

Title: Section 69 order: Modification of the functions of the Institute of Chartered Accounts in England and Wales (ICAEW). IA No: MoJ035/2014 Lead department or agency: Ministry of Justice Other departments or agencies: ICAEW, Legal Services Board	Impact Assessment (IA)		
	Date: 07/10/2014		
	Stage: Final		
	Source of intervention: Domestic		
	Type of measure: Secondary legislation		
Contact for enquiries: Admin.justice@justice.gsi.gov.uk			
Summary: Intervention and Options		RPC Opinion: Not applicable	

Cost of Preferred (or more likely) Option			
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Two-Out? Measure qualifies as
N/A	N/A	N/A	No Zero net cost

What is the problem under consideration? Why is government intervention necessary?
 Currently appeals against disciplinary and regulatory decisions by ICAEW are heard by an independent panel constituted under ICAEW's bye-laws. Once designated, appeals against ICAEW's decisions as a Licensing Authority (LA) and Approved Regulator (AR) will need to be sent for hearing to the General Regulatory Chamber (GRC) of the First-tier Tribunal (FTT). Government intervention is required to grant, by an order under section 69 of the LSA 2007, ICAEW the powers to make rules and regulations in its capacity as an AR and LA to send appeals to the GRC of the FTT. ICAEW also requires additional intervention powers as an AR to give it the same intervention powers it has as a LA.

What are the policy objectives and the intended effects?
 To put in place an appeal mechanism through which ICAEW's decisions as a LA and an AR can be appealed to the GRC of the FTT to ensure consistency across the regulation of both Alternative Business Structure (ABS) and non-ABS firms. To provide ICAEW with additional intervention powers to ensure that its powers of intervention as an AR are the same and consistent with those it will have as a LA. It will fit into the wider government agenda by ensuring that consumers of legal services have consistent and equal rights and protections and also contribute to improving the efficiency of the regulatory framework for legal services.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)
 ICAEW recommend a section 69 order to address the problem and policy objectives outlined above. Without this, ICAEW as an LA and an AR will be unable to send appeals to the GRC of the FTT and the GRC of the FTT will have no power to hear and determine appeals sent by ICAEW in its capacity as an AR. Further, without such an order, ICAEW will have fewer intervention powers as an AR and therefore it will be inconsistent with those it has as a LA.
 This is the preferred option as the expertise of the GRC of the FTT is considered appropriate for appeals involving authorisation of legal services and ABS licensing. It is also considered appropriate for ICAEW to have consistent powers of intervention as an AR and a LA.

Will the policy be reviewed? It will not be reviewed.					
Does implementation go beyond minimum EU requirements?				No	
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.		Micro	< 20	Small	Medium Large
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)				Traded: n/a	Non-traded: n/a

I have read the Impact Assessment and I am satisfied that, (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) the benefits justify the costs.

Signed by the responsible Minister: Shailesh Vara Date: 7 October 2014

Summary: Analysis and Evidence

Policy Option 1

Description: The ICAEW makes rules and regulations whereby appeals against its decisions made as an AR and a LA may be sent to the GRC of the FTT and for ICAEW to exercise the same intervention powers as an AR as it does as a LA.

FULL ECONOMIC ASSESSMENT

Price Base Year 2013	PV Base Year 2013	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low:	High:	Best Estimate: NQ
COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)		Total Cost (Present Value)
Low					
High					
Best Estimate	NQ		NQ		NQ
Description and scale of key monetised costs by 'main affected groups'					
It has not been possible to fully monetise the impacts of this option. The cost of appeals will be borne by ICAEW subject to recovery from unsuccessful appellants under costs orders. Unrecovered costs will ultimately fall to ICAEW's regulated community for legal services. Estimated total first year costs are £38,000 with unit costs per case of £3,500. Ongoing costs are estimated to be around £35,000 per annum based on an assumption of up to 10 appeals per annum.					
Other key non-monetised costs by 'main affected groups'					
ICAEW will incur administrative and representation costs in dealing with appeals but these are unlikely to be significant due to the low volume of appeals anticipated. There will be some cost to appellants but this will vary and is difficult to quantify. For intervention orders these costs will be borne by ICAEW and the wider regulated community					
BENEFITS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)		Total Benefit (Present Value)
Low					
High					
Best Estimate	NQ		NQ		NQ
Description and scale of key monetised benefits by 'main affected groups'					
There are no monetised benefits.					
Other key non-monetised benefits by 'main affected groups'					
The regulated community will have access to an independent, transparent appeals process consistent with that available to other regulated providers of legal services. This should support the perception of fairness, promote confidence in the regulated sector and encourage entry into the market. Consumers of legal services should benefit from the availability of fair, transparent and consistent processes. Consumers will be protected where ICAEW exercises its intervention powers.					
Key assumptions/sensitivities/risks					Discount rate (%)
We assume there will be up to 10 appeals in year 1. Unit costs are assumed to be £3,500 per case. Volumes and costs are assumed to remain constant in the following years. There is a risk that appeal volumes could be higher than the 10 assumed above. It is also worth noting that no appeals to the FTT have been made from the pool of 30 ABS firms licensed by the CLC; whilst this does not signal that there will be no appeals in ICAEW's case it does give some indication that the number of appeals is likely to be up to 10 cases.					3.5%

