SECTOR

6. We welcome FRC's confirmation that key audit partners will not have to register as PIE auditors to carry out the audits of local authority PIEs, as this would create needless duplication with the existing key audit partner registration process. However, we believe the need for this clarification highlights the unsuitability of PIE audit requirements for public sector bodies. We reiterate the call made in our [letter to HM Treasury](#) on the public sector impact of audit reforms for public sector entities to be brought outside the scope of the PIE definition.

ANSWERS TO SPECIFIC QUESTIONS

Part 1. Introduction

Question 1: Do you envisage any problems with the proposed effective date of the draft PIE Regulations? Please provide supporting reasons for your views or proposals.

7. The proposed effective date of September 2022, to be preceded by a transitional period seems unnecessarily aggressive for such a high-profile and important process, which needs to be, and be seen to be, effective as well as robust.
8. All stakeholders - the FRC, firms and RIs and the RSBs - must be clear about what is expected of all parties. The consultation as it stands is insufficiently granular to avoid the risk of inconsistent interpretation. In particular, the FRC needs to give more thought to the detailed policies, processes, systems and guidance that underpin the registration process. It must do this prior to the commencement of the transitional period.
9. While the RSBs have relatively little published guidance in some of these areas, it is essential to acknowledge that there is a degree of trust in practices established by the RSBs over time. This is not yet the case with the FRC.
10. Specifically:
 - **firms** will need to have policies and procedures in place to ensure compliance before the effective date
 - information sharing protocols between the FRC and the **RSBs** need to be established to accommodate the different systems used and differences in the data held
 - many of the FRC's requirements seem likely, at least initially, to replicate or be based on those of the RSBs. Over time, the **FRC** will change those requirements. Before the requirements are implemented for the first time, and when they are subsequently changed, the FRC should develop and communicate guidance on additional or modified criteria relating to the requirement to maintain adequate resources to perform PIE audit work. It should also provide examples of:
 - a) what it means by experience, competence, and sufficient and appropriate financial, non-financial and central resources, suitable governance arrangements under sections 4 and 5; and
 - b) the nature and extent of documentation in these areas it will require to support applications.
 - the **FRC** should provide examples of the type of information it might request from firms or RIs to add to the PAR in the public interest, so that firms can consider their data collection processes.
11. For these reasons, we believe that the transitional period, should be extended to six months, to deal with the initial registration of a large number of firms and RIs and to accommodate the summer holiday period. Guidance must be developed prior to the transitional periods to give firms and RIs sufficient time to act on it.

Part 2. Definitions and interpretation

Question 2: Are there other terms which would benefit from being included in the list of definitions? If so, please clarify what these are.

12. The FRC should define the term 'waiver'. There is a lack of clarity regarding the meaning of this term and how it fits into the wider scheme of remedies, such as conditions and undertakings.
13. There are no other terms which would benefit from being included in the list of definitions.

Part 3. Content of the PAR

Question 3: Is there any other information which should be included on the PAR? If so, please clarify what additional information should be included and the reason for the suggestion.

14. There is no additional information which should be included on the PAR. The scope of the FRC to add information 'in the public interest' should cover most eventualities.

Part 4. Registration Requirements for PIE Registered Audit Firms and Part 5. Registration Requirements for a PIE Registered RI

Question 4: Do you agree with the PIE Registration Requirements which have been listed for audit firms in Part 4? If you do not agree, what other PIE Registration Requirements do you consider are necessary, in addition to or in place of those which have been listed for audit firms in Part 4?

Question 5: Do you agree with the PIE Registration Requirements which have been listed for RIs in Part 5? If you do not agree, what other PIE Registration Requirements do you consider necessary, in addition to or in place of those which have been listed for RIs in Part 5?

15. While the proposed registration requirements for firms and RIs are, with one exception, unobjectionable, as we note elsewhere in this response, more detail is needed in a number of areas. For example, if the FRC determines that the PII cover required differs to that currently required by the RSBs, it must give firms adequate notice thereof to facilitate cover and renewals on an orderly basis.
16. Proposed regulations 4.1k and 5.1g limit the FRC's liability to situations in which it has acted in bad faith. We hope that the FRC will publicly commit to a high level of due care and transparency and robust systems supporting the wide-ranging powers proposed to provide information publicly about firms and RIs, with or without their consent. Audit quality is unlikely to be promoted if reputational damage to the FRC, audit firms or RIs arises from careless errors.
17. We note elsewhere in our response that prior to transitioning and implementation, the FRC should develop guidance in relation to adequate resources, and provide examples of what it means by experience and competence, suitable governance arrangements, and the nature and extent of documentation in these areas it will require to support applications.
18. In relation to experience and competence, guidance should include criteria covering the size and complexity of the proposed engagements, and the relevance and timeliness of the experience.
19. The proposals require details of the disciplinary history and past settlement arrangements of previous firms where the RI was a principal. This information might not be readily available in relation to previous employments, particularly if the terms of past settlements were confidential. The provisions of human rights and the rehabilitation of offenders legislation may also be relevant here.

