

# Option Table – 2014 Audit Regulation

The purpose of this document is to highlight the options available to Member States and Competent Authorities in the Regulation on statutory audit of public-interest entities and thereby assist FEE Member Bodies and other relevant stakeholders in advising each European Union Member State as to the selection of the most appropriate option.

## Legend

The document is formatted to follow the order of the Articles as contained in the 2014 Audit Regulation.

CONTENT	EXAMPLES	EXPLANATIONS
Normal text	Provide that a competent authority may, upon a request...	The text of the Article containing the Member State option
Items in bold and underlined	<b><u>may request</u></b>	The Member State option being discussed
Text in italics in quotations within square brackets	<i>[“...The imposition of penalties, including sanctions and measures...”]</i>	Explanatory text taken verbatim from the Regulation in order to assist in the understanding of the Article being discussed
Text in italics contained within square brackets	<i>[...provision of tax services, services that involve playing any part in the management of decision-making process, bookkeeping and preparing accounting records and financial statements...]</i>	Additional information, which may be paraphrased and not taken verbatim from the Regulation, inserted in the body of the Article to provide the context of the Article being discussed without the necessity of referring to another Article
Article reference numbers	17.2(a)	This article reference number signifies, for example, Article 17, point 2, point (a). The notation follows the logical progression within the 2014 Audit Regulation but is not used verbatim within it.
Abbreviation	MS	Member State
Abbreviation	CA	Competent Authority
Abbreviation	2014 Audit Regulation	Regulation on statutory audit of public-interest entities

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Subject	Article	Member State / Competent Authority Option
Scope of financial institutions to be audited	2.3 <i>MS option</i>	Where a cooperative within the meaning of point (14) of Article 2 of Directive 2006/43/EC, a savings bank or a similar entity as referred to in Article 45 of Directive 86/635/EEC, or a subsidiary or a legal successor of a cooperative, a savings bank or a similar entity as referred to in Article 45 of Directive 86/635/EEC is required or permitted under national provisions to be a member of a non-profit-making auditing entity, the Member State <b>may decide</b> that this Regulation or certain provisions of it shall not apply to the statutory audit of such entity, provided that the principles of independence laid down in Directive 2006/43/EC are complied with by the statutory auditor when carrying out the statutory audit of one of its members and by persons who may be in a position to influence the statutory audit.
Audit fees	4.2 <i>MS option</i>	MS <b>may provide</b> that a competent authority may, upon a request by the statutory auditor or the audit firm, on an exceptional basis, allow that statutory auditor or audit firm, on an exceptional basis, allow that statutory auditor or audit firm to be <b>exempt</b> from the requirements in the first subparagraph [...the total fees for non-audit services other than those referred to in Article 5(1) – listed below – shall for three consecutive financial years be limited to 70 % of the average of the fees paid in the last three consecutive years...] in respect of an audited entity for a period not exceeding two financial years.
	4.4 <i>MS option</i>	Member States <b>may apply</b> more stringent requirements than set out in this Article [...the total fees for non-audit services other than those referred to in Article 5(1) – listed below – shall for three consecutive financial years be limited to 70 % of the average of the fees paid in the last three consecutive years...].
Non-audit services	5.2 <i>MS option</i>	Member States <b>may prohibit</b> services other than those listed in paragraph 1 [...provision of tax services, services that involve playing any part in the management or decision-making of the audited entity, bookkeeping and preparing accounting records and financial statements, payroll services, designing and implementing internal control or risk management procedures, valuation services, selected legal services; internal audit services, services linked to financing, capital structure and allocation and investment strategy, promoting, dealing in or underwriting shares, selected human resources services], where they consider that those services represent a threat to independence. Member States shall communicate to the Commission any additions to the list in paragraph 1 [see above].
	5.3 <i>MS option</i>	By way of derogation from the second subparagraph of paragraph 1 [list of prohibited non-audit services, as referred to above in Article 5.2], Member States <b>may allow</b> the provision of the services referred to in article 5.1 points (a) (i), (a) (iv) – to (a) (vii) and (f) [...preparation of tax forms, identification of public subsidies and tax incentives, support regarding tax inspections by tax authorities, calculation of direct and indirect tax and deferred tax, provision of tax advice, and valuation services], provided that the following requirements are complied with: <ul style="list-style-type: none"> <li>- [“They have no direct or have immaterial effect, separately or in the aggregate on the audited financial statements;</li> <li>- The estimation of the effect on the audited financial statements is comprehensively documented and explained in the additional report to the audit committee referred to in Article 11; and</li> <li>- The principles of independence laid down in Directive 2006/43/EC are complied with by the statutory auditor or the audit firm”].</li> </ul>
	5.4 <i>MS option</i>	Member States <b>may establish stricter rules</b> setting out the conditions under which a statutory auditor, an audit firm or a member of a network to which the statutory auditor or audit firm belongs may provide to the audited entity, to its parent undertaking or to its controlled undertakings non-audit services other than the prohibited non-audit services referred to in paragraph 1 [see above in Article 5.2].

