

CHAPTER 3

*Supervision of the Prescribed  
Accountancy Bodies' regulation  
and monitoring of their members  
and the registration of third  
country auditors and audit entities*

## Supervision of the Prescribed Accountancy Bodies' regulation and monitoring of their members and the registration of third country auditors and audit entities

### 1. Introduction

This Chapter provides a summary of the activities undertaken by the Authority during the year in seeking to achieve its mission of supporting and enhancing public confidence in the accountancy profession through the exercise of effective, independent oversight of the nine Prescribed Accountancy Bodies' ('PABs')<sup>13</sup> regulation and monitoring of their members.

Also outlined in this Chapter is the work performed by the Authority during the year on foot of having been designated as competent authority for the registration of third country auditors and audit entities under certain transitional arrangements introduced by the European Commission.

Activities in addition to those referred to above in which the Authority engaged during the year in the furtherance of its statutory mandate and mission included co-operation with its EU and international counterparts as well as with other national and EU authorities and co-operation in the development of auditing and ethical standards.

The remainder of this Chapter is divided into three sections, i.e.:

- supervision of the PABs (sections 2 to 9 refer);
- registration of third country auditors and audit entities (section 10 refers); and

- other activities (section 11 refers).

### 2. Overview of supervisory activities

#### 2.1 Legislative Context

The context for the Authority's legislative functions in respect of the PABs was set out in detail in the Authority's first Annual Report<sup>14</sup> and is not, therefore, reproduced in this Report. In summary, the Act provides that the Authority's principal functions insofar as they relate to the PABs include:

- granting approval of the PABs' constitutions and other related instruments, including, for example, the Rules, Regulations and Standards applying to those bodies' members and for all proposed amendments thereto;
- supervising the operation of the PABs' investigation and disciplinary processes; and
- supervising the manner in which the Recognised Accountancy Bodies ('RABs')<sup>15</sup> monitor their members and member firms.

#### 2.2 Principal supervisory activities

During the year under review, the Authority's supervisory activities in respect of the PABs fell broadly into the following principal categories:

- i. statutory Enquiries;
- ii. attachment of Conditions to the recognitions of RABs;

<sup>13</sup> The nine PABs are the:

- Association of Chartered Certified Accountants (ACCA);
- Association of International Accountants (AIA);
- Chartered Institute of Management Accountants (CIMA);
- Chartered Institute of Public Finance & Accountancy (CIPFA);
- Institute of Chartered Accountants in England & Wales (ICAEW);
- Institute of Chartered Accountants in Ireland (ICAI);
- Institute of Chartered Accountants of Scotland (ICAS);
- Institute of Certified Public Accountants in Ireland (ICPAI); and
- Institute of Incorporated Public Accountants (IIPA).

<sup>14</sup> The Authority's first Annual Report can be accessed at <http://www.iaasa.ie/publications/index.htm>

<sup>15</sup> Six of the nine PABs are also RABs. A RAB is a body that has been recognised for the purposes of section 187 of the Companies Act 1990. RABs are permitted to register or license their members/member firms for the purpose of entitling such persons/firms to practice as auditors. The six RABs are ACCA, ICAEW, ICAI, ICAS, ICPAI and IIPA.

- iii. supervision of the Institute of Chartered Accountants in Ireland's ('ICAI') response to events at Anglo Irish Bank Corporation Limited and Irish Life & Permanent plc;
- iv. approval related activities;
- v. complaints handling;
- vi. supervisory reviews; and
- vii. PABs' annual return process.

the purpose of determining whether PABs have complied with their approved investigation and disciplinary procedures. The Authority has also published detailed procedures to be followed in the conduct of such Enquiries (these procedures are set out in the Companies (Auditing and Accounting) Act 2003 (Procedures Governing the Conduct of Section 23 Enquiries) Regulations 2007)<sup>16</sup> ('Section 23 Regulations'). A more detailed overview of the section 23 process was set out in the Authority's 2007 Annual Report, which can be accessed on the Authority's website<sup>17</sup>.

### 3. Statutory Enquiries

#### 3.1 Section 23 of the Act

Under section 23 of the Act, the Authority is empowered to initiate statutory Enquiries for

#### 3.2 Section 23 Enquiries

The Authority's section 23 Enquiry activity during the year is summarised in the Table below.

**Table 8: Summary of section 23 Enquiry activity - 2009**

	PAB	At Preliminary Enquiry Committee Stage	At Enquiry Committee Stage	Total
Section 23 Enquiries ongoing at 1 January, 2009	ICAI	1	2	3
Preliminary Enquiries completed during the year	ICAI	(1)		(1)
Full Enquiries initiated during the year on foot of <i>prima facie</i> cases having been found by a Preliminary Enquiry Committee	ICAI		1	1
New Preliminary Enquiries initiated during the year <sup>18</sup>	ICAI	1		1
Full Enquiries completed during the year	ICAI		(1)	(1)
<b>Section 23 Enquiries ongoing at 31 December, 2009</b>	<b>ICAI</b>	<b>1</b>	<b>2</b>	<b>3</b>

<sup>16</sup> The text of the Regulations is available at [http://www.iaasa.ie/legislation/si667\\_2007.pdf](http://www.iaasa.ie/legislation/si667_2007.pdf)

<sup>17</sup> [http://www.iaasa.ie/publications/Annual\\_Report2007.pdf](http://www.iaasa.ie/publications/Annual_Report2007.pdf)

<sup>18</sup> Initiated on the Authority's initiative as opposed to on foot of receipt of a complaint

### 3.3 Subject matter of section 23 Enquiries

As summarised in the Table above, a total of four<sup>19</sup> Enquiries were in progress at some point during the year under review. Set out in the Table below is a

more detailed narrative on the matters with which those Preliminary Enquiry Committees ('PECs') and Enquiry Committees ('ECs') were, or are, concerned.

