

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of

amending Directive 2006/43/EC on statutory audits of annual accounts and consolidated accounts

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 50 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national Parliaments,

Having regard to the opinion of the European Economic and Social Committee¹,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts, amending Council Directives 78/660/EEC and 83/349/EEC and repealing Council Directive 84/253/EEC lays down the conditions for the approval and registration of persons that carry out statutory audits, the rules on independence, objectivity and professional ethics applying to them, as well as the framework for their public supervision. However, it is necessary to further harmonize those rules at Union level in order to allow for more transparency and predictability of the requirements applying to such persons and to enhance their independence and objectivity in the performance of their tasks. ***It is also important to increase the minimum level of convergence with respect to the auditing standards on the basis of which the statutory audits are carried out.*** Moreover, in order to reinforce investor protection it is important to strengthen the public oversight of statutory auditors and audit firms by enhancing the independence of Union public oversight authorities and entrusting them with adequate powers ***including investigative and sanctioning powers to detect, deter and prevent breaches in the context of the auditing services.***

- (2) Because of the significant public relevance of public-interest entities, which arises from the scale and dimension of their business or from the nature of their business, the credibility of the audited financial statements of public-interest entities needs to be reinforced. Therefore, the special provisions for the statutory audits of public-interest entities set out in Directive 2006/43/EC have been further developed in Regulation (EU) No [XXX] of [XXX] on specific requirements for the audit of public interest entities. ***The provisions on [] statutory audit of public [] interest entities in this Directive should be applicable to statutory auditors and audit firms only insofar as they carry out statutory audits of such entities***

- (4) In accordance with the Treaty, the internal market comprises an area without internal frontiers in which the free movement of goods and services and the freedom of establishment are ensured. It is necessary to enable statutory auditors and audit firms to develop their statutory audit service activities within the Union by offering them the possibility to provide such services in a Member State other than that in which they were approved. Enabling statutory auditors and audit firms to provide statutory audits under their home-country professional titles in a host Member State addresses, in particular, the needs of groups of undertakings which, owing to the increasing trade flows resulting from the internal market, establish financial statements in several Member States and must have them audited under Union law. The elimination of barriers to the development of statutory audit services between Member States would contribute to the integration of the Union audit market.

- (5) Statutory audit requires adequate knowledge of matters such as company law, fiscal law and social law which may vary from one Member State to another. Therefore, to ensure the quality of the statutory audit services provided on its territory it should be possible for a Member State to impose a compensation measure where a statutory auditor approved in another Member State wishes to be approved also on the territory of that Member State in order to set up a permanent establishment. Such measure should take account of the statutory auditor's professional experience. It should not lead to a disproportionate burden on the statutory auditor concerned nor hinder or render less attractive the provision of statutory audit services. **Member States** should be allowed to **approve the applicant statutory auditors either on the basis of** an aptitude test **or of** an adaptation period such as defined in Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications¹. At the end of the adaptation period, the statutory auditor should be able to integrate into the profession in the host Member State after the assessment that he possesses professional experience in that Member State.

¹ OJ L 255, 30.9.2005, p. 22.

- (5a) *Whilst the primary responsibility for delivering financial information should rest with the management of the audited entities, auditors play a role by actively challenging management from a user's perspective. In order to improve audit quality, it is therefore important that the professional scepticism exercised by auditors vis-à-vis the audited entity is reinforced. Auditors should recognise the possibility that a material misstatement due to fraud or error could exist, notwithstanding the auditor's past experience of the honesty and integrity of the audited entity's management.*
- (6) *It is particularly relevant to reinforce independence as an essential element when carrying out statutory audits. In order to enhance the independence of statutory auditors and audit firms from the audited entity when carrying out statutory audits, any person or entity that holds rights in an audit firm should be independent of the audited entity and should not be involved in the process of decision making of the audited entity. In order to maintain this independence, it is also important that they keep records of all threats to their independence as well as the safeguards applied to mitigate those threats. Moreover, where the threats to their independence, even after having applied safeguards to mitigate those threats, are too significant, they should resign or abstain from the audit engagement.*

- (6a)** *Statutory auditors and audit firms should be 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. The independence requirement should be fulfilled during the period covered by the audit report, including both the period covered by the financial statements to be audited and the period during which the statutory audit is carried out.*
- (6b)** *Auditors, audit firms and their employees should in particular refrain from carrying out the statutory audit of an entity if they have a business interest or financial interest in it and from engaging on trading in financial instruments issued, guaranteed or otherwise supported by an audited entity, other than holdings in diversified collective investment schemes. The statutory auditor or audit firm should abstain from the internal decision-making processes of the audited entity. Statutory auditors or their employees directly involved in the statutory audit engagement should be prevented from taking up duties in the audited entity at managerial or board level until an appropriate period has elapsed since the end of the audit engagement.*

(6d) *It is important that statutory auditors and audit firms respect the rights to private life and data protection of their clients. They should therefore be bound by strict rules on confidentiality and professional secrecy which, however, should not impede the proper enforcement of this Directive and of Regulation [XXX] or the cooperation with the group auditor during the performance of the audit of consolidated financial statements when the parent undertaking is in a third country, provided that Directive 95/46/EC is complied with. However, such rules would not allow a statutory auditor or audit firm to cooperate with third country authorities outside the cooperation channels foreseen in Chapter XI. Those confidentiality rules should also apply to any statutory auditor or audit firm which has ceased to be involved in a specific audit task.*

- (6e) *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.*
- (6f) *The statutory audit results in an opinion on the truth and fairness of the financial statements of the audited entities. Stakeholders, however, might be unaware of the limitations of an audit (materiality, sampling techniques, role of the auditor in the detection of fraud and the responsibility of managers), which can lead to an expectation gap. In order to reduce such gap, it is important to provide more clarity on what the scope of the statutory audit is.*

- (7) It is important to ensure high quality statutory audits within the Union. All statutory audits should therefore be carried out on the basis of the international auditing standards ***adopted by the Commission. As international auditing standards are designed to be usable for entities of all sizes, of all types, in all jurisdictions, the competent authorities in Member States should take into account the scale and complexity of the business of small undertakings when assessing the application scope of international auditing standards. Any such provision or measure by a Member State should not result in the statutory auditor being unable to carry out statutory audits in compliance with the international auditing standards.*** Member States should be allowed to impose additional national audit procedures or requirements only if they stem from specific national legal requirements relating to the scope of the statutory audit of annual or consolidated financial statements, meaning that those requirements have not been covered by the adopted international auditing standards, ***or*** if they add to the credibility and quality of annual financial statements and consolidated financial statements and are conducive to the Union public good. The Commission should continue to be involved in the monitoring of the content and adoption process of the international auditing standards by the IFAC.

