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*Number 22 of 2018*

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**Companies (Statutory Audits) Act 2018**

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**COMPANIES (STATUTORY AUDITS) ACT 2018**

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SCHEDULE 1

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## ACTS REFERRED TO

Companies Act 2014 (No. 38)  
Credit Union Act 1997 (No. 15)  
Credit Union Acts 1997 to 2012  
Data Protection Acts 1988 to 2018  
Electoral Act 1992 (No. 23)  
Electoral Act 1997 (No. 25)  
Electoral Acts 1992 to 2016  
Electronic Commerce Act 2000 (No. 27)  
Friendly Societies (Amendment) Act 1977 (No. 17)  
Friendly Societies Act 1896 (59 & 60 Vict., c. 25)  
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Industrial and Provident Societies (Amendment) Act 1913 (No. 32)  
Industrial and Provident Societies Act 1893 (56 & 57 Vict., c. 39)  
Industrial and Provident Societies Acts 1893 to 2014  
Irish Collective Asset-management Vehicles Act 2015 (No. 2)  
Ministerial and Parliamentary Offices Act 1938 (No. 38)  
Ministerial and Parliamentary Offices Acts 1938 to 2009  
Oireachtas (Ministerial and Parliamentary Offices) (Amendment) Act 2014 (No. 6)  
Seanad Electoral (Panel Members) Act 1947 (No. 42)  
Seanad Electoral (Panel Members) Acts 1947 to 2015



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## COMPANIES (STATUTORY AUDITS) ACT 2018

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An Act to give further effect to Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006<sup>1</sup> on statutory audits of annual accounts and consolidated accounts, amending Council Directives 78/660/EEC and 83/349/EEC and repealing Council Directive 84/253/EEC, as amended by Directive 2014/56/EU of the European Parliament and of the Council of 16 April 2014<sup>2</sup> amending Directive 2006/43/EC on statutory audits of annual accounts and consolidated accounts, and giving further effect to certain provisions of Regulation (EU) No 537/2014 of the European Parliament and of the Council of 16 April 2014<sup>3</sup> on specific requirements regarding statutory audit of public-interest entities and repealing Commission Decision 2005/909/EC and, for that purpose, to amend the Companies Act 2014; to make provision for certain other amendments to that Act; to provide for the amendment of certain other enactments; and to provide for related matters. [25th July, 2018]

**Be it enacted by the Oireachtas as follows:**

### PART 1

#### PRELIMINARY AND GENERAL

#### **Short title, collective citations, construction and commencement**

1. (1) This Act may be cited as the Companies (Statutory Audits) Act 2018.
- (2) The Industrial and Provident Societies Acts 1893 to 2014 and *section 54* (in so far as that section relates to the definition of “Act of 1893”) and *sections 55 to 61* and *68* may be cited together as the Industrial and Provident Societies Acts 1893 to 2018 and shall be read together as one.
- (3) The Friendly Societies Acts 1896 to 2014 and *section 54* (in so far as that section relates to the definition of “Act of 1896”) and *sections 62 to 67* may be cited together as the Friendly Societies Acts 1896 to 2018 and shall be read together as one.
- (4) The Ministerial and Parliamentary Offices Acts 1938 to 2009, the Oireachtas (Ministerial and Parliamentary Offices) (Amendment) Act 2014 and *section 69* may be cited together as the Ministerial and Parliamentary Offices Acts 1938 to 2018.

1 OJ No. L 157, 9.6.2006, p.87

2 OJ No. L 158, 27.5.2014, p.196

3 OJ No. L 158, 27.5.2014, p.77

- (5) The Seanad Electoral (Panel Members) Acts 1947 to 2015 and *section 70* may be cited together as the Seanad Electoral (Panel Members) Acts 1947 to 2018.
- (6) The Electoral Acts 1992 to 2016 and *sections 71* and *73* may be cited together as the Electoral Acts 1992 to 2018 and shall be read together as one.
- (7) The Credit Union Acts 1997 to 2012 and *section 72* may be cited together as the Credit Union Acts 1997 to 2018 and shall be read together as one.
- (8) This Act shall come into operation on such day or days as the Minister for Business, Enterprise and Innovation may by order or orders appoint either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes and different provisions.

### **Definition**

2. In this Act, “Principal Act” means the Companies Act 2014.

### **Repeals and revocations**

3. (1) Each of the following provisions of the Principal Act is repealed:
  - (a) section 344;
  - (b) section 935A;
  - (c) section 935B;
  - (d) section 935C;
  - (e) section 935D;
  - (f) section 936;
  - (g) section 941A;
  - (h) subsections (4) and (5) of section 996;
  - (i) subsections (7) and (8) of section 1220;
  - (j) subsections (3) and (4) of section 1277;
  - (k) section 1441;
  - (l) section 1448.
- (2) Section 72 of the Industrial and Provident Societies Act 1893 is repealed.
- (3) Section 30 of the Friendly Societies Act 1896 is repealed.
- (4) Paragraph (c) of section 3(1) of the Friendly Societies (Amendment) Act 1977 is repealed.
- (5) Regulation 6 of the Friendly Societies Regulations 1988 (S.I. No. 74 of 1988) is revoked.

- (6) Subject to section 1462 and Chapter 22 of Part 27 of the Companies Act 2014, the European Union (Statutory Audits) (Directive 2006/43/EC, as amended by Directive 2014/56/EU, and Regulation (EU) No 537/2014) Regulations 2016 (S.I. No. 312 of 2016) are revoked.

## PART 2

### AMENDMENT OF PRINCIPAL ACT

#### **Amendment of section 2 of Principal Act**

4. Section 2 of the Principal Act is amended, in subsection (1)—
- (a) by the deletion of the definition of “2016 Audits Regulations”,
  - (b) by the substitution of the following definition for the definition of “statutory auditor”:

“ ‘statutory auditor’ means an individual or a firm (within the meaning of Part 27) that stands approved as a statutory auditor or statutory audit firm, as the case may be, under Part 27, and includes a firm registered in accordance with section 1465;”,
- and
- (c) by the insertion of the following definitions:

“ ‘public-interest entity’ has the meaning given to it by Part 27;

‘Regulation (EU) 2016/679’ means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016<sup>4</sup> on the protection of natural persons with regard to the processing of personal data and on the free movement of such data and repealing Directive 95/46/EC (General Data Protection Regulation);”.

#### **Amendment of section 35 of Principal Act**

5. Section 35 of the Principal Act is amended, in subsection (7), by the substitution of “section 1535(2) or (3)” for “Regulation 93(2) or (3) of the 2016 Audits Regulations”.

#### **Amendment of section 322 of Principal Act**

6. Section 322 of the Principal Act is amended, in subsection (4), by the substitution of “Part 27” for “the 2016 Audits Regulations”.

#### **Amendment of section 336 of Principal Act**

7. Section 336 of the Principal Act is amended—

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4 OJ No. L 119, 4.5.2016, p.1

- (a) in subsection (2)(a), by the substitution of “identify” for “include an introduction identifying”,
- (b) in subsection (9A)(b), by the substitution of “his or her” for “his, her or its” in each place where it occurs, and
- (c) by the insertion of the following subsection after subsection (9A):
  - “(10) The Supervisory Authority may prescribe additional requirements, by reference to auditing standards within the meaning of section 1461, in relation to the content of the statutory auditors’ report for all undertakings, or a class of undertakings, only—
    - (a) if those requirements are necessary in order to give effect to legal requirements in the State relating to the scope of statutory audits, or
    - (b) to the extent necessary to add to the credibility and quality of the report.”.

**Amendment of section 337 of Principal Act**

8. Section 337 of the Principal Act is amended, in subsection (2), by the substitution of “Part 27” for “the 2016 Audits Regulations” in each place where it occurs.

**Amendment of section 346 of Principal Act**

9. Section 346 of the Principal Act is amended, in subsection (2)(a), by the substitution of “56 days” for “28 days”.

**Amendment of Principal Act - substitution of sections 363 and 364**

10. The Principal Act is amended by the substitution of the following sections for sections 363 and 364:

**“Audit exemption (non-group situation) not available in certain cases**

- 363.** (1) Subject to subsection (2) and notwithstanding that section 358 is complied with, a company is not entitled to the audit exemption referred to in that section in respect of its statutory financial statements for the 2 financial years immediately succeeding a financial year (in this section referred to as the ‘relevant financial year’) where the company failed to deliver to the Registrar, in compliance with section 343, the company’s annual return to which the statutory financial statements or (as appropriate) abridged financial statements for the relevant financial year are annexed.
- (2) Subsection (1) shall not apply in the case of an annual return of a company which is the company’s first annual return referred to in section 349.

**Audit exemption (group situation) not available in certain cases**

- 364.** (1) Subject to subsection (3), in this section a reference to a relevant body is a reference to the holding company or any other member of the group.
- (2) Subject to subsection (4) and notwithstanding that section 359 is complied with, a holding company and the other members of the group are not entitled to the audit exemption referred to in that section in respect of their statutory financial statements for the 2 financial years immediately succeeding a financial year (in this section referred to as the ‘relevant financial year’) where any relevant body failed to deliver to the Registrar, in compliance with section 343, the annual return of that relevant body to which such body’s statutory financial statements or (as appropriate) abridged financial statements for the relevant financial year are annexed.
- (3) There shall not be reckoned as another member of the group for the purposes of this section (other than for the purposes of the expression ‘other members of the group’ in subsection (2)) a subsidiary undertaking that is not a company registered under this Act or an existing company and the construction provided for by subsection (1) (of references to each of the relevant bodies) shall be read accordingly.
- (4) Subsection (2) shall not apply in the case of an annual return which is a relevant body’s first annual return referred to in section 349.”

**Amendment of section 380 of Principal Act**

**11.** Section 380 of the Principal Act is amended—

- (a) in subsection (5), in paragraph (iii), by the substitution of “the relevant provisions (within the meaning of section 900)” for “the 2016 Audits Regulations”, and
- (b) by the insertion of the following subsection after subsection (5):

“(6) A contractual clause which has the effect of restricting the choice by the general meeting of shareholders or members of a company pursuant to this Part to certain categories or lists of statutory auditors as regards the appointment of a particular statutory auditor to carry out the statutory audit of that company shall be prohibited and shall be void.”

**Amendment of section 390 of Principal Act**

**12.** Section 390 of the Principal Act is amended by the substitution of “Part 27” for “the 2016 Audits Regulations”.

**Amendment of section 394 of Principal Act**

**13.** Section 394 of the Principal Act is amended, in paragraph (a), by the substitution of “Part

27” for “the 2016 Audits Regulations”.

**Amendment of section 865 of Principal Act**

**14.** Section 865 of the Principal Act is amended, in subsection (2)—

- (a) by the substitution, in paragraph (r), of “section 1460(3);” for “section 1460(3).”,  
and
- (b) by the insertion of the following paragraphs after paragraph (r):
  - “(s) section 1487(4);
  - (t) section 1488(3).”.

**Amendment of section 869 of Principal Act**

**15.** Section 869 of the Principal Act is amended—

- (a) in subsection (1)—
  - (i) in paragraph (b), by the deletion of “or”,
  - (ii) in paragraph (c), by the substitution of “876,” for “876.”, and
  - (iii) by the insertion of the following paragraph after paragraph (c):
    - “(d) Part 27.”,and
- (b) in subsection (2), by the insertion of “or Part 27,” after “or 876.”.

**Function imposed on Registrar under section 930D**

**16.** Part 15 of the Principal Act is amended, in Chapter 1, by the insertion of the following section after section 899:

“**899A.**Section 930D makes additional provision with regard to the performance of functions by, amongst others, the Registrar.”.

**Amendment of section 900 of Principal Act**

**17.** Section 900 of the Principal Act is amended—

- (a) in subsection (1)—
  - (i) by the substitution of the following definition for the definition of “recognised accountancy body”:
    - “ ‘recognised accountancy body’ means a body of accountants recognised under section 930 for the purposes of the relevant provisions;”,and

(ii) by the insertion of the following definitions:

“ ‘applicable provisions’, in relation to a Part 27 function and a recognised accountancy body, means, in addition to the provision of this Act that confers that function—

- (a) any other provisions of this Act or of a statutory instrument made under this Act,
- (b) the provisions of any section 931 notice given to the body that are relevant to that function,
- (c) the provisions of Regulation (EU) No 537/2014 that are relevant to that function, and
- (d) the provisions of any rule, guideline, term or condition, relevant obligation, or direction, referred to in section 906 that are relevant to that function,

in accordance with which that function shall be performed by that body;

‘Audit Directive’ has the meaning assigned to it by Part 27;

‘court’ means the High Court;

‘firm’ has the meaning assigned to it by Part 27;

‘monetary sanction’—

- (a) in relation to a specified person who falls within paragraph (a) of the definition of ‘specified person’, means the monetary sanction referred to in section 934(8), and
- (b) in relation to a specified person who falls within paragraph (b) of the definition of ‘specified person’, means the monetary sanction referred to in section 934C(2)(g);

‘Part 27 function’ means a function conferred on a recognised accountancy body by a provision of Part 27 or of Schedule 19 or 20;

‘public notice of relevant sanction imposed’, in relation to a specified person, means the publication in accordance with section 934F(1) of the specified person’s particulars referred to in that section together with the other related particulars referred to in that section;

‘Regulation (EU) No 537/2014’ has the meaning assigned to it by Part 27;

‘relevant body’ has the meaning assigned to it by section 933(1);

‘relevant contravention’ means—

- (a) a breach of the standards of a prescribed accountancy body by a member of that body, or

(b) a contravention by a statutory auditor of a provision of—

- (i) section 336 or 337,
- (ii) Part 27, or
- (iii) Regulation (EU) No 537/2014;

‘relevant decision’, in relation to a specified person, means—

- (a) a decision under section 934(8) or (9) that a specified person has committed a relevant contravention,
- (b) if, in consequence of a decision referred to in paragraph (a), the Supervisory Authority decides under section 934(8) or (9) to impose a relevant sanction on the specified person, the decision to impose that sanction, or
- (c) both such decisions;

‘relevant director’ means a director or former director of a public-interest entity;

‘relevant provisions’ means the provisions of—

- (a) this Chapter,
- (b) Part 27, and
- (c) Regulation (EU) No 537/2014;

‘relevant sanction’—

- (a) in relation to a specified person who falls within paragraph (a) of the definition of ‘specified person’, means a sanction referred to in section 934(8), and
- (b) in relation to a specified person who falls within paragraph (b) of the definition of ‘specified person’, means a sanction referred to in section 934C(2);

‘section 931 notice’ shall be read in accordance with section 931(2);

‘section 933A agreement’ shall be read in accordance with section 933A(2);

‘section 934E agreement’ shall be read in accordance with section 934E(1);

‘specified person’, in relation to a relevant contravention, means—

- (a) if the relevant contravention falls within paragraph (a) of the definition of ‘relevant contravention’, the member or former member concerned of the prescribed accountancy body, and

- (b) if the relevant contravention falls within paragraph (b) of the definition of ‘relevant contravention’, the statutory auditor or former statutory auditor concerned;”,

and

- (b) by the deletion of subsection (3).

#### **Amendment of section 904 of Principal Act**

- 18.** Section 904 of the Principal Act is amended, in subsection (1), by the substitution of the following paragraph for paragraph (e):

“(e) oversee statutory auditors and the conduct of statutory audits in accordance with the relevant provisions and perform functions under those provisions in relation to such oversight.”.

#### **Amendment of section 905 of Principal Act**

- 19.** Section 905 of the Principal Act is amended, in subsection (2)—

- (a) by the substitution of the following paragraph for paragraph (a):

“(a) grant recognition to bodies of accountants for the purposes of the relevant provisions,”,

- (b) in paragraph (d), by the substitution of “paragraph (a)(ii) or (iii) or (b)(ii) of the definition of ‘approved investigation and disciplinary procedures’ in subsection (1) of that section” for “subsection (1)(a)(ii) or (iii) or (1)(b)(ii) of that section”,

- (c) by the substitution of the following paragraph for paragraph (e):

“(e) impose under section 933 sanctions on prescribed accountancy bodies in relation to enquiries referred to in paragraph (d),”,

- (d) by the insertion of the following paragraphs after paragraph (e):

“(ea) conduct under section 933 enquiries into whether a recognised accountancy body has complied with the applicable provisions in performing a Part 27 function,

(eb) impose under section 933 sanctions on recognised accountancy bodies in relation to enquiries referred to in paragraph (ea),”,

- (e) in paragraph (f), by the insertion of “by a member of that body” after “body”,

- (f) by the insertion of the following paragraphs after paragraph (f):

“(fa) undertake under section 934 investigations into possible contraventions of a provision of section 336 or 337, Part 27 or Regulation (EU) No 537/2014 by a statutory auditor,

(fb) impose under section 934 sanctions on members of prescribed accountancy bodies and statutory auditors for relevant contraventions committed by such members,”,

(g) by the substitution of the following paragraph for paragraph (g):

“(g) supervise how each recognised accountancy body monitors its members and statutory auditors for which the recognised accountancy body has responsibility by virtue of performing a Part 27 function,”,

(h) by the deletion of paragraph (h),

(i) in paragraph (i), by the substitution of “Part 27” for “the 2016 Audits Regulations”,

(j) by the deletion of paragraph (l),

(k) in paragraph (ma), by the substitution of “Part 27” for “the 2016 Audits Regulations”,

(l) in paragraph (n), by the substitution of “Part 27 and Regulation (EU) No 537/2014, the performance of (and, where permitted by that Part, that Regulation or any other Part of this Act (including this Part), perform)” for “the 2016 Audits Regulations and Regulation (EU) No 537/2014, the performance of (and, where permitted by those Regulations, that Regulation or this Act, perform)”, and

(m) by the insertion of the following paragraph after paragraph (n):

“(na) enable, by virtue of recognition under section 930 or a section 931 notice, functions under paragraph (n) to be performed by recognised accountancy bodies,”.

### **Amendment of section 906 of Principal Act**

**20.** Section 906 of the Principal Act is amended—

(a) in subsection (4)—

(i) in paragraph (b), by the substitution of “2003),” for “2003) or section 931 to the recognition of that body, or”,

(ii) by the insertion of the following paragraphs after paragraph (c):

“(d) a recognised accountancy body to comply with a section 931 notice that is relevant to the body’s recognition under section 930 or to the performance of a Part 27 function by the body, or

(e) a relevant body to comply with a direction given to it by the Supervisory Authority under section 934A(2) or 934C(5),”,

and

(iii) by the substitution of “, obligation or obligations, notice or direction” for “or obligation or obligations”,

and

(b) in subsection (5)(c), by the substitution of “Part 27” for “the 2016 Audits Regulations”.

**Amendment of section 907 of Principal Act**

21. Section 907 of the Principal Act is amended, in subsection (2A), by the substitution of “at least one area relevant to the conduct of statutory audits as specified in Schedule 19” for “areas relevant to the conduct of statutory audits as specified in Schedule 1 to the 2016 Audits Regulations”.

**Amendment of section 915 of Principal Act**

22. Section 915 of the Principal Act is amended—
- (a) in subsection (2), by the substitution of “Subject to subsection (3), the Supervisory Authority” for “The Supervisory Authority”, and
  - (b) by the insertion of the following subsection after subsection (2):

“(3) The Supervisory Authority may use money referred to in subsection (2) that comprises any part of any money paid to the Supervisory Authority pursuant to section 934C(2)(g) only for the purpose of meeting expenses incurred by it in undertaking an investigation under section 934.”.

**Amendment of section 916 of Principal Act**

23. Section 916 of the Principal Act is amended by the insertion of the following subsection after subsection (7):
- “(8) Levies imposed under this section on that class of prescribed accountancy bodies comprising recognised accountancy bodies may be used for the purposes of meeting expenses properly incurred by the Supervisory Authority in performing its function referred to in section 905(2)(ma).”.

**Amendment of section 918 of Principal Act**

24. Section 918 of the Principal Act is amended by the substitution of the following subsection for subsection (3):
- “(3) Money received by the Supervisory Authority under this section may be used only for the purposes of meeting expenses properly incurred by it in performing its functions as the competent authority under Regulation (EU) No 537/2014 or this Act (including a function under section 905(2)(n)) in relation to statutory auditors of public-interest entities.”.

**Amendment of section 919 of Principal Act**

25. Section 919 of the Principal Act is amended—
- (a) in subsection (4), by the substitution of the following paragraphs for paragraphs (c) and (d) respectively:

“(c) any amounts paid to the Supervisory Authority under section 933(6) or (7) or 934(8) or (10), and

(d) any amounts paid to the Supervisory Authority under section 934C(2)(g).”

and

(b) by the deletion of subsection (6).

### **Amendment of section 930 of Principal Act**

**26.** Section 930 of the Principal Act is amended—

(a) by the substitution of the following subsections for subsection (1):

“(1) Subject to subsection (1A), the Supervisory Authority may grant recognition in writing to a body of accountants for the purposes of the relevant provisions but may only grant such recognition if satisfied—

(a) that the standards relating to training, qualifications and repute required by that body for the approval of a person as a statutory auditor are not less than those specified in Articles 4, 6 to 8 and 10 of the Audit Directive,

(b) as to the standards that body applies to its members in the area of ethics, codes of conduct and practice, independence, professional integrity, auditing and accounting standards, quality assurance, continuing education and investigation and disciplinary procedures,

(c) as to the capacity of the body to institute and apply effective arrangements to ensure compliance with, and the enforcement of, the standards referred to in paragraphs (a) and (b) in relation to its members having regard to the body’s ongoing performance, financial soundness, staffing and other relevant resources of the body, and

(d) that the body will effectively perform the Part 27 functions concerned (which may be all of them).

(1A) Subject to sections 931 and 931B, a recognised accountancy body shall not perform a Part 27 function unless the body’s recognition under this section states that the body may perform that function.”

(b) in subsection (2), by the substitution of “the relevant provisions and, subject to sections 931 and 931B, for such recognition to have stated that each such body may perform each of the Part 27 functions” for “the 2016 Audits Regulations and section 1441”, and

(c) by the insertion of the following subsections after subsection (2):

“(3) A body of accountants granted recognition under subsection (1) or (2) shall continue to satisfy the Supervisory Authority as referred to in subsection (1) for the duration of such recognition.

- (4) A body granted recognition under subsection (1) or (2) may make a request in writing to the Supervisory Authority for the Authority to revoke its recognition under section 931.”.

**Amendment of Principal Act - insertion of sections 930A to 930D**

27. The Principal Act is amended by the insertion of the following sections after section 930:

**“Designation of competent authority**

**930A.**(1) Subject to subsection (2), the Supervisory Authority is designated as the competent authority for the oversight of statutory auditors in accordance with the Audit Directive and Regulation (EU) No 537/2014.

(2) Subject to subsection (4), the Director is designated as the competent authority for the purpose of imposing relevant sanctions (within the meaning of section 957AA) on relevant directors.

(3) The Supervisory Authority is designated as the competent authority for the purposes of public oversight, quality assurance (if applicable), investigations and penalties of third-country auditors and third-country audit entities (within the meaning of Part 27) registered under section 1573(1).

(4) (a) Subject to paragraph (b), to the extent that the Director is a competent authority by virtue of subsection (2), a reference in this Chapter (other than this section) and Part 27 to the Supervisory Authority shall include a reference to the Director.

(b) The Supervisory Authority shall perform the functions under this Chapter and Part 27 that would, but for this subsection, otherwise fall to be performed by the Director by virtue of subsection (2).

(c) The Director shall cooperate with the Supervisory Authority so as to enable the Supervisory Authority to perform the functions referred to in paragraph (b).

(5) The Supervisory Authority shall, as soon as is practicable on or after the commencement of *section 27* of the *Companies (Statutory Audits) Act 2018*, publish on its website information on the designation of competent authorities effected by this section between the Supervisory Authority and the Director.

**Annual audit programme and activity report**

**930B.**(1) The Supervisory Authority shall, not later than 6 months after the end of each financial year, prepare a report (in this Act referred to as the ‘annual audit programme and activity report’ or ‘AAPA report’) in accordance with this section on, amongst others, its oversight functions referred to in section 930A performed during that year.

(2) The AAPA report shall contain the following information:

- (a) an activity report on the functions performed by the recognised accountancy bodies during the financial year to which the AAPA report relates;
  - (b) a work programme concerning the oversight functions referred to in section 930A that the Supervisory Authority proposes to perform during the financial year immediately following the financial year to which the AAPA report relates;
  - (c) an activity report regarding the functions of the Supervisory Authority under Regulation (EU) No 537/2014 during the financial year to which the AAPA report relates;
  - (d) a work programme regarding the functions of the Supervisory Authority under Regulation (EU) No 537/2014 that the Supervisory Authority proposes to perform during the financial year immediately following the financial year to which the AAPA report relates;
  - (e) a report for the financial year to which the AAPA report relates on the overall results of the quality assurance system required by section 1494(1), including—
    - (i) information on recommendations issued, follow-up on the recommendations, supervisory measures taken and relevant sanctions (including relevant sanctions within the meaning of section 957AA) and public notices of relevant sanctions imposed (including public notices of relevant sanctions imposed within the meaning of section 957AA), and
    - (ii) quantitative information and other key performance information on financial resources and staffing, and the efficiency and effectiveness of the quality assurance system.
- (3) The Supervisory Authority shall cause the AAPA report to be published on its website not later than 6 months after the end of the financial year to which the report relates.

**Operation of certain provisions with regard to particular recognised accountancy bodies**

- 930C.**(1) Section 1461 applies to the interpretation of this section as it applies to the interpretation of Part 27.
- (2) This section applies where the provision referred to in subsection (3), (4), (5) or (6) uses the expression ‘recognised accountancy body’ without qualification and that provision does not, by its express terms, itself indicate which recognised accountancy body is being referred to.
  - (3) A provision of the relevant provisions that confers a function on a recognised accountancy body in relation to a statutory auditor or audit firm shall be read as conferring that function—

- (a) in the case of a statutory auditor who is not a member of a statutory audit firm, on the recognised accountancy body of which the statutory auditor is a member,
  - (b) in the case of a statutory auditor who is a member of a statutory audit firm, on the recognised accountancy body of which the statutory audit firm is a member, and
  - (c) in the case of a statutory audit firm, on the recognised accountancy body of which the statutory audit firm is a member.
- (4) With regard to the function conferred by section 1464 on a recognised accountancy body in relation to an individual or firm, subsection (3) applies as if, for each reference in that subsection to a statutory auditor or audit firm, as the case may be, there were substituted a reference to the individual or firm, as appropriate.
- (5) A provision of the relevant provisions requiring that an act is to be done, or enabling an act to be done, by a person (other than a person referred to in subsection (6)(b)) in relation to a recognised accountancy body shall be read as requiring or enabling it to be done by the person in relation to—
- (a) if the person is not a member of a statutory audit firm, the recognised accountancy body of which the person is a member,
  - (b) if the person is a member of a statutory audit firm, the recognised accountancy body of which the statutory audit firm is a member, and
  - (c) if the person is a statutory audit firm, the recognised accountancy body of which the statutory audit firm is a member.
- (6) Subsection (7) applies in the case—
- (a) of a provision of the kind referred to in subsection (3), (4) or (5), and
  - (b) where the provision falls to be applied to a Member State auditor, a Member State audit firm, a third-country auditor (within the meaning of Part 27) or any other person who is not a member of a recognised accountancy body (or, as the case may be, the firm of which the person is a member is not a member of a recognised accountancy body).
- (7) The recognised accountancy body that shall perform the function concerned or, as the case may be, in relation to which the act concerned is required or enabled to be done shall be determined—
- (a) by reference to arrangements in writing entered into by the recognised accountancy bodies amongst themselves for the purpose (which arrangements those bodies are empowered by this subsection to enter into), or

- (b) in default of—
- (i) such arrangements being entered into, or
  - (ii) the provision of such arrangements dealing with the particular case falling to be determined,
- by the Supervisory Authority.
- (8) On a determination being made by the Supervisory Authority for the purposes of subsection (7)(b), a direction in writing, reflecting the terms of the determination, shall be given by it (which direction the Supervisory Authority is empowered by this subsection to give).
- (9) Arrangements shall not be entered into under subsection (7)(a) by the recognised accountancy bodies save after consultation by them with the Supervisory Authority.
- (10) Subject to subsection (11), if in consequence of the operation of this section, the function of withdrawal of a particular approval of a statutory auditor or audit firm falls to be discharged by a recognised accountancy body (in this section referred to as the ‘first-mentioned accountancy body’) that is different from the recognised accountancy body (in this section referred to as the ‘second-mentioned accountancy body’) that granted the approval—
- (a) the first-mentioned accountancy body shall notify in writing the second-mentioned accountancy body of the proposal by it to withdraw the approval, and
  - (b) the second-mentioned accountancy body shall provide such assistance by way of provision of information or clarification of any matter, to the first-mentioned accountancy body, as the latter considers it may require so as to inform itself better on any issue bearing on the performance of the function of withdrawal.
- (11) The procedures adopted for the purposes of subsection (10) by the first-mentioned accountancy body and the second-mentioned accountancy body shall be such as will—
- (a) avoid any unnecessary delay in the performance of the function of withdrawal, and
  - (b) respect the requirements of procedural fairness as concerns the auditor or audit firm concerned being able to answer any part of the case made against him or her that is informed by those procedures being employed.
- (12) In a case falling within subsections (10) and (11), if the approval concerned is withdrawn, the first-mentioned accountancy body, in addition to making the notifications required by section 1482 and (where it applies) section 1483, shall notify the second-mentioned accountancy body of the withdrawal of approval.

**Conflicts of interest to be avoided**

**930D.**(1) The persons to whom this subsection applies shall organise themselves in such a manner so that conflicts of interest are avoided in the performance of their respective functions under this Act.

(2) Subsection (1) applies to—

- (a) the Supervisory Authority,
- (b) the Director,
- (c) the Registrar, and
- (d) the recognised accountancy bodies.”.

**Provisions in relation to recognition by Supervisory Authority under section 930**

**28.** The Principal Act is amended by the substitution of the following section for section 931:

**“931.** (1) This section applies at any of the following times:

- (a) at the time of the grant of a recognition under section 930 (in this section referred to as the ‘relevant recognition’) to a body of accountants (in this section referred to as the ‘body concerned’);
  - (b) at any time during the currency of the relevant recognition.
- (2) The Supervisory Authority may give the body concerned a notice in writing (in this section referred to as a ‘section 931 notice’) providing for any, or any combination of, the following:
- (a) directing the body, with regard to the relevant recognition, to take the action or actions specified in the notice regarding such matters specified in the notice as the Authority thinks necessary or expedient;
  - (b) attaching to the relevant recognition such terms and conditions specified in the notice as the Authority thinks necessary or expedient.
- (3) The Supervisory Authority may, by a further section 931 notice given to the body concerned, amend, replace or revoke one or more than one earlier section 931 notice given to the body.
- (4) The Supervisory Authority may, by notice in writing given to the body concerned, revoke, or suspend for a period specified in the notice, the relevant recognition if—
- (a) the Supervisory Authority ceases to be satisfied as referred to in section 930(1), or
  - (b) the body fails to comply with any of the provisions of a section 931 notice.

