

Investigations and Enforcement System

Inspections

- Planned
- Cycles
- Complete overview
- Quality Control

Investigations

- Not planned
- Ad hoc
- Focused on reviewing specific violations

- Same legal framework
- Similar procedures
- Same APOA personnel

Reports of Breaches

- Anonymous – often poor information
- Whistle-blowers – good inside information
- Known reporter – can be submitted by a law firm – often concrete and detailed with fair evidence
- Other institutions – APOA can get just a question and not a report of breach

A basic review of all reports is necessary, regardless of the form and the applicant.

You never know if a report reveals significant breaches or, in exceptional cases, even intentional violations which can be dangerous for the entire system.

Initial Review of a Report

- Is the matter from the report within the competence of the APOA
- Is the matter so important that consideration is needed
- Is additional information required

Additional verification of data at the reporter of the breach

If the report is anonymous, additional verification at the reporter is not possible

Request for clarifications from the supervised entity to which the notification relates

Protection of Identifying Data Concerning the Reporter of the Suspected or Actual Breach

- This is often necessary for the report to be filed at all
- Special protection when reporting the breach of an employer
- Reporting of suspected or actual breach does not constitute a breach of trade secrets
- Possibility of anonymous reporting via the website

The Scope of Supervisory Powers

- Wide investigative powers
- A lot of data from mandatory reporting
- Access to public records
- Power to request information from any natural or legal person and a fine if they do not provide it

Additional On-Site Review

- Performed when important additional information is needed
- Same rules as for an inspection
- On-site serving of the demand for an examination

Finalisation of the Investigation

- Draft report → comments from the subject of the investigation → final report
- Investigation can be concluded with the imposition of a sanction
- Notification of the applicant

Suspected or Actual Breach Is Identified

- Required assessment
 - significance of the breach
 - extent of the breach
 - consequences which the breach has had or may have
- Decision on how to proceed and how to achieve the elimination of the breach

Options

- A letter to the offender with a description of the irregularity and with recommendations
- General warning on the web site
- Corrective actions in the report of inspection or investigation
- Imposition of an administrative measure
- Misdemeanour procedure
- Criminal complaint
- Notification to other authorities

Further Actions

- It is necessary to determine who is responsible for the violation
 - the audit company or
 - a certified auditor or
 - both
- It is important to ensure that the same measures are used for similar breaches
- Verification of whether the audit company or its decision-makers are influencing a certified auditor

Administrative Sanctions

- An order to remedy the breach and impose corrective measures
- An order on an additional measure
- A reprimand
- Temporary prohibition of auditing
- Withdrawal of approval
- Temporary prohibition of performance of functions and ownership participation in audit company

Division of Roles

- APOA personnel (inspectors and legal advisors) prepare a draft document on the procedure of imposing the measure
- Expert Council rules on issuing the measure
- In the case of an appeal the Administrative court decides on the imposed measure

Expert Council

- Collective body with 9 members
- Rules on:
 - approvals
 - measures of supervision
 - other matters that the Agency rules on, such as:
 - adopting auditing rules and defining the hierarchy of auditing rules
 - defining the criteria to get and to obtain the approval

APOA as a Misdemeanour Authority

- Statutory powers of an individual employee
- Administrative sanction and misdemeanour for the same breaches
- Jurisdiction of different courts to rule on the appeal

