



EUROPEAN PARLIAMENT

2009 - 2014

---

*Committee on Economic and Monetary Affairs*

---

**2011/0359(COD)**

14.3.2013

## **OPINION**

of the Committee on Economic and Monetary Affairs

for the Committee on Legal Affairs

on the proposal for a regulation of the European Parliament and of the Council on specific requirements regarding statutory auditing of public-interest entities (COM(2011)0779 – C7-0470/2011 – 2011/0359(COD))

Rapporteur (\*): Kay Swinburne

(\*) Associated committee – Rule 50 of the Rules of Procedure

PA\_Legam

## AMENDMENTS

The Committee on Economic and Monetary Affairs calls on the Committee on Legal Affairs, as the committee responsible, to incorporate the following amendments in its report:

### Amendment 1 Proposal for a regulation

#### Title

*Text proposed by the Commission*

Proposal for a  
**REGULATION** OF THE EUROPEAN  
PARLIAMENT AND OF THE COUNCIL  
on specific requirements regarding  
statutory audit of public-interest entities  
(Text with EEA relevance)

*Amendment*

Proposal for a  
**DIRECTIVE** OF THE EUROPEAN  
PARLIAMENT AND OF THE COUNCIL  
on specific requirements regarding  
statutory audit of public-interest entities  
(Text with EEA relevance)

*This amendment applies throughout the text*

#### *Justification*

*An EU Regulation is not a suitable format of regulation, in particular in view of the highly detailed and intervening nature of the Commission's proposal. It represents an "one-size-fits-all" approach that is not taken the nature of different corporate governance systems throughout the EU into account. It would lead to decreased corporate governance standards in some Member States.*

### Amendment 2 Proposal for a regulation Recital 6

*Text proposed by the Commission*

(6) The financial sector is evolving and new categories of financial institutions **are created by Union law**. The importance of new entities and activities outside the **regular** banking system is growing and

*Amendment*

(6) The financial sector is evolving and new categories of financial institutions **have developed in response to regulatory and technological developments**. The importance of new entities and activities

their impact on financial stability has become greater. Therefore, it is appropriate that the definition of public-interest entity also encompasses *other financial institutions and entities such as investment firms, payment institutions, undertakings for collective investments in transferable securities (UCITS), electronic money institutions and alternative investment funds.*

outside the *traditional* banking system *that were previously unregulated at Union level* is growing and their impact on financial stability has become greater. Therefore, it is appropriate that the definition of public-interest entity also encompasses *other financial institutions and entities such as investment firms, payment institutions and* electronic money institutions. *Member States should therefore be able to designate other entities as public-interest entities, for instance entities that are of significant public relevance because of the nature of their business, their size or the number of their employees;*

**Amendment 3**  
**Proposal for a regulation**  
**Recital 6 a (new)**

*Text proposed by the Commission*

*Amendment*

*(6 a) A particular concern is the auditors' involvement in the structuring of off-balance sheet Special Purpose Vehicles (SPVs) for financial institutions. These vehicles can make it more difficult for investors and regulators to hold management to account. If applied by financial institutions, moreover, SPVs can be abused to mask risks in the financial system and thus reduce supervisors' and shareholders' ability to recognise and act upon threats to financial stability in a timely and effective manner. It is therefore appropriate to clarify that any involvement in the structuring of SPVs by a firm's auditor constitutes a case of self-review and will most likely represent inappropriate accounting treatment. Such activity should therefore be prohibited.*

**Amendment 4**  
**Proposal for a regulation**  
**Recital 7**

*Text proposed by the Commission*

(7) Audit of annual and consolidated financial statements is intended as a statutory safeguard for investors, lenders and business counterparties who have a stake or a business interest in public-interest entities. Hence, statutory auditors and audit firms should be completely independent when carrying out statutory audits of such entities and conflicts of interest should be avoided. In order to determine the independence of auditors and audit firms, the concept of network in which auditors and firms operate has to be taken into account.

*Amendment*

(7) Audit of annual and consolidated financial statements is intended as a statutory safeguard for investors, lenders and business counterparties who have a stake or a business interest in public-interest entities. Hence, statutory auditors and audit firms should be completely independent when carrying out statutory audits of such entities and conflicts of interest should be avoided. ***They should be able to inform the audited entity of matters arising from the audit, but should abstain from the internal decision processes of the audited entity. If they find themselves in a situation where the significance of the threats to their independence, even after application of safeguards to mitigate those threats, is too high, they should resign or abstain from the audit engagement.*** In order to determine the independence of auditors and audit firms, the concept of network in which auditors and firms operate has to be taken into account.

**Amendment 5**  
**Proposal for a regulation**

**Recital 8**

*Text proposed by the Commission*

(8) Adequate internal organisation of statutory auditors and audit firms should contribute to preventing any threats to their independence. Thus, owners or shareholders of an audit firm, as well as those managing it, should not intervene in the carrying out of a statutory audit in any way which jeopardises the independence and objectivity of the statutory auditor who

*Amendment*

(8) Adequate internal organisation of statutory auditors and audit firms should contribute to preventing any threats to their independence. Thus, owners or shareholders of an audit firm, as well as those managing it, should not intervene in the carrying out of a statutory audit in any way which jeopardises the independence and objectivity of the statutory auditor who

carries out the statutory audit on behalf of the audit firm. Additionally, statutory auditors and audit firms should establish appropriate internal policies and procedures in relation to employees and other persons involved in the statutory audit activity within their organisations in order to ensure compliance with their statutory obligations. Those policies and procedures should in particular seek to prevent and address any threats to independence and ensure the quality, integrity and thoroughness of the statutory audit. Those policies and procedures should be proportionate in view of the scale and complexity of the business of the statutory auditor or audit firm.

carries out the statutory audit on behalf of the audit firm. Additionally, statutory auditors and audit firms should establish appropriate internal policies and procedures in relation to employees and other persons involved in the statutory audit activity within their organisations in order to ensure compliance with their statutory obligations. Those policies and procedures should in particular seek to prevent and address any threats to independence and ensure the quality, integrity and thoroughness of the statutory audit. Those policies and procedures should be proportionate in view of the scale and complexity of the business of the statutory auditor or audit firm ***and the audited entities.***

**Amendment 6**  
**Proposal for a regulation**  
**Recital 21 a (new)**

*Text proposed by the Commission*

*Amendment*

***(21 a) The role of the ESRB is to monitor the build up of systemic risk in the Union. Given the information that audit firms of systemically important financial institutions have access to, their experience could help the ESRB in its work. Therefore an annual forum for dialogue between them on a sectoral, anonymised basis should be facilitated by this Regulation.***

**Amendment 7**  
**Proposal for a regulation**

**Recital 23**

*Text proposed by the Commission*

*Amendment*

(23) Audit committees, or bodies performing an equivalent function within the audited entity, have a decisive role in

(23) Audit committees, or bodies performing an equivalent function within the audited entity, have a decisive role in

contributing to high-quality statutory audit. It is particularly important to reinforce the independence and technical competence of the audit committee by requiring that a majority of its members is independent and that at least one member of the committee has competence in auditing and another one in auditing and/or accounting. The Commission Recommendation of 15 February 2005 on the role of non-executive or supervisory directors of listed companies and on the committees of the (supervisory) board<sup>26</sup> sets out how audit committees should be established and function. Considering, however, the dimension of boards in companies with reduced market capitalisation and in small and medium-sized public-interest entities, it would be appropriate that the functions assigned to the audit committee for those entities, or to a body performing equivalent functions within the audited entity, may be performed by the administrative or supervisory body as a whole. ***Public-interest entities which are UCITS or alternative investment funds should also be exempted from the obligation to have an audit committee. This exemption takes into account the fact that where those funds function merely for the purpose of pooling assets, the employment of an audit committee is not appropriate. UCITS and alternative investments funds, as well as their management companies, operate in a strictly defined regulatory environment and are subject to specific governance mechanisms such as controls exercised by their depositary.***

## **Amendment 8**

### **Proposal for a regulation**

#### **Recital 24**

*Text proposed by the Commission*

(24) It is also important that the role of the

AD\922087EN.doc

contributing to high-quality statutory audit. It is particularly important to reinforce the independence and technical competence of the audit committee by requiring that a majority of its members is independent and that at least one member of the committee has competence in auditing and another one in auditing and/or accounting.

***Members of the audit committee should take part in skill enhancement programmes to ensure an appropriate level of technical knowledge to fulfil their roles.*** The Commission Recommendation of 15 February 2005 on the role of non-executive or supervisory directors of listed companies and on the committees of the (supervisory) board sets out how audit committees should be established and function. Considering, however, the dimension of boards in companies with reduced market capitalisation and in small and medium-sized public-interest entities, it would be appropriate that the functions assigned to the audit committee for those entities, or to a body performing equivalent functions within the audited entity, may be performed by the administrative or supervisory body as a whole.

*Amendment*

(24) It is also important that the role of the

7/61

PE496.498v02-00

audit committee in the selection of a new statutory auditor or audit firm be reinforced, for the benefit of a more informed decision of the general meeting of shareholders or members of the audited entity. Hence, when making a proposal to the general meeting, the board should explain whether it follows the recommendation of the audit committee and, if not, why. The recommendation of the audit committee should include at least two possible choices for the audit engagement and a duly justified preference for one of them, so that the general meeting can make a real choice. In order to provide a fair and proper justification in its recommendation, the audit committee should use the results of a mandatory selection procedure organised by the audited entity, under the responsibility of the audit committee. In such selection procedure, the audited entity should invite statutory auditors or audit firms, including *smaller* ones, to present proposals for the audit engagement. Tender documents should contain transparent and non-discriminatory selection criteria to be used for the evaluation of proposals. Considering, however, that this selection procedure could entail disproportionate costs for companies with reduced market capitalisation or small and medium-sized public-interest entities having regard to their dimension, it is appropriate to relieve such entities from this obligation.

## **Amendment 9**

### **Proposal for a regulation**

#### **Recital 24**

*Text proposed by the Commission*

(24) It is also important that the role of the audit committee in the selection of a new statutory auditor or audit firm be reinforced, for the benefit of a more

audit committee in the selection of a new statutory auditor or audit firm be reinforced, for the benefit of a more informed decision of the general meeting of shareholders or members of the audited entity. Hence, when making a proposal to the general meeting, the board should explain whether it follows the recommendation of the audit committee and, if not, why. The recommendation of the audit committee should include at least two possible choices for the audit engagement and a duly justified preference for one of them, so that the general meeting can make a real choice. In order to provide a fair and proper justification in its recommendation, the audit committee should use the results of a mandatory selection procedure organised by the audited entity, under the responsibility of the audit committee. In such selection procedure, the audited entity should invite statutory auditors or audit firms, including *non-dominant* ones, to present proposals for the audit engagement. Tender documents should contain transparent and non-discriminatory selection criteria to be used for the evaluation of proposals. Considering, however, that this selection procedure could entail disproportionate costs for companies with reduced market capitalisation or small and medium-sized public-interest entities having regard to their dimension, it is appropriate to relieve such entities from this obligation.

