



**CONSULTATION PAPER CP 1/07**

**INVITATION TO COMMENT ON  
DRAFT REGULATIONS GOVERNING THE CONDUCT OF  
ENQUIRIES PURSUANT TO SECTION 23 OF THE  
COMPANIES (AUDITING AND ACCOUNTING) ACT, 2003**

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## 1. FOREWORD

The Irish Auditing & Accounting Supervisory Authority ('the Authority') places a high value on the consultative process. In that context, it is hoped that interested parties will make their views known on the proposals set out in this Consultation Paper, thereby ensuring that the Authority's final decision-making process is well informed, rigorous and accountable. It is further hoped that, in conducting this consultation process, the Authority's attention will be drawn to any issues in respect of which contributors believe amendment of the draft Regulations is merited.

While the final Regulations will be of most relevance to the prescribed accountancy bodies and their members, other parties may be affected by their provisions – for example, users of services provided by members of the prescribed accountancy bodies and persons who lodge complaints with the prescribed accountancy bodies. For that reason, the Authority is seeking the views of any party having an interest in these matters.

While the Authority will be happy, to the extent practicable, to address general queries arising from this Paper and the appendices thereto, independent legal advice should be sought in relation to the effects of any legal provision.

**IRISH AUDITING & ACCOUNTING SUPERVISORY AUTHORITY  
12 JANUARY, 2007**

## 2. INTRODUCTION & OVERVIEW

2.1 The Authority was established on a statutory basis in December, 2005 pursuant to the provisions of the Companies (Auditing and Accounting) Act, 2003 ('the Act'). The Authority was subsequently conferred with most of the statutory functions and powers provided for it under the Act by the Minister for Trade & Commerce in February 2006<sup>1</sup>.

The Authority's principal functions, as provided for by the Act<sup>2</sup>, are to:

- supervise how the prescribed accountancy bodies regulate and monitor their members;
- promote adherence to high professional standards in the auditing and accounting profession;
- monitor whether the accounts of certain classes of companies and other undertakings comply with the Companies Acts and, where applicable, Article 4 of the IAS Regulation; and
- act as a specialist source of advice to the Minister on auditing and accounting matters.

2.2 A '*prescribed accountancy body*' is a body of accountants that comes within the Authority's supervisory remit. At present, there are nine prescribed accountancy bodies. They are the:

- I. Association of Chartered Certified Accountants (ACCA);
- II. Association of International Accountants (AIA);
- III. Chartered Institute of Management Accountants (CIMA);
- IV. Chartered Institute of Public Finance & Accountancy (CIPFA);
- V. Institute of Chartered Accountants in England & Wales (ICAEW);
- VI. Institute of Chartered Accountants in Ireland (ICAI);
- VII. Institute of Chartered Accountants of Scotland (ICAS);
- VIII. Institute of Certified Public Accountants in Ireland (ICPAI); and
- IX. Institute of Incorporated Public Accountants (IIPA).

2.3 Further to its statutory supervisory remit, one of the Authority's key policy objectives is, through the exercise of effective oversight of the accountancy profession, to provide the public with independent assurance that:

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<sup>1</sup> S.I. 56 of 2006 refers

<sup>2</sup> Section 8 refers

- the accountancy profession is regulating itself in accordance with approved investigation and disciplinary procedures; and
- in circumstances where this is found not to be the case, appropriate action is taken to address instances of non-compliance with approved investigation and disciplinary procedures and to dissuade further recurrence.

2.4 The methods by which the Authority exercises oversight of the profession include, *inter alia*:

- approving the Rules, Regulations and Standards with which members of the prescribed accountancy bodies are required to comply by virtue of their membership of those bodies, and proposed amendments thereto;
- approving the prescribed accountancy bodies' investigation and disciplinary procedures and proposed amendments thereto; and
- monitoring the prescribed accountancy bodies' compliance with their approved investigation and disciplinary procedures (including the manner in which they deal with complaints received regarding members and member firms).

2.5 The Act provides the Authority with a range of powers for the purposes of, *inter alia*:

- enabling it to carry out its ongoing, general supervisory functions;
- enabling it to carry out enquiries, following a complaint or on its own initiative, for the purpose of determining whether a prescribed accountancy body has complied with its approved investigation and disciplinary procedures<sup>3</sup>;
- enabling it, where considered appropriate or to be in the public interest, to carry out investigations into possible breaches of a prescribed accountancy body's standards by a member<sup>4</sup>;
- empowering the Authority to impose sanctions on a prescribed accountancy body or member, as applicable, where non-compliance with approved investigation and disciplinary procedures or standards, as applicable, has been determined to have occurred<sup>5</sup>.

2.6 This Consultation Paper, and the accompanying draft Regulations (which are set out at Appendix 1), is concerned with one particular aspect of the foregoing, i.e. the Authority's power under section 23<sup>6</sup> of the Act to enquire into whether a prescribed accountancy body has complied with its approved investigation and disciplinary procedures.

2.7 It is important to note in this context that the Authority does not have primary responsibility for regulating members of the prescribed accountancy bodies or for dealing, in the first instance, with complaints against such members. Under the supervisory model provided for by the Act, the prescribed accountancy bodies remain primarily responsible for dealing with complaints against their members and for regulating and monitoring such

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<sup>3</sup> Section 23

<sup>4</sup> Section 24

<sup>5</sup> Sections 23 and 24

<sup>6</sup> For ease of reference, the full text of section 23 of the Act is reproduced at Appendix 2 to this Consultation Paper.

members generally. Accordingly, in exercising its ongoing supervisory role, the Authority does not seek to supplant the prescribed accountancy bodies' investigation and disciplinary processes. Rather, the Authority's role is to supervise the operation of these processes. However, that having been said:

- members of the public are entitled to lodge complaints with the Authority regarding alleged non-compliance on the part of a prescribed accountancy body with its approved investigation and disciplinary procedures; and
- apparent instances of non-compliance with such procedures may also come to the Authority's attention through other channels (for example, as a consequence of the Authority's ongoing supervisory activities, reports from other regulatory bodies, press *reportage* etc.).

It is, therefore, important, notwithstanding that the primary onus for investigating matters relating to members of the prescribed accountancy bodies resides with those bodies, that the Authority have the necessary powers to initiate and perform its own enquiries, where considered necessary, appropriate and/or in the public interest.

2.8 Section 23 provides that, for the purpose of determining whether a prescribed accountancy body has complied with its approved investigation and disciplinary procedures, the Authority may enquire into:

- a decision by a body not to undertake an investigation into a possible breach of its standards<sup>7</sup> by a member;
- the conduct of an investigation by a body into a possible breach of its standards by a member;
- any other decision of a body relating to a possible breach of its standards by a member.

