



COMMITTEE OF
EUROPEAN
AUDITING
OVERSIGHT
BODIES

Report on the 2017 CEAOB Enforcement Questionnaire

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1. Definitions

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| Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts | EU Audit Directive (EU-AD) |
| Regulation (EU) No 537/2014 of the European Parliament and of the Council of 16 April 2014 on specific requirements regarding statutory audit of public-interest entities | EU Audit Regulation (EU-AR) |
| Audit Regulation and Directive (as described above) | ARD |

The terms used in the CEOB Enforcement Questionnaire reflect the terms and definitions used in EU-AD and the EU-AR.

2. Executive Summary

The CEOB Enforcement Questionnaire 2017 (“the Questionnaire”) was sent out to EEA auditor oversight bodies (competent authorities) in September 2017. The aim was to collect information and statistics from competent authorities for the year 2016. A total of 27 responses were received. The responses show that almost all EU Member State authorities have started to, or continue to, apply the ARD and national legislation in compliance with the ARD.

The ARD allows flexibility in the organisation of auditor oversight investigation and sanctioning systems. From the survey, some areas of uniformity and some areas of diversity were detected. All of the respondent competent authorities, except three, are directly responsible for both investigations and sanctions. However, in all cases where both competences are within the same body, the responsibilities belong to separate groups, panels, committees or divisions of that competent body.

ARD allows for the delegation of powers from the competent authorities to external bodies or parties. The option to delegate is widely used among Member States. Many of the respondents (27%) have delegated investigation tasks, whereas some of the respondents (41%) have delegated sanctioning tasks. Over one third of the respondents (45%) have delegated competences in the field of investigations and sanctions over non-PIE auditors. More than half of the respondents (55%) have delegated the task of public registration of auditors to another body. Many of the respondents (48%) have delegated other tasks than the ones mentioned above. The main delegated tasks in the field of investigations and sanctions include non-PIE auditor and audit firm investigations and sanctioning. Most of the respondents that delegated tasks, delegated competences to the profession (e.g. chambers of the profession or other professional institutes).

A minority of the respondents (37%) indicated that in their jurisdiction the competent authority has supervisory and investigatory powers other than those imposed by Article 23(3) of the EU Regulation N° 537/2014.

Almost all of the respondents (93%) reported that the competent authority exercises its supervisory and investigatory powers directly (Article 23(4) of the EU Regulation N° 537/2014 and Article 30a(4) of the EU Directive N° 2006/43/EC). Very few authorities have collaborative arrangements with another body.

Most organisations have integrated investigation and sanctioning processes. Sanctions are usually imposed by the same organisation, which investigates the case.

The statistics indicated a low level of sanctioning decisions in the year 2016. Future surveys will show the middle and long-term level of sanctioning decisions within the EU. The types of sanctions varied, but in relation to those referred to in EU-AD the following sanctions were most commonly used:

- a notice requiring the natural or legal person responsible for the breach to cease the conduct and to abstain from any repetition of that conduct (106 sanctions and measures).
- a public statement which indicates the person responsible and the nature of the breach, published on the website of competent authority (116 sanctions and measures).

It is not possible from the Questionnaire to distinguish a sanction from an administrative measure. In the text of the EU-AD these terms appear together. The sanctions have been implemented in various ways in the member states.

There is variance in relation to when, and how, the sanctions and administrative measures are published. Approximately half (52%) of the respondents indicated that publication took place after all rights of appeal have been exhausted or have expired. Another half (48%) of the respondents indicated that the publication takes place before all rights of appeal have been exhausted or have expired. Further the manner in which the competent authority published the administrative measures and sanctions on its official website differed. The most common way (22%) is to publish any administrative measure or

sanction with reference to names, after all rights of appeal have been exhausted or have expired, but other options were almost equally used.

The Questionnaire applies to both PIE and non-PIE auditors and audit firms. In the questions and responses both PIE and non-PIE audits are covered unless mentioned otherwise.

The Questionnaire includes detailed comments from the respondents. Appendix 6.1 details the names of the respondent organisations and their specific contact details. A copy of the Questionnaire is attached at Appendix 6.2

3. Questionnaire participants

The Enforcement sub-group invited all CEAOB members to participate in the Questionnaire. The following jurisdictions participated (for contact details see Appendix 6.1.):

| LEGISLATION | ORGANISATION |
|-----------------|---|
| Austria | Abschlussprüferaufsichtsbehörde, APAB (Audit Oversight Body of Austria) |
| Belgium | College van toezicht op de bedrijfsrevisoren/Collège de supervision des réviseurs d'entreprises (Belgian Audit Oversight College, BAOC) |
| Bulgaria | Комисия за публичен надзор над регистрираните одитори (Commission for public oversight of statutory auditors) |
| Cyprus | ΑΡΧΗ ΔΗΜΟΣΙΑΣ ΕΠΟΠΤΕΙΑΣ ΕΛΕΓΚΤΙΚΟΥ ΕΠΑΓΓΕΛΜΑΤΟΣ, ΑΔΕΕΛΕΠ (Cyprus Public Audit Oversight Board) |
| Czech Republic | Rada pro veřejný dohled nad auditem (Public Audit Oversight Board) |
| Denmark | Erhvervsstyrelsen (Danish Business Authority) |
| Estonia | Audiitortegevuse järelvalve nõukogu (Auditing Activities Oversight Board) |
| Finland | Patentti- ja rekisterihallitus (Finnish Patent and Registration Office, Audit Oversight Unit) |
| France | Haut Conseil du commissariat aux comptes, H3C |
| Germany | Abschlussprüferaufsichtsstelle APAS beim Bundesamt für Wirtschaft und Ausfuhrkontrolle (Auditor Oversight Body) |
| Greece | ΕΠΙΤΡΟΠΗ ΛΟΓΙΣΤΙΚΗΣ ΤΥΠΟΠΟΙΗΣΗΣ ΚΑΙ ΕΛΕΓΧΩΝ (Hellenic Accounting and Auditing Standards Oversight Board) |
| Hungary | Könyvvizsgálói Közfelügyeleti Hatóság (Auditors' Public Oversight Authority) |
| Ireland | Irish Auditing & Accounting Supervisory Authority, IAASA |
| Italy | Commissione Nazionale per le Società e la Borsa, CONSOB |
| Latvia | Latvijas Republikas Finanšu ministrija (Ministry of Finance of the Republic of Latvia) |
| Liechtenstein | Finanzmarktaufsicht, FMA (Financial Market Authority) |
| Lithuania | The Authority of Audit, Accounting, Property Valuation and Insolvency Management of the Republic of Lithuania, AVNT |
| Luxembourg | Commission de Surveillance du Secteur Financier, CSSF |
| Malta | Accountancy Board |
| Poland | Komisja Nadzoru Audytowegoul (Audit Oversight Commission) |
| Portugal | Comissão do Mercado de Valores Mobiliários (Portuguese Securities Market Commission) |
| Slovakia | Úrad pre dohľad nad výkonom auditu, UDVA (Auditing Oversight Authority) |
| Slovenia | Agencija za javni nadzor nad revidiranjem (Agency for Public Oversight of Auditing) |
| Spain | Instituto de Contabilidad y Auditoría de Cuentas, ICAC |
| Sweden | Revisorsinspektionen (Swedish Inspectorate of Auditors) |
| The Netherlands | Autoriteit Financiële Markten, AFM (Dutch Authority for the Financial Markets) |
| United Kingdom | Financial Reporting Council Limited, FRC |

4. Questionnaire & report methodology

The Questionnaire was sent out in September 2017 to all 28 Member State competent authorities and to 3 EEA auditor oversight bodies via email. The email included a link to the electronic Questionnaire, which was provided by the Finnish PRH. The software used was Lyyti.

A total of 27 authorities (26 competent authorities from EU member states plus one EEA authority) responded to the Questionnaire. Note that the numbers and percentages in the report reflect the number of responses for each question. Not all respondents replied to all questions.

Croatia, Iceland, Norway and Romania indicated that they had not yet implemented the ARD, thus they did not respond to the Questionnaire.

The responses were received from the respondents during October and November 2017.

5. Questionnaire results

The Questionnaire consisted of four parts addressing different aspects of the national audit oversight enforcement systems:

- General Information about the competent body for auditor oversight and the oversight system
- Powers of the competent bodies
- 2016 Statistics: Administrative Measures and Sanctions
- Publication of Administrative Measures and Sanctions

The following chapter gives aggregated information on each part of the Questionnaire.

5.1. General information

5.1.1. Legal Basis

Questions 1 and 2 of the Questionnaire referred to the national legal basis of audit oversight and the competent authority (authorities) in each jurisdiction. The results were as follows:

| LEGISLATION | ACT | DATE OF ENTRY INTO FORCE |
|----------------|---|------------------------------|
| Austria | Abschlussprüfer-Aufsichtsgesetz | 01.10.2016 |
| Belgium | Loi du 7 décembre 2016 portant organisation de la profession et de la supervision publique des réviseurs d'entreprises/Wet van 7 december 2016 tot organisatie van het beroep van en het publiek toezicht op de bedrijfsrevisoren | 31.12.2016 |
| Bulgaria | Закон за независимия финансов одит 2016 (Independent Financial Audit Act 2016) | 03.12.2016 |
| Cyprus | The Auditors Law of 2017-53(I)/2017 | 02.06.2017 |
| Czech Republic | Zákon o auditorech č. 93/2009 Sb. (Act on Auditors no. 93/2009 Coll) | 14.04.2009 |
| Denmark | Lov om godkendte revisorer og revisionsvirksomheder (revisor-loven) | 17.06.2016 |
| Estonia | Audiitortegevuse seadus (Auditors Activities Act) | 08.03.2010 |
| Finland | Tilintarkastuslaki (1141/2015) | 01.01.2016 |
| France | Ordonnance n°2016-315 du 17 mars 2016 relative au commissariat aux comptes (Ordinance n° 2016-315 of 17 March 2016 relating to statutory audits) Décret n°2016-1026 du 26 juillet 2016 (Decree n° 2016-1026 of 26 July 2016) | 17.06.2016 26.07.2016 |
| Germany | Abschlussprüferaufsichtsreformgesetz, revising the Wirtschaftsprüferordnung and to a minor extent the Abschlussprüfungsreformgesetz | 17.06.2016 |
| Greece | Law 4449/2017 | 24.01.2017 |
| Hungary | A Magyar Könyvvizsgálói Kamaráról, Könyvvizsgálói tevékenységről, valamint könyvvizsgálói közfelügyeletről szóló 2007. évi LXXV. törvény (Act LXXV of 2007 on Chamber of Auditors, audit activity and public oversight) | 26.06.2007 04.06.2016 |