- (7a) ***In the case of consolidated financial statements, it is important that there is a clear definition of responsibilities of the statutory auditors who audit different entities of the group. For this purpose, the group auditor should bear full responsibility for the audit report.***
- (8) In order to enhance the credibility and transparency of the quality assurance reviews performed in the Union, Member States' quality assurance systems should be governed by the competent authorities designated by the Member States to ensure the public oversight of statutory auditors and audit firms. Quality assurance reviews aim at preventing or addressing potential deficiencies in the manner in which statutory audits are carried out. In order to ensure that the quality assurance reviews attain their scope, when performing the reviews, the competent authorities should take into account the scale and dimension of the activity of the statutory auditors and audit firms.

- (8a)** *In order to improve compliance with the requirements of this Directive and of Regulation [XXX] and following the Commission Communication of 9 December 2010 entitled 'Reinforcing sanctioning regimes in the financial sector', the power to adopt supervisory measures and the sanctioning powers of competent authorities should be enhanced. Administrative pecuniary sanctions on statutory auditors, audit firms and public-interest entities for identified violations should be foreseen. The competent authorities should be transparent about the sanctions and measures they apply. The adoption and publication of sanctions should respect fundamental rights as laid down in the Charter of Fundamental Rights of the European Union, in particular the right to respect for private and family life (Article 7), the right to the protection of personal data (Article 8) and the right to an effective remedy and to a fair trial (Article 47).*
- (8b)** *Competent authorities should be able to impose administrative pecuniary penalties that are actually deterring, for instance up to an amount of one million or higher in case of natural persons, and up to some percentage of total annual turnover in the preceding business year in the case of legal persons or any other entities. Such goal is better achieved by relating the pecuniary sanction to the financial situation of the breacher. Without prejudice to the possibility of withdrawing the license of the statutory audit or audit firm, other types of sanctions which have a relevant deterring effect should be envisaged. In any case, Member States should apply identical criteria when determining the sanction to be imposed.*

(8c) *Whistleblowers can bring new information to the attention of competent authorities which assists them in detecting and sanctioning irregularities, including fraud. However, whistleblowers may be deterred from doing so for fear of retaliation, or may lack incentives to do so. Member States should therefore ensure that adequate arrangements are in place to encourage whistleblowers to alert them to possible breaches of this Directive and of Regulation [XXX] and to protect them from retaliation. Member States may also provide them with incentives for doing so; however, whistleblowers should only be eligible for such incentives where they bring to light new information which they are not already legally obliged to notify and where this information results in a sanction for a breach of this Directive and of Regulation. Member States should also ensure that whistleblowing schemes they implement include mechanisms that provide appropriate protection of a reported person, particularly with regard the right to the protection of his personal data and procedures to ensure the right of the reported person of defence and to be heard before the adoption of a decision concerning him as well as the right to seek effective remedy before a tribunal against a decision concerning him. The mechanisms established should also provide appropriate protection of the whistleblowers, not only with regard to the right to the protection of personal data, but also by ensuring that they are not victims of undue retaliation.*

- (9) The public oversight of statutory auditors and audit firms encompasses the approval, registration of statutory auditors and audit firms, the adoption of standards on professional ethics and internal quality control of audit firms, the continuing education, as well as the systems of quality assurance, investigation, and penalties for statutory auditors and audit firms. In order to enhance the transparency of the auditor supervision and to allow for more accountability, each Member State should designate a single authority in charge of the public oversight of statutory auditors and audit firms. The independence of such public oversight authorities from the audit profession is a core prerequisite for integrity, efficiency and orderly functioning of the public oversight of statutory auditors and audit firms. Therefore, the public oversight authorities should be governed by non-practitioners and Member States should establish independent and transparent procedures for the selection of non-practitioners.
- (9a) *Member States should have the possibility to create exemptions to the requirements imposed on auditing services when they are provided to cooperatives and savings banks.*

- (9b) The competent authority should have the possibility to delegate tasks to other authorities or bodies authorised or designated by law. Such delegation should be subject to several conditions and the competent authority should bear the ultimate responsibility for it.***
- (10) In order to ensure that the public oversight authorities fulfil their tasks in an effective manner, they should have sufficient powers to do so. ■ In addition, the public oversight authorities should have enough human and financial resources to perform their tasks.
- (11) Adequate supervision of statutory auditors and audit firms that have cross-border activities or are part of networks requires the public oversight authorities of the Member States to exchange information. In order to protect the confidentiality of the information that may be thus exchanged, Member States should subject to the obligation of professional secrecy not only the employees of the public oversight authorities, but also all persons to whom the public oversight authorities have delegated tasks. ■

(11a) Audit committees, or bodies performing an equivalent function within the audited public interest 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/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 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.

- (11b) *Where there are proper grounds, but the audited entity does not act, the audit committee, the shareholders, the competent authorities responsible for the supervision of auditors and audit firms or, when provided by national law, the competent authorities responsible for the supervision of the public-interest entity should be empowered to bring a case before a national court on the dismissal of the auditor.*
- (12) The "Small Business Act" [■] adopted in June 2008 and revised in February 2011 [■] recognises the central role played by small and medium-sized enterprises in the Union's economy and aims at improving the overall approach to entrepreneurship and to anchor the "Think Small First" principle in policy making. The Europe 2020 Strategy [■] adopted in March 2010 also calls for an improvement of the business environment, especially for small and medium-sized enterprises, including through reducing the transaction costs of doing business in the Union. Article [34] of Directive [XXX] of the European Parliament and of the Council of [XXX] on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings does not require small undertakings to have their financial statements audited.