- (5) Without prejudice to the generality of subsection (2), a section 931 notice may—
- (a) direct the body concerned (including a body referred to in section 930(2)) to cease, or again cease, performing the Part 27 function specified in the notice, either (as specified in the notice) in all cases or in a particular case, on and from the date, or the occurrence of the event, specified in that notice,
  - (b) direct the body concerned to commence, or again commence, performing the Part 27 function specified in the notice, either (as specified in the notice) in all cases or in a particular case, on and from the date, or the occurrence of the event, specified in that notice (and notwithstanding any case where the body's recognition under section 930 does not otherwise permit it to perform that function), or
  - (c) attach terms and conditions to the relevant recognition that relate to the performance by the body concerned of a Part 27 function, either (as specified in the notice) in all cases or in a particular case.
- (6) (a) Subject to paragraph (b), the Supervisory Authority shall not give a section 931 notice, or a notice under subsection (4), to the body concerned unless, in the interests of procedural fairness, it has first—
- (i) given the body a notice in writing stating the nature of the notice that it is minded to give the body and the reasons why it is so minded, and
  - (ii) given the body a reasonable opportunity, in the circumstances concerned, to make representations in writing to the Supervisory Authority on what is stated in the notice referred to in subparagraph (i).
- (b) Paragraph (a) shall not apply in any case where a section 931 notice is giving effect to a request referred to in section 930(4).
- (7) The Supervisory Authority may publish information on its website regarding—
- (a) a section 931 notice given to the body concerned and the body's response (if any) thereto, or
  - (b) a notice under subsection (4) given to the body concerned and the body's response (if any) thereto.
- (8) Where a disciplinary committee of the body concerned has reasonable grounds for believing that a category 1 or 2 offence may have been committed by a person while the person was a member of the body, the body shall, as soon as is practicable, provide a report to the Director giving details of the alleged offence and shall furnish the Director with

such further information in relation to the matter as the Director may require.

- (9) Where the body concerned fails to comply with subsection (8) or a requirement of the Director under that subsection, the body, and any officer of that body to whom the failure is attributable, shall be guilty of a category 3 offence.
- (10) Any terms and conditions which were, immediately before the commencement of *section 28* of the *Companies (Statutory Audits) Act 2018*, attached under this section as in force immediately before that commencement to the relevant recognition of the body concerned shall, on and from that commencement, be deemed to be terms and conditions attached to that recognition by virtue of a section 931 notice, and section 906(4)(d) and the other provisions of this section (including subsection (3)) shall be read accordingly.”.

#### **Amendment of section 931A of Principal Act**

29. Section 931A of the Principal Act is amended, in subsection (1), by the substitution of the following definition for the definition of “relevant person”:

“ ‘relevant person’, in relation to an investigation of a member or former member of a prescribed accountancy body, means—

- (a) that member or any other member or former member of the prescribed accountancy body,
- (b) a client or former client of the member,
- (c) if the client or former client is a body corporate, a person who is or was an officer, employee or agent of the client or former client,
- (d) the prescribed accountancy body or a person who is or was an officer, employee or agent of that body,
- (e) if the member is an individual, a person who is or was an employee or agent of the member,
- (f) if the member is a firm, a person who is or was an officer, member, partner, employee or agent of the firm, or
- (g) any person whom the prescribed accountancy body reasonably believes has information or documents relating to the investigation other than information or documents the disclosure of which is prohibited or restricted by law.”.

#### **Provisions that apply when recognised accountancy body is not able to perform Part 27 function**

30. The Principal Act is amended by the insertion of the following section after section 931A:

**“931B.** (1) In this section—

‘recognised accountancy body A’ means a recognised accountancy body which is not able to perform, either in all cases or in a particular case, one or more than one Part 27 function by virtue of section 930(1A) or a section 931 notice;

‘recognised accountancy body B’ means a recognised accountancy body which is able to perform, in all cases, the relevant Part 27 function by virtue of its recognition under section 930 or a section 931 notice;

‘relevant members’, in relation to a relevant Part 27 function, means the statutory auditors or potential statutory auditors of recognised accountancy body A in relation to whom that body is not able to perform that function;

‘relevant Part 27 function’ means that one or more than one Part 27 function referred to in the definition of ‘recognised accountancy body A’.

- (2) The following provisions shall apply in the case of the relevant Part 27 function and the relevant members:
- (a) the Supervisory Authority may perform that function in relation to those members and, accordingly, the applicable provisions shall be read with any necessary modifications to take account of the fact that that function will, in relation to those members, be performed by the Supervisory Authority until such time (if any) as the Supervisory Authority gives a section 931 notice—
    - (i) to recognised accountancy body A to again perform that function in relation to those members, or
    - (ii) to recognised accountancy body B to perform that function in relation to those members until the date, or the occurrence of the event, specified in the notice;
  - (b) any obligations which, by virtue of the standards referred to in section 930(1)(a) and (b), the relevant members owed to recognised accountancy body A, in so far as such obligations relate to the relevant Part 27 function, are owed to the Supervisory Authority or, if the Supervisory Authority has given a section 931 notice referred to in paragraph (a) to recognised accountancy body B, to recognised accountancy body B;
  - (c) subject to subsection (3) and section 941(4) and (4A), the costs, as determined by the Supervisory Authority, incurred by the Supervisory Authority or recognised accountancy body B in performing the relevant Part 27 function in relation to the relevant members shall be defrayed by recognised accountancy body A or by money received by the Supervisory Authority under section 916.

- (3) For the purposes of subsection (2)(c)—
- (a) the Supervisory Authority may prescribe by regulations—
- (i) that specified procedures and methods of calculation shall apply in the determination of the amount of costs referred to in that subsection incurred by it or recognised accountancy body B, and
- (ii) requirements otherwise as to the liability of recognised accountancy body A for, and the manner in which that body shall pay, that amount,
- and
- (b) in default of payment of that amount to the Supervisory Authority, the Authority may recover that amount as a simple contract debt in any court of competent jurisdiction.
- (4) Where the recognition granted under section 930 of a body of accountants is revoked under section 931, neither the Supervisory Authority nor a recognised accountancy body owes any obligation under this Act, in so far as this Act relates to statutory audits, to a statutory auditor who is a member of the first-mentioned body but without prejudice to any such obligation owed to that statutory auditor if the auditor is a member of another body of accountants which is recognised under section 930.
- (5) Recognised accountancy body A may appeal to the court against a decision made by the Supervisory Authority under subsection (2)(c) determining an amount of costs to be paid by that body.
- (6) An appeal under subsection (5) shall be brought within 3 months after the date on which recognised accountancy body A was notified by the Supervisory Authority of its decision.”.

### **Consultation by Supervisory Authority regarding standards and qualifications**

31. The Principal Act is amended by the substitution of the following section for section 932:

“932. Before granting, renewing, withdrawing, revoking, suspending or refusing a recognition of a body of accountants under section 930 for the purposes of the relevant provisions, the Supervisory Authority may consult with any body of persons or other person as to the conditions or standards required by the body of accountants concerned in connection with membership of that body or, as the case may be, the approval of persons as statutory auditors.”.

### **Intervention in disciplinary process of prescribed accountancy bodies and supervision of recognised accountancy bodies**

32. The Principal Act is amended by the substitution of the following section for section 933:

“933. (1) In this section—

‘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—

(i) section 905(2)(c),

(ii) section 9(2)(c) of the Act of 2003, or

(iii) the Act of 1990, whether before or after the amendments of that Act that were made by section 32 of the Act of 2003,

and

(b) in relation to any other prescribed accountancy body, the investigation and disciplinary procedures approved under—

(i) section 905(2)(c), or

(ii) section 9(2)(c) of the Act of 2003;

‘relevant body’ means—

(a) in relation to an enquiry referred to in subsection (2), the prescribed accountancy body the subject of the enquiry, and

(b) in relation to an enquiry referred to in subsection (3), the recognised accountancy body the subject of the enquiry.

(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 934 relating to that member.

(3) The Supervisory Authority may, for the purpose of determining whether a recognised accountancy body has complied with the applicable provisions in performing a Part 27 function, enquire into the performance by the body of that function (including, where applicable, enquire into the conduct by that body of an investigation into the conduct of a member of that body).

(4) 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 relevant body,
  - (b) if the relevant body falls within paragraph (a) of the definition of ‘relevant body’, require the body to explain why it reached a decision referred to in subsection (2)(a) or (c) or explain how it conducted its investigation, or
  - (c) if the relevant body falls within paragraph (b) of the definition of ‘relevant body’, require the body to explain how it complied (if it in fact did comply) with the applicable provisions in performing the Part 27 function concerned (and, also, to explain how it conducted an investigation referred to in subsection (3) if the conduct of that investigation is, in the opinion of the Supervisory Authority, relevant to the enquiry).
- (5) If at any time before completing an enquiry under this section into a matter relating to a member of a relevant body, the Supervisory Authority forms the opinion that it is appropriate or in the public interest that a matter be investigated under section 934 as regards a possible relevant contravention committed by a specified person, the Authority may apply to the court for permission to investigate the matter under that section.
- (6) (a) Paragraph (b) applies if the Supervisory Authority is not satisfied, after completing the enquiry—
- (i) if the relevant body falls within paragraph (a) of the definition of ‘relevant body’, that the body complied with the approved investigation and disciplinary procedures, or
  - (ii) if the relevant body falls within paragraph (b) of the definition of ‘relevant body’, that the body complied with the applicable provisions in performing the Part 27 function.
- (b) Subject to section 941(4) and (4A), the Supervisory Authority may advise, or admonish, the relevant body or may censure it by doing one or more of the following:
- (i) annulling all or part of a decision of that body relating to the matter that was the subject of the enquiry;
  - (ii) directing that body to conduct an investigation or a fresh investigation into the matter;
  - (iii) directing that body to perform the function that was the subject of the enquiry again in accordance with any directions or terms and conditions that the Supervisory Authority considers appropriate;
  - (iv) directing that body, where it in future performs the function that was the subject of the enquiry, to do so in accordance with any

directions or terms and conditions that the Supervisory Authority considers appropriate;

(v) 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 943(1)(e).

(c) In default of payment of an amount referred to in paragraph (b)(v), the Supervisory Authority may recover that amount as a simple contract debt in any court of competent jurisdiction.

- (7) Subject to subsection (14) and section 941(4) and (4A), where, as referred to in subsection (5), the Supervisory Authority is not satisfied as referred to in subsection (6), the relevant body concerned is, in addition to any liability or obligation to pay an amount or do a thing by virtue of subsection (6), liable to pay the amount specified by the Supervisory Authority towards its costs in conducting the enquiry under this section.
- (8) Where the Supervisory Authority applies under subsection (5) to the court for permission to investigate, under section 934, any matter relating to a member of a relevant body or decides to direct under subsection (6)(b)(ii) a relevant body to conduct an investigation or fresh investigation into any matter, the following rules apply:
- (a) in the case of an application to the court 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 941(3);
- (b) in the case of a direction to conduct an investigation or 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 as referred to in section 941(4A).
- (9) The Supervisory Authority may publish on its website each decision made under subsection (6) or each decision made specifying an amount under subsection (7) and the reasons for the decision after giving the relevant body and the member (if any) thereof concerned not less than 3 months notice in writing of its intention to do so.
- (10) The relevant body or the member thereof (if any) concerned may appeal to the court against a decision made by the Supervisory Authority under subsection (6) (which may be the decision under subsection (6)(a) or the decision under subsection (6)(b), or both) or a decision made by it specifying an amount under subsection (7).

- (11) An appeal under subsection (10) shall be brought within 3 months after the date on which, as appropriate, the relevant body or the member thereof (if any) concerned was notified by the Supervisory Authority of its decision.
- (12) If the Supervisory Authority is not satisfied that a relevant body has, when undertaking an investigation or fresh investigation into any matter as required by a direction under subsection (6)(b)(ii)—
- (a) if the relevant body falls within paragraph (a) of the definition of ‘relevant body’, complied with the approved investigation and disciplinary procedures, or
  - (b) if the relevant body falls within paragraph (b) of the definition of ‘relevant body’, complied with the applicable provisions in performing the Part 27 function,
- the Supervisory Authority may appeal to the court against any decision of the relevant body relating to the matter.
- (13) An appeal under subsection (12) shall be brought within 3 months after the date on which the Supervisory Authority was notified by the relevant body of its decision.
- (14) For the purpose of subsection (7)—
- (a) the Supervisory Authority may prescribe by regulations—
    - (i) that specified procedures and methods of calculation shall apply in the determination of the amount of costs referred to in that subsection incurred by it, and
    - (ii) requirements otherwise as to the liability of the relevant body for, and the manner in which that body shall pay, that amount,and
  - (b) in default of payment of that amount to the Supervisory Authority, the Authority may recover that amount as a simple contract debt in any court of competent jurisdiction.
- (15) Nothing in this section shall be construed to prevent the undertaking of one enquiry under this section into 2 or more matters concerning the same body of accountants where one or more than one of such matters falls within subsection (2) and one or more than one of such matters falls within subsection (3).
- (16) For the purposes of this section—
- (a) any decision made or any investigation conducted by the disciplinary committee of a relevant body is considered to have been made or conducted by the relevant body, and

- (b) ‘member’, in addition to the meaning given to that expression by section 900(1), includes, in relation to a relevant body that is a recognised accountancy body, an individual or firm who or which, though not a member of the recognised accountancy body, is an individual or firm in relation to whom that body may perform functions under the relevant provisions.”.

### **Resolution of suspected non-compliance by agreement - relevant body**

33. The Principal Act is amended by the insertion of the following section after section 933:

“933A.(1)Section 933(1) applies to the interpretation of this section as it applies to the interpretation of section 933.

- (2) Subject to subsection (3), if the Supervisory Authority believes on reasonable grounds—
  - (a) if the relevant body falls within paragraph (a) of the definition of ‘relevant body’, that the body did not comply with the approved investigation and disciplinary procedures, or
  - (b) if the relevant body falls within paragraph (b) of the definition of ‘relevant body’, that the body did not comply with the applicable provisions in performing the Part 27 function,

the Supervisory Authority and the relevant body may, at their absolute discretion, enter into an agreement (in this section referred to as a ‘section 933A agreement’) to resolve the matters the subject of the non-compliance.

- (3) The following provisions shall apply to the section 933A agreement:
  - (a) the agreement may be entered into notwithstanding that no enquiry under section 933 into the non-compliance has been commenced;
  - (b) the agreement may be entered into after an enquiry under section 933 into the non-compliance has been commenced but not, subject to paragraph (d), after it has been completed;
  - (c) without prejudice to the generality of the terms of the agreement, such terms may include terms under which the relevant body accepts—
    - (i) the imposition of one or more sanctions that may be imposed under section 933(6)(b), and
    - (ii) if an enquiry under section 933 into the non-compliance has been commenced, the payment of costs referred to in section 933(7);
  - (d) the agreement may be entered into after an enquiry under section 933 has been undertaken and carried out only to the extent to

determine which sanctions (if any) referred to in paragraph (c)(i) to impose on the relevant body;

- (e) the terms of the agreement are binding on the Supervisory Authority and the relevant body.
- (4) Subject to subsection (5), where the relevant body with whom the Supervisory Authority has entered into the section 933A agreement fails to comply with one or more of the terms of the agreement, the Supervisory Authority may apply to the court for an order compelling that body to comply with those terms.
- (5) In default of payment, any amount agreed to be paid to the Supervisory Authority by the relevant body under the section 933A agreement may be recovered by the Supervisory Authority from the body as a simple contract debt in any court of competent jurisdiction.
- (6) The Supervisory Authority may, at its discretion, publish a section 933A agreement on its website.
- (7) Section 941 shall be disregarded for the purposes of a section 933A agreement.”.

**Investigation of possible breaches of standards of prescribed accountancy bodies or relevant contraventions by statutory auditors**

34. The Principal Act is amended by the substitution of the following section for section 934:

“934. (1) In this section—

‘client’ includes an individual, a body corporate, an unincorporated body of persons and a partnership;

‘relevant person’—

- (a) in relation to an investigation of a member or former member of a prescribed accountancy body, means—
  - (i) that member or any other member or former member of the prescribed accountancy body,
  - (ii) a client or former client of the member,
  - (iii) if the client or former client is a body corporate, a person who is or was an officer, employee or agent of the client or former client,
  - (iv) the prescribed accountancy body or a person who is or was an officer, employee or agent of that body,
  - (v) if the member is an individual, a person who is or was an employee or agent of the member,
  - (vi) if the member is a firm, a person who is or was an officer, member, partner, employee or agent of the firm, or

- (vii) any person whom the Supervisory Authority reasonably believes has information or documents relating to the investigation other than information or documents the disclosure of which is prohibited or restricted by law,  
and
- (b) in relation to an investigation of a statutory auditor or former statutory auditor, means—
  - (i) that auditor and any other statutory auditor or former statutory auditor who is or was a member of the same recognised accountancy body as the first-mentioned statutory auditor,
  - (ii) a client or former client of the auditor,
  - (iii) if the client or former client is a body corporate, a person who is or was an officer, employee or agent of the client or former client,
  - (iv) the recognised accountancy body or a person who is or was an officer, employee or agent of that body,
  - (v) if the auditor is an individual, a person who is or was an employee or agent of the auditor,
  - (vi) if the auditor is or was an audit firm, a person who is or was an officer, member, partner, employee or agent of the auditor, or
  - (vii) any person whom the Supervisory Authority reasonably believes has information or documents relating to the investigation other than information or documents the disclosure of which is prohibited or restricted by law.
- (2) (a) Subject to paragraph (b) and subsection (3), the Supervisory Authority may undertake an investigation into a possible relevant contravention committed by a specified person—
  - (i) following a complaint, or
  - (ii) on its own initiative.
- (b) The Supervisory Authority shall not undertake an investigation into a possible relevant contravention committed by a specified person who falls within paragraph (a) of the definition of ‘specified person’ unless the Supervisory Authority is of the opinion that it is appropriate or in the public interest to do so.
- (3) An investigation shall not be undertaken into a matter that is or has been the subject of an enquiry under section 933 relating to the specified person except with the permission of the court granted on application under section 933(5).

- (4) For the purposes of an investigation under this section, the Supervisory Authority may require a relevant person to do one or more of the following:
- (a) produce to the Supervisory Authority all books or documents relating to the investigation that are in the relevant person's possession or control;
  - (b) attend before the Supervisory Authority;
  - (c) give the Supervisory Authority any other assistance in connection with the investigation that the relevant person is reasonably able to give.
- (5) For the purposes of an investigation under this section, the Supervisory Authority may—
- (a) examine on oath, either by word of mouth or on written interrogatories, a relevant person,
  - (b) administer oaths for the purposes of the examination, and
  - (c) record, in writing, the answers of a person so examined and require that person to sign them.
- (6) The Supervisory Authority may certify the refusal or failure to the court if a relevant person refuses or fails to do one or more of the following:
- (a) produce to the Supervisory Authority any book or document that it is the person's duty under this section to produce;
  - (b) attend before the Supervisory Authority when required to do so under this section;
  - (c) answer a question put to the person by the Supervisory Authority with respect to the matter under investigation.
- (7) On receiving a certificate of refusal or failure concerning a relevant person, the court may enquire into the case and after hearing any evidence that may be adduced, may do one or more of the following:
- (a) direct that the relevant person attend or re-attend before the Supervisory Authority or produce particular books or documents or answer particular questions put to him or her by the Supervisory Authority;
  - (b) direct that the relevant person need not produce particular books or documents or answer particular questions put to him or her by the Supervisory Authority;
  - (c) make any other ancillary or consequential order or give any other direction that the court thinks fit.

- (8) Subject to sections 934G and 941(4) and (4A), if, in the case of a specified person who falls within paragraph (a) of the definition of ‘specified person’, the Supervisory Authority finds that the person committed a relevant contravention, the Supervisory Authority may impose on the person such sanction to which the person is liable under the approved constitution and bye laws of the prescribed accountancy body of which the person is a member (including a monetary sanction) as the Supervisory Authority considers appropriate after having regard to the circumstances referred to in section 934D(2).
- (9) Subject to section 941(4) and (4A), if, in the case of a specified person who falls within paragraph (b) of the definition of ‘specified person’, the Supervisory Authority finds that the person has committed a relevant contravention, the Supervisory Authority may impose such relevant sanction on the person as the Supervisory Authority considers appropriate after having regard to the circumstances referred to in section 934D(2).
- (10) Subject to subsection (15) and section 941(4) and (4A), if subsection (8) or (9) applies, the costs incurred by the Supervisory Authority in investigating and determining a matter under this section (other than any costs of or incidental to an enquiry by the court under subsection (7)) shall be defrayed by, in the case of a specified person who falls within paragraph (a) of the definition of ‘specified person’, the prescribed accountancy body of which the specified person is a member and, in any other case, by the specified person.
- (11) Subject to subsection (12), the specified person who is the subject of a relevant decision made by the Supervisory Authority may appeal to the court against the decision.
- (12) An appeal under subsection (11) shall be brought within 3 months after the date on which the specified person concerned was notified by the Supervisory Authority of the relevant decision.
- (13) The prescribed accountancy body or specified person, as appropriate, may appeal to the court against a decision made by the Supervisory Authority specifying an amount of costs under subsection (10).
- (14) An appeal under subsection (13) shall be brought within 3 months after the date on which the prescribed accountancy body or specified person, as appropriate, was notified by the Supervisory Authority of the decision.
- (15) For the purposes of subsection (10)—
  - (a) the Supervisory Authority may prescribe by regulations—
    - (i) that specified procedures and methods of calculation shall apply in the determination of the amount of costs so incurred by it, and

- (ii) requirements otherwise as to the liability of, as appropriate, the prescribed accountancy body or specified person for, and the manner in which that body or person shall pay, that amount,
- and
- (b) in default of payment of that amount to the Supervisory Authority, the Authority may recover that amount as a simple contract debt in any court of competent jurisdiction.
- (16) The production of any books or documents under this section by a person who claims a lien on them does not prejudice the lien.
- (17) Nothing in this section shall be construed to prevent the undertaking of one investigation under this section into 2 or more possible relevant contraventions committed by the same specified person where one or more of such possible contraventions fall within paragraph (a) of the definition of ‘relevant contravention’ and one or more of such possible contraventions fall within paragraph (b) of that definition.”.

#### **Amendment of Principal Act - insertion of sections 934A to 934I**

35. The Principal Act is amended by the insertion of the following sections after section 934:

##### **“Supplemental provisions to section 934 - certain specified persons**

- 934A.**(1) This section applies to a specified person the subject of a decision under section 934(8) that the person has committed a relevant contravention.
- (2) Where applicable, the Supervisory Authority shall direct the prescribed accountancy body of which the specified person referred to in subsection (1) is a member to take any necessary action on foot of the imposition of a relevant sanction on the person and that body shall comply with the direction.
  - (3) The Supervisory Authority shall, as soon as is practicable after imposing a relevant sanction on a specified person referred to in subsection (1), notify the prescribed accountancy body of which the specified person is a member of the imposition of the sanction together with such particulars of the person, the relevant contravention concerned and the sanction as the Supervisory Authority considers appropriate.

##### **Immediate action required to protect public**

- 934B.** (1) This section applies if the Supervisory Authority is of the opinion that the nature or gravity of the possible relevant contravention committed by a specified person warrants, in the interest of protecting the public, a direction to the specified person prohibiting him or her from carrying out statutory audits or signing statutory auditors’ reports, or both, until steps or further steps are taken under section 934 in relation to that contravention by that person.

- (2) The Supervisory Authority may make an *ex parte* application to the court for a direction referred to in subsection (1) until the steps or further steps referred to in that subsection are taken.

**Sanctions which Supervisory Authority may impose on statutory auditor for relevant contravention**

**934C.**(1) This section applies to a specified person the subject of a decision under section 934(9) that the person has committed a relevant contravention.

- (2) Subject to section 934D, the Supervisory Authority may impose on the specified person one or more of the following sanctions in relation to the relevant contravention:
- (a) a direction by the Supervisory Authority to the specified person that he or she cease the conduct giving rise (whether in whole or in part) to the contravention and to abstain from any repetition of that conduct;
  - (b) a direction by the Supervisory Authority to the specified person to remediate the conduct giving rise (whether in whole or in part) to the contravention;
  - (c) a reprimand or severe reprimand by the Supervisory Authority to the specified person in relation to the conduct giving rise (whether in whole or in part) to the contravention;
  - (d) a declaration by the Supervisory Authority that the statutory auditors' report concerned does not meet the requirements of section 336 or 337 or, where applicable, Article 10 of Regulation (EU) No 537/2014;
  - (e) a direction by the Supervisory Authority to the specified person (being any one or more of a statutory auditor or key audit partner (within the meaning of Part 27)) prohibiting him or her, for the period specified in the direction (which may be up to and including an indefinite period), from carrying out statutory audits or signing statutory auditors' reports, or both;
  - (f) if the specified person is an audit firm, a direction by the Supervisory Authority to the firm, or to an officer, member or partner of the firm, or to both, prohibiting the firm or, as the case may be, the officer, member or partner, for the period specified in the direction (which may be up to and including an indefinite period) from performing functions—
    - (i) in the case of the firm, as an audit firm, or
    - (ii) in the case of the officer, member or partner, in audit firms or public-interest entities;

- (g) subject to section 934G, a direction by the Supervisory Authority to the specified person to pay an amount, as specified in the direction but not exceeding—
  - (i) €100,000 in the case of a specified person who is an individual, or
  - (ii) in the case of a specified person which is an audit firm, €100,000 multiplied by the number of statutory auditors in the firm at the time that the relevant contravention occurred (and irrespective of whether any particular statutory auditor was or was not a party to the relevant contravention),to the Supervisory Authority;
- (h) an order excluding the specified person from having his or her particulars entered, or continuing to be entered, in the public register (within the meaning of Part 27) in respect of one or more recognised accountancy bodies.
- (3) In default of payment of an amount referred to in subsection (2)(g), the Supervisory Authority may recover that amount as a simple contract debt in any court of competent jurisdiction.
- (4) A person the subject of a direction under subsection (2) shall comply with the direction.
- (5) Where applicable, the Supervisory Authority shall direct the recognised accountancy body of which the specified person is a member to take any necessary action on foot of the imposition of a relevant sanction on the person and that body shall comply with the direction.
- (6) The Supervisory Authority shall, as soon as is practicable after imposing a relevant sanction on a specified person, notify the recognised accountancy body of which the specified person is a member of the imposition of the sanction together with such particulars of the person, the relevant contravention concerned and the sanction as the Supervisory Authority considers appropriate.

**Relevant circumstances to be considered in imposing relevant sanctions on specified person**

**934D.**(1) This section applies to a specified person the subject of a decision under section 934(8) or (9) that the person has committed a relevant contravention.

- (2) In imposing a relevant sanction on a specified person, the Supervisory Authority shall consider the following circumstances:
  - (a) the gravity and duration of the relevant contravention;
  - (b) the degree of responsibility of the specified person;

- (c) the financial strength of the specified person (including, in the case of a specified person who is not an individual, the total turnover of the specified person or, in the case of a specified person who is an individual, the annual income of the individual);
- (d) the amount of profits gained or losses avoided by the specified person in consequence of the relevant contravention, in so far as they can be determined;
- (e) the level of cooperation of the specified person with the Supervisory Authority;
- (f) previous relevant contraventions committed by the specified person.

**Resolution of suspected relevant contravention by agreement - specified person**

**934E.**(1) Subject to subsection (2), if the Supervisory Authority believes on reasonable grounds that a specified person is committing, or has committed, a relevant contravention, the Supervisory Authority and the person may, at their absolute discretion, enter into an agreement (in this section referred to as a ‘section 934E agreement’) to resolve the matters the subject of the contravention.

- (2) The following provisions shall apply to the section 934E agreement:
  - (a) the agreement may be entered into notwithstanding that no investigation under section 934 into the contravention has been commenced;
  - (b) the agreement may be entered into after an investigation under section 934 into the relevant contravention has been commenced but not, subject to paragraph (d), after it has been completed;
  - (c) without prejudice to the generality of the terms of the agreement, such terms may include terms under which the specified person accepts—
    - (i) the imposition of one or more relevant sanctions that may be imposed under section 934(8) or (9), as appropriate, and
    - (ii) if an investigation under section 934 into the contravention has been commenced, the payment of costs referred to in section 934(10);
  - (d) the agreement may be entered into after an investigation under section 934 has been undertaken and carried out only to the extent to determine which sanctions (if any) referred to in paragraph (c)(i) to impose on the specified person;
  - (e) the terms of the agreement are binding on the Supervisory Authority and the specified person.

- (3) Subject to subsection (6), the provisions of sections 934C, 934D, 934F, 934G and 934H shall apply, with any necessary modifications, to any relevant sanctions imposed on a specified person pursuant to a section 934E agreement as those sections apply to any relevant sanctions imposed on a specified person otherwise than pursuant to a section 934E agreement.
- (4) Subject to subsection (5), where the specified person with whom the Supervisory Authority has entered into the section 934E agreement fails to comply with one or more of the terms of the agreement, the Supervisory Authority may apply to the court for an order compelling that person comply with those terms.
- (5) In default of payment, any amount agreed to be paid to the Supervisory Authority by the specified person under the section 934E agreement may be recovered by the Supervisory Authority from the person as a simple contract debt in any court of competent jurisdiction.
- (6) The necessary modifications referred to in subsection (3), in so far as section 934F is concerned, include reading that section as if—
  - (a) the following subsection were substituted for subsection (1) of that section:
    - (1) Subject to subsection (3), the Supervisory Authority shall, in so far as a relevant decision imposes a relevant sanction on a specified person, as soon as is practicable, publish on its website particulars of the relevant contravention for which the relevant sanction was imposed, particulars of the relevant sanction imposed and particulars of the specified person on whom the relevant sanction was imposed.’
  - (b) subsections (2) and (4) of that section were deleted, and
  - (c) in subsection (5) of that section, the reference to ‘or (2)’ were deleted.
- (7) Section 941 shall be disregarded for the purposes of a section 934E agreement.

**Publication of relevant sanction imposed on specified person, etc.**

- 934F.**(1) Subject to subsections (2) and (3), the Supervisory Authority shall, in so far as a relevant decision imposes a relevant sanction on a specified person, as soon as is practicable after—
- (a) that decision has been confirmed by the court as referred to in section 941(4A), or
  - (b) a decision of the court under section 941(2)(b) has been made to impose a different relevant sanction on the specified person,
- publish on its website particulars of the relevant contravention for which the relevant sanction was imposed, particulars of the relevant

sanction imposed and particulars of the specified person on whom the relevant sanction was imposed.

- (2) Subject to subsection (4), if there is an appeal to the court from a confirmation referred to in subsection (1)(a), or a decision referred to in subsection (1)(b), the Supervisory Authority shall, as soon as may be, as it considers appropriate, publish particulars on its website of the status or outcome of the appeal.
- (3) The Supervisory Authority shall publish the particulars, comprising a public notice of a relevant sanction imposed, on an anonymous basis on its website in any one or more of the following circumstances:
  - (a) the Supervisory Authority, following an assessment of the proportionality of the publication of those particulars in accordance with subsection (1) in so far as personal data are concerned, is of the opinion that, in relation to the relevant sanction imposed on a specified person who is an individual, such publication would be disproportionate;
  - (b) the Supervisory Authority is of the opinion that the publication of those particulars in accordance with subsection (1) would jeopardise the stability of financial markets or an ongoing criminal investigation;
  - (c) the Supervisory Authority is of the opinion that the publication of those particulars in accordance with subsection (1) would cause disproportionate damage to the specified person.
- (4) Subsection (2) shall not apply in any case where subsection (3) applies.
- (5) The Supervisory Authority shall ensure that particulars published on its website in accordance with subsection (1) or (2) remain on its website for at least 5 years.

#### **Limitations on imposing monetary sanctions on specified person**

**934G.(1)**If the Supervisory Authority decides to impose a monetary sanction on a specified person, the Supervisory Authority shall not impose an amount—

- (a) that would be likely to cause the specified person to cease business, or
  - (b) that would, if the specified person is an individual, be likely to cause the person to be adjudicated bankrupt.
- (2) If the conduct engaged in by the specified person has given rise (whether in whole or in part) to 2 or more relevant contraventions, the Supervisory Authority shall not impose more than one monetary sanction on the person in respect of the same conduct.

**Specified person not to be liable to be penalised twice for same relevant contravention**

**934H.**(1) If the Supervisory Authority imposes a monetary sanction on a specified person and the conduct engaged in by the person that has given rise (whether in whole or in part) to the relevant contravention is an offence under the law of the State, the person shall not be liable to be prosecuted or punished for the offence under that law.

- (2) The Supervisory Authority shall not impose a monetary sanction on a specified person if—
- (a) the person has been charged with having committed an offence under a law of the State and has either been found guilty or not guilty of having committed the offence, and
  - (b) the offence involves the conduct engaged in by the person that has given rise (whether in whole or in part) to the relevant contravention.