**Table 9: Summary of matters with which PECs and ECs were, or are, concerned**

PEC 1/2008	<p>This PEC was formally constituted in 2008 and held 3 meetings during 2009 before concluding its work.</p> <p>The Committee's mandate was to determine, on a preliminary basis, whether the ICAI had complied with its approved investigation and disciplinary procedures. Specifically, the Committee enquired into whether the ICAI complied with its approved Bye-laws in the manner in which it brought a complaint to its Complaints Committee for direction, the effect of which action, if proven, could have resulted in the complainant being denied recourse to the Independent Reviewer.</p> <p>In June, 2009, the Committee determined that there was a <i>prima facie</i> case and, on that basis, the matter was referred to an EC for Full Enquiry (see also EC BS/2009 below).</p>
EC BS/2009	<p>This EC, which was formally constituted in late 2009, is conducting the Full Enquiry that resulted from the finding of a <i>prima facie</i> case by the associated PEC (see PEC 1/2008 above). The Committee met on 1 occasion during the year and its work was ongoing at year end.</p>
PEC MD/2009	<p>This PEC was established in December, 2009 following the referral of certain concerns to the Authority's Board by the Authority's Executive.</p> <p>The Committee's mandate is to determine, on a preliminary basis, whether the ICAI has complied with its approved investigation and disciplinary procedures. Specifically, the Committee is enquiring into, amongst other matters, whether the ICAI:</p> <ul style="list-style-type: none"> <li>■ may have failed to properly investigate whether, in acting as auditor (to a listed company), an ICAI member firm may have failed to comply with that Institute's standards; and</li> <li>■ may have failed to treat a complainant as a 'Complainant', as defined in the Bye-laws, which, if proven, could have resulted in the complainant being denied certain rights provided for by the Bye-laws.</li> </ul> <p>At year end, the Committee's enquiries were ongoing.</p>
EC HC/2009	<p>This EC, which was formally constituted in December 2008, is conducting the Full Enquiry that resulted from the finding of a <i>prima facie</i> case by the associated PEC. The Committee held 10 meetings during the year.</p> <p>The Committee is conducting a Full Enquiry with a view to determining whether the ICAI complied with its approved investigation and disciplinary procedures. Specifically, the Committee is enquiring into whether, amongst other matters, in processing a complaint received, the ICAI complied with its approved Bye-laws and, in particular, with reference to:</p> <ul style="list-style-type: none"> <li>■ its consideration as to whether the complaint was one that gave rise to, or included questions of, public concern or was of complexity or importance;</li> <li>■ the quorum and composition of the Complaints Committee when it considered the complaint; and</li> <li>■ certain assertions made regarding that Institute in a newspaper article.</li> </ul> <p>At year end, the EC's enquiries were ongoing.</p>
EC GS/2009	<p>This EC, which was formally constituted during 2009, conducted a Full Enquiry that resulted from the finding of a <i>prima facie</i> case by the associated PEC. The Committee held 5 meetings during the year before concluding its work.</p> <p>The Committee's mandate was to conduct a Full Enquiry with a view to determining whether the ICAI complied with its approved investigation and disciplinary procedures. Specifically, the Committee enquired into whether the ICAI's:</p> <ul style="list-style-type: none"> <li>■ Complaints Committee acted in breach of the Institute's Bye-laws by failing to give sufficient reasons for its decision to a complainant; and</li> <li>■ Independent Reviewer acted in breach of the Institute's Bye-laws by failing to give reasons to the same complainant as to the basis upon which the Independent Reviewer had concluded that:             <ul style="list-style-type: none"> <li>□ the decision of the Complaints Committee was fair and reasonable; and</li> <li>□ there were insufficient grounds for the referral of the matter back to the Complaints Committee for re-consideration.</li> </ul> </li> </ul> <p>Upon completing its work, the EC issued its Decision in November, 2009. The EC found that the ICAI failed to comply with the aforementioned aspects of its approved investigation and disciplinary procedures. In accordance with the requirements of the Act, the Authority is currently in the process of seeking the High Court's affirmation of the Decision.</p>

<sup>19</sup> i.e. 3 Enquiries ongoing at the beginning of the year plus one new Enquiry initiated during the course of the year

### 3.4 Engagement on interpretations of the Section 23 Regulations

During the year the Authority participated in a lengthy and detailed engagement with the ICAI on the parties' respective interpretations of the provisions of the Act and the Section 23 Regulations. The issues in respect of which the parties engaged included:

- the purpose of section 23 Enquiries;
- the scope of section 23 Enquiries;
- publication;
- oral hearings;
- settlement; and
- the transfer of documents between PECs and subsequently established ECs.

## 4. Attachment of Conditions to the recognition of RABs

### 4.1 Legislative context

A RAB is a body of accountants that has been recognised for the purposes of section 187 of the Companies Act, 1990 ('the 1990 Act'). RABs are, subject to certain criteria being satisfied, permitted to register or license their members/member firms for the purpose of entitling such persons/firms to practice as statutory auditors.

Section 192(1) of the 1990 Act (as amended) provides that the Authority may, at any time, attach to the recognition of a RAB any such terms or conditions as it thinks necessary or expedient, provided that such terms or conditions are specified in writing.