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- (15) In order to preserve the rights of the parties concerned when the competent authorities of Member States cooperate with the competent authorities of third countries on the exchange of audit working papers or other relevant documents for the assessment of the quality of the audit performed, Member States should ensure that the working arrangements entered into by their competent authorities based on which any exchange of such papers takes place comprise enough safeguards to protect the business secrecy, commercial interests, including the industrial and intellectual property rights of the audited entities. ***Member States shall ensure that those arrangements comply and are compatible with the provisions of Directive 95/46/EC.***
- (16) The threshold of EUR 50 000 in Article 45(1) of Directive 2006/43/EC was aligned on Article 3(2)(c) and (d) of Directive 2003/71/EC of the European Parliament and of the Council of 4 November 2003 on the prospectus to be published when securities are offered to the public or admitted to trading and amending Directive 2001/34/EC¹. The thresholds set out in Directive 2003/71/EC have been increased to EUR 100 000 by Article 1(3) of Directive 2010/73/EU of the European Parliament and of the Council². For that reason, corresponding adjustments should be made to the threshold set out in Article 45(1) of Directive 2006/43/EC.

- (17) In order to give full effect to the new framework provided for in the Treaty on the Functioning of the European Union, it is necessary to adapt and replace the implementing powers designed under Article 202 of the Treaty establishing the European Community with the appropriate provisions in accordance with Articles 290 and 291 of the Treaty on the Functioning of the European Union.
- (18) The alignment of the procedures for the adoption of delegated and implementing acts by the Commission to the Treaty on the Functioning of the European Union and, in particular, to Articles 290 and 291 thereof, should be effected on a case-by-case basis. The power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in order to take into account the developments in auditing and the audit profession and to facilitate the supervision of statutory auditors and audit firms. █ In the field of auditor supervision the use of delegated acts is necessary to develop the procedures for █ the modalities of cooperation between the competent authorities of Member States and those of third countries. 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 transmission of relevant documents to the European Parliament and to the Council.

- (19) In order to ensure uniform conditions for the implementation of the declarations on the equivalence of third country auditor oversight regimes or the adequacy of third country competent authorities, in so far as they concern individual third countries or individual competent authorities of third countries, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers¹
- (20) Since the objective of this Directive, namely reinforcing investor ***confidence in the truth and fairness of*** the financial statements published by undertakings by further enhancing the quality of statutory audits that are performed within the Union cannot be sufficiently achieved by Member States and can therefore, by reason of its scale and effects, be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve that objective ■

¹ OJ L 55, 28.2.2011, p. 13.

(21) Directive 2006/43/EC should therefore be amended accordingly **█** .

(21a) In accordance with the Joint Political Declaration of Member States and the Commission on explanatory documents of 28 September 2011, Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of such documents to be justified.

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Directive 2006/43/EC is hereby amended as follows:

1. Article 1 is amended as follows:

(a) The following paragraphs are added:

Article 29 of this Directive shall not apply to the statutory audit of annual and consolidated *financial statements* of public-interest entities unless specified in Regulation (EU) No [xxx].

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2. Article 2 is amended as follows:

(a) Point 1 is replaced by the following:

'1. 'statutory audit' means an audit of annual accounts or consolidated accounts insofar as:

(a) required by Union law;

(b) required by national law as regards small undertakings;

(c) voluntarily conducted by small undertakings, *which meet national legal requirements that are equivalent to those for an audit under point (b), where national legislation defines such audits as statutory audits;*

(aa) Point 4 is replaced by the following:

- 4. 'third-country audit entity' means an entity, regardless of its legal form, which carries out audits of the annual or consolidated financial statements of a company incorporated in a third country, other than an entity which is registered as an audit firm in any Member State as a consequence of approval in accordance with Article 3;*

(ab) Point 5 is replaced by the following:

- 5. 'third-country auditor' means a natural person who carries out audits of the annual or consolidated financial statements of a company incorporated in a third country, other than a person who is registered as a statutory auditor in any Member State as a consequence of approval in accordance with Article 3 and 44;*

(b) Point 10 is replaced by the following:

'10. 'competent authorities' means the authorities designated by law that are in charge of the regulation and/or oversight of statutory auditors and audit firms or of specific aspects thereof; the reference to 'competent authority' in a specific Article means a reference to the authority responsible for the functions referred to in that Article;' ■

(c) point 11 is deleted;

(d) Point 13 is replaced by the following:

'13. '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;

- (b) credit institutions as defined in point 1 of Article 4 of Directive 2006/48/EC of the European Parliament and of the Council *of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions other than those referred to in Article 2 of that Directive*(*);
- (c) insurance undertakings within the meaning of Article 2(1) of *Council Directive 91/674/EEC of 19 December 1991 on the annual accounts of insurance undertakings, or;*
- (d) *designated by Member States as public-interest entities, for instance undertakings that are of significant public relevance because of the nature of their business, their size or the number of their employees;*

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(e) The following points 15 and 17 to 20 are added:

15. ‘non-practitioner’ means any natural person who, during his or her involvement in the governance of the public oversight system and during the period of the 3 years immediately preceding that involvement, has not carried out statutory audits, has not held voting rights in an audit firm, has not been a member of the administrative, management or supervisory body of an audit firm and has not been employed by, or otherwise associated with, an audit firm;

■ **17. ‘medium-sized undertakings’ means the undertakings referred to in Article 1(1) and Article 3(3) of Directive 2013/34/EU;**

18. ‘small undertakings’ means the undertakings referred to in Article 1(1) and Article 3(2) of Directive 2013/34/EU;

19. 'home Member State' means a Member State in which a statutory auditor or audit firm is approved in accordance with Article 3(1);

20. 'host Member State' means a Member State in which a statutory auditor approved by his or her Member State seeks to be also approved in accordance with Article 14, or a Member State in which ■ an audit firm approved by its home Member State seeks *to be registered or is registered* in accordance with Article 3b.' ■

3. Article 3 is amended as follows:

(a) paragraph 2 is amended as follows:

(i) the first *sub*paragraph is replaced by the following:

2. Each Member State shall designate the competent authority ■ as authority responsible for approving statutory auditors and audit firms. ■

(ii) the second *sub*paragraph is deleted;

(b) paragraph 4 is amended as follows:

(i) in the first subparagraph, point (b) is *amended as follows*:

(b) *a majority of the voting rights in an entity must be held by audit firms which are approved in any Member State or by natural persons who satisfy at least the conditions imposed by Articles 4 and 6 to 12. Member States may provide that such natural persons must also have been approved in another Member State. For the purpose of the statutory audit of cooperatives, savings banks and similar entities as referred to in Article 45 of Directive 86/635/EEC, a subsidiary or legal successor of a cooperative, a savings bank or a similar entity as referred to in Article 45 of Directive 86/635/EEC Member States may establish other specific provisions in relation to voting rights;*

4. The following *Article 3b* is inserted:

Article 3b

Recognition of audit firms

1. By derogation from Article 3(1), an audit firm which is approved in a Member State shall be entitled to perform statutory audits in another Member State provided that *the key audit partner who carries out the statutory audit on behalf of the audit firm complies with Article 3(4)(a) in the host Member State.*
2. An audit firm that wishes to carry out statutory audits in a Member State other than the one in which it has been approved shall register with the competent authority in the host Member State in accordance with Articles 15 and 17.

3. The competent authority in the host Member State shall register the audit firm **if it is satisfied that the audit firm is registered with the competent authority in the home Member State. Where the host Member State intends to rely on a certificate attesting to the registration of the audit firm in the home Member State, the competent authority in the host Member State may require that the certificate issued by the competent authority in the home Member State should be not more than three months old. The competent authority in the host Member State shall inform the competent authority in the home Member State of the registration of the home Member State audit firm.**

4a. *Article 5, paragraph 3 is amended as follows:*

3. *Where the approval of a statutory auditor or of an audit firm is withdrawn for any reason, the competent authority of the home Member State where the approval is withdrawn shall communicate that fact and the reasons for the withdrawal to the relevant competent authorities of host Member States where the statutory auditor or audit firm is also registered in accordance with Article 3b, Article 16(1), point (c) and Article 17(1), point (i).*

5. In Article 6, the following paragraph is added:
 2. The competent authorities referred to in Article 32 shall cooperate *with a view to* achieving a convergence of the requirements set out in this Article. *When engaging in such cooperation, these competent authorities shall take into account developments in auditing and the audit profession, and in particular, convergence that has already been achieved by the profession.* They shall cooperate with the *Committee of European Auditing Oversight Bodies (CEAOB)* and the competent authorities referred to in Article 35 of Regulation [XXX] of *the European Parliament and of the Council* in so far as such convergence relates to the statutory audit of public-interest entities. ■
6. Article 8 is amended as follows:
 - (a) paragraph 1, point (i) is replaced by the following:
 - '(i) international auditing standards as referred to in Article 26;'

6a. Article 10, paragraph 1 is amended as follows:

- 1. In order to ensure the ability to apply theoretical knowledge in practice, a test of which is included in the examination, a trainee shall complete a minimum of three years' practical training in, inter alia, the auditing of annual financial statements, consolidated financial statements or similar financial statements. At least two thirds of such practical training shall be completed with a statutory auditor or audit firm approved in any Member State.**

6b. Article 13 is amended as follows:

Member States shall ensure that statutory auditors are required to take part in appropriate programmes of continuing education in order to maintain their theoretical knowledge, professional skills and values at a sufficiently high level, and that failure to respect the continuing education requirements is subject to appropriate sanctions as referred to in Article 30.

7. Article 14 is replaced by the following:

■ Article 14

Approval of statutory auditors from another Member State

1. The competent authorities ■ shall establish procedures for the approval of statutory auditors who have been approved in other Member States. Those procedures shall *not go beyond the requirement to pass an aptitude test or to complete an adaptation period referred to in points (h) and (g) of Article 3(1) of Directive 2005/36/EC.*
2. *The host Member State shall decide whether the applicant seeking approval be subject to an adaptation period as defined in point (g) of Article 3(1) of Directive 2005/36/EC or an aptitude test as defined in point (h) of that Article.*

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The adaptation period shall not exceed three years and *the applicant* shall be subject to an assessment.

The aptitude test shall be conducted in one of the languages permitted by the language rules applicable in the *host* Member State concerned. It shall cover only the statutory auditor's adequate knowledge of the laws and regulations of that *host* Member State in so far as it is relevant to statutory audits.

3. The competent authorities █ shall cooperate *through CEAOB with a view to* achieving a convergence of the requirements of the adaptation period and the aptitude test. They shall enhance the transparency and predictability of the requirements. They shall cooperate with █ *CEAOB* and the competent authorities referred to in Article 35 Regulation [XXX] of *the European Parliament and of the Council* in so far as such convergence relates to the statutory audits of public-interest entities. █

8. **█** Article 15, *paragraph 1* is amended as follows:
1. *Each Member State shall ensure that statutory auditors and audit firms are entered in a public register in accordance with Articles 16 and 17. In exceptional circumstances, Member States may derogate from the requirements laid down in this Article and Article 16 regarding disclosure only to the extent necessary to mitigate an imminent and significant threat to the personal security of any person.*
9. In Article 17(1), the following point (j) is added:
- (j) **█** if applicable, whether the audit firm is registered pursuant to *Article 3b*. **█**
10. In Article 21, paragraph 2 is deleted.

Article 21

Professional ethics and scepticism

10a. In Article 21, the following paragraph is added:

2a. Member States shall ensure that when the statutory auditor or audit firm carries out the statutory audit, he, she or it shall maintain professional scepticism throughout the audit, recognizing the possibility that a material misstatement due to facts or behaviour indicating irregularities, including fraud or error, notwithstanding the auditor's or audit firm's past experience of the honesty and integrity of the audited entity's management and of the persons charged with its governance.

The statutory auditor or the audit firm shall maintain professional scepticism in particular when reviewing management estimates relating to fair values, the impairment of assets, provisions, and future cash flow relevant to the consideration of the going concern.

For the purposes of this Article, 'professional scepticism' means an attitude that includes a questioning mind, being alert to conditions which may indicate possible misstatement due to error or fraud and a critical assessment of audit evidence.

11. Article 22 is amended as follows:

(a) paragraph 1 is replaced by the following:

1. Member States shall ensure that when carrying out a statutory audit, *a* statutory auditor or *an* audit firm and any *natural person in a position to directly or indirectly influence the outcome of the statutory audit* is independent of the audited entity and is not involved in the decision-taking of the audited entity.