*Amendment*

(24) It is also important that the role of the audit committee in the selection of a new statutory auditor or audit firm be reinforced, for the benefit of a more



informed decision of the general meeting of shareholders or members of the audited entity. Hence, when making a proposal to the general meeting, the board should explain whether it follows the recommendation of the audit committee and, if not, why. The recommendation of the audit committee should include at least two possible choices for the audit engagement and a duly justified preference for one of them, so that the general meeting can make a real choice. In order to provide a fair and proper justification in its recommendation, the audit committee should use the results of a mandatory selection procedure organised by the audited entity, under the responsibility of the audit committee. In such selection procedure, the audited entity should invite statutory auditors or audit firms, including smaller ones, to present proposals for the audit engagement. Tender documents should contain transparent and non-discriminatory selection criteria to be used for the evaluation of proposals. Considering, however, that this selection procedure could entail disproportionate costs for companies with reduced market capitalisation or small and medium-sized public-interest entities having regard to their dimension, it is appropriate to relieve such entities from this obligation.

**Amendment 10**  
**Proposal for a regulation**  
**Recital 24 a (new)**

*Text proposed by the Commission*

informed decision of the general meeting of shareholders or members of the audited entity. Hence, when making a proposal to the general meeting, the board should explain whether it follows the recommendation of the audit committee and, if not, why. ***It should equally provide reasons if it proposes to renew an audit engagement following a tender procedure.*** The recommendation of the audit committee should include at least two possible choices for the audit engagement, ***a comprehensive assessment of both proposals,*** and a duly justified preference for one of them, so that the general meeting can make a real choice. In order to provide a fair and proper justification in its recommendation, the audit committee should use the results of a mandatory selection procedure organised by the audited entity, under the responsibility of the audit committee. In such selection procedure, the audited entity should invite statutory auditors or audit firms, including smaller ones, to present proposals for the audit engagement. Tender documents should contain transparent and non-discriminatory selection criteria to be used for the evaluation of proposals. Considering, however, that this selection procedure could entail disproportionate costs for companies with reduced market capitalisation or small and medium-sized public-interest entities having regard to their dimension, it is appropriate to relieve such entities from this obligation.

*Amendment*

***(24 a) Audit committees should consider whether shared audit may be of benefit when conducting their tendering process. Shared audit, where subsidiaries of a***

*company are audited by one audit firm while the responsibility for the group audit, and ultimate liability, lies with one group auditor could provide a useful way of engaging with more audit firms and reduce costs via increased competition.*

**Amendment 11**  
**Proposal for a regulation**

**Recital 24 a (new)**

*Text proposed by the Commission*

*Amendment*

*(24a) When it concerns the renewal of an audit engagement the audit committee should base its recommendation periodically on a comprehensive assessment of the audit quality of the statutory auditor or audit firm. The comprehensive assessment should include the consideration of professional competencies of the statutory auditor or audit firm (i.e. industry knowledge, infrastructure, technical know-how, IT competence), which may vary according to the size and complexity of the audited entity. The audit committee should also consider adherence to relevant rules and regulations as well as to professional standards. The competent authority should issue guidelines on the criteria of professional competencies to facilitate the selection procedure.*

**Amendment 12**  
**Proposal for a regulation**  
**Recital 26**

*Text proposed by the Commission*

*Amendment*

*(26) The appointment of more than one statutory auditor or audit firm by the public-interest entities would reinforce the professional scepticism and contribute to increasing audit quality. Also, this*

*deleted*

*measure combined with the presence of smaller audit firms would facilitate the development of the capacity of such firms, thus contributing to increasing the choice of statutory auditors and audit firms for public-interest entities. Therefore, the latter should be encouraged and incentivised to appoint more than one statutory auditor or audit firm to carry out the statutory audit.*

**Amendment 13**  
**Proposal for a regulation**  
**Recital 27**

*Text proposed by the Commission*

*Amendment*

*(27) In order to address the familiarity threat and therefore reinforce the independence of auditors and audit firms, it is important to establish a maximum duration of the audit engagement of a statutory auditor or audit firm in a particular audited entity. An appropriate gradual rotation mechanism should also be established with regard to the most senior personnel involved in the statutory audit, including the key audit partners carrying out the statutory audit on behalf of the audit firm. It is also important to provide for an appropriate period within which such statutory auditor or audit firm may not carry out the statutory audit of the same entity. In order to ensure a smooth transition, the former auditor should transfer a handover file with relevant information to the incoming auditor.*

*deleted*

**Amendment 14**  
**Proposal for a regulation**  
**Recital 27 a (new)**

*Text proposed by the Commission*

*Amendment*

***(27 a) Regular and open mandatory tendering of both the audit and non-audit services provides small and medium-sized companies with an opportunity to present their services and skills in a transparent process and to increase their visibility as service providers for public-interest entities. Tendering strongly encourages audit committees to consider a broader range of prospective providers of audit and non-audit services. The purpose of the tendering provisions in Articles 10a and 33 is not, however, to force a rotation of non-audit services providers and auditors. Repeated re-appointment is thus explicitly allowed if the conditions set out in the abovementioned Articles are fully complied with.***

**Amendment 15  
Proposal for a regulation**

**Recital 27 b (new)**

*Text proposed by the Commission*

*Amendment*

***(27b) There should also be regular and open tendering of the related financial audit services and non-audit services as it provides small and medium-sized statutory auditors, audit firms and non-audit related service providers to present their services and skills in a transparent process and to increase their visibility as service providers for public-interest entities. The incumbent auditor does not necessarily have to perform related financial audit and non-audit services and so the tendering process strongly encourages audit committees to consider a broader range of prospective providers of audit and non-audit services. The purpose of tendering both financial audit related services and non-audit services is to not***

*only evaluate the incumbent provider's performance but also the requirements of the audited entity.*

**Amendment 16**  
**Proposal for a regulation**  
**Recital 29**

*Text proposed by the Commission*

(29) In order to ensure a high level of investor and consumer confidence in the internal market by avoiding conflicts of interests, statutory auditors and audit firms should be subject to appropriate supervision by competent authorities which are independent from the audit profession and which have adequate capacity, expertise and resources. The national competent authorities should have the necessary powers to undertake their supervisory tasks, including the capacity to access documents, demand information from any person and carry out inspections. They should specialize in the supervision of *financial markets*, of compliance with financial reporting obligations or in statutory audit oversight. However, it should be possible that the supervision of the compliance with the obligations set on public-interest entities is carried out by the competent authorities responsible for the supervision of those entities. The funding of the competent authorities should be free from any possible undue influence by statutory auditors or audit firms.

*Amendment*

(29) In order to ensure a high level of investor and consumer confidence in the internal market by avoiding conflicts of interests, statutory auditors and audit firms should be subject to appropriate supervision by competent authorities which are independent from the audit profession and which have adequate capacity, expertise and resources. The national competent authorities should have the necessary powers to undertake their supervisory tasks, including the capacity to access documents, demand information from any person and carry out inspections. They should specialize in the supervision of compliance with financial reporting obligations or in statutory audit oversight. However, it should be possible that the supervision of the compliance with the obligations set on public-interest entities is carried out by the competent authorities responsible for the supervision of those entities. The funding of the competent authorities should be free from any possible undue influence by statutory auditors or audit firms.

**Amendment 17**  
**Proposal for a regulation**  
**Recital 33**

*Text proposed by the Commission*

(33) The market for the provision of statutory audit services to public-interest

*Amendment*

(33) The market for the provision of statutory audit services to public-interest

entities evolves over time. It is therefore necessary that **competent** authorities monitor the developments in the market, particularly as regards possible limited choice of auditor and the risks that arise from high market concentration.

**Amendment 18**  
**Proposal for a regulation**  
**Recital 36 a (new)**

*Text proposed by the Commission*

entities evolves over time. It is therefore necessary that **competition** authorities **of the Union, the Member States and ESMA** monitor the developments in the market, particularly as regards possible limited choice of auditor and the risks that arise from high market concentration.

*Amendment*

*(36a) This Directive ensures that EU-wide cooperation between competent authorities in respect of the activities of statutory auditors and audit firms that audit the financial statements of public-interest entities takes place and is coordinated by ESMA. Thus ESMA will take over the EU-wide cooperation mechanism that currently takes place under the aegis of the European Group of Auditors' Oversight Bodies (EGAOB), an expert group established and chaired by the European Commission, through the creation of a permanent internal committee composed of the competent authorities designated for carrying out the tasks provided for in this Directive. The competent authorities referred to in Article 32 of Directive 2006/43/EC which heretofore constitute the European Group of Audit Oversight Bodies (EGAOB) created by Decision 2005/909/EC are full members of said permanent internal committee. Thus, the valuable work of EGAOB will be continued within the permanent internal committee. Auditor public oversight should continue to be carried out at national level.*

**Amendment 19**  
**Proposal for a regulation**  
**Recital 38**

*Text proposed by the Commission*

*Amendment*

***(38) Recognition of the aptitude of statutory auditors and audit firms to perform statutory audits of public-interest entities should facilitate the access of auditors and firms to other clients. Therefore, it is important to provide for a Quality Certificate of European dimension which should be developed by ESMA. National competent authorities should be involved in the examination of the applications for the certificate.***

***deleted***

**Amendment 20**  
**Proposal for a regulation**  
**Recital 40**

*Text proposed by the Commission*

*Amendment*

(40) Sustainable audit capacity and a competitive market for statutory audit services in which there is a sufficient choice of audit firms capable of carrying out statutory audits of public-interest entities are required in order to ensure a smooth functioning of capital markets. **ESMA** should report on the changes brought in the audit market structure by this Regulation. When carrying such analysis, **ESMA** should take into account the impact of the national civil liability rules for statutory auditors on the structure of the audit market. Based on such report and other appropriate evidence, the Commission should present a report on the impact of the national liability rules for statutory auditors on the audit market structure and should take the steps it considers appropriate as a result of its findings.

(40) Sustainable audit capacity and a competitive market for statutory audit services in which there is a sufficient choice of audit firms capable of carrying out statutory audits of public-interest entities are required in order to ensure a smooth functioning of capital markets. **The European Competition Network (ECN)** should report on the changes brought in the audit market structure by this Regulation. When carrying such analysis, **the ECN** should take into account the impact of the national civil liability rules for statutory auditors on the structure of the audit market. Based on such report and other appropriate evidence, the Commission should present a report on the impact of the national liability rules for statutory auditors on the audit market structure and should take the steps it considers appropriate as a result of its findings.

**Amendment 21**  
**Proposal for a regulation**  
**Recital 43**

*Text proposed by the Commission*

*(43) In order to take account of developments in auditing and the audit market, the Commission should be empowered to specify technical requirements on the content of the handover file that the new statutory auditor or audit firm should receive and on the establishment of a European quality certificate for statutory auditors and audit firms carrying out statutory audits of public-interest entities.*

*Amendment*

*deleted*

**Amendment 22**  
**Proposal for a regulation**

**Recital 44**

*Text proposed by the Commission*

(44) In order to take account of the technical developments in the financial markets, in auditing and the audit profession and to specify the requirements laid down in this Regulation, the Commission should be empowered to adopt delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union. In particular, the use of delegated acts is necessary to adapt the list of related audit services and of non-audit services as well as to set out the level of fees that ESMA could charge for delivering the European Quality Certificate to statutory auditors and audit firms. It is of particular importance that the Commission carries out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate

*Amendment*

(44) In order to take account of the technical developments in the financial markets, in auditing and the audit profession and to specify the requirements laid down in this Regulation, the Commission should be empowered to adopt delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union. In particular, the use of delegated acts is necessary to adapt the list of related audit services and of **prohibited** non-audit services as well as to set out the level of fees that ESMA could charge for delivering the European Quality Certificate to statutory auditors and audit firms. It is of particular importance that the Commission carries out appropriate consultations during its preparatory work, including at expert level **and with ESMA**. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely



transmission of relevant documents to the European Parliament and to the Council.

and appropriate transmission of relevant documents to the *ESMA*, European Parliament and to the Council.