2.9 As alluded to above, in the event that the Authority, having carried out an enquiry under section 23, determines that a prescribed accountancy body has failed to comply with its approved investigation and disciplinary procedures, the Authority is empowered by the Act to impose a range of regulatory measures and/or sanctions on the body concerned.

2.10 Section 28(4) of the Act provides that the Authority shall issue Regulations setting out the procedures to be followed in conducting enquiries under section 23. In that context, the Authority has developed a set of draft Regulations which, *inter alia*, provide a range of provisions designed to ensure fair procedure. These draft Regulations are the subject of this consultation process.

2.11 The powers of enquiry and sanction provided to the Authority under section 23 are considerable and, that being the case, the Authority wishes to ensure that any exercise of such powers is executed in a manner that is both fair and effective, thereby achieving an appropriate balance between (i) protecting and promoting the public interest; (ii) ensuring that the subjects of enquiries (i.e. the prescribed accountancy bodies) and other

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<sup>7</sup> 'Standards' is defined in section 4 of the Act as '*standards, in relation to a prescribed accountancy body, means the rules, regulations and standards that body applies to its members and to which, by virtue of their membership, they are obliged to adhere*'.

potentially affected parties (for example, members of the prescribed accountancy bodies) are fully afforded their rights as regards procedural fairness; and (iii) sanctioning non-compliance where such is found to have occurred.

- 2.12 To that end, the draft Regulations set out in Appendix 1 to this Consultation Paper seek to set out, and facilitate the implementation of, a fair and robust enforcement procedure which, by taking account of the principles of fair procedure, will result in the issuance of decisions that are just, reasonable and legally defensible.
- 2.13 Pending the completion of this consultative exercise and the subsequent issuance of final Regulations, the Board of the Authority has resolved to:
- adopt the draft Regulations set out at Appendix 1 to this Paper as interim procedures governing the conduct of Enquiries under section 23 of the Act; and
  - establish a standing Investigations Committee to deal with any such matters that might arise in the interim.

On the issuance of final Regulations, the interim procedures will be superseded by the final Regulations.

### 3. THE DRAFT REGULATIONS

#### 3.1 The Statutory Framework

3.1.1 Section 23 of the Act provides that the Authority may, following a complaint or on its own initiative, for the purposes of determining whether a prescribed accountancy body has complied with its approved investigation and disciplinary procedures, enquire into:

- a. a decision by that body not to undertake an investigation into a possible breach of its standards by a member;
- b. the conduct of an investigation by that body into a possible breach of its standards by a member; or
- c. any other decision of that body relating to a possible breach of its standards by a member.

3.1.2 Section 23 further provides that, for the purposes of an enquiry, the Authority may:

- inspect, and take copies of, all relevant documents in the possession or control of the prescribed accountancy body; and
- require the prescribed accountancy body to explain why it reached any decision referred to at (a) and/or (c) above or to explain how it conducted its investigation.

3.1.3 If, having completed an enquiry under section 23, the Authority is not satisfied that a prescribed accountancy body has complied with its approved investigation and disciplinary procedures, the Authority may advise or admonish the body concerned or may censure it by doing one or more of the following:

- annulling all or part of a decision of that body relating to the matter that was the subject of the enquiry;
- directing the body to conduct an investigation or a fresh investigation into the matter;
- requiring the body to pay to the Authority a monetary amount, subject to maxima set by law or by Ministerial Order.

3.1.4 The Authority may only initiate an enquiry under section 23 in respect of suspected/apparent breaches of the '*approved investigation and disciplinary procedures*' of a prescribed accountancy body. The term '*approved investigation and disciplinary procedures*' is defined by the Act as being:

- in relation to a prescribed accountancy body that is a recognised accountancy body<sup>8</sup>, the investigation and disciplinary procedures approved under:
  - section 9(2)(c) of the Act; or

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<sup>8</sup> A recognised accountancy body is a body of accountants that has been authorised, subject to certain criteria being satisfied, to confer upon its members the right to act as auditors under the Companies Acts.

- under the Companies Act, 1990 before or after the amendment of same by section 32 of the Act; and
- in relation to any other prescribed accountancy body, the investigation and disciplinary procedures approved under section 9(2)(c) of the Act.

## **3.2 Summary of the approach taken in the draft Regulations**

### *Approach - overview*

- 3.2.1 The draft Regulations are based on the premise that the exercise of enforcement powers must be performed in a manner that accords with applicable principles of procedural fairness, natural and constitutional justice, the requirements of administrative law and applicable human rights legislation.
- 3.2.2 To that end, the draft regulations provide that, once initiated, enquiries under section 23 will be split into two discrete phases, each of which will be conducted by Committees established by the Authority (i.e. Investigations and Enquiry Committees). The draft Regulations provide that each Committee shall have among its membership at least two directors of the Authority. The draft Regulations further provide that no person may serve on both the Investigation and Enquiry Committees in any given matter and that members of the prescribed accountancy bodies may not constitute a majority of any Committee.

### *Investigation*

- 3.2.3 The purpose of the first phase, which will be conducted by an Investigations Committee, is to determine whether an Enquiry should be initiated by the Authority. It follows, therefore, that the second phase will only take place in circumstances where an Investigations Committee determines, having carried out its investigations, that the Authority should initiate an Enquiry. The purpose of the second phase, which will be conducted by an Enquiry Committee, is to determine whether a prescribed accountancy body has failed to comply with its approved investigation and disciplinary procedures and, if so, to determine the sanction that should be imposed.
- 3.2.4 The draft Regulations provide that an Investigations Committee may be established where the Authority has reason to believe that a prescribed accountancy body may have failed, or may be failing, to comply with its approved investigation and disciplinary procedures. The reasons for such a belief may arise, *inter alia*, as a result of information coming to the Authority's attention by virtue of the performance of its ongoing supervisory activities, as a result of information received by the Authority from another regulatory or supervisory body or on foot of a complaint received by the Authority.
- 3.2.5 Where the Authority resolves to establish an Investigations Committee to examine a particular issue, the draft Regulations provide that the Committee is required to notify the prescribed accountancy body concerned of its establishment and of the initiation of an investigation. The draft Regulations further provide that the Committee shall also notify those members of the body concerned who are the subject of the decision(s) under investigation of the establishment of the Committee and of the initiation of its investigation.