### 4.2 Attachment of new Conditions

During the year the Authority attached Conditions to the recognitions of two RABs. Details of the principal provisions of those Conditions, and the RABs to whose recognitions they were attached, are set out below.

### Condition I – Institute of Incorporated Public Accountants (IIPA)

This Condition requires the IIPA to put in place arrangements under which:

- prior to signing an audit report for the purposes of section 193(1) of the 1990 Act, the work of certain members authorised by the IIPA to perform statutory audits ('affected members') is required to be subjected to review by an independent reviewer who:
  - i. is qualified for appointment as an auditor under the Companies Acts;
  - ii. and has been approved by the Authority; and
  - iii. operates under terms of reference approved by the Authority; and
- affected members are not permitted to sign audit reports for the purpose of section 193(1) of the 1990 Act until such time as an independent reviewer has confirmed that, in his/her professional opinion, the audit work undertaken by the affected member is sufficient and appropriate to support the proposed audit opinion.

The Authority considered it both necessary and expedient to attach this Condition to the IIPA's recognition following an in-depth examination of, amongst other things, that body's process for the awarding of audit authorisations.

### Condition II – Institute of Chartered Accountants in Ireland (ICAI)

This Condition requires the ICAI to provide the Authority with:

- unrestricted access to all books, records or other documents (in any format) that are in the ICAI's possession or control that are of relevance to the Authority's objects and functions, including for the purposes of taking copies of such books, records or other documents; and
- such information and other assistance as the Authority may reasonably require in connection with such books, records and documents.

The Authority considered it both necessary and expedient to attach this Condition in order to obtain access to certain documents in the ICAI's possession which were of relevance to the Authority's statutory remit.

#### **4.3 Monitoring of Conditions previously attached**

In addition to the foregoing, the Authority's supervisory activities during the year also included the ongoing monitoring of adherence to Conditions previously attached to RABs' recognitions.

In that context, and pursuant to a Condition previously attached to the IIPA's recognition whereby the IIPA is required to submit all proposals to issue new audit authorisations to the Authority for examination in advance of granting such authorisations, the Authority examined 11 such proposals during the year. As considered necessary or otherwise appropriate, the Authority required the provision of certain information, explanations and clarifications in advance of providing the IIPA with its observations on the proposed granting of authorisations.

## **5. Supervision of the Institute of Chartered Accountants in Ireland's response to events at Anglo Irish Bank Corporation Limited and Irish Life & Permanent plc**

### **5.1 Context**

The model of supervised self regulation provided for by the Act is one whereby:

- the PABs are responsible for carrying out investigations into their members' activities where necessary (e.g. in response to allegations or other indications of possible breaches by members/ member firms of the PABs' standards);
- the Authority is responsible for supervising the PABs' investigative and disciplinary activities and, specifically, for ensuring that the PABs' approved procedures are complied with; and
- in circumstances where it finds that a PAB has failed to comply with its approved investigation and disciplinary procedures, the Authority may impose certain sanctions, including monetary sanctions (i.e. under section 23 of the Act).

Accordingly, and consistent with the foregoing, in the normal course of its supervisory activities, the Authority focuses on the proper operation of the PABs' investigative and disciplinary systems and processes rather than on the PABs' handling of individual cases<sup>20</sup>. In certain instances, however, the PABs' handling of individual cases may be judged by the Authority to warrant particular attention, for example, where the underlying matters are connected with a listed entity.

### **5.2 Supervision of the Institute of Chartered Accountants in Ireland's response**

On 18 December, 2008, Mr. Sean FitzPatrick resigned from the position of Chairman of what was then Anglo Irish Bank Corporation plc ('Anglo').

<sup>20</sup> The Authority's more general supervisory activities are discussed in sections 3, 4, 6, 7, 8 and 9 of this Chapter.

On 19 December, 2008 the Institute of Chartered Accountants in Ireland's ('ICAI') Chartered Accountants' Regulatory Board<sup>21</sup> issued a press statement indicating that it:

*'...will be examining the circumstances around the issue of inappropriate Directors loans at Anglo Irish Bank and the role played by any members of the Institute of Chartered Accountants in Ireland. In this process CARB will obviously seek to engage with other statutory regulators and oversight bodies'.*

On 20 December, 2008 Anglo's then Chief Executive, Mr. David Drumm, resigned. On 23 December, 2008 the Authority's Board met to consider its response to these events. In view of the model of supervised self regulation provided for by the Act and, in view of the fact that Mr. FitzPatrick, Mr. Drumm and Mr. William McAteer (then also a director of Anglo and the bank's Chief Risk Officer) are members of the ICAI, together with the fact that Ernst & Young, Anglo's then auditor, is an ICAI member firm, the Board of the Authority resolved to appoint a senior staff member<sup>22</sup> to observe the ICAI's regulatory response to events at Anglo.

The practical effect of the Board's decision was that, from that date, a senior Authority staff member has been in attendance at all meetings of the ICAI's Complaints Committee to observe that Committee's response at first hand. The Board considered this step to be appropriate given that the Complaints Committee, which is the first step in the ICAI's investigation/disciplinary process, does not meet in public due to the preliminary nature of its investigations.