**Amendment 23**  
**Proposal for a regulation**

**Recital 45**

*Text proposed by the Commission*

*Amendment*

(45) In order to ensure legal certainty and the smooth transition to the regime introduced by this Regulation, it is important to introduce a transitional regime regarding the entry into force of *the obligation to rotate audit firms, the obligation to organise a selection procedure for the choice of audit firm and the conversion of audit firms into firms that only provide audit services.*

(45) In order to ensure legal certainty and the smooth transition to the regime introduced by this Regulation, it is important to introduce a transitional regime regarding the entry into force of *certain of the obligations in this Regulation.*

*Justification*

*To be adapted to reflect the removal of requirements for mandatory firm rotation, mandatory tendering and audit-only firms but to nevertheless preserve the principle of transitional measures which may be needed for certain provisions, to allow public interest entities and audit firms time to adapt.*

**Amendment 24**  
**Proposal for a regulation**  
**Article 3**

*Text proposed by the Commission*

*Amendment*

For the purposes of this Regulation, the definitions laid down in Article 2 of Directive 2006/43/EC shall apply, except for the definitions of 'audit report' and 'competent authority'.

For the purposes of this Regulation, the definitions laid down in Article 2 of Directive 2006/43/EC shall apply, except for the definitions of 'audit report' and 'competent authority' *and 'public-interest entities'*.

*For the purpose of this Regulation 'public-interest entities' means:*

*(a) entities governed by the law of a*

*Member State whose transferable securities are admitted to trading on a regulated market of any Member State within the meaning of point 14 of Article 4(1) of Directive 2004/39/EC excluding undertakings for collective investment in transferable securities (UCITS) as defined in Article 1(2) of Directive 2009/65/EC of the European Parliament and of the Council(\*\*\*\*\*) and EU alternative investment funds as defined in Article 4(1)(k) of Directive 2011/61/EC of the European Parliament and of the Council(\*\*\*\*\*)*;

*(b) credit institutions as defined in point 1 of Article 4 of Directive 2006/48/EC of the European Parliament and of the Council\*; excluding those credit institutions which have not issued transferable securities admitted to trading on a regulated market within the meaning of point 14 of Article 4(1) of Directive 2004/39/EC unless the total value of its assets exceeds 30 billion euro*

*(c) insurance undertakings within the meaning of Article 13 of Directive 2009/138/EC of the European Parliament and of the Council\*\**;

*(d) entities governed by the law of a Member State which are payment institutions as defined in point 4 of Article 4 of Directive 2007/64/EC of the European Parliament and of the Council\*\*\*, unless Article 15(2) of that Directive applies*;

*(e) entities governed by the law of a Member State which are electronic money institutions as defined in point 1 of Article 2 of Directive 2009/110/EC of the European Parliament and of the Council\*\*\*\*, unless Article 15(2) of Directive 2007/64/EC applies*;

*(f) investment firms as defined in point 1 of Article 4(1) of Directive 2004/39/EC*;

*(g) entities governed by the law of a*

*Member State which are central securities depositories;*

*(h) central counterparties as defined in Article 2(1) of Regulation X/XXXX of the European Parliament and of the Council\*\*\*\*\*[see proposal for a Regulation on OTC derivatives, central counterparties and trade repositories, COM(2010)484];*

---

*\* OJ L 177, 30.6.2006, p. 1*

*\*\* OJ L 335, 17.12.2009, p. 1*

*\*\*\* OJ L 187, 18.7.2009, p. 5*

*\*\*\*\* OJ L 267, 10.10.2009, p. 7*

*\*\*\*\*\**

**Amendment 25**  
**Proposal for a regulation**  
**Article 4**

*Text proposed by the Commission*

*Amendment*

**Article 4**

*deleted*

**Large public interest entities**

**For the purposes of this Regulation, 'large public-interest entities' shall cover the following**

**(a) in relation to entities defined in point 13(a) of Article 2 of Directive 2006/43/EC, the largest 10 issuers of shares in each Member State measured by the market capitalisation on the basis of the end-year quotes and in any case all issuers of shares that had an average market capitalisation of more than EUR 1 000 000 000 on the basis of end-year quotes for the previous three calendar years;**

**(b) in relation to entities defined in points 13(b) to (f) of Article 2 of Directive 2006/43/EC, any entity which on their balance sheet date has a balance sheet**

*total exceeding EUR 1 000 000 000;*

*(c) in relation to entities defined in points 13(g) and (h) of Article 2 of Directive 2006/43/EC, any entity which on their balance sheet date has total assets under management exceeding EUR 1 000 000 000.*

**Amendment 26**  
**Proposal for a regulation**

**Article 5 – paragraph 1**

*Text proposed by the Commission*

A statutory auditor or audit firm shall take all necessary steps to ensure that the *carrying out of a statutory audit of a public-interest entity is not affected by any existing or potential conflict of interest or business or other relationship involving the statutory auditor or audit firm carrying out the statutory audit and, where appropriate, its network, managers, auditors, employees, any other natural persons whose services are placed at the disposal or under the control of the statutory auditor or audit firm, or any person directly or indirectly linked to the statutory auditor or audit firm by control.*

*Amendment*

A statutory auditor or audit firm shall take all necessary steps to ensure that the *independence of the statutory auditor or audit firm carrying out the statutory audit is not compromised by financial, personal, business, employment or other relationships involving the statutory auditor, the audit firm, its affiliate firms and network, and any natural person in a position to influence the outcome of the statutory audit.*

*Justification*

*This proposed wording reflects better the nature of the relationship of the statutory auditor or audit firm to the audited entity and captures in a more comprehensive way potential threats for independence. This is furthermore more aligned to existing international ethics standards and would ensure an international level playing field.*

**Amendment 27**  
**Proposal for a regulation**  
**Article 9 – paragraph 3**

*Text proposed by the Commission*

**3. When the total fees received from a**

*Amendment*

**deleted**

*public-interest entity subject to the statutory audit represent either more than 20 % or, for two consecutive years, more than 15 % of the of the total annual fees received by the statutory auditor or audit firm carrying out the statutory audit, such auditor or firm shall disclose to the audit committee the fact that the total of such fees represents more than 20 % or 15 %, as appropriate, of the total fees received by the firm and the discussions referred to in Article 11(4)(d) shall be undertaken. The audit committee shall consider whether the audit engagement shall be subject to a quality control review by another statutory auditor or audit firm prior to the issuance of the audit report.*

*When the total fees received from a public-interest entity subject to the statutory audit represent, for two consecutive years, 15 % or more of the total annual fees received by the statutory auditor or audit firm carrying out the statutory audit, the auditor or firm shall inform the competent authority referred to in Article 35(1) of such situation. The competent authority referred to in Article 35(1) shall decide on the basis of objective grounds provided by the statutory auditor or the audit firm whether the statutory auditor or audit firm of such entity may continue to carry out the statutory for an additional period which in any case shall not be longer than two years.*

*Where the audited entity is exempted from the obligation to have an audit committee, the audited entity shall decide which body or organ of the entity shall engage with the statutory auditor or audit firm for the purposes of the obligations set out in this paragraph.*

**Amendment 28**  
**Proposal for a regulation**  
**Article 10 – paragraph 1 – subparagraph 1**

*Text proposed by the Commission*

A statutory auditor or an audit firm carrying out statutory audit of public-interest entities may provide to the audited entity, *to its parent undertaking and to its controlled undertakings statutory audit services and related financial audit services.*

*Amendment*

A statutory auditor or an audit firm carrying out statutory audit of public-interest entities may provide to the audited entity *or* its controlled undertakings *non-audit services only after having properly assessed threats and potential safeguards to independence in accordance with Article 11 and after having obtained approval from the audit committee.*

**Amendment 29**  
**Proposal for a regulation**  
**Article 10 – paragraph 1 – subparagraph 2**

*Text proposed by the Commission*

Where the statutory auditor belongs to a network, *a* member of such network may provide to the audited entity, to its parent undertaking and to its controlled undertakings within the Union *statutory audit services or related financial audit services.*

*Amendment*

Where the statutory auditor belongs to a network, *any* member of such network may provide to the audited entity, to its parent undertaking and to its controlled undertakings within the Union *non-audit services only after having properly assessed threats and potential safeguards to independence in accordance with Article 11 and after having obtained approval from the audit committee.*

**Amendment 30**  
**Proposal for a regulation**  
**Article 10 – paragraph 2**

*Text proposed by the Commission*

- 2. For the purposes of this Article, related financial audit services shall mean:*
- (a) the audit or review of interim financial statements;*
  - (b) providing assurance on corporate governance statements;*
  - (c) providing assurance on corporate social responsibility matters;*

*Amendment*

*deleted*

*(d) providing assurance on or attestation of regulatory reporting to regulators of financial institutions beyond the scope of the statutory audit and designed to assist regulators in fulfilling their role, such as on capital requirements or specific solvency ratios determining how likely an undertaking will be to continue meeting its debt obligations;*

*(e) providing certification on compliance with tax requirements where such attestation is required by national law;*

*(f) any other statutory duty related to audit work imposed by Union legislation to the statutory auditor or audit firm.*

### **Amendment 31**

#### **Proposal for a regulation**

#### **Article 10 – paragraph 3 – subparagraph 3**

*Text proposed by the Commission*

*For the purposes of this Article, non-audit services shall mean:*

*(a) services entailing conflict of interest in all cases:*

*(i) expert services unrelated to the audit, tax consultancy, general management and other advisory services;*

*(ii) bookkeeping and preparing accounting records and financial statements;*

*(iii) designing and implementing internal*

*Amendment*

*For the purposes of this Article, prohibited non-audit services shall mean any service provided during the period covered by the financial statements subject to audit and the period during which the audit engagement is executed, and where the provision of such services causes a material conflict of interest including:*

*a) bookkeeping services, preparing calculations of current and deferred taxes, and preparing accounting records and financial statements that are subject to the statutory audit;*

*(b) designing or implementing internal control, risk management systems or financial information technology systems that:*

*i) form a significant part of the internal control over financial reporting of the audited entity, or*

*(ii) generate information that is*

*control or risk management procedure related to the preparation and/or control of financing information included in the financial statements and advice on risk;*

*(iv) valuation services, providing fairness opinions or contribution-in-kind reports;*

*(v) actuarial and legal services, including the resolution of litigation;*

*(vi) designing and implementing financial information technology systems for public-interest entities as referred to in Article 2(13)(b) to (j) of Directive 2006/43/EC;*