- 3.2.6 The draft Regulations provide that, prior to making its determination as to whether an Enquiry should be initiated, an Investigations Committee is required to furnish the body and affected members with details of, among other things, the basis upon which the investigation has been initiated.
- 3.2.7 In order that an Investigations Committee can arrive at its determination, the draft Regulations provide that an Investigations Committee can, *inter alia*, require a prescribed accountancy body to provide it with explanations and documentary information in its possession or control. An Investigations Committee may also consider submissions made to it by other parties.
- 3.2.8 Having completed its investigations, an Investigations Committee will inform the Authority as to whether or not it has determined that an Enquiry should be initiated. An Enquiry will be initiated where an Investigations Committee advises the Authority that:
- it has determined that it appears that there has been an instance whereby a prescribed accountancy body has failed to comply with its approved investigation and disciplinary procedures; and
  - the nature of the apparent breach is such that, in the opinion of the Investigations Committee, the initiation of an Enquiry is warranted.

In recognition of the fact that an Investigations Committee may arrive at a determination that it appears that an instance of non-compliance with a prescribed body's approved investigation and disciplinary procedures has occurred but that the breach in question is at the lower end of the scale in terms of seriousness, impact etc., the draft Regulations provide that, rather than having to automatically expose the Authority and other affected parties to the costs associated with a formal Enquiry, the Investigations Committee can, at its discretion, decide not to inform the Authority of the necessity to initiate an Enquiry, but rather to advise the Authority that, in its view, the matter should be better dealt with by the Authority as a supervisory matter.

#### *Enquiry - overview*

- 3.2.9 On receipt of a determination from an Investigations Committee to the effect that an Enquiry should be initiated, the Authority shall appoint an Enquiry Committee.
- 3.2.10 On the establishment of an Enquiry Committee, the Enquiry Committee shall issue a written enquiry notice to the relevant prescribed accountancy body and to those members affected by the decision(s) in question. The notice will include, among other things, a summary of the scope of the enquiry and a statement of the conclusions of the Investigations Committee, together with all of the documents and any other material that will be presented to the Enquiry Committee in support of those conclusions. The notice will also invite the prescribed accountancy body and the members concerned to make written submissions to the Committee. The body and members involved will also be informed that they may request the Enquiry Committee for leave to make oral submissions to it.
- 3.2.11 In the furtherance of its remit, an Enquiry Committee may inspect and take copies of relevant documents in the possession or control of the body; require the body to provide it with explanations regarding its decisions and investigations and conduct oral hearings.

- 3.2.12 On completion of its enquiries, the Enquiry Committee is required to issue its decision to the Authority as soon as is practicable, taking into account the specific circumstances of each case. In communicating its decision to the Authority, the Enquiry Committee must provide the reasons underlying its decision and address the arguments put forth by the prescribed accountancy body concerned during its defence.

### **3.3 Oral Hearings**

- 3.3.1 Section 28 of the Act provides that the Authority may conduct oral hearings for the purposes of exercising its functions under section 23. The approach to oral hearings as adopted in the draft Regulations is that an Enquiry Committee is not required to conduct an oral hearing in every case but, rather, has the discretion, if considered appropriate to do so, to hold oral hearings.
- 3.3.2 It is further proposed that, in arriving at a determination as to whether to hold oral hearings, an Enquiry Committee would consider various factors, including, for example, whether there are any material factual issues that may require resolution, the complexity of the matter, the desire of the parties affected to present oral expert, or other, testimony, the benefit that oral examination would add to written representations and whether the matter is of public interest.
- 3.3.3 The draft Regulations provide that an Enquiry Committee may permit affected members of the prescribed accountancy body concerned, and/or any other person with an interest in the proceedings, to participate in an oral hearing and to present evidence and submissions.
- 3.3.4 It is further provided that oral hearings will, in general, be held in public. However, an Enquiry Committee may, at its sole discretion, exclude the public from all or part of a hearing to the extent that it considers it necessary, for example, where the circumstances are such that publicity might risk prejudicing the interests of justice or adversely affecting the rights of third parties. It is envisaged that an Enquiry Committee would seek the views of the affected parties on whether to hold the oral hearing in public or in private and would take these views into account in arriving at its determination on the matter. It is not intended that considerations of mutual convenience or administrative cost would constitute valid grounds for not holding a hearing in public.

### **3.4 Rules of Enquiries**

- 3.4.1 The draft Regulations provide that, while the strict rules of evidence are not binding on the Authority's enquiries, the procedures employed by Investigations and Enquiry Committees will adhere to the requirements of natural and constitutional justice.
- 3.4.2 The draft Regulations provide that Committees may appoint legal advisers, who may provide assistance to Committees as required.
- 3.4.3 The draft Regulations further provide that the standard of proof that will be applied is the civil standard i.e. on the balance of probabilities.
- 3.4.4 The draft Regulations provide that, as the Authority proposes to delegate the conduct of enquiries under section 23 to Investigations and Enquiry Committees, any decisions taken by such Committees will constitute decisions of the Authority.

### **3.5 Publication**

- 3.5.1 The Act provides that the Authority may publish each decision made by it under section 23, together with the reasons for such decision - after having given the prescribed accountancy body and member(s) concerned not less than 3 months notice in writing of its intention to do so.
- 3.5.2 The Authority considers that publication of its decisions is critical to an effective and transparent enforcement regime and, that being the case, the Authority proposes to publish the results of its enquiries as soon as possible after the expiration of the necessary notice periods provided for by the Act. Publication, in this context, would generally include being posted to the Authority's website and being the subject of a press release to the media.

### **3.6 Sanctions**

- 3.6.1 An Enquiry Committee will, in all cases where an enquiry has determined that a breach has occurred, determine what sanctions shall apply.
- 3.6.2 In determining the sanction(s) to be imposed, an Enquiry Committee will have regard to all of the circumstances of the matter, including, among other considerations:
- whether the failure to comply with approved investigation and disciplinary procedures was deliberate, dishonest or reckless;
  - the duration and frequency of the failure to comply;
  - the extent to which the failure to comply deviated from the required procedure;
  - the loss, or risk of loss caused to clients, other third parties or the public at large; and
  - whether there have been previous similar acts or failures to act.

### **3.7 Appeals**

Section 23(8) of the Act provides a right of appeal to the High Court to a prescribed accountancy body or the member(s) concerned. The draft Regulations provide that such parties will be informed of this right upon the issuance of an adverse finding.