**Reporting of relevant contraventions**

**934I.**(1) The Supervisory Authority and each recognised accountancy body shall establish effective mechanisms to encourage the reporting to it of relevant contraventions or suspected relevant contraventions.

- (2) The mechanisms referred to in subsection (1) shall include at least:
- (a) specific procedures (including follow-up procedures) for the receipt of reports of relevant contraventions and suspected relevant contraventions;
  - (b) the protection of personal data concerning both the person who reports the relevant contravention or suspected relevant contravention and the specified person concerned in compliance with the principles laid down in the Data Protection Acts 1988 to 2018 and Regulation (EU) 2016/679.
- (3) A statutory auditor which is an audit firm shall, as soon as is practicable after the commencement of *section 35* of the *Companies (Statutory Audits) Act 2018*, establish effective procedures within the firm for employees to report relevant contraventions or suspected relevant contraventions.”.

**Amendment of section 935 of Principal Act**

**36.** Section 935 of the Principal Act is amended—

- (a) in subsection (1)—
  - (i) in paragraph (a), by the substitution of “Part 27” for “the 2016 Audits Regulations”, and
  - (ii) in paragraph (b)(i), by the substitution of “that Part” for “those Regulations”,

- (b) in subsection (2)—
  - (i) by the substitution of “section 934(8)” for “section 934(7)”,
  - (ii) by the substitution of “Chapters 2 to 4, or Chapter 8, of Part 27” for “Part 4 or Chapter 2 of Part 8 of the 2016 Audits Regulations”, and
  - (iii) by the substitution of “that Part” for “those Regulations”,
- (c) by the substitution of the following subsection for subsection (3):
  - “(3) Where such an approval is withdrawn by the Supervisory Authority, section 1479(13) to (15) or, as the case may be, section 1480(13) to (15), shall, with all necessary modifications, apply to that withdrawal and section 934(11) and (12) shall not apply to that withdrawal.”,
- (d) in subsection (4)—
  - (i) by the substitution of “section 934(8)” for “section 934(7)”, and
  - (ii) by the substitution of “Part 27” for “the 2016 Audits Regulations”,and
- (e) in subsection (5), in the definition of “member”, by the substitution of “Part 27” for “the 2016 Audits Regulations”.

#### **Amendment of Principal Act - insertion of sections 936A and 936B**

37. The Principal Act is amended by the insertion of the following sections before section 937:

##### **“Supplemental provisions in relation to section 934 - relevant directors**

**936A.**(1) This section applies if—

(a) either—

- (i) a specified person is the subject of a decision under section 934(9) that he or she has committed a relevant contravention, or
- (ii) the Supervisory Authority and a specified person who falls within paragraph (b) of the definition of ‘specified person’ have entered into a section 934E agreement in respect of a relevant contravention that the Supervisory Authority reasonably believes that the person has committed,

and

(b) that contravention relates, whether directly or indirectly, to the audit of a public-interest entity.

(2) The Supervisory Authority shall, as soon as is practicable, give the Director particulars of—

(a) the specified person,

- (b) the relevant contravention, and
  - (c) the public-interest entity.
- (3) The Supervisory Authority shall, in addition to complying with subsection (2), give the Director such information and documents and assistance as the Director may reasonably require for the Director to decide whether or not—
- (a) to investigate under Part 13 a relevant director, or
  - (b) to impose, under section 957B, a relevant sanction (within the meaning of section 957AA) on a relevant director for engaging in conduct giving rise (whether in whole or in part) to the relevant contravention,
- or both.

### **Communication with the CEAOB**

**936B.**(1)The Supervisory Authority shall immediately communicate to the CEAOB particulars of—

- (a) any direction under section 934(8) that is equivalent to a direction referred to in paragraph (b),
  - (b) any direction given by the Authority under section 934C(2)(e) or (f), and
  - (c) any direction given by the Director under section 957C(2)(b).
- (2) The Supervisory Authority shall, as soon as may be after the end of a year, give to the CEAOB aggregated information in relation to—
- (a) all relevant sanctions imposed by it on specified persons (being specified persons who fall within paragraph (b) of the definition of ‘specified person’) during the year in accordance with this Chapter,
  - (b) all public notices of relevant sanctions imposed by it on specified persons (being specified persons who fall within paragraph (b) of the definition of ‘specified person’) during the year in accordance with this Chapter,
  - (c) all relevant sanctions (within the meaning of Chapter 9 of Part 27) imposed by it on specified persons (within the meaning of that Chapter) during the year in accordance with that Chapter,
  - (d) all public notices of relevant sanctions imposed (within the meaning of Chapter 9 of Part 27) by it on specified persons (within the meaning of that Chapter) during the year in accordance with that Chapter,
  - (e) all relevant sanctions (within the meaning of section 957AA) imposed by the Director during the year in accordance with Chapter 3, and

- (f) all public notices of relevant sanctions imposed (within the meaning of section 957AA) by the Director during the year in accordance with Chapter 3.
- (3) A recognised accountancy body shall immediately communicate to the Supervisory Authority particulars of any temporary prohibition referred to in point (c) or (e) of Article 30a(1) of the Audit Directive imposed by the body on a relevant person.
- (4) The Supervisory Authority shall immediately communicate to the CEAOB particulars which have been communicated to it under subsection (3).
- (5) Without prejudice to the generality of sections 1523 and 1556, a recognised accountancy body shall, as soon as may be after the end of a year, give to the Supervisory Authority aggregated information in relation to—
- (a) all sanctions equivalent to relevant sanctions imposed by it on relevant persons during the year in accordance with Part 27, and
- (b) all notices equivalent to public notices of the sanctions first-mentioned in paragraph (a) imposed by it on relevant persons during the year in accordance with Part 27.
- (6) The Supervisory Authority shall, as soon as may be after it is given the information referred to in subsection (5), give the information to the CEAOB.
- (7) In this section, ‘relevant person’, in relation to a recognised accountancy body, means—
- (a) a member of the body, or
- (b) an auditor or audit firm in relation to whom, by virtue of section 930C, the body may perform functions, who is a statutory auditor or former statutory auditor.”.

### **Amendment of section 937 of Principal Act**

**38.** Section 937 of the Principal Act is amended—

- (a) in subsection (1), by the substitution of “sections 933 to 934I, 935 and 936B and Chapter 9 of Part 27” for “sections 933 to 936”, and
- (b) by the insertion of the following subsection after subsection (3):
- “(3A) The Supervisory Authority may delegate some or all of the functions under sections 933 to 934I, 935 and 936B and Chapter 9 of Part 27 to any of its officers or employees or any other person duly authorised by it in that behalf.”.

**Amendment of section 938 of Principal Act**

**39.** Section 938 of the Principal Act is amended—

- (a) in subsection (1), by the substitution of “or 935” for “, 935 or 935B”,
- (b) in subsection (3), by the substitution of “or 935” for “, 935, 935B or 936”,
- (c) by the substitution of the following subsections for subsections (4) and (5):

“(4) Subject to subsection (5), the Supervisory Authority may make regulations respecting the procedures to be followed in conducting enquiries under section 933 and investigations under section 934 or 935.

(5) There is no obligation to make regulations under subsection (4) with respect to a particular provision referred to in that subsection.”,

and

- (d) by the insertion of the following subsections after subsection (5):

“(6) The Supervisory Authority shall, as soon as is practicable after making any regulations under subsection (4), publish the regulations on its website.

(7) Any information produced or answer given by a person (howsoever described) in compliance with a requirement under section 933, 934 or 935 may be used in evidence against the person in any proceedings whatsoever, save proceedings for an offence (other than perjury in respect of such an answer).

(8) A finding or decision of the Supervisory Authority under section 933, 934 or 935 is not a bar to any civil or criminal proceedings against the person (howsoever described) who is the subject of the finding or decision.”.

**Amendment of section 940 of Principal Act**

**40.** Section 940 of the Principal Act is amended by the insertion of the following subsection after subsection (4):

“(5) Nothing in this section shall operate to prevent the Supervisory Authority from complying with its obligations under the relevant provisions.”.

**Amendment of section 941 of Principal Act**

**41.** Section 941 of the Principal Act is amended—

- (a) in subsection (1), by the substitution of “section 931B(5), 933(10) or (12) or 934(11) or (13)” for “section 933(9) or (11), 934(10) or 935B(7)”,
- (b) in subsection (3)—

- (i) by the substitution of “section 933(5)” for “section 933(4)”,
  - (ii) by the substitution of “relevant contravention committed by a specified person” for “breach of a prescribed accountancy body’s rules by a member”, and
  - (iii) in paragraph (b), by the substitution of “such person” for “the member”,
- (c) by the substitution of the following subsections for subsection (4):
- “(4) Subsection (4A) applies to the following decisions of the Supervisory Authority:
    - (a) a decision under section 931B(2)(c);
    - (b) a decision under section 933(6) in so far as it relates to the advisement, or admonishment, or censure referred to in that section of a relevant body;
    - (c) a decision under section 933(7);
    - (d) a decision under section 934(10);
    - (e) a relevant decision in so far as it relates to the imposition of a relevant sanction on a specified person.
  - (4A) A decision to which this subsection applies does not take effect until the decision is confirmed by the court either—
    - (a) on appeal under section 931B(5), 933(10) or 934(11) or (13), or
    - (b) on application by the Supervisory Authority under subsection (5).”
- (d) in subsection (5), by the substitution of “to which subsection (4A) applies” for “referred to in subsection (4)”,
- (e) in subsection (6), by the substitution of the following paragraphs for paragraphs (b) and (c):
- “(b) a term or condition of recognition,
  - (c) an obligation or obligations referred to in that subsection,
  - (d) a section 931 notice, or
  - (e) a direction under section 934A(2) or 934C(5),”
- and
- (f) by the insertion of the following subsections after subsection (6):
- “(7) On an application under section 933A(4) for an order compelling compliance with a section 933A agreement, the court may make any order or give any direction as it thinks fit.
  - (8) On an application under section 934B(2) for a direction referred to in section 934B(1), the court may make any order or give any direction as it thinks fit.

- (9) On an application under section 934E(4) for an order compelling compliance with a section 934E agreement, the court may make any order or give any direction as it thinks fit.”.

#### **Amendment of section 942 of Principal Act**

**42.** Section 942 of the Principal Act is amended—

- (a) by the deletion of subsection (2), and
- (b) in subsection (4)(b), by the substitution of “subsection (1)” for “subsections (1) and (2)”.

#### **Amendment of section 943 of Principal Act**

**43.** Section 943 of the Principal Act is amended, in subsection (1), by the substitution of the following paragraphs for paragraphs (e) and (f):

- “(e) prescribing the amount of a penalty under section 933(6)(b)(v);
- (f) prescribing for the purposes of section 933(9) the manner in which notice is to be given;”.

#### **Amendment of section 949 of Principal Act**

**44.** Section 949 of the Principal Act is amended by the insertion of the following subsection after subsection (1):

- “(1A) Sections 930A and 930D make additional provision with regard to the performance of functions by, amongst others, the Director.”.

#### **Amendment of Principal Act - insertion of sections 957A to 957I**

**45.** Part 15 of the Principal Act is amended, in Chapter 3, by the insertion of the following sections before Chapter 4 of that Part:

##### **“Definitions (sections 957A to 957I)**

**957AA.** In this section and sections 957B to 957I—

- ‘court’ means the High Court;
- ‘monetary sanction’, in relation to a relevant director, means the monetary sanction referred to in section 957C(2)(c);
- ‘public notice of relevant sanction imposed’, in relation to a relevant director, means the publication in accordance with section 957F(1) of the relevant director’s particulars referred to in that section together with the other related particulars referred to in that section;
- ‘relevant contravention’ has the meaning assigned to it by section 900;
- ‘relevant decision’, in relation to a relevant director, means—

- (a) a decision under section 957B(2) that the director has engaged in conduct giving rise (whether in whole or in part) to a relevant contravention,
- (b) if, in consequence of a decision referred to in paragraph (a), the Director decides under section 957B(2) to impose a relevant sanction on the relevant director, the decision to impose that sanction, or
- (c) both such decisions;

‘relevant director’ has the meaning assigned to it by section 900;

‘relevant sanction’, in relation to a relevant director, means a sanction referred to in section 957C(2);

‘section 957E agreement’ shall be read in accordance with section 957E(1);

‘Supervisory Authority’ has the meaning assigned to it by section 900.

**Provisions applicable where Director receives particulars, etc., from Supervisory Authority concerning relevant contravention and relevant director**

**957B.** (1) This section applies where—

- (a) the Director has received from the Supervisory Authority particulars referred to in section 936A(2) and (where applicable) information and documents and assistance referred to in section 936A(3), and
  - (b) in consequence thereof, the Director has investigated under Part 13 a relevant director in order to find whether or not the relevant director has engaged in conduct giving rise (whether in whole or in part) to a relevant contravention.
- (2) Subject to section 957I(3) and (4), where the Director finds that a relevant director has engaged in conduct giving rise (whether in whole or in part) to the relevant contravention, the Director may impose such relevant sanction on the relevant director as the Director considers appropriate after having regard to the circumstances referred to in section 957D(2).
  - (3) Subject to subsection (4), the relevant director the subject of a relevant decision may appeal to the court against the decision.
  - (4) An appeal under subsection (3) shall be brought within 3 months after the date on which the relevant director was notified of the relevant decision by the Director.
  - (5) A finding or relevant decision of the Director under this section is not a bar to any civil or criminal proceedings against the relevant director who is the subject of the finding or relevant decision.

- (6) Subject to subsection (7), the Director shall, as soon as is practicable after imposing under this section a relevant sanction on a relevant director, give particulars of the relevant director and of the sanction imposed to the Supervisory Authority.
- (7) The Director shall immediately communicate to the Supervisory Authority particulars of any direction given by the Director under section 957C(2)(b).

**Sanctions which Director may impose on relevant director for certain conduct**

**957C.**(1) This section applies to a relevant director the subject of a decision under section 957B(2) that the director has engaged in conduct giving rise (whether in whole or in part) to a relevant contravention.

- (2) Subject to section 957D, the Director may impose on the relevant director one or more of the following sanctions in relation to the relevant contravention:
  - (a) a direction to the relevant director that he or she cease the conduct giving rise (whether in whole or in part) to the contravention and abstain from any repetition of that conduct;
  - (b) a direction to the relevant director prohibiting the director, for the period specified in the direction (being a period of not more than 3 years' duration), from performing functions in audit firms or public-interest entities;
  - (c) subject to section 957G, a direction to the director to pay an amount, as specified in the direction but not exceeding €100,000, to the Director.
- (3) In default of payment of an amount referred to in subsection (2)(c), the Director may recover that amount as a simple contract debt in any court of competent jurisdiction.

**Relevant circumstances to be considered in imposing relevant sanctions on relevant director**

**957D.**(1) This section applies to a relevant director the subject of a decision under section 957B(2) that the director has engaged in conduct giving rise (whether in whole or in part) to a relevant contravention.

- (2) In imposing a relevant sanction on a relevant director, the Director shall consider the following circumstances:
  - (a) the gravity and duration of the relevant contravention;
  - (b) the degree of responsibility of the relevant director;
  - (c) the financial strength of the relevant director (including the annual income of the director);

- (d) the amount of profits gained or losses avoided by the relevant director in consequence of the contravention, in so far as they can be determined;
- (e) the level of cooperation of the relevant director with the Supervisory Authority or Director, or both;
- (f) previous impositions of relevant sanctions on the relevant director.

**Resolution of suspected certain conduct by agreement - relevant director**

**957E.**(1) Subject to subsection (2), if the Director believes on reasonable grounds that a relevant director has engaged in conduct (in this section referred to as the ‘relevant conduct’) giving rise (whether in whole or in part) to a relevant contravention referred to in section 936A(1), the Director and the relevant director may, at their absolute discretion, enter into an agreement (in this section referred to as a ‘section 957E agreement’) to resolve the matters relating to such conduct.

- (2) The following provisions shall apply to the section 957E agreement:
  - (a) the agreement may be entered into notwithstanding that no investigation under Part 13 into the relevant conduct has been commenced;
  - (b) the agreement may be entered into after an investigation under Part 13 into the relevant conduct has been commenced but not, subject to paragraph (d), after it has been completed;
  - (c) without prejudice to the generality of the terms of the agreement, such terms may include terms under which the relevant director accepts the imposition of one or more relevant sanctions that may be imposed under section 957B(2);
  - (d) the agreement may be entered into after an investigation under Part 13 has been undertaken and carried out only to the extent to determine which sanctions (if any) referred to in paragraph (c) to impose on the relevant director;
  - (e) the terms of the agreement are binding on the Director and the relevant director.
- (3) Subject to subsection (6), the provisions of sections 957C, 957D, 957F, 957G and 957H shall apply, with any necessary modifications, to any relevant sanctions imposed on a relevant director pursuant to a section 957E agreement as those sections apply to any relevant sanctions imposed on a relevant director otherwise than pursuant to a section 957E agreement.
- (4) Subject to subsection (5), where the relevant director with whom the Director has entered into the section 957E agreement fails to comply with one or more of the terms of the agreement, the Director may

apply to the court for an order compelling that relevant director to comply with those terms.

- (5) In default of payment, any amount agreed to be paid to the Director by the relevant director under the section 957E agreement may be recovered by the Director from the relevant director as a simple contract debt in any court of competent jurisdiction.
- (6) The necessary modifications referred to in subsection (3), in so far as section 957F is concerned, include reading that section as if—
  - (a) the following subsection were substituted for subsection (1) of that section:
 

‘(1) Subject to subsection (3), the Director shall, in so far as a relevant decision imposes a relevant sanction on a relevant director, as soon as is practicable, publish on his or her website particulars of the relevant contravention to which the relevant sanction relates, particulars of the relevant conduct, particulars of the relevant sanction imposed and particulars of the relevant director on whom the relevant sanction was imposed.’,
  - (b) subsections (2) and (4) of that section were deleted, and
  - (c) in subsection (5) of that section, the reference to ‘or (2)’ were deleted.
- (7) Section 957I shall be disregarded for the purposes of a section 957E agreement.

**Publication of relevant sanction imposed on relevant director**

- 957F.**(1) Subject to subsections (2) and (3), the Director shall, in so far as a relevant decision imposes a relevant sanction on a relevant director, as soon as is practicable after—
- (a) that decision has been confirmed by the court as referred to in section 957I(4), or
  - (b) a decision of the court under section 957I(2)(b) has been made to impose a different relevant sanction on the relevant director,
- publish on his or her website particulars of the relevant contravention to which the relevant sanction relates, particulars of the relevant conduct, particulars of the relevant sanction imposed and particulars of the relevant director on whom the relevant sanction was imposed.
- (2) Subject to subsection (4), if there is an appeal to the court from a confirmation referred to in subsection (1)(a), or a decision referred to in subsection (1)(b), the Director shall, as soon as may be, as he or she considers appropriate, publish particulars on his or her website of the status or outcome of the appeal.

- (3) The Director shall publish the particulars, comprising a public notice of a relevant sanction imposed, on an anonymous basis on the Director's website in any one or more of the following circumstances:
  - (a) the Director, following an assessment of the proportionality of the publication of those particulars in accordance with subsection (1) in so far as personal data are concerned, is of the opinion that, in relation to the relevant sanction imposed on the relevant director, such publication would be disproportionate;
  - (b) the Director is of the opinion that the publication of those particulars in accordance with subsection (1) would jeopardise the stability of financial markets or an ongoing criminal investigation;
  - (c) the Director is of the opinion that the publication of those particulars in accordance with subsection (1) would cause disproportionate damage to the relevant director.
- (4) Subsection (2) shall not apply in any case where subsection (3) applies.
- (5) The Director shall ensure that particulars published on his or her website in accordance with subsection (1) or (2) remain on his or her website for at least 5 years.
- (6) The Director shall, as soon as is practicable after publishing a public notice of a relevant sanction imposed in relation to a relevant director, give particulars of the relevant director and of the relevant sanction imposed to the Supervisory Authority.

#### **Limitations on imposing monetary sanctions on relevant director**

- 957G.**(1) If the Director decides to impose a monetary sanction on a relevant director, the Director shall not impose an amount that would be likely to cause the relevant director to be adjudicated bankrupt.
- (2) If the conduct engaged in by the relevant director has given rise (whether in whole or in part) to 2 or more relevant contraventions, the Director shall not impose more than one monetary sanction on the relevant director in respect of the same conduct.

#### **Relevant director not to be liable to be penalised twice for same conduct**

- 957H.**(1) If the Director imposes a monetary sanction on a relevant director and the conduct engaged in by the relevant director that has given rise (whether in whole or in part) to the relevant contravention is an offence under the law of the State, the relevant director shall not be liable to be prosecuted or punished for the offence under that law.
- (2) The Director shall not impose a monetary sanction on a relevant director if—

- (a) the relevant director has been charged with having committed an offence under a law of the State and has either been found guilty or not guilty of having committed the offence, and
- (b) the offence involves the conduct engaged in by the relevant director that has given rise (whether in whole or in part) to the relevant contravention.

**Appeals to and orders of court, including orders confirming decisions of Director**

- 957I.**(1) In an appeal under section 957B(3), the court may consider any evidence adduced or argument made, whether or not adduced or made to the Director.
- (2) On the hearing of such an appeal, the court may make any order or give any direction it thinks fit, including an order—
    - (a) confirming the decision under appeal, or
    - (b) modifying or annulling that decision.
  - (3) A relevant decision, in so far as it relates to the imposition of a relevant sanction on a relevant director, does not take effect until that decision is confirmed by the court either—
    - (a) on appeal under section 957B(3), or
    - (b) on application by the Director under subsection (4).
  - (4) On application by motion on notice by the Director for an order confirming a decision referred to in subsection (3), the court may make an order confirming the decision or may refuse to make such an order.
  - (5) On an application under section 957E(4) for an order compelling compliance with a section 957E agreement, the court may make any order or give any direction as it thinks fit.”.

**Amendment of section 1097 of Principal Act**

- 46.** Section 1097 of the Principal Act is amended by the substitution of “section 1551 (which relates to an obligation of a public-interest entity to establish an audit committee)” for “Regulation 115 (which relates to an obligation of a public-interest entity to establish an audit committee) of the 2016 Audits Regulations”.

**Amendment of section 1291 of Principal Act**

- 47.** Section 1291 of the Principal Act is amended, in subsection (1)(a)(iv), by the substitution of “section 1293” for “section 1292”.

**Amendment of section 1305 of Principal Act**

48. Section 1305 of the Principal Act is amended, in subsection (3)(b), by the substitution of “the Audit Directive (within the meaning of Part 27)” for “the Audit Directive (within the meaning of the 2016 Audits Regulations)”.

**Amendment of section 1401A of Principal Act**

49. Section 1401A of the Principal Act is amended, in subsection (4), in the substituted subsection (1) of section 376, by the substitution of “section 366” for “section 367”.

**Amendment of section 1438 of Principal Act**

50. Section 1438 of the Principal Act is amended, in subsection (3), by the insertion of “, and Part 27,” after “Part 6”.

**Statutory audits**

51. The Principal Act is amended by the insertion of the following Part after Part 26:

“PART 27

STATUTORY AUDITS

CHAPTER 1

*Preliminary and interpretation*

**Interpretation (Part 27 and Schedules 19 and 20)****1461.** (1) In this Part and Schedules 19 and 20—

‘2010 Audits Regulations’ means the European Communities (Statutory Audits) (Directive 2006/43/EC) Regulations 2010 (S.I. No. 220 of 2010) revoked by Regulation 2(1) of the 2016 Audits Regulations;

‘2016 Audits Regulations’ means the European Union (Statutory Audits) (Directive 2006/43/EC, as amended by Directive 2014/56/EU, and Regulation (EU) No 537/2014) Regulations 2016 (S.I. No. 312 of 2016) revoked by *section 3(6)* of the *Companies (Statutory Audits) Act 2018*;

‘AAPA report’ shall be read in accordance with section 930B(1);

‘additional report to the audit committee’ means the report submitted to the audit committee of a public-interest entity by the statutory auditor or audit firm carrying out statutory audits as referred to in Article 11 of Regulation (EU) No 537/2014;

‘approved’, in relation to a statutory auditor or audit firm, means approved under this Part;

‘aptitude test’ means an aptitude test referred to in section 1476(1);

‘audit committee’, in relation to a public-interest entity, means the audit committee established for the entity under section 1551;

‘Audit Directive’ means Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006<sup>5</sup> on statutory audits of annual accounts and consolidated accounts, amending Council Directives 78/660/EEC and 83/349/EEC and repealing Council Directive 84/253/EEC, as amended by Directive 2014/56/EU of the European Parliament and of the Council of 16 April 2014<sup>6</sup> amending Directive 2006/43/EC on statutory audits of annual accounts and consolidated accounts;

‘audit working papers’, in relation to a statutory auditor or audit firm, means material (whether in the form of data stored on paper, film, electronic media or other media or otherwise) prepared by or for, or obtained by the statutory auditor or audit firm in connection with, the performance of the audit concerned, and includes—

- (a) the record of audit procedures performed,
- (b) relevant audit evidence obtained, and
- (c) conclusions reached,

and a reference to audit working papers in relation to a Member State auditor or audit firm, or a third-country auditor or third-country audit entity, shall be read accordingly;

‘auditing standards’ means the standards adopted by the Supervisory Authority under section 1526 in accordance with which statutory audits shall be carried out;

‘client’ has the meaning assigned to it by section 934(1);

‘Commission’ means Commission of the European Union;

‘counterpart authority’ shall be construed in accordance with section 1553;

‘disciplinary committee’ has the meaning assigned to it by section 900;

‘financial year’—

- (a) in relation to the Supervisory Authority and an audited undertaking, shall be read in accordance with section 288, and
- (b) in relation to a statutory auditor or audit firm, means any period in respect of which a profit and loss account or income statement is prepared by the auditor or audit firm for income tax or other business purposes, whether that period is of a year’s duration or not;

5 OJ No. L 157, 9.6.2006, p.87

6 OJ No. L 158, 27.5.2014, p.196

‘firm’ includes a body corporate;

‘Member State’ means a Member State of the European Union or an EEA state;

‘Member State audit firm’ means an audit entity approved in accordance with the Audit Directive by the counterpart authority of another Member State to carry out audits of accounts or consolidated accounts as required by European Union law;

‘Member State auditor’ means an auditor approved in accordance with the Audit Directive by the counterpart authority of another Member State to carry out audits of accounts or consolidated accounts as required by European Union law;

‘penalty’ includes a sanction and a measure;

‘public-interest entities’ means undertakings that—

- (a) have transferable securities admitted to trading on a regulated market of any Member State,
- (b) are credit institutions,
- (c) are insurance undertakings, or
- (d) are undertakings that are otherwise designated, by or under any other enactment, to be entities referred to in point (d) of Article 2(13) of the Audit Directive;

‘public register’ shall be read in accordance with section 1484;

‘recognised accountancy body’ has the meaning assigned to it by section 900;

‘Regulation (EU) No 537/2014’ means Regulation (EU) No 537/2014 of the European Parliament and of the Council of 16 April 2014<sup>7</sup> on specific requirements regarding statutory audit of public-interest entities and repealing Commission Decision 2005/909/EC;

‘relevant contravention’ has the meaning assigned to it by section 900;

‘relevant provisions’ has the meaning assigned to it by section 900;

‘relevant sanction’ (except in Chapter 9) has the meaning assigned to it by section 900;

‘standards’ means those standards, as defined in section 900, of a prescribed accountancy body which is a recognised accountancy body;

‘statutory audit’ means an audit of entity financial statements or group financial statements in so far as—

- (a) required by European Union law, or

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<sup>7</sup> OJ No. L 158, 27.5.2014, p.77

(b) required by national law as regards small companies;

‘statutory audit firm’ means—

- (a) an audit firm which is approved in accordance with this Part to carry out statutory audits, or
- (b) an audit firm which is registered in accordance with section 1465 to carry out statutory audits;

‘statutory auditor’ means an individual who is approved in accordance with this Part to carry out statutory audits;

‘third country’ means a country or territory that is not a Member State or part of a Member State;

‘third-country competent authority’ means an authority in a third country with responsibilities, as respects auditors and audit entities in that country, equivalent to those of the Supervisory Authority.

- (2) A reference in this Part or in Schedule 19 or 20 to a registered third-country auditor or third-country audit entity is a reference to a third-country auditor or third-country audit entity registered under Chapter 21.
- (3) A word or expression that is used in this Part or in Schedule 19 or 20 and is also used in the Audit Directive shall have in this Part and that Schedule the same meaning as it has in the Audit Directive.
- (4) A word or expression that is used in this Part or in Schedule 19 or 20 and is also used in Regulation (EU) No 537/2014 shall have in this Part and that Schedule the same meaning as it has in that Regulation.

### **Savings**

**1462.** (1) Subject to Chapter 22, the 2016 Audits Regulations, as in force immediately before the date of commencement of *section 3(6)* of the *Companies (Statutory Audits) Act 2018*—

- (a) in so far as they related to the conduct of statutory audits and the duties and powers of statutory auditors and audit firms in relation thereto for financial years commencing before that date, shall continue to apply to the conduct of statutory auditors and audit firms in relation thereto for those financial years, and
  - (b) as regards each other matter provision for which was made by those Regulations before that date, shall continue to make such provision before that date.
- (2) For the purposes only of enabling the 2016 Audits Regulations to operate, for the financial years referred to in subsection (1), on and after the date referred to in that subsection, as those Regulations operated immediately before that date, a reference in those Regulations to this Act or a provision of this Act shall be read as a

reference to this Act or such provision, as the case may be, as in force immediately before that date.

### **Application**

**1463.** Save where otherwise provided (including provided by Regulation (EU) No 537/2014), this Part applies—

- (a) in so far as it relates to the conduct of statutory audits and the duties and powers of statutory auditors and audit firms in relation thereto, to the conduct of statutory audits for financial years commencing on or after the date referred to in section 1462(1), and
- (b) as regards each other matter provision for which is made by this Part, on and from that date.

## CHAPTER 2

### *Approval of statutory auditors and audit firms*

#### **Applications for approval, general principle as to good repute, etc.**

**1464.**(1) A recognised accountancy body may, on application made to it by an individual or a firm, approve, under this Part, the applicant as a statutory auditor or audit firm.

(2) A recognised accountancy body may, on foot of an application under subsection (1), grant approval under this Part only to—

(a) individuals, or

(b) firms,

who are of good repute.

(3) A recognised accountancy body may, on application made to it by a third-country auditor and in accordance with Chapter 20, approve, under this Part, the applicant as a statutory auditor.

(4) Subsection (5) applies in the case of an application under subsection (1)—

(a) by a firm that is a Member State audit firm in the circumstances where it is not seeking registration in accordance with section 1465, or

(b) by a Member State auditor.

(5) For the purposes of this section, the fact that the applicant is a Member State audit firm or Member State auditor shall constitute conclusive evidence that the applicant is of good repute unless, arising out of the cooperation that the State is required to engage in by virtue of Part VIII of the Audit Directive, the counterpart authority in the Member State where the applicant is approved as a statutory audit firm or auditor has notified the Supervisory Authority or a recognised

accountancy body that the counterpart authority has reasonable grounds for believing that the good repute of the audit firm or auditor has been seriously compromised.

- (6) On approving a person as a statutory auditor or audit firm, a recognised accountancy body shall assign an individual identification number to the person.
- (7) The recognised accountancy body shall maintain a record in writing of all numbers assigned by it under subsection (6).

**Basis on which audit firms approved in other Member States may carry out audits in State**

**1465.** (1) An audit firm which is approved in another Member State shall be entitled to carry out statutory audits in the State if the key audit partner who carries out those audits on behalf of the audit firm, both at the time of registration (in accordance with subsection (2)) and at all times during the registration of the firm, complies with the requirements of sections 1464 to 1472.