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of OITO?	Measure qualifies as
Costs: NQ	Benefits: NQ	Net: NQ	No	Zero net cost

Evidence Base (for summary sheets)

1. Introduction

Background

- 1.1 The Legal Services Board (LSB) was created by the Legal Services Act 2007 (LSA 2007) and is charged with the responsibility of overseeing the regulators of legal services and ensuring that their functions comply with the regulatory objectives set out in the LSA 2007. The LSB's mandate is to ensure that regulation in the legal services industry is carried out in a manner that is consistent with the public interest and that the interest of consumers is central in policy making. The LSA 2007 gives the LSB and Approved Regulators (AR) (the regulators of traditional legal services providers) the same regulatory objectives. In full these objectives are:
- Protecting and promoting the public interest;
 - Supporting the constitutional principle of the rule of law;
 - Improving access to justice;
 - Protecting and promoting the interests of consumers;
 - Promoting competition in the provision of legal services;
 - Encouraging an independent, strong, diverse and effective legal profession;
 - Increasing public understanding of the citizen's legal rights and duties; and
 - Promoting and maintaining adherence to the professional principles.
- 1.2 The LSA 2007 enables the operation of Alternative Business Structures (ABS) by permitting the ownership of law firms by non-lawyers. The LSA 2007 also details the process of establishing Licensing Authorities (LAs) and the statutory basis on which they license and regulate Alternative Business Structures (ABS).
- 1.3 The LSA 2007 provides the Lord Chancellor with an order making power (to be exercised only on the recommendation of the LSB) to make provision about an existing body for the purpose of enabling it to hear and determine appeals.
- 1.4 ICAEW has an existing mechanism for appeals against its disciplinary and regulatory decisions to be heard by an independent appeal panel. However, in order to achieve consistency amongst regulators of legal services, a mechanism is required to enable ICAEW to send its disciplinary and regulatory appeals to the GRC of the FTT. An order under section 69 of the LSA 2007 is therefore required to grant the power to ICAEW as an AR and a LA to make rules and regulations to send its appeals to the GRC of the FTT. The GRC of the FTT is part of the unified tribunals' structure established under the Tribunals, Courts and Enforcement Act 2007 and administered by HM Courts and Tribunal Service.
- 1.5 The GRC of the FTT combines a number of previously separate administrative tribunals into one unified structure, which has its own infrastructure and administrative support function. The GRC of the FTT is made up of a variety of jurisdictions which are grouped into Chambers, including the General Regulatory Chamber (GRC) which consists of a number of jurisdictions concerned with hearing appeals against the decisions of regulatory bodies.
- 1.6 There are some explicit appeal rights under the LSA 2007 (section 96 and schedule 13), concerning decisions to impose a financial penalty or to impose restrictions on the ownership of a licensed body. The LSB issued guidance in December 2010 specifying those decisions which, as a minimum, the LSB considers ought to be appealable. We expect the following decisions of licensing authorities to be appealable, with the relevant sections or schedules of the LSA 2007 shown in brackets:
- Refusal of application for a licence (s.84)
 - Imposition of conditions on a licence (s.85)
 - Modification of a licence (s.86)
 - Refusal to designate as a Head of Legal Practice, or withdrawal of approval (Schedule 11, paragraph 12)
 - Refusal to designate as Head of Finance and Administration, or withdrawal of approval (Schedule 11, paragraph 14)
 - Disqualification from some or all roles within a licensed body (s.99)
 - Suspension and revocation of licence (s.101)