Question 6: Do you agree with the Registration Requirements that RIs must have signed a PIE Audit Report in the last 12 months or expect to sign PIE Audit Reports in the forthcoming 12 months (subject to any longer period if agreed with the FRC)?

20. The FRC needs to balance the need to:
 - foster competition in the audit market, by acknowledging that some firms and RIs may have limited experience of PIE audits and/or a limited PIE audit client base. This will be increasingly relevant in the light of the increasing number of larger and PIE audits being offered to smaller firms as a result of larger firms rejecting some higher risk audits

- ensure that firms and RIs have adequate experience, competence, resources and systems.
21. The FRC also needs to take account of the:
- length of the tendering process which often spans more than 12 months, and the likelihood that entities will seek confirmation that proposed RIs are eligible
 - rotation requirements for RIs engaged in a single strategically significant audit who may be unlikely to sign a PIE audit report in the following 12-months.
22. We therefore suggest that the requirement should be extended to 18 months, and that exception to this may be made on a case-by-case basis.

Part 6. Applications for Registration

Question 7: Draft Guidance on the PIE Registration process is available alongside this consultation. The Guidance will be kept under continuous review. Do you have any comments or concerns with respect to the draft Guidance?

23. The guidance as it stands is inadequate. We note elsewhere in our response areas not covered by the draft guidance that should be covered, prior to the commencement of the transitional period. We note below specific concerns with the draft regulations and guidance on conditions, undertakings, suspension and related matters.
24. The information sharing protocols developed between the RSB's and the FRC must be transparent and sufficiently detailed to prevent duplication, overlap, and unnecessary differences in information to be sent to RSBs and the FRC. It is particularly important that this guidance is developed before the start of the transitional period, during which a large number of firms will be preparing information for the FRC for the first time. This is particularly important if the FRC sticks with its proposed timetable. A longer transition would allow for a more orderly process.

Part 7. Assessment of Applications

Question 8: Do you think the draft PIE Regulations sufficiently detail the information that is required for PIE Registration? If not, what suggestions do you have to clarify the PIE Regulations?

25. We note elsewhere in this response the need for the FRC to provide more detail on the criteria it will apply when assessing applications, and how they will differ from the criteria already applied by the RSBs.

Question 9: Are there any further steps you consider that we could take to ensure the PIE Registration process works effectively alongside the registration process already operated by the RSBs?

26. Our main concern is that the extent of duplication between information provided to the RSBs and to the FRC is minimised wherever possible.
27. The FRC should give some indication of how long it will take to register a firm under normal circumstances.

Part 8. Conditions

Question 10: It may be necessary or appropriate for the FRC to impose Conditions on Applicants or audit firms and/or RIs as part of the PIE Registration process. Do you think the process for imposing Conditions is fair and proportionate?

28. The established process for the imposition of conditions and undertakings by the RSBs is well understood is generally believed to be fair and proportionate. The fairness and proportionality of conditions and undertakings when imposed by the FRC will depend on their nature and the manner in which they are imposed. There are growing concerns about the lack of attractiveness of audit as a long-term career and the FRC should consider carefully the need to balance political pressures to appear to be enhancing requirements, and the long-term effect on audit quality if as a direct result the pool, and quality of auditors prepared to take on higher risk audits, shrinks.

Question 11: It may be necessary for the FRC to publish decisions regarding Conditions, when the FRC considers this to be in the public interest. Are there any circumstances in which you think it would not be appropriate to publish details of Conditions?

29. The statement that it may be necessary for the FRC to publish decisions in the first part of this question suggests that it will not generally do so. The second part of the question suggests that it might. It can always be argued that the publication is necessary in the public interest, to avoid further instances of the circumstances giving rise to need for the condition, and in the interests of consistency. However, there is a real risk that the indiscriminate publication of decisions regarding conditions will lessen their impact and serve only to act as a further disincentive to the pursuit of audit as a career. The discretion should not be exercised on a capricious basis and the FRC should disclose the fact that an appeal has been lodged where appropriate. It should provide examples of situations in which publication might be warranted. Where decisions regarding conditions are published, it is fair to give the firm reasonable advance warning and sight of the wording used.
30. Decisions regarding conditions and undertakings to be published should be serious, such as conditions prohibiting a firm or RI from taking on new PIE audit clients. Those that are more remedial in nature, relating to internal matters only, such as specific training for an RI or subjecting an RI's audits to EQCRs, should not generally be published.