- (2) (a) An audit firm that wishes to carry out statutory audits in the State where the State is not its home Member State shall, before carrying out any such audit, register with the recognised accountancy body by which the key audit partner referred to in subsection (1) is approved.  
(b) The recognised accountancy body shall ensure that an audit firm which complies with subsection (1) is registered in accordance with the requirements of Chapter 5 and Schedule 20.
- (3) (a) The recognised accountancy body shall register the audit firm if it is satisfied that the audit firm is registered with the counterpart authority in the audit firm's home Member State.  
(b) Where the recognised accountancy body intends to rely on a certificate, issued by the counterpart authority in the home Member State, attesting to the registration of the audit firm in the home Member State, the recognised accountancy body may require that such certificate be issued on a date falling within the 3 months immediately preceding that date on which the recognised accountancy body is given that certificate.
- (4) On registering the audit firm, the recognised accountancy body shall assign an individual identification number to the firm.
- (5) The recognised accountancy body shall maintain a record in writing of all numbers assigned by it under subsection (4).
- (6) The recognised accountancy body shall inform the counterpart authority in the home Member State of the registration of the audit firm.

- (7) Where a recognised accountancy body receives a notification from another Member State that an audit firm whose home Member State is the State has registered with the counterpart authority in the host Member State, the recognised accountancy body shall ensure that the registration is recorded in the public register.

**Restriction as to persons who may carry out statutory audits**

**1466.** Statutory audits shall be carried out only by—

- (a) auditors or audit firms that are approved under this Part, or
- (b) audit firms registered in accordance with section 1465.

**Restriction on acting as statutory auditor**

**1467.** A person shall not—

- (a) act as a statutory auditor,
- (b) describe himself or herself as a statutory auditor, or
- (c) so hold himself or herself out as to indicate, or be reasonably understood to indicate, that he or she is a statutory auditor,

unless he or she has been approved in accordance with this Part.

**Restriction on acting as statutory audit firm**

**1468.** A firm shall not—

- (a) act as a statutory audit firm,
- (b) describe itself as a statutory audit firm, or
- (c) so hold itself out as to indicate, or be reasonably understood to indicate, that it is a statutory audit firm,

unless it has been approved in accordance with this Part or registered in accordance with section 1465.

**Offence for contravening section 1466, 1467 or 1468**

**1469.** A person who contravenes section 1466, 1467 or 1468 shall be guilty of a category 2 offence.

**Conditions for approval as statutory auditor**

**1470.** A person shall not be eligible for approval as a statutory auditor unless he or she is—

- (a) a member of a recognised accountancy body and holds an appropriate qualification as referred to in section 1472,
- (b) a Member State auditor and complies with section 1476, or
- (c) a third-country auditor and complies with section 1476 and Chapter 20.

**Transitional provisions applicable to certain deemed approvals under Regulation 44 of 2016 Audits Regulations**

- 1471.** (1) Subject to sections 1479, 1582 and 1583, a deemed approval of a person as a statutory auditor continued in force under the 2016 Audits Regulations by virtue of Regulation 44(1) of those Regulations and in force immediately before the commencement of *section 3(6)* of the *Companies (Statutory Audits) Act 2018* shall continue in force under this Part as if it were a deemed approval of that person as a statutory auditor under this Part.
- (2) Subject to sections 1480, 1582 and 1583, a deemed approval of a firm as a statutory audit firm continued in force under the 2016 Audits Regulations by virtue of Regulation 44(2) of those Regulations and in force immediately before the commencement of *section 3(6)* of the *Companies (Statutory Audits) Act 2018* shall continue in force under this Part as if it were a deemed approval of that firm as a statutory audit firm under this Part.

**Appropriate qualification for purpose of section 1470(a)**

- 1472.** (1) An individual holds an appropriate qualification, as required by section 1470(a), if he or she holds a qualification granted by a recognised accountancy body whose standards relating to training and qualifications for the approval of a person as a statutory auditor are not less than those specified in Schedule 19.
- (2) In subsection (1), ‘qualification’ means a qualification to undertake an audit of entity financial statements and group financial statements in so far as required by European Union law.
- (3) A recognised accountancy body may exempt in writing a person who has passed a university or equivalent examination, or who holds a university degree or equivalent qualification, in one or more of the subjects referred to in the test of theoretical knowledge specified in Schedule 19 if the body is satisfied that the passing of that examination, or the holding of that university degree or equivalent qualification, renders it unnecessary for the person to undergo that test in so far as those subjects are concerned.
- (4) The Supervisory Authority shall, at such times as it thinks it appropriate to do so, issue guidelines to recognised accountancy bodies as to the specific matters that should be given regard to in reaching a decision under subsection (3) whether or not to grant an exemption under that subsection to a person.

**Conditions for approval as statutory audit firm**

- 1473.**(1) In this section, references to a firm include references to a Member State audit firm if the firm is not seeking registration in accordance with section 1465.

- (2) A firm shall not be eligible for approval as a statutory audit firm unless—
- (a) the individuals who carry out statutory audits in the State on behalf of the firm are approved as statutory auditors in accordance with this Part,
  - (b) the majority of the voting rights in the firm are held by—
    - (i) individuals who are eligible for approval in the State or in any other Member State as statutory auditors,
    - (ii) audit firms approved as statutory audit firms in the State or in any other Member State, or
    - (iii) a combination of such individuals and audit firms,and
  - (c) subject to subsection (3), the majority of the members of the administrative or management body of the firm are—
    - (i) individuals who are eligible for approval in the State or in any other Member State as statutory auditors,
    - (ii) audit firms approved as statutory audit firms in the State or in any other Member State, or
    - (iii) a combination of such individuals and audit firms.
- (3) Where the administrative or management body of a firm has no more than 2 members, then, for the purposes of subsection (2)(c), one of those members shall satisfy at least the requirements of that subsection.

### **Powers of Director**

**1474.** (1) The Director may demand of a person—

- (a) acting as a statutory auditor or audit firm of an undertaking, or
- (b) purporting to have obtained approval under this Part, or registration in accordance with section 1465, to so act,

the production of evidence of the person's approval under this Part or, if applicable, registration in accordance with section 1465 in respect of any period during which the person so acted or purported to have obtained such approval.

- (2) If the person concerned refuses or fails to produce the evidence referred to in subsection (1) within 30 days after the date of the demand referred to in that subsection, or such longer period as the Director may allow, the person shall be guilty of a category 3 offence.
- (3) In a prosecution for an offence under this section, it shall be presumed, until the contrary is shown, that the defendant did not, within 30 days,

or any longer period allowed, after the day on which the production was demanded, produce evidence in accordance with subsection (1).

#### **Evidence in prosecutions under section 1474**

- 1475.** (1) Subject to subsection (2), in proceedings for an offence under section 1474, the production to the court of a certificate purporting to be signed by a person on behalf of a recognised accountancy body and stating that the defendant is not approved under this Part or, if applicable, is not registered in accordance with section 1465, by that recognised accountancy body shall be sufficient evidence, until the contrary is shown by the defendant, that the defendant is not so approved or registered, as the case may be.
- (2) Subsection (1) shall not apply unless a copy of the certificate concerned is served by the prosecution on the defendant, by registered post, not later than 28 days before the day the certificate is produced in court in the proceedings concerned.
- (3) If the defendant in those proceedings intends to contest the statement contained in such a certificate, he or she shall give notice in writing of that intention to the prosecution within 21 days, or such longer period as the court may allow, after the date of receipt by him or her of a copy of the certificate from the prosecution.

### CHAPTER 3

#### *Aptitude test*

#### **Aptitude test to be passed**

- 1476.**(1) Subject to subsection (2), a Member State auditor or third-country auditor applying for approval as a statutory auditor in the State is required to sit and pass an aptitude test to demonstrate his or her knowledge of the enactments and practice that are relevant to statutory audits in the State.
- (2) Subsection (1) shall not apply to a Member State auditor or third-country auditor if the recognised accountancy body is satisfied that he or she has otherwise demonstrated sufficient knowledge of the enactments and practice referred to in that subsection.
- (3) The Supervisory Authority shall, at such time as it thinks it appropriate to do so, issue guidelines to each recognised accountancy body as to the specific matters that should be given regard to in reaching a decision under subsection (2) whether or not a person has demonstrated the knowledge referred to in subsection (1).
- (4) A recognised accountancy body may charge and impose on a Member State auditor or third-country auditor a fee (of an amount specified from time to time by the Minister sufficient to meet the body's administrative expenses in respect of the following) in respect of the

administration of an aptitude test under this section in relation to him or her.

- (5) A fee imposed under subsection (4) may, in default of payment, be recovered from the Member State auditor or third-country auditor concerned as a simple contract debt in any court of competent jurisdiction.
- (6) The amount of a fee imposed under Regulation 49(4) of the 2016 Audits Regulations as those Regulations were in force immediately before the date of commencement of *section 3(6)* of the *Companies (Statutory Audits) Act 2018* shall be the amount of the fee imposed under subsection (4) until such time as the Minister exercises his or her power under that subsection to specify a different amount of such fee.

#### **Scope of aptitude test**

**1477.** (1) The aptitude test shall—

- (a) be conducted in either the Irish language or the English language, and
  - (b) relate only to the applicant's adequate knowledge of the enactments and practice that are relevant to statutory audits in the State.
- (2) Subject to subsection (3), the various matters that shall constitute the contents of the aptitude test shall be decided by the recognised accountancy body after it has received the approval of the Supervisory Authority to the contents of the test.
  - (3) A recognised accountancy body shall not alter the contents of an aptitude test approved under subsection (2) unless such alteration has been approved by the Supervisory Authority.

#### **Adequate standards to be applied in administration of aptitude test**

**1478.**(1) Subject to subsection (2), a recognised accountancy body shall apply adequate standards in the administration of the aptitude test.

- (2) No standards shall be used by a recognised accountancy body for the purposes of subsection (1) unless those standards have (with respect to that use) first been approved by the Supervisory Authority.

## CHAPTER 4

*Withdrawal of approval***Grounds for mandatory withdrawal of approval in case of statutory auditor**

- 1479.(1) For the purposes of this section, the cases that can constitute circumstances of an auditor's good repute being seriously compromised include cases of professional misconduct or want of professional skill on the part of the auditor.
- (2) Without prejudice to section 1502 and subject to subsections (4) to (6), a recognised accountancy body shall withdraw an approval of an auditor under this Part if, but only if—
- (a) circumstances arise (involving acts or omissions on the part of the auditor) from which a recognised accountancy body can reasonably conclude that the auditor's good repute is seriously compromised,
  - (b) the auditor no longer falls within section 1470(a), (b) or (c), or
  - (c) in the case of a person who is a statutory auditor referred to in section 1471(1)—
    - (i) the auditor no longer falls within section 1470(a),
    - (ii) the auditor is not registered as a statutory auditor in the public register, or
    - (iii) the auditor is not subject to the regulation of a recognised accountancy body.
- (3) Unless there do not exist internal appeal procedures of a recognised accountancy body as referred to in subsection (8)(a), references in subsections (4) to (7) to a recognised accountancy body shall be read as references to a recognised accountancy body acting through the disciplinary committee that deals with matters at first instance.
- (4) Subject to subsection (7), subsection (5) applies where, having—
- (a) complied with the requirements of procedural fairness in that regard, and
  - (b) served any notices required for that purpose or as required by its investigation and disciplinary procedures,
- a recognised accountancy body is satisfied that subsection (2)(a), (b) or (c) applies in the case of an auditor.
- (5) Subject to subsection (7), the recognised accountancy body shall serve a notice in writing on the auditor stating that—
- (a) it is satisfied that subsection (2)(a), (b) or (c) applies in the case of the auditor,

- (b) the auditor shall take specified steps to cause subsection (2)(a), (b) or (c) to cease to apply to him or her within a specified period (which shall be not less than one month), and
  - (c) if those steps are not taken, it shall withdraw the approval of the auditor.
- (6) Where the recognised accountancy body has served a notice under subsection (5) on a statutory auditor and the auditor has not, before the expiration of the specified period referred to in subsection (5)(b), taken the steps referred to in subsection (5)(b), the recognised accountancy body shall withdraw the approval of the auditor under this Part.
- (7) The procedure specified in subsection (5) need not be employed if the acts or omissions concerned referred to in subsection (2)(a) are such as, in the opinion of the recognised accountancy body, constitute professional misconduct or want of professional skill on the part of the auditor of a degree that employing that procedure would not be in the public interest but nothing in this subsection affects the application of the requirements of procedural fairness to the withdrawal of approval.
- (8) If—
- (a) there exist applicable internal appeal procedures of the recognised accountancy body, and
  - (b) the investigation and disciplinary procedures of the recognised accountancy body provide that a decision of its disciplinary committee, being a decision of a nature to which this section applies, shall stand suspended or shall not take effect until, as the case may be—
    - (i) the period for making an appeal under those procedures has expired without such an appeal having been made,
    - (ii) such an appeal has been made and the decision to withdraw the approval confirmed, or
    - (iii) such an appeal that has been made is withdrawn,
- then, notwithstanding anything in the preceding provisions of this section, the operation of the withdrawal of approval by that disciplinary committee shall stand suspended until the occurrence of an event specified in paragraph (b)(i), (ii) or (iii).
- (9) Subsection (10) applies if—
- (a) there exist applicable internal appeal procedures of the recognised accountancy body, and
  - (b) the investigation and disciplinary procedures of the recognised accountancy body do not provide, as referred to in subsection (8)

(b), for the decision of the disciplinary committee referred to in that provision to stand suspended or not to take effect.

- (10) Notwithstanding the internal appeal procedures referred to in subsection (9)(a), the auditor to whom the decision referred to in subsection (8)(b) relates may apply to the High Court for an order suspending the operation of the withdrawal pending the determination by the relevant appellate committee of an appeal that he or she is making under those procedures and, where such an application is made, subsections (13) to (15) apply to that application with—
- (a) the substitution of references to an appeal under those internal appeal procedures for reference to an appeal under section 1481, and
  - (b) any other necessary modifications.
- (11) If the relevant appellate committee referred to in subsection (10) is of the opinion, having regard to the particular issues that have arisen on that appeal, that, in the interests of justice, the disposal by it of an appeal referred to in that subsection ought to include its proceeding in the manner specified in subsections (5) and (6), then, in disposing of that appeal, it shall proceed in the manner so specified.
- (12) The recognised accountancy body shall take all reasonable steps to ensure that any appeal to the relevant appellate committee referred to in subsection (10) is prosecuted promptly and it shall be the duty of that appellate committee to ensure that any such appeal to it is disposed of as expeditiously as may be and, for that purpose, to take all such steps as are open to it to ensure that, in so far as is practicable, there are no avoidable delays at any stage in the determination of such an appeal.
- (13) Where the recognised accountancy body has made a decision to withdraw the approval of an auditor under this Part (that is to say, a final decision of the recognised accountancy body on the matter after the internal appeal procedures (if any) of it have been employed and exhausted), the auditor may apply to the High Court for an order suspending the operation of the withdrawal pending the determination by the High Court of an appeal under section 1481 that he or she is making against the withdrawal.
- (14) On the hearing of an application under subsection (13), the High Court may, as it considers appropriate and having heard the recognised accountancy body and, if it wishes to be so heard, the Supervisory Authority (which shall have standing to appear and be heard on the application)—
- (a) grant an order suspending the operation of the withdrawal, or
  - (b) refuse to grant such an order,

and an order under paragraph (a) may provide that the order shall not have effect unless one or more conditions specified in the order are complied with (and such conditions may include conditions requiring the auditor not to carry out statutory audits save under the supervision of another statutory auditor or not to carry out such audits save in specified circumstances).

- (15) The High Court may, on application to it by the auditor or the recognised accountancy body concerned, vary or discharge an order under subsection (14)(a) if it considers it just to do so.
- (16) The procedures under this section are in addition to those procedures in the cases to which section 930C(10) to (12) apply, that are required by section 930C(10) to (12) to be employed.

#### **Grounds for mandatory withdrawal in case of statutory audit firm**

**1480.**(1) For the purposes of this section, the cases that can constitute circumstances of a statutory audit firm's good repute being seriously compromised include cases of professional misconduct or want of professional skill on the part of the audit firm or any of the one or more auditors through whom it acts.

- (2) Without prejudice to section 1502 and subject to subsections (4) to (6), the recognised accountancy body shall withdraw an approval of an audit firm under this Part if, but only if—
  - (a) circumstances arise (involving acts or omissions on the part of the audit firm or auditor or auditors through whom it acts) from which the recognised accountancy body can reasonably conclude that the firm's good repute is seriously compromised,
  - (b) the audit firm (not being a firm referred to in paragraph (c)) no longer falls within section 1473(2)(a), (b) and (c), or
  - (c) in the case of a firm which is a statutory audit firm referred to in section 1471(2), the firm no longer falls within section 1473(2)(a).
- (3) Unless there do not exist internal appeal procedures of the recognised accountancy body as referred to in subsection (8)(a), references in subsections (4) to (7) to a recognised accountancy body shall be read as references to a recognised accountancy body acting through the disciplinary committee that deals with matters at first instance.
- (4) Subject to subsection (7), subsection (5) applies where, having—
  - (a) complied with the requirements of procedural fairness in that regard, and
  - (b) served any notices required for that purpose or as required by its investigation and disciplinary procedures,the recognised accountancy body is satisfied that subsection (2)(a), (b) or (c) applies in the case of an audit firm.

- (5) Subject to subsection (7), the recognised accountancy body shall serve a notice in writing on the audit firm stating that—
- (a) it is satisfied that subsection (2)(a), (b) or (c) applies in the case of the audit firm,
  - (b) the audit firm shall take specified steps to cause subsection (2)(a), (b) or (c) to cease to apply to it within a specified period (which shall not be less than one month), and
  - (c) if those steps are not taken, it shall withdraw the approval of the firm.
- (6) Where the recognised accountancy body has served a notice under subsection (5) on a statutory audit firm and the firm has not, before the expiration of the specified period referred to in subsection (5)(b), taken the steps referred to in subsection (5)(b), the recognised accountancy body shall withdraw the approval of the audit firm under this Part.
- (7) The procedure specified in subsection (5) need not be employed if the acts or omissions concerned referred to in subsection (2)(a) are such as, in the opinion of the recognised accountancy body, constitute professional misconduct or want of professional skill on the part of the audit firm (or the auditor or auditors through whom it acts) of a degree that employing that procedure would not be in the public interest but nothing in this subsection affects the application of the requirements of procedural fairness to the withdrawal of approval.
- (8) If—
- (a) there exist applicable internal appeal procedures of the recognised accountancy body, and
  - (b) the investigation and disciplinary procedures of the recognised accountancy body provide that a decision of its disciplinary committee, being a decision of a nature to which this section applies, shall stand suspended or shall not take effect until, as the case may be—
    - (i) the period for making an appeal under those procedures has expired without such an appeal having been made,
    - (ii) such an appeal has been made and the decision to withdraw the approval confirmed, or
    - (iii) such an appeal that has been made is withdrawn,

then, notwithstanding anything in the preceding provisions of this section, the operation of the withdrawal of approval by that disciplinary committee shall stand suspended until the occurrence of an event specified in paragraph (b)(i), (ii) or (iii).

- (9) Subsection (10) applies if—
- (a) there exist applicable internal appeal procedures of the recognised accountancy body, and
  - (b) the investigation and disciplinary procedures of the recognised accountancy body do not provide, as referred to in subsection (8) (b), for the decision of the disciplinary committee referred to in that provision to stand suspended or not to take effect.
- (10) Notwithstanding the internal appeal procedures referred to in subsection (9)(a), the audit firm to which the decision referred to in subsection (8)(b) relates may apply to the High Court for an order suspending the operation of the withdrawal pending the determination by the relevant appellate committee of an appeal that it is making under those procedures and, where such an application is made, subsections (13) to (15) apply to that application with—
- (a) the substitution of references to an appeal under those internal appeal procedures for reference to an appeal under section 1481, and
  - (b) any other necessary modifications.
- (11) If the relevant appellate committee referred to in subsection (10) is of the opinion, having regard to the particular issues that have arisen on that appeal, that, in the interests of justice, the disposal by it of an appeal referred to in that subsection ought to include its proceeding in the manner specified in subsections (5) and (6), then, in disposing of that appeal, it shall proceed in the manner so specified.
- (12) The recognised accountancy body shall take all reasonable steps to ensure that any appeal to the relevant appellate committee referred to in subsection (10) is prosecuted promptly and it shall be the duty of that appellate committee to ensure that any such appeal to it is disposed of as expeditiously as may be and, for that purpose, to take all such steps as are open to it to ensure that, in so far as is practicable, there are no avoidable delays at any stage in the determination of such an appeal.
- (13) Where the recognised accountancy body has made a decision to withdraw the approval of an audit firm under this section (that is to say, a final decision of the recognised accountancy body on the matter after the internal appeal procedures (if any) of it have been employed and exhausted), the audit firm may apply to the High Court for an order suspending the operation of the withdrawal pending the determination by the High Court of an appeal under section 1481 that it is making against the withdrawal.
- (14) On the hearing of an application under subsection (13), the High Court may, as it considers appropriate and having heard the recognised

accountancy body and, if it wishes to be so heard, the Supervisory Authority (which shall have standing to appear and be heard on the application)—

- (a) grant an order suspending the operation of the withdrawal, or
- (b) refuse to grant such an order,

and an order under paragraph (a) may provide that the order shall not have effect unless one or more conditions specified in the order are complied with (and such conditions may include conditions requiring the audit firm not to carry out statutory audits save under the supervision of one or more statutory auditors or one or more statutory audit firms or not to carry out such audits save in specified circumstances).

- (15) The High Court may, on application to it by the audit firm or the recognised accountancy body concerned, vary or discharge an order under subsection (14)(a) if it considers it just to do so.
- (16) The procedures under this section are in addition to those procedures in the cases to which section 930C(10) to (12) apply, that are required by section 930C(10) to (12) to be employed.

#### **Appeals against withdrawal of approval**

- 1481.**(1) Subject to subsection (2), a person may appeal to the High Court against the withdrawal by the recognised accountancy body of approval under this Part of the person as a statutory auditor or audit firm.
- (2) An appeal shall not lie under subsection (1) unless and until any applicable internal appeal procedures of the recognised accountancy body have been employed and exhausted by the person referred to in that subsection.
  - (3) An appeal under subsection (1) shall be made within one month—
    - (a) unless paragraph (b) applies, after the date of the withdrawal of approval, or
    - (b) after the confirmation of that withdrawal on foot of the internal appeal procedures of the recognised accountancy body having been employed.
  - (4) On the hearing of an appeal under subsection (1), the High Court may—
    - (a) cancel the withdrawal of the approval, or
    - (b) confirm the withdrawal of the approval.
  - (5) The High Court may, on the hearing of an appeal under subsection (1), consider evidence not adduced or hear an argument not made to the recognised accountancy body if the Court is satisfied that—

- (a) there are cogent circumstances justifying the failure to adduce the evidence or make the argument to the recognised accountancy body, and
  - (b) it is just and equitable for the Court to consider the evidence or hear the argument, as the case may be.
- (6) A notification of the outcome of an appeal under this section (or of any appeal from a decision of the High Court thereunder) shall be made by the recognised accountancy body to the same persons to whom a notification of a withdrawal of approval shall be made by section 1482 and (where it applies) section 1483.

#### **Certain persons to be notified of withdrawal of approval**

**1482.** Without prejudice to section 1483, where the approval under this Part of a statutory auditor or audit firm is withdrawn for any reason by a recognised accountancy body, that fact and the reasons for the withdrawal shall be communicated by the recognised accountancy body to—

- (a) the Supervisory Authority, and
- (b) the Registrar,

as soon as possible, but not later than one month after the date of withdrawal of approval.

#### **Other persons to be notified of withdrawal of approval**

- 1483.**(1) Where the approval under this Part of a statutory auditor is withdrawn for any reason by a recognised accountancy body, the recognised accountancy body shall, in addition to making the communication specified in section 1482, notify the relevant competent authorities of the host Member States, where the statutory auditor is also approved and entered in the public registers of those States pursuant to Articles 15 to 19 of the Audit Directive, of the fact of the withdrawal and the reasons for it.
- (2) Where the approval under this Part of an audit firm is withdrawn for any reason by a recognised accountancy body, the recognised accountancy body shall, in addition to making the communication specified in section 1482, notify the relevant competent authorities of the host Member States, where the audit firm is also registered and entered in the public registers of those States pursuant to Articles 15 to 19 of the Audit Directive, of the fact of the withdrawal and the reasons for it.
- (3) If the approval under this Part of a statutory auditor or audit firm is withdrawn by the Supervisory Authority, this section and section 1482 (other than paragraph (a) of it) shall apply in relation to the withdrawal as if the references in them to the recognised accountancy body were references to the Supervisory Authority and with any other necessary modifications.

- (4) The notifications under this section shall be made as soon as possible, but not later than one month after the date of withdrawal of approval.

## CHAPTER 5

*Public register***Public register**

- 1484.**(1) Subject to subsection (2) and sections 887(2), 934C(2)(h), 1506(1)(h), 1573 and 1575, the Registrar shall maintain a particular register (in this Part referred to as the ‘public register’) which shall contain the information set out in Schedule 20 in relation to—
- (a) statutory auditors and audit firms (other than audit firms which fall within paragraph (b) of the definition of ‘statutory audit firm’),
  - (b) third-country auditors and third-country audit entities, and
  - (c) audit firms approved in another Member State which have been registered in accordance with section 1465.
- (2) Subject to sections 1582 and 1583, the public register referred to in Regulation 84 of the 2016 Audits Regulations, as that register was in being immediately before the date of commencement of *section 3(6)* of the *Companies (Statutory Audits) Act 2018*, shall, on and from that date, be deemed to be the public register referred to in subsection (1), and the other provisions of this Part (including provisions relating to the removal or alteration of entries in the public register) shall apply to that register accordingly.

**Notification of information to Registrar**

- 1485.** (1) (a) An auditor or audit firm (other than a statutory audit firm which falls within paragraph (b) of the definition of ‘statutory audit firm’) shall, as soon as may be after he or she is approved under this Part as a statutory auditor or audit firm, notify the relevant information to the recognised accountancy body.
- (b) A Member State audit firm shall, as soon as may be after it is registered in accordance with section 1465, notify the relevant information to the recognised accountancy body.
  - (c) A third-country auditor shall, as soon as may be after he or she is approved under this Part as a statutory auditor, notify the relevant information to the recognised accountancy body.
- (2) On receipt of a notification under subsection (1) and its having carried out any verification of the information as seems to it to be necessary, the recognised accountancy body, as appropriate, shall notify to the Registrar—
- (a) the relevant information contained in the notification, and

- (b) (i) subject to subparagraph (ii), the individual identification number assigned by it to the auditor, audit firm or third-country auditor under section 1464(6) or a Member State audit firm under section 1465(4), and
- (ii) where—
- (I) under section 1464(6) or 1465(4) such a number exists, and
- (II) by reason of the circumstances referred to in paragraph (b) of the definition of ‘relevant information’ in subsection (4), the relevant information notified to the recognised accountancy body or Supervisory Authority does not include that number,
- the number referred to in paragraph 1(c)(ii) or 2(g) of Schedule 20.
- (3) The notifications under subsections (1) and (2) shall each be made in such form and manner as the Registrar specifies.
- (4) In this section, ‘relevant information’ means the information set out in paragraph 1 or 2, as the case may be, of Schedule 20, other than that set out—
- (a) in subparagraph (b) of that paragraph 1 or 2, or
- (b) if, due to the simultaneous registration of a statutory audit firm and the statutory auditors that comprise that firm, the number there referred to is not available at that time, in subparagraph (c)(ii) of that paragraph 1 or subparagraph (g) of that paragraph 2.
- (5) For the avoidance of doubt, in the event that a recognised accountancy body is no longer recognised by the Supervisory Authority for the purposes of the relevant provisions or otherwise ceases to exist, the notifications under subsections (1) and (2) shall cease to have effect and the Registrar shall remove all information contained in such notifications from the public register.

#### **Prohibition on certain acts unless registered**

**1486.** (1) A person shall not—

- (a) act as, or
- (b) represent himself or herself, or hold himself or herself out, as being,

a person falling within a category of persons entered, or entitled to be entered, in the public register unless the person is entitled to be entered, and the name of the person is duly entered, in the public register.

- (2) A person who contravenes subsection (1) shall be guilty of a category 2 offence.

**Obligation of statutory auditor or audit firm to notify certain information**

- 1487.**(1) Each statutory auditor and audit firm and Member State audit firm shall, as soon as may be but not later than one month after the event, notify the recognised accountancy body of any change in the information contained in the public register relating to him or her.
- (2) On receipt of a notification under subsection (1) and its having carried out any verification of the information stated to have changed as seems to it to be necessary, the recognised accountancy body shall notify the change in information to the Registrar without undue delay.
- (3) The Registrar shall, as soon as may be but not later than one month after receipt of the notification referred to in subsection (2), amend the public register to reflect the change of information so notified.
- (4) A person who, without reasonable excuse, contravenes subsection (1) shall be guilty of a category 4 offence.

**Information shall be signed**

- 1488.**(1) Information notified under section 1485(1) or 1487(1) by a statutory auditor or audit firm (including a Member State audit firm) shall be signed by the statutory auditor or, as the case may be, a person on behalf of the statutory audit firm.
- (2) The signature referred to in subsection (1) may be an electronic signature (within the meaning of Article 3(10) of Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014<sup>8</sup> on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC) if the provision of a signature in that form complies with any requirements in that behalf of the Registrar of the kind referred to in section 13(2)(a) of the Electronic Commerce Act 2000.
- (3) If information is notified under section 1485(1) or 1487(1) without being signed as required by subsection (1), the person concerned shall be guilty of a category 4 offence.

## CHAPTER 6

*Standards for statutory auditors***Continuing education**

- 1489.**(1) It shall, by virtue of this section alone, be a condition of a statutory auditor's approval (or, in the case of a statutory auditor referred to in section 1471, deemed approval) granted under this Part (or under any predecessor to this Part) that he or she shall take part in appropriate programmes of continuing education in order to maintain his or her theoretical knowledge, professional skills and values, including, in particular, in relation to auditing, at a sufficiently high level.

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8 OJ No. L 257, 28.8.2014, p.73

- (2) The Supervisory Authority shall, at such times as it thinks it appropriate to do so, issue guidelines to the recognised accountancy bodies with regard to what constitutes compliance with the condition referred to in subsection (1).

#### **Professional ethics**

**1490.** A recognised accountancy body shall subject statutory auditors and audit firms to principles of professional ethics, including at least their public interest function, their integrity and objectivity and their professional competence and due care.

#### **Independence, objectivity and professional scepticism**

**1491.** Statutory auditors and audit firms are subject to the independence, objectivity and professional scepticism requirements of sections 1533 to 1544 and 1547.

#### **Standards for purposes of sections 1489 to 1491**

**1492.(1)** A recognised accountancy body shall, in respect of statutory auditors and audit firms—

- (a) have adequate standards requiring those auditors and audit firms to comply with the obligations specified in sections 1489 to 1491, and
  - (b) institute adequate arrangements for the effective monitoring and enforcement of compliance with such standards.
- (2) No standards shall be used by a recognised accountancy body for that purpose unless those standards have (with respect to that use) first been approved by the Supervisory Authority in accordance with section 905(2)(c).

#### **Arrangements for enforcement of standards**

**1493.** The arrangements for enforcement referred to in section 1492(1)(b) shall include, in accordance with sections 1501 and 1502, provision for—

- (a) sanctions which include—
  - (i) at the discretion of the recognised accountancy body, in accordance with section 1501, the withdrawal of approval under this Part as a statutory auditor or audit firm,
  - (ii) appropriate penalties,
  - (iii) appropriate disciplinary measures,
  - (iv) appropriate regulatory sanctions,and
- (b) making available to the public information relating to the measures taken and the penalties imposed in respect of statutory auditors and audit firms.