### **3.8 Settlement**

- 3.8.1 The Authority proposes to reserve to itself the right whereby it may resolve any matter by entering into a settlement agreement with the appropriate parties at any time before the conclusion of an enquiry, with any such settlement being binding on all parties.
- 3.8.2 In that context, the draft Regulations further provide that the Authority may publish details of any such settlement, having given three months' notice to the body and members

concerned, unless publication of the decision would, in the Authority's opinion, be contrary to the public interest.

## 4. INVITATION TO COMMENT

### 4.1 Matters in respect of which comments are sought

In the context of the foregoing, the Authority now invites interested parties to offer their views on the draft Regulations, including on the approach adopted therein and their specific content and format.

While contributors are welcome, and encouraged, to address any aspect of the draft Regulations they consider appropriate, the Authority is particularly interested to learn of contributors' views on the following specific questions.

- I. Do you consider that the draft Regulations set out, and facilitate the implementation of, a fair and robust enforcement procedure, which by taking account of, *inter alia*, the principles of fair procedure and natural and constitutional justice, will result in the issuance of decisions that are just, reasonable and legally defensible?
- II. Do you consider that the Regulations as drafted achieve an appropriate balance between (i) protecting and promoting the public interest; (ii) ensuring that the subjects of enquiries and other potentially affected parties are fully afforded their rights as regards procedural fairness; and (iii) sanctioning non-compliance with the prescribed accountancy bodies' investigation and disciplinary procedures?
- III. If not:
  - i. Which aspect(s) of the draft Regulations do you consider to be inconsistent with the foregoing objectives? Please support your response(s) with the reasoning underpinning your conclusion(s).
  - ii. How would you propose that the issue(s) identified by you at (i) above might be addressed? In order that the Authority might derive maximum benefit from contributors' responses to this question, contributors are requested, to the extent practicable, to provide details of specific deletions, additions or amendments that they consider would serve to address the concerns identified.
- IV. Do you consider the Authority's proposals regarding publication of decisions to be fair and reasonable? If not, please support your conclusions with your reasoning.
- V. Do you consider that the factors currently listed as being among the considerations that an Enquiry Committee would have regard to in determining the level of sanctions to impose are fair and reasonable? If not, please support your views with your reasoning.
- VI. Do you consider that there are factors, other than those referred to at V above, that should be added to the specific list of considerations included in the Regulations? If so, please support your suggestions with your reasoning.

#### 4.2 Format of responses

When addressing any issue dealt with in this Consultation Paper, or in the accompanying draft Regulations, contributors are requested to use the corresponding referencing.

Contributors are requested make their submissions in writing and, where possible, by email. With regard to the latter, contributors are requested to ensure that electronic submissions are furnished to the Authority in an unprotected format.

#### 4.3 Confidentiality of responses

Contributors are requested to note that it is the Authority's policy to treat all submissions received as being in the public domain **unless confidentiality is specifically requested**. Respondents are, therefore, requested to **clearly identify material they consider to be confidential** and to place same in a separate annex to their response. Where responses are submitted by email, and those emails include automatically generated notices stating the content of same to be treated as confidential, contributors should clarify in the body of their emails as to whether their comments are to be treated as confidential. Information in respect of which confidentiality is requested will be treated in accordance with the provisions of section 31 of the Act.

#### 4.4 Publication of responses

In the interests of openness and transparency, the Authority intends to make submissions, other than those in respect of which confidentiality has been requested, publicly available on its website ([www.iaasa.ie](http://www.iaasa.ie)).

#### 4.5 Consideration of responses

All responses received will be considered in detail by the Authority and will, to the extent practicable, be factored into the final Regulations issued by the Authority.

#### 4.6 Deadline for submissions

Submissions, which should be marked '**CP 1/07**', should be sent to the Authority at one of the following contact points.

Post: **Irish Auditing & Accounting Supervisory Authority,  
Willow House,  
Millennium Park,  
Naas,  
Co. Kildare.**

Email: [info@iaasa.ie](mailto:info@iaasa.ie)

Fax: **+353 (0)45 983 601**

The deadline for receipt of submissions is **31 March, 2007**.

#### **4.7 Further copies of this Consultation Paper and draft Regulations**

Further copies of this Consultation Paper and the accompanying draft Regulations can be obtained:

- at any of the above contact points;
- by contacting the Authority by telephone (+353 (0)45 983 600); or
- by download from the Authority's website ([www.iaasa.ie](http://www.iaasa.ie))



**DRAFT REGULATIONS  
GOVERNING THE CONDUCT OF  
ENQUIRIES PURSUANT TO  
SECTION 23 OF THE  
COMPANIES (AUDITING AND ACCOUNTING) ACT, 2003**

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## 1. **Introduction**

- 1.1 These Regulations are issued by the Irish Auditing and Accounting Supervisory Authority ('the Authority') under Section 28(4) of the Companies (Auditing and Accounting) Act, 2003 ('the Act') and shall come into force on [*insert date*].
- 1.2 Section 23 of the Act 2003 provides that, following a complaint or on its own initiative, the Authority may, for the purpose of determining whether a prescribed accountancy body has complied with its approved investigation and disciplinary procedures enquire into —
- (a) a decision by that body not to undertake an investigation into a possible breach of its standards by a member,
  - (b) the conduct of an investigation by that body into a possible breach of its standards by a member, or
  - (c) any other decision of that body relating to a possible breach of its standards by a member.
- 1.3 The Act provides, *inter alia*, that the Authority '*shall make regulations respecting the procedures to be followed in conducting enquiries under section 23*'.
- 1.4 These Regulations apply to any matter that appears to the Authority may constitute grounds for the initiation of an enquiry under section 23.
- 1.5 These Regulations shall be construed in accordance with the Act.

## 2. **Interpretation**

Except where otherwise stated, words and expressions used in these Regulations that are used in the Companies (Auditing and Accounting) Act, 2003 have the same meaning.

In these Regulations, unless the context otherwise requires —

**"the Act"** means the Companies (Auditing and Accounting) Act, 2003;

**"adverse finding"** means a finding by an Enquiry Committee that a prescribed accountancy body has failed to comply with its approved investigation and disciplinary procedures.

**"approved investigation and disciplinary procedures"** means —

- (a) in relation to a prescribed accountancy body that is a recognised accountancy body, the investigation and disciplinary procedures approved under section 9(2)(c) of the Act or approved under the Act of 1990 before or after the amendment of that Act by section 32 of the Act<sup>9</sup>; and

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<sup>9</sup> Section 191 of the Companies Act, 1990 provides that the Authority may grant recognition to a body of accountants if satisfied:

- (b) in relation to any other prescribed accountancy body, the investigation and disciplinary procedures approved under section 9(2)(c) of the Act;

**“the Authority”** means the Irish Auditing and Accounting Supervisory Authority, and includes any committee established to assist the Authority under section 27(1) of the Act;

**“complainant”** means a person who has lodged a complaint with the Authority regarding:

- a decision by a prescribed accountancy body not to undertake an investigation into a possible breach of its standards by a member;
- the conduct of an investigation by a prescribed accountancy body into a possible breach of its standards by a member;
- any other decision of a prescribed accountancy body relating to a possible breach of its standards by a member.