Question 12: Can you foresee any issues with the FRC's proposal to publish anonymised information regarding Conditions on a periodic basis?

31. We agree with the proposal to publish anonymised information on a periodic basis.

Part 9. Undertakings

Question 13: The FRC may wish to agree Undertakings with Applicants or audit firms and/or RIs as part of the PIE Registration process. Do you think the process for agreeing undertakings is fair and proportionate?

32. In the absence of a specification of the types of undertakings to be imposed, or the timeframes for implementation of the formal notification, it is hard to assess whether the related process will be fair and proportionate. Please also see our answer to Q11 above.

Question 14: Do you agree with the position that Undertakings should generally not be published unless there is a particular public interest in doing so?

33. We agree that undertakings should generally not be published.

Question 15: Can you foresee any issues with the FRC's suggestion to publish anonymised information regarding Undertakings on a periodic basis?

34. We agree that anonymised information regarding undertakings should be published on a periodic basis.

Part 10. Waivers

Question 16: Does the process for granting waivers address all of the potential circumstances where a waiver may be necessary? If you do not agree please provide an explanation of your response.

35. We agree with the proposed process for granting waivers, however, careful coordination with RSBs will be needed to avoid situations in which the corresponding RSB requirements relating to waivers or their equivalents have not been met.

Part 11. Suspension of registration

Question 17: It may be necessary for the FRC to suspend an audit firm and/or RI as part of the PIE Registration process. Do you think the process for imposing a suspension is fair and proportionate?

36. We note elsewhere in this response that the FRC has not yet provided sufficient detail about its process for determining whether registration requirements are met, to achieve consistency, fairness or proportionality. The same applies to evaluating the process for suspension.
37. It should as a minimum be made clear that the FRC will distinguish between serious non-compliance cases, and others relating to administrative errors for example. Firms should not be suspended over the latter, without being provided with an opportunity to rectify the error.

Question 18: To what extent do you agree with the consequences of a suspension of PIE Registration?

38. We do not disagree with the consequences of suspension described.

Part 12. Urgent decisions

Question 19: It may be necessary for the FRC to issue urgent decisions which are in the public interest and come into immediate effect. Do you think the process for imposing an urgent decision is fair and proportionate?

39. These proposals are the most potentially risky for the FRC and damaging to audit firms. They permit the FRC to suspend a firm or impose conditions without warning and the FRC must therefore provide examples or criteria covering the circumstances that would necessitate such a decision.
40. Despite the fact that no reasons will be provided to the firm, and that written representations will not be permitted, such decisions 'will usually be publicised'. This raises the prospect of the FRC publishing reasons that it has not provided to the firm concerned, which is contrary to natural justice, and a high-risk strategy. The FRC must address this before the proposals are finalised.
41. The FRC must make it clear whether the appeals process applies to an urgent decision, and how this would work.

Part 13. Removal from the PAR

Question 20: It may be necessary for the FRC to refuse an application from an audit firm and/or RI wishing to request voluntary removal from the PAR if it is in the public interest to do so. Do you think the process for refusing a voluntary removal request is fair and proportionate?

42. The process for refusing a voluntary removal request as described is insufficiently detailed to determine whether it is fair and proportionate, as it simply states that the FRC will do so 'in the public interest', without specifying what that might mean in practice. The FRC should

explain that it is intended to cover situations in which there are serious breaches of the regulations, and the FRC is seeking to publicly remove a firm, and to deter others, and the firm is instead seeking to 'go quietly'. Otherwise, there is seemingly nothing to prevent a vexatious refusal, made under the pretext of a public interest test.

Part 14. Internal reviews and appeals

Question 21: Do you think the grounds for internal review and appeal are sufficiently clear in the PIE Regulations?

43. The bars set in paragraph 14.5 of the draft regulations regarding the decision to conduct an internal review is set very high. In practice, the FRC is unlikely to admit to a materially flawed or unlawful decision or manifestly unfair process and only with new information is there any realistic possibility of a review or appeal. Absent such information, a firm's only option will be litigation in the context of the 'bad faith' test. No detail is provided regarding the criteria that might be applied in determining whether a decision is materially flawed and there appears to be no opportunity for firms to make verbal representations or otherwise participate in the review process, which lacks transparency, is inconsistent with the approach followed for case examinations conducted by the RSBs.
44. We understand that the internal review may be conducted by more than one person. Serious cases warrant a panel decision.