During the period that followed, the Authority:

- remained in ongoing communication with the Complaints Committee and the wider Institute, monitored the timeliness of the Committee's response and emphasised the importance of a timely regulatory response in the interests of ensuring that the manner in which members and member firms are regulated can command public trust, confidence and support;
- recommended to the Tánaiste and then Minister for Enterprise, Trade & Employment that section 36 of the Act be commenced with a view to strengthening the ICAI's ability to investigate these matters – section 36 of the Act was subsequently commenced on 27 January, 2009<sup>23</sup>; and
- has attended nine<sup>24</sup> meetings of the Complaints Committee.

At its meeting on 16 January, 2009, the Complaints Committee formed the opinion that the issues under consideration are of complexity and importance and constitute a matter of public concern and, on that basis, the Committee resolved at its meeting of 13 February, 2009 to appoint a Special Investigator<sup>25</sup>.

The Special Investigator was charged with investigating possible breaches of the ICAI's Bye-Laws and/or Rules of Professional Conduct by its members and/or member firms and specifically<sup>26</sup>:

- certain loans made by Anglo to Mr. Sean FitzPatrick, a director of the bank (and a member of the ICAI) and actions taken by him in relation to such loans in the years prior to the disclosure

<sup>21</sup> The Chartered Accountants' Regulatory Board ('CARB') is a Committee of the Institute of Chartered Accountants in Ireland's Council (governing body). CARB was established under the Institute's Bye-laws for the purpose of regulating the Institute's members in accordance with the provisions of the Institute's Bye-laws.

<sup>22</sup> Head of Regulatory & Monitoring Supervision.

<sup>23</sup> Section 36 was commenced by the Companies (Auditing and Accounting) Act 2003 (Commencement) Order 2009 (S.I. No. 13 of 2009).

<sup>24</sup> 16 January, 13 February, 13 March, 16 March, 22 May, 22 July, 27 August, 8 October and 12 November, 2009 respectively.

<sup>25</sup> The Committee appointed former Comptroller & Auditor General, Mr. John Purcell, as the Special Investigator.

<sup>26</sup> The ICAI's press statement on this matter can be accessed at <https://www.carb.ie/en/Public-Communications/Press-Releases/>

of same by Mr. FitzPatrick in 2008 and the treatment of same in Anglo's financial statements and the subsequent resignations of Mr. Sean FitzPatrick, Mr. David Drumm and Mr. William McAteer, being two other directors of the bank and each being a member of the ICAI; and

- the performance of Anglo's auditors, Ernst & Young, an ICAI member firm, in connection with the audit of Anglo's financial statements in relation to the said loans to Mr. FitzPatrick in the years prior to the disclosure of same by Mr. FitzPatrick.

Bye-law 72.1 of the ICAI's Bye-laws provides that, where the Complaints Committee decides to refer a matter to a Special Investigator, the Committee shall appoint a person to conduct, in such manner as s/he in their absolute discretion thinks fit, an investigation into such facts and matters as the Committee specifies.

Bye-law 72.4 provides that the Complaints Committee may authorise the Special Investigator to do all things considered necessary or conducive to the conduct of the investigation while Bye-law 62.1 provides that it shall be the duty of every member and firm to co-operate at every phase of the disciplinary process (including by providing such information, explanations, documents and computer and other electronic records as the Special Investigator may consider necessary).

Bye-law 62.1 further provides that each 'Disciplinary Body', which, as defined in the Bye-laws, includes the Special Investigator, shall be entitled to avail of all powers conferred upon it by section 192A of the 1990 Act, as inserted by section 36 of the Act. Accordingly, with the commencement of section 36 of the Act following the Authority's recommendation to that effect, the Special Investigator's powers of investigation were further widened and underpinned by statute. The powers provided to the Special

Investigator by section 36 are extensive and include the power to:

- require a relevant person (which includes a member, member firm, former member, former member firm, client or former client of a member or member firm and any other person reasonably believed to have information or documents relating to the investigation) to produce all books or documents relating to the investigation that are in the person's possession or control;
- examine a relevant person on oath; and
- certify a relevant person's refusal to co-operate to the High Court.

At its meeting on 16 March, 2009, and in light of certain information that had come into the public domain in the previous month regarding certain transactions between Anglo and Irish Life & Permanent plc ('IL&P'), the Complaints Committee resolved to appoint the Special Investigator to also examine the following additional matters<sup>26</sup>:

- certain deposits made by IL&P through its subsidiary Irish Life Assurance ('ILA') with Anglo during 2008, and in particular during September-October 2008, and actions taken in relation to such deposits and the treatment of same in the financial statements of Anglo and the reporting of same to the Financial Regulator and the purpose of same (and the subsequent resignation in February 2009 of Mr. Peter Fitzpatrick, Group Financial Director of IL&P, a member of the ICAI);
- the alleged provision during 2008 of loans of €451 million to 10 customers of Anglo in order to buy a number of the shares in Anglo held indirectly by Mr. Sean Quinn;

- the role, if any, in relation to the aforesaid transactions of Mr. Sean FitzPatrick and/or Mr. David Drumm and/or Mr. William McAteer, each being a director of Anglo at the relevant time and a member of the ICAI (Mr. FitzPatrick and Mr. Drumm having resigned from Anglo in December 2008 and Mr. McAteer having resigned in January, 2009);
- the performance of Anglo's auditors, Ernst & Young, a member firm of the ICAI, of their role in connection with the audit of the financial statements of Anglo in relation to the aforesaid transactions;
- certain deposits made by IL&P through its subsidiary ILA with Anglo during 2008, and in particular during September-October 2008, and actions taken in relation to such deposits and the treatment of same in the financial statements of IL&P and/or ILA and the reporting of same to the Financial Regulator and the purpose of same and the subsequent resignation on 13 February, 2009 of Mr. Peter Fitzpatrick, Group Financial Director of IL&P, a member of the ICAI; and
- the role, if any, in relation to the aforesaid transaction of Mr. Peter Fitzpatrick, Mr. Fitzpatrick being a director of IL&P at the relevant time and a member of the ICAI.