| | | |
|-----------------|--|------------|
| Ireland | The Companies Act 2014, as amended by S.I. No 312 of 2016 The European Union (Statutory Audits) (Directive 2006/43/EC, as amended by Directive 2014/56/EU, and Regulation (EU) No 537/2014) Regulations 2016. | 17.06.2016 |
| Italy | Decreto Legislativo 27 gennaio 2010, n°39, amended by Decreto Legislativo 17 luglio 2016, n°135 | 05.08.2016 |
| Latvia | Law on Audit Services | 01.01.2017 |
| Liechtenstein | Auditing Act of 1992 (amended 2011) | 01.02.2011 |
| Lithuania | Republic of Lithuania Law on the Audit of Financial Statements | 01.03.2017 |
| Luxembourg | Law of 23 July 2016 concerning the audit profession | 01.08.2016 |
| Malta | Accountancy Profession Act (Cap 281) | 12.07.2016 |
| Poland | The Act of 11 May 2017 on statutory auditors, audit firms and the public oversight | 21.06.2017 |
| Portugal | Lei n° 148/2015, de 9 de setembro (Law no. 148/2015, 9 September) | 01.01.2016 |
| Slovakia | The act No. 423/2015 Coll. On Statutory Audit and on Amendments and Supplements to Act No. 431/2002 Coll. On Accounting, as amended | 11.11.2015 |
| Slovenia | Audit Directive not implemented to date | N/A |
| Spain | Ley 22/2015, de 20 de julio, de Auditoría de Cuentas | 01.01.2016 |
| Sweden | Revisorslagen | 01.01.2002 |
| The Netherlands | Wet toezicht accountantsorganisaties | 01.10.2006 |
| United Kingdom | The Statutory Auditors and Third Country Auditors Regulations 2016 | 17.06.2016 |

5.1.2. Competent bodies for investigations & sanctions

Questions 3 and 4 of the Questionnaire focused on the organisation and powers of the competent authority (authorities) responsible for investigations and sanctioning in each jurisdiction.

All respondents, except three, are directly responsible for investigations and sanctions. However, in all cases where both competences are with the same body, the responsibilities are with separate groups, panels, committees or divisions of the competent body.

In **Austria**, the Audit Oversight Body of Austria (AOBA) is the competent national authority for investigations and sanctions; it is an autonomous and independent first instance administrative authority and therefore entitled to carry out investigations and impose sanctions where there has been a breach of the Abschlussprüfer-Aufsichtsgesetz (APAG), the EU-AR and other national laws relevant to audits. The decision-making body of the AOBA is an executive board of 2 members, appointed by the Austrian Federal Government for a period of 5 years. Both board members are independent of any other audit profession. The division "Inspections & Investigations" carries out investigations after decisions are made and under supervision of the executive board.

The AOBA may investigate PIE and non-PIE auditors and audit firms as well as non-financial PIEs. Investigation powers include the right of access to all necessary documents and information (including taking copies) and on-site investigations (including access to business premises). Auditors are not bound by the rules of confidentiality or professional secrecy during investigations.

The executive board also decides on the imposition of sanctions. Sanctioning powers include the sanctioning catalogue as detailed in Art 30a EU-AD.

In **Belgium**, the Belgian Audit Oversight College (BAOC) is the authority in charge of supervision and investigation. It consists of a Committee and a Secretary General. The power to open an investigation lies with the Secretary General and after completion of an investigation; the Secretary General drafts a report which is submitted to the Committee. On the basis of that report, the Committee decides whether or not to transmit the file for decision to the Sanction Commission of the Financial Services and Markets Authority (FSMA).

The Sanction Commission of the FSMA has the power to impose administrative measures and sanctions. It consists of 12 members and two chambers, of which one is the competent chamber for BAOC related administrative measures and sanctions. Sanctioning powers include warnings, reprimands, public statements, temporary prohibitions, declarations, the withdrawal of approval as statutory auditor and administrative pecuniary sanctions.

In **Bulgaria** the Commission for Public Oversight of Statutory Auditors (CPOSA) conducts investigations at its own discretion or upon receipt of alerts and proposals related to alleged or suspected infringements in relation to the performance of a statutory financial audit of PIE and non-PIE auditors and/or provision of related services. In those cases, the CPOSA may be assisted by the relevant professional bodies. Upon receipt of alerts on infringements in the provision of services other than statutory financial audit and/or related services, the CPOSA may assign to the professional body the task of carrying out the reviews.

The CPOSA is responsible for the sanctioning of PIEs and non-PIE auditors. The CPOSA shall apply supervisory measures (administrative measures) and sanctions, where an inspection or investigation finds deficiencies or infringements in the activities of a registered auditor in the following areas:

- compliance with the requirements of the applicable auditing standards in carrying out a statutory financial audit;
- consistency of the audit documentation in carrying out a statutory financial audit with the requirements of the applicable auditing standards;
- compliance with ethical standards and independence requirements for registered auditors in carrying out a statutory financial audit;
- adequacy of time and human resources used in carrying out a statutory financial audit in line with the scope and complexity of the accepted engagement;
- adequacy of audit fees received for carrying out a statutory financial audit;
- adequacy of the internal quality control system implemented by a registered auditor;
- compliance with the requirements set out in EU-AR by registered auditors carrying out a statutory financial audit of the financial statements of public-interest entities;
- failure of a registered auditor to comply with his obligations;
- non-compliance with the provisions of EU-AR
- failure to provide assistance or impeding in any other way Commission's supervision.

The oversight authority in the **Czech Republic** is the Public Audit Oversight Board (PAOB). The PAOB has three internal bodies; the Presidium, the Inspection Committee and the Disciplinary Committee. The Presidium is the executive body responsible for the agenda that is not carried out by the two Committees. The Inspection Committee organises the quality controls focused on auditors with at least one PIE client. The rest of the controls is managed by the self-governing body (the Chamber of Auditors). The Disciplinary Committee of the PAOB entitled to carry out the Board's competence concerning the proceedings on sanctions in compliance with part XI. of the Act. An appeal against the decision made by the Committee is resolved by the Presidium. The Disciplinary Committee consists of 5 members, all of whom have experience in the areas of law, audit regulation and tax.

Furthermore, it should be noted that this Committee is entitled to resolve only a restricted range of minor offences, especially those committed by:

- PIE auditors
- PIE's

- The Chamber of Auditors

Other illegal misconduct, especially that which is committed by the non-PIE auditors, is still resolved by the disciplinary body established in the framework of the Chamber of Auditors.

The proceedings rely on the findings from the inspections however they can also be based on the results of an independent investigation by the Disciplinary Committee.

In **Cyprus**, the Cypriot Public Audit Oversight Board (CyPAOB) is both directly responsible for investigations and sanctions. The CyPAOB consists of the Chairwoman, a Vice Chairman and four Members. The Chairwoman and the members of the Board are, in majority, non-practitioners as required by the EU-AD. The Disciplinary Committee of the CyPAOB decides on the implementation of sanctions; it consists of a Chairman and two members that are appointed by the Cabinet and are persons of good standing, character, and knowledgeable in areas relevant to audits.

In **Denmark** the Danish Business Authority (Erhvervsstyrelsen) is responsible for the supervision of auditors and audit firms. The supervisory duties include the supervision of

- examination as well as continuing education
- quality assurance reviews (inspections)
- investigations,
- disciplinary sanctions
- cooperation and exchange of information with competent authorities in other countries.

The Danish Business Authority decides whether to initiate an investigation and whether findings give rise to:

- close the investigation without further comments.
- issue a reprimand,
- order that any violations shall be brought to an end, or
- bring the auditor, audit firm or both before the Disciplinary Board on Auditors
- bring a member of the supreme governing body or member of the audit committee or both before the Disciplinary Board on Auditors.

Investigations regarding members of audit committees, the supreme governing body or the executive board of financial companies, are delegated to the Danish Financial Supervisory Authority (Finanstilsynet).

The Danish Business Authority (Erhvervsstyrelsen) is also responsible for the supervision of disciplinary sanctions. Erhvervsstyrelsen has delegated disciplinary sanctions to the Disciplinary Board on Auditors (Revisornævnet). The Disciplinary Board on Auditors consist of a Chairman, who must be a judge, and a minimum of 12 other members, 6 of whom must be auditors and 6 of whom must be representatives of financial statement users. The members of the board are appointed by the Danish Business Authority.

The board has the following sanctioning powers:

- Warning
- Fine up to DKK 600.000 (auditors) and up to DKK 1.500.000 (audit firms)
- suspended withdrawal of approval for both auditors and audit firms. The suspended withdrawal of approval can last up to 5 years.
- temporary prohibition, of up to three years' duration, banning the statutory auditor, the audit firm from carrying out statutory audits and/or signing audit reports
- temporary prohibition, of up to three years' duration, banning a member of an audit firm or a member of an administrative or management body of a public-interest entity from exercising functions in audit firms or public-interest entities
- withdrawal of an auditor's approval for a period of between 6 months and up to 5 years or until further notice
- withdrawal of an audit firm's approval for a period of between 6 months and up to 5 years or until further notice

In **Estonia**, the Auditing Activities Oversight Board is an independent administrative supervisory authority and directly responsible for investigations. It consists of five to seven members. Following the outcome of an investigation, the Oversight Board may make a proposal to the Ministry of Finance to commence misdemeanour proceedings or make a proposal to the Prosecutor's Office to commence criminal proceedings.

In **Finland** the competent authority is the Finnish Patent and Registration Office (PRH), Auditor Oversight Unit. There is permanent staff of about 16 individuals. PRH is responsible for the general direction and development as well as for the oversight of auditors. PRH shall also, inter alia, approve auditors and be responsible for the approval system and its development, oversee auditors' activities and ensure that auditors maintain and improve their professional competence and maintain the preconditions for approval. PRH also oversees the quality of auditing through inspections (PIE and non-PIE) and bears responsible for developing the quality control system. PRH is responsible for the general direction and development of auditing.