*(vii) participating in the audit client's internal audit and the provision of services related to the internal audit function;*

*(viii) broker or dealer, investment adviser, or investment banking services.*

*(b) services which may entail conflict of interest:*

*(i) human resources services, including recruiting senior management;*

*(ii) providing comfort letters for investors in the context of the issuance of an undertaking's securities;*

*(iii) designing and implementing financial information technology systems for public-interest entities as referred to in Article 2(13)(a) of Directive 2006/43/EC;*

*(iv) due diligence services to the vendor or*

*significant to the accounting records or financial statements that are subject to the statutory audit;*

*(c) providing valuation services, including valuations performed in connection with actuarial services or litigation support services, where the valuation would have a material effect separately or in the aggregate on the financial statements subject to the statutory audit;*

*(d) legal services with respect to*

*(i) the provision of general counsel,*

*(ii) negotiating on behalf of the audit client, or*

*(iii) acting in an advocacy role in the resolution of a litigation when the amounts involved are material to the financial statements subject to the statutory audit;*

*(e) payroll services;*

*(f) promoting, dealing in, or underwriting shares of the audited entity;*

*(g) human resources services with respect to senior management in a position to exert significant influence over the preparation of the accounting records or the financial statements subject to the statutory audit, where such services involve:*

*(i) searching for or seeking out candidates for such positions; or*

*(ii) undertaking reference checks of*



*the buy side on potential mergers and acquisitions and providing assurance on the audited entity to other parties at a financial or corporate transaction.*

*prospective candidates for such positions.*

*h) legal or tax advisory services relating to structuring transactions introduced by the statutory auditor or audit firm or a member of its network that go beyond the presentation and/or analysis of alternatives and which would have a direct and material impact on the financial statements subject to the statutory audit.*

*By derogation from the first and second subparagraphs, the services mentioned in point (b)(iii) and (iv) may be provided by the statutory auditor or the audit firm, subject to prior approval by the competent authority referred to in Article 35(1).*

*By derogation from the first and second subparagraphs, the services mentioned in point (b)(i) and (ii) may be provided by the statutory auditor or the audit firm, subject to prior approval by the audit committee as referred to in Article 31 of this Regulation.*

## **Amendment 32**

### **Proposal for a regulation**

#### **Article 10 – paragraph 4 – subparagraph 1**

##### *Text proposed by the Commission*

When a member of the network to which the statutory auditor or the audit firm carrying out statutory audit of a public-interest entity belongs provides non-audit services to an undertaking incorporated in a third country controlled by the audited public-interest entity, the statutory auditor or the audit firm concerned shall assess whether his, her or its independence would be compromised by such provision of services by the member of the network.

##### *Amendment*

When a member of the network to which the statutory auditor or the audit firm carrying out **the** statutory audit of a public-interest entity belongs provides non-audit services to an undertaking incorporated in a third country controlled by the audited public-interest entity, the statutory auditor or the audit firm concerned shall assess whether his, her or its independence would be compromised by such provision of services by the member of the network.

**Amendment 33**  
**Proposal for a regulation**  
**Article 10 – paragraph 4 – subparagraph 3**

*Text proposed by the Commission*

*Amendment*

*Being involved in the decision-taking of the audited entity and the provision of the services referred to in points (ii) and (iii) of paragraph 3(a) shall be considered as affecting such independence in all cases.* **deleted**

**Amendment 34**  
**Proposal for a regulation**  
**Article 10 – paragraph 4 – subparagraph 4**

*Text proposed by the Commission*

*Amendment*

*The provision of the services referred to in points (i) and (iv) to (viii) of paragraph 3(a) shall be presumed to affect such independence.* **deleted**

**Amendment 35**  
**Proposal for a regulation**  
**Article 10 – paragraph 5**

*Text proposed by the Commission*

*Amendment*

*5. Where an audit firm generates more than one third of its annual audit revenues from large public-interest entities and belongs to a network whose members have combined annual audit revenues which exceed EUR 1 500 million within the European Union, it shall comply with the following conditions:* **deleted**

*(a) it shall not directly or indirectly provide to any public interest entity non-audit services;*

*(b) it shall not belong to a network which provides non-audit services within the Union;*

*(c) any entity which provides the services*

*listed in paragraph 3 shall not directly or indirectly hold more than 5 % of the capital or of the voting rights in the audit firm;*

*(d) the entities which provide the services listed in paragraph 3 shall not directly or indirectly hold together more than 10 % of the capital or of the voting rights in the audit firm;*

*(e) such audit firm shall not directly or indirectly hold more than 5 % of the capital or of the voting rights in any entity which provides the services listed in paragraph 3.*

**Amendment 36**  
**Proposal for a regulation**  
**Article 10 – paragraph 6**

*Text proposed by the Commission*

*Amendment*

*The Commission shall be empowered to adopt delegated acts in accordance with Article 68 for the purpose of adapting the list of related financial audit services referred to in paragraph 2 and the list of non-audit services referred to in paragraph 3 of this Article. When using such powers, the Commission shall take into account developments in auditing and the audit profession.*

*deleted*

**Amendment 37**  
**Proposal for a regulation**  
**Article 10 – paragraph 6 a (new)**

*Text proposed by the Commission*

*Amendment*

*6a. Member States may exceptionally add to the list of services prohibited by virtue of paragraph 2 for statutory auditors or audit firms for which the relevant member state is the home member state. Competent authorities shall notify ESMA of any additional services or activities*

*which it considers to impart a conflict of interest.*

**Amendment 38**  
**Proposal for a regulation**  
**Article 10 a (new)**

*Text proposed by the Commission*

*Amendment*

**Article 10 a**

***Audit committee approval of non-audit services***

***1. The audit committee shall set up a non-audit service policy governing whether the statutory auditor or audit firm or, where the statutory auditor belongs to a network, a member of such network may provide to the audited entity or to its controlled undertaking non-audit services other than prohibited non-audit services (Article 10 (2)). Such policy shall include considerations with regard to:***

***(i) the nature of the non-audit services and whether they are generally permissible or require explicit approval on an engagement basis,***

***(ii) the related fee levels for such services, and how these fees relate to the audit fees, both by categories of non-audit services and in aggregate,***

***(iii) the delegation of authority for certain levels of approval.***

***Individual decisions on whether to approve the provision of a non-audit service shall be based on the non-audit service policy, and in doing so further consideration shall be given to:***

***(i) the expertise and experience of the statutory auditor or audit firm in that particular service area or whether there are alternative service providers available, and***

***(ii) whether there are sufficient***



*Text proposed by the Commission*

(c) an audit plan setting out the probable scope and method of the statutory audit;

*Amendment*

(c) an audit plan setting out the probable scope and method of the statutory audit ***and, where more than one statutory auditor or audit firm have been appointed, the distribution of tasks among the appointed statutory auditors or audit firms and the rotation plan established in accordance with Article 33(1).***

**Amendment 42**  
**Proposal for a regulation**

**Article 20 – paragraph 1**

*Text proposed by the Commission*

The statutory auditor(s) or the audit firm(s) shall comply with the international auditing standards referred to in Article 26 of Directive 2006/43/EC when carrying out the statutory audit of public-interest entities ***as long as those standards are in conformity with the requirements of this Regulation.***

*Amendment*

The statutory auditor(s) or the audit firm(s) shall comply with the international auditing standards referred to in Article 26 of Directive 2006/43/EC when carrying out the statutory audit of public-interest entities.

*Justification*

*Auditors should comply with the international auditing standards issued by IAASB. There shouldn't be differences between international auditing standards and the Regulation.*

**Amendment 43**  
**Proposal for a regulation**  
**Article 22 – paragraph 2 – point r**

*Text proposed by the Commission*

(r) indicate the non-audit services referred to in Article 10(3)(b)(i) ***and (ii)*** that the audit committee allowed the statutory auditor or the audit firm to provide to the audited entity;

*Amendment*

(r) indicate the non-audit services referred to in Article 10 that the audit committee allowed the statutory auditor or the audit firm to provide to the audited entity;

**Amendment 44**  
**Proposal for a regulation**

**Article 22 – paragraph 2 – point r**

*Text proposed by the Commission*

(r) indicate the non-audit services referred to in Article 10(3)(b)(i) and (ii) that the audit committee allowed the statutory auditor **or the audit firm** to provide to the audited entity;

*Amendment*

(r) indicate the non-audit services referred to in Article 10(3)(b)(i) and (ii) that the audit committee allowed the statutory auditor, **audit firm or non-audit service provider** to provide to the audited entity;

**Amendment 45**  
**Proposal for a regulation**

**Article 22 – paragraph 2 – point s**

*Text proposed by the Commission*

**(s) indicate the non-audit services referred to in Article 10(3)(b)(iii) and (iv) that the competent authority referred to in Article 35(1) allowed the statutory auditor or the audit firm to provide to the audited entity;**

*Amendment*

**deleted**

**Amendment 46**  
**Proposal for a regulation**

**Article 22 – paragraph 2 – point t**

*Text proposed by the Commission*

(t) give an opinion which shall state clearly the opinion of the statutory auditor(s) or the audit firm(s) as to whether the annual or consolidated financial statements give a true and fair view and have been prepared in accordance with the relevant financial reporting framework and, where appropriate, whether the annual or consolidated financial statements comply with statutory requirements; the audit opinion shall be either unqualified, qualified, an adverse opinion **or, if the statutory auditor(s) or audit firm(s) are unable to express an audit opinion, a**

*Amendment*

(t) give an opinion which shall state clearly the opinion of the statutory auditor(s) or the audit firm(s) as to whether the annual or consolidated financial statements give a true and fair view and have been prepared in accordance with the relevant financial reporting framework and, where appropriate, whether the annual or consolidated financial statements comply with statutory requirements; **in accordance with International Standards on Auditing** the audit opinion shall be either unqualified, qualified, **or** an adverse opinion. **In case of a qualified or an**

*disclaimer of opinion. In case of a qualified or an adverse opinion or a disclaimer of opinion, the report shall explain the reasons of such decision;*

*adverse opinion, the report shall explain the reasons of such decision. In the case of credit institutions and insurance undertakings, in accordance with Article 16 of Regulation (EU) No 1093/2010 and of Regulation (EU) No 1094/2010 respectively, the opinion of the statutory auditor(s) or the audit firm(s) shall state the 'going concern' of the audited entity, where necessary, and inform the competent authority;*

**Amendment 47**  
**Proposal for a regulation**

**Article 22 – paragraph 2 – point u**

*Text proposed by the Commission*

(u) refer to any matters to which the statutory auditor(s) or the audit firm(s) draw attention by way of emphasis without qualifying the audit opinion;

*Amendment*

(u) refer *in accordance with International Standards on Auditing* to any matters to which the statutory auditor(s) or the audit firm(s) draw attention by way of emphasis without qualifying the audit opinion;

**Amendment 48**  
**Proposal for a regulation**

**Article 22 – paragraph 2 – point v**

*Text proposed by the Commission*

(v) give an opinion concerning the consistency or otherwise of the annual report with the annual financial statements for the same fiscal year;

*Amendment*

(v) give an opinion *in accordance with International Standards on Auditing* concerning the consistency or otherwise of the annual report with the annual financial statements for the same fiscal year;

**Amendment 49**  
**Proposal for a regulation**

**Article 22 – paragraph 3**



*Text proposed by the Commission*

3. When more than one statutory auditor or audit firm have been appointed to carry out the statutory audit of the public-interest entity, they shall agree on the results of the statutory audit and submit a joint report and opinion. In case of disagreement, each statutory auditor or audit firm shall submit his, her or its opinion separately. If one statutory auditor or audit firm qualifies his, her or its opinion, submits an adverse opinion or a disclaimer of opinion, the overall opinion shall be considered as qualified, adverse opinion or a disclaimer of opinion. In a separate paragraph each statutory auditor or audit firm shall state the reasons of disagreement.