On 22 July, 2009 the Complaints Committee resolved to extend the Special Investigator's mandate to include the role, if any, of<sup>26</sup>:

- Mr. Sean FitzPatrick; and/or
- Mr. David Drumm; and/or

- Mr. William McAteer,

in relation to the management of certain loans made to a number of senior Anglo personnel in 2008.

During the year, senior Authority representatives held a number of meetings with the Special Investigator in order to monitor the progress of the investigations being undertaken and at year end the Special Investigator's work was ongoing.

## 6. Approval related activities

### 6.1 Legislative context

The Authority's role in approving the PABs' constitutional documents<sup>27</sup> derives from section 9(2)(c) of the Act, which provides that the Authority's functions include approving and requiring changes to:

- the constitutions and Bye-laws of the PABs, including each PAB's investigation and disciplinary procedures and its standards; and
- any amendments to the approved constitution or Bye-laws of each PAB, including each PAB's investigation and disciplinary procedures and its standards.

The term 'standards' as used above is defined in section 4 of the Act as "*standards*", in relation to a prescribed accountancy body, means the rules, regulations and standards that body applies to its members and to which, by virtue of their membership, they are obliged to adhere'.

The Authority's approval related activities seek, amongst other things, to identify any areas and/or aspects of the PABs' constitutional and related documents in respect of which amendment might serve to further strengthen the transparency and efficacy of the PABs' governance and regulatory

<sup>27</sup> The term 'Constitutional documents' refers to the PABs' Charters, Memoranda & Articles of Association, Bye-laws, Rules, Regulations, Codes and Standards.

structures, thereby contributing to the enhancement of public confidence in the manner in which the PABs regulate and monitor their members. The Authority's approval process, whilst rigorous and demanding, is collaborative and seeks to take account of:

- international best practice in regulatory and corporate governance matters;
- the provisions of the EU Statutory Audit Directive;
- relevant recommendations of the Review Group on Auditing<sup>28</sup>; and

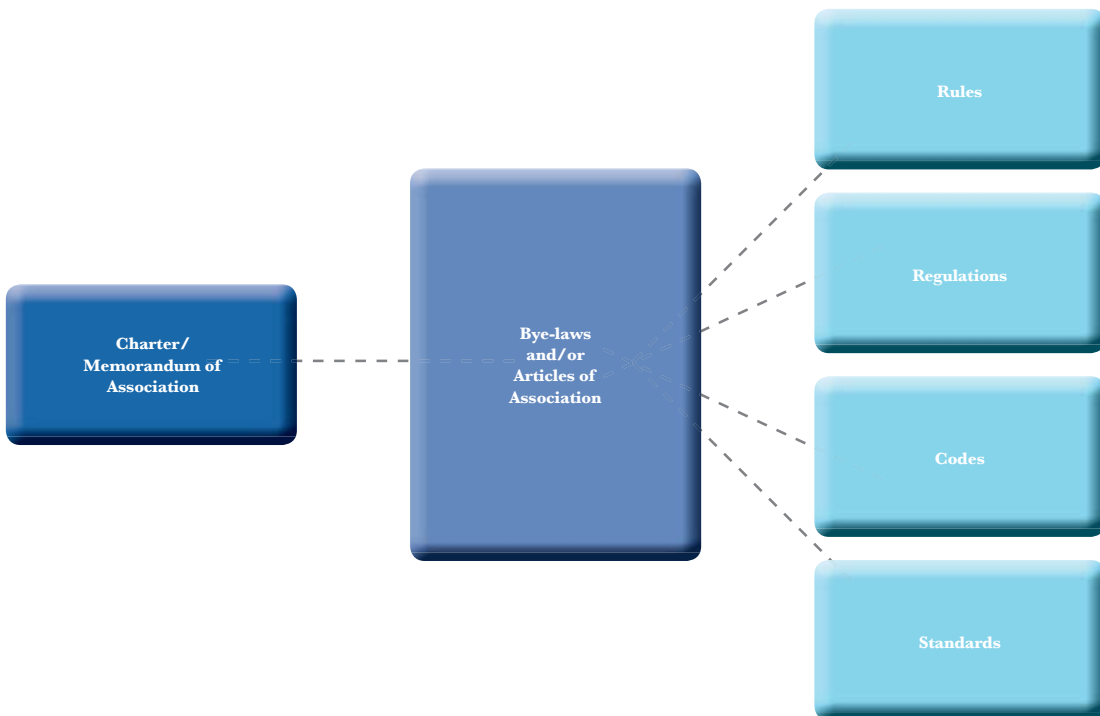
- relevant legal requirements.

### 6.2 Structure of PABs' constitutional documents

The PABs' constitutional documents typically follow a hierarchical structure such as that shown in the diagram below.

### 6.3 Approvals

Approvals granted during the year are set out in Table 10 across.



<sup>28</sup> The Review Group on Auditing was established in December 1999 by the then Minister for Enterprise, Trade and Employment. Its report, which was published in July 2000, set out a substantial number of recommendations with regard to the regulation and supervision of the auditing profession.

