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Guidance on the opening of AEP Investigations

Thresholds/Guidance for referral for investigation

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GUIDANCE ON THE OPENING OF AEP INVESTIGATIONS

Thresholds/Guidance for referral for investigation

1. Under Rules 4 and 5 of the Audit Enforcement Procedure, where the Board considers that there is a good reason to investigate an alleged failure to comply with a Relevant Requirement, it shall refer the Allegation for investigation and may direct the investigation to be undertaken by a Recognised Supervisory Body (“**RSB**”) where appropriate.¹
- 1(A) Under Part 8 of the Audit Enforcement Procedure, the Board may reconsider a decision of the Case Examiner made under Rule 3 or of the Board pursuant to Rule 4 subject to the test set out in Rule 70.
2. The Board can delegate its functions under Rules 4, 5 and 70 to the Conduct Committee.
3. This document provides guidance on when Allegations may be referred for investigation. The purpose of this guidance is to ensure that consistent and proportionate decisions are taken, although it is recognised that every Allegation will have its own unique facts and circumstances.
4. This guidance will be referred to by the Board and may be helpful for anyone interested or involved in the FRC's Audit Enforcement Procedure.

Considerations

5. When determining whether there is a good reason to investigate an Allegation, regard should be had to the EU Audit Regulation and the expectation that Member States shall ensure that there are effective systems of investigations and sanctions to detect, correct and prevent inadequate execution of the statutory audit.
6. This illustrative list sets out examples which might suggest a good reason to investigate but it is important to note that the list is non-exhaustive and none of the following characteristics are a pre-requisite in order to satisfy the threshold for investigation:
 - a. it has the potential to damage public confidence in Statutory Audit or the audit profession;
 - b. it has the potential to damage investor confidence in the truth and fairness of the financial reporting of an entity;
 - c. it may have contributed directly or indirectly to financial detriment or other harm to those reliant upon the statutory audit process;
 - d. it may have contributed directly or indirectly to financial detriment or other harm to a number or vulnerable category of individuals or institutions;

¹ This document was issued in January 2021 and re-issued on 30 March 2021 with reinstated numbering from previous versions for ease of reference.

- e. it may suggest possibly pervasive conduct reflecting the number of institutions involved and/or the length of time the alleged breach(es) persisted;
 - f. it may suggest the financial information is inaccurate or incomplete;
 - g. it may suggest criminal offences have been committed;
 - h. it may suggest a failure in regulatory compliance processes or approach;
 - i. it may suggest a failure to adhere to ethical standards; and/or
 - j. it will assist the FRC in pursuing its objectives of promoting high quality audit and detecting, correcting and preventing inadequate execution of the statutory audit.
7. Conversely the following illustrative list sets out non-exhaustive examples of where it may be decided that there is not a good reason to investigate. It is important to note, however, that the presence of one or more of these factors does not necessarily preclude a finding of a good reason to investigate:
- a. no potential to damage investor confidence in the truth and fairness of the financial reporting of an entity;
 - b. limited or no financial detriment or other harm to those reliant upon the statutory audit process;
 - c. an isolated incident; and/or
 - d. a minor breach of the Relevant Requirements.

Delegation of Investigations and Oversight of Investigations

8. If an Allegation is referred for investigation a direction must also be made as to whether the investigation should be delegated to the appropriate RSB.
9. Factors which may be relevant to such a direction include:
- a. whether the Allegation relates to a Public Interest Entity and has been brought to the Board's attention as a result of the FRC's audit monitoring activity in the FRC's capacity as competent authority (in which case delegation to an RSB is not permitted by law);
 - b. the seriousness of the Allegation;
 - c. the number of factors as set out at paragraph 6 above;
 - d. the complexity of the Allegation;
 - e. the public profile (or anticipated profile) of the Allegation;
 - f. the capacity and capability of the RSB to whom the Allegation would be delegated;²

² Capability may include matters contained in or as a result of any delegation arrangements with the particular RSB

- g. the capacity within the FRC to conduct the investigation; and/or
 - h. the likely resources required for the investigation (including costs).
10. Where the Board has delegated its decision-making under Rules 4 and 5 and 70 of the Audit Enforcement Procedure to the Conduct Committee, references in this Guidance to the Board should be read as referring to the Conduct Committee, as applicable.

Approved **by the Board on 30 March 2021.**