Within the PRH there is the Auditing Board, consisting of a Chair, Vice Chair and 8 members (each of which have a deputy) and two auditor experts (both have deputies). The aforementioned individuals of the Auditing Board are external laymen. The Auditing Board is responsible for sanctioning. The Auditing Board is independent in its decision-making. The Auditing Board shall decide on matters referred to in the Auditing Act and relating to

- general direction and development of auditing
- imposition of an administrative sanctions, or refraining from its imposition
- request for rectifications
- appeals against a decision of an administrative court (in cases where the decision differs from its view).

The Auditing Board's duty is also to promote in an expedient manner the performance of the duties prescribed in the Auditing Act to the Auditor Oversight Unit.

In **France** the competent authority is the H3C. In the framework of the investigation and sanction procedure, the H3C Board is divided into two panels:

- the H3C 9-Members Board Panel which starts the sanctioning procedure at the end of an investigation
- the H3C 5-Members Board Disciplinary Panel which is responsible for the judgment of some cases.

The H3C's Head of Enforcement and Investigation (Rapporteur général) is in charge of investigations and is supported by investigators who are former auditors and lawyers. He may initiate an investigation following a reported alert from:

- financial regulators or bodies
- legal authorities
- professional bodies
- foreign counterparts
- anybody

The investigators have some powers, in particular:

- an overall power to obtain any useful documents/information for investigations
- a right to open access to professional premises
- a wide power for hearings.

Upon conclusion of an investigation, the information gathered, and analysis conducted are compiled and documented into an Investigation Report signed by the Head of Enforcement, demonstrating any possible failures.

The Investigation Report is addressed to the H3C 9-Member Board Panel that stands in adjudication to decide whether or not to take disciplinary proceedings for sanctions. On the basis of the Investiga-

tion Report, the H3C 9-Members Board Panel decides, as the prosecuting body, if the facts justify commencing sanctioning proceedings or if the case should be closed. If the decision to start sanctioning proceedings is taken, a notification of the charges is sent to the charged individual/entity.

Once the H3C 9-Members Board Panel decides to initiate sanctioning proceedings, it also decides on the charges which are notified by the Head of Enforcement to the individual/entity concerned. The charged individual/entity has:

- the right to know the content of the investigation file; and
- the right to obtain copies of the investigation file

He/She/It may be assisted by a counsel of his/her/its choice throughout the proceedings and to present written submissions to the Head of Enforcement. The Head of Enforcement drafts a Final Report, taking into account these submissions, which is addressed to the H3C 9-Members Board Panel.

Following the Final Report, the Panel can:

- stop the sanctioning proceedings, for everything or for only some charges
- continue the proceedings and appoint either of the following bodies for trial: the Regional Disciplinary Commission (RDC) or the H3C 5-Members Board Disciplinary Panel.

A copy of the file is provided by the Head of Enforcement to the Chair of the appointed trial body. The hearing is generally open to the public. The Head of Enforcement presents the conclusions of his report and requests a sanction. The individual(s)/entity(ies) charged are given the opportunity to be heard and have the last word. The individuals/entities charged are informed of the decision by the RDC or the H3C 5-Members Board Disciplinary Panel and it is published on the H3C website. Any appeal takes place before the French Council of State (Conseil d'Etat) and can be brought by the individual/entity charged as well as by the H3C Chair with the agreement of the Board.

In **Germany** the AOB consist of two Directorates, "Inspections and Quality Assurance" and "Enforcement and Market Monitoring". Each Directorate consists of four divisions. The AOB is directly responsible for conducting inspections and investigations regarding PIE-audits. AOB is also directly responsible for sanctioning breaches of duty regarding PIE-audits. Additionally, the AOB has oversight of the chamber of public accountants (WPK) including the ultimate responsibility and decision-making power. In the AOB the Enforcement Division within the Enforcement and Market Monitoring Directorate is responsible for conducting investigations. If there are sufficiently concrete indications of a breach of professional duties (e.g. from inspections, notifications from the financial reporting enforcement panel or other authorities, press releases) the Enforcement Division initiates an investigation.

AOB has the following investigatory powers (Source: § 66a (7) S. 1 WPO):

- Right to require any statutory auditor or statutory audit firm to cooperate with investigations, including attending for interview (§ 62 (1) WPO) if there is sufficient initial suspicion of potential breaches of duties;
- Right to access data related to the statutory audit or other documents held by statutory auditors or audit firms in any form relevant to an investigation and to receive or take a copy thereof (§ 62 (1) S. 2 WPO) → penalty payment possible in cases of failure to cooperate (§ 62a WPO);
- Right to request or receive from any other person any information which may be material to an investigation (§ 64 Abs. 4 WPO);
- Right to carry out on-site investigations of statutory audit work or audit firms.

In the AOB, decisions on individual enforcement cases are taken by Panels within the AOB. Two Panels have been established (Enforcement and Inspections). The Enforcement Panel decides on the imposition of sanctions and administrative measures. This Panel consists of 5 knowledgeable members of staff of the AOB chaired by the director of the Enforcement and Market Monitoring Directorate. Panel decisions are taken by simple majority. In case of an appeal against a decision of the Enforcement Panel, the Joint Committee of the Panels decides on the appeal and issues an appeal decision notice.

The Panels can impose the following sanctions on audit firms or individual auditors:

- Reprimand
- Fine up to 500.000 Euros
- Temporary prohibition of 1 to 5 years' duration, banning the auditor from engaging in particular fields of activity
- Temporary prohibition of 1 to 3 years' duration, banning the auditor from engaging in PIE-mandates
- Temporary or permanent prohibition, banning the auditor from exercising professional activities
- Exclusion from the profession
- Declaration that the audit report does not meet the requirements of the German Accountant Act (§ 322 HGB) or of Article 10 of EU-AR
- Prohibition order, § 68a WPO
- Provisional prohibition order, § 68b WPO

In **Greece** the quality control board (SPE) is responsible for carrying out inspections, finalising finding reports and introducing possible sanctions to the Disciplinary Boards. Disciplinary Boards consist of the Boards of Directors plus 2 members from the legal sector and 2 non-practitioner members proposed by the professional body, responsible for sanctioning.

In **Hungary**, the Auditors' Public Oversight Authority (APOA) is a department of the Ministry for National Economy, as the Minister is the responsible for audit oversight. APOA carries out inspections in a 3-year-circle based on a risk assessment. The inspection process is an administrative procedure which results in an administrative decision on findings and, if applicable, sanctions. APOA has a collaboration agreement with the Chamber of Auditors in order to conduct inspections of non-PIE auditors and audit firms. The ultimate responsibility lies with the APOA. Together with a final administrative decision on inspection findings, the APOA is entitled to impose sanctions. The Chamber of Auditors has delegated the sanctioning powers in the field of non-PIE auditors and audit firms to the APOA.

In **Ireland** the Irish Auditing and Accounting Supervisory Authority, (IAASA) exercises its powers and carries out its functions under the provisions of the Companies Act 2014. IAASA is divided into 5 operational units, which are responsible for, amongst other activities:

- examination of listed entities' financial reports;
- supervising and monitoring the relevant professional bodies;
- carrying out direct inspections of PIE auditors and PIE audits;
- ensuring effective internal systems and controls; and
- managing the formal processes where IAASA initiates statutory enquiries/investigations.

IAASA establishes a preliminary enquiry or preliminary investigation committee to carry out investigations, as required.

IAASA is also responsible for sanctioning. IAASA establishes an enquiry committee or investigation committee to determine sanctions. In addition, the Director of Corporate Enforcement is designated as the competent authority with the power to take certain administrative measures or impose sanctions in so far as such administrative measures are taken against, or such sanctions are imposed on, directors of public interest entities.

In **Italy**, Commissione Nazionale per le Società e la Borsa (CONSOB) is responsible for investigations and sanctions on PIE auditors. The Corporate Governance Division - Oversight of Statutory Audit Unit is responsible for investigations of PIE auditors and some non-PIE (e.g. investment companies, investment funds, financial intermediaries etc.), and for the issuance of the formal notification of charges, which starts the sanctioning procedure. In conducting investigations CONSOB has the power to:

- require communication, including recurring communication, of data and information and the transmission of records and documents;
- perform inspections and obtain documentation;

- request information, data or documents in any form whatsoever, and conduct hearings of anyone who may be informed about the facts.

The Ministry of Economics and Finance is responsible for investigations and sanctions on the other non-PIE auditors. In conducting investigations, the Ministry of Economics and Finance has power to:

- require communication, including recurring communication, of data and information and the transmission of records and documents;
- perform inspections and obtain information and clarification, including hearings of the statutory auditors and partners, of the members of the administrative and auditing bodies and managers of the auditing companies;
- request information, data or documents in any form whatsoever, and conduct hearings of anyone who may be informed about the facts;
- acquire, directly from the Public Companies Register and also electronically, information regarding the statutory audit engagements and information useful for the performance of inspections.

CONSOB - Administrative Sanctions Unit is responsible for carrying out the sanctioning procedure of auditors under its oversight.¹ The Administrative Sanctions Unit receives the formal notification of charges from the Oversight of Statutory Audit Unit and the response from the auditor (often including further documentation and information). It evaluates the documentation and it prepares the sanction proposal, for the Commission (Board). The Commission, which may receive further comments and documentation from the auditor, decides on the sanction, which is communicated to the auditor and published by extract on the CONSOB Bulletin, which is available on the website. The auditor can appeal against the sanction to the Appeal Court (judicial tribunal).

The Ministry of Economics and Finance is responsible for investigations and sanctions of non-PIE auditors under its oversight.²

In **Latvia** the Ministry of Finance of the Republic of Latvia (as competent authority in line with the Article 20 (1) of the Regulation) has established a new permanent unit - the Commercial Companies Audit Policy and Oversight Unit. The Commercial Companies Audit Policy and Oversight Unit has investigation and sanctioning powers over PIE auditors.

In **Liechtenstein** the Finanzmarktaufsicht, FMA (Financial Market Authority) is the competent authority, responsible for the following tasks:

- granting admission for auditors and audit companies
- prudential oversight over auditors
- revocation of licenses
- disciplinary sanctions against auditors
- inspections and investigations.

The FMA is an integrated authority with oversight responsibility over Banks, Insurances, Funds/Dealer/Brokers and other designated non-financial businesses and professions (DNFBP). The audit oversight is implemented in the DNFBP division.

In **Lithuania** investigations are conducted by the staff of AVNT. The investigation report is signed by the inspector of AVNT and the investigated auditor. The results of the investigation are discussed in the Audit Oversight Committee, which consists of 5 independent, non-practicing members. The Committee expresses its opinion on the draft sanctions proposed by the AVNT after the analysis of the investigation results. After considering this opinion, the director of AVNT issues an order on sanctions

¹ The sanctioning powers are listed in article 26 of Legislative Decree n. 39/2010 and are in line with article 30a and 30, par. 3 of the Directive 56/2014.