**Table 10 Approvals granted during the year<sup>29</sup>**

	2009	2008
Memoranda of Association	-	1
Articles of Association	-	1
Sets of existing full suite Bye-laws	-	1
Sets of amended Bye-laws	1	2
Sets of Regulations	1	1
Sets of amended Regulations	9	11
Codes of Ethics and Conduct	-	1
Amended Codes of Ethics and Conduct	1	1
<b>Total</b>	<b>12</b>	<b>19</b>

In addition to the foregoing, at year end, reviews of the following were ongoing:

**Table 11 Approval related matters initiated and ongoing at year end**

	2009	2008
Charters	3	2
Memoranda of Association	1	1
Proposed amendments to Memoranda of Association	1	-
Articles of Association	1	1
Sets of existing full suite Bye-laws	6	4
Sets of proposed amendments to Bye-laws	2	1
Sets of Regulations	19	10
Sets of proposed amendments to Regulations	2	1
Codes of Ethics and Conduct	2	2
Proposed amendments to Codes of Ethics and Conduct	-	1
<b>Total</b>	<b>37</b>	<b>23</b>

#### 6.4 Decision not to grant approval

During the year the Authority declined to approve proposals from one PAB (i.e. the ICAI) to effect certain amendments to its constitutional documents.

The Authority's decision not to grant approval followed a detailed review of the proposed amendments (which included the Authority taking external legal advice), upon the completion of which the Authority:

- concluded that certain of the proposed amendments were *ultra vires*<sup>30</sup> the ICAI; and

- remained unconvinced as to the merits of granting approval in respect of certain other proposed amendments.

In view of the Authority's decision not to grant its approval, the ICAI was invited to consider its proposals further and to revert with amended proposals should it wish to further pursue approval.

<sup>29</sup> The approvals referred to in this Table relate to the ACCA and the ICAI.

<sup>30</sup> i.e. beyond the powers or legal authority of.

## 7. Complaints handling

### 7.1 Overview

For the purposes of the analyses set out in this Chapter, a 'Complaint' includes any expression of dissatisfaction with accounting related services and/or with the regulation of members/member firms by the PABs, whether communicated to the Authority by members of the public or other sources.

The Authority received a total of 20 complaints during the year under review. The nature of those complaints, together with details of the manner in which complaints were dealt with, is set out in

the following Tables. The handling of complaints received forms an important part of the Authority's supervision of the PABs, in that analysing the nature of complaints received together with the Authority's examination thereof enables the Authority to determine whether the issues complained of are of an isolated nature or whether they are indicative of wider or systemic issues.

### 7.2 Complaints received

Details of complaints received during the year, together with comparative data in respect of the year ended 31 December, 2008, are set out in the Table below.

**Table 12: Complaints received during 2009**

	2009	2008
Complaints on hand as at 1 January	5	7
Complaints received during the year (see Table 14)	20 <sup>31</sup>	18
Complaints closed during the year (see Table 13)	(18)	(20)
Complaints on hand as at 31 December	7	5
Analysed by:		
Complaints under consideration at year end	5	2
Matters ongoing under the section 23 process (see Table 8)	2	3
<b>Complaints on hand at 31 December</b>	<b>7</b>	<b>5</b>

At year end, two matters arising from complaints remained under consideration by Authority Committees in accordance with the provisions of the Section 23 Regulations. An overview of the Authority's section 23 Enquiry activity during the year is set out in section 3.2 above.

### 7.3 Complaints closed

As can be seen from the Table above, a total of 18 complaints were closed during the year. The manner in which those complaints were closed is analysed in the following Table.

**Table 13: Complaints closed**

	2009	2008
Referral to relevant PAB <sup>32</sup>	9	10
Referral to another regulatory/enforcement body	3	3
Pursued with the relevant PAB as a regulatory matter	4	1
Complaint withdrawn by complainant	1	1
Completion of a Full Enquiry (see Table 8)	1	2
Outside the remit of the Authority	-	3
<b>Complaints closed during the year</b>	<b>18</b>	<b>20</b>

<sup>31</sup> Complaints received related to (i) the following PABs: ICAEW, ICAI, ICPAI and IIPA; and (ii) members of the following PABs: ACCA, ICAI and IIPA.

<sup>32</sup> Under the regulatory model provided for by the Act, primary responsibility for investigating complaints relating to members of the PABs resides with the PABs. Accordingly, where the Authority receives a complaint in circumstances where the matter has not, in the first instance, been referred to the relevant PAB, the Authority refers the matter to the PAB for processing under its approved investigation and disciplinary procedures.

#### 7.4 Nature of complaints received

Set out in the Table below is an analysis of the

nature of issues giving rise to complaints made to the Authority during the year.

**Table 14: Nature of issues giving rise to complaints – complaints received in 2009**

	Total	Closed	Active at year end
Alleged failure to release client documentation	1	1	-
Allegation of unsatisfactory work	8	8	-
Alleged delays in PABs' disciplinary processes	2	1	1
Dissatisfaction with some other aspect of the PABs' disciplinary procedures	5	2	3
Alleged breach of standards by a PAB member/member firm	1	1	-
Dissatisfaction with fees charged	1	1	-
Other	2	2	-
<b>Total</b>	<b>20</b>	<b>16</b>	<b>4</b>

#### 7.5 Referrals from the Office of the Director of Corporate Enforcement ('ODCE')

Over the course of the year, the Authority received a total of 12 referrals from the ODCE. These referrals related to apparent non-compliance with professional standards and/or company law on the part of certain members/member firms of RABs. In response to these referrals, and in addition to ongoing liaison with the ODCE, the Authority liaised with the relevant RABs with a view to:

- ascertaining their respective responses to these matters; and
- ensuring that the RABs' responses were consistent with their approved investigation, disciplinary and other relevant procedures.