- Power to modify application of licensing rules etc. to special bodies s.106 and s.107.
- 1.7 Schedule 14 of the LSA 2007 confers powers of intervention on LAs. It is important that ICAEW is able to exercise powers of intervention in carrying out its role as a LA. In particular, to provide for intervention where relevant conditions are satisfied in relation to the following:
- Non-compliance of the terms of a licence by a licensed body;
 - Appointment of a receiver or manager of the property of a licensed body;
 - A relevant insolvency event;
 - Suspected dishonesty by a manager or employee of the licensed body;
 - Undue delay by the licensed body;
 - The need to protect the interests of clients or former clients or the interests of beneficiaries of a trust;

Problem under consideration

- 1.8 If no provision is made in an order under section 69 of the LSA 2007 for appeals, ICAEW will be unable to refer appeals against its decision as an AR and a LA to the GRC of the FTT. Consequently, the benefits associated with consistency and transparency amongst approved regulators of legal services will not be realised. Government intervention is required so that appeals may be referred to and heard by the GRC of the FTT.
- 1.9 If no provision is made in an order under section 69 of the LSA 2007 granting additional powers of intervention to ICAEW as an AR, it will have fewer powers of intervention as an AR which would be inconsistent with the intervention powers it has as an LA under Schedule 14 of the LSA 2007. An order under section 69 of the LSA 2007 is required in order to grant these additional intervention powers and ensure consistency of powers in the capacity of AR and LA.

Policy objectives

- 1.10 The policy objective is to enable ICAEW to make rules and regulations to send appeals against its decisions as an AR and a LA to the GRC of the FTT. The second objective is for ICAEW to have additional intervention powers as an AR to ensure they are consistent with the intervention powers it has as a LA under Schedule 14 of the LSA 2007.
- 1.11 The costs and processes for ICAEW to exercise the appeal mechanism are intended to be transparent, efficient, fair and public. The body hearing the appeals should have sufficient resources and expertise to deal with the potentially complex issues that ABS appeals may relate to and the FTT is considered to be the appropriate independent appeal route. The FTT is already the appeal body for Council for Licensed Conveyancers (CLC) LA decisions. It is also the stated policy position of the LSB that the FTT should hear appeals against decisions by all ARs and LAs of legal services regardless of the type of legal service being provided or whether it is an ABS or non-ABS..
- 1.12 The exercise by ICAEW of powers of intervention are similarly intended to provide for a transparent, efficient, fair and public process. ICAEW should have the same powers as an AR as it has as an LA in order to ensure consistency and provide greater public protection and increased confidence in the regulation of legal services by the regulated community and generally.

Economic rationale

- 1.13 The conventional economic approach to government intervention is based on efficiency or equity arguments.
- 1.14 In the case of the ICAEW, the intervention is required on both efficiency and equity grounds. Providing for appeals to be sent to and heard by the GRC of the FTT will provide for a consistent and transparent process amongst ARs under the LSA 2007 and provide equal rights and protections to the regulated community. More generally, hearing appeals through the GRC of the FTT may result in increased consumer confidence in the overall regulatory framework for legal services. Providing probate authorised and licensed firms with a right of appeal to the GRC of the FTT may also be seen as fairer from the public perspective as it signals that the market entry process for ICAEW probate firms who want to become authorised or licensed is fair and open. With the GRC of the FTT as the independent appeals body this may generate further economic gains

for society, through providing greater confidence to consumers and providers in the independence and efficacy of the appeal arrangements. Using the FTT for all appeals against decisions by ARs and LAs will lead to greater consistency in decision making, enable a body of expertise to develop, and enable economies of scale to be achieved in relation to administrative and appellate functions

1.15 Similarly, additional intervention powers for ICAEW as an AR are required in order that ICAEW may exercise the same intervention powers it has as a LA. This will result in greater protections for clients and others and may result in increased public confidence in the regulation of legal services by ICAEW and generally.

Affected stakeholder groups, organisations and sectors

1.16 The following individuals, organisations and sectors will be affected:

- ICAEW – the body whose decisions will be appealed.
- HM Courts and Tribunal Service – which administers the FTT to which appeals will be made.
- ICAEW ABS firms providing probate services (and applicants to the ICAEW for an ABS licence) – who will be the subject of the decisions that are appealable.
- ICAEW licensed bodies that will be subject to potential intervention by ICAEW.
- Consumers – who may ultimately bear the regulatory costs through the cost of legal services.
- Appeals related service providers such as suppliers of legal advice and representation services.