² The sanctioning powers are listed in article 24, 24bis, 24ter of Legislative Decree n. 39/2010 and are in line with article 30a and 30, par. 3 of the Directive 56/2014.

if the results of the investigation show a significant shortfall in the quality of audit. The sanctions are imposed directly by the director of the AVNT after the consultation with the Audit Oversight Committee.

In **Luxembourg** the CSSF is the public institution which supervises most professionals and a number of products of the Luxembourg financial sector, as well as the audit profession. It supervises, regulates, authorises, informs, and, where appropriate, carries out on-site inspections and issues sanctions. More specifically, according to Article 36 of the Audit Law, the CSSF has the ultimate responsibility for the oversight of:

- the approval and registration of approved statutory auditors and approved audit firms;
- the adoption of standards on professional ethics, internal quality control of approved audit firms and auditing;
- continuing education;
- quality assurance systems;
- investigative and administrative disciplinary systems.

The executive board of the CSSF is responsible for imposing sanctions as a result of investigations conducted by the officials of the Audit department.

According to Article 39 of the Audit Law, approved statutory auditors and audit firms are subject to a quality assurance review organised according to the terms laid down by the CSSF in its capacity as supervisory authority of the audit profession, for statutory audit engagements. The quality assurance review consists in the assessment of the internal quality control system of the audit firm and an appropriate verification of selected engagements. The CSSF may also impose sanctions, such as a permanent deregistration from the public register and a permanent prohibition for the approved statutory auditor, the approved audit firm or the key audit partner to carry out statutory audits and/or sign audit reports.

In **Malta** the Accountancy Board, through its Investigations Committee, initiates and conducts investigations in relation to auditors and audit firms. Following the outcome of the investigation, the Accountancy Board has the right to take appropriate action. The Board has all the supervisory and investigatory powers that are necessary for the exercise of its functions under the Accountancy Profession Act and the Audit Regulation, including, but not limited to, the power to:

- access data related to the statutory audit or other documents held by auditors or audit firms in any form relevant to the carrying out of their tasks and to receive or take a copy thereof
- obtain information related to the statutory audit from any person
- carry out on-site inspections of auditors or audit firms
- refer matters for criminal prosecution
- request experts to carry out verifications or investigations
- take the administrative measures, and impose the sanctions referred to in the Accountancy Profession Act

The Accountancy Board, through its Disciplinary Committees, has the power to issue administrative fines and reprimands, and to take such other measures as it may deem appropriate according to the circumstances of the case. The Board, through its Disciplinary Committees, has the power to take and, or impose at least the following administrative measures and sanctions for breaches of the provisions of the rules under the Accountancy Profession Act and, where applicable, the Audit Regulation:

- a notice requiring the natural or legal person responsible for the breach to cease the conduct and to abstain from any repetition of that conduct
- a public statement which indicates the person responsible and the nature of the breach, published on the website of the Board
- a temporary prohibition, of up to three years' duration, banning the statutory auditor, the audit firm or the key audit partner from carrying out statutory audits and, or signing audit reports
- a declaration that the audit report does not meet the requirements of article 179A of the Companies Act [Audit Reporting] or, where applicable, article 179B of that Act [Audit Report]

- a temporary prohibition, of up to three years' duration, banning a member of an audit firm from exercising functions in audit firms or public-interest entities
- the imposition of administrative pecuniary sanctions on natural and legal persons

Furthermore, a warrant or practicing certificate issued under any of the provisions of this Act may be suspended or subjected to other conditions, and the registration of an audit firm may be suspended, cancelled or subjected to other conditions, by the Board. Under Maltese law there is a right of appeal in accordance with the provisions of the Accountancy Profession Act.

In the **Netherlands** the AFM is responsible for supervising the operation of the financial markets. This means that the AFM supervises the conduct of the entire financial market sector: savings, investment, insurance and loans. Within its broad mandate, the AFM is the responsible regulator in the area of audit based on the Wet toezicht accountantsorganisaties (Wta). This means that the AFM licenses and supervises audit firms and statutory auditors employed by or affiliated to these audit firms and registered audit firms that are approved in other Member States firms that carry out statutory audits and takes enforcement action in cases of non-compliance. The Wta contains a variety of obligations for audit firms and auditors, including auditor independence, ethics and quality control requirements. The Wta also appoints the AFM as the competent authority for supervising compliance with the obligations stemming from EU Regulation 537/2014.

In **Poland** the Audit Oversight Commission (AOC) is designated as the competent authority for the purposes of the EU-AR. The AOC is composed of 9 members and meets at least once a month in the Ministry of Finance. Employees of Accounting and Auditing Department in the Ministry of Finance are the staff of the AOC. Decisions on the process of investigations are taken by the AOC. The AOC carries out investigations against PIE-statutory auditors in disciplinary proceedings. The AOC carries out investigations against PIE-audit firms in administrative proceedings.

Decisions on the sanctioning procedure are taken by the AOC. Upon completion of the disciplinary procedure against a PIE-statutory auditor, the AOC may file a motion for sanctions to a common plea court. The AOC acts as a prosecutor in the court. Upon completion of the administrative proceedings against a PIE-audit firm, the AOC may impose a sanction. The decision of the AOC may be appealed to an administrative court.

In **Portugal** the auditors' public oversight is attributed to the Portuguese Securities Market Commission (CMVM). Within this regard, the CMVM is exclusively responsible for:

- Ensuring auditors' quality control and inspections systems of the auditors performing statutory audits of PIE as well as carrying out inspections over the remaining auditors arising out of whistleblowing from other national or foreign entities;
- Evaluating the performance of PIE supervisory board, under the terms set out in article 27 of EU Audit Regulation;
- Issuing regulations on matters covered by its attribution, upon consultation of the Statutory Auditors' bar association;
- Dealing and deciding misdemeanour proceedings, including determining misdemeanour sanctions; and
- Overseeing the activities performed by the Statutory Auditors' bar association.

Audit investigation powers are attributed to the CMVM's Audit Oversight Department, which reports directly to the CMVM's board.

Without prejudice to the disciplinary powers attributed to the Statutory Auditors' bar association, the CMVM is also responsible, as mentioned before, for auditors' sanctioning. Within the CMVM, sanctioning powers are attributed to the CMVM's Legal department, which is responsible for proposing to charge and decide on misdemeanour issues within the competence of the CMVM and to propose complaints to the competent authorities on matters not included in the CMVM's duties. Every action proposed by the CMVM's legal department must be approved by the CMVM's board.

The CMVM's board is appointed by the Portuguese Finance Cabinet Member, after a public hearing by the competent committee of the Portuguese Parliament and a profile evaluation by the Portuguese

Recruitment and Selection Committee for Public Administration. All the CMVM's board members are independent from the audit profession.

In **Slovakia** the competent authority is a public sector legal entity entrusted with oversight and the performance of other tasks in accordance with the Act No. 423/2015 Coll. on Statutory Audit. The bodies of the Authority are:

- the Board
- the Managing Director
- the Supervisory Committee
- the Committee for Statutory Audit Quality Assurance
- the Committee for Investigation and Sanctions.

According to the Act the Board is the supreme management body of the Authority. The Board shall, in particular decide on appeals against decisions of the Authority. The Committee for Investigation and Sanctions:

- shall examine proposals sent by the Committee for Statutory Audit Quality Assurance
- may examine the process of disciplinary action conducted by the Chamber;
- shall initiate proceedings on the basis of examination
- shall decide on the imposition of a sanction according
- shall decide on the release from the obligation to maintain confidentiality

In **Slovenia** the ANR is an independent government agency responsible for conducting investigations as well as inspections for all registered audit firms and auditors (PIE and non-PIE). Investigations are performed by the supervision department and/or the legal department. The main sources of information for conducting investigations are inspection findings, other national regulatory institutions or third-party notifications. ANR may require from audit firms or individual auditors any records or information on any matters relevant to the supervision. State authorities and holders of public authorisations must also submit to the ANR all required data for conducting ANR's supervisory activities. In the case of identified breaches, the aforementioned departments propose the sanctioning procedure. The decision-making body of the ANR in the case of sanctioning is the Council of Experts.

The ANR is also the competent authority responsible for the sanctioning of audit firms and individual auditors. The ANR may impose the following supervisory measures/sanctions:

- an order for remediation of violation(s)
- a reprimand
- a (conditional) withdrawal of licence
- monetary fines

The Council of Experts is comprised of the ANR's director and eight external independent experts.

In **Spain**, the Accounting and Auditing Institute is the authority responsible for the public oversight system and, in particular, the investigations system and the disciplinary system.

There is the 'Subdirección General de Control Técnico' (Inspections and investigations division) which is in charge of assessing whether there are facts that could be an indicator of any of the offences defined in the law of Auditing. In order to develop this task, this division analyse:

- Complaints of any individual, or any communication of any authority received
- Information filled out by the audit firms
- Public information
- Information obtained during the inspections that could be considered to investigate to determine whether there are indicators of any of those offenses.

The bodies and institutions of any public administration, without prejudice to the duty of secrecy imposed pursuant to current legislation, are subject to the duty to collaborate with ICAC and they are obliged to provide, at the latter's request, any and all data and information they may have available and that may be necessary for it to exercise its supervisory function.

Upon conclusion of an investigation, the overall information gathered and analysis conducted are compiled and documented into an Investigation report to demonstrate any possible failures. Regarding this information, the chairman makes a decision in order to initiate disciplinary procedure.

Within ICAC the 'Subdirección General de Normas Técnicas' (Standards on Auditing Division) is responsible for the sanctioning procedure. After carrying on the legal procedure, the decision about the sanction is communicated to the auditor or audit firm and published by extract on the ICAC Gazette (and on the Official State Gazette, in the case the breach was proved regarding audits of public interest entity), which is available on the web site. The Resolutions issued by the Chairman shall be subject to appeal before the Ministry of Economy, Industry and Competitiveness. The auditor can appeal against the resolution of The Ministry to the Appeal Court.

In **Sweden**, Revisorsinspektionen (RI) is in its investigatory capacity organized in two divisions; the legal division and the audit division. Each investigation is led by a lawyer and an auditor as a team. The team has full responsibility for and the powers to, gather information and present a proposal to the Sanctioning Board. Sanctions are decided upon by the Sanctioning Board (Tillsynsnämnden för revisorer). The Board is comprised of members appointed by the Government.