Set out in the Table below is a summary of referrals received from the ODCE during the year, analysed by both RAB and subject matter.

**Table 15: Summary of referrals from the ODCE - 2009**

Subject matter of referral	ACCA	ICAI	ICPAI	IIPA	Total
Provision by auditors of audit reports not appropriate to audited entities' legal structure (i.e. companies limited by guarantee and public companies)		2	1		3
Qualification to audit (S187, 1990 Act)				1	1
Duty of auditors to report to the Director of Corporate Enforcement (S194(5), 1990 Act)	1	3			4
Disclosure of substantial contracts, etc. with directors and others in financial statements	1	2			3
Miscellaneous other matters	1				1
<b>Total</b>	<b>3</b>	<b>7</b>	<b>1</b>	<b>1</b>	<b>12</b>

## 8. Supervisory reviews

During the year the Authority completed supervisory visits in respect of two PABs and commenced supervisory reviews in respect of a further two PABs. In addition, Authority staff held seven review meetings with PABs' representatives during the year, the purpose of such meetings being, amongst other things, to:

- discuss progress on the implementation of Authority recommendations;
- identify, discuss and plan for forthcoming developments of relevance in a supervisory context; and
- discuss matters of mutual interest from a regulatory perspective.

As in previous years, the principal issues arising from the Authority's supervisory review activities related to:

- the practical operation of PABs' investigation and disciplinary procedures;
- constitutional documents;
- PABs' licensing and registration of members/ member firms; and
- the accuracy of information provided in PABs' annual returns to the Authority.

## 9. PABs' annual return process

### 9.1 PABs' annual returns

On an annual basis, the Authority requires the PABs to complete an annual return, the purpose of which is twofold, namely to:

- i. provide the Authority with information necessary to enable it to:

- monitor the PABs' ongoing regulatory, monitoring and related activities; and
- plan for supervisory reviews by, for example, identifying key areas, issues or trends deserving of particular attention or resource allocation; and

- ii. enable the Authority to provide the public with an insight into the scale and composition of the profession as well as the PABs' principal regulatory and, where applicable, monitoring activities on an annual basis.

By definition, certain of the information sought from the PABs is confidential - or otherwise sensitive in nature - and is, principally, for the Authority's internal use as opposed to being collected and collated for the purpose of publication. That being the case, not all data collected from the PABs is made public by the Authority. Those elements of the data considered appropriate for publication, together with the Authority's analysis thereof, are set out in detail in Chapter 7 of this Report.

### 9.2 Annual returns – Individually Authorised Auditors

The Authority also requests annual returns from individuals who, whilst not necessarily being members of the RABs, are entitled to perform statutory audit work on foot of Ministerial authorisations granted prior to 3 February, 1983. A list of such individuals (referred to as 'Individually Authorised Auditors') is set out in Part F of Chapter 7 of this Report.

## 10. Registration of third country auditors and audit entities

### 10.1 Context – Commission Decision

In July 2008, the European Commission issued Decision No. 2008/627/EC ('the Decision')<sup>33</sup>. The purpose of the Decision was to put in place a framework whereby auditors and audit entities from

<sup>33</sup> The text of the Decision can be accessed at [http://www.iaasa.ie/legislation/EU\\_QA\\_Recs310708.pdf](http://www.iaasa.ie/legislation/EU_QA_Recs310708.pdf)

certain third countries could benefit from transitional arrangements<sup>34</sup> under which they could continue to issue valid audit opinions in the European Union

provided that certain requirements are met. The third countries concerned are set out in the Table below.

**Table 16: Third countries scheduled in the Decision**

Argentina	India	Singapore
Australia	Indonesia	South Africa
Bahamas	Israel	South Korea
Bermudas	Japan	Switzerland
Brazil	Kazakhstan	Taiwan
Canada	Malaysia	Thailand
Cayman Islands	Mauritius	Turkey
Chile	Mexico	Ukraine
China	Morocco	United Arab Emirates
Croatia	New Zealand	United States of America
Guernsey, Jersey, Isle of Man	Pakistan	
Hong Kong	Russia	

The transitional period applies to the audit reports concerning the annual or consolidated financial statements prepared in respect of financial years starting during the period from 29 June, 2008 to 1 July, 2010. Thereafter, auditors and audit entities from the third countries concerned will require registration in accordance with the provisions of Article 45 of the Statutory Audit Directive in order to be eligible to issue audit opinions valid in the EU.

### 10.2. Implementation of Decision in national law

The Decision was given effect to in Irish law by Statutory Instrument No. 229 of 2009, the European Communities (Transitional Period Measures in Respect of Third Country Auditors) Regulations 2009, ('the Transitional Regulations')<sup>35</sup>.

### 10.3 Designation of the Authority as competent authority

Regulation 3 of the Transitional Regulations, which

took effect from 26 June, 2009, designated the Authority as the competent authority for the purposes of registering transitional third country auditors.

### 10.4 Requirements for transitional registration

In accordance with the provisions of Regulation 4 of the Transitional Regulations, in order for a third country auditor or audit entity to be registered by the Authority, that auditor or audit entity must first provide the Authority with the following information:

- name, address and information regarding legal structure;
- where the auditor/audit entity belongs to a network, a description of the network;
- details of the auditing standards and independence requirements that have been applied to the audit(s) concerned (i.e. audits of

<sup>34</sup> Applies to audit reports concerning the annual or consolidated financial statements prepared in respect of financial years starting during the period from 29 June, 2008 to 1 July, 2010.