2. Costs and benefits

2.1 This Impact Assessment identifies impacts on individuals, groups and businesses in England and Wales, with the aim of understanding what the overall impact to society might be from implementing the two options. The costs and benefits of Option 1 is compared to the do nothing option (Option 0). Impact Assessments place a strong emphasis on valuing the costs and benefits in monetary terms (including estimating the value of goods and services that are not traded). However, there are important aspects of the proposal that cannot sensibly be monetised. These might include how the proposal impacts differently on particular groups of society or changes in equity and fairness, either positive or negative.

Option 0: Base case (do nothing)

2.2 Doing nothing is not considered a feasible option, as without intervention in the form of an order under section 69 of the LSA 2007, ICAEW is unable to make rules and regulations for sending appeals against the decisions it makes as an AR and a LA to the GRC of the FTT. Further, without an order under section 69, ICAEW as an AR will have fewer powers of intervention than it has as a LA under Schedule 14 of the LSA 2007 and those powers will be inconsistent.

2.3 Because the do nothing option is compared against itself its costs and benefits and necessarily zero, as is its Net Present Value (NPV).¹

Option 1 – The ICAEW makes rules and regulations whereby appeals against its decisions made as an AR and a LA may be sent to the GRC of the FTT and for ICAEW to exercise the same intervention powers as an AR as it does as a LA.

Description

2.4 Under this option, an order would be made under section 69 of the LSA 2007 making provision for ICAEW to make rules and regulations as an AR and a LA, for its appeals against its decisions to be sent to the GRC of the FTT and for ICAEW to have the same intervention powers as an AR as it has as a LA under Schedule 14 of the LSA 2007.

2.5 The principal objectives of the additional powers set out in the Section 69 order are to allow for a consistent regulatory regime for the regulation by ICAEW of both ABS and non-ABS firms. Specifically it is intended that all appeals on ICAEW's regulatory probate decisions (whether made

¹ The Net Present Value (NPV) shows the total net value of a project over a specific time period. The value of the costs and benefits in an NPV are adjusted to account for inflation and the fact that we generally value benefits that are provided now more than we value the same benefits provided in the future.

as approved regulator (**AR**) or a licensing authority (**LA**)) are heard and determined by the GRC of the FTT and that there are equivalent intervention powers for ICAEW when acting as an approved regulator and a licensing authority.

2.6 ICAEW has an existing mechanism for appeals against its disciplinary and regulatory decisions to be heard by an independent appeal panel. However, in order to achieve consistency amongst regulators of legal services, a mechanism is required to enable ICAEW to send its disciplinary and regulatory appeals to the GRC of the FTT. An order under section 69 of the LSA 2007 is therefore required to grant the power to ICAEW as an AR and a LA to make rules and regulations to send its appeals to the GRC of the FTT. The GRC of the FTT is part of the unified tribunals' structure established under the Tribunals, Courts and Enforcement Act 2007 and administered by HM Courts and Tribunal Service.

Summary of Key Assumptions of Option 1

- 2.7 It is assumed that the volume of appeals in the FTT of the GRC will be between zero and ten per annum. Of the current firms ICAEW regulates (13,000 in total), approximately 4,600 firms are licensable, which provides some indication of the number of ABS in the first year, if the ICAEW is designated as a licensing authority. The powers in respect of registrants would be exercisable in relation to 5% of firms, approximately 250. Those in respect of ABS would be exercisable in respect of 2.5% of firms, therefore of those 250 firms this would include, around 125 firms.² We can therefore ascertain that the potential for appeal is from a limited number of firms i.e. 250 in total. This is compared to around 230 ABS firms licensed by the Solicitors Regulation Authority to date. It is also worth noting that, to date, no appeals to the FTT have been made from the pool of over 30 ABS firms licensed by the CLC. While this does not signal that no appeals will be made to the FTT from ICAEW licensing decisions, it does give some indication that the number of appeals is likely to be within our assumption of zero to ten cases.
- 2.8 It is assumed that the FTT has sufficient capacity available to hear appeals and that no additional accommodation or staff resources would be required as a result of the proposal.
- 2.9 We assume that both ICAEW and the body appealing a decision would be legally represented at an appeal.