## CHAPTER 7

*Quality assurance***Quality assurance by Supervisory Authority of statutory audit of public-interest entities and third-country auditors, etc.**

- 1494.**(1) The Supervisory Authority shall put in place a quality assurance system as set out in Article 26 of Regulation (EU) No 537/2014.
- (2) The Supervisory Authority shall ensure that it has in place a quality assurance system of registered third-country auditors and third-country audit entities to whom this Part or Regulation (EU) No 537/2014 applies.
- (3) Sections 1496 and 1497 shall not apply to the statutory audit of entity and group financial statements of public-interest entities unless specified in Regulation (EU) No 537/2014.
- (4) The Supervisory Authority may publish on its website the findings and conclusions of individual inspections undertaken as part of the quality assurance system referred to in subsection (1).

**System of quality assurance to be put in place**

- 1495.**(1) The Supervisory Authority, in accordance with this Part, shall oversee the quality assurance system implemented by the recognised accountancy bodies.
- (2) A recognised accountancy body shall ensure that it has in place a system of quality assurance of—
- (a) the body's members' activities as statutory auditors and audit firms of entities not referred to in section 1494(1) and (2), and
- (b) the activities, as statutory auditors and audit firms, of persons who, though not members of the recognised accountancy body, are persons in relation to whom the body may perform functions under the relevant provisions.

**Organisation of quality assurance system**

- 1496.** (1) A recognised accountancy body shall organise its quality assurance system in such a manner that—
- (a) the system is independent of the reviewed statutory auditors and audit firms,
- (b) the funding for the system is secure and free from any possible undue influence by statutory auditors or audit firms,
- (c) the system has adequate resources,
- (d) the persons who carry out quality assurance reviews have appropriate professional education and relevant experience in

statutory audit and financial reporting combined with specific training on quality assurance reviews,

- (e) the selection of reviewers for specific quality assurance reviews is effected in accordance with an objective procedure designed to ensure that there are no conflicts of interest between reviewers and the statutory auditor or audit firm under review,
  - (f) the scope of quality assurance reviews of audits, supported by adequate testing of selected audit files, includes, except where otherwise agreed with the Supervisory Authority, an assessment of—
    - (i) compliance with applicable auditing standards and independence requirements,
    - (ii) the quantity and quality of resources spent,
    - (iii) the audit fees charged, and
    - (iv) the internal quality control system of the audit firm,
  - (g) each quality assurance review is the subject of a report in writing which includes the main conclusions of the review,
  - (h) a quality assurance review of each statutory auditor or audit firm takes place on the basis of an analysis of risk, at least, subject to subsection (5) and section 1497, every 6 years,
  - (i) statutory auditors and audit firms take all reasonable steps to ensure that recommendations arising from quality assurance reviews of them are implemented within a reasonable period,
  - (j) there is published annually by it the overall results of quality assurance reviews carried out by it in the year concerned, and
  - (k) quality assurance reviews are appropriate and proportionate in view of the scale and complexity of the activity of the reviewed statutory auditor or audit firm.
- (2) For the purpose of subsection (1)(e), at least the following criteria shall apply to the selection of reviewers:
- (a) reviewers have appropriate professional education and relevant experience in statutory audit and financial reporting combined with specific training on quality assurance reviews;
  - (b) a person does not act as a reviewer in a quality assurance review of a statutory auditor or audit firm until at least 3 years have elapsed since that person ceased to be a partner or an employee of, or otherwise associated with, that statutory auditor or audit firm;

- (c) reviewers shall declare (if such be the case) that there are no conflicts of interest between them and the statutory auditor and the audit firm to be reviewed.
- (3) For the purpose of subsection (1)(k), a recognised accountancy body, when undertaking quality assurance reviews of the statutory audits of entity or group financial statements of medium or small companies, shall take account of the fact that auditing standards adopted in accordance with Article 26 of the Audit Directive are designed to be applied in a manner that is proportionate to the scale and complexity of the business of the audited undertaking.
- (4) If a statutory auditor or audit firm fails to take all reasonable steps to ensure that recommendations arising from a quality assurance review of him or her are implemented within a reasonable period, the recognised accountancy body shall take appropriate action, including, where applicable, subjecting the statutory auditor or audit firm, as the case may be, to the system of disciplinary actions or penalties referred to in the relevant provisions.
- (5) The period of at least 6 years referred to in subsection (1)(h) shall be a continuation of the system that was in place under the 2010 Audits Regulations when the first quality assurance reviews were required to be completed and as that system was continued by the 2016 Audits Regulations.

**Quality assurance review deemed to include individual auditors in certain cases**

**1497.** For the purpose of section 1496(1)(h), a quality assurance review conducted in relation to a statutory audit firm shall be regarded as a quality assurance review of all statutory auditors carrying out audits on behalf of the firm provided that the firm has a common quality assurance policy with which each such statutory auditor is required to comply.

**Right of recognised accountancy body as regards professional discipline**

**1498.** A recognised accountancy body shall have the right to take disciplinary actions or impose sanctions in respect of statutory auditors and audit firms who carry out audits and shall have procedures in place to facilitate the taking or imposition of such action or sanctions.

CHAPTER 8

*Investigations and sanctions*

**System of investigation and penalties**

**1499.(1)** Subject to subsection (2), each recognised accountancy body shall, in respect of those auditors and audit firms in relation to whom, by virtue of section 930C, it may perform functions, institute arrangements to ensure that there are effective systems of investigations and penalties

to detect, correct and prevent the inadequate execution of a statutory audit by those statutory auditors and audit firms.

- (2) Subsection (1) shall not be construed to empower a recognised accountancy body referred to in that subsection to impose a penalty on a statutory auditor or audit firm of a public-interest entity in the case of a relevant contravention committed by that auditor or audit firm that relates (whether in whole or in part) to that entity.

#### **Privileges, etc.**

- 1500.**(1) A witness before a recognised accountancy body is entitled to the same immunities and privileges as a witness before the High Court.
- (2) Nothing in the arrangements referred to in section 1499(1) compels the disclosure by any person of any information that the person would be entitled to refuse to produce on the grounds of legal professional privilege or authorises the inspection or copying of any document containing such information that is in the person's possession or control.
  - (3) Any information produced or answer given by a person (howsoever described) in compliance with arrangements referred to in section 1499(1) may be used in evidence against the person in any proceedings whatsoever, save proceedings for an offence (other than perjury in respect of such an answer).
  - (4) A finding or decision of a recognised accountancy body under arrangements referred to in section 1499(1) is not a bar to any civil or criminal proceedings against the person (howsoever described) who is the subject of the finding or decision.

#### **Duty of each recognised accountancy body with regard to sanctions**

- 1501.**(1) Each recognised accountancy body shall ensure that the contractual and other arrangements that exist between it and its members are such as enable the imposition by it of effective, proportionate and dissuasive penalties in respect of statutory auditors and audit firms in cases where statutory audits are not carried out by them in accordance with the relevant provisions.
- (2) The contractual and other arrangements referred to in subsection (1) shall comply with the requirements of procedural fairness.
  - (3) By virtue of this section, the contractual and other arrangements referred to in subsection (1) that subsist for the time being between a recognised accountancy body and its members shall operate and have effect so as to enable the imposition by the recognised accountancy body—
    - (a) of penalties of a like character to those referred to in that subsection, and
    - (b) in the cases referred to in that subsection,

in respect of persons who, though not members of the recognised accountancy body, are persons in relation to whom it may, by virtue of section 930C, perform functions under the relevant provisions.

**Scope of penalties and publicity in relation to their imposition**

**1502.**(1) The penalties referred to in section 1501, provision for which shall be made by the means referred to in that section, shall, where appropriate, include withdrawal of approval under this Part or, if applicable, withdrawal of registration under section 1465 and a temporary prohibition referred to in point (c) of Article 30a(1) of the Audit Directive and a temporary prohibition (in so far as it relates to a member of an audit firm) referred to in point (e) of that Article.

- (2) Subsection (1) is without prejudice to sections 1479 and 1480.
- (3) Unless there do not exist internal appeal procedures of a recognised accountancy body as referred to in section 1479(8)(a) or 1480(8)(a), the reference in subsection (4) to a recognised accountancy body shall be read as a reference to a recognised accountancy body acting through the disciplinary committee that deals with matters at first instance.
- (4) Without prejudice to section 930C(10) to (12), a recognised accountancy body may, save where, in its opinion, proceeding in this manner would not be in the public interest, adopt procedures analogous to those in section 1479(4) to (6) or 1480(4) to (6) as regards affording the statutory auditor or audit firm an opportunity to rectify the matters that have occasioned the investigation concerned and the proposed exercise of the power of withdrawal of approval referred to in subsection (1).
- (5) If—
  - (a) there exist internal appeal procedures, as referred to in section 1479(8)(a) or 1480(8)(a), of a recognised accountancy body, and
  - (b) the investigation and disciplinary procedures of the recognised accountancy body provide that a decision of its disciplinary committee referred to in subsection (3), being a decision of a nature to which this section applies, shall stand suspended or shall not take effect until, as the case may be—
    - (i) the period for making an appeal under those procedures has expired without such an appeal having been made,
    - (ii) such an appeal has been made and the decision to withdraw the approval confirmed, or
    - (iii) such an appeal that has been made is withdrawn,

then notwithstanding anything in the preceding provisions of this section, the operation of the withdrawal of approval by that

disciplinary committee shall stand suspended until the occurrence of an event specified in paragraph (b)(i), (ii) or (iii).

(6) If—

- (a) there exist internal appeal procedures, as referred to in section 1479(8)(a) or 1480(8)(a), of a recognised accountancy body, and
- (b) the investigation and disciplinary procedures of the recognised accountancy body do not provide, as referred to in subsection (5) (b), for the decision of the disciplinary committee referred to in that provision to stand suspended or not to take effect,

then, notwithstanding anything in those procedures, the auditor or audit firm to whom that decision relates may apply to the High Court for an order suspending the operation of the withdrawal pending the determination by the relevant appellate committee of an appeal that he or she is making under those internal appeal procedures.

(7) Where an application under subsection (6) is made to the High Court, subsections (10) to (12) apply to the application with—

- (a) the substitution of references to an appeal under those internal appeal procedures for references to an appeal under section 1481, and
- (b) any other necessary modifications.

(8) If the relevant appellate committee referred to in subsection (6) is of the opinion, having regard to the particular issues that have arisen on that appeal, that, in the interests of justice, the disposal by it of an appeal referred to in that subsection ought to include procedures analogous to those, as referred to in subsection (4), provided by section 1479(4) to (6) or 1480(4) to (6) being adopted by it, then, in disposing of that appeal, it shall adopt procedures analogous to those in section 1479(4) to (6) or 1480(4) to (6).

(9) A recognised accountancy body shall take all reasonable steps to ensure that any appeal to the relevant appellate committee referred to in subsection (6) is prosecuted promptly and it shall be the duty of that appellate committee to ensure that any such appeal to it is disposed of as expeditiously as may be and, for that purpose, to take all such steps as are open to it to ensure that, in so far as is practicable, there are no avoidable delays at any stage in the determination of such an appeal.

(10) Where a recognised accountancy body has made a decision to withdraw the approval of an auditor or audit firm under this section (that is to say, a final decision of the recognised accountancy body on the matter after the internal appeal procedures (if any) of it have been employed and exhausted), the auditor or audit firm may apply to the High Court for an order suspending the operation of the withdrawal

pending the determination by the High Court of an appeal under section 1481 that he or she is making against the withdrawal.

(11) On the hearing of an application under subsection (10), the High Court may, as it considers appropriate and having heard the recognised accountancy body concerned and, if it wishes to be so heard, the Supervisory Authority (which shall have standing to appear and be heard on the application)—

(a) grant an order suspending the operation of the withdrawal, or

(b) refuse to grant such an order,

and an order under paragraph (a) may provide that the order shall not have effect unless one or more conditions specified in the order are complied with (and such conditions may include conditions requiring the auditor or audit firm not to carry out statutory audits save under the supervision of one or more other statutory auditors or audit firms or not to carry out such audits save in specified circumstances).

(12) The High Court may, on application to it by the auditor or audit firm or recognised accountancy body concerned, vary or discharge an order under subsection (11)(a) if it considers it just to do so.

(13) The fact of one or more—

(a) measures having been taken against, or

(b) one or more penalties having been imposed on,

a statutory auditor or audit firm by a recognised accountancy body shall be disclosed by the recognised accountancy body to the public and that disclosure shall, if the recognised accountancy body considers it appropriate, include such further particulars with respect to the matter as it thinks fit.

(14) Subject to subsection (15), the manner of such disclosure, and the time at which it is made, shall be such as the recognised accountancy body determines to be appropriate.

(15) The recognised accountancy body shall establish, in writing, criteria the purpose of which is to govern the determination by it of the matters referred to in subsection (14), and those criteria shall require the prior approval of the Supervisory Authority.

## CHAPTER 9

*Actions to be taken after decision by recognised accountancy body that statutory auditor or audit firm of public-interest entity has committed relevant contravention*

### **Definitions (Chapter 9)**

**1503.** In this Chapter—

‘contravention concerned’, in relation to a specified person, means the relevant contravention committed by the specified person in consequence of which the relevant decision was made;

‘monetary sanction’ means the monetary sanction referred to in section 1506(1)(g);

‘public notice of relevant sanction imposed’, in relation to a specified person, means the publication in accordance with section 1508(1) of the specified person’s particulars referred to in that section together with the other particulars referred to in that section;

‘relevant decision’, in relation to a specified person, means a decision under section 1504(6) by the Supervisory Authority to impose a relevant sanction on the specified person for the relevant contravention committed by the specified person;

‘relevant sanction’ means a sanction referred to in section 1506(1);

‘specified person’ means the statutory auditor or audit firm the subject of a relevant decision.

**Initial actions to be taken after decision by recognised accountancy body that statutory auditor or audit firm of public-interest entity has committed relevant contravention**

**1504.** (1) Without prejudice to the generality of sections 933, 934 and 934E and subject to subsection (9), this section applies where—

(a) a recognised accountancy body has completed an investigation of a statutory auditor or audit firm of a public-interest entity and—

(i) has found that the auditor or audit firm has committed a relevant contravention that relates (whether in whole or in part) to that entity, and

(ii) would, but for section 1499(2), be minded to impose a penalty on the auditor or audit firm for that contravention,

and

(b) the period within which an appeal (if any) referred to in Chapter 8 may be made against the decision referred to in paragraph (a) has expired without any such appeal having been made or, if such an appeal has been made, that decision has been confirmed or the appeal has been withdrawn.

(2) The recognised accountancy body shall, as soon as is practicable after this section applies to a statutory auditor or audit firm of a public-interest entity and a relevant contravention committed by the auditor or audit firm, give the Supervisory Authority—

(a) particulars of the auditor or audit firm, the public-interest entity and the relevant contravention,

- (b) copies of any reports arising out of the investigation, together with copies of any other documents relevant to the investigation, that explain how the recognised accountancy body conducted the investigation and reached the decision referred to in subsection (1)(a), and
  - (c) particulars of the penalty referred to in subsection (1)(a)(ii).
- (3) Where the Supervisory Authority receives from the recognised accountancy body the particulars and copies referred to in subsection (2) but is not satisfied that it has sufficient information to perform its functions under subsections (5) to (8), it may, by notice in writing given to the recognised accountancy body, require the body to provide it with such further information specified in the notice within the period (being a period of not less than 30 days from the body's receipt of the notice) specified in the notice.
  - (4) The recognised accountancy body shall comply with a notice under subsection (3) given to it.
  - (5) Subsection (6) applies where the Supervisory Authority receives from the recognised accountancy body the particulars and copies referred to in subsection (2) (and, if applicable, any further information required by a notice under subsection (3) given to that body) and, after considering those particulars and copies (and, if applicable, that further information), it is satisfied that the statutory auditor or audit firm has committed the relevant contravention and the Supervisory Authority is minded to impose a relevant sanction on the auditor or auditor firm for that contravention.
  - (6) Subject to section 1511(3) and (4), the Supervisory Authority may impose a relevant sanction on the statutory auditor or audit firm of the public-interest entity for the relevant contravention and, for that purpose, it shall have regard to (but is not bound by) the penalty referred to in subsection (1)(a)(ii).
  - (7) Where under subsection (6) the Supervisory Authority imposes a relevant sanction on the statutory auditor or audit firm of the public-interest entity for the relevant contravention, it shall, as soon as is practicable after so imposing such sanction, by notice in writing given to the recognised accountancy body, give particulars of the sanction imposed.
  - (8) Where the Supervisory Authority is not satisfied as referred to in subsection (5), it shall, as soon as practicable after reaching that decision, by notice in writing given to the recognised accountancy body, advise the body that it is not so satisfied and the reasons therefor.
  - (9) (a) Subject to paragraph (b), where a recognised accountancy body is minded to commence an investigation of a statutory auditor or audit

firm in respect of a statutory audit of a public-interest entity, it shall, before commencing such investigation and in the interests of assisting the Supervisory Authority to make a decision as to whether or not, instead of the investigation, it would be more appropriate for the Supervisory Authority to take action under section 934 or 934E, give the Supervisory Authority particulars of the auditor or audit firm and the public-interest entity and the grounds on which it is so minded.

- (b) The recognised accountancy body shall not commence an investigation referred to in paragraph (a) until it has the consent in writing of the Supervisory Authority to do so.

#### **Appeal against relevant decision**

**1505.**(1) Subject to subsection (2), the specified person may appeal to the High Court against the relevant decision.

- (2) An appeal under subsection (1) shall be brought within 3 months after the date on which the specified person was notified by the Supervisory Authority of the relevant decision.

#### **Sanctions which Supervisory Authority may impose on specified person**

**1506.** (1) Subject to section 1507, the Supervisory Authority may impose on the specified person one or more of the following sanctions in relation to the contravention concerned:

- (a) a direction by the Supervisory Authority to the specified person that he or she cease the conduct giving rise (whether in whole or in part) to the contravention and to abstain from any repetition of that conduct;
- (b) a direction by the Supervisory Authority to the specified person to remediate the conduct giving rise (whether in whole or in part) to the contravention;
- (c) a reprimand or severe reprimand by the Supervisory Authority to the specified person in relation to the conduct giving rise (whether in whole or in part) to the contravention;
- (d) a declaration by the Supervisory Authority that the statutory auditors' report concerned does not meet the requirements of section 336 or 337 or, where applicable, Article 10 of Regulation (EU) No 537/2014;
- (e) a direction by the Supervisory Authority to the specified person (being any one or more of a statutory auditor or key audit partner) prohibiting him or her, for the period specified in the direction (which may be up to and including an indefinite period), from carrying out statutory audits or signing statutory auditors' reports, or both;

- (f) if the specified person is an audit firm, a direction by the Supervisory Authority to the firm, or to an officer, member or partner of the firm, or to both, prohibiting the firm or, as the case may be, the officer, member or partner, for the period specified in the direction (which may be up to and including an indefinite period) from performing functions—
    - (i) in the case of the firm, as an audit firm, or
    - (ii) in the case of the officer, member or partner, in audit firms or public-interest entities;
  - (g) subject to section 1509, a direction by the Supervisory Authority to the specified person to pay an amount, as specified in the direction but not exceeding—
    - (i) €100,000 in the case of a specified person who is an individual, or
    - (ii) in the case of a specified person which is an audit firm, €100,000 multiplied by the number of statutory auditors in the firm at the time that the relevant contravention occurred (and irrespective of whether any particular statutory auditor was or was not a party to the relevant contravention),  
to the Supervisory Authority;
  - (h) an order excluding the specified person from having his or her particulars entered, or continuing to be entered, in the public register in respect of one or more recognised accountancy bodies.
- (2) In default of payment of an amount referred to in subsection (1)(g), the Supervisory Authority may recover that amount as a simple contract debt in any court of competent jurisdiction.
  - (3) A person the subject of a direction under subsection (1) shall comply with the direction.
  - (4) Where applicable, the Supervisory Authority shall direct the recognised accountancy body of which the specified person is a member to take any necessary action on foot of the imposition of a relevant sanction on the person and that body shall comply with the direction.

**Relevant circumstances to be considered in imposing relevant sanctions on specified person**

**1507.** In imposing a relevant sanction on a specified person, the Supervisory Authority shall consider the following circumstances:

- (a) the gravity and duration of the contravention concerned;
- (b) the degree of responsibility of the specified person;

- (c) the financial strength of the specified person (including, in the case of a specified person who is not an individual, the total turnover of the specified person or, in the case of a specified person who is an individual, the annual income of the individual);
- (d) the amount of profits gained or losses avoided by the specified person in consequence of the contravention concerned, in so far as they can be determined;
- (e) the level of cooperation of the specified person with the Supervisory Authority and the recognised accountancy body of which the specified person is a member;
- (f) previous relevant contraventions committed by the specified person.

**Publication of relevant sanction imposed on specified person, etc.**

**1508.**(1) Subject to subsections (2) and (3), the Supervisory Authority shall, in so far as a relevant decision imposes a relevant sanction on a specified person, as soon as is practicable after—

- (a) that decision has been confirmed by the High Court as referred to in section 1511(3), or
- (b) a decision of the High Court under section 1511(2)(b) has been made to impose a different relevant sanction on the specified person,

publish on its website particulars of the contravention concerned, particulars of the relevant sanction imposed and particulars of the specified person on whom the relevant sanction was imposed.

- (2) Subject to subsection (4), if there is an appeal from the High Court from a confirmation referred to in subsection (1)(a), or a decision referred to in subsection (1)(b), the Supervisory Authority shall as soon as may be, as it considers appropriate, publish particulars on its website of the status or outcome of the appeal.
- (3) The Supervisory Authority shall publish the particulars, comprising a public notice of relevant sanction imposed, on an anonymous basis on its website in any one or more of the following circumstances:
  - (a) the Supervisory Authority, following an assessment of the proportionality of the publication of those particulars in accordance with subsection (1) in so far as personal data are concerned, is of the opinion that, in relation to the relevant sanction imposed on a specified person who is an individual, such publication would be disproportionate;
  - (b) the Supervisory Authority is of the opinion that the publication of those particulars in accordance with subsection (1) would

jeopardise the stability of financial markets or an ongoing criminal investigation;

- (c) the Supervisory Authority is of the opinion that the publication of those particulars in accordance with subsection (1) would cause disproportionate damage to the specified person.
- (4) Subsection (2) shall not apply in any case where subsection (3) applies.
- (5) The Supervisory Authority shall ensure that particulars published on its website in accordance with subsection (1) or (2) remain on its website for at least 5 years.

#### **Limitations on imposing monetary sanctions on specified person**

- 1509.**(1) If the Supervisory Authority decides to impose a monetary sanction on a specified person, the Supervisory Authority shall not impose an amount—
- (a) that would be likely to cause the specified person to cease business, or
  - (b) that would, if the specified person is an individual, be likely to cause the person to be adjudicated bankrupt.
- (2) If the conduct engaged in by the specified person has given rise (whether in whole or in part) to 2 or more contraventions concerned, the Supervisory Authority shall not impose more than one monetary sanction on the person in respect of the same conduct.

#### **Specified person not to be liable to be penalised twice for same relevant contravention**

- 1510.**(1) If the Supervisory Authority imposes a monetary sanction on a specified person and the conduct engaged in by the person that has given rise (whether in whole or in part) to the contravention concerned is an offence under the law of the State, the person shall not be liable to be prosecuted or punished for the offence under that law.
- (2) The Supervisory Authority shall not impose a monetary sanction on a specified person if—
- (a) the person has been charged with having committed an offence under a law of the State and has either been found guilty or not guilty of having committed the offence, and
  - (b) the offence involves the conduct engaged in by the person that has given rise (whether in whole or in part) to the contravention concerned.

**Appeals to and orders of High Court, including orders confirming relevant decisions of Supervisory Authority**

- 1511.**(1) In an appeal under section 1505, the High Court may consider any evidence adduced or argument made, whether or not adduced or made to the Supervisory Authority or recognised accountancy body concerned.
- (2) On the hearing of such an appeal, the High Court may make any order or give any direction as it thinks fit, including an order—
- (a) confirming the decision under appeal, or
  - (b) modifying or annulling the decision.
- (3) A relevant decision does not take effect until that decision is confirmed by the High Court either—
- (a) on appeal under section 1505, or
  - (b) on application by the Supervisory Authority under subsection (4).
- (4) On application by motion on notice by the Supervisory Authority for an order confirming a relevant decision, the High Court may make an order confirming the decision or may refuse to make such an order.

## CHAPTER 10

*Appointment of statutory auditors or audit firms***Prohibition of contractual clauses restricting choice of auditors**

- 1512.**(1) Section 380(6) shall, with any necessary modifications, apply to an audited undertaking which is not a company and to which this Part applies as that section applies to an audited undertaking which is a company and to which this Part applies.
- (2) An audited undertaking that is a public-interest entity shall directly and without delay report to the Supervisory Authority any contractual clause referred to in section 380(6) that purports to affect it and the circumstances which gave rise to that clause.
- (3) The Supervisory Authority, on receipt of a report under subsection (2), may share the report with—
- (a) the Director,
  - (b) the Revenue Commissioners,
  - (c) the Workplace Relations Commission,
  - (d) the Central Bank, or
  - (e) any body responsible for the regulation of the public-interest entity.

**Selection procedures for statutory auditors or audit firms by public-interest entities**

**1513.** (1) Subject to subsection (2), the following selection procedures apply, for financial years commencing on or after 17 June 2016, to the appointment of a statutory auditor or audit firm to a public-interest entity:

- (a) the audit committee shall prepare a recommendation for the directors of the entity by carrying out the selection procedure specified in Article 16(3) of Regulation (EU) No 537/2014;
- (b) the audit committee shall submit a recommendation to the directors of the entity for the appointment of statutory auditors or audit firms;
- (c) the recommendation—
  - (i) shall be justified and contain at least 2 choices for the audit engagement and shall express a duly justified preference for one of them, and
  - (ii) shall state (if such be the case) that the recommendation is free from influence by a third party and that, on and from 17 June 2017, no clause of the kind referred to in section 380(6) has been imposed upon it;
- (d) the proposal by the directors to the general meeting of shareholders or members of the entity for the appointment of statutory auditors or audit firms—
  - (i) shall include the recommendation referred to in paragraph (b) and the preference referred to in paragraph (c)(i),
  - (ii) if it departs from the preference of the audit committee, shall justify the reasons for not following the recommendation of the audit committee, and
  - (iii) shall state if the statutory auditor or audit firm recommended by the directors participated in the selection procedure referred to in subsection (2)(a).

(2) Subsection (1) shall not apply if—

- (a) a selection procedure in accordance with Article 16(3) of Regulation (EU) No 537/2014 has been carried out in respect of the appointment of the statutory auditor or audit firm in relation to one or more of the preceding 9 financial years, and
- (b) the statutory auditor or audit firm appointed by the public-interest entity was appointed for the previous financial year.

- (3) Where the public-interest entity is exempt from the requirement for an audit committee under section 1551, this section applies to the directors of the public-interest entity.
- (4) Where a public-interest entity relies on the provisions of section 382, 384 or 385, the public-interest entity shall, as soon as is practicable, inform the Supervisory Authority of that fact.
- (5) The appointment of an auditor or audit firm shall be invalid if the appointment contravenes a provision of this section.
- (6) (a) Subject to paragraph (b), a public-interest entity shall keep records demonstrating that the selection procedures referred to in subsection (1) have been carried out.  
  
(b) The public-interest entity shall keep those records for at least 6 years from the date on which the selection procedures were completed.
- (7) A person who contravenes subsection (6)(a) or (b) shall be guilty of a category 4 offence.

**Appointment of statutory auditors or audit firms by public-interest entities - informing the Supervisory Authority**

**1514.**(1) Subject to subsection (2)—

- (a) where a statutory auditor or audit firm is first appointed by a public-interest entity on or after 17 June 2016, the statutory auditor or audit firm shall inform the Supervisory Authority within one month after the date of such appointment that the statutory auditor or audit firm has been appointed to hold office, and
  - (b) where a statutory auditor or audit firm which has complied with paragraph (a) is subsequently appointed by the same or a different public-interest entity, the statutory auditor or audit firm shall inform the Supervisory Authority within one month after the date of such appointment that the statutory auditor or audit firm has been appointed to hold office only if, immediately before the time of such appointment, the statutory auditor or audit firm held no such office with any public-interest entity.
- (2) The information shall be submitted in such form and manner as the Supervisory Authority specifies and may be used by the Supervisory Authority in the performance of its functions.
  - (3) A person who contravenes subsection (1) shall be guilty of a category 3 offence.

**Removal of statutory auditors or audit firms by public-interest entities - supplementary provisions**

**1515.** (1) In the case of a statutory audit of a public-interest entity—

- (a) shareholders representing 5 per cent or more of the voting rights or of the share capital, or
  - (b) the Supervisory Authority,  
may bring a claim before the High Court for the removal of the statutory auditor or audit firm subject to there being good and substantial grounds for bringing such a claim before the Court.
- (2) The grounds for bringing the claim before the High Court shall relate to—
- (a) the conduct of the auditor or audit firm with regard to the performance of his or her duties as auditor of the public-interest entity or otherwise, or
  - (b) the petitioner’s opinion that it is in the best interests of the public-interest entity to do so.
- (3) For the purposes of subsection (2)—
- (a) diverging opinions on accounting treatments or audit procedures cannot constitute the basis for the passing of any resolution for the purposes of that subsection, and
  - (b) ‘best interests of the public-interest entity’ shall not include any illegal or improper motive with regard to avoiding disclosures or detection of any contravention by the entity of this Act.

**Directors’ report to include date of last appointment of statutory auditor or audit firm**

- 1516.**(1) The directors’ report shall contain details of the date of appointment of the public-interest entity’s statutory auditor or audit firm.
- (2) Where a public-interest entity has sought an extension from the Supervisory Authority under section 1548, pursuant to Article 17(6) of Regulation (EU) No 537/2014, the directors’ report shall also contain details of the extension granted.
- (3) In this section, ‘directors’ report’ means the directors’ report required by section 325.

CHAPTER 11

*Confidentiality and professional secrecy*

**Rules of confidentiality to apply**

- 1517.**(1) The rules of confidentiality and secrecy of a recognised accountancy body (of which the statutory auditor or audit firm concerned is a member) shall apply with respect to information and documents to which a statutory auditor or audit firm has access when carrying out a statutory audit.

- (2) The statutory auditor or audit firm, as the case may be, shall comply with those rules of confidentiality and secrecy.
- (3) In the case of an audit firm registered in accordance with section 1465, the rules of confidentiality and secrecy of the recognised accountancy body of which the key audit partner who carries out the statutory audit on behalf of the audit firm is a member shall apply with respect to information and documents to which the audit firm (or a statutory auditor on behalf of the firm) has access when carrying out a statutory audit.

#### **Supplemental provisions in relation to section 1517**

- 1518.**(1) Section 1517 shall continue to apply with respect to the carrying out of a statutory audit notwithstanding—
- (a) that the statutory auditor or audit firm referred to in that section has ceased to be engaged in that audit, or
  - (b) that the auditor or audit firm referred to in that section ceases to be—
    - (i) a statutory auditor or audit firm, or
    - (ii) an auditor or audit firm.
- (2) Accordingly, in such a case—
- (a) the statutory auditor or, as the case may be, audit firm, or
  - (b) the former such auditor or, as the case may be, audit firm,
- shall continue to comply with the rules of confidentiality and secrecy concerned.

#### **Saving**

- 1519.**(1) Nothing in section 1517 or 1518 shall operate to prevent the recognised accountancy body from complying with its obligations under the relevant provisions.
- (2) Nothing in section 1517 or 1518 shall operate to impede the enforcement of the relevant provisions.

#### **Rules of confidentiality in relation to entities in third countries**

- 1520.**(1) Where a statutory auditor or audit firm carries out a statutory audit of an undertaking which is part of a group whose holding undertaking is situated in a third country, the confidentiality and professional secrecy rules referred to in section 1517(1) shall not impede the transfer by the statutory auditor or the audit firm of relevant documentation concerning the audit work performed to the group auditor situated in a third country if such documentation is necessary for the performance of the audit of consolidated financial statements of the holding undertaking.