**“Court”** means the High Court;

**“decision of a prescribed accountancy body”** means

- (a) a decision by that body not to undertake an investigation into a possible breach of its standards by a member;
- (b) any other decision of that body relating to a possible breach of its standards by a member;

**“document”** includes any books, documents, records, telephone recordings or computer held information of whatsoever kind;

**“enquiry”** means an enquiry initiated under section 23(2) of the Act;

**“member”** has the same meaning as provided for in section 4 of the Act;

**“negative finding”** means a finding by an Enquiry Committee that a prescribed accountancy body has not breached its approved investigation and disciplinary procedures; and

**“standards”** means the rules, regulations and standards that a prescribed accountancy body applies to its members and to which, by virtue of their membership, they are obliged to adhere.

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- (a) that the standards relating to training, qualifications and repute required by that body for the awarding of a practising certificate to a person are not less than those specified in Articles 3 to 6, 8 and 19 of Council Directive No. 84/253/EEC; and
- (b) as to the standards that body applies to its members in the areas of ethics, codes of conduct and practice, independence, professional integrity, auditing and accounting standards and *investigation and disciplinary procedures*.

### **3. Investigation to determine whether to Initiate an Enquiry**

- 3.1 Where the Authority has reason to believe that a prescribed accountancy body may have failed, or may be failing, to comply with its approved investigation and disciplinary procedures<sup>10</sup>, the Authority may establish an Investigations Committee to determine whether the Authority should initiate an Enquiry into:
- (a) a decision by that body not to undertake an investigation into a possible breach of its standards by a member;
  - (b) the conduct of an investigation by that body into a possible breach of its standards by a member; or
  - (c) any other decision of that body relating to a possible breach of its standards by a member<sup>11</sup>.
- 3.2 For the purposes of these Regulations, and in accordance with section 23(12) of the Act, any decision made or any investigation conducted by the disciplinary committee of a prescribed accountancy body is considered to have been made or conducted by the prescribed accountancy body.
- 3.3 In accordance with section 27(1) of the Act, an Investigations Committee established pursuant to section 3.1 shall consist of directors of the Authority (other than the Chief Executive) and such professional and other advisers (including staff members of the Authority) as the Authority considers necessary or appropriate.
- 3.4 The quorum necessary for the transaction of business of an Investigations Committee may be fixed by the Investigations Committee and, unless so fixed, shall be three, provided that three persons are personally present and that the majority of members present are not members of a prescribed accountancy body.
- 3.5 Each Investigations Committee shall consist of such members as the Authority in its absolute discretion deems fit but in any case will number at least 3 persons, 2 of which are directors of the Authority.
- 3.6 A Chairperson of an Investigations Committee shall be appointed by the Chairperson of the Authority.
- 3.7 The Secretary to the Authority (unless otherwise appointed to the Committee pursuant to section 3.3) or another person selected and appointed by the Authority may act as Secretary to an Investigations Committee.

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<sup>10</sup> The Authority may learn of a possible breach of a prescribed accountancy body's procedures through several channels - for example, as a result of (1) the receipt of a complaint from a member of the public; (2) the receipt of a complaint from a member of a body alleging that the relevant body's investigation and/or disciplinary procedures have not been followed; (3) information received from another regulator or supervisory body regarding the conduct of a member or a prescribed body; and (4) information coming to the Authority's attention as a consequence of its routine reviews of the prescribed bodies.

<sup>11</sup> Section 23(2) provides that the Authority cannot, however, initiate an Enquiry if the matter is, or has been, the subject of an investigation under section 24(2) relating to that member.

- 3.8 An Enquiry will be initiated where an Investigations Committee determines that:
- it appears that a prescribed accountancy body has failed to comply with its approved investigation and disciplinary procedures; and,
  - the circumstances of the matter are such as to warrant the initiation of an Enquiry by the Authority.
- 3.9 In the course of considering whether it appears that a prescribed accountancy body has failed to comply with its approved investigation and disciplinary procedures and, if so, whether an Enquiry should be initiated, an Investigations Committee may determine that the matter may most appropriately be dealt with by the taking of supervisory action by the Authority. Where an Investigations Committee forms the view that the matter is better dealt with by way of supervisory action by the Authority rather than through the initiation of an Enquiry, it will report such facts and circumstances to the Authority and the Authority may, if it considers it appropriate to do so, direct that the Investigations Committee report such facts and circumstances to the Head of Regulatory & Monitoring Supervision.
- 3.10 If, in the course of considering whether it appears that a prescribed accountancy body has failed to comply with its approved investigation and disciplinary procedures and whether an Enquiry should be initiated, an Investigations Committee discovers facts or circumstances which appear to warrant investigation but which are outside of the scope of its remit, the Investigations Committee will report such facts and circumstances to the Authority and the Authority may direct in writing that the scope of the Investigations Committee's investigation shall include such facts or circumstances and shall inform the prescribed accountancy body accordingly.
- 3.11 An Investigations Committee shall notify the prescribed accountancy body involved of its appointment and of the initiation of the investigation.
- 3.12 An Investigations Committee shall notify all members of the prescribed accountancy body who were the subject of the decision(s) of the prescribed accountancy body under investigation of the appointment of the Investigations Committee, of the initiation of the investigation and of any extension of the scope of the investigation made under section 3.10, if such extension is relevant to such members.
- 3.13 An Investigations Committee shall, prior to making a determination under section 3.8, provide the prescribed accountancy body that is the subject of the investigation, and all members of the prescribed accountancy body who were the subject of the decision(s) under investigation, with:
- a summary of the grounds upon which the investigation has been initiated;
  - any relevant information about such grounds; and
  - an opportunity to comment in writing on such grounds and information, if any.
- 3.14 To assist an Investigations Committee in determining whether it appears that a prescribed accountancy body has failed to comply with its approved investigation and disciplinary procedures and whether an Enquiry should be initiated, the Committee may require a prescribed accountancy body to provide to it such explanations and

documentary information in its possession, or under its control, as the Investigations Committee shall reasonably think fit and as the body can lawfully provide.