Independence shall be required at least during both the period covered by the financial statements to be audited and the period during which the statutory audit is carried out.

Member States shall ensure that a statutory auditor or audit firm shall take all reasonable steps to ensure that when carrying out a statutory audit, his, her or its independence is not affected by any existing or potential conflict of interest or business or other direct or indirect 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.

The statutory auditor or audit firm shall not carry out a statutory audit if there is any threat of self-review, self-interest, advocacy, familiarity or intimidation created by financial, personal, business, employment or other relationships between:

- the statutory auditor, the audit firm, its network, and any natural person in a position to influence the outcome of the statutory audit, and*
- the audited entity;*

from which an objective, reasonable and informed third party, taking into account the safeguards applied, would conclude that the statutory auditor's or audit firm's independence is compromised.

(b) █ paragraph 2 *is replaced by the following:*

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2. *Member States shall ensure that a statutory auditor, an audit firm, their key audit partners, their employees as well as any other natural person whose services are placed at the disposal or under the control of such auditor or firm and who is directly involved in statutory audit activities, and persons closely associated with them within the meaning of Article 1(2) of Commission Directive 2004/72/EC shall not hold or have a material and direct beneficial interest in or engage in any transaction in any financial instrument issued, guaranteed, or otherwise supported by any audited entity within their area of statutory audit activities other than interests owned indirectly through diversified collective investment schemes, including managed funds such as pension funds or life insurance.*

(ba) paragraph 4 is replaced by the following:

4. *Member States shall ensure that persons or firms referred to in paragraph 3 shall not participate in or otherwise influence the outcome of a statutory audit of any particular audited entity if they:*
 - (a) own financial instruments of the audited entity, other than interests owned indirectly through diversified collective investment schemes;*
 - (b) own financial instruments of any entity related to an audited entity, the ownership of which may cause or may be generally perceived as causing a conflict of interest, other than interests owned indirectly through diversified collective investment schemes;*
 - (c) have had an employment, or a business or other relationship with that audited entity within the period referred in paragraph 1 that may cause or may be generally perceived as causing a conflict of interest.*

(bb) In Article 22 the following paragraphs are added:

- 5. Persons or firms referred to in paragraph 3 shall not solicit or accept pecuniary and non-pecuniary gifts or favours from the audited entity or any entity related to an audited entity unless an objective, reasonable and informed third party would consider the value as trivial or inconsequential.*

- 5a. If an audited entity, during the period covered by the financial statements, is acquired by, merges with, or acquires another entity, the statutory auditor or audit firm shall identify and evaluate any current or recent interests or relationships, including any non-audit services provided to that entity which, taking into account available safeguards, could compromise its independence and its ability to continue with the statutory audit after the effective date of the merger or acquisition.*

As soon as possible, and in all cases within three months, the statutory auditor or audit firm shall take all such steps as may be necessary to terminate any current interests or relationships that would compromise its independence and shall, where possible, adopt safeguards to minimise any threat to its independence arising from prior and current interests and relationships.

11a. The following Article 22c is inserted:

Article 22c

Employment by audited entities of former statutory auditors or of employees of statutory auditors or audit firms

- 1. Member states shall ensure that a statutory auditor or a key audit partner who carries out a statutory audit on behalf of an audit firm shall not, before a period of at least one year, or in the case of statutory audit of public-interest entities before a period of at least two years, has elapsed since he or she ceased to act as a statutory auditor or key audit partner in connection with the audit engagement:**
 - (a) take up a key management position in the audited entity;**
 - (b) if applicable, become a member of the audit committee of the audited entity or, where such committee does not exist, of the body performing equivalent functions to an audit committee;**

(c) become a non-executive member of the administrative body or a member of the supervisory body of the audited entity.

- 2. Employees and partners other than key audit partners of a statutory auditor or an audit firm carrying out a statutory audit as well as any other natural person whose services are placed at the disposal or under the control of such auditor or firm shall not, when such employees, partners or other natural persons are personally approved as statutory auditors, before a period of at least one year has elapsed since he or she was directly involved in the statutory audit engagement, take up any of the duties referred to in points (a), (b) and (c) of paragraph 1.*

11b. The following Article 22d is inserted:

Article 22d

Preparation for the statutory audit and assessment of threats to independence

1. Member States shall ensure that, before accepting or continuing an engagement for a statutory audit, a statutory auditor or audit firm shall assess and document the following:

- **whether he, she or it complies with the requirements of Article 22 of this Directive;**
- **whether there are threats to his, her or its independence, as well as the safeguards applied to mitigate those threats;**
- **whether he, she or it has the competent employees, time and resources to carry out the audit in an appropriate manner;**
- **whether, in the case of an audit firm, the key audit partner is approved as statutory auditor in the Member State requiring the statutory audit;**

Member States may provide simplified requirements for the audits referred in Article 2 paragraph 1 (b) and (c).

deleted (substantially the same as subpara 4 of para 1 of Article 22)

11c. Article 23(2) is replaced by the following:

- 2. Confidentiality and professional secrecy rules relating to statutory auditors or audit firms shall not impede enforcement of the provisions of this Directive or of Regulation XXX***

11d. Article 23(3) is replaced by the following:

- 3. Where a statutory auditor or audit firm is replaced by another statutory auditor or audit firm, the former statutory auditor or audit firm shall provide the incoming statutory auditor or audit firm with access to all relevant information concerning the audited entity and the most recent audit.***

11e. In Article 23 the following paragraphs are added:

- 5. Where a statutory auditor or an audit firm carries out statutory audit of an undertaking which is part of a group whose parent undertaking is situated in a third country, the confidentiality and professional secrecy rules referred to in paragraph (1) of this Article shall not impede the transfer by the statutory auditor or audit firm of relevant documentation of the audit work performed to the group auditor situated in a third country if such documentation is necessary for the performance of the audit of consolidated financial statements of the parent undertaking.*

A statutory auditor or audit firm that carries out the statutory audit of an undertaking which has issued securities in a third country or which forms part of a group issuing statutory consolidated financial statements in a third country may only transfer the audit working papers or other documents related to the audit of that entity that he, she or it holds to the competent authorities in the relevant third countries under the conditions set out in Article 47 of this Directive.