- (2) A statutory auditor or an audit firm that carries out the statutory audit of an undertaking which has issued securities in a third country, or which forms part of a group issuing statutory consolidated financial statements in a third country, may only transfer the audit working papers or other documents relating to the audit of that undertaking that he or she holds to the competent authorities in the relevant third countries under the conditions set out in Chapter 19.
- (3) The transfer of information to the group auditor situated in a third country shall comply with the Data Protection Acts 1988 to 2018 and Regulation (EU) 2016/679.

**Incoming statutory auditor or audit firm to be afforded access to information**

**1521.** Where a statutory auditor or audit firm is replaced by another statutory auditor or audit firm, the former statutory auditor or audit firm shall provide access to all relevant information concerning the audited undertaking and the most recent audit of that undertaking to the incoming statutory auditor or audit firm.

**Access by recognised accountancy body to audit documents**

**1522.(1)** Where it considers it reasonably necessary to do so for the purpose of performing a particular function under the relevant provisions, a recognised accountancy body may inspect and make copies of all relevant documents in the possession or control of a statutory auditor or audit firm; for that purpose, it may, by notice in writing served on a statutory auditor or audit firm, require the auditor or firm either (as shall be specified) to—

- (a) furnish to it specified documents, or
- (b) permit it to have access, under specified circumstances, to all relevant documents in the possession or control of the auditor or firm,

within a specified period.

- (2) Without prejudice to the generality of subsection (1), the powers under that subsection are exercisable in relation to a statutory auditor or audit firm where a complaint is made to a recognised accountancy body that the statutory auditor or audit firm has contravened a requirement of the relevant provisions.
- (3) Where the powers under subsection (1) are exercisable, the following additional power may be exercised by a recognised accountancy body if it considers that the exercise of it is reasonably necessary to enable it to clarify any matter arising from its inspection of the documents concerned, namely a power to require the statutory auditor or a member of the statutory audit firm to—
  - (a) attend before it, and

- (b) explain any entry in the documents concerned and otherwise give assistance to it in clarifying the matter concerned.
- (4) In this section, ‘specified’ means specified in the notice concerned.
- (5) Without prejudice to subsection (6), if a person fails, without reasonable excuse, to comply with a requirement under subsection (1) or (3), the person shall be guilty of a category 3 offence.
- (6) Where a person fails to comply with a requirement under subsection (1) or (3), the recognised accountancy body concerned may apply to the High Court for an order compelling compliance by the person with the requirement, and, on the hearing of such application, the Court may make such an order or such other order as it thinks just.

**Access by Supervisory Authority to information and documents held by recognised accountancy bodies or relevant persons**

**1523.**(1) Where it considers it reasonably necessary to do so for the purposes of performing a particular function under the relevant provisions, the Supervisory Authority may request information and inspect and make copies of all relevant documents in the possession or control of a recognised accountancy body or a relevant person; for that purpose, it may, by notice in writing served on the recognised accountancy body or relevant person, require the recognised accountancy body or relevant person either (as shall be specified) to—

- (a) furnish to it specified documents or information, or
- (b) permit it to have access, under specified circumstances, to all relevant documents in the possession or control of the recognised accountancy body or relevant person,

within a specified period.

- (2) In this section, ‘relevant person’ means—
  - (a) a member of a recognised accountancy body,
  - (b) a client or former client of the member,
  - (c) if the client or former client is a body corporate, a person who is or was an officer, employee or agent of the client or former client, or
  - (d) any person whom the Supervisory Authority reasonably believes has information or documents in relation to the particular function other than information or documents the disclosure of which is prohibited or restricted by law.
- (3) Without prejudice to the generality of subsection (1), the powers under that subsection are exercisable in relation to a recognised accountancy body or relevant person where a complaint is made to the Supervisory Authority that the recognised accountancy body or relevant person has contravened a requirement of the relevant provisions.

- (4) Where the powers under subsection (1) are exercisable, the following additional power may be exercised by the Supervisory Authority if it considers that the exercise of it is reasonably necessary to enable it to clarify any matter arising from its inspection of the information or documents concerned, namely a power to require an officer of the recognised accountancy body or relevant person to—
  - (a) attend before it, and
  - (b) explain any entry in the information or documents concerned and otherwise give assistance to it in clarifying the matter concerned.
- (5) In this section, ‘specified’ means specified in the notice concerned.
- (6) If a person fails, without reasonable excuse, to comply with a requirement under subsection (1) or (4), the person shall be guilty of a category 3 offence.
- (7) Nothing in this section derogates from the powers exercisable by the Supervisory Authority in the circumstances, and under the conditions, specified in section 933 or 934.

**Professional privilege**

**1524.** Nothing in this Chapter compels the disclosure by any person of any information that the person would be entitled to refuse to produce on the grounds of legal professional privilege.

**No liability for acts done in compliance with obligations imposed by relevant provisions**

- 1525.**(1) No professional or legal duty to which a statutory auditor or audit firm is subject by virtue of his or her appointment as a statutory auditor or audit firm shall be regarded as contravened by reason of compliance with the obligations imposed by the relevant provisions.
- (2) No liability to the undertaking audited or being audited, its shareholders, creditors, or other interested parties shall attach to the statutory auditor or audit firm by reason of such compliance.
  - (3) For the avoidance of doubt, nothing in this section affects the liability of a statutory auditor or audit firm for negligence or breach of duty in the conduct of a statutory audit by him or her.

## CHAPTER 12

*Auditing standards and audit reporting***Auditing standards to be applied**

**1526.**(1) The Supervisory Authority shall adopt the auditing standards to be applied and statutory auditors and audit firms shall carry out statutory audits in accordance with those standards.

- (2) On and from the adoption of international auditing standards, statutory auditors and audit firms shall carry out statutory audits in accordance with those standards.
- (3) The reference in subsection (2) to the adoption of international auditing standards is a reference to the adoption by the Commission, in accordance with the procedure referred to in Article 26 of the Audit Directive, of international auditing standards.
- (4) The Supervisory Authority may prescribe by regulations audit procedures or requirements, in addition to the international auditing standards adopted by the Commission under Article 26 of the Directive, only—
  - (a) if those audit procedures or requirements are necessary in order to give effect to legal requirements in the State relating to the scope of statutory audits, or
  - (b) to the extent necessary to add to the credibility and quality of financial statements.
- (5) The Supervisory Authority shall communicate the audit procedures or requirements referred to in subsection (4) to the Commission at least 3 months before their entry into force or, in the case of requirements already existing at the time of adoption of an international auditing standard, at the latest within 3 months of the adoption of the relevant international auditing standard.
- (6) In the case of the statutory audit of small companies, the Supervisory Authority may provide that the application of the auditing standards referred to in subsection (1) is to be proportionate to the scale and complexity of the activities of such companies and may take the measures necessary in order to ensure the proportionate application of the auditing standards to the statutory audits of small companies.
- (7) In this section, ‘standards’ include standards on professional ethics and internal quality control in addition to standards on auditing.

**Audit of group accounts - responsibility of group auditor**

- 1527.**(1) Where a statutory audit of the group financial statements of a group is carried out—
- (a) in relation to the group financial statements, the group auditor shall bear the full responsibility for the statutory auditors’ report, and
  - (b) where the holding undertaking is a public-interest entity, the group auditor shall bear the full responsibility for ensuring that the requirements of Articles 10 and 11 of Regulation (EU) No 537/2014 are met in relation to the audit carried out on that public-interest entity.
- (2) The group auditor shall—

- (a) evaluate the audit work carried out by any auditors for the purpose of the group audit, and
  - (b) document the nature, timing and extent of the work carried out by those auditors, including the group auditor's review of the relevant parts of audit documentation.
- (3) For the purposes of the group audit, auditors may be one or more of the following:
- (a) statutory auditors;
  - (b) statutory audit firms;
  - (c) Member State auditors;
  - (d) Member State audit firms;
  - (e) third-country auditors;
  - (f) third-country audit entities.
- (4) The group auditor shall carry out a review, and maintain documentation of such review, of the work of whoever referred to in subsection (3) performed audit work for the purposes of the group audit.
- (5) The documentation referred to in subsections (2)(b) and (4) to be retained by the group auditor shall be such as enables the Supervisory Authority, or the recognised accountancy body where applicable, to conduct a quality assurance inspection or review, as the case may be, under Chapter 7.
- (6) The group auditor shall request the agreement of the auditors concerned referred to in subsection (3)(a) to (f) to transfer relevant documentation during the carrying out of the audit of group financial statements as a condition of the reliance by the group auditor on the work of such auditors.
- (7) (a) Where the group auditor is unable to secure an agreement referred to in subsection (6), he or she shall take appropriate measures in order to form an audit opinion and inform the relevant Supervisory Authority or the recognised accountancy body where applicable.
- (b) Such measures shall, as appropriate, include carrying out additional statutory audit work, either directly or by outsourcing the additional statutory audit work, in the relevant subsidiary.
- (8) (a) The group auditor who is subject to a quality assurance inspection or review or an investigation concerning the statutory audit of the group financial statements of a group shall, when requested, make available to the Supervisory Authority or the recognised accountancy body where applicable the relevant documentation he or she retains concerning the audit work performed by the auditors

concerned referred to in subsection (3)(a) to (f) for the purpose of the group audit, including any working papers relevant to the group audit.

- (b) The Supervisory Authority may request additional documentation on the audit work performed by a statutory auditor or audit firm for the purpose of the group audit from the competent authorities in other Member States where applicable pursuant to Chapter 17.

#### **Further responsibility of group auditor**

**1528.**(1) Subject to subsection (2), the Supervisory Authority may request additional documentation on the audit work performed by any third-country auditor or third-country audit entity on a holding undertaking or on a subsidiary undertaking of a group from the relevant competent authorities from third countries through the working arrangements referred to in section 1568(1)(c) or 1569(c).

(2) Where—

- (a) a statutory audit of the group financial statements of a group is carried out, and
- (b) a holding undertaking or subsidiary undertaking of the group is audited by one or more third-country auditors or third-country audit entities that have no working arrangements as referred to in section 1568(1)(c) or 1569(c),

the group auditor is responsible for ensuring proper delivery, when requested, to the Supervisory Authority of the additional documentation of the audit work performed by those auditors or audit entities, including the audit working papers relevant to the group audit.

(3) To ensure such delivery, the group auditor shall retain a copy of such audit documentation, or alternatively—

- (a) agree, with one or more third-country auditors or third-country audit entities concerned, arrangements for the group auditor's proper and unrestricted access, upon request, to the documentation, or

(b) take any other appropriate action.

(4) Where audit working papers cannot, for legal or other reasons, be passed from a third country to the group auditor, the documentation retained by the group auditor shall include—

- (a) evidence that he or she has undertaken the appropriate procedures in order to gain access to the audit documentation, and
- (b) in the case of an impediment other than a legal one arising from legislation of the third country or countries concerned, evidence supporting the existence of such an impediment.

**Additional report to audit committee**

- 1529.**(1) Where a public-interest entity is exempt from the requirement to have an audit committee, as provided for under this Part, the additional report to the audit committee shall be submitted to the directors of the public-interest entity.
- (2) Subject to subsection (1), the audit committee of a public-interest entity shall submit the additional report to the audit committee to the directors of the public-interest entity.
- (3) The Supervisory Authority may set out additional requirements to those listed in points (a) to (p) of Article 11(2) of Regulation (EU) No 537/2014 in relation to the content of the additional report to the audit committee, or directors, as applicable, only where this provides further information to the audit committee on the audit work undertaken.
- (4) The audit committee (or, if there is no audit committee, the directors of the public-interest entity) shall disclose the additional report to any of the following persons upon request where the information is required in order for the person to perform the person's functions:
- (a) the Supervisory Authority;
  - (b) the Director;
  - (c) the Revenue Commissioners;
  - (d) the Workplace Relations Commission;
  - (e) the Central Bank;
  - (f) any body responsible for the regulation of the public-interest entity.
- (5) A disclosure by the audit committee (or, if there is no audit committee, the directors of the public-interest entity) in accordance with subsection (4) shall not be treated, for any purpose, as a breach of any restriction of disclosure by that committee (or, as appropriate, such directors) imposed by or under any other enactment, rule of law or otherwise.

**Auditors' reporting obligations under Article 12 of Regulation (EU) No 537/2014**

- 1530.**(1) Reports by statutory auditors or audit firms referred to in Article 12 of Regulation (EU) No 537/2014 shall be submitted to the Supervisory Authority unless they are already required to be submitted to the Central Bank under—
- (a) Regulation 134(1) of, or Schedule 16 to, the European Communities (Undertakings for Collective Investment in Transferable Securities) Regulations 2011 (S.I. No. 352 of 2011),
  - (b) Regulation 52 of the European Union (Capital Requirements) Regulations 2014 (S.I. No. 158 of 2014), or

- (c) Regulation 78 of the European Union (Insurance and Reinsurance) Regulations 2015 (S.I. No. 485 of 2015).
- (2) The obligation imposed on a person by subsection (1) to disclose information that he or she has to the Supervisory Authority is in addition to, and not in substitution for, any other obligation that the person has to disclose information to the Supervisory Authority or any other person, but that subsection shall not require the first-mentioned person to disclose that information to the Supervisory Authority more than once.
- (3) (a) The Central Bank may, by notice in writing given to a statutory auditor or audit firm, require the auditor or firm to give it, within the period specified in the notice, additional information if such information is necessary for effective financial market supervision as provided for in the law of the State.
- (b) The statutory auditor or audit firm the subject of a notice under paragraph (a) shall comply with the notice.

#### CHAPTER 13

##### *Record keeping*

#### **Record keeping**

- 1531.**(1) Statutory auditors and audit firms shall keep the documents and information referred to in Article 15 of Regulation (EU) No 537/2014 for a period of at least 6 years.
- (2) Where a transaction, act or operation is the subject of an investigation, inquiry, claim, assessment, appeal or proceeding which has already commenced within that 6 year period, then the relevant documents and information shall be retained until such time as the investigation, inquiry, claim, assessment, appeal or proceeding has been concluded or for a period of at least 6 years, whichever is the longer.

#### CHAPTER 14

##### *Objectivity*

#### **Future viability**

- 1532.** Without prejudice to the reporting requirements referred to in sections 336, 337 and 391 and, where applicable, Articles 10 and 11 of Regulation (EU) No 537/2014, the scope of the statutory audit shall not include assurance on the future viability of the audited undertaking or on the efficiency or effectiveness with which the directors of the undertaking have conducted or will conduct the affairs of the undertaking.

## CHAPTER 15

*Independence***Requirement for independence - general**

**1533.**(1) During the period in which a statutory audit is being carried out—

- (a) the statutory auditor or audit firm, as the case may be,
- (b) in the latter case, any statutory auditor of the statutory audit firm, and
- (c) any individual in a position to directly or indirectly influence the outcome of the statutory audit,

shall be independent of, and not involved in the decision-taking of, the audited undertaking.

(2) During the period in which a statutory audit is being carried out, a statutory auditor or audit firm, as the case may be, shall take all reasonable steps to ensure that his or her independence is not affected by—

- (a) any existing or potential conflict of interest, or
- (b) any business or other direct or indirect relationship,

involving the statutory auditor or audit firm carrying out the statutory audit.

(3) Subsection (2) also applies, with any necessary modifications, to—

- (a) the network of the statutory auditor or audit firm,
- (b) the managers, auditors, employees or any other individuals whose services are placed at the disposal or under the control of the statutory auditor or audit firm,
- (c) any person directly or indirectly linked to the statutory auditor or audit firm by control, and
- (d) managers, auditors, employees or any other individuals whose services are placed at the disposal or under the control of a person linked to the statutory auditor or audit firm by control.

(4) The obligations referred to in subsections (1) and (2) shall be required at least during both the period to which the financial statements to be audited relate and the period during which the statutory audit is carried out.

**Professional scepticism**

**1534.** (1) When carrying out a statutory audit, the statutory auditor or the audit firm shall—

- (a) maintain professional scepticism throughout the audit,

- (b) maintain professional scepticism when reviewing management estimates relating to fair values, the impairment of assets, provisions, and future cash flow relevant to the audited undertaking's ability to continue as a going concern, and
  - (c) recognise the possibility of a material misstatement due to facts or behaviour indicating irregularities, including fraud or error, notwithstanding the statutory auditor's or the audit firm's past experience of the honesty and integrity of the audited undertaking's management and of the persons charged with its governance.
- (2) For the purposes of this section, 'professional scepticism' means an attitude that includes a questioning mind, being alert to conditions which may indicate possible misstatement due to error or fraud, and a critical assessment of audit evidence.

**Prohibited relationships - specific provisions to secure independence**

**1535.** (1) A statutory auditor or audit firm shall not carry out a statutory audit if there is any threat of self-review, self-interest, advocacy, familiarity, or intimidation, created by any direct or indirect financial, personal, business, employment or other relationship between—

- (a) the statutory auditor or audit firm or network to which he or she belongs or any individual in a position to influence the outcome of the statutory audit, and
  - (b) the audited undertaking,  
as a result of which an objective, reasonable and informed third party, taking into account the safeguards applied, would conclude that the statutory auditor's or audit firm's independence is compromised.
- (2) Without prejudice to the generality of subsection (1), a person shall not act as a statutory auditor of an undertaking if he or she is—
- (a) an officer or servant of the undertaking,
  - (b) a person who has been an officer or servant of the undertaking within a period in respect of which accounts would fall to be audited by the person if he or she were appointed auditor of the undertaking,
  - (c) a parent, spouse, brother, sister or child of an officer of the undertaking,
  - (d) a person who is a partner of or in the employment of an officer of the undertaking,
  - (e) a person who is disqualified under this subsection for appointment as auditor of a body corporate that is a subsidiary or holding undertaking of the undertaking or a subsidiary of the undertaking's holding undertaking, or would be so disqualified if the body corporate were a company, or

- (f) a person in whose name a share in the undertaking is registered, whether or not that person is the beneficial owner of the share.
- (3) Without prejudice to the generality of subsections (1) and (2), a statutory audit firm, regardless of its legal structure, shall not carry out a statutory audit of an undertaking if—
  - (a) any principal of the audit firm is an officer or servant of the undertaking,
  - (b) any principal of the audit firm has been an officer or servant of the undertaking within a period in respect of which accounts would fall to be audited by the firm if the firm was appointed auditor of the undertaking, or
  - (c) the firm is disqualified under this subsection for appointment as auditor of any other body corporate that is a subsidiary or holding undertaking of the undertaking or a subsidiary of the undertaking's holding undertaking, or would be so disqualified if the body corporate were a company.
- (4) Without prejudice to the generality of subsections (1) to (3), a person shall not carry out a statutory audit of an undertaking on behalf of a statutory audit firm if he or she is—
  - (a) a person in whose name a share in the undertaking is registered, whether or not that person is the beneficial owner of the share, or
  - (b) a parent, spouse, brother, sister or child of an officer of the undertaking.

**Prohibited relationships - financial or beneficial interest**

- 1536.**(1) A statutory auditor, an audit firm, the key audit partner of an audit firm, the employees of the statutory auditor or audit firm, and any other individual whose services are placed at the disposal or under the control of the statutory auditor or audit firm and who is directly involved in statutory audit activities, and persons closely associated with them within the meaning of Article 1(2) of Commission Directive 2004/72/EC of 29 April 2004<sup>9</sup> implementing Directive 2003/6/EC of the European Parliament and of the Council as regards accepted market practices, the definition of inside information in relation to derivatives on commodities, the drawing up of lists of insiders, the notification of managers' transactions and the notification of suspicious transactions, shall not—
- (a) hold or have a material and direct beneficial interest in, or
  - (b) engage in any transaction in any financial instrument issued, guaranteed, or otherwise supported by,

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9 OJ No. L 162, 30.4.2004, p.70

any audited undertaking within their area of statutory audit activities, other than interests owned indirectly through diversified collective investment schemes, including managed funds such as pension funds or life assurance.

- (2) A statutory auditor, an audit firm, the key audit partner of the audit firm, the employees of the statutory auditor or audit firm, and any other individual referred to in subsection (1), shall not participate in or otherwise influence the outcome of a statutory audit of any particular audited undertaking if he or she—
  - (a) owns financial instruments of the audited undertaking, other than interests owned indirectly through diversified collective investment schemes,
  - (b) owns financial instruments of any undertaking related to the audited undertaking, the ownership of which may cause, or may be generally perceived as causing, a conflict of interest, other than interests owned indirectly through diversified collective investment schemes, or
  - (c) has had an employment, business or other relationship with the audited undertaking within the period to which the financial statements to be audited relate and the period during which the statutory audit is carried out that may cause, or may be generally perceived as causing, a conflict of interest.
- (3) A statutory auditor, an audit firm, the key audit partner of the audit firm, the employees of the statutory auditor or audit firm, and any other individual referred to in subsection (1), shall not solicit or accept pecuniary or non-pecuniary gifts or favours from the audited undertaking or any undertaking related to an audited undertaking unless an objective, reasonable and informed third party would consider the value thereof as trivial or inconsequential.

#### **Prohibited relationships - mergers and acquisitions**

- 1537.**(1) If, during the period to which the financial statements relate, an audited undertaking is acquired by, merges with, or acquires, another undertaking, the statutory auditor or audit firm shall identify and evaluate any current or recent interests or relationships, including any non-audit services provided to that undertaking, which, taking into account available safeguards, could compromise the statutory auditor's or audit firm's independence and ability to continue with the statutory audit after the effective date of the merger or acquisition.
- (2) As soon as possible, and in any event within 3 months of the merger or acquisition referred to in subsection (1), the statutory auditor or audit firm shall take all such steps as may be necessary to terminate any current interests or relationships that would compromise his or her independence and shall, where possible, adopt safeguards to minimise

any threat to his or her independence arising from prior and current interests and relationships.

**Threats to independence and other information to be recorded**

**1538.** A statutory auditor or audit firm shall document in the audit working papers all significant threats to his or her independence as well as the safeguards applied to mitigate those threats.

**Preparation for statutory audit and assessment of threats to independence**

**1539.** A statutory auditor or audit firm shall, before accepting or continuing an engagement for a statutory audit, assess and document the following:

- (a) whether he or she complies with the requirements set out in sections 1533 and 1535 to 1538;
- (b) whether there are threats to his or her independence and the safeguards applied to mitigate those threats;
- (c) whether he or she has the competent employees, time and resources needed in order to carry out the statutory audit in an appropriate manner;
- (d) whether, in the case of an audit firm, the key audit partner is approved as statutory auditor in the Member State requiring the statutory audit.

**Non-intervention by certain persons in execution of audit**

**1540.** Neither—

- (a) the owners or shareholders of a statutory audit firm or the owners or shareholders of an affiliated firm, nor
- (b) the members of the administrative, management or supervisory body of such a firm or of an affiliated firm,

shall intervene in the execution of a statutory audit in any way which jeopardises the independence and objectivity of the statutory auditor who carries out the statutory audit on behalf of the statutory audit firm.

**Internal organisation of statutory auditors and audit firms**

**1541.** (1) A statutory auditor or audit firm shall comply with the following organisational requirements:

- (a) the audit firm shall establish appropriate policies and procedures to ensure that no person, including any partner, director, member or shareholder of the audit firm or of a firm in its network, intervenes in the carrying out of a statutory audit in any way which jeopardises the independence and objectivity of the statutory auditor who carries out the statutory audit on behalf of the audit firm;
- (b) the statutory auditor or audit firm shall have sound administrative and accounting procedures, internal quality control mechanisms,

effective procedures for risk assessment, and effective control and safeguard arrangements for information processing systems;

- (c) the statutory auditor or audit firm shall establish appropriate policies and procedures to ensure that his or her employees and any other individuals whose services are placed at his or her disposal or under his or her control, and who are directly involved in the statutory audit activities, have appropriate knowledge and experience for the duties assigned;
- (d) (i) the statutory auditor or audit firm shall establish appropriate policies and procedures to ensure that the undertaking by other persons of important audit functions is not done in such a way as to impair the quality of the statutory auditor's or audit firm's internal quality control and the ability of the competent authorities to supervise the statutory auditor's or audit firm's compliance with the obligations laid down in the relevant provisions;
  - (ii) the statutory auditor or audit firm shall ensure that any audit functions carried out by such other persons does not affect his or her responsibility towards the audited undertaking;
- (e) the statutory auditor or audit firm shall establish appropriate and effective organisational and administrative arrangements to prevent, identify, eliminate or manage and disclose any threats to his or her independence as referred to in sections 1533, 1535 to 1539 and 1547;
- (f) the statutory auditor or audit firm shall establish appropriate policies and procedures for carrying out statutory audits, coaching, supervising and reviewing employees' activities and organising the structure of the audit file as referred to in section 1543;
- (g) the statutory auditor or audit firm shall establish an internal quality control system to ensure the quality of the statutory audit so that—
  - (i) such system includes, at least, the policies and procedures referred to in paragraph (f), and
  - (ii) responsibility for such system lies with a person who is qualified as a statutory auditor;
- (h) the statutory auditor or audit firm shall use appropriate systems, resources and procedures to ensure continuity and regularity in the carrying out of his or her statutory audit activities;
- (i) the statutory auditor or audit firm shall also establish appropriate and effective organisational and administrative arrangements for dealing with and recording incidents which have, or may have, serious consequences for the integrity of his or her statutory audit activities;

- (j) the statutory auditor or audit firm shall have in place adequate remuneration policies, including profit-sharing policies, providing sufficient performance incentives to secure audit quality but the amount of revenue that the statutory auditor or audit firm derives from providing non-audit services to the audited undertaking shall not form part of the performance evaluation and remuneration of any person involved in, or able to influence the carrying out of, the audit;
- (k) the statutory auditor or audit firm shall monitor and evaluate the adequacy and effectiveness of his or her systems, internal quality control mechanisms and arrangements established in accordance with the relevant provisions and take appropriate measures to address any deficiencies;
- (l) the statutory auditor or audit firm shall—
  - (i) carry out an annual evaluation of the internal quality control system referred to in paragraph (g), and
  - (ii) keep records of the findings of that evaluation and any proposed measure to modify the internal quality control system.
- (2) A statutory auditor or audit firm shall communicate, in writing, his or her policies and procedures referred to in subsection (1) to the employees of the statutory auditor or audit firm.
- (3) A statutory auditor or audit firm shall take into consideration the scale and complexity of his or her activities when complying with the requirements set out in subsection (1).
- (4) A statutory auditor or audit firm shall be able to demonstrate to the recognised accountancy body or Supervisory Authority that the policies and procedures designed to achieve compliance with this section are appropriate given the scale and complexity of activities of the statutory auditor or audit firm.

**Organisation of work of statutory auditors and audit firms**

- 1542.**(1) An audit firm, when carrying out a statutory audit of an undertaking, shall designate at least one key audit partner who shall be actively involved in the carrying out of the statutory audit.
- (2) An audit firm shall—
    - (a) provide the key audit partner with sufficient resources and with personnel that have the necessary competence and capabilities to discharge his or her duties appropriately, and
    - (b) ensure that the main criteria in selecting the key audit partner are securing audit quality, independence and competence.
  - (3) A statutory auditor, when carrying out a statutory audit of an undertaking, shall devote sufficient time to the engagement and shall

assign sufficient resources to enable him or her to carry out his or her duties appropriately.

- (4) A statutory auditor or audit firm shall keep records of any contraventions by him or her of the relevant provisions.
- (5) A statutory auditor or audit firm shall keep records of any consequences of any contravention referred to in subsection (4), including the measures taken to address such contravention and to modify his or her internal quality control system.
- (6) A statutory auditor or audit firm shall prepare an annual report containing an overview of any measures taken pursuant to subsection (5) and, in the case of an audit firm, shall communicate that report internally to the partners or directors, as may be appropriate, of the audit firm.
- (7) A statutory auditor or audit firm shall document each request made and advices received where he or she asks external experts for advice.

#### **Organisation of work of statutory auditors and audit firms - audit files**

**1543.**(1) A statutory auditor or audit firm shall maintain a client account record that includes the following data for each audit client:

- (a) the name, address and place of business;
  - (b) in the case of an audit firm, the name of the key audit partner;
  - (c) the fees charged for the statutory audit and the fees charged for other services in any financial year.
- (2) A statutory auditor or audit firm shall create an audit file for each statutory audit which shall be closed not later than 60 days after the date of signature of the statutory auditors' report concerned and, where applicable, the reports referred to in Articles 10 and 11 of Regulation (EU) No 537/2014.
  - (3) A statutory auditor or audit firm shall document and retain at least the data recorded pursuant to section 1538, and, where applicable, Articles 6 to 8 of Regulation (EU) No 537/2014 for a period of at least 6 years.
  - (4) A statutory auditor or audit firm shall retain any other data and documents that are of importance in support of the statutory auditors' report and, where applicable, the reports referred to in Articles 10 and 11 of Regulation (EU) No 537/2014 and for monitoring compliance with the relevant provisions and other applicable legal requirements.
  - (5) A statutory auditor or audit firm shall keep records of any complaints made in writing about the performance of the statutory audits carried out by him or her.

#### **Restrictions with regard to fees**

**1544.** A recognised accountancy body shall ensure that its standards include

provisions that fees for statutory audits—

- (a) are not to be influenced by, or determined by, the provision of additional services to the audited undertaking, and
- (b) are not to be based on any form of contingency.

**Restrictions with regard to fees exemption on exceptional basis**

- 1545.**(1) A statutory auditor or audit firm may, pursuant to Article 4(2) of Regulation (EU) No 537/2014, request the Supervisory Authority for an exemption from the limits in that Article on total fees for services provided by him or her to a public-interest entity for a period of up to 2 financial years on an exceptional basis.
- (2) A request shall be made in such form and manner as the Supervisory Authority specifies.
  - (3) On receipt of a request in the form specified in subsection (2), the Supervisory Authority shall—
    - (a) grant the exemption as requested,
    - (b) grant a shorter exemption than that requested, or
    - (c) refuse to grant the exemption.
  - (4) Where the Supervisory Authority, on receipt of a request for an exemption, considers that it requires additional information before making a decision under subsection (3), it may give notice of that to the statutory auditor or audit firm that made the request.
  - (5) The notice referred to in subsection (4) shall set out the additional information required by the Supervisory Authority.
  - (6) On receipt of a response to the notice from the statutory auditor or audit firm containing the additional information referred to in subsection (4), the Supervisory Authority shall—
    - (a) grant the exemption as requested,
    - (b) grant a shorter exemption than that requested, or
    - (c) refuse to grant the exemption.
  - (7) Where the Supervisory Authority grants an exemption under subsection (3) or (4), it shall—
    - (a) do so on an exceptional and case by case basis only, and
    - (b) publish its decision on its website.
  - (8) Where the Supervisory Authority refuses to grant an exemption under subsection (3)(c) or (6)(c), it shall provide reasons for its decision to the statutory auditor or audit firm.

**Rotation of key audit partner in cases of public-interest entities**

**1546.** The key audit partner responsible for carrying out a statutory audit of a public-interest entity shall cease his or her participation in the statutory audit of the entity not later than 5 years from the date of his or her first appointment to carry out such audit.

**Moratorium on taking up certain positions in audited undertakings or public-interest entities**

**1547.**(1) There shall not be taken up by—

- (a) a statutory auditor who carries out a statutory audit of an undertaking, or
- (b) the key audit partner who carries out, on behalf of an audit firm, a statutory audit of an undertaking,

any of the positions in that undertaking, specified in subsection (2), before a period of at least one year has elapsed since the day following the end of his or her direct involvement as a statutory auditor or key audit partner from the audit engagement.

(2) The specified positions referred to in subsection (1) are—

- (a) a key management position in the audited undertaking,
- (b) a position on the audit committee, or where such committee does not exist, such body as performs the equivalent functions to the audit committee, of the audited undertaking, or
- (c) a non-executive member position of the audited undertaking or a member's position of that undertaking.