*Amendment*

3. When more than one statutory auditor or audit firm have been appointed to carry out the statutory audit of the public-interest entity, they shall agree on the results of the statutory audit and submit a joint report and opinion. In case of disagreement, each statutory auditor or audit firm shall submit his, her or its opinion separately. If one statutory auditor or audit firm qualifies his, her or its opinion, submits an adverse opinion or a disclaimer of opinion, the overall opinion shall be considered as qualified, adverse opinion or a disclaimer of opinion, ***in accordance with International Standards on Auditing***. In a separate paragraph each statutory auditor or audit firm shall state the reasons of disagreement.

**Amendment 50**  
**Proposal for a regulation**

**Article 22 – paragraph 4**

*Text proposed by the Commission*

4. The audit report shall not ***be longer than four pages or 10000 characters (without spaces)***. It shall not contain any cross-references to the additional report to the audit committee referred to in Article 23.

*Amendment*

4. The audit report shall not contain any cross-references to the additional report to the audit committee referred to in Article 23, ***and shall be in clear and unambiguous language***.

**Amendment 51**  
**Proposal for a regulation**

**Article 24 – paragraph 1**

*Text proposed by the Commission*

The audit committee of the public-interest entity shall monitor the work of the statutory auditor(s) or audit firm(s)

*Amendment*

The audit committee of the public-interest entity shall monitor the work of the statutory auditor(s) or audit firm(s) carrying out the statutory audit, ***and, when***

carrying out the statutory audit.

*more than one statutory auditor or audit firm have been appointed, the distribution of tasks between them and their rotation.*

**Amendment 52**  
**Proposal for a regulation**

**Article 24 – paragraph 2**

*Text proposed by the Commission*

The statutory auditor(s) or audit firm(s) shall report to the audit committee on key matters arising from the statutory audit, and in particular on material weaknesses in internal control in relation to the financial reporting process. Upon request of any of the parties, the statutory auditor(s) or audit firm(s) shall discuss these matters with the audit committee.

*Amendment*

The statutory auditor(s) or audit firm(s) shall report to the audit committee on key matters arising from the statutory audit, and in particular on material weaknesses in internal control in relation to the financial reporting process. Upon request of any of the parties, the statutory auditor(s) or audit firm(s) shall discuss these matters with the audit committee, *and, when more than one statutory auditor or audit firm have been appointed, the distribution of tasks between them.*

**Amendment 53**  
**Proposal for a regulation**

**Article 24 – paragraph 4**

*Text proposed by the Commission*

In *is* the instance of the audited entity being exempted from the obligation to have an audit committee, the audited entity shall decide which body or organ of the entity shall engage with the statutory auditor or audit firm for the purposes of the obligations set out in this Article.

*Amendment*

In the instance of the audited entity being exempted from the obligation to have an audit committee, the audited entity shall decide which body or organ of the entity shall engage with the statutory auditor or audit firm for the purposes of the obligations set out in this Article.

**Amendment 54**  
**Proposal for a regulation**  
**Article 25 – paragraph 1 – subparagraph 2**

*Text proposed by the Commission*

The statutory auditor or the audit firm shall also have a duty to report any facts and decisions of which he, she or it becomes aware in the course of carrying out the statutory audit of an undertaking having close links with the public-interest entity for which he, she or it is also carrying out the statutory audit.

**Amendment 55**

**Proposal for a regulation**

**Article 25 – paragraph 2 – subparagraph 1**

*Text proposed by the Commission*

Competent authorities supervising *credit institutions and insurance undertakings* shall establish regular a dialogue with the statutory auditors and audit firms carrying out the statutory audit of those institutions and undertakings.

**Amendment 56**

**Proposal for a regulation**

**Article 25 – paragraph 3**

*Amendment*

The statutory auditor or the audit firm shall also have a duty to report any *relevant* facts and decisions of which he, she or it becomes aware in the course of carrying out the statutory audit of an undertaking having close links with the public-interest entity for which he, she or it is also carrying out the statutory audit.

*Amendment*

Competent authorities supervising *public interest entities referred to in Article 3 (b), (c) and (f)* shall establish regular a dialogue with the statutory auditors and audit firms carrying out the statutory audit of those institutions and undertakings. *The competent authority and the statutory auditor or audit firm shall inform each other and the audited entity about relevant facts or decisions referred to in paragraph 1.*

*At least once a year, the ESRB shall organise a meeting with the statutory auditors and audit firms or networks carrying out the statutory audit of any FSB identified systemically important financial institutions in order to inform the ESRB of sectoral or any significant developments in those systemically important financial institutions.*

*Text proposed by the Commission*

3. The disclosure in good faith to the competent authorities, by the statutory auditor or audit firm, ***of any fact or decision referred to in paragraph 1 or of any fact during the dialogue foreseen in paragraph 2*** shall not constitute a breach of any contractual or legal restriction on disclosure of information and shall not involve such persons in liability of any kind.

*Amendment*

3. The disclosure in good faith to the competent authorities, by the statutory auditor or audit firm shall not constitute a breach of any contractual or legal restriction on disclosure of information and shall not involve such persons in liability of any kind.

*Justification*

*An active two-way dialogue between competent authorities and statutory auditors and audit firms help to improve the quality of statutory audits of financial institutions. ESMA and the European Commission should be informed about any guidelines issued in this particular field. Disclosure in good faith to competent authorities should be generally privileged.*

**Amendment 57**  
**Proposal for a regulation**

**Article 26 – paragraph 2 – subparagraph 1**

*Text proposed by the Commission*

The annual financial report and the annual income statement shall show the total turnover divided into fees from the statutory audit of annual and consolidated financial statements of public-interest entities and entities belonging to a group of undertakings whose parent undertaking is a public-interest entity, fees from the statutory audit of annual and consolidated financial statements of other entities and fees charged for ***related financial*** audit services as defined in Article 10(2).

*Amendment*

The annual financial report and the annual income statement shall show the total turnover divided into fees from the statutory audit of annual and consolidated financial statements of public-interest entities and entities belonging to a group of undertakings whose parent undertaking is a public-interest entity, fees from the statutory audit of annual and consolidated financial statements of other entities and fees charged for ***audit-related and other assurance*** audit services as defined in Article 10.

*Justification*

*Change following deletion of article 10 (2)*

**Amendment 58**  
**Proposal for a regulation**  
**Article 27 – paragraph 1 – subparagraph 3**

*Text proposed by the Commission*

Statutory auditors and audit firms shall communicate to **ESMA and to** the competent authorities that the transparency report has been published on the website of the statutory auditor or audit firm or, as appropriate, that it has been updated.

*Amendment*

Statutory auditors and audit firms shall communicate to the competent authorities that the transparency report has been published on the website of the statutory auditor or audit firm or, as appropriate, that it has been updated.

**Amendment 59**  
**Proposal for a regulation**

**Article 27 – paragraph 2 – subparagraph 1 – point f**

*Text proposed by the Commission*

(f) a list of public-interest entities for which the statutory auditor or audit firm has carried out statutory audits during the preceding financial year and a list of the entities from which the statutory auditor or audit firm receives more than 5% of its annual revenue;

*Amendment*

(f) a list of public-interest entities for which the statutory auditor or audit firm has carried out statutory audits during the preceding financial year and a list of the entities from which the statutory auditor or audit firm receives more than 5% of its annual revenue ***generated by fees coming from statutory audit and non audit services***;

**Amendment 60**  
**Proposal for a regulation**

**Article 29 – paragraph 1**

*Text proposed by the Commission*

A statutory auditor or audit firm shall provide annually to his, her or its competent authority a list of the audited public-interest entities by revenue generated from them.

*Amendment*

A statutory auditor or audit firm shall provide annually to his, her or its competent authority a list of the audited public-interest entities by revenue generated from them. ***This list concerns revenues generated by audit and non audit services.***

**Amendment 61**  
**Proposal for a regulation**

**Article 31 – paragraph 1 – subparagraph 2**

*Text proposed by the Commission*

At least one member of the audit committee shall have competence in auditing ***and another member in accounting and/or auditing***. The committee members as a whole shall have competence relevant to the sector in which the audited entity is operating.

*Amendment*

At least one member of the audit committee shall have competence in auditing. The committee members as a whole shall have competence relevant to the sector in which the audited entity is operating.

*Justification*

*The words “and another member in accounting and/or auditing” should be deleted. The remaining competence requirements on the committee in this paragraph are sufficient. Additional requirements on individual members only serve to further complicate the recruitment problems to boards, especially for companies in small markets and/or small boards.*

**Amendment 62**  
**Proposal for a regulation**

**Article 31 – paragraph 1 – subparagraph 3**

*Text proposed by the Commission*

A majority of the members of the audit committee shall be independent. The ***chairman*** of the audit committee shall be ***appointed by its members*** and shall be independent.

*Amendment*

A majority of the members of the audit committee shall be independent. The ***chairperson*** of the audit committee shall be ***elected annually by the general meeting of shareholders of the audited entity*** and shall be independent. ***The chairperson shall report directly to the shareholders.***

**Amendment 63**  
**Proposal for a regulation**

**Article 31 – paragraph 1 – subparagraph 3 a (new)**

*Text proposed by the Commission*

*Amendment*

***Members of the audit committee shall take part in skill enhancement programmes in order to ensure an adequate technical knowledge level to fulfil their tasks.***

#### **Amendment 64**

##### **Proposal for a regulation**

##### **Article 31 – paragraph 3 – subparagraph 1 – point b**

*Text proposed by the Commission*

*Amendment*

***(b) any public-interest entity which is an undertaking for collective investment in transferable securities (UCITS) as defined in Article 1(2) of Directive 2009/65/EC or an alternative investment fund (AIF) as defined in Article 4(1)(a) of Directive 2011/61/EU;***

***deleted***

#### **Amendment 65**

##### **Proposal for a regulation**

##### **Article 31 – paragraph 3 – subparagraph 2**

*Text proposed by the Commission*

*Amendment*

The public-interest entities referred to in ***points (b) and (c)*** shall explain to the ***public*** the reasons for which it considers it not appropriate to have either an audit committee or an administrative or supervisory body entrusted to carry out the functions of an audit committee.

The public-interest entities referred to in ***point (c)*** shall explain to the ***national competent authority*** the reasons for which it considers it not appropriate to have either an audit committee or an administrative or supervisory body entrusted to carry out the functions of an audit committee.