<sup>35</sup> The text of the S.I. can be accessed at [http://www.iaasa.ie/legislation/si229\\_2009.pdf](http://www.iaasa.ie/legislation/si229_2009.pdf)

- relevant audit clients<sup>36</sup> admitted to trading on a regulated market in the State);
- d. a description of the auditor's/audit entity's internal quality control system; and
- e. an indication of whether, and when, the last quality assurance review was carried out and necessary information regarding the outcome of that review.

In providing the above information, third country auditors and audit entities are required to:

- ensure that the information provided is correct and accurate in all material respects;
- certify that to be the case;
- update and recertify information previously provided as and when necessary; and
- comply with such reasonable requests for clarification and/or further information as the Authority considers necessary.

#### **10.5 Authority's obligations to publicise details of transitionally registered third country auditors and audit entities**

Upon registering a third country auditor or audit entity the Authority is required to make public:

- the third country auditor's/audit entity's name and address; and

- the fact that the third countries in which transitionally registered auditors/audit entities are based have not been recognised as equivalent for the purposes of the Statutory Audit Directive.

#### **10.6 Applications received and auditors/audit entities registered during 2009**

In the period from the date of the commencement of the Transitional Regulations (26 June, 2009) to 31 December, 2009, the Authority received a total of 21 registration applications. At year end, 2 third country audit entities had been registered, i.e.:

- KPMG Channel Islands Limited, Channel Islands; and
- PricewaterhouseCoopers, CI LLP, Channel Islands.

The register can be accessed on the Authority's website.<sup>37</sup>

## **11. Other activities**

As part of its ongoing supervisory mandate and in the furtherance of its mission and goals, the Authority seeks to develop and maintain strong bilateral links with certain domestic and international counterparts, as considered appropriate and permitted by law. Of particular significance in that context are the Authority's links with the:

- ODCE;
- Financial Regulator;

<sup>36</sup> For the purposes of registration in Ireland, a relevant audit client is an entity incorporated outside the EU/EEA whose transferable securities are admitted to trading on a regulated market in Ireland within the meaning of point 14 of Article 4(1) of Directive 2004/39/EC. This refers to an issuer as defined in Article 2(1)(d) of Directive 2004/109/EC, except when:

- the company is an issuer exclusively of debt securities admitted to trading on a regulated market in Ireland within the meaning of Article 2(1)(b) of Directive 2004/109/EC, the denomination per unit of which is 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; or
- the company is an issuer exclusively of units issued by collective investment undertakings other than closed-end type, or units acquired or deposited of in such collective investment undertakings within the meaning of Article 1(2) of Directive 2004/109/EC.

<sup>37</sup> <http://www.iaasa.ie/legislation/3cae/register.htm>

- European Group of Auditors' Oversight Bodies ('EGAOB');
- International Forum of Independent Audit Regulators ('IFIAR');
- US Public Company Accounting Oversight Board ('PCAOB'); and
- Auditing Practices Board ('APB').

### 11.1 ODCE

For the purpose of facilitating co-operation, the Authority entered into a Memorandum of Understanding with the ODCE in May, 2006. Where issues arise in the course of the Authority's ongoing supervisory work that are considered to be connected with the Director of Corporate Enforcement's functions, the Authority refers such matters to the ODCE. During the year, 2 referrals were made to the ODCE. As set out in Table 15 above, the ODCE also made 12 referrals to the Authority during the year.

During the year under review the Authority also provided assistance to the ODCE by providing a witness to confirm certain matters relating to the regulatory framework governing statutory auditors in the context of an appeal brought by an individual previously convicted of acting as an auditor while not qualified to do so.

### 11.2 Financial Regulator

For the purpose of facilitating co-operation, the Authority entered into a Memorandum of Understanding with the Financial Regulator in June, 2008. Where issues arise in the course of the Authority's ongoing supervisory work that are considered to be connected with the Regulator's functions, the Authority refers such matters to the Regulator. During the year, 2 referrals were made to the Regulator and, with a view to furthering the parties' understanding of each others' respective roles, Authority staff met with, and delivered a

presentation to, Regulator staff. Chapter 4 details further interactions with the Regulator in a financial reporting context.

### 11.3 EGAOB

During the year the Authority continued its co-operative activities with other EU Member States' oversight authorities as a member of the EGAOB, an expert group established by the European Commission to assist it in the context of the EU-wide implementation of the Statutory Audit Directive. The functions and detailed work performed by the EGAOB were described in considerable detail in the Authority's first Annual Report and for that reason are not reproduced in this Report.

### 11.4 IFIAR

During the year the Authority continued to be an active member of IFIAR. Members met on three occasions during the year, twice in plenary session, with a further meeting taking the form of an audit inspection workshop.

### 11.5 PCAOB

During the year the Authority continued its ongoing engagement with the PCAOB on the issues of transposition of the Statutory Audit Directive and proposed PCAOB inspections of Irish audit firms. This topic is discussed in further detail in Chapter 5 of this Report in the context of the Authority's advisory role.

### 11.6 APB

During the year the Authority continued to act as an observer at APB meetings, an activity that facilitates in assisting the Authority to discharge its role of co-operation in the development of auditing and ethical standards and to identify at an early stage developments that may have a particular relevance to, or bearing on, Ireland.