(3) There shall not be taken up by—

- (a) a statutory auditor who carries out a statutory audit of a public-interest entity, or
- (b) the key audit partner who carries out, on behalf of an audit firm, a statutory audit of a public-interest entity,

any of the positions in that entity, specified in subsection (4), before a period of at least 2 years has elapsed since the day following the end of his or her direct involvement as a statutory auditor or key audit partner from the audit engagement.

(4) The specified positions referred to in subsection (3) are—

- (a) a key management position in the audited entity,
- (b) a position on the audit committee, or where such committee does not exist, such body as performs the equivalent functions to the audit committee, of the audited entity, or
- (c) a non-executive member position of the audited entity or a member's position of that entity.

- (5) Where an employee or partner, other than the key audit partner, of a statutory auditor or audit firm, or any other individual whose services are placed at the disposal or under the control of the statutory auditor or audit firm, and when such employee, partner or other individual is personally approved as a statutory auditor, there shall not be taken up by such employee, partner or other individual any of the positions referred to in subsections (2) and (4), before a period of at least one year has elapsed since the day following (should such occur) his or her involvement in the statutory audit engagement of that audited undertaking.

**Rotation of statutory auditor and audit firms in case of public-interest entities - extension**

- 1548.**(1) A public-interest entity may, pursuant to Article 17(6) of Regulation (EU) No 537/2014, under exceptional circumstances request the Supervisory Authority for an extension to reappoint a statutory auditor or audit firm for a period of up to 2 years on an exceptional basis.
- (2) The grounds for the exceptional basis may be events in the nature of mergers, acquisitions and special investigations but, in any case, it will be a matter for the Supervisory Authority to determine such grounds.
  - (3) A request shall be made in such form and manner as the Supervisory Authority specifies.
  - (4) On receipt of a request in the form specified in subsection (3), the Supervisory Authority shall—
    - (a) grant the extension as requested,
    - (b) grant a shorter extension than that requested, or
    - (c) refuse to grant the extension.
  - (5) Where the Supervisory Authority, on receipt of a request for an extension, considers that it requires additional information before making a decision under subsection (4), it shall give notice of that to the public-interest entity that made the request.
  - (6) The notice referred to in subsection (5) shall set out the additional information required by the Supervisory Authority.
  - (7) On receipt of a response to the notice from the public-interest entity containing the additional information referred to in subsection (5), the Supervisory Authority shall—
    - (a) grant the extension as requested,
    - (b) grant a shorter extension than that requested, or
    - (c) refuse to grant the extension.
  - (8) Where the Supervisory Authority grants an extension under subsection (4) or (5), it shall—

- (a) do so on an exceptional and case by case basis only, and
  - (b) publish its decision on its website.
- (9) Where the Supervisory Authority refuses to grant an extension under subsection (4)(c) or (7)(c), it shall provide reasons for its decision to the public-interest entity.

**Rotation - reports by statutory auditor and audit firm in case of public-interest entities**

- 1549.**(1) If there is uncertainty as to the date on which a statutory auditor or audit firm began carrying out consecutive statutory audits for a public-interest entity (including due to firm mergers, acquisitions, or changes in ownership structure), the statutory auditor or audit firm shall immediately report (in accordance with Article 17(8) of Regulation (EU) No 537/2014 and in such form and manner as the Supervisory Authority specifies) such uncertainty to the Supervisory Authority.
- (2) On receipt of a report in the form specified in subsection (1), the Supervisory Authority shall—
- (a) determine the relevant date for the purposes of that subsection, or
  - (b) request additional information from the statutory auditor or audit firm before making a decision referred to in paragraph (a).
- (3) Where the Supervisory Authority, on receipt of a report, considers that it requires additional information from the statutory auditor or audit firm or public-interest entity before making a decision under subsection (2)(a), it shall—
- (a) give notice of that to the statutory auditor or audit firm or public-interest entity within 2 weeks after the receipt of the report, and
  - (b) set out, in the notice, the additional information required by the Supervisory Authority.
- (4) On receipt of a response to the notice from the statutory auditor or audit firm or public-interest entity containing the additional information referred to in subsection (3), the Supervisory Authority shall—
- (a) determine the relevant date for the purposes of subsection (1), and
  - (b) provide reasons for its decision to the statutory auditor or audit firm and public-interest entity.

**Provision of certain prohibited non-audit services by auditors of public-interest entities**

- 1550.**(1) Subject to subsection (2), a statutory auditor or audit firm carrying out the statutory audit of a public-interest entity, or any member of the network to which the statutory auditor or the audit firm belongs, may provide the following non-audit services to the audited entity, to its

holding undertaking within the European Union or to its controlled undertakings (within the meaning of point (f) of Article 2(1) of the Transparency (Regulated Markets) Directive as defined in section 1379) within the European Union:

- (a) tax services relating to—
    - (i) preparation of tax forms,
    - (ii) identification of public subsidies and tax incentives where support from the statutory auditor or audit firm in respect of such services is required by law,
    - (iii) support regarding tax inspections by tax authorities where support from the statutory auditor or audit firm in respect of such inspections is required by law,
    - (iv) calculation of direct and indirect tax and deferred tax, or
    - (v) provision of tax advice,
  - (b) valuation services, including valuations performed in connection with actuarial services or litigation support services.
- (2) The non-audit services referred to in subsection (1) may only be provided as specified in that subsection if—
- (a) they have no direct or have immaterial effect, separately or in the aggregate, on the audited financial statements,
  - (b) the estimation of the effect on the audited financial statements is comprehensively documented and explained in the additional report to the audit committee, and
  - (c) the principles of independence set out in this Part are complied with by the statutory auditor or audit firm.
- (3) The audit committee or the directors of the public-interest entity, as applicable, shall, at such times as it or they, as the case may be, thinks or think it appropriate to do so, issue guidelines with regard to the non-audit services referred to in subsection (1).

## CHAPTER 16

### *Audit committees*

#### **Audit committees for public-interest entities**

- 1551.** (1) Subject to the other provisions of this section, the directors of each public-interest entity shall establish an audit committee for the entity.
- (2) The majority of the members of the audit committee shall be non-executive directors of the public-interest entity, that is to say, directors—

- (a) the terms of appointment of whom indicate or state that they are being appointed in a non-executive capacity, and
  - (b) who otherwise possess the requisite degree of independence (particularly with regard to each of them satisfying the condition in subsection (3)) so as to be able to contribute effectively to the committee's functions.
- (3) The condition referred to in subsection (2)(b) is that the director does not have, and at no time during the period of 3 years preceding his or her appointment to the committee did have—
- (a) a material business relationship with the public-interest entity, either directly, or as a partner, shareholder, director (other than as a non-executive director) or senior employee of a body that has such a relationship with the entity, or
  - (b) a position of employment in the public-interest entity.
- (4) At least one of the directors referred to in subsection (2) shall be a person who has competence in accounting or auditing.
- (5) For the purposes of subsections (2) and (3)(a), a non-executive director is a director who is not engaged in the daily management of the public-interest entity or body concerned, as the case may be.
- (6) The members of the audit committee as a whole shall have competence relevant to the sector in which the audited entity is operating.
- (7) The chairman of the audit committee shall be appointed by its members and shall be independent of the audited entity.
- (8) Any proposal of the directors of a public-interest entity with respect to the appointment of a statutory auditor or audit firm to the entity shall be based on a recommendation made to the directors by the audit committee.
- (9) The statutory auditor or audit firm shall report to the audit committee of the public-interest entity on key matters arising from the statutory audit of the entity, and, in particular, on material weaknesses in internal control in relation to the financial reporting process.
- (10) (a) Subject to paragraph (b), subsection (1) shall not apply to public-interest entities which meet the criteria set out in points (f) and (t) of Article 2(1) of the 2003 Prospectus Directive provided that the functions assigned to an audit committee are performed by the board of directors as a whole.
- (b) The chairman of the board of directors, being an executive member, shall not act as chairman while the board is performing the functions of the audit committee.

- (11) Subsection (1) shall not apply to a public-interest entity if it is—
- (a) a public-interest entity which is a subsidiary undertaking within the meaning of point 10 of Article 2 of the Accounting Directive if that entity fulfils the requirements set out in subsections (1) and (2) and Articles 11(1) and (2) and 16(5) of Regulation (EU) No 537/2014 at group level,
  - (b) any public-interest entity which is a UCITS (within the meaning of the UCITS Regulations as defined in section 1385), or an alternative investment fund (within the meaning of the European Union (Alternative Investment Fund Managers) Regulations 2013 (S.I. No. 257 of 2013)),
  - (c) subject to subsection (12), any public-interest entity the sole business of which is to act as an issuer of asset backed securities as defined in point 5 of Article 2 of the Prospectus Regulation (within the meaning of section 1348), or
  - (d) any credit institution within the meaning of point 1 of Article 3(1) of Directive 2013/36/EU of 26 June 2013<sup>10</sup> on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC whose shares are not admitted to trading on a regulated market of any Member State and which has, in a continuous or repeated manner, issued only debt securities admitted to trading on a regulated market, provided that the total nominal amount of all such debt securities remains below €100,000,000 and that it has not published a prospectus under the 2003 Prospectus Directive.
- (12) A public-interest entity that avails itself of the exemption under subsection (11)(c) shall, by means of a statement to that effect included in a published document, such as—
- (a) in any annual report published by it, or
  - (b) in an annual return or other periodic statement delivered by it to the Registrar or Central Bank,
- set forth the reasons for why it considers the establishment of an audit committee by it is not appropriate and, accordingly, why it has availed itself of that exemption.
- (13) (a) Subject to paragraph (b), subsection (1) shall not apply to a captive insurance undertaking or captive reinsurance undertaking (in each case within the meaning of Regulation 3 of the European Union (Insurance and Reinsurance) Regulations 2015 (S.I. No. 485 of 2015)) provided that it has a body or bodies performing equivalent functions to an audit committee, established and functioning in

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<sup>10</sup> OJ No. L 176, 27.6.2013, p.338

accordance with provisions in place in the State in which the public-interest entity to be audited is registered (in such case the entity shall disclose on its website which body carries out those functions and how that body is composed).

- (b) A captive insurance undertaking or captive reinsurance undertaking which falls within paragraph (a) shall satisfy the following conditions:
    - (i) it shall not be owned by a credit institution;
    - (ii) it shall not issue transferable securities admitted to trading on a regulated market.
- (14) Without prejudice to the responsibility of the directors of the public-interest entity, the responsibilities of the audit committee shall include—
- (a) informing directors of the entity of the outcome of the statutory audit and explaining how the statutory audit contributed to the integrity of financial reporting and what the role of the audit committee was in that process,
  - (b) monitoring the financial reporting process and submitting recommendations or proposals to the directors of the entity to ensure its integrity,
  - (c) monitoring the effectiveness of the entity's internal quality control and risk management systems and, where applicable, its internal audit, regarding the financial reporting of the entity, without breaching its independence,
  - (d) monitoring the statutory audit of the entity and group financial statements, in particular, its performance, taking into account any findings and conclusions by the Supervisory Authority pursuant to Article 26(6) of Regulation (EU) No 537/2014,
  - (e) reviewing and monitoring the independence of the statutory auditors or the audit firms in accordance with sections 1535 to 1541 and Article 6 of Regulation (EU) No 537/2014, and, in particular, the appropriateness of the provision of non-audit services to the audited entity in accordance with Article 5 of that Regulation, and
  - (f) being responsible for the procedure for the selection of a statutory auditor or audit firm and recommending the statutory auditor or audit firm to be appointed in accordance with Article 16 of Regulation (EU) No 537/2014 except when Article 16(8) of that Regulation is applied.
- (15) Subsection (8) applies to a proposal of the directors (with respect to the appointment of a statutory auditor or audit firm to a public-interest

entity) made at any time after the establishment of the audit committee in respect of the entity.

- (16) The other provisions of the relevant provisions with regard to the performance of a function by the audit committee apply with respect to financial statements of the public-interest entity for financial years beginning on or after the establishment of the audit committee in respect of the entity.
- (17) A person who, without reasonable excuse, contravenes subsection (12) shall be guilty of a category 3 offence.
- (18) Section 167 shall not apply to a public-interest entity which is both a UCITS referred to in subsection (11)(b) and a company.
- (19) In this section, '2003 Prospectus Directive' has the meaning assigned to it by section 1348.

## CHAPTER 17

### *Cooperation with other Member States*

#### **Cooperation with other Member States**

- 1552.(1) With regard to the cooperation that the State is required to engage in by virtue of Article 33 of the Audit Directive, the Supervisory Authority is assigned responsibility in that behalf.
- (2) For the purpose of discharging that responsibility, the Supervisory Authority shall put in place appropriate mechanisms, including arrangements with competent authorities in other Member States.

#### **Specific requirements with regard to cooperation**

- 1553.(1) Subject to section 1552, the Supervisory Authority, the recognised accountancy bodies and the Registrar with functions relating to approval, registration, quality assurance, inspection and discipline under the relevant provisions shall cooperate with the counterpart authorities in other Member States and the relevant European Supervisory Authorities whenever necessary for the purpose of those authorities or bodies (or, as the case may be, the counterpart authorities) carrying out their respective functions under the relevant provisions or, as the case may be, the laws of the other Member State concerned that implement the Audit Directive.
- (2) Subject to section 1552, the Supervisory Authority, the recognised accountancy bodies and the Registrar with the foregoing functions under the relevant provisions shall render assistance to the counterpart authorities in other Member States and to the relevant European Supervisory Authorities and, in particular, shall exchange information and cooperate with them in investigations relating to the carrying out of statutory audits.

- (3) In this section, ‘counterpart authorities in other Member States’ means competent authorities or bodies in other Member States with functions corresponding to those of the Supervisory Authority, the recognised accountancy bodies and the Registrar with regard to approval, registration, quality assurance, inspection and discipline under the relevant provisions.

#### **Confidentiality of information**

**1554.**(1) A person shall not disclose, except in accordance with law, information that—

- (a) is obtained in performing functions under any provision of the relevant provisions, and
  - (b) has not otherwise come to the notice of members of the public.
- (2) A person who contravenes subsection (1) shall be guilty of a category 3 offence.

#### **Supplemental provisions in relation to section 1554**

**1555.** Without prejudice to section 1554, the persons to whom that section applies shall include the following:

- (a) a member or director or former member or director of any board or committee, howsoever called, of the Supervisory Authority, the recognised accountancy bodies or the Registrar;
- (b) an employee or former employee of the Supervisory Authority, the recognised accountancy bodies or the Registrar;
- (c) a professional or other advisor to the Supervisory Authority, the recognised accountancy bodies or the Registrar including a former advisor.

#### **Obligation to supply information required for certain purposes and saving concerning confidential information**

**1556.**(1) The Supervisory Authority or a recognised accountancy body shall, on request and without undue delay, supply any information required for the purpose referred to in section 1553.

- (2) Section 1554 shall not prevent the Supervisory Authority or a recognised accountancy body from complying with any such request or exchanging confidential information.

#### **Obligation of Supervisory Authority or recognised accountancy body to gather information**

**1557.**(1) Where necessary, the Supervisory Authority or a recognised accountancy body, on receiving a request referred to in section 1556(1), shall, without undue delay, take the necessary measures to gather the required information.

- (2) If the Supervisory Authority or a recognised accountancy body of whom a request under subsection (1) is made is not able to supply, without undue delay, the required information, it shall notify the counterpart authority in the other Member State that made the request of—
- (a) the fact of the delay, and
  - (b) the reasons therefor.

#### **Application of section 1554 to certain information**

**1558.** Section 1554 shall apply to information received by the Supervisory Authority, a recognised accountancy body or the Registrar pursuant to the cooperation or exchange of information that is required of counterpart authorities of Member States by this Chapter.

#### **Requesting authority to be notified if its request not complied with**

**1559.**(1) If—

- (a) the Supervisory Authority or a recognised accountancy body of whom a request referred to in section 1556(1) is made does not comply with the request, and
- (b) the case is neither—
  - (i) one of a delay in complying with the request to which section 1557(2) relates, nor
  - (ii) one of a refusal to comply with the request on any of the grounds referred to in section 1560,

the Supervisory Authority or recognised accountancy body, as appropriate, shall notify the counterpart authority in the other Member State that made the request of the reasons for that failure to comply.

- (2) If it is a recognised accountancy body as referred to in subsection (1) (a), it shall also notify the Supervisory Authority of the reasons for the failure referred to in that subsection.

#### **Grounds for refusing request for information**

**1560.**(1) The Supervisory Authority or a recognised accountancy body may refuse to comply with a request referred to in section 1556(1) if—

- (a) the ground referred to in point (a) of paragraph 4 of Article 36 of the Audit Directive applies,
- (b) proceedings in any court in the State have already been initiated in respect of the same actions and against the same statutory auditor or audit firm, the subject of the request, or
- (c) a final determination has already been made by the Supervisory Authority or recognised accountancy body in respect of the same

actions and the same statutory auditor or audit firm, the subject of the request.

- (2) A recognised accountancy body shall not exercise the power under subsection (1) to refuse to comply with a request save after consultation with the Supervisory Authority.
- (3) The Supervisory Authority or a recognised accountancy body that refuses, under subsection (1), to comply with a request shall notify the counterpart authority in the other Member State that made the request of the reasons for the refusal.
- (4) A recognised accountancy body, referred to in subsection (3), shall also notify the Supervisory Authority of the reasons for the refusal referred to in that subsection.

**Use to which information may be put**

**1561.**(1) The Supervisory Authority or a recognised accountancy body may use relevant information only for the performance by it of its functions under the relevant provisions and then only in the context of steps it takes in—

- (a) investigating and detecting failures to comply with the relevant provisions, and
  - (b) initiating and employing disciplinary procedures, or maintaining proceedings in any court, in respect of any such failures.
- (2) Subject to section 1552, subsection (1) is without prejudice to any obligations, by virtue of any proceedings being maintained in any court, to which the Supervisory Authority or a recognised accountancy body or European Supervisory Authority is subject as regards the use to which it may put information referred to in that subsection and in the context of administrative or judicial proceedings specifically related to the performance of those functions.
- (3) (a) The Supervisory Authority may transmit to the competent authorities in other Member States responsible for supervising public-interest entities, to central banks, to the European System of Central Banks and to the European Central Bank, in their capacity as monetary authorities, and to the European Systemic Risk Board, confidential information intended for the performance of their respective functions.
- (b) Such authorities or bodies shall not be prevented from communicating, to the Supervisory Authority, information that the Supervisory Authority may need in order to perform its functions under Regulation (EU) No 537/2014.
- (4) In this section, ‘relevant information’ means information that the Supervisory Authority or a recognised accountancy body receives

pursuant to the cooperation or exchange of information that is required of counterpart authorities of Member States in this Chapter.

**Counterpart authority to be notified of non-compliance with Audit Directive and Regulation (EU) No 537/2014**

**1562.** Where the Supervisory Authority or a recognised accountancy body forms, on reasonable grounds, the opinion that activities contrary to the provisions of the Audit Directive or of Regulation (EU) No 537/2014 are being, or have been, carried out on the territory of another Member State, it shall, as soon as possible—

- (a) notify the counterpart authority in the other Member State of that opinion, and
- (b) include in that notification specific details of the matter and the grounds for its opinion.

**Counterpart authority may be requested to carry out investigation**

**1563.**(1) In relation to activities that it suspects have been, or are being, carried on contrary to the provisions of the Audit Directive or Regulation (EU) No 537/2014, the Supervisory Authority or a recognised accountancy body may request the counterpart authority in another Member State to carry out an investigation in the territory of that Member State.

- (2) A request under subsection (1) of the counterpart authority may be accompanied by a further request that one or more of the officers, or members of staff, of the Supervisory Authority or a recognised accountancy body be allowed to accompany officers, or members of staff, of the counterpart authority in the course of the investigation.
- (3) A recognised accountancy body shall notify the Supervisory Authority of the making of a request by it under subsection (1) and, if such be the case, the making of the further request by it under subsection (2).

**Duty of Supervisory Authority or recognised accountancy body to take certain action**

**1564.**(1) Where the Supervisory Authority or a recognised accountancy body receives a notification from—

- (a) the entity specifically responsible, pursuant to the laws of another Member State that implement Article 36 of the Audit Directive, for ensuring the cooperation referred to in that Article, or
- (b) the counterpart authority in another Member State,

that activities contrary to the provisions of the Audit Directive or Regulation (EU) No 537/2014 are being, or have been, carried on in the State, it shall take appropriate action under the relevant provisions.

- (2) The Supervisory Authority or a recognised accountancy body shall inform the notifying entity or authority of the outcome of that action,

and to the extent possible, of significant developments in the period pending that outcome.

- (3) A recognised accountancy body shall—
  - (a) notify the Supervisory Authority of the taking by it of the action referred to in subsection (1), and
  - (b) in addition to so informing, under subsection (2), the notifying entity or authority of those matters, inform the Supervisory Authority of the outcome of that action, and to the extent possible, of significant developments in the period pending that outcome.

**Due consideration to be given to counterpart authority's request for investigation**

**1565.**(1) The Supervisory Authority or a recognised accountancy body shall give due consideration to a request made of it, pursuant to the laws of another Member State that implement Article 36 of the Audit Directive, to carry out an investigation in the State.

- (2) If a request under subsection (1) is acceded to by the Supervisory Authority or a recognised accountancy body, the investigation shall be subject to the overall control of the Supervisory Authority or recognised accountancy body that receives the request.

- (3) For the purpose of this section—

- (a) the reference in subsection (1) to a request that is made pursuant to the laws of another Member State that implement Article 36 of the Audit Directive is a reference to such a request, whether or not it is accompanied by a further request (made pursuant to those laws) that one or more of the officers, or members of staff, of the requesting authority be allowed to accompany officers, or members of staff, of the Supervisory Authority or a recognised accountancy body in the course of the investigation, and
- (b) the investigation is subject to the control as referred to in subsection (2) even if that further request is acceded to by the Supervisory Authority or a recognised accountancy body.

- (4) A recognised accountancy body shall notify the Supervisory Authority—

- (a) of the making of a request of it referred to in subsection (1), and
- (b) if the request is acceded to by it, of the fact of the request being so acceded to.

**Grounds for refusing request for investigation**

**1566.** (1) The Supervisory Authority or a recognised accountancy body may refuse to accede to a request referred to in section 1565(1) made of it or a further request of the kind referred to in section 1565(3)(a) made of it if—

- (a) the ground referred to in point (a) of paragraph 6 of Article 36 of the Audit Directive applies,
  - (b) proceedings in any court in the State have already been initiated in respect of the same actions and against the same statutory auditor or audit firm, the subject of the request, or
  - (c) a final determination has already been made by the Supervisory Authority or a recognised accountancy body in respect of the same actions and the same statutory auditor or audit firm, the subject of the request.
- (2) A recognised accountancy body referred to in subsection (1) shall not exercise the power thereunder to refuse to accede to a request save after consultation with the Supervisory Authority.
- (3) The Supervisory Authority or a recognised accountancy body that refuses, under subsection (1), to accede to a request shall notify the counterpart authority in the other Member State that made the request of the reasons for the refusal.
- (4) A recognised accountancy body referred to in subsection (3) shall also notify the Supervisory Authority of the reasons for the refusal referred to in that subsection.

## CHAPTER 18

### *Mutual recognition of regulatory arrangements between Member States*

#### **Mutual recognition of regulatory arrangements between Member States**

**1567.** To the extent that the preceding provisions of this Part, or, where applicable, Regulation (EU) No 537/2014 do not operate to achieve the following effects in the law of the State, this Part or Regulation (EU) No 537/2014 and those preceding provisions (notwithstanding anything in them to the contrary) shall be read as operating, in a manner so that—

- (a) (i) the principle of home-country regulation and oversight by the Member State in which the statutory auditor or audit firm is approved and the audited undertaking has its registered office is respected, and
  - (ii) without prejudice to subparagraph (i), audit firms approved in one Member State that perform audit services in another Member State in accordance with section 1465 shall be subject to quality assurance review in the home Member State and oversight in the host Member State of any audit carried out there,
- (b) the imposition of additional requirements on a statutory auditor or audit firm in relation to the statutory audit concerning registration,

quality assurance review, auditing standards, professional ethics and independence is prohibited in the case of—

- (i) a statutory audit of consolidated financial statements, required by a Member State, of a subsidiary established in another Member State, and
  - (ii) an undertaking the securities of which are traded on a regulated market in another Member State to that in which it has its registered office, by that Member State, regarding the statutory audit of the accounts or consolidated accounts of that undertaking,
- and
- (c) a statutory auditor or audit firm, approved under section 1464 or Chapter 20, which is registered in any Member State and provides audit reports concerning accounts or consolidated accounts in accordance with section 1573, the systems of oversight, quality assurance, investigation and sanctions of the Member State where registration took place will apply.

#### CHAPTER 19

##### *Transfer of audit working papers, etc., to third-country competent authorities*

##### **Transfer of audit documentation to third-country competent authority**

- 1568.**(1) Subject to section 1569, audit working papers or other documents held by a statutory auditor or audit firm and inspection or investigation reports relating to the audits concerned may be transferred to a third-country competent authority only if the Supervisory Authority, on a request being made of it in that behalf by the first-mentioned authority, determines that the following conditions are complied with (and authorises such transfer accordingly), namely—
- (a) those audit working papers or other documents relate to the audit of an undertaking which—
    - (i) has issued securities in the third country concerned, or
    - (ii) forms part of a group that issues group financial statements in the third country concerned,
  - (b) the third-country competent authority meets requirements which have been declared adequate in accordance with Article 47(3) of the Audit Directive,
  - (c) there are working arrangements on the basis of reciprocity agreed between the Supervisory Authority and the third-country competent authority, and

- (d) the transfer of personal data to the third country concerned is in accordance with the Data Protection Acts 1988 to 2018 and Regulation (EU) 2016/679.
- (2) The working arrangements referred to in subsection (1)(c) shall ensure that—
- (a) justification as to the purpose of the request for audit working papers and other documents is provided by the third-country competent authority concerned,
  - (b) the audit working papers and other documents are only transferred if—
    - (i) an obligation similar to that provided by section 1554 is provided under the laws of the third country concerned in relation to persons whilst in, and in any period subsequent to their ceasing to be in, the employment of the third-country competent authority, and
    - (ii) the protection of the commercial interests of the audited undertaking, including its industrial and intellectual property, is not undermined,
  - (c) the third-country competent authority uses audit working papers and other documents only for the performance of its functions of public oversight, quality assurance and investigations that meet requirements equivalent to those of Articles 29, 30 and 32 of the Audit Directive, and
  - (d) the request from a third-country competent authority for audit working papers or other documents held by a statutory auditor or audit firm can be refused by the Supervisory Authority if—
    - (i) the first ground referred to in point (d) of paragraph 2 of Article 47 of the Audit Directive applies,
    - (ii) proceedings in any court in the State have already been initiated in respect of the same actions and against the same statutory auditor or audit firm, the subject of the request, or
    - (iii) a final determination has already been made by the Supervisory Authority in respect of the same actions and the same statutory auditor or audit firm, the subject of the request.
- (3) The Supervisory Authority has, for the purposes of the performance of its functions under the preceding subsections (including the taking of any steps that necessitate the perusal by it of the papers and other documents concerned so as to determine whether the transfer should be refused on any of the grounds referred to in subsection (2)(d)), the power to require the statutory auditor or audit firm concerned to produce to it the audit working papers and other documents; the

statutory auditor or audit firm shall comply with such a requirement made of him or her by the Supervisory Authority.

**Derogation from section 1568 in exceptional cases**

**1569.** By way of derogation from section 1568, the Supervisory Authority may, in exceptional cases, allow a statutory auditor or audit firm to transfer audit working papers and other documents directly to a third-country competent authority, provided that—

- (a) an investigation has been initiated by that competent authority in the third country concerned,
- (b) such transfer does not conflict with the obligations with which statutory auditors and audit firms are required to comply in relation to the transfer of audit working papers and other documents to the Supervisory Authority,
- (c) there are working arrangements with the third-country competent authority of a reciprocal nature that allow the Supervisory Authority direct access to audit working papers and other documents of audit entities in the third country concerned,
- (d) the third-country competent authority informs in advance the Supervisory Authority of each direct request for information, indicating the reasons therefor, and
- (e) conditions similar to those specified in section 1568(2)(a) to (d) are satisfied.

**Particulars of working arrangements to be notified**

**1570.**(1) Where the Supervisory Authority enters into working arrangements with a third-country competent authority in accordance with section 1568(1)(c), particulars of those working arrangements shall be published by the Supervisory Authority on its website without delay and those particulars shall include—

- (a) the name of the third-country competent authority, and
  - (b) the jurisdiction in which it is established.
- (2) Particulars of those working arrangements shall also be notified by the Supervisory Authority to the Commission.

**Joint inspections**

**1571.** The Supervisory Authority may perform the functions (whether in whole or in part) referred to in section 905(2)(n)(iii) in so far as such functions are part of a joint inspection under—

- (a) Commission Implementing Decision (EU) 2016/1156 of 14 July 2016<sup>11</sup> on the adequacy of the competent authorities of the United

<sup>11</sup> OJ No. L190, 15.7.2016, p.83

States of America pursuant to Directive 2006/43/EC of the European Parliament and of the Council, or

- (b) any other Commission Implementing Decision made pursuant to Article 47(3) of the Audit Directive on the adequacy of competent authorities for the purposes of joint inspections.

## CHAPTER 20

### *International aspects*

#### **Approval of third-country auditor**

- 1572.**(1) Without prejudice to Chapter 3 and subject to subsection (2), a recognised accountancy body may approve a third-country auditor as a statutory auditor if that person has furnished proof that he or she complies with requirements equivalent to those specified in sections 1464 and 1472.
- (2) A third-country auditor shall not be approved under subsection (1) unless reciprocal arrangements with the third country concerned are in place, that is to say arrangements that enable a statutory auditor to carry out audits in that third country—
    - (a) by virtue of the law of that third country, and
    - (b) on fulfilment by the statutory auditor concerned of requirements no more onerous than those specified by this section and Chapter 3 for the third-country auditor's approval under subsection (1).

## CHAPTER 21

### *Registration and oversight of third-country auditors and third-country audit entities*

#### **Registration of third-country auditors and third-country audit entities**

- 1573.**(1) (a) Subject to paragraph (b), subsection (6) and section 1580, the Supervisory Authority shall, in accordance with the relevant provisions of Chapter 5 and Schedule 20, cause to be registered in each year in the public register every third-country auditor and third-country audit entity that indicates, in writing to it, his or her intention to provide an audit report concerning the accounts or consolidated accounts of an undertaking falling within subsection (3).
- (b) Paragraph (a) shall not apply to a third-country auditor or third-country audit entity that provides audit reports concerning the annual or group financial statements of undertakings incorporated in third countries in respect of which—
    - (i) the Commission has not yet made a decision that the public oversight, quality assurance and investigation and penalty

systems for third-country auditors and third-country audit entities meet requirements which shall be considered equivalent to those of Articles 29, 30 and 32 of the Audit Directive, or

- (ii) such a decision was made but for a specified period of time which has now expired.
- (2) Registration in the public register pursuant to subsection (1) shall have effect for a period of 12 months from the date on which the registration is effected.
  - (3) The undertaking referred to in subsection (1) is one—
    - (a) incorporated outside the European Union, not being a collective investment undertaking, and
    - (b) whose transferable securities are admitted to trading on a regulated market in the State.
  - (4) There shall accompany the indication in writing by a third-country auditor or third-country audit entity referred to in subsection (1) a notification, in such form and manner as the Supervisory Authority specifies, of the following information (in relation to the auditor or audit entity) to it.
  - (5) That information is the information referred to in paragraph 3 of Schedule 20 but does not include the information referred to in paragraph 1(b) or 2(b) (as applied by that paragraph 3) of that Schedule.
  - (6) Subsection (1) shall not apply if the undertaking referred to in that subsection is an issuer exclusively of outstanding debt securities for which one of the following applies:
    - (a) prior to 31 December 2010, the undertaking was admitted to trading on a regulated market, and the denomination per unit of which is at the date of issue at least €50,000 or, in case of debt securities denominated in another currency, equivalent, at the date of issue, to at least €50,000;
    - (b) from 31 December 2010, the undertaking was admitted to trading on a regulated market, and the denomination per unit of which is at the date of issue at least €100,000 or, in case of debt securities denominated in another currency, equivalent, at the date of issue, to at least €100,000.
  - (7) Section 1487 shall apply to third-country auditors and third-country audit entities so registered with the substitution of references to the recognised accountancy body for references to the Supervisory Authority and any other necessary modifications.