Subject	Article	Member State / Competent Authority Option
Audit report	10.2 <i>MS option</i>	Member States <b>may lay down</b> additional requirements in relation to the content of the audit report.
Additional report to the audit committee	11.1 <i>MS option</i>	Member States <b>may</b> additionally <b>require</b> that this additional report be submitted to the administrative or supervisory body of the audited entity.
	11.1 <i>MS option</i>	Member States <b>may allow</b> the audit committee to disclose that additional report to such third parties as are provided for in their national law.
	11.2 <i>MS option</i>	Member States <b>may lay down</b> additional requirements in relation to the content of the additional report to the audit committee.
Report to supervisors	12.1 <i>MS option</i>	Member States <b>may require</b> additional information from the statutory auditor or the audit firm provided it is necessary for effective financial market supervision as provided for in national law.
Record keeping	15 <i>MS option</i>	Member States <b>may require</b> statutory auditors and audit firms to keep the documents and information referred to in the first subparagraph [ <i>“... documents and information referred to in Article 4(3), Article 6, Article 7, Article 8(4) to (7), Articles 10, and 11, Article 12(1) and (2), Article 14, Article 16(2), (3), and (5) of this Regulation, and Articles 22d, 24a, 24b, 27 and 28 of the Directive 2006/43...”</i> ] for a longer period [ <i>than five years</i> ] in accordance with their rules on personal data protection and administrative and judicial proceedings.
Appointment of statutory auditors or audit firms	16.7 <i>MS option</i>	Member States <b>may decide</b> that a minimum number of statutory auditors or audit firms are to be appointed by public-interest entities in certain circumstances and establish the conditions governing the relations between the statutory auditors or audit firms appointed. If a Member State establishes any such requirement, it shall inform the Commission and the relevant European Supervisory Authority thereof.
	16.8 <i>MS option</i>	Where the audited entity has a nomination committee in which shareholders or members have a considerable influence and which has the task of making recommendations on the selecting of auditors, Member States <b>may allow</b> that nomination committee to perform the functions of the audit committee that are laid down in this Article [16] and <b>require</b> it to submit the recommendation referred to in paragraph 2 [ <i>Recommendation for the appointment of statutory auditors or audit firms submitted by the audit committee to administrative or supervisory body of the audited entity</i> ] to the general meeting of shareholders or members.
Auditor’s rotation	17.2(a) <i>MS option</i>	Member States <b>may require</b> that the initial engagement referred to in paragraph 1 [ <i>“A public-interest entity shall appoint a statutory auditor or audit firm for an initial engagement of at least one year...”</i> ] be for a period of more longer than one year.
	17.2(b) <i>MS option</i>	Member States <b>may set</b> a maximum duration of less than ten years for the engagements referred to in the second subparagraph of paragraph 1 [ <i>“Neither the initial engagement of a particular statutory auditor or audit firm, nor this in combination with renewed engagements therewith shall exceed a maximum duration of ten years”</i> ].