Where a breach of the standards or rules of conduct is found, RI may issue an admonition, a warning or, in the most serious cases, withdraw the approval or authorization, or registration (in case of an audit firm).

In the **United Kingdom** the FRC is the competent authority which is responsible for:

- the public oversight of statutory auditors
- carrying out the tasks provided for in the Audit Regulation and for ensuring that the provisions of that Regulation are applied
- the determination of technical standards and of other standards on professional ethics and internal quality control of statutory auditors and statutory audit work
- the determination of the manner in which the standards are to be applied in practice
- the application of the standards (including provision for securing compliance with those standards)
- the determination of criteria for the purpose of determining whether persons are eligible for appointment as statutory auditors
- the application of the criteria to determine whether persons are eligible for appointment as statutory auditors
- registration of persons approved as eligible for appointment as statutory auditors
- keeping the register and making it available for inspection
- ensuring persons eligible for appointment as statutory auditors take part in appropriate programmes of continuing education in order to maintain their theoretical knowledge, professional skills and values at a sufficiently high level
- monitoring (by means of inspections) of statutory auditors and audit work
- investigations of statutory auditors and audit work
- imposing and enforcing sanctions

Standard setting, registration and supervision of delegated tasks including continuing education, monitoring by means of inspections, and investigations and sanctions are each the responsibility of a separate team within the competent authority. The Enforcement Division is responsible for investigations of statutory auditors and audit work and imposing and enforcing sanctions.

The Enforcement Division has approximately 30 members of staff, led by Executive Counsel, and comprises a small Case Examination and Enquiries team (pre investigation) in addition to lawyers and forensic accountants who undertake investigations and prosecutions in accordance with the FRC Audit Enforcement Procedure.

FRC is responsible for both investigations of statutory auditors and audit work, and imposing and enforcing sanctions. In accordance with the FRC Audit Enforcement Procedure, sanctions may be imposed by Executive Counsel, a legally qualified member of the FRC, if agreed by the statutory auditor, by an Enforcement Committee, if agreed by the statutory auditor, or by a Tribunal, which may be appealed to an Appeal Tribunal.

FRC's Executive Counsel may require³ any Statutory Auditor or Audit Firm to co-operate with investigations, including attending for interview, and request or receive from any other person any information which may be material to an investigation.

5.1.3. Delegation of Powers

Subject to Article 24 EU-AR member states may delegate or allow the competent authorities to delegate any of the tasks required to be undertaken pursuant to the EU Audit Regulation, except tasks related to:

- Inspections of PIE auditors and audit firms,
- Investigations referred to in Article 23 of the EU-AR and Article 32 of the EU-AD arising from the quality assurance system or from a referral by another authority,
- Sanctions and measures related to the quality assurance reviews or investigation of statutory auditors of PIEs.

Questions 5 to 7 of the Questionnaire referred to the delegation of tasks in each jurisdiction.

22 (81%) jurisdictions have delegated powers.

| POWERS DELEGATED | JURISDICTION |
|--|---|
| <i>Delegation of ARD powers (overview)</i> | Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Latvia, Lithuania, Malta, Poland, Portugal, Slovakia, Sweden, The Netherlands, UK |
| <i>Delegation of investigation tasks</i> | Cyprus, Germany, Hungary, Ireland, Portugal, UK |
| <i>Delegation of sanctioning tasks</i> | Cyprus, Denmark, Estonia, Germany, Hungary, Ireland, Poland, Portugal, UK |
| <i>Delegation of non-PIE inspections</i> | Bulgaria, Cyprus, Czech Republic, France, Germany, Hungary, Ireland, Latvia, Lithuania, Poland, Portugal, Slovakia, Sweden, The Netherlands, UK |
| <i>Delegation of non-PIE investigations or sanctioning tasks</i> | Cyprus, Czech Republic, Germany, Hungary, Ireland, Latvia, Poland, Portugal, Slovakia, UK |
| <i>Delegation of the Public Register</i> | Belgium, Bulgaria, Cyprus, Czech Republic, France, Germany, Hungary, Ireland, Latvia Lithuania, Poland, UK |
| <i>Other delegations (see 5.1.3.2.)</i> | Austria, Belgium, Cyprus, Czech Republic, Estonia, Finland, France, Germany, Greece, Ireland, Latvia, Malta, UK |
| No delegation of tasks | Italy, Liechtenstein, Luxembourg, Slovenia, Spain |

³ In addition to in addition to the investigatory powers set out at Article 23(3) of the Audit Regulation (Schedule 2 of the Statutory Audit and Third Country Auditors Regulations 2016), in accordance with Rule 9 of the FRC Audit Enforcement Procedure

5.1.3.1. Investigations, sanctions & public register

- 6 (27 %)** delegated investigation tasks
- 9 (41 %)** delegated sanctioning tasks
- 10 (45 %)** delegated competences in the field of investigations and sanctions over non-PIE auditors
- 12 (55 %)** delegated the task of public registration of auditors to another body.

The main delegated tasks in the field of investigations and sanctions include non-PIE auditor and audit firm investigations and sanctioning.

5.1.3.2. Other tasks

- 13 (48%)** competent authorities have delegated other tasks than the ones mentioned under 5.1.3.1.

Other delegated tasks include:

- Approval of statutory auditors and audit firms
- Examination of the continuous education requirements for statutory auditors

5.1.3.3. Aggregated information about bodies to which the respondents delegated powers

19 out of 22 respondents (86%) that delegated tasks delegated competences to the profession (e.g. chambers of the profession or other professional institutes).

5.2. Powers of the competent bodies

Article 23 (3) EU-AR states each competent authority in audit oversight shall, at the very least, have the powers to:

- Access data related to the statutory audit or other documents held by statutory auditors or audit firms in any form relevant to the carrying out of their tasks and to receive or take a copy thereof;
- Obtain information related to the statutory audit from any person;
- Carry out on-site inspections of statutory auditors or audit firms;
- Refer matters for criminal prosecution;
- Request experts to carry out verifications or investigations;
- Take the administrative measures, and impose sanctions referred to in Art 30a EU-AD⁴.

Questions 8 and 9 of the Questionnaire referred to the powers of the competent authorities and possible national extensions of the powers as well as the exercise of the powers.

⁴ A notice requiring the natural or legal person responsible for the breach to cease the conduct and to abstain from any repetition of that conduct; a public statement which indicates the person responsible and the nature of the breach, published on the website of competent authorities; a temporary prohibition, of up to three years' duration, banning the statutory auditor, the audit firm or the key audit partner from carrying out statutory audits and/or signing audit reports; a declaration that the audit report does not meet the requirements of Art 28 EU-AD or, where applicable, Art 10 EU-AR; a temporary prohibition, of up to three years' duration, banning a member of an audit firm or a member of an administrative or management body of a public-interest entity from exercising functions in audit firms or public-interest entities.

EU-AR allows the competent authorities to exercise their powers in different ways. Some authorities have other tasks and powers than those imposed by the Regulation.

5.2.1. Other powers

10 (37%) respondents indicated that in their jurisdiction the competent authority has other supervisory and investigatory powers than those imposed by Article 23(3) of the EU-AR. In contrast, 17 of the respondents indicated that in their jurisdiction the competent authority has no other powers.

Some respondents commented on the other powers of the competent authority as follows.

The **Finnish** PRH explained that it also has oversight and a duty to ensure that the auditors comply with their obligations regarding anti-money laundering measures.

In **France** the investigators may summon and take statements from any person who may be useful to the progress of the investigation, including those who may have requested its opening.

In **Ireland**, in addition to the investigatory powers set out in Article 23 (3) of the EU-AR, the Companies Act 2014 provides IAASA with the power to do anything that appears to it to be requisite, advantageous or incidental to, or to facilitate, the performance of its functions and is not inconsistent with any enactment.

The **Latvian** Ministry of Finance oversees the Latvian Association of Sworn Auditors. As regards issues which are associated with the certification of sworn auditors, the licensing of commercial companies of sworn auditors and other tasks (e.g. inspection of non-PIE auditors, disciplinary proceedings and sanctioning of non-PIE auditors) delegated to the Latvian Association of Sworn Auditors by the Law On Audit Services, the Latvian Association of Sworn Auditors is under the supervision of the Ministry of Finance. The legal acts of the Latvian Association of Sworn Auditors which govern the certification of sworn auditors, the licensing of commercial companies of sworn auditors and the execution of other tasks delegated to the Latvian Association of Sworn Auditors by the Law must be approved by the Latvian Association of Sworn Auditors after coordination with the Ministry of Finance. The Latvian Association of Sworn Auditors decisions which are associated with the certification of sworn auditors, the licensing of commercial companies of sworn auditors and other tasks delegated to the Latvian Association of Sworn Auditors by the Law, may be disputed to the Ministry of Finance. The decision of the Ministry of Finance may be appealed to a court according to procedures specified by law.

In **Lithuania** the AVNT also has the power to conduct investigations on possible breaches of the Law on audit of financial statements and breaches of EU-AR.

The **Portuguese** CMVM is exclusively responsible for overseeing the compliance by auditors of PIE with their duties and obligations under the anti-money laundering and anti-terrorist financing regulations, as well as for dealing and deciding misdemeanour proceedings in relation to any auditors, including the application of misdemeanour sanctions. The CMVM also ultimately oversees the compliance with anti-money laundering and anti-terrorist financing regulations by the remaining auditors over whom the Statutory Auditors' bar association also has attributions.

5.2.2. Delegation and collaboration

In Question 9 the respondents were asked about how the competent authority exercises its supervisory and investigatory powers.⁵

25 (93%) responded that the competent authority exercises its supervisory and investigatory powers directly (Article 23(4) of the EU Regulation N° 537/2014 and Article 30a(4) of

⁵ EU-AR Article 23(4) and Article 30a(4) EU-AD

the EU Directive N° 2006/43/EC. One of these commented that in addition to direct powers it has other arrangements too.

Two respondents answered that they have collaboration arrangements with another body.

Respondents augmented their responses as follows.

In **Belgium** the BAOC exercises directly its supervisory and investigatory powers. In this framework, the BAOC may request any relevant information to the judicial authorities. If, on the basis of the investigation report of the secretary general, the committee of the BAOC decides to transmit the file to the sanction commission of the FSMA, and if it appears that one of the breaches could potential be a criminal offence, the BAOC will inform the public prosecutor.