Costs

HM Courts and Tribunals Service

- 2.10 HM Courts and Tribunals Service (HMCTS) would face additional costs associated with a potential increase in the volume of cases heard in the GRC of the FTT. However, start-up and operating costs (e.g. tribunal member sitting fees) will be paid by ICAEW to HMCTS, meaning there should be no net financial impact on HMCTS as a result of the proposal.
- 2.11 HMCTS has provided costs based on our volume assumption of between zero and ten cases per year. These costs will be distributed as follows:
- Start-up costs £3,000
 - First years running costs £35,000
 - The unit running cost of £3,500
- 2.12 Start-up costs cover: update of the website, guidance, forms, staff and judicial training, senior judicial input into implementation, implementation time and expenses incurred by operational colleagues. The running cost covers: judicial costs for salaried and fee paid judges, administration for those appeals and use of HMCTS' estate for both hearing and administration. If FTT panel members were used they would be factored into the unit cost per case.

² An online survey was conducted 7-16 November 2011 among Practice Assurance contact principals. The survey was sent to a random sample of 2,770 firms, approximately 10% of which responded. The results were then extrapolated to reflect the wider universe of firms. As a self-selecting sample, however, the results of this survey should be treated with caution (ICAEW Market Research: 2011).

ICAEW

- 2.13 The costs incurred by HMCTS will be paid by ICAEW. HMCTS policy is to charge for a minimum of ten appeals in the first year, this is invoiced as soon as the work to implement starts and aims to cover the costs of preparation, irrespective of how many appeals are received in the first year. The unit running costs aim to capture the expected cost of bringing appeals, even if an appeal right is expected to lead to no appeals in practice. However, it cannot be fully cost reflective – particularly on smaller appeals – as a lot of preparatory work will require involvement by many areas within HMCTS e.g. legal, policy, judicial, communications and IT colleagues. Secondly, after ten appeals in the first year and any appeals in subsequent years will be charged, quarterly, to ICAEW based on a cost per case heard. Therefore if ICAEW did not generate any appeals, there would be no cost to ICAEW after the first payment – even if new judges require training in the future.
- 2.14 ICAEW would face costs associated with appeals being heard by the FTT. These would consist primarily of daily fees for panel members, plus administrative support supplied by the HMCTS. The administrative support would include dealing with enquiries and all administrative tasks associated with the appeals including scheduling appeal dates. It is assumed that the FTT has sufficient capacity available to hear appeals and that no additional accommodation or staff resources would be required as a result of the proposal given the likely negligible number of cases going to appeal as a result of ICAEW decisions.
- 2.15 Any additional IT and telephony costs for ICAEW are expected to be negligible.
- 2.16 ICAEW would incur costs associated with defending appeals, which includes the cost of legal advice and representation. The GRC has limited power to award costs against parties, so it is assumed that ICAEW would normally be expected to pay its own legal costs. These costs have not been quantified, however it is unlikely that costs would be significant in the context of ICAEW's overall budget as it is not expected that there will be a large number of appeals in relation to ICAEW decisions as an AR or a LA.
- 2.17 ICAEW does not currently have intervention powers comparable with those under Schedule 14 of the LSA 2007. It is anticipated that the number of such orders will be low as very few intervention orders have been made under ICAEW's existing power to make intervention orders and we anticipate that those seeking authorisation or licensing for probate work will be ICAEW members or similar (ICAEW have had two interventions in the last 8 years; this did not involve physical intervention but a removal of and a suspension of a practising certificate) . Under Schedule 14 the costs incurred by the licensing body (ICAEW) in exercising its intervention powers are payable by the relevant licensed body and may be recovered as a debt. In the absence of recovery the costs of intervention will fall to the regulated community generally i.e. all licensed bodies.

Authorised and licensed bodies

- 2.18 Any ICAEW cost in its function as an AR and a LA generally would be passed on in the form of fees. As mentioned above it is not anticipated that s69 costs will be significant in the context of ICAEW's overall budget and the low number of appeals assumed. Intervention costs will be recoverable via the relevant authorised and licensed body and borne by the regulated community.
- 2.19 For the purposes of this Impact Assessment it is assumed that both ICAEW and the authorised or licensed body concerned would be legally represented at an appeal. Individual businesses appealing decisions would incur costs associated with preparing for appeals and in being legally represented before the GRC of the FTT, which would result in additional costs for the firm concerned. These costs have not been monetised.

Consumers of legal businesses

- 2.20 All regulatory costs may ultimately be passed on to consumers of legal services in the form of higher prices. This includes any legal costs associated with any appeals in relation to ICAEW decisions and unrecovered intervention costs. However, as referred to above, these costs are unlikely to be significant.