Subject	Article	Member State / Competent Authority Option
Auditor's rotation	17.4 <i>MS option</i>	Member States <b>may provide</b> that the maximum durations referred to in the second subparagraph of paragraph 1 [ <i>“Neither the initial engagement of a particular statutory auditor or audit firm, nor this in combination with renewed engagements therewith shall exceed a maximum duration of ten years”</i> ] may be extended to the maximum duration of: <ul style="list-style-type: none"> <li>(a) twenty years, where a public tendering process for the statutory audit is conducted in accordance with paragraphs 2 to 5 of Article 16 [<i>...the selection of and audit committee involvement with statutory auditor or audit firm</i>], and takes effect upon the expiry of the maximum durations referred to in the second subparagraph of paragraph 1 [<i>“Neither the initial engagement of a particular statutory auditor or audit firm, nor this in combination with renewed engagements therewith shall exceed a maximum duration of ten years”</i>] and in point (b) of paragraph 2 [<i>MS may set a maximum duration of less than ten years</i>]; or</li> <li>(b) twenty four years, where, after the expiry of the maximum durations referred to in the second subparagraph of paragraph 1 [<i>“Neither the initial engagement of a particular statutory auditor or audit firm, nor this in combination with renewed engagements therewith shall exceed a maximum duration of ten years”</i>] and in point (b) of paragraph 2 [<i>MS may set a maximum duration of less than ten years</i>], more than one statutory auditor or audit firm simultaneously engaged, provided that the statutory audit results in the presentation of the joint audit report [...].</li> </ul>
	17.7 <i>MS option</i>	By way of derogation, Member States <b>may require</b> that key audit partners responsible for carrying out a statutory audit cease their participation in the statutory audit of the audited entity earlier than seven years from the date of their respective appointment.
Designation of competent authorities	20.2 <i>MS option</i>	Member States <b>may decide</b> that the responsibility for ensuring that all or part of the provisions of Title III [ <i>“Appointment of statutory auditors or audit firms”</i> ] of this Regulation are applied is to be entrusted to, as appropriate, the competent authorities referred to in: <ul style="list-style-type: none"> <li>(a) Article 48 of Directive 2004/39/EC; [<i>Investment firms</i>]</li> <li>(b) Article 24(1) of Directive 2004/109/EC; [<i>Transparency Directive for Security Market Entities</i>]</li> <li>(c) point (h) of Article 24(4) of Directive 2004/109/EC; [<i>Transparency Directive for Security Market Entities</i>]</li> <li>(d) Article 20 of Directive 2007/64/EC; [<i>Payment services on the internal market</i>]</li> <li>(e) Article 30 of Directive 2009/138/EC; [<i>Insurance and Reinsurance</i>]</li> <li>(f) Article 4(1) of Directive 2013/36/EU; [<i>Credit institutions</i>]</li> </ul> or to other authorities designated by national law.
Conditions of independence of CA	21 <i>CA option</i>	The competent authorities <b>may consult</b> experts, as referred to in point (c) of Article 26(1) [ <i>“...‘expert’ means a natural person, who has a specific expertise in financial markets, financial reporting, auditing or other fields relevant for inspections, including practising statutory auditors”</i> ], for the purpose of carrying out specific tasks and may also be assisted by experts when this is essential for the proper fulfilment of their tasks. In such instances, the experts shall not be involved in any decision-making.