The transfer of information to the group auditor situated in a third country shall comply with Chapter IV of Directive 95/46/EC and the applicable national rules on personal data protection.

11f. *The following Article 24a is inserted:*

Article 24a

Internal organisation of statutory auditors and audit firms

- 1. Member states shall ensure that a statutory auditor or audit firm shall comply with the following organisational requirements:**
 - (a) an audit firm shall establish appropriate policies and procedures to ensure that its owners or shareholders as well as the members of the administrative, management and supervisory bodies of the firm, or of an affiliate firm, do 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;**
 - (b) a statutory auditor or an audit firm shall have sound administrative and accounting procedures, internal control mechanisms, effective procedures for risk assessment, and effective control and safeguard arrangements for information processing systems.**

Those internal control mechanisms shall be designed to secure compliance with decisions and procedures at all levels of the audit firm or of the working structure of the statutory auditor.

- (c) a statutory auditor or an audit firm shall establish appropriate policies and procedures to ensure that his, her or its employees and any other natural persons whose services are placed at its disposal or under its control and who are directly involved in the statutory audit activities have appropriate knowledge and experience for the duties assigned;*
- (d) a statutory auditor or an audit firm shall establish appropriate policies and procedures to ensure that outsourcing of important audit functions is not undertaken in such a way as to impair the quality of the statutory auditor's or audit firm's internal control and the ability of the competent authorities to supervise the statutory auditor's or audit firm's compliance with the obligations laid down in this Directive and, where applicable, in Regulation XXX;*

- (e) a statutory auditor or an audit firm shall establish appropriate and effective organisational and administrative arrangements to prevent, identify, eliminate or manage and disclose any threats to their independence referred to in 22, 22c and 22d;*
- (f) a statutory auditor or an audit firm shall establish appropriate policies and procedures for carrying out statutory audits, coaching, supervising and reviewing employees activities and organising the structure of the audit file referred to in Article 24(5);*
- (g) a statutory auditor or an audit firm shall establish an internal quality control system to ensure the quality of the statutory audit.*

The quality control system shall at least cover the policies and procedures described in point (f). In the case of an audit firm, the responsibility of the internal quality control system shall be with a person who qualifies as statutory auditor;

- (h) a statutory auditor or an audit firm shall use appropriate systems, resources and procedures to ensure continuity and regularity in the performance of its statutory audit activities;***
- (i) A statutory auditor or an audit firm shall also establish appropriate and effective organisational and administrative arrangements for dealing with and recording incidents which have, or may have, serious consequences for the integrity of his, her or its statutory audit activities;***
- (j) a statutory auditor or an audit firm shall have adequate remuneration, including profit-sharing, policies providing sufficient performance incentives to secure audit quality. In particular, the amount of revenue that the statutory auditor or the audit firm derives from selling non-audit services to the audited entity shall not form part of the performance evaluation and remuneration of any person involved in or able to influence the conduct of the audit.***

(k) a statutory auditor or an audit firm shall monitor and evaluate the adequacy and effectiveness of his, her or its systems, internal control and internal quality control mechanisms and arrangements established in accordance with this Directive and, where applicable, Regulation XXX and take appropriate measures to address any deficiencies. A statutory auditor or an audit firm shall in particular carry out an annual evaluation of the internal quality control system, referred to in point (g). A statutory auditor or an audit firm shall keep records of the findings of that evaluation and any proposed measure to modify the internal quality control system.

The policies and procedures referred to in the first subparagraph shall be documented and communicated to the employees of the statutory auditor or audit firm.

Member States may provide simplified requirements for the audits referred in Article 2 paragraph 1 (b) and (c).

Any outsourcing of audit functions as referred to in point (d) shall not affect the responsibility of the statutory auditor or audit firm towards the audited entity.

2. *The statutory auditor or audit firm shall take into consideration the scale and complexity of his, her or its activities when complying with these requirements as regards the obligations at paragraph 1 of this Article.*

The statutory auditor or audit firm shall be able to demonstrate to the competent authority that such policies and procedures designed to achieve compliance are appropriate given the scale and complexity of activities of the statutory auditor or audit firm.

11g. The following Article 24b is inserted:

Article 24 b

Organisation of the work

- 1. Member States shall ensure that when the statutory audit is carried out by an audit firm, that audit firm shall designate at least one key audit partner. The audit firm shall provide the key audit partner(s) with sufficient resources and with personnel that have the necessary competence and capabilities to carry out his, her or its duties appropriately.**

Securing audit quality, independence and competence shall be the main criteria for the audit firm to select the key audit partner(s) to be designated.

The key audit partner(s) shall be actively involved in the carrying out of the statutory audit.

2. *When carrying out the statutory audit, the statutory auditor shall devote sufficient time to the engagement and shall assign sufficient resources to carry out his or her duties appropriately.*
3. *Member States shall ensure that the statutory auditor or the audit firm keep records of any breaches of the provisions of this Directive and, where applicable, Regulation XXX. Member States may exempt statutory auditors and audit firms from this obligation with regard to minor breaches. It shall also keep records of any consequence thereof, including the measures taken to address those breaches and to modify its internal quality control system. The statutory auditor or the audit firm shall prepare an annual report with an overview of any such measures taken and communicate this internally. When the statutory auditor or the audit firm ask external experts for advice, he, she or it shall document the request made and advice received.*

4. *A statutory auditor or an audit firm shall maintain a client account record. Such record shall include the following data for each audit client:*
 - (a) *the name, the address and the place of business;*
 - (b) *in the case of an audit firm, the key audit partner(s);*
 - (c) *the fees charged for the statutory audit and the fees charged for other services in any financial year.*
5. *A statutory auditor or an audit firm shall create an audit file for each statutory audit.*

The statutory auditor or audit firm shall at least document the data recorded pursuant to Articles 22d(1), and, where applicable, Articles 11, 17 and 19 of Regulation XXX.

The statutory auditor or audit firm shall retain any other data and documents that are of importance in support of the report referred to in Articles 28 of this Directive and, where applicable, Articles 22 and 23 of Regulation XXX and for monitoring compliance with this Directive and other applicable legal requirements.

The audit file shall be closed no later than sixty days after the date of signature of the audit report referred to in Article 28 of this Directive and, where applicable, Article 22 of Regulation XXX.