#### **Amendment 66**

##### **Proposal for a regulation**

##### **Article 31 – paragraph 5 – point d a (new)**

*Text proposed by the Commission*

*Amendment*

***(da) monitor the quality of the statutory auditors or audit firms, taking into account any findings and conclusions by the competent authority pursuant to Article 40(6);***

**Amendment 67**  
**Proposal for a regulation**

**Article 31 – paragraph 5 – point e**

*Text proposed by the Commission*

*Amendment*

(e) be responsible for the procedure on the selection of statutory auditor(s) or audit firm(s) and recommend the statutory auditor(s) or audit firm(s) to be appointed in accordance with Articles 32;

(e) be responsible for the procedure on the selection of statutory auditor(s) or audit firm(s) and recommend the statutory auditor(s) or audit firm(s) to be appointed ***by the audited companies Annual General Meeting*** in accordance with Articles 32;

**Amendment 68**  
**Proposal for a regulation**

**Article 31 – paragraph 5 – point f**

*Text proposed by the Commission*

*Amendment*

(f) ***authorise, on a case by case basis,*** the provision by the statutory auditor or audit firm of ***the*** services referred to in Article 10(3)(b)(i) ***and (ii) of this Regulation*** to the audited entity.

(f) ***approve*** the provision by the statutory auditor or audit firm of ***all non-audit services other than the prohibited*** services referred to in Article 10(3) ***and the audit related and other assurance services referred to in Article 10(2),*** to the audited entity ***and its controlled undertakings in the Union.***

**Amendment 69**  
**Proposal for a regulation**  
**Article 32 – paragraph 2 – subparagraph 2**



*Text proposed by the Commission*

*Unless it concerns the* renewal of an audit engagement in accordance with the second subparagraph of Article 33(1), the recommendation shall contain at least two choices for the audit engagement and the audit committee shall express a duly justified preference for one of them.

*Amendment*

*For the initial appointment of the statutory auditor(s) or audit firm(s) or for a* renewal of an audit engagement in accordance with the second subparagraph of Article 33(1) *that takes place after a period of 7 years of combined audit engagements has elapsed*, the recommendation shall contain at least two choices for the audit engagement, and the audit committee shall express a duly justified preference for one of them.

**Amendment 70**

**Proposal for a regulation**

**Article 32 – paragraph 2 – subparagraph 3**

*Text proposed by the Commission*

*When it concerns the renewal of an audit engagement in accordance with the second subparagraph of Article 33(1), the* audit committee shall, *for the preparation of its recommendation, take into consideration any findings and conclusions on the recommended statutory auditor or audit firm referred to in Article 40(6) and published by the competent authority pursuant to Article 44(d).*

*Amendment*

*The* audit committee shall *base* its recommendation *on a comprehensive assessment of the audit quality.*

**Amendment 71**

**Proposal for a regulation**

**Article 32 – paragraph 2 – subparagraph 4**

*Text proposed by the Commission*

In its recommendation, the audit committee shall state that its recommendation is free from influence by a third party and that no contractual clause as referred to in paragraph 7 has been imposed upon it.

*Amendment*

*The comprehensive assessment shall be performed in a transparent and systematic approach, and shall include the consideration of professional competencies of the auditor or audit firm which are necessary to perform the*

*statutory audit in compliance with relevant ethical requirements and international standards on auditing referred to in Article 20. It shall take into consideration any findings and conclusions on the recommended statutory auditor or audit firm referred to in Article 40(6) and published by the competent authority pursuant to Article 44(d).*

In its recommendation, the audit committee shall state that its recommendation is free from influence by a third party and that no contractual clause as referred to in paragraph 7 has been imposed upon it.

#### *Justification*

*This sets out the content of the assessment of audit quality.*

### **Amendment 72 Proposal for a regulation**

#### **Article 32 – paragraph 3 – subparagraph 1 – introductory part**

*Text proposed by the Commission*

*Unless it concerns the renewal of an audit engagement in accordance with the second subparagraph of Article 33(1), the recommendation of the audit committee referred to in paragraph 2 of this Article, shall be prepared following a selection procedure organized by the audited entity respecting the following criteria:*

*Amendment*

The recommendation of the audit committee referred to in paragraph 2 of this Article, shall be prepared following a selection procedure organized by the audited entity respecting the following criteria:

### **Amendment 73 Proposal for a regulation Article 32 – paragraph 3 – subparagraph 1 – point a**

*Text proposed by the Commission*

(a) the audited entity shall be free to invite any statutory auditors or audit firms to submit proposals for the provision of the

*Amendment*

(a) the audited entity shall be free to invite any statutory auditors or audit firms to submit proposals for the provision of the

statutory audit service on the condition that Article 33(2) is respected and *that at least one of the invited auditors or firms is not one who received more than 15% of the total audit fees from large public-interest entities in the Member State concerned in the previous calendar year;*

statutory audit service on the condition that Article 33(2) is respected and *ensure due consideration is given to small and medium-sized service providers;*

#### **Amendment 74**

##### **Proposal for a regulation**

##### **Article 32 – paragraph 3 – subparagraph 1 – point b**

*Text proposed by the Commission*

*Amendment*

*(b) the audited entity shall be free to choose the method to contact the invited statutory auditor(s) or audit firm(s) and shall not be required to publish a call for tenders in the Official Journal of the European Union and/or in national gazettes or newspapers;*

*deleted*

#### **Amendment 75**

##### **Proposal for a regulation**

##### **Article 32 – paragraph 3 – subparagraph 3**

*Text proposed by the Commission*

*Amendment*

For the purposes of point (a) of the first subparagraph, the competent authority referred to in Article 35(1) shall make public a list of the auditors and audit firms concerned which shall be updated on an annual basis. *The competent authority shall use the information provided by statutory auditors and audit firms pursuant to Article 28 to make the relevant calculations.*

For the purposes of point (a) of the first subparagraph, the competent authority referred to in Article 35(1) shall make public a list of the auditors and audit firms concerned which shall be updated on an annual basis.

#### **Amendment 76**

##### **Proposal for a regulation**

##### **Article 32 – paragraph 6**

*Text proposed by the Commission*

*Amendment*

6. In the case of a credit institution or insurance undertaking, the administrative

6. In the case of a credit institution or insurance undertaking, the administrative

or supervisory board shall submit its draft proposal to the competent authority referred to in Article 35(2). The competent authority referred to in Article 35(2) shall have the right to veto the choice proposed in the recommendation. Any such opposition shall be duly justified.

The absence of a reply by the competent authority within the prescribed time-limit following submission of the audit committee's recommendation shall be considered as constituting an implied consent to the recommendation.

#### **Amendment 77** **Proposal for a regulation**

##### **Article 32 – paragraph 7 – subparagraph 2**

*Text proposed by the Commission*

The public-interest entity shall inform the competent authorities referred to in Article 35 of any attempt by a third party to impose such a contractual clause or to otherwise influence the decision of the general meeting of shareholders on the selection of a statutory auditor or audit firm.

#### **Amendment 78** **Proposal for a regulation** **Article 32 – paragraph 10**

*Text proposed by the Commission*

***10. In order to facilitate the exercise of the task of the audited entity to organize a selection procedure for the appointment of a statutory auditor or audit firm, EBA, EIOPA and ESMA shall issue guidelines***

or supervisory board shall submit its draft proposal to the competent authority referred to in Article 35(2) ***who shall submit them to ESMA. ESMA shall consult on such proposals with EBA and EIOPA.*** The competent authority referred to in Article 35(2) shall have the right to veto the choice proposed in the recommendation. Any such opposition shall be duly justified ***and notified to ESMA.***

The absence of a reply by the competent authority ***or ESMA*** within the prescribed time-limit following submission of the audit committee's recommendation shall be considered as constituting an implied consent to the recommendation.

*Amendment*

The public-interest entity shall inform ***directly and without delay*** the competent authorities referred to in Article 35 of any attempt by a third party to impose such a contractual clause or to otherwise influence the decision of the general meeting of shareholders on the selection of a statutory auditor or audit firm.

*Amendment*

***deleted***

*addressed to the public-interest entities on the criteria governing the selection procedure referred to in paragraph 3, in accordance with Article 16 of Regulation (EU) No 1093/2010, of Regulation (EU) No 1094/2010 and of Regulation (EU) No 1095/2010, respectively.*

**Amendment 79**  
**Proposal for a regulation**  
**Article 33 – paragraph 1 – subparagraph 1**

*Text proposed by the Commission*

The public-interest entity shall appoint a statutory *auditor* or audit *firm* for an initial engagement that shall not *be shorter than two years*.

*Amendment*

The public-interest entity shall appoint *one or more* statutory *auditors* or *one or more* audit *firms* for an initial engagement that shall not *exceed seven years*.

**Amendment 80**  
**Proposal for a regulation**  
**Article 33 – paragraph 1 – subparagraph 2**

*Text proposed by the Commission*

The public-interest entity may renew this engagement *only once*.

*Amendment*

The public-interest entity may renew this engagement, *provided that the renewal is recommended by the audit committee. Shareholders at the annual general meeting shall formally approve the statutory auditor's engagement.*

**Amendment 81**  
**Proposal for a regulation**  
**Article 33 – paragraph 1 – subparagraph 3**

*Text proposed by the Commission*

*The maximum duration of the combined two engagements shall not exceed 6 years.*

*Amendment*

*deleted*

**Amendment 82**  
**Proposal for a regulation**  
**Article 33 – paragraph 1 – subparagraph 4**

*Text proposed by the Commission*

*Amendment*

*Where throughout a continuous engagement of 6 years two statutory auditors or audit firms have been appointed, the maximum duration of the engagement of each statutory auditor or audit firm shall not exceed 9 years.*

*deleted*

**Amendment 83**  
**Proposal for a regulation**  
**Article 33 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

*2. After the expiry of the maximum duration of the engagement referred to in paragraph 1, the statutory auditor or audit firm or any members of its network within the Union, where applicable, shall not undertake the statutory audit of the public-interest entity concerned until a period of at least four years has elapsed.*

*deleted*

**Amendment 84**  
**Proposal for a regulation**  
**Article 33 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

*3. By way of derogation from paragraphs 1 and 2, on an exceptional basis the public-interest entity may request the competent authority referred to in Article 35(1) to grant an extension to re-appoint the statutory auditor or audit firm for an additional engagement. In case of appointment of two statutory auditors or audit firms, this third engagement shall not exceed three years. In case of appointment of one statutory auditor or audit firm, this third engagement shall not exceed two years.*

*deleted*

**Amendment 85**  
**Proposal for a regulation**  
**Article 33 – paragraph 4**

*Text proposed by the Commission*

*Amendment*

**4. The key audit partner(s) responsible for carrying out a statutory audit shall cease his, her or their participation in the statutory audit of the audited entity after a period of seven years from the date of appointment has elapsed. He, she or they may participate in the statutory audit of the audited entity again after a period of at least three years.**

**deleted**

**The statutory auditor or audit firm shall establish an appropriate gradual rotation mechanism with regard to the most senior personnel involved in the statutory audit, including at least the persons who are registered as statutory auditors. The gradual rotation mechanism shall be undertaken in phases on the basis of individuals rather than of a complete team. It shall be proportionate in view of the scale and the dimension of the activity of the statutory auditor or audit firm.**

**The statutory auditor or audit firm shall be able to demonstrate to the competent authority that such mechanism is effectively applied and adapted to the scale and the dimension of the activity of the statutory auditor or audit firm.**

**Amendment 86**  
**Proposal for a regulation**  
**Article 33 – paragraph 6**

*Text proposed by the Commission*

*Amendment*

**6. ESMA shall develop draft regulatory technical standards to specify technical requirements on the content of the handover file referred to in *paragraph 6*.**

ESMA shall develop draft regulatory technical standards to specify technical requirements on the content of the handover file referred to ***in the first subparagraph of paragraph 2***.