- 3.15 An Investigations Committee may also consider any submissions made to it during its investigation by any other person (including a complainant) if it determines that such submissions are relevant to the matters at issue. It is not possible, however, to guarantee the anonymity of, or the confidentiality of a submission received from, any person, including a complainant, who participates in the investigation.
- 3.16 On the completion of its investigation, an Investigations Committee shall notify the Authority of its determination under section 3.8 and of the grounds for same.
- 3.17 Information provided in confidence by an Investigations Committee to a prescribed accountancy body or a member under section 3.12 above shall remain confidential and shall be treated as information the disclosure of which to any other party is governed by the provisions of section 31 of the Act.

#### **4. Initiation of Enquiry**

- 4.1 Where an Investigations Committee notifies the Authority of its determination that it appears that a prescribed accountancy body has failed to comply with its approved investigation and disciplinary procedures and that the Authority should initiate an Enquiry, the Authority shall appoint a committee to conduct an Enquiry on behalf of the Authority (an 'Enquiry Committee').
- 4.2 Where the Authority initiates an Enquiry, the Enquiry Committee shall issue a Notice to the prescribed accountancy body and to all members who were the subject of the relevant decision(s) of the prescribed accountancy body setting out:
- (a) a summary of the scope of the Enquiry;
  - (b) formal notification of the Authority's decision to establish an Enquiry Committee and the composition of the Committee;
  - (c) a statement of the conclusions of the Investigations Committee, together with all documents and any other material that will be presented to the Enquiry Committee by the Investigations Committee in support of its conclusions;
  - (d) a summary of the Authority's powers of enquiry, including its powers to:
    - a. inspect and make copies of all relevant documents in the possession or control of the prescribed accountancy body<sup>12</sup>;
    - b. require the prescribed accountancy body to explain why it reached a decision or to explain how it conducted its investigation<sup>13</sup>; and

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<sup>12</sup> Section 23(3)(a)

<sup>13</sup> Section 23(3)(b)

- c. conduct oral hearings<sup>14</sup>;
  - (e) a statement to the effect that, within a reasonable period of time, as specified by the Authority in the Notice, the prescribed accountancy body and/or a member may make submissions in writing to the Enquiry Committee and request the Enquiry Committee to be permitted to make oral submissions about the matters to which the Notice relates;
  - (f) a statement that the Enquiry Committee shall conduct the Enquiry irrespective of whether submissions referred to in subparagraph (c) above are made.
- 4.3 Information provided by an Enquiry Committee in confidence to a prescribed accountancy body or to a member under section 4.2(c) above shall remain confidential and shall be treated as information the disclosure of which to any other party is governed by the provisions of section 31 of the Companies (Auditing and Accounting) Act 2003.
- 4.4 An Enquiry Committee established by the Authority for the purposes of section 4.1 above will consist of directors of the Authority and such professional and other advisers (including staff members of the Authority) as the Authority considers necessary or appropriate. Any person who served as a member of the Investigations Committee that determined to initiate the Enquiry may not be appointed as a member of the Enquiry Committee.
- 4.5 The quorum necessary for the transaction of the business of an Enquiry Committee may be fixed by the Enquiry Committee and, unless so fixed shall be three, provided that three persons are personally present and that the majority of persons present are not members of a prescribed accountancy body.
- 4.6 Each Enquiry Committee shall consist of such members as the Authority in its absolute discretion deems fit but in any case will number at least 3 persons, at least 2 of which must be directors of the Authority.
- 4.7 A Chairperson of the Enquiry Committee shall be appointed by the Chairperson of the Authority.
- 4.8 Each Enquiry Committee must comprise at least –
  - (a) a layperson (who is neither a lawyer nor an accountant); and
  - (b) an accountant with appropriate experience.
- 4.9 No serving member of the governing body of any prescribed accountancy body, or any officer or employee of any of the prescribed accountancy bodies, may be appointed to an Enquiry Committee.
- 4.10 No person who was concerned with the investigation of the matters which led to the initiation of the Enquiry will be appointed to an Enquiry Committee.
- 4.11 No person who may have (or may appear to have) a pecuniary interest in the outcome of the Enquiry may be appointed to an Enquiry Committee.

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<sup>14</sup> Section 28(1)

- 4.12 No person who is a member of the prescribed accountancy body that is the subject of the Enquiry may be appointed to an Enquiry Committee.
- 4.13 The Secretary to the Authority (unless otherwise appointed to the Committee pursuant to section 4.4) or another person selected and appointed by the Authority may act as Secretary to an Enquiry Committee.

**5. *Role of an Enquiry Committee***

An Enquiry Committee shall conduct an Enquiry into whether the relevant prescribed accountancy body has failed to comply with its approved investigation and disciplinary procedures. If an Enquiry Committee determines that a prescribed accountancy body has failed to comply with its approved investigation and disciplinary procedures, it shall further determine what penalties, if any, shall be imposed.

**6. *Appointment of Legal Advisers***

The Authority may appoint a legal adviser, or advisers, to provide assistance to Investigations and Enquiry Committees, to bring evidence against the prescribed accountancy body the subject of the investigation or enquiry before Investigations or Enquiry Committees and, if necessary, to act as petitioner (before the Enquiry Committee) or respondent (before the High Court on any appeal). A legal adviser may also examine witnesses, participate in any oral hearing and perform any other functions necessary or as required for the conduct of the Investigation and Enquiry.

**7. *Conduct of the Enquiry***

- 7.1 An Enquiry Committee established under these Regulations shall consider any submissions made by the relevant prescribed accountancy body and by members who were the subject of the decision(s) of the prescribed accountancy body concerned and may conduct such enquiries relating to the Enquiry as the Enquiry Committee considers appropriate before issuing its decision.
- 7.2 An Enquiry Committee may also consider any submissions made to it during the Enquiry by any other person (including a complainant) if it determines that such submissions are relevant to the matters at issue. It is not possible, however, to guarantee the anonymity of, or the confidentiality of a submission received from, any person, including a complainant, who participates in the Enquiry.
- 7.3 A prescribed accountancy body and members who were the subject of the decision(s) of the prescribed accountancy body which is/are the subject of the Enquiry may submit any statement or information in answer to the charge(s) within the time provided by the Enquiry Committee, which shall be reasonable under the circumstances.