In the **Czech Republic**, the supervisory power has been the traditional competence of the PAOB since the very beginning of its existence. Investigation of the PIE auditors (and other subjects in line with § 40b of the Act on Auditors) seems to be the exclusive power not shared with other external bodies. Vice versa, the investigation of the non-PIE auditors is fully in competence of the Chamber of Auditors without any direct involvement of the PAOB.

The **Danish** Erhvervsstyrelsen has delegated investigation tasks regarding audit committees for financial companies to Finanstilsynet (another authority).

The **Dutch** AFM explained that it exercises its authority both directly and by application to the competent judicial authorities. The AFM may directly take enforcement actions against audit firms and factual managers ('feitelijk leidinggevenden') based on the Audit Firms Supervision Act. Individual statutory auditors are subject to disciplinary proceedings relating to any act or omission in violation of the provisions laid down by or pursuant to the Accountancy Profession Act and the Audit Firms Supervision Act. If the AFM believes an individual auditor should be sanctioned, the AFM can file a complaint to the Disciplinary Court for Auditors. Based on the complaint, the Disciplinary Court for Auditors determines if, and if so which, sanction it will impose on the individual auditor.

When the **Finnish** PRH is using its powers, it may cooperate with other national public authorities. In addition, as for PIE-auditors and PIE-audit firms the competent authority cooperates with the Finnish FSA.

In **Ireland** while IAASA can exercise its supervisory and investigatory powers directly, it may also exercise its powers in collaboration with the recognised accountancy bodies by virtue of an assignment of a function model.

The **Polish** AOC exercises its supervisory and investigatory powers with regard to PIE statutory auditors and PIE audit firms auditing PIEs directly with an exception that upon completion of the disciplinary proceeding against a PIE-statutory auditor, the AOC may file a motion for sanctions to a common plea court. The AOC also exercises public oversight of operations of the Polish Chamber of Statutory Auditors with regard to inspections of non-PIE audits, an entry to the register and in the standard setting process.

Slovakia responded that it exercises its power directly for the PIE-auditors/PIE-audit firms. Non-PIE auditors/non-PIE audit firms (excluded auditors/audit firms auditing "big companies" which means the companies according to the Article 2(15)(f) of the Act) are subject to statutory audit quality assurance review which shall be carried out by the professional body (Chamber), however that shall be without prejudice to the right of the Authority (UDVA) to carry out statutory audit quality assurance reviews at non-PIE auditors/non-PIE audit firms.

In **Spain**, the ICAC exercises its investigatory power, mainly directly. In addition, ICAC can exercise this power in collaboration with other authorities or at the request of the competent judicial authorities. Regarding the sanctioning powers ICAC exercises these powers directly. Only with regard to inspections, ICAC can do them in collaboration with the professional bodies, **provided those inspections are not related to auditors and audit firms of PIE**, under the direction and supervision of ICAC.

5.3. 2016 statistics: Administrative Measures and Sanctions

In Question 10 the respondents were asked about the mandatory administrative measures and sanctions, that the competent authority used/ imposed.⁶

The respondents were asked how many of the administrative measures and sanctions the competent authority imposed in year 2016.

It should be noted that in cases where several sanctions were imposed the respondents were specifically asked to report on each separate sanction.

For instance, in a case of multiple sanctions, an auditor can receive a fine and a reprimand as a result of the same decision in the same case. Both sanctions were to be filled in separately.

| 10. | Mandatory administrative measures and sanctions which the competent authority took / imposed in 2016 Art. 30 a EU Directive, Art. 23 (f) of the EU Regulation No. 537/2014 | Number of the administrative measures and sanctions |
|-----|--|--|
| a. | notice requiring the natural or legal person responsible for the breach to cease the conduct and to abstain from any repetition of that conduct | 106 |
| b. | a public statement which indicates the person responsible and the nature of the breach, published on the website of competent authority | 116 |
| c. | a temporary prohibition, of up to 3 years' duration, banning the statutory auditor, the audit firm or the key audit partner from carrying out statutory audits and/ or signing audit reports | 10 |
| d. | a declaration that the audit report does not meet the requirements of Art. 28 of the Directive, or where applicable, Art. 10 of Reg. 537/2014 | 0 |
| e. | a temporary prohibition, up to 3 years' duration, banning a member of an audit firm or a member of an administrative or management body of a PIE-entity from exercising functions in audit firms or public-interest entities | 0 |
| f. | the imposition of administrative pecuniary sanctions on natural and legal persons | 76 |
| g. | withdrawal of approval (Art. 30 (3) of the EU Directive) | 10 |

The respondents were asked whether there were other administrative measures or sanctions in use, and if so, what those administrative measure or sanctions were.

In the **Czech Republic** the sanctions in use were: reprimand - 7 (statutory auditor), 3 (audit firm) Public reprimand - 1 (statutory auditor), 13 (audit firm).

In **Finland**, the PRH explained that the sanctions in section b referred to both warnings and reprimands.

In **France**, the H3C has some additional professional sanctions for the auditors: Warning. Reprimand. The temporary ban is of up to five years and not only three (suspension of the sanction possible). Withdrawal of any professional honorary titles. Ineligibility for professional bodies during the maximum of 10 years. These sanctions already existed before the ARD. None of the 2016 decisions are based on the ARD. The H3C may also impose fines up to one million euros. These financial penalties can be combined with professional sanctions.

⁶ EU-AD Art. 30 a and Art. 23 (f) EU-AR

In **Germany** the AOB explained that they and the WPK have the power to impose reprimands and fines up to 500.000 EUR. The reprimands are included in the statistics in number 10.a. and the fines are included in number 10.f. Additionally, the AOB can ban the auditor from engaging in particular fields of activity or ban the auditor from exercising any professional activities up to 5 years. Furthermore, the permanent exclusion of an auditor from the profession is possible.

In **Hungary**, the authority may also impose mandatory participation in training, re-audit of the engagement and withdrawal of special qualifications.

In **Ireland**, IAASA provided additional information which reflects the administrative measures/sanctions applied by recognised accountancy bodies in respect of statutory auditors and firms for the calendar year 2016.

In **Lithuania**, in 2 cases after investigations of audit quality, the auditors responsible for the breach were required to attend additional courses (20 hours and 4 hours accordingly) on the ISA's requirements.

In **Luxembourg**, in accordance with Article 67 of the Law of 18 December 2009 concerning the audit profession, the CSSF imposed, in 2016, an administrative fine of EUR 40,000 on a réviseur d'entreprises agréé (approved statutory auditor) for breaching legal and regulatory provisions and an administrative fine of EUR 1,500 on four réviseurs d'entreprise agréés for breaching the legal and regulatory provisions on ongoing training.

In the **Netherlands**, the AFM has filed one disciplinary complaint against an individual auditor in 2016. In July 2017 the Disciplinary Court has decided to exclude the individual auditor from the accountants' register (which means that the auditor can no longer perform statutory audits). Finally, the AFM 2016 Annual Report also indicates the use of an enforcement measure of a more informal nature: one investigation was completed with an instructive letter on compliance with standards ('normoverdragende brief').

In **Slovakia**, upon request of a statutory auditor, European auditor or an audit firm, the Authority shall expunge any imposed disciplinary measure or sanction published in the relevant list if they prove that, during the determined period of time, they had good reputation and had not committed any new breach of discipline, or of no deficiencies have been detected concerning the carrying-out of the statutory audit after the lapse of a) one year in the case of a disciplinary measure imposed according to the Article 49(1)(a) first and third paragraphs and a sanction imposed according to Article 64(1)(a) and (b); b) five years in the case of a disciplinary measure imposed according to Article 49(1)(b) and a sanction imposed according to Article 64(1)(c), (e) and (f).

In **Spain**, during 2016 all the administrative sanctions that ICAC imposed were related to sanctioning proceedings based on the corresponding Law on Auditing prior to Directive 2014/56 and EU Regulation 537/2014. Additional sanction for auditors of PIE - in those cases where the sanctions to be imposed consisted of fines, then the audit firm and the auditors responsible for the breach may additionally be suspended from conducting audits of public interest entities for a term of up to 2 years in the case of serious breaches and for up to 5 years in the case of very serious breaches. The said suspensions shall begin to be counted from the start of the financial year following that in which the sanction imposed becomes definitive in the administrative jurisdiction. Additional sanctions - when the imposition of a sanction for a very serious or serious breach is a consequence of an audit engagement with a particular entity, then the sanction shall also entail a prohibition on the individual auditor or the audit firm and the main auditors responsible for the engagement from performing audits on the entity in question corresponding to the first three financial years starting after the date on which the sanction becomes definitive in the administrative jurisdiction.

In the **UK**, the FRC clarified its sanctioning regime: Order the Respondent to take action to mitigate the effect or prevent recurrence of the breach (0); Permanent prohibition banning the Respondent from carrying out Statutory Audits and/or signing audit reports (0); Order that the Respondent waives or repays client fees paid or payable to the Respondent in connection with the carrying out of the statutory audit (0); Conditions (0); Exclusion as a member of one or more Recognised Supervisory Bodies (professional accountancy bodies) (0). In 2016, the FRC did not impose any sanctions based on new legislation in line with ARD. The FRC continues to impose sanctions on statutory auditors and audit

firms in relation to findings as a result of investigations commenced prior to 17 June 2016 in accordance with its previous disciplinary arrangements, namely the Accountancy Scheme.

5.4. Publication of Administrative Measures and Sanctions

The respondents were asked about when the competent authority publishes the administrative procedures and sanctions on its official website (question 11).

When?

14 (52%) respondents indicated that after all rights of appeal have been exhausted or have expired.

13 (48%) respondents indicated that before all rights of appeal have been exhausted or have expired.

How?

The respondents were asked about the way in which the competent authority publishes the administrative measures and sanctions on its official website (question 12).

6 (22%) responded that any administrative measure or sanction with names after all rights of appeal have been exhausted or have expired.

5 (19%) responded that any administrative measure or sanction, with names, which is subject to appeal including information concerning the status and outcome of the appeal.

6 (22%) responded that the administrative measure or sanction on an anonymous basis in any of the special circumstance described in Art. 30c (2) EU Directive.

5 (19%) responded that any administrative sanction on an anonymous basis i.e. not containing personal data, as per Art. 30c (3) EU Directive.