Question 22: To what extent do you agree that the PAR Tribunal Panel is suitably independent to review PIE Registration decisions?

45. We find this question curious because there are no details in any of the documentation issued with this consultation of how the convenor, or the members of the PAR tribunal panel members, are to be appointed and selected. It is therefore impossible to determine whether it will be suitably independent.

Question 23: Do you have any comments on the Appeals Rules and how they would work in practice?

46. Paragraph 19.4 of the draft regulations states only that, 'The FRC shall appoint an independent person to determine whether to give permission to appeal'. Again, no indication is given regarding how the independence of that person is to be determined.

Part 15. Changes to entries on the PAR

Question 24: Are the PIE Regulations sufficiently clear and comprehensive in respect of notifying the FRC of a change in circumstances?

47. The draft regulations are sufficiently clear regarding the notifications of the FRC of a change in circumstances.

Question 25: Do you think the PIE Regulations clearly explain the steps an audit firm must take if an audited entity comes into PIE scope part-way through the audit?

48. The draft regulations make it clear that urgent notification is required when an audited entity comes into PIE scope part-way through the audit. The FRC refers to the possibility of unregistered RIs requesting urgent consideration of the matter in exceptional circumstances. An example of such circumstances should be provided, along with an example of a situation in which such a request might be refused. We think that these situations are likely to be rare and possibly restricted to entities with listed debt whose auditors are not notified of the debt listing at the time of appointment.

Part 16. Annual Return to the FRC

Question 26: Do you think the PIE Regulations clearly explain the process for the audit firm's Annual Return and the subsequent consideration by the FRC of the audit firm's PIE Registration?

49. We applaud the decision to align the annual return date for the RSBs and the FRC to reduce the administrative burden. The draft regulations at 16.4 state that 'At a date subsequent to the Annual Return being submitted, the FRC shall review the status of the PIE Registered Audit Firm'. The FRC should commit to completing its review within no longer than say, 60 days from the receipt of the return. 16.6 states that the FRC may issue PAR guidance concerning the process for completing an annual return. The FRC should issue that guidance prior to the commencement of the transitional period.

Part 17. General rules

Question 27: Are there any additional information sources the FRC should consider accessing when considering an audit firm's or RI's PIE Registration?

50. While there are no immediately obvious additional information sources the FRC should consider accessing when considering an audit firm's or RI's PIE Registration, the FRC should keep this under continuous review.

Annex 1 of the draft PIE Regulations – Transitional Regulations

Question 28: Do the PIE Regulations clearly explain what information must be submitted by existing audit firms during the Transitional Application process? If not, what suggestions do you have?

51. We note elsewhere in this response the need for more detailed guidance or examples covering what the FRC means in relation to:
- adequate resources to perform PIE audit work
 - experience and competence
 - sufficient and appropriate financial, non-financial and central resources
 - suitable governance arrangements
 - the nature and extent of documentation in the areas above it will require to support applications
 - the type of information it might request from firms or RIs to add to the PAR in the public interest, to enable firms to consider their data collection processes.

Question 29: To what extent do you consider the new PIE Registration process will contribute towards the FRC's strategic aim of improving PIE audit quality? Are there any additional ways the FRC can use the PIE Registration process to help drive up audit quality?

52. While the registration process should not, of itself, have a direct bearing on audit quality, heavy-handed approach to the registration of PIE auditors is likely to deter firms whose systems policies and procedures are most likely to support audit quality, and possibly even attract firms whose priorities lie elsewhere. We note elsewhere in this an increasingly number of larger, higher risk audits being accepted by firms with relatively little experience of such audits.
53. We note elsewhere in this response the need for more detailed guidance or examples covering what the FRC means in relation to situations:
- in which publication of conditions and undertakings might be warranted
 - that might warrant suspension

- that might warrant an urgent decision.

Question 30: Are there any additional provisions you believe we should include in the PIE Regulations?

54. No additional provisions are required in the proposed regulations, but changes of substance are required to the internal review and appeals process as described elsewhere in this response.

Question 31: What are your views on the timescales (working days) stated in the PIE Regulations to provide information, submissions or explanations to the FRC?

55. Most of the timescales expressed in numbers of working days do not appear unreasonable. However, five working days for firms to report awareness of breaches of conditions or undertakings simply does not reflect the reality that what does or does not constitute a breach will often be unclear and will often require internal investigation. To the extent that the proposed time periods for FRC communications to firms are considerably longer, we suggest that a period of ten working days would be more equitable.