- 7.4 An Enquiry Committee may –
- (a) inspect and make copies of all relevant documents in the possession or control of the prescribed accountancy body<sup>15</sup>;
  - (b) require the prescribed accountancy body to explain why it reached a decision not to undertake an investigation into a possible breach of its standards by a member, or any other decision of that body relating to a possible breach of its standards by a member;
  - (c) if a prescribed accountancy body conducted an investigation, require the body to explain how it conducted its investigation<sup>16</sup>; and
  - (d) conduct oral hearings<sup>17</sup>.
- 7.5 The Enquiry Committee may take into account any relevant evidence, whether or not such evidence would be admissible in a court. The strict rules of evidence do not apply to the Enquiry, although the Enquiry Committee will employ fair procedures.

## **8. *Investigations under Section 24 of the Act***

- 8.1 If at any time during an Investigation or before completing an Enquiry under these procedures, it appears to an Investigations Committee or to an Enquiry Committee that it may be appropriate or in the public interest that the matter in question be investigated under section 24 of the Act, the Investigations Committee or the Enquiry Committee, as relevant, shall so inform the Authority.
- 8.2 If the Authority determines that it is more appropriate or in the public interest that the matter be investigated under section 24 and, on foot of that determination decides that an application to the High Court will be made, the Investigations Committee or the Enquiry Committee (whichever is relevant) shall cease its Investigation or Enquiry.
- 8.3 If the Authority decides that the matter should not be investigated under section 24, the Investigations Committee or the Enquiry Committee (whichever is relevant) shall resume its investigation or Enquiry, as appropriate.
- 8.4 Directors of the Authority that are members of an Investigations or Enquiry Committee shall take no part in any consideration by the Authority as to whether a matter within the remit of such Committee should be investigated under section 24 of the Act.

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<sup>15</sup> Section 23(3)(a)

<sup>16</sup> Section 23(3)

<sup>17</sup> Section 28(1)

## **9. Oral Hearings**

- 9.1 As provided for by section 28(1) of the Act, an Enquiry Committee may conduct an oral hearing at its own behest or upon the reasonable request of the prescribed accountancy body that is the subject of the Enquiry if it considers that an oral hearing is necessary and appropriate in order to conduct the Enquiry.
- 9.2 Oral hearings shall sit in public but an Enquiry Committee may, at its sole discretion, exclude the public from all or part of a hearing to the extent it considers it necessary - for example, where, in the opinion of the Enquiry Committee, the circumstances are such that holding an oral hearing, or part thereof, in public would prejudice the interests of justice or adversely affect the rights of a third party.
- 9.3 An oral hearing shall be presided over by an Enquiry Committee. Any member of an Enquiry Committee who fails to preside over an oral hearing shall not take part in the Committee's deliberations or in the making of the Committee's decision.
- 9.4 If considered appropriate, for example in light of the seriousness of the charges, an Enquiry Committee may, at its sole discretion, provide that the prescribed accountancy body may:
- (a) be legally represented;
  - (b) present evidence and submissions in its behalf; and
  - (c) cross-examine witnesses,
- during an oral hearing, if held.
- 9.5 An Enquiry Committee may, at its sole discretion, provide that members of the prescribed accountancy body who were the subject of the decision(s) which is/are the subject of the Enquiry may participate in any oral hearing and may present evidence and submissions in their behalf.
- 9.6 An Enquiry Committee may, at its sole discretion, permit any other person with an interest in the proceedings to participate in an oral hearing and to present relevant evidence and submissions on his or her behalf.

## **10. Standard of Proof**

The standard of proof on which an Enquiry Committee shall make its findings is on the balance of probabilities.

## **11. Decision of the Authority**

- 11.1 An Enquiry Committee shall issue its decision to the Authority when its decision is made, which shall occur as soon as is reasonably practicable from the date of the initiation of the Enquiry, taking into account the circumstances of the case.
- 11.2 An Enquiry Committee's decision must provide the reasons underlying such decision. The reasoning of an Enquiry Committee shall be detailed and shall address the

arguments advanced by the prescribed accountancy body in defence of its position. All significant factual matters shall be addressed.

- 11.3 Any decision of an Enquiry Committee shall be decided by a majority of votes.
- 11.4 An Enquiry Committee shall either:
- (a) make an adverse finding in respect of some or all of the alleged failures to comply with approved investigation and disciplinary procedures; or
  - (b) make a negative finding in respect of some or all of the alleged failures to comply with approved investigation and disciplinary procedures.
- 11.5 Where an Enquiry Committee makes an adverse finding, the Authority shall –
- I. issue the prescribed accountancy body, and any member who was the subject of the decision(s) of the body that was/were the subject of the Enquiry with a copy of the findings of the Enquiry Committee;
  - II. advise the prescribed accountancy body of the Authority's obligation to seek and obtain High Court approval for decisions to (i) annul a body's decision; (ii) to direct a fresh investigation; or (iii) impose a fine, before such decisions take effect;<sup>18</sup>
  - III. advise the prescribed accountancy body of its right of appeal to the High Court under section 29 of the Act and the time limits for making such an appeal;
  - IV. advise the prescribed accountancy body that the Authority may publish the decision made and the reasons for the decision in no less than 3 months from the date of the notice;
  - V. if the proposed sanction is a direction to the prescribed accountancy body that it conduct an investigation or conduct a fresh investigation into a matter, advise the body that, if the Authority is not satisfied that, when undertaking the investigation or fresh investigation, the body has complied with its approved investigation and disciplinary procedures, the Authority may appeal to the High Court against any decision of the body relating to the matter.
- 11.6 Where an Enquiry Committee makes a negative finding, the Enquiry Committee shall issue the prescribed accountancy body and the member(s) concerned with a statement to that effect.
- 11.7 The finding of an Enquiry Committee shall constitute a decision of the Authority.

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<sup>18</sup> Section 29(6)

## **12. Sanctions**

- 12.1 In the case of an adverse decision, an Enquiry Committee may advise or admonish the prescribed accountancy body or may censure it by doing one or more of the following:
- (i) annulling all or part of a decision of the prescribed accountancy body relating to the matter that was the subject of the Enquiry;
  - (ii) directing the prescribed accountancy body to conduct an investigation into the matter;
  - (iii) directing the prescribed accountancy body to conduct a fresh investigation into the matter;
  - (iv) requiring the prescribed accountancy body to pay to the Authority an amount not exceeding the greater of the following:
    - a. €125,000; or
    - b. the amount prescribed under section 48(1)(f) of the Act<sup>19</sup>.
- 12.2 In determining the level of sanctions to apply, an Enquiry Committee will have regard to all of the circumstances of the matter, including, *inter alia*, the following factors:
- (a) whether the failure to comply with approved investigation and disciplinary procedures was deliberate, dishonest or reckless;
  - (b) the duration and frequency of the failure to comply;
  - (c) the extent to which the failure to comply deviated from the required procedure;
  - (d) the loss or risk of loss caused to clients, other third parties or the public at large; and
  - (e) whether there have been previous similar acts or failures to act.
- 12.3 An Enquiry Committee shall set out in its decision the reasons underlying the imposition or non-imposition of sanctions and the level and type of any sanctions imposed.