Subject	Article	Member State / Competent Authority Option
Delegation of tasks by CA	24.1 <i>MS option</i>	Member States <b>may delegate</b> or allow the competent authorities referred to in Article 20(1) to delegate any of the tasks required to be undertaken pursuant to this Regulation to other authorities or bodies designated or otherwise authorised by law to carry out such tasks, except for tasks related to: <ul style="list-style-type: none"> <li>(a) the quality assurance system referred to in Article 26;</li> <li>(b) investigations referred to in Article 23 of this Regulation and Article 32 of Directive 2006/43/EC arising from that quality assurance system or from a referral by another authority; and</li> <li>(c) sanctions and measures, as referred to in Chapter VII of Directive 2006/43/EC related to the quality assurance reviews or investigation of statutory audits of public-interest entities.</li> </ul>
	24.4 <i>MS option</i>	Member States <b>may decide</b> to delegate the tasks referred to in point (c) of paragraph 1 [ <i>“sanctions and measures, [...] related to the quality assurance reviews or investigation of statutory audits of public-interest entities”</i> ] to other authorities or bodies designated or otherwise authorised by law to carry out such tasks, when the majority of the persons involved in the governance of the authority or body concerned is independent from the audit profession.
Quality assurance	26.5 <i>CA option</i>	By way of derogation from point (b) of paragraph 1 [ <i>“‘inspector’ means a reviewer who” [...] shall have appropriate professional education and relevant experience in statutory audit and financial reporting combined with specific training on quality assurance reviews “and who is employed or otherwise contracted by a competent authority”</i> ], a competent authority <b>may contract</b> experts for carrying out specific inspections when the number of inspectors within the authority is insufficient. The competent authority may also be assisted by experts when this is essential for the proper conduct of an inspection. In such instances, the competent authorities and the experts shall comply with the requirements of this paragraph. Experts shall not be involved in the governance of, or employed or otherwise contracted by professional associations and bodies but may be members of such associations or bodies.
	26.7 <i>CA option</i>	In addition to the inspection covered by the first subparagraph [ <i>“compliance by the statutory auditor or audit firm with applicable auditing and quality control standards, ethical and independence requirements including those set out in Chapter IV of Directive 2006/43/EC [professional ethics, independence, objectivity, confidentiality and professional secrecy] and Articles 4 and 5 of this Regulation [audit fees and prohibition of the provisions of non-audit services]”</i> ], as well as relevant laws, regulations and administrative provisions of the Member State concerned, quantity and quality of resources used, compliance with the requirements placed upon audit fees – ref to ‘Article 4’ above], competent authorities <b>shall have the power</b> to perform other inspections.
Transparency of CA	28(d) <i>MS option</i>	The Member States <b>may require</b> the publication of those findings [ <i>“The findings and conclusions of inspections on which recommendations are based, including the findings and conclusions related to a transparency report...”</i> ] and conclusions on individual inspections.
Cooperation of CA	31.2 <i>CA option</i>	The competent authority of one Member State <b>may request</b> the assistance of the competent authority of another Member State with regard to the quality assurance reviews of statutory auditors or audit firms belonging to a network carrying out significant activities in the requested Member State.

Subject	Article	Member State / Competent Authority Option
Cooperation of CA	31.5 <i>CA option</i>	A competent authority of one Member State <b>may request</b> that an investigation be carried out by the competent authority of another Member State on the latter's territory. It <b>may</b> also <b>request</b> that some of its own personnel be allowed to accompany the personnel of the competent authority of that Member State in the course of the investigation, including with regards to on-site inspections.
	31.6 <i>CA option</i>	The requested competent authority <b>may refuse</b> to act on a request for an investigation to be carried out or on a request for its personnel to be accompanied by personnel of a competent authority of another Member State in the following cases: (a) where such an investigation or on-site inspection might breach national security rules or adversely affect the sovereignty, security or public order of the requested Member State; (b) where judicial proceedings have already been initiated in respect of the same actions and against the same persons before the authorities of the requested Member State; (c) where a final judgment has already been delivered in respect of the same actions and the same persons by the authorities of the requested Member State.
	31.7 <i>CA option</i>	In the event of a quality assurance review, or an investigation with cross-border effects, the competent authorities of the Member States concerned <b>may address</b> a joint request to the CEAOB to coordinate the review or investigation.
Delegation of tasks between CA	33 <i>CA option</i>	The competent authority of the home Member State <b>may delegate</b> any of its tasks to the competent authority of another Member State subject to the agreement of that authority. Delegation of tasks shall not affect the responsibility of the delegating competent authority.
Agreement on exchange of information	36.1 <i>CA option</i>	The competent authorities <b>may conclude</b> cooperation agreements on exchange of information with the competent authorities of third countries only if the information disclosed is subject, in the third countries concerned, to guarantees of professional secrecy which are at least equivalent to those set out in Articles 22 and 34 [ <i>Information covered by professional secrecy may not be disclosed to any other person or authority except where such a disclosure is required by law, regulations or administrative tools of given MS</i> ]. The competent authorities shall immediately communicate such agreement to the Committee of European Auditing Oversight Bodies [CEAOB] and notify the Commission of them.
Disclosure of information received from third countries	37 <i>CA option</i>	The competent authority of a Member State <b>may disclose</b> the confidential information received from competent authorities of third countries where a co-operation agreement so provides, only if it has obtained the express agreement of the competent authority which has transmitted the information and, where applicable, the information is disclosed only for the purposes for which that competent authority has given its agreement, or where such disclosure is required by Union or national law.