Power is delegated to the Commission to adopt the regulatory technical standards referred to in *paragraph 6* in accordance with Article 10 of Regulation (EU) No 1095/2010.

Power is delegated to the Commission to adopt the regulatory technical standards referred to in *the first subparagraph of paragraph 2* in accordance with Article 10 of Regulation (EU) No 1095/2010.

**Amendment 87**  
**Proposal for a regulation**  
**Article 35 – paragraph 2 – point b**

*Text proposed by the Commission*

*Amendment*

*(b) Article 24(4)(h) of Directive 2004/109/EC;*

*deleted*

**Amendment 88**  
**Proposal for a regulation**  
**Article 35 – paragraph 6 – subparagraph 2**

*Text proposed by the Commission*

*Amendment*

*ESMA shall consolidate this information and make it public.*

*The Commission shall consolidate this information and make it public.*

**Amendment 89**  
**Proposal for a regulation**

**Article 42 – title**

*Text proposed by the Commission*

*Amendment*

*Market monitoring*

*Monitoring market quality and competitiveness*

**Amendment 90**  
**Proposal for a regulation**

**Article 42 – paragraph 1 – subparagraph 1**

*Text proposed by the Commission*

*Amendment*

The competent authorities referred to in Article 35(1) shall regularly monitor the developments in *the market for* providing

The competent authorities referred to in Article 35(1) *and the European Competition Network (ECN)* shall



statutory audit services to public-interest entities.

regularly monitor the developments in providing **high-quality** statutory audit services to public-interest entities.

### **Amendment 91**

#### **Proposal for a regulation**

##### **Article 42 – paragraph 1 – subparagraph 2 – introductory part**

###### *Text proposed by the Commission*

The competent authorities shall in particular assess the following:

###### *Amendment*

The competent authorities ***referred to in the first sub paragraph*** shall in particular assess the following:

### **Amendment 92**

#### **Proposal for a regulation**

##### **Article 42 – paragraph 1 – subparagraph 2 – point a**

###### *Text proposed by the Commission*

(a) the risks arising from high concentration, including the demise of audit firms ***with significant market share***, the disruption in the provision of statutory audit services whether in a specific sector or across sectors, the further accumulation of risk ***in the market*** and the impact on the overall stability of the financial sector;

###### *Amendment*

(a) the risks arising from high concentration ***of quality deficiencies of a statutory auditor or audit firm***, including ***systematic deficiencies within an audit firm network, which may lead to*** the demise of audit firms, the disruption in the provision of statutory audit services whether in a specific sector or across sectors, the further accumulation of risk ***of audit deficiencies*** and the impact on the overall stability of the financial sector;

###### *Justification*

*The first objective of competent authorities is to be the guardian of audit quality. Therefore, it is necessary to refocus this reporting duty of competent authorities towards the goal of high audit quality.*

### **Amendment 93**

#### **Proposal for a regulation**

##### **Article 42 – paragraph 1 – subparagraph 2 – point a (new)**

*Text proposed by the Commission*

*Amendment*

*(a a) the market concentration levels,  
including at the level of specific sectors;*

**Amendment 94**

**Proposal for a regulation**

**Article 42 – paragraph 1 – subparagraph 2 – point a b (new)**

*Text proposed by the Commission*

*Amendment*

*(a b) the performance of audit committees  
in monitoring the quality of audit work  
and safeguarding the independence of  
auditors;*

**Amendment 95**

**Proposal for a regulation**

**Article 42 – paragraph 1 – subparagraph 2 – point b**

*Text proposed by the Commission*

*Amendment*

(b) the need to adopt measures to mitigate those risks.

(b) the need to adopt measures to mitigate those risks, ***which may be legally binding***;

**Amendment 96**

**Proposal for a regulation**

**Article 42 – paragraph 2 – subparagraph 1**

*Text proposed by the Commission*

*Amendment*

By X X 20XX [2 years after the entry into force of the Regulation], and at least on a ***two-year*** basis thereafter, each competent authority shall draw up a report on this issue and submit it to ESMA, ***EBA*** and ***EIOPA***.

By X X 20XX [2 years after the entry into force of the Regulation], and at least on a ***four-year*** basis thereafter, each competent authority shall draw up a report on this issue and submit it to ESMA and ***the Commission***.

**Amendment 97**

**Proposal for a regulation**

**Article 42 – paragraph 2 – subparagraph 2**

*Text proposed by the Commission*

*ESMA, EBA and EIOPA shall use those reports to draw up a joint report on the situation at Union level. The report shall be submitted to the **Commission**, the European Central Bank and the European Systemic Risk Board.*

*Amendment*

*The **Commission following consultation with ESMA** shall use those reports to draw up a joint report on the situation at Union level. The report shall be submitted to **Member States and their parliaments**, the **European Parliament**, the European Central Bank and the European Systemic Risk Board.*

#### **Amendment 98**

##### **Proposal for a regulation**

##### **Article 43 – paragraph 4 – subparagraph 2 a (new)**

*Text proposed by the Commission*

#### **Amendment 99**

##### **Proposal for a regulation**

##### **Article 46 – paragraph 1 – subparagraph 2**

*Text proposed by the Commission*

ESMA shall create a permanent internal committee pursuant to Article 41 of Regulation (EU) No 1095/2010 for this purpose. Such internal committee shall be at least composed of the competent authorities referred to in Article 35(1) of this Regulation. ***The*** competent authorities referred to in Article 32 of Directive 2006/43/EC ***shall be invited to attend the meetings of such internal committee concerning matters related to approval and registration of statutory auditors and audit firms and relations with third countries in so far as relevant to the statutory audit of public-interest entities.***

*Amendment*

***The competent authorities shall advise ESMA on the general status of contingency plans.***

*Amendment*

ESMA shall create a permanent internal committee pursuant to Article 41 of Regulation (EU) No 1095/2010 for this purpose. Such internal committee shall be at least composed of the competent authorities referred to in Article 35(1) of this Regulation ***and the*** competent authorities referred to in Article 32 of Directive 2006/43/EC ***which heretofore constitute the European Group of Audit Oversight Bodies (EAOB) created by Decision 2005/909/EC.***

**Amendment 100**  
**Proposal for a regulation**  
**Article 46 – paragraph 1 – subparagraph 4 a (new)**

*Text proposed by the Commission*

*Amendment*

*ESMA shall cooperate with the international bodies involved in the developing of the international standards and practices related to the carrying out of statutory audits.*

**Amendment 101**  
**Proposal for a regulation**  
**Article 46 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

2. ESMA shall provide advice to the competent authorities in the cases provided for in this Regulation. The Competent authorities shall consider that advice before taking any final decision under this Regulation.

2. ESMA shall provide advice to the competent authorities in the cases provided for in this Regulation. The Competent authorities shall consider that advice before taking any final decision under this Regulation (*auditing standing committee*). *The internal committee may create specific colleges of competent authorities to facilitate quality assurance, investigations, the European Quality Certificate referred to in Article 50, cooperation in inspections, contingency planning and administrative sanctions.*

**Amendment 102**  
**Proposal for a regulation**  
**Article 46 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

*2a. ESMA shall be adequately staffed, with regard to capacity and expertise, and shall have the necessary resources in order to be able to fulfil its tasks provided for in this Regulation.*

**Amendment 103**  
**Proposal for a regulation**  
**Article 46 – paragraph 3 – subparagraph 1 – point a**

*Text proposed by the Commission*

*Amendment*

(a) common standards on the content and presentation of the report referred to in Article 22;

(a) common standards on the content and presentation of the report referred to in Article 22, ***within the framework of the international auditing standards as referred to in Article 20;***

#### **Amendment 104**

##### **Proposal for a regulation**

##### **Article 46 – paragraph 3 – subparagraph 1 – point b**

*Text proposed by the Commission*

*Amendment*

(b) common standards on the content and presentation of the report referred to in Article 23;

(b) common standards on the content and presentation of the report referred to in Article 23 ***respecting reporting obligations resulting from national requirements;***

#### **Amendment 105**

##### **Proposal for a regulation**

##### **Article 46 – paragraph 3 – subparagraph 1 – point c**

*Text proposed by the Commission*

*Amendment*

(c) common standards on the oversight activity of the audit committee referred to in Article 24;

(c) common standards on ***the independence of*** the oversight activity of the audit committee referred to in Article 24 ***due to risks resulting from any direct or indirect financial, business, employment or other relationship between audit committee members and the management of the audited entity;***

#### **Amendment 106**

##### **Proposal for a regulation**

##### **Article 46 – paragraph 3 – subparagraph 1 – point e**

*Text proposed by the Commission*

*Amendment*

***(e) common standards and best practices on the gradual rotation mechanism referred to in Article 33;***

***deleted***

## **Amendment 107**

### **Proposal for a regulation**

#### **Article 46 – paragraph 3 – subparagraph 1 – point f**

*Text proposed by the Commission*

(f) common standards and best practices regarding the dismissal of auditors, *in particular on the existence of proper grounds for it*, as referred to in Article 34;

*Amendment*

(f) common standards and best practices *on the existence of proper grounds* regarding the dismissal of auditors, as referred to in Article 34;

## **Amendment 108**

### **Proposal for a regulation**

#### **Article 46 – paragraph 3 – subparagraph 1 – point g**

*Text proposed by the Commission*

(g) *enforcement practices and activities to be conducted by competent authorities under this Regulation;*

*Amendment*

(g) *common standards and best practices in the auditing area facilitating the consistent enforcement of applicable accounting standards, especially impairment rules;*

## **Amendment 109**

### **Proposal for a regulation**

#### **Article 46 – paragraph 3 – subparagraph 1 – point h**

*Text proposed by the Commission*

(h) common standards and best practices for conducting quality assurance reviews provided for in Article 40, taking into consideration, in particular:

*Amendment*

(h) common standards and best practices *within the framework of the international auditing standards as referred to in Article 20* for conducting quality assurance reviews provided for in Article 40, taking into consideration, in particular:

## **Amendment 110**

### **Proposal for a regulation**

#### **Article 46 – paragraph 4 – subparagraph 3**

*Text proposed by the Commission*

In a report to be prepared by X X 20XX [two years after the entry into force of the Regulation], ESMA shall undertake an evaluation of the structure of the audit market.

*Amendment*

In a report to be prepared by X X 20XX [two years after the entry into force of the Regulation], ESMA, *following the advice of the European Competition Network*, shall undertake an evaluation of the

structure of the audit market.