## **13. When Sanction takes Effect**

The following decisions of the Authority take effect when such decisions are confirmed by the Court, either on appeal by the affected body under section 23(8) or on successful application by the Authority under section 29(6):

- (a) a decision of the Authority annulling all or part of a decision of a prescribed accountancy body relating to the matter that was the subject of the Enquiry;

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<sup>19</sup> At this time, the Minister has not prescribed an amount under section 48(1)(f)

- (b) a decision of the Authority directing a fresh investigation;
- (c) a decision of the Authority requiring the payment of a monetary sum.

**14. Appeal**

- 14.1 A prescribed accountancy body may appeal a decision of the Authority to the High Court within 3 months of the expiry of the notice given by the Authority under paragraph 11.5.
- 14.2 An appeal of a decision of the Authority may be against:
- (a) a decision of the Authority regarding a violation of approved investigation or disciplinary procedures; or
  - (b) a decision of the Authority to impose a sanction; or
  - (c) the nature of the sanction imposed; or
  - (d) any or all of the above.

**15. Publication of decisions**

In accordance with section 23(7) of the Act, the Authority may publish a decision made under these Regulations, together with the reasons for its decision, in any manner it sees fit, after having given written notice of no less than 3 months to the relevant prescribed accountancy body and all members concerned of its intention to do so.

**16. Settlement**

- 16.1 At any time prior to the conclusion of an Enquiry, a matter may be resolved by entering into a settlement agreement between the Authority and the prescribed accountancy body that is the subject of the Enquiry, such agreement to be binding on all parties.
- 16.2 Any proposed settlement between the Authority and a prescribed accountancy body must be approved by competent parties.
- 16.3 Any proposed settlement must be approved by a majority of the directors of the Authority. Directors who served as members of the Enquiry Committee shall not take part in the decision of the Authority as to whether to approve a proposed settlement.
- 16.4 The Authority may publish notice of any settlement agreement and the terms thereof in summary form or in its entirety after giving written notice of no less than three months to the prescribed accountancy body and members concerned unless it determines that publication of the decision to enter into a settlement agreement and/or its terms would be contrary to the public interest.

**Section 23 of the Companies (Auditing and Accounting) Act, 2003**

**23.—**(1) In this section, “approved investigation and disciplinary procedures” means—

(a) in relation to a prescribed accountancy body that is a recognized accountancy body, the investigation and disciplinary procedures approved under *section 9(2)(c)* of this Act or approved under the Act of 1990 before or after the amendment of that Act by *section 32* of this Act, and

(b) in relation to any other prescribed accountancy body, the investigation and disciplinary procedures approved under *section 9(2)(c)* of this Act.

(2) Following a complaint or on its own initiative, the Supervisory Authority may, for the purpose of determining whether a prescribed accountancy body has complied with the approved investigation and disciplinary procedures, enquire into—

(a) a decision by that body not to undertake an investigation into a possible breach of its standards by a member,

(b) the conduct of an investigation by that body into a possible breach of its standards by a member, or

(c) any other decision of that body relating to a possible breach of its standards by a member, unless the matter is or has been the subject of an investigation under *section 24(2)* relating to that member.

(3) For the purposes of an enquiry under this section, the Supervisory Authority may—

(a) inspect and make copies of all relevant documents in the possession or control of the prescribed accountancy body, and

(b) require the prescribed accountancy body to explain why it reached a decision referred to in *subsection (2)(a)* or *(c)* or to explain how it conducted its investigation.

(4) If, at any time before completing an enquiry under this section into a matter relating to a member of a prescribed accountancy body, the Supervisory Authority forms the opinion that it is appropriate or in the public interest that the matter be investigated under *section 24*, the Authority may apply to the High Court for permission to investigate the matter under that section.

(5) If not satisfied after completing the enquiry that the prescribed accountancy body complied with the approved investigation and disciplinary procedures, the Supervisory Authority may advise or admonish the prescribed accountancy body or may censure it by doing one or more of the following:

(a) annulling all or part of a decision of that body relating to the matter that was the subject of the enquiry;

(b) directing that body to conduct an investigation or a fresh investigation into the matter;

(c) requiring that body to pay to the Supervisory Authority an amount not exceeding the greater of the following:

- i. €125,000;
- ii. the amount prescribed under *section 48(1)(f)*.

(6) Where the Supervisory Authority applies under this section to the High Court for permission to investigate under *section 24* any matter relating to a member of a prescribed accountancy body or decides to direct a prescribed accountancy body to conduct an investigation or a fresh investigation under this section into any matter, the following rules apply:

(a) in the case of an application to the High Court for permission to investigate a matter, any decision of that body relating to the matter is suspended if and as soon as the body is notified by the Supervisory Authority that permission has been granted under *section 29(3)*;

(b) in the case of a direction to conduct an investigation, any decision of that body relating to the matter is suspended as soon as the body is notified by the Supervisory Authority of the direction;

(c) in the case of a direction to conduct a fresh investigation, any decision of that body relating to the matter is suspended if and as soon as the body is notified by the Supervisory Authority that the direction has been confirmed under *section 29(6)*.

(7) The Supervisory Authority may publish each decision made under *subsection (5)* and the reasons for the decision after giving the prescribed accountancy body and the member concerned not less than 3 months notice in writing of its intention to do so.

(8) The prescribed accountancy body or the member concerned may appeal to the High Court against a decision made by the Supervisory Authority under *subsection (5)*.

(9) An appeal under *subsection (8)* must be brought before the expiry of the notice given under *subsection (7)* to the prescribed accountancy body and the member concerned.

(10) If not satisfied that a prescribed accountancy body has, when undertaking an investigation or a fresh investigation into the matter under *subsection (5)(b)*, complied with the approved investigation and disciplinary procedures, the Supervisory Authority may appeal to the High Court against any decision of the prescribed accountancy body relating to the matter.

(11) An appeal under *subsection (10)* must be brought within 3 months after the Supervisory Authority was notified by the prescribed accountancy body of its decision.

(12) For the purposes of this section, any decision made or any investigation conducted by the disciplinary committee of a prescribed accountancy body is considered to have been made or conducted by the prescribed accountancy body.