- 6. The statutory auditor or the audit firm shall keep records of any complaints made in writing about the performance of the statutory audits carried out.*
- 7. Member States may provide simplified requirements with regard to paragraphs 3 and 6 for the audits referred in Article 2 paragraph 1 (b) and (c).*

11h. The following Article 25a is inserted:

Article 25a

Scope of the statutory audit

Without prejudice to the reporting requirements as referred to in Article 28 of this Directive and where applicable, Articles 22 and 23 of Regulation XXX, the scope of statutory audit shall not include the assurance on the future viability of the audited entity nor the efficiency or effectiveness with which the management or administrative body has conducted or will conduct the affairs of the entity.

12. Article 26 is replaced by the following:

■ Article 26

Auditing standards

1. Member States shall ***require*** statutory auditors and audit firms ***to carry out statutory audits in compliance*** with international auditing standards ***adopted by the Commission in accordance with paragraph 2a.***

Member States may ***apply national auditing standards***, procedures or requirements ***as long as the Commission has not adopted an international auditing Standard covering the same subject-matter.***

■

2. For the purposes of paragraph 1, 'international auditing standards' means International Standards on Auditing (ISAs), ***International Standard on Quality Control 1 and other*** related ■ Standards ■ issued by the International Federation of Accountants (IFAC) ***through the International Auditing and Assurance Standards Board (IAASB)***, insofar as they are relevant to the statutory audit.

2a. The Commission shall be empowered to adopt ***by means of delegated acts in accordance with Article 48a the international auditing standards referred to in paragraph 1 in the area of audit practice, independence of and internal controls of statutory auditors and audit firms for the purposes of their application within the Union.***

The international auditing standards may only be adopted if they:

(a) have been developed with proper due process, public oversight and transparency, and are generally accepted internationally;

- (b) contribute a high level of credibility and quality to the annual or consolidated financial statements in conformity with the principles set out in Article 4(3) of Directive 2013/34/EC of the European Parliament and of the Council;*
 - (c) are conducive to the Union public good and*
 - (d) do not amend any of the requirements of this Directive or supplement any of its requirements apart from those set out in Chapter IV and Articles 27 and 28.]*
- 2b. Notwithstanding the second subparagraph of paragraph 1, Member States may impose audit procedures or requirements in addition to the international auditing standards adopted by the Commission, only*
- (a) if those audit procedures or requirements are necessary to give effect to national legal requirements relating to the scope of statutory audits*

(b) to the extent necessary to add to the credibility and quality of financial statements.

Member States communicate them to the Commission at least three months before their entry into force or, in the case of requirements already existing at the time of adoption of an international auditing standard, at the latest within three months of the adoption of the relevant international auditing standard.

- 3. Where a Member State requires the statutory audit of small undertakings, it may provide that application of the auditing standards referred to in paragraph 1 is proportionate to the scale and complexity of the activities of those undertakings. Member States may take measures in order to ensure the proportionate application of the auditing standards to the statutory audits of small undertakings.*

12a. Article 27 is replaced by the following:

Article 27

Statutory audits of consolidated financial statements

- 1. Member States shall ensure that in the case of a statutory audit of the consolidated financial statements of a group of undertakings:**
 - (a) the group auditor bears the full responsibility for the audit report referred to in Article 28 of this Directive and, where applicable, Article 22 of Regulation XXX and where applicable, for the additional report to the audit committee as referred to in Article 23 of Regulation XXX, in relation to the consolidated financial statements;**
 - (ab) the group auditor evaluates the audit work performed by third-country auditor(s) or statutory auditor(s) and third-country audit entity(ies) or audit firm(s) for the purpose of the group audit and documents the nature, timing and extent of the work performed by those auditors, including where applicable, the auditor's review of relevant parts of those auditors' audit documentation;**

(b) the group auditor reviews the audit work performed by third-country auditor(s) or statutory auditor(s) and third-country audit entity(ies) or audit firm(s) for the purpose of the group audit and documents it.

The documentation retained by the group auditor shall be such as enables the relevant competent authority to review the work of the group auditor.

For the purpose of point (b) of the first subparagraph of this paragraph, the group auditor shall request the agreement of the third-country auditor(s), statutory auditor(s), third-country audit entity(ies) or audit firm(s) to the transfer of relevant documentation during the conduct of the audit of consolidated financial statements, as a condition of the reliance by the group auditor on the work of that third-country auditor(s), statutory auditor(s), third country audit entity(ies) or audit firm(s).

2. *Where the group auditor is unable to comply with point (b) of the first subparagraph of paragraph 1, he, she or it shall take appropriate measures and inform the relevant competent authority.*

Such measures shall, as appropriate, include carrying out additional statutory audit work, either directly or by outsourcing such tasks, in the relevant subsidiary.

3. *Where the group auditor is subject to a quality assurance review or an investigation concerning the statutory audit of the consolidated financial statements of a group of undertakings, the group auditor shall, when requested, make available to the competent authority the relevant documentation he, she or it retains concerning the audit work performed by third country auditor(s), statutory auditor(s), third-country audit entity(ies) or audit firm(s) for the purpose of the group audit, including any working papers relevant to the group audit.*

The competent authority may request additional documentation on the audit work performed by statutory auditor(s) or audit firm(s) for the purpose of the group audit from the relevant competent authorities pursuant to Article 36.

When a component of a group of undertakings is audited by auditor(s) or audit entity(ies) from a third country, the competent authority may request additional documentation on the audit work performed by third-country auditor(s) or third country audit entity(ies) from the relevant competent authorities from third countries through the working arrangements referred to in Article 47.

By way of derogation from the third subparagraph, when a component of a group of undertakings is audited by auditor(s) or audit entity(ies) from a third country that has no working arrangement as referred to in Article 47, the group auditor shall, when requested, also be responsible for ensuring proper delivery of the additional documentation of the audit work performed by third-country auditor(s) or audit entity(ies), including the working papers relevant to the group audit. To ensure such delivery, the group auditor shall retain a copy of such documentation, or alternatively agree with the third-country auditor(s) or audit entity(ies) his, her or its permitted and unrestricted access upon request, or take any other appropriate action.