Additionally, the following comments were given:

In **Bulgaria** the Commission for public oversight of statutory auditors shall publish on its website all imposed administrative sanctions and supervisory measures which have entered into force, providing information about the type and nature of the infringement and the identity of the natural or legal person on whom those sanctions have been imposed. The Commission for public oversight of statutory auditors shall publish the information on an anonymous basis where (1) in the event that the sanction is imposed on a natural person, publication of personal data is shown to be disproportionate by a prior assessment of the proportionality of such publication; (2) publication would jeopardize the stability of financial markets or an ongoing investigation or (3) publication would cause disproportionate damage to the institutions or individuals involved.

In **Estonia** the results of quality control and disciplinary investigations (administrative measures and sanctions) will be published with names in a state register - Auditors Activities Register. Aggregated information will be published in yearbook of oversight.

In **Finland** decisions of appeal courts shall also be published on the PRH's website. If the decision doesn't have legal force it will be published on an anonymous basis.

In **Germany** the administrative measures or sanctions are published on an anonymous basis i.e. not containing personal data after all rights of appeal have been exhausted or have expired.

In **Greece** the publication depends on the case, and always with respect and priority to public interest.

Ireland noted that the IAASA has not imposed administrative measures and sanctions on PIE statutory auditors/audit firms at this point in time.

In **Luxembourg**, according to Article 48 (1) of the Audit Law, the CSSF can publish on its website any decision imposing a sanction for breach of the provisions of this law and its regulatory provisions and, where applicable, of Regulation (EU) No 537/2014, without undue delay, after the person sanctioned has been informed of that decision. The publication must include at least information concerning the type and nature of the breach and the identity of the natural or legal person on whom the sanction has been imposed. According to Article 48 (2) of the Audit Law, the sanctions imposed by the CSSF must be published on an anonymous basis: a) where, in the event that the sanction is imposed on a natural person, publication of personal data is shown to be disproportionate by an obligatory prior assessment of the proportionality of such publication; b) where publication would jeopardise the stability of financial markets or an ongoing criminal investigation; c) where publication would cause disproportionate damage to the institutions or individuals involved.

The AFM, in the **Netherlands**, explained that in relation to some of AFM's formal enforcement actions, the law includes an obligation to make public the enforcement decision. This applies to administrative fines and interim penalty payments, as well as the public warning. The AFM also reports about disciplinary proceedings against auditors. The enforcement decisions that are made available on the website of the AFM contain the name of the audit firms, but do not include the names of individual external auditors. Reporting about disciplinary proceedings against auditors is always done on an anonymous basis; court decisions may include the name of audited clients.

Slovakia explained that according to Article 10(2) of the Act on statutory audit the list of statutory auditors shall contain the following information k) a record on the imposition of a disciplinary measure according to Article 49 and a sanction according to Article 64(1)(b), (c), (e) through (g). According to Article 11(2) of the Act on statutory audit the list of audit firms shall contain the following information n) a record on the imposition of a disciplinary measure according to Article 49 and a sanction according to Article 64(1)(b), (c), (e) through (g).

The ICAC of **Spain** provided the following additional comments:

- Regarding the sanctions imposed related to an audit of a PIE sanctions for breaches committed in connection with audit engagements and audit reports on public interest entities shall be published in the Official State Gazette once they have become definitive in the administrative jurisdiction.
- Publication of additional sanctions. In addition to the imposition, due to very serious or serious breaches, of sanctions consisting in withdrawals or suspensions of authorization and definitive or temporary removals from the Official Register of Auditors, those subjects declared at fault shall be disqualified from holding positions as directors at audit firms for the same period of time as the sanctions imposed. These sanctions shall also be recorded on the Commercial Registry once they have become definitive in the administrative jurisdiction.

In **UK** the FRC publishes:(a) the fact that a sanction has been applied and the type of sanction;(b) information concerning the type and nature of the contravention;(c) the identity of a person sanctioned or the subject of a prohibition order save where the circumstances in Article 30c (2) apply;(d) where a sanction or prohibition order is subject to appeal, information concerning the status and outcome of any appeal.

Duration of the publication

In Question 13 the respondents were asked about the duration the publication of any administrative sanction remains on their official website.

17 (63%) of the respondents indicated that the information remains on their official website for a period of five years after all rights of appeal have been exhausted or have expired.⁷

⁷ As described in Art. 30c (3) EU-AD

Many respondents commented on the question as follows.

In **Austria** published decisions stay at least 5 years after all rights of appeal have been exhausted, up to a maximum of 10 years.

In the **Czech Republic** each administrative sanction remains on the website for 7 years (since the decision came into power). After the expiration of this period, the sanction is erased from the registry and the decision is no longer publicly available.

In **Denmark** the publication of any administrative sanction remains on the official website, but it is not specified in the law for how long this might be. In practice it is likely to be longer than five years.

In **France** the decisions regarding the administrative sanction are published on the H3C's website for a minimum period of five years.

In **Hungary**, since the measures and sanctions are published on an anonymous basis there is no specific limit for the period of the publication.

In **Italy** the decisions regarding administrative sanctions are published by extract on the Bulletin, which remains available on the CONSOB website without time limits. All information regarding the appeal (the Appeal Court, the date of the appeal, the decisions of the Court, etc.) is provided (and updated) in the same web page as the sanction. After three years, the sanctions are available only through a search on the CONSOB website, but they are not available through a search on any search engine on the net.

In the **Netherlands** the enforcement decisions published on the AFM website will be reviewed after five years; when personal data is included in the decisions this will be removed. The enforcement decisions will remain on the website until the AFM considers that this is no longer proportionate. For disciplinary measures against individual auditors the following applies: the AFM is obliged to record in the register the disciplinary measures imposed upon the external auditor and the time when they take effect and where applicable the time when they end. The date must always be recorded whenever registration of an external auditor is canceled. The AFM must remove the disciplinary measure from the register once ten years have elapsed after the time when the disciplinary measure was taken.

In **Slovakia** Article 65 Expungement of Sanction and Disciplinary Measure stipulates that upon request of a statutory auditor, European auditor or an audit firm, the Authority shall expunge any imposed disciplinary measure or sanction published in the relevant list if they prove that, during the determined period of time, they had good reputation and had not committed any new breach of discipline, or of no deficiencies have been detected concerning the carrying-out of the statutory audit after the lapse of a) one year in the case of a disciplinary measure imposed according to the Article 49(1)(a) first and third paragraphs and a sanction imposed according to Article 64(1)(a) and (b); b) five years in the case of a disciplinary measure imposed according to Article 49(1)(b) and a sanction imposed according to Article 64(1)(c), (e) and (f).

In **Sweden** all anonymous publication of sanctions is readily available for as long as they are relevant.

6. Appendices

6.1. Contact details of the respondents

Q2 What is/are the competent authority/authorities in your jurisdiction?

| JURISDICTION | RESPONDENT | CONTACT DETAILS |
|---------------------|--|---|
| Austria | Abschlussprüferaufsichts- behörde APAB (Audit Over- sight Body of Austria AOBÄ) | Brucknerstraße 8/6 1040 Vienna +43 1 503 12 18 +43 1 503 12 18 99 (fax) http://www.apab.gv.at behoerde@apab.gv.at |
| Belgium | College van toezicht op de bedrijfsrevisoren, Collège de supervision des réviseurs d'entreprises | Rue du Congrès 12-14 1000 Brussels http://www.ctr-csr.be info@ctr-csr.be |
| Bulgaria | Комисия за публичен надзор над регистрираните одитори, (Commission for public oversight of statutory auditors) | 22 Serdika Street +35 929835539 +35 929831385 (fax) http://www.cpsoa.bg office@cpsoa.bg |
| Cyprus | ΑΡΧΗ ΔΗΜΟΣΙΑΣ ΕΠΟΠΤΕΙΑΣ ΕΛΕΓΚΤΙΚΟΥ ΕΠΑΓΓΕΛΜΑΤΟΣ, ΑΔΕΕΛΕΠ (Cyprus Public Audit Over- sight Board) | Michael Karaoli & Grigori Afxentiou 1441 Nicosia +357 22602252 +357 22602279 +357 22605047 (fax) http://www.cypaob.gov.cy info@cypaob.gov.cy |
| Czech Re- public | Rada pro veřejný dohled nad auditem (Public Audit Over- sight Board) | Vodickova 1935/38 110 00 Prague 1 +420 222 947 692 http://www.rvda.cz podatelna@rvda.cz |
| Denmark | Erhvervsstyrelsen (Danish Business Authority) | Langelinie Allé 17 2100 København Ø +45 35 29 10 00 http://www.erhvervsstyrelsen.dk erst@erst.dk |
| Estonia | Audiitortegevuse järelevalve nõukogu (Auditing Activities Oversight Board) | Tartu mnt 50 V korrus +6 645 180 http://www.auditorkogu.ee info@auditorkogu.ee |
| Finland | Patentti- ja rekisterihallitus | Sörnäisten rantatie 13 C |

| | | |
|---------------|---|---|
| | (Finnish Patent and Registration Office, Audit Oversight Unit) | Helsinki +358 29 509 5000 http://www.prh.fi tilintarkastusvalvonta@prh.fi |
| France | Haut Conseil du commissariat aux comptes, H3C | 10 rue Auber 75009 Paris +33 1 44 51 09 36 http://www.h3c.org secretariat@h3c.org |
| Germany | Abschlussprüferaufsichtsstelle APAS beim Bundesamt für Wirtschaft und Ausfuhrkontrolle (Auditor Oversight Body) | Uhlandstraße 88-90 10717 Berlin +49 6196 908 3000 http://www.apasbafa.bund.de infoapas@apasbafa.bund.de |
| Greece | ΕΠΙΤΡΟΠΗ ΛΟΓΙΣΤΙΚΗΣ ΤΥΠΟΠΟΙΗΣΗΣ ΚΑΙ ΕΛΕΓΧΩΝ (Hellenic Accounting and Auditing Standards Oversight Board) | Voulas 7 10562 Athens +30 2103242648 http://elte.org.gr info@elte.org.gr |
| Hungary | Könyvvizsgálói Közfelügyeleti Hatóság (Auditors' Public Oversight Authority) | http://ngmszakmaiteruletek.kormany.hu/konyvvizsgaloi-kozfelugyeleti-hatosag kozfelugyelet@ngm.gov.hu |
| Ireland | Irish Auditing & Accounting Supervisory Authority, IAASA | Willow House Millennium Park, Naas Co Kildare +353 45 983 600 http://www.iaasa.ie info@iaasa.ie |
| Italy | CONSOB - Commissione Nazionale per le Società e la Borsa | Via Giovanni Battista Martini, 3 00198 Rome +39 0684771 http://www.consob.it |
| Latvia | Latvijas Republikas Finanšu ministrija (Ministry of Finance of the Republic of Latvia) | Smilšu Street 1 Riga, LV-1919 +371 67095615 http://www.fm.gov.lv revkom@fm.gov.lv |
| Liechtenstein | Finanzmarktaufsicht, FMA (Financial Market Authority) | Landstrasse 109 Postfach 279 9490 Vaduz +423 236 73 73 http://www.fma-li.li info@fma-li.li |