### **Amendment 111**

#### **Proposal for a regulation**

#### **Article 46 – paragraph 4 – subparagraph 5**

*Text proposed by the Commission*

In a report to be prepared by ESMA by X X 20XX [four years after the entry into force of the Regulation], shall examine whether the competent authorities referred to in Article 35(1) are sufficiently empowered and have adequate resources to carry out their tasks.

*Amendment*

In a report to be prepared by ESMA by X X 20XX [four years after the entry into force of the Regulation], **it** shall examine whether the competent authorities referred to in Article 35(1) are sufficiently empowered and have adequate resources to carry out their tasks.

### **Amendment 112**

#### **Proposal for a regulation**

#### **Article 46 – paragraph 4 – subparagraph 6 – introductory part**

*Text proposed by the Commission*

In a report to be prepared by ESMA by X X 20XX [six years after the end of the transitional period], shall examine the following issues:

*Amendment*

In a report to be prepared by ESMA by X X 20XX [six years after the end of the transitional period], **it** shall examine the following issues:

### **Amendment 113**

#### **Proposal for a regulation**

#### **Article 46 – paragraph 5 a (new)**

*Text proposed by the Commission*

*Amendment*

***5a. The Commission shall after a transitional period of 3 years come back to the European Parliament and the Council with a report on the performance of ESMA with regards to audit and the functioning of the internal audit committee as well as a considering any enhanced future role for ESMA. The Commission shall evaluate whether ESMA has enough resources to fulfil its tasks laid down in this Regulation and propose budget adjustments if necessary.***

**Amendment 114**  
**Proposal for a regulation**  
**Article 51 – paragraph 2 – subparagraph 3**

*Text proposed by the Commission*

The competent authority making any such request shall inform *ESMA* of any request referred to in the first and second subparagraphs.

*Amendment*

The competent authority making any such request shall inform *the Commission* of any request referred to in the first and second subparagraphs.

**Amendment 115**  
**Proposal for a regulation**  
**Article 53 – paragraph 4 – subparagraph 1**

*Text proposed by the Commission*

Within 15 working days of the establishment of the college of competent authorities with regard to a specific network, its members shall select a facilitator. *In the absence of agreement, ESMA shall appoint a facilitator.*

*Amendment*

Within 15 working days of the establishment of the college of competent authorities with regard to a specific network, its members shall select a facilitator.

**Amendment 116**  
**Proposal for a regulation**

**Article 69 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

*Before X.X.20XX [two years after the entry into force of the Directive], the Commission shall undertake an evaluation of the appropriateness of fees charged by statutory auditors or audit firms for the provision of statutory audits or audit firms for the provision of statutory audits of public-interest entities as well as their impact on the audit market structure, and shall present a report. In the light of that report, the Commission shall, if it considers it appropriate, take measures to address the potential issues identified.*



**Amendment 117**  
**Proposal for a regulation**

**Article 69 a (new)**

*Text proposed by the Commission*

*Amendment*

**Article 69a**

**Report about ESMA**

*The Commission shall by X X ( five years after the end of the transitional period) prepare a report on ESMA’s current and future role. The Commission shall assess whether ESMA has enough resources to fulfil its tasks according to this Directive.*

**Amendment 118**  
**Proposal for a regulation**

**Article 72 – paragraph 4**

*Text proposed by the Commission*

*Amendment*

*This Regulation shall be binding in its entirety and directly applicable in all Member States.*

*deleted*

*Justification*

*An EU Regulation is not a suitable format of regulation, in particular in view of the highly detailed and intervening nature of the Commission’s proposal. It represents an “one-size-fits-all” approach that is not taken the nature of different corporate governance systems throughout the EU into account. It would lead to decreased corporate governance standards in some Member States.*

## EXPLANATORY STATEMENT

In drafting this opinion, due consideration has been given to the issues of improving the quality of audit services, improving competition in the audit market and harmonising standards of practice across the EU. However, attention has also been paid to the cost to businesses and investors; the users of audit services, a balance between the costs and benefits of implementation to them are seen as paramount as companies struggle to deal with the current difficult economic situation.

Therefore, while the Commission points out some reasonable points with regards to competition some of the proposals would constitute an unreasonable burden upon businesses and introduce extra costs with uncertain benefit. Above all else the quality of audit must be at the forefront of any reform, shareholders and investors need to have confidence in the audit report in order to continue to invest in companies.

### **Tendering and Shared Audit**

The last reform of the audit profession took place via the 8th Company Law directive and required the mandatory rotation of partners on at least a 7 year basis, the results of this reform on the independence of audit and the quality of audit are yet to be seen in the EU as not enough time has passed to truly evaluate their effect. Therefore it would seem that the proposal of the Commission that this should be significantly escalated to a 7 year mandatory rotation of the entire audit firm is premature and may prove to be unnecessary.

A mandated 7 year tendering process would provide a framework for increased scrutiny of the audit services provided by the current auditor by the audit committee and would remove any speculation in the market when an audit mandate is tendered. A planned audit tender process will not provoke a negative market response. While a full tendering procedure may increase costs for companies it should help increase competition within the field of audit, giving more audit firms a predictable time scale to prepare for the tender and certainty that they will be considered.

Currently, some companies are choosing to undertake shared audit whereby certain subsidiaries are audited by a different firm to the group audit. This avoids the problem of joint liability and extra costs for the audited entity as the group auditor maintains liability for the over all audit, providing an oversight role for the terms of the audit of the subsidiary and then evaluating the results. The Rapporteur has chosen not to mandate this service as it would not be suitable for all companies, however it should be given due consideration by audit committees particularly when undertaking the proposed regular tendering process.

### **Non- audit services**

Revenues from non-audit services have become as significant to audit firms as the statutory audit function and while in some cases it is more efficient to have the statutory auditor conduct some non-audit services this is by n means universally true. As such, the Rapporteur

would like to encourage audit committees to take a more active role in decisions regarding the providers of non-audit services.

Firstly, the audit committee should be consulted on the provision of all non-audit services so they can properly reflect on who the best provider of the service is and whether it would affect the independence of the statutory auditor should they choose to use them.

Secondly, all non-audit services of a significant monetary value should be put out to tender. The value of such a threshold should be proposed by a company's audit committee and published annually. While small audit firms may not be in a position to audit large global entities they are in a position to build up specialised skill sets in specific areas of non-audit services if they have a reasonable expectation of being able to provide those services. This, coupled with consideration of shared audit, should provide audit committees with more experience of using smaller audit firms, and increase competition in the EU audit market over time.

### **Supervision at a European Level- the EGAOB**

While the Commission proposes ESMA as the correct body at an EU level to coordinate the actions of national bodies and to write regulatory technical standards and guidelines around the provision of audit, the Rapporteur is concerned that only 5 of the EU securities supervisors have any responsibility for supervision of audit firms and audit services and therefore do not collectively have the necessary experience in this area. In addition to this, ESMA has been given many tasks in its direct area of responsibility as a result of G20 commitments that will need to take precedent, therefore the Rapporteur is proposing that the European Group of Audit Oversight Bodies (EGAOB) is better equipped to manage these tasks. Due to its current legal formation this will necessarily need to be done via the provision of advice to the European Commission; however consideration should be given about whether it should become a full level 3 committee in order to properly coordinate the supervision of audit services across the single market and to actively and directly shape future delegated acts and guidelines.

### **Public Interest Entity definition**

Discussions in the Parliament suggest a concern when proposing differentiating between the audit of financial entities as opposed to non-financial entities. Clarity across all EU companies in such an important statutory function suggests rather that as all audits should be the same regardless of sector therefore, the Rapporteur has seen fit to delete the provisions regarding large public interest entities.

The inclusion of UCITS and AIF within the definition of a PIE is of great concern to the Rapporteur as many of the provisions of the regulation, and future uses of the definition would not be proportionate when related to the multitude of funds covered. Although the rapporteur supports the need to fully audit funds and the activities of fund managers following high profile cases of fraudulent activity, believes that this can best be achieved within the depository function inside the AIFM directive and in the upcoming revision to UCITs.

## **Dialogue with National Regulators and the ESRB**

Auditors of systemically important financial institutions have a privileged view inside these companies and in many instances a sectoral view that is of relevance to financial supervisory bodies. While there has always been an obligation for auditors to report areas of concern to national regulators in many member states, this has not been taken up in many. Therefore a forum for regular dialogue should be established so discussions can take place about ongoing developments in the market. While it is accepted that auditors are not supervisors they can be a useful partner for competent authorities going forwards.

The ESRB was established to look at the build up of systemic risk across the whole EU, therefore it would be helpful for the auditors of the largest entities in the EU to have a regular dialogue with the ESRB on an anonymised basis regarding sectoral developments in systemically important financial institutions. This should take the form of a two way dialogue that should aid both parties in carrying out their responsibilities.

The audit report and audit function are critical for investor confidence and the wider public therefore the Rapporteur is proposing more granular disclosure of audit committee decisions and resulting corporate policy with regards to audit and non-audit service providers, a formalised tendering process for services and an improved dialogue for those who audit financial institution who pose a systemic risk to the EU financial system with financial regulators and supervisors, as a proportionate response to improving audit quality throughout the EU.

## PROCEDURE

<b>Title</b>	Specific requirements regarding statutory auditing of public-interest entities
<b>References</b>	COM(2011)0779 – C7-0470/2011 – 2011/0359(COD)
<b>Committee responsible</b> Date announced in plenary	JURI 15.12.2011
<b>Opinion by</b> Date announced in plenary	ECON 15.12.2011
<b>Associated committee(s) - date announced in plenary</b>	20.4.2012
<b>Rapporteur</b> Date appointed	Kay Swinburne 25.10.2011
<b>Discussed in committee</b>	15.10.2012
<b>Date adopted</b>	11.3.2013
<b>Result of final vote</b>	+: 26 -: 17 0: 3
<b>Members present for the final vote</b>	Burkhard Balz, Elena Băsescu, Slavi Binev, Sharon Bowles, Udo Bullmann, Nikolaos Chountis, George Sabin Cutaş, Leonardo Domenici, Derk Jan Eppink, Markus Ferber, Elisa Ferreira, Ildikó Gáll-Pelcz, Jean-Paul Gauzès, Liem Hoang Ngoc, Gunnar Hökmark, Othmar Karas, Jürgen Klute, Rodi Kratsa-Tsagaropoulou, Philippe Lamberts, Werner Langen, Hans-Peter Martin, Ivari Padar, Alfredo Pallone, Antolín Sánchez Presedo, Olle Schmidt, Peter Skinner, Theodor Dumitru Stolojan, Ivo Strejček, Kay Swinburne, Sampo Terho, Marianne Thyssen, Ramon Tremosa i Balcells, Corien Wortmann-Kool
<b>Substitute(s) present for the final vote</b>	Jean-Pierre Audy, Pervenche Berès, Lajos Bokros, Philippe De Backer, Saïd El Khadraoui, Sari Essayah, Roberto Gualtieri, Sophia in 't Veld, Olle Ludvigsson, Thomas Mann, Emilie Turunen
<b>Substitute(s) under Rule 187(2) present for the final vote</b>	Klaus-Heiner Lehne, Sabine Verheyen, Tatjana Ždanoka