Providers of legal advice and representation services

- 2.21 It is assumed that both ICAEW and businesses would be legally represented in an appeal. Any additional appeals that take place as a result of the proposal would represent an increase in the demand for legal advice and representation services. This would benefit providers of such services. There may also be an increase in demand for legal representation in relation to intervention actions. Firms would be able to recover their costs from the ICAEW but it would be on

a case-by-case basis. Appeal panels have the power to require ICAEW to pay or contribute towards a member's costs if their appeal is successful. However, unlike litigation, a successful appeal application will not automatically trigger an award of costs. When it decides whether to make an award of costs, the panel will consider all the relevant facts including the conduct of ICAEW and the member throughout the proceedings including the investigation. These costs could therefore be borne by both compliant and non-compliant firms.

Benefits

Authorised and Licensed Bodies

2.22 Probate firms regulated by ICAEW would benefit under the proposal as they would have the right to appeal against the decisions of ICAEW as an AR and a LA. The right of appeal would apply in relation to the range of decisions listed in paragraph 1.6 of this Impact Assessment. The recourse to an independent appeals mechanism will support the perception of fairness in the process and generate greater confidence in the regulatory decisions of ICAEW acting as a LA. This in turn signals fair entry to the market and encourage new business models and entrants to ABS, which should enhance competition and help to improve the efficiency of the provision of probate services. It has not been possible to monetise this benefit.

2.23 Firms will also benefit as the regulated market will be strengthened by the ability of ICAEW to take swift and decisive action to protect clients and others where intervention is necessary.

HM Courts and Tribunals Service

2.24 HMCTS would benefit from additional income from appeals brought to the FTT of the GRC. In the first year, a payment of £38,000 is intended to cover start-up and operating costs based on an assumption of ten cases in the first year. Subsequent appeals will be charged at a unit cost of £3,500. There should be no net financial impact on HMCTS.

Society

2.25 The proposal may lead to increased consumer confidence in the probate legal services regulated by ICAEW.

Summary of key risks

2.26 The key risk is based on the assumption that there will be up to 10 appeals in year one. We expect this to be lower than the less than 20 appeals cases per annum under the current processes out of 13,000 firms regulated by ICAEW. There is a risk that appeal volumes are higher than the 10 assumed above, however, this is a very low risk.

2.27 This is in comparison to the pool of 30 ABS firms licensed by the CLC whereby no appeals have been made to the FTT since CLC began authorising ABS in 2011. Whilst this does not signal that there will be no appeals in ICAEW's case, it does give some indication that the number of appeals is likely to be up to 10 cases.

2.28 We do not foresee any significant risks in relation to interventions as the number of interventions for ICAEW is expected to be low. This is based on the assumption of current data from the ICAEW which indicates that very few intervention orders (i.e. ICAEW have had two interventions in the last 8 years; this did not involve physical intervention but a removal of and a suspension of a practising certificate) have been made under ICAEW's existing power to make intervention orders and it is anticipated that those authorising or licensing for probate work will be ICAEW members or similar.

3. Enforcement and Implementation

3.1 The assumption for the proposal is that ICAEW will enforce authorisation and licensing compliance and that the GRC of the FTT will implement and operate the appeals system.

Annex A- Small and Micro Business Assessment

For the purposes of this assessment, the parameter used to define small businesses is up to 49 full time employees, and for micro businesses up to 10 employees.

The aim of the policy is enable ICAEW to refer appeals against its decisions as an approved AR and a LA to the GRC of the FTT. The proposal is estimated to apply to 250 firms. Of these we estimate that there will be up to 10 appeals per year. The majority of these firms will be small or micro businesses due to the nature of the industry- firms typically employ few members of staff.

For the purpose of the small and micro assessment, the following exemptions were considered:

- Full exemption
- Partial exemption
- Extended transition period
- Temporary exemption
- Varying requirements by type and/or size of business
- Direct financial aid for smaller businesses
- Opt-in and voluntary solutions
- Specific information campaigns or user guides training and dedicated support for smaller businesses

Following from the evidence above, allowing any exemptions targeted at small and micro business could have a negative impact on the benefit derived from the changes to the regulatory powers of ICAEW. The ICAEW could not effectively oversee the industry if small and micro businesses were excluded given that the majority of firms will have less than 49 staff.