- (8) Section 1488 shall apply, with any necessary modifications, to a notification of information by a third-country auditor or third-country audit entity under—
- (a) subsection (4) to the Supervisory Authority, and
  - (b) section 1487, as applied by subsection (7), to that Authority.
- (9) In subsection (3), ‘collective investment undertaking’ does not include such an undertaking of the closed-ended type.

**Exemption from quality assurance**

- 1574.**(1) The Supervisory Authority may exempt from Chapter 7 a third-country auditor or third-country audit entity registered under Chapter 5 pursuant to section 1573 if a quality assurance review has, under another Member State’s or third country’s system of quality assurance, been carried out in relation to the auditor or audit entity during the 3 years preceding the making of the application.
- (2) On the making of that application, if—
- (a) the Supervisory Authority is satisfied that the quality assurance review referred to in subsection (1) has been carried out as referred to in that subsection, and
  - (b) the system of quality assurance referred to in that subsection has been assessed as equivalent in accordance with section 1580,
- the Supervisory Authority shall grant the exemption and the third-country auditor or third-country audit entity shall be exempted from Chapter 7 accordingly.

**Removal of third-country auditor or third-country audit entity registered in accordance with section 1573 from public register**

- 1575.**(1) Subject to subsections (2) and (3), the Supervisory Authority may require the Registrar, in the case of a third-country auditor or third-country audit entity registered pursuant to section 1573, to remove the third-country auditor or third-country audit entity from the public register if—
- (a) the auditor or audit entity does not provide all the information or clarifications necessary for the renewal of his or her registration or does not pay the appropriate fee under section 1579, or
  - (b) the outcome of a quality assurance inspection or investigation and disciplinary process requires it.
- (2) A third-country auditor or third-country audit entity the subject of a quality assurance inspection or investigation shall not be removed from the public register until the completion of that inspection or investigation.

- (3) The Supervisory Authority shall not exercise its power under subsection (1) unless it has first given the third-country auditor or third-country audit entity concerned a reasonable opportunity, in the circumstances concerned, of making representations in writing on the grounds (which the Supervisory Authority shall make known to such auditor or entity) that the Supervisory Authority is minded to exercise such power.
- (4) The Supervisory Authority shall, at such times as it thinks it appropriate to do so, issue guidelines with regard to what constitutes a reasonable opportunity referred to in subsection (3).
- (5) The Supervisory Authority may publish on its website the name of the third-country auditor or third-country audit entity that has been removed from the public register in accordance with this section along with the reasons for such removal.

#### **Audit by non-registered auditor or audit entity - consequence**

**1576.** Without prejudice to section 1580 and unless section 1573(6) applies to it, an audit report provided by a third-country auditor or third-country audit entity concerning the accounts or consolidated accounts of an undertaking falling within section 1573(3) shall have no legal effect in the State if the third-country auditor or third-country audit entity that provides it is not registered under Chapter 5.

#### **Conditions for registration of third-country auditor or third-country audit entity**

- 1577.** (1) The Supervisory Authority may cause to be registered a third-country auditor or third-country audit entity pursuant to section 1573 only if—
- (a) where the applicant for registration is an audit entity (referred to in this section as the ‘potential registrant’), the applicant satisfies so many of the conditions specified in subsection (2) as are applicable to an entity, and
  - (b) where the applicant for registration is an auditor (also referred to in this section as the ‘potential registrant’), the applicant satisfies so many of the conditions specified in subsection (2) as are applicable to an individual.
- (2) The conditions are as follows:
- (a) the majority of the members of the administrative or management body of the potential registrant meet requirements equivalent to those of sections 1464 and 1472;
  - (b) the third-country auditor carrying out the audit on behalf of the potential registrant meets requirements equivalent to those of sections 1464 and 1472;
  - (c) the audits of the accounts or consolidated accounts referred to in section 1573(1) are carried out in accordance with international

auditing standards as referred to in section 1526, as well as the requirements referred to in section 1491, or with equivalent standards and requirements;

- (d) the potential registrant publishes annually on a website, being a website maintained by or on behalf of the potential registrant, a report which includes the information referred to in Article 13 of Regulation (EU) No 537/2014 in relation to the year concerned or the potential registrant complies with equivalent disclosure requirements.

**Supervisory Authority may assess matter of equivalence for purposes of section 1577(2)(c)**

- 1578.**(1) For so long as the Commission has not taken, in accordance with the procedure referred to in Article 48(2) of the Audit Directive, the decision under Article 45(6) of that Directive in relation to the matter of equivalence of standards and requirements referred to in section 1577(2)(c), the Supervisory Authority may, for the purposes of that provision, make an assessment of that equivalence.
- (2) When assessing the equivalence concerned, the Supervisory Authority shall use the general equivalence criteria established by the Commission in assessing whether the audits of the financial statements referred to in section 1573(1) are carried out in accordance with the standards and requirements referred to in section 1577(2)(c).
- (3) The general equivalence criteria referred to in subsection (2) shall apply to all third countries.

**Certain fees chargeable by Supervisory Authority**

- 1579.** (1) (a) For the purposes specified in paragraph (b), the Supervisory Authority may charge and impose annual fees, where necessary on an interim basis, having obtained the Minister's consent and subject to paragraph (c), on a third-country auditor or third-country audit entity referred to in section 1573(1), in respect of registration, effected or provided in relation to the auditor or audit entity under and in accordance with this Part.
- (b) Money received by the Supervisory Authority under this subsection may be used only for the purposes of meeting the Authority's reasonable administrative expenses in performing its functions and exercising its powers under section 1573 and under any other provision of this Act that contains consequential or incidental provisions on, or in relation to, section 1573.
- (c) The Supervisory Authority—
- (i) shall submit the rationale for the level of fee to the Minister for approval before imposing a fee—
- (I) initially when the fee is proposed, and

- (II) at any time thereafter that the fee is proposed to be amended,
  - and
  - (ii) may charge fees on an annual basis to meet the reasonable administrative costs associated with the following tasks:
    - (I) the annual registration of such auditor or audit entity that is a statutory auditor or audit firm registered in a public register of a Member State pursuant to Articles 15 to 19 of the Audit Directive;
    - (II) the annual registration assessment and the annual registration of such auditor or audit entity that is not registered in a public register of a Member State pursuant to Articles 15 to 19 of the Audit Directive as a statutory auditor or audit firm.
- (2) (a) For the purposes specified in paragraph (b), the Supervisory Authority may charge and impose fees, where necessary on an interim basis, having obtained the Minister's consent and subject to paragraph (c), on a third-country auditor or third-country audit entity referred to in section 1573(1) in respect of the oversight, quality assurance and the related matters of investigation, discipline and penalties, effected or provided in relation to the auditor or audit entity under and in accordance with the relevant provisions.
- (b) Money received by the Supervisory Authority under this subsection may be used only for the purposes of meeting the Authority's reasonable administrative expenses in performing its functions and exercising its powers under section 930A, Chapter 7 and this Chapter and under any other provision of this Act that contains consequential or incidental provisions on, or in relation to, section 930A, Chapter 7 and this Chapter.
- (c) The Supervisory Authority—
- (i) shall establish criteria, as set out in subsection (3), for charging and imposing fees on a third-country auditor or third-country audit entity referred to in section 1573(1),
  - (ii) shall submit the criteria to the Minister for approval before imposing fees—
    - (I) initially when the criteria are established, and
    - (II) at any time thereafter that the criteria are amended,
  - (iii) may charge fees on an interim basis to meet the reasonable administrative costs associated with the functions of oversight, quality assurance and the related matters of investigation, discipline and penalties—

- (I) before the function is performed,
  - (II) more than once, if necessary, during the performance of the function, and
  - (III) when the performance of the function is completed.
- (3) Established criteria for charging and imposing fees on an interim basis on a third-country auditor or third-country audit entity referred to in section 1573(1) shall be based on costs incurred to meet the Supervisory Authority's reasonable administrative expenses in relation to—
- (a) location (including any necessary and consequential travel costs),
  - (b) the testing of the internal quality control system undertaken (including the time taken to review audit firms),
  - (c) the number and nature of the Irish relevant audit clients,
  - (d) how many third-country auditors are within the firm,
  - (e) staffing resources, being how many staff are required, at what level and for what period,
  - (f) expertise required (including the use (if any) of consultants located outside the State to undertake on-site inspections),
  - (g) the nature and significance of the findings (including the time allocated to inspection, drafting the report and follow-up to the recommendations),
  - (h) associated miscellaneous costs (including the translation of working papers relevant to the audit), and
  - (i) legal and other costs.
- (4) Notwithstanding that the particular audit of a public-interest entity has been carried out by a statutory auditor, no fee under this section shall be imposed on the statutory auditor if he or she was designated by a statutory audit firm to carry out the audit, and the fees under this section shall, in those circumstances, be imposed on the statutory audit firm instead.
- (5) A fee imposed under subsection (1) or (2) may, in default of payment, be recovered from the third-country auditor or third-country audit entity concerned as a simple contract debt in any court of competent jurisdiction.

**Exemptions in case of equivalence**

- 1580.**(1) A third-country auditor or third-country audit entity may apply to the Supervisory Authority for an exemption from all or any of the provisions of sections 1573 and 1574 on the basis that the third-country auditor or third-country audit entity is subject to systems of

public oversight, quality assurance and investigations and penalties in the third country concerned that meet requirements equivalent to those of section 930A, Chapter 7 and this Chapter.

- (2) On the making of that application, if—
- (a) the Commission has, in accordance with Article 46(2) of the Audit Directive, assessed the systems referred to in subsection (1) as meeting requirements equivalent to those in the corresponding provisions of the Audit Directive, and
  - (b) the Supervisory Authority is satisfied that the law of the third country concerned affords reciprocal rights to a statutory auditor or audit firm with regard to being granted corresponding exemptions under that law,

the Supervisory Authority may rely on the equivalence decided by the Commission, partially or entirely, and thus to disapply or modify the requirements in sections 1573 and 1574 partially or entirely and the third-country auditor or third-country audit entity shall be partially or entirely exempted accordingly.

- (3) The Supervisory Authority shall notify the Commission of the main elements of its cooperative arrangements with systems of public oversight, quality assurance and investigations and penalties of the third country concerned, arising out of arrangements it has entered into with that third country for the purposes of the reciprocity referred to in subsection (2)(b).

### **Investigations and sanctions**

**1581.** Sections 934 to 934I shall, with any necessary modifications, apply to third-country auditors and third-country audit entities as those sections apply to statutory auditors and audit firms and audited entities.

## CHAPTER 22

### *Savings for disciplinary proceedings in being*

#### **Savings for disciplinary proceedings in being - 2010 Audits Regulations**

**1582.**(1) Nothing in the *Companies (Statutory Audits) Act 2018* (and, in particular, provisions amending this Act) affect disciplinary proceedings in being before 17 June 2016 by a recognised accountancy body against any of its members and, accordingly, those proceedings may be continued on and after that date by that body against the member or members concerned.

- (2) If, as a result of proceedings referred to in subsection (1) in relation to a person referred to in that subsection, the person's membership of the recognised accountancy body is terminated by the body or the body's approval (howsoever expressed) of the person to act as an auditor is

withdrawn, then any deemed approval of the person as a statutory auditor or audit firm by virtue of section 1471 ceases to have effect.

**Savings for disciplinary proceedings in being - 2016 Audits Regulations**

**1583.**(1) Nothing in the *Companies (Statutory Audits) Act 2018* (and, in particular, provisions amending this Act) affect disciplinary proceedings (not being disciplinary proceedings referred to in section 1582(1)) in being before the date of commencement of *section 3(6)* of that Act by a recognised accountancy body against any of its members and, accordingly, those proceedings may be continued on and after that date by that body against the member or members concerned.

(2) If, as a result of proceedings referred to in subsection (1) in relation to a person referred to in that subsection, the person's membership of the recognised accountancy body is terminated by the body or the body's approval (howsoever expressed) of the person to act as an auditor is withdrawn, then any deemed approval of the person as a statutory auditor or audit firm by virtue of section 1471 ceases to have effect.

**Savings for disciplinary proceedings in being - prescribed accountancy bodies**

**1584.** Nothing in the *Companies (Statutory Audits) Act 2018* (and, in particular, provisions amending this Act) affect disciplinary proceedings (not being disciplinary proceedings referred to in section 1582(1) or 1583(1)) in being before the date of commencement of *section 3(6)* of that Act by a prescribed accountancy body against any of its members and, accordingly, those proceedings may be continued on and after that date by that body against the member or members concerned.”.

**Amendment of Schedule 5 to Principal Act**

**52.** Schedule 5 to the Principal Act is amended by the substitution of the following paragraph for paragraph 5:

“5. A company or undertaking engaged in the business of accepting deposits or other repayable funds from the public and granting credit for its own account.”.

**Amendment of Principal Act - insertion of Schedules**

**53.** The Principal Act is amended—

- (a) by the insertion of the text set out in *Schedule 1* as Schedule 19 to that Act, and
- (b) by the insertion of the text set out in *Schedule 2* as Schedule 20 to that Act.

## PART 3

## CONSEQUENTIAL AMENDMENTS

**Definitions (Part 3)**

54. In this Part—

“Act of 1893” means the Industrial and Provident Societies Act 1893;

“Act of 1896” means the Friendly Societies Act 1896.

**Amendment of section 13 of Act of 1893**

55. Section 13 of the Act of 1893 is amended—

(a) in subsection (1), by the substitution of “statutory auditors” for “public auditors”, and

(b) by the insertion of the following subsections after subsection (2):

“(3) None of the following persons shall be qualified to act as a statutory auditor of a society registered under this Act:

(a) an officer or servant of the society;

(b) a person who has been an officer or servant of the society within a period in respect of which accounts would fall to be audited by the person if he or she were appointed auditor of the society;

(c) a parent, spouse, civil partner, brother, sister or child of an officer of the society;

(d) a person who is a partner of or in the employment of an officer of the society;

(e) a person who is disqualified under this subsection for appointment as a statutory auditor of any other society that is a subsidiary or holding undertaking of the society or a subsidiary of the society’s holding undertaking;

(f) a person who is disqualified under section 1535 of the Companies Act 2014 for appointment as a statutory auditor of an undertaking that is a subsidiary or holding undertaking of the society.

(4) A person shall not act as a statutory auditor at a time when he or she is disqualified under subsection (3).

(5) If, during the person’s term of office as a statutory auditor, a person becomes disqualified under this section to act as a statutory auditor, the person shall thereupon vacate his or her office and give notice in writing to the society that he or she has vacated his or her office by reason of such disqualification.

- (6) A person who contravenes subsection (4) or (5) shall be guilty of an offence under this Act.
- (7) References in this section to an officer or servant do not include references to a statutory auditor.”.

**Amendment of section 14 of Act of 1893**

**56.** Section 14 of the Act of 1893 is amended, in subsection (2)—

- (a) in paragraph (a), by the substitution of “statutory auditor” for “auditor or auditors”,
  - (b) by the substitution of the following paragraph for paragraph (d):
    - “(d) shall state whether the audit has been conducted by a statutory auditor and by whom.”,
- and
- (c) by the substitution of “report of the statutory auditor” for “report of the auditors”.

**Amendment of section 16 of Act of 1893**

**57.** Section 16 of the Act of 1893 is amended by the substitution of “statutory auditor” for “auditors”.

**Penalties for certain offences**

**58.** The Act of 1893 is amended by the substitution of the following section for section 68:

- “**68.** (1) Every society, officer or member of a society, or other person, guilty of an offence under this Act for which no penalty is expressly provided herein, shall be liable to a class A fine.
- (2) A person guilty of an offence under section 13 shall be liable—
- (a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months, or both, or
  - (b) on conviction on indictment, to a fine not exceeding €50,000 or imprisonment for a term not exceeding 5 years, or both.”.

**Amendment of section 75 of Act of 1893**

**59.** Section 75 of the Act of 1893 is amended by the substitution of “statutory auditor” for “public auditor”.

**Amendment of section 79 of Act of 1893**

**60.** Section 79 of the Act of 1893 is amended by the insertion of the following definition:

“ ‘Statutory auditor’ shall have the same meaning as it has in section 2 of

the Companies Act 2014;”.

#### **Amendment of Schedule II to Act of 1893**

- 61.** Schedule II to the Act of 1893 is amended, in paragraph 8, by the substitution of “a statutory auditor” for “auditors or a public auditor”.

#### **Amendment of section 26 of Act of 1896**

- 62.** Section 26 of the Act of 1896 is amended—

- (a) by the substitution of the following subsection for subsection (1):

“(1) Every registered society and branch shall once in every year submit its accounts for audit to a statutory auditor.”,

and

- (b) by the insertion of the following subsections:

“(3) None of the following persons shall be qualified to act as a statutory auditor of a society registered under this Act:

- (a) an officer or servant of the society;
- (b) a person who has been an officer or servant of the society within a period in respect of which accounts would fall to be audited by the person if he or she were appointed auditor of the society;
- (c) a parent, spouse, civil partner, brother, sister or child of an officer of the society;
- (d) a person who is a partner of or in the employment of an officer of the society;
- (e) a person who is disqualified under this subsection for appointment as a statutory auditor of any other society that is a subsidiary or holding undertaking of the society or a subsidiary of the society’s holding undertaking;
- (f) a person who is disqualified under section 1535 of the Companies Act 2014 for appointment as a statutory auditor of an undertaking that is a subsidiary or holding undertaking of the society.

(4) A person shall not act as a statutory auditor at a time when he or she is disqualified under subsection (3).

(5) If, during the person’s term of office as a statutory auditor, a person becomes disqualified under this section to act as a statutory auditor, the person shall thereupon vacate his or her office and give notice in writing to the society that he or she has vacated his or her office by reason of such disqualification.

- (6) References in this section to an officer or servant do not include references to a statutory auditor.”.

**Amendment of section 27 of Act of 1896**

63. Section 27 of the Act of 1896 is amended, in subsection (2), by the substitution of the following paragraph for paragraph (c):

“(c) state whether the audit has been conducted by a statutory auditor and by whom.”.

**Amendment of section 80 of Act of 1896**

64. Section 80 of the Act of 1896 is amended, in subsection (1), by the substitution of “any other person” for “public auditor”.

**Offence to contravene section 26(4) or (5)**

65. The Act of 1896 is amended by the insertion of the following section after section 84:

“84A.(1) It shall be an offence under this Act if a person contravenes section 26(4) or (5).

(2) A person guilty of an offence under subsection (1) shall be liable—

- (a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months, or both, or
- (b) on conviction on indictment, to a fine not exceeding €50,000 or imprisonment for a term not exceeding 5 years, or both.”.

**Amendment of section 100 of Act of 1896**

66. Section 100 of the Act of 1896 is amended by the substitution of “statutory auditor” for “public auditor”.

**Amendment of section 106 of Act of 1896**

67. Section 106 of the Act of 1896 is amended by the insertion of the following definition:

“The expression ‘statutory auditor’ shall have the same meaning as it has in section 2 of the Companies Act 2014.”.

**Amendment of section 2 of Industrial and Provident Societies (Amendment) Act 1913**

68. The Industrial and Provident Societies (Amendment) Act 1913 is amended by the substitution of the following section for section 2:

“2. Every registered society shall once a year submit its accounts for audit to a statutory auditor.”.

**Amendment of section 10B of Ministerial and Parliamentary Offices Act 1938**

**69.** Section 10B of the Ministerial and Parliamentary Offices Act 1938 is amended—

- (a) in subsection (6), by the substitution of “statutory auditor (within the meaning of section 2 of the Companies Act 2014)” for “public auditor”, and
- (b) by the deletion of subsection (8).

**Amendment of section 8 of Seanad Electoral (Panel Members) Act 1947**

**70.** Section 8 of the Seanad Electoral (Panel Members) Act 1947 is amended, in subsection (2)(d)(I)(iii), by the substitution of “statutory auditor (within the meaning of section 2 of the Companies Act 2014)” for “public auditor”.

**Amendment of section 25C of Electoral Act 1992**

**71.** Section 25C of the Electoral Act 1992 is amended, in subsection (5)—

- (a) in paragraph (c)(ii), by the substitution of “statutory auditor (within the meaning of section 2 of the Companies Act 2014)” for “public auditor”, and
- (b) by the deletion of paragraph (d).

**Amendment of section 114 of Credit Union Act 1997**

**72.** Section 114 of the Credit Union Act 1997 is amended by the substitution of the following subsection for subsection (1):

“(1) A person shall not be qualified for election as auditor of a credit union unless the person is a statutory auditor within the meaning of section 2 of the Companies Act 2014.”.

**Amendment of Electoral Act 1997**

**73.** The Electoral Act 1997 is amended—

- (a) in section 20—
  - (i) in subsection (2), by the substitution of “statutory auditor (within the meaning of section 2 of the Companies Act 2014)” for “public auditor”, and
  - (ii) by the deletion of subsection (4),and
- (b) in section 86—
  - (i) in subsections (1) and (4), by the substitution of “statutory auditor” for “public auditor” in each place that it occurs, and
  - (ii) by the substitution of the following subsection for subsection (6):

“(6) In this section, ‘statutory auditor’ has the meaning assigned to it by section 2 of the Companies Act 2014.”.

**Amendment of Irish Collective Asset-management Vehicles Act 2015**

74. The Irish Collective Asset-management Vehicles Act 2015 is amended—

- (a) in section 2, by the deletion of the definition of “Audits Regulations”,
- (b) in section 123, by the substitution of the following subsection for subsection (1):
  - “(1) No person other than—
    - (a) a statutory auditor or audit firm approved in accordance with Part 27 of the Companies Act 2014, or
    - (b) an audit firm registered in accordance with section 1465 of the Companies Act 2014,shall be eligible for appointment as an auditor of an ICAV.”,
- (c) in section 131, by the substitution of “section 1544 of the Companies Act 2014” for “Regulation 101 of the Audits Regulations”, and
- (d) in section 139, by the substitution of “Chapter 11 of Part 27 of the Companies Act 2014” for “Chapter 3 of Part 4 of the Audits Regulations”.

**Amendment of European Communities (Undertakings for Collective Investment in Transferable Securities) Regulations 2011**

75. The European Communities (Undertakings for Collective Investment in Transferable Securities) Regulations 2011 (S.I. No. 352 of 2011) are amended—

- (a) by the insertion of the following Regulation after Regulation 6 but in Part 2:
  - “Disapplication of sections 1099 to 1110 of Companies Act 2014 to UCITS**
  - 6A.** For the avoidance of doubt, it is hereby declared that sections 1099 to 1110 of the Companies Act 2014 do not apply to UCITS.”,
  - and
- (b) in Regulation 42A, in paragraph (5), in the substituted subsection for subsection (1) of section 376 of the Companies Act 2014, by the substitution of “section 366” for “section 367”.

## SCHEDULE 1

## “SCHEDULE 19

Section 1472

STANDARDS RELATING TO TRAINING AND QUALIFICATIONS FOR APPROVAL OF INDIVIDUAL AS  
STATUTORY AUDITOR

1. An individual shall have attained university entrance or equivalent level and then—
  - (a) completed a course of theoretical instruction,
  - (b) undergone practical training, and
  - (c) passed an examination of professional competence which is of at least the standard required in the State for university final or equivalent examination level.
2. (1) The examination of professional competence referred to in paragraph 1 shall be such as guarantees the necessary level of theoretical knowledge of subjects relevant to statutory audit and the ability to apply such knowledge in practice. Part at least of that examination shall be in writing.
  - (2) The test of theoretical knowledge included in the examination shall include the following subjects in particular:
    - (a) general accounting theory and principles;
    - (b) legal requirements and standards relating to the preparation of entity and group financial statements;
    - (c) international accounting standards;
    - (d) financial analysis;
    - (e) cost and management accounting;
    - (f) risk management and internal control;
    - (g) auditing and professional skills;
    - (h) legal requirements and professional standards relating to statutory audit and statutory auditors;
    - (i) international auditing standards as referred to in section 1526;
    - (j) professional ethics and independence.
3. The examination shall also include at least the following subjects in so far as they are relevant to auditing:
  - (a) company law and corporate governance;
  - (b) the law of insolvency and similar procedures;

- (c) tax law;
  - (d) civil and commercial law;
  - (e) social security law and employment law;
  - (f) information technology and computer systems;
  - (g) business, general and financial economics;
  - (h) mathematics and statistics;
  - (i) basic principles of the financial management of undertakings.
4. (1) In order to ensure the ability to apply theoretical knowledge in practice, a test of which is included in the examination, a trainee shall complete a minimum of 3 years practical training in, amongst others, the auditing of entity financial statements, group financial statements or similar financial statements. A substantial part of such practical training shall be in statutory audit work and at least two thirds of such practical training shall be completed with a statutory auditor or an audit firm approved in any Member State.
- (2) All such training shall be carried out with persons who a recognised accountancy body is satisfied possess, to an adequate standard, the ability to provide practical training.”.

## SCHEDULE 2

## “SCHEDULE 20

Section 1484

INFORMATION REQUIRED, BY CHAPTER 5 OF PART 27, TO BE SUPPLIED AND ENTERED IN  
PUBLIC REGISTER**Statutory auditors**

1. In relation to a statutory auditor, the public register shall contain at least the following information:
  - (a) the name and address of the auditor;
  - (b) the number under which the auditor is entered in that register;
  - (c) if applicable—
    - (i) the name and address and the website address (if any) of the statutory audit firm by which the auditor is employed, or with whom he or she is associated as a partner or otherwise, and
    - (ii) the number under which that statutory audit firm is entered in that register;
  - (d) the name and address of the recognised accountancy body responsible for the regulation of the auditor;
  - (e) if he or she is so registered with one or more recognised accountancy bodies, counterpart authorities or third-country competent authorities—
    - (i) particulars of his or her registration—
      - (I) as a statutory auditor, with each recognised accountancy body or counterpart authority and the name of each such body or authority, and
      - (II) as an auditor, with each third-country competent authority and the name of such authority,
    - and
    - (ii) the number under which he or she is registered with each such body or authority;
  - (f) without prejudice to subparagraph (e), with regard to the auditor’s status (if such be the case) as a Member State statutory auditor, the name and address of each counterpart authority responsible, in relation to him or her, for—
    - (i) approval as referred to in Article 3 of the Audit Directive,
    - (ii) quality assurance as referred to in Article 29 of the Audit Directive and Article 26 of Regulation (EU) No 537/2014,

- (iii) investigations and sanctions as referred to in Chapter VII of the Audit Directive and Articles 23 and 24 of Regulation (EU) No 537/2014,
- (iv) public oversight as referred to in Article 32 of the Audit Directive, and
- (v) performing the functions provided for in Regulation (EU) No 537/2014 and for ensuring the provisions of that Regulation are applied as referred to in Article 20 of that Regulation.

**Statutory audit firms and audit firms approved in another Member State**

2. In relation to a statutory audit firm, the public register shall contain at least the following information:
- (a) the name and address of the audit firm;
  - (b) the number under which the audit firm is entered in that register;
  - (c) the legal form of the audit firm;
  - (d) the primary contact person in the audit firm and contact details;
  - (e) the address of each office in the State of the audit firm and the website address (if any) of the audit firm;
  - (f) the name of every individual employed by or associated as partner or otherwise with the audit firm who is approved as a statutory auditor under Part 27;
  - (g) the number under which that individual is entered in the register;
  - (h) the name and address of the recognised accountancy body responsible for the regulation of the audit firm in the State;
  - (i) the names and addresses of the owners of, or as appropriate, shareholders in, the audit firm;
  - (j) the names and addresses of the directors, or other members of, as appropriate—
    - (i) the board of directors,
    - (ii) the board of management, or
    - (iii) other administrative or management body,of the audit firm (but where the audit firm comprises a partnership with no management structure, the provision of the address of each individual named, under subparagraph (f), as partner suffices);

- (k) if applicable, the fact of the audit firm's membership of a network and either—
  - (i) a list of the names and addresses of member firms and affiliates of the network, or
  - (ii) an indication of where such information is publicly available;
- (l) if the audit firm is so registered with one or more counterpart authorities or third-country competent authorities—
  - (i) particulars of the firm's registration—
    - (I) as a statutory audit firm, with each counterpart authority and the name of the authority,
    - (II) as an audit firm, with such third-country competent authority and the name of such authority, and
    - (III) as an audit firm approved in another Member State, who has registered in accordance with Article 3a of the Audit Directive,
  - and
  - (ii) the number under which the firm is registered with each such authority;
- (m) without prejudice to subparagraph (l), with regard to the audit firm's status (if such be the case) as a Member State statutory audit firm, the name and address of each counterpart authority responsible, in relation to it, for—
  - (i) approval as referred to in Article 3 of the Audit Directive,
  - (ii) where the audit firm is registered in the public register of another Member State pursuant to Article 3a of the Audit Directive and the State is its home Member State—
    - (I) the fact that the firm is so registered, and
    - (II) the name of the host Member State and the counterpart authority in the host Member State,
  - (iii) quality assurance as referred to in Article 29 of the Audit Directive and Article 26 of Regulation (EU) No 537/2014,
  - (iv) investigations and sanctions as referred to in Chapter VII of the Audit Directive and Articles 23 and 24 of Regulation (EU) No 537/2014,
  - (v) public oversight as referred to in Article 32 of the Audit Directive, and
  - (vi) performing the functions provided for in Regulation (EU) No 537/2014 and for ensuring the provisions of that Regulation are applied as referred to in Article 20 of that Regulation;

- (n) where the audit firm is registered in the public register pursuant to Article 3a(3) of the Audit Directive with the State as its host Member State—
  - (i) the fact that the firm is so registered, and
  - (ii) the name of the home Member State and the counterpart authority in the home Member State.

#### **Third-country auditors and third-country audit entities**

- 3. (1) In relation to the case provided by section 1573 of the registration of a third-country auditor or third-country audit entity, the public register shall contain at least the information specified in the provisions of paragraph 1 or, as the case may be, 2 (as, in either case, those provisions are applied by subparagraph (2)).
- (2) The provisions of paragraph 1 or 2, as the case may be, apply for the purposes of this paragraph save so much of them as are inapplicable in the case of a third-country auditor or third-country audit entity, as appropriate.
- (3) Third-country auditors or third-country audit entities so registered shall be clearly indicated in the register as such and not as statutory auditors or audit firms.

#### **Individual identification number and storage of information in electronic form**

- 4. (1) There shall be assigned an individual identification number to each individual, firm and entity that is being entered in the public register, being—
  - (a) in a case where the information entered in respect of the individual or firm is that provided under section 1485, the number notified under subsection (2)(b)(i) of that section to the Registrar,
  - (b) in any other case, such individual identification number as, subject to subparagraph (2), is determined and allocated by the Registrar,and references in paragraphs 1 and 2 to the number under which any of the foregoing persons is entered in the register shall be read as references to that identification number.
- (2) Instead of its allocating a number for the purposes of subparagraph (1)(b) that has been determined by it, the Registrar may—
  - (a) in specifying under any provision of Part 27 the form in which information is to be notified to it for registration (and the provision concerned of that Part does not itself provide for the notification of such a number), include in that

specification a requirement that the form, as completed, includes an identification number allocated to the subject of the notification by the notifier of the information, and

- (b) if the number so provided in that form is satisfactory for the purpose of distinguishing the subject from other registrants, allocate, for the purposes of subparagraph (1)(b), that number so provided.
- (3) The information contained in that register shall be stored in electronic form and be capable of being accessed by members of the public by electronic means.

**Definition**

- 5. In this Schedule, ‘address’, in relation to an individual, firm or entity, means the individual’s, firm’s or entity’s usual business address.”.