| | | |
|------------|---|--|
| Lithuania | The Authority of Audit, Accounting, Property Valuation and Insolvency Management of the Republic of Lithuania, AVNT | Rinktinės str. 48A 09318 Vilnius +370 5 212 5464 http://www.avnt.lt info@avnt.lt |
| Luxembourg | Commission de Surveillance du Secteur Financier, CSSF | 283, route d'Arlon 1150 Luxembourg +352 26 25 1 1 http://www.cssf.lu direction@cssf.lu |
| Malta | Accountancy Board | Maison Demandols South Street Valletta VLT 2000 http://secure3.gov.mt info.gau@gov.mt |
| Poland | Komisja Nadzoru Audytowego (Audit Oversight Commission) | Świętokrzyska 1200-916 Warszawa +48 22 694 39 61 http://www.kna.gov.pl biuro.kna@mf.gov.pl |
| Portugal | Comissão do Mercado de Valores Mobiliários (Portuguese Securities Market Commission) | Rua Laura Alves, 4 – Apartado 14258 1064-003 Lisboa +351 21 317 70 00 http://www.cmvm.pt auditores@cmvm.pt |
| Slovakia | Úrad pre dohľad nad výkonom auditu, UDVA (Auditing Oversight Authority) | Slovanská 1 P.O. Box 63 810 05 Bratislava +421 5726 75 25 http://www.udva.sk udva@udva.sk |
| Slovenia | Agencija za javni nadzor nad revidiranjem (Agency for Public Oversight of Auditing) | Cankarjeva cesta 18 Ljubljana +386 1 620 85 50 http://www.anr.si info@anr.si |
| Spain | Instituto de Contabilidad y Auditoría de Cuentas, ICAC | C/ Huertas, 26 28014 Madrid +91 389 56 00 http://www.icac.meh.es |
| Sweden | Revisorsinspektionen (Swedish Inspectorate of Auditors) | Box 24014 SE-104 50 Stockholm |

| | | |
|-----------------|--|---|
| | | +468 738 46 00 http://www.rn.se |
| The Netherlands | Autoriteit Financiële Markten, AFM (Dutch Authority for the Financial Markets) | Vijzelgracht 50 1017 HS Amsterdam +31 20 – 797 2000 +31 20 – 797 (fax) http://www.afm.nl |
| United Kingdom | Financial Reporting Council Limited, FRC | 8 th Floor 125 London Wall London, EC2Y 5AS +44 20 7492 2300 http://www.frc.org.uk enquiries@frc.org.uk |

6.2. Copy of the CEAOB Enforcement Questionnaire 2017 as drafted by the CEAOB Enforcement sub-group

ENFORCEMENT QUESTIONNAIRE 2017

addressed to EU Competent Authorities in Auditor Oversight, based on Article 23 of the Regulation 537/2014 and Directive 2006/43/EC, Article 30f (1)

Legal ground: This Questionnaire is based on Member States duty to cooperate in line with Article 33 of Directive 2006/43/EC and CEAOB's mission to facilitate the exchange of information, expertise and best practices in line with Article 30(7) and 30(11). The Questionnaire addresses investigations and sanctioning by competent authorities or delegated authorities in calendar year 2016. The responses of the Questionnaire will be used for public reporting purposes in compliance with the CEAOB's work plan 2017 and the CEAOB Enforcement sub-group's work plan 2017.

Responses in compliance with ARD: Please give responses according to your new legislation in line with the ARD for the requested information. If you have no information to report please leave the response space empty. You can also comment your responses in the comment field.

Statistics: Give statistics which reflect the decisions based on new legislation in your jurisdiction by your competent authority in line with the ARD. The questions and requests of statistics refer to calendar year 2016 only. If there is not yet history for year 2016 please leave the response space empty. The questionnaire is addressed to collect information primarily on the oversight of statutory audit and statutory auditors and audit firms. Exclude investigation and sanctioning of non-audit services of auditors and audit firms.

Terms: The terms used in this questionnaire reflect the terms and definitions used in EU Audit Directive (2006/43/EC) of May 2006 and the Regulation 537/2014. This questionnaire covers PIE and non-PIE auditors and audit firms respectively.

Responses: Give your responses using this electric format **by Monday 23 October 2017 at the latest**. You may email explanatory attachments in a separate mail to CEAOB (email address). Please refer to this questionnaire. The narrative explanations in the questionnaire are limited to 2000 characters each question.

Inquiries: If you have questions about answering please contact pasi.horsmanheimo@prh.fi.

1) General

| | | |
|----|---|---|
| 1. | What is the national legal basis for auditor oversight (investigations and sanctioning)? | Title of the relevant law or legal text in original language (eg. Auditing Act 2014). Date of entry into force. |
| 2. | What is/are the competent authority/authorities in your jurisdiction? Art. 32 of the EU Directive 2006/43/EC and Art. 20 (1) (c) and (3) of the EU Regulation No. 537/2014 | Member state, name of the competent authority in original language, contact details, webpage |
| 3. | Describe briefly the organization of the competent authority, (tasks, bodies, their powers) which is responsible for investigations | |
| 4. | Describe briefly the organization of the competent authority, (tasks, bodies, their powers) which is responsible for sanctioning. | |
| 5. | Has your jurisdiction delegated investigation tasks to another body / authority? Art. 24 of the EU Regulation No. 537/2014 | <input type="checkbox"/> yes <input type="checkbox"/> no |
| 6. | Has your jurisdiction delegated sanctioning tasks to another body / authority? | <input type="checkbox"/> yes <input type="checkbox"/> no |
| 7. | If you have answered "yes" to the question above, please explain which tasks have been delegated and to which body? | <input type="checkbox"/> inspections over non-PIE auditors <input type="checkbox"/> investigation and sanctioning powers over non-PIE auditors <input type="checkbox"/> public registration of auditors <input type="checkbox"/> others (explain) Which body: |

2) Powers of the competent authority (Reg. Art. 23)

| | | |
|----|--|--|
| 8. | Has the competent authority <u>other</u> supervisory and investigatory powers than those imposed by Article 23(3) of the EU Regulation No. 537/2014)? | Yes/no. Explain. |
| 9. | How does the competent authority exercise its supervisory and investigatory powers (Article 23(4) of the EU Regulation No. 537/2014 and Article 30a(4) of the EU Directive)? | <input type="checkbox"/> directly <input type="checkbox"/> in collaboration with the professional body <input type="checkbox"/> in collaboration with other independent national authorities <input type="checkbox"/> by application to the competent judicial authorities comments: |

3) Statistics 2016 - Administrative measures and sanctions

In your response the statistics⁸ should reflect decisions on administrative measures and sanctions based on new legislation in your jurisdiction by your competent authority in line with the ARD.

Please also include administrative measures and sanctions which another authority has imposed in line with the ARD on basis of delegation of tasks (Art. 24 of the EU Regulation No. 537/2014).

| | | |
|-----|--|--|
| 10. | Mandatory administrative measures and sanctions of the following may the competent authority take/ impose? Art. 30 a EU Directive Art. 23 (f) of the EU Regulation No. 537/2014 | How many of the administrative measures and sanctions did the competent authority impose in year 2016? Note: One case may cover several sanctions, please report <u>each sanction</u> distinctively. ⁹ |
| a. | notice requiring the natural or legal person responsible for the breach to cease the conduct and to abstain from any repetition of that conduct | Number: |
| b. | a public statement which indicates the person responsible and the nature of the breach, published on the website of competent authority | Number: |
| c. | a temporary prohibition, of up to 3 years' duration, banning the statutory auditor, the audit firm or the key audit partner from carrying out statutory audits and/ or signing audit reports | Number: |
| d. | a declaration that the audit report does not meet the requirements of Art. 28 of the Directive, or where applicable, Art. 10 of Reg. 537/2014 | Number: |
| e. | a temporary prohibition, up to 3 years' duration, banning a member of an audit firm or a member of an administrative or management body of a PIE-entity from exercising functions in audit firms or public-interest entities | Number: |
| f. | the imposition of administrative pecuniary sanctions on natural and legal persons | Number: |
| g. | withdrawal of approval (Art. 30 (3) of the EU Directive) | Number: |
| h. | Are there other administrative measures or sanctions in use? What? | Explain and give relevant statistics: |

⁸ Note ENF: The statistics don't cover decisions where the competent authority concluded that sanctioning was not necessary when the case was closed. These statistics are addressed in section 5.

⁹ For instance, in a case of multiple sanctions, an auditor can be imposed a fine and a reprimand by the same decision in the same case. Both sanctions should be filled in respectively.

4) Publication of administrative measures and sanctions

| | | |
|-----|--|--|
| 11. | When does the competent authority publish the administrative procedures and sanctions on its official website? | <input type="checkbox"/> after all rights of appeal have been exhausted or have expired <input type="checkbox"/> before all rights of appeal have been exhausted or have expired |
| 12. | How does the competent authority publish the administrative measures and sanctions on its official website? | <input type="checkbox"/> any administrative measure or sanction with names after all rights of appeal have been exhausted or have expired. <input type="checkbox"/> any administrative measure or sanction which is subject to appeal including information concerning the status and outcome of the appeal <input type="checkbox"/> the administrative measure or sanction on an anonymous basis in any of the special circumstance described in Art. 30c (2) EU Directive <input type="checkbox"/> any administrative sanction on an anonymous basis i.e. not containing personal data, as per Art. 30c (3) EU Directive Comments: |
| 13. | The publication of any administrative sanction remains on its official website: | <input type="checkbox"/> for a period of five years after all rights of appeal have been exhausted or have expired as described in Art. 30c (3) EU Directive <input type="checkbox"/> other, please specify |

14. Other comments (regarding any response above) and any additional information about enforcement which you would like to share:

The responses were filled by: _____
(name and contact information)

Date: _____/_____/2017

Further information can be given by (contact information):
