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# PROFESSIONAL INDEMNITY CONFERENCE

## Audit – regulatory and civil liability

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# Expanding scope of regulatory enforcement – The FRC

- A lower hurdle
- The 'honest mistake' that leads to sanctions
- Fraud and the new ISA 240
- Reclaiming investigations – 'Public Interest Entities' and the FRC casting its net wider
- ARGAs – a distinction without a difference?
- Intensity of engagement

# Expanding scope of regulatory enforcement – the ICAEW

- The 'friendly' regulator no more?
- ICAEW and the junior markets

# Civil liability



- Audit client risk profiles and the risk of the 'large claim'
- Claimant Funding, specialist claimant teams and their approach
- Increasing competition in the market for audits
- Limitation of Liability Agreement – has its time come?

# Civil liability – AssetCo

*“The business of the company would have been revealed as ostensibly sustainable only on the basis of dishonest representations and/or unreasonable positions made and taken by management”*

*“AssetCo accepts it cannot recover losses ...suffered simply because the company remained in existence and carried on trading, but avers that it can recover losses suffered as a result of **“continuing to trade in a particular fashion in reliance of the audit...”**”*

Takeaways:

- SAAMCO applies to audit negligence
- it has encouraged claimants – will this lead to large settlements?
- 100% allowed for loss of opportunity type claim – implication.

# Manchester Building Society - Supreme Court

- **“...the purpose of a statutory audit is to provide the company and its shareholders with accurate information about the company’s finances on which to base management and governance decisions.** It is not a purpose of the audit to provide information on which potential investors may rely in deciding whether to buy shares in the company. It made no difference in this regard whether the potential investor was an existing shareholder.” Lord Leggatt *Caparo*
- One looks at what falls within the scope of auditors duty before tackling the question of what losses were suffered from a breach of duty.
- However, **if** the auditor does extend its statutory duty by assuming responsibility for additional areas of advice, **one looks at the purpose of the advice**, namely, “one looks to see what risk the [assumed] duty was supposed to guard against and then looks to see whether the loss suffered represented the fruition of that risk.”

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