Where audit working papers for legal or other reasons cannot be passed from a third country to the group auditor, the documentation retained by the group auditor shall include evidence that he or she has undertaken the appropriate procedures in order to gain access to the audit documentation, and in the case of impediments other than legal ones arising from the legislation of the third country, evidence supporting such an impediment.

13. **█ Article 28 is replaced by the following:**

Article 28

Audit reporting

- 1. The statutory auditor(s) or the audit firm(s) shall present the results of the statutory audit in an audit report. The report shall be prepared in accordance with the requirements of auditing standards adopted by the Union or Member State, as referred to in Article 26.***
- 1a. The audit report shall be in writing and shall:***
 - (a) identify the entity whose annual or consolidated financial statements are the subject of the statutory audit; specify the annual or consolidated financial statements and the date and period they cover; and identify the financial reporting framework that has been applied in their preparation;***

- (b) describe the scope of the statutory audit which shall, at a minimum, identify the auditing standards in accordance with which the statutory audit was conducted;**
- (c) include an audit opinion, which shall be either unqualified, qualified or an adverse opinion and shall state clearly the opinion of the statutory auditor(s) or the audit firm(s) as to:**

 - (i) whether the annual financial statements give a true and fair view in accordance with the relevant financial reporting framework, and,**
 - (ii) where appropriate, whether the annual financial statements comply with statutory requirements,**

If the statutory auditor(s) or audit firm(s) are unable to express an audit opinion, the report shall contain a disclaimer of opinion;

- (d) refer to any other matters to which the statutory auditor(s) or audit firm(s) draws attention by way of emphasis without qualifying the audit opinion;*
 - (e) include an opinion and statement, both of which shall be based on the work undertaken in the course of the audit, referred to in the second subparagraph of Article 34(1) of Directive 2013/34/EU;*
 - (f) provide a statement on any material uncertainty related to events or conditions that may cast significant doubt about the entity's ability to continue as a going concern;*
 - (g) identify where the statutory auditor(s) or audit firm(s) is established.*
- Member States may set additional requirements in relation to the content of the audit report.*

- 1b. When the statutory audit was carried out by more than one auditor or audit firm the statutory auditor(s) or audit firm(s) 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 in a separate paragraph of the audit report and state the reason for the disagreement.*
- 2. The audit report shall be signed and dated by the statutory auditor. Where an audit firm carries out the statutory audit, the audit report shall bear the signature of at least the statutory auditor(s) carrying out the statutory audit on behalf of the audit firm. Where more than one statutory auditor or audit firm have been simultaneously engaged the audit report shall be signed by all statutory auditors or at least statutory auditors carrying out the statutory audit on behalf of every audit firm. In exceptional circumstances Member States may provide that such signature(s) need not be disclosed to the public if such disclosure could lead to an imminent and significant threat to the personal security of any person.*

In any case the name(s) of the person(s) involved shall be known to the relevant competent authorities.

- 3. The report of the statutory auditor or audit firm on the consolidated financial statements shall comply with the requirements set out in of paragraphs 1 and 2. In reporting on the consistency of the management report and the financial statements as required by paragraph 1(e), the statutory auditor or audit firm shall consider the consolidated financial statements and the consolidated management report. Where the annual financial statements of the parent undertaking are attached to the consolidated financial statements, the reports of the statutory auditors or audit firms required by this Article may be combined.*

14. Article 29 is amended as follows:

(a) paragraph 1 is amended as follows:

(i) point (a) is replaced by the following:

■ (a) the quality assurance system shall be ■ organized in such a manner that it is independent of *the reviewed* statutory auditors and audit firms *and is subject to public oversight*;

(ia) *point (e) is replaced by the following:*

(e) the selection of reviewers for specific quality assurance review assignments shall be effected in accordance with an objective procedure designed to ensure that there are no conflicts of interest between the reviewers and the statutory auditor or audit firm under review;

(ib) point (h) is replaced by the following:

(h) quality assurance reviews shall take place on the basis of an analysis of the risk and in the case of statutory auditors and audit firms carrying out statutory audits as defined in point (a) of Article 2(1) at least every six years;

(ii) the following point (k) is added:

‘(k) quality assurance reviews shall be appropriate and proportionate in view of the scale and dimension of the activity of the reviewed audit firm or statutory auditor.’;

█

(b) the following paragraph 1a is inserted :

1a. For the purpose of paragraph 1 point (e) at least the following criteria shall apply to the appointment of reviewers:

- (a) reviewers shall have appropriate professional education and relevant experience in statutory audit and financial reporting combined with specific training on quality assurance reviews;***
- (b) a person shall not be allowed to act as a reviewer in a quality assurance review of a statutory auditor or audit firm until at least three years have elapsed since that person ceased to be a partner or an employee or otherwise associated with that statutory auditor or audit firm;***
- (c) reviewers shall declare that there are no conflicts of interest between them and the statutory auditor and audit firm to be reviewed.***

(c) the following paragraph 1b is inserted :

1b. For the purpose of paragraph 1 point (k) Member States shall require competent authorities, when undertaking quality assurance reviews of the statutory audits of annual or consolidated financial statements of medium-sized and small undertakings, to take account of the fact that the auditing standards adopted in accordance with Article 26 are designed to be applied in a manner that is proportionate to the scale and complexity of the business audited entity.

14b. Article 30(2) is replaced by the following:

2. Without prejudice to Member States' civil liability regimes, Member States shall provide for effective, proportionate and dissuasive penalties in respect of statutory auditors and audit firms, where statutory audits are not carried out in conformity with the provisions adopted in the implementation of this Directive, and, where applicable, Regulation XXX.

Member States may decide not to lay down rules for administrative sanctions on infringements which are already subject to national criminal law. In this case they shall communicate to the Commission the relevant criminal law provisions.

14ba. Article 30(3) is replaced by the following:

- 3. Member States shall provide that measures taken and penalties imposed on statutory auditors and audit firms are appropriately disclosed to the public. Penalties shall include the possibility of the withdrawal of approval. Member States may decide that such disclosure shall not contain personal data within the meaning of Article 2(a) of Directive 95/46/EC.*

14bb. In Article 30 the following paragraph is added:

- 4. By [24 months after the entry into force of these provisions] the Member States shall notify the rules referred to in paragraph 2 to the Commission. They shall notify the Commission without delay of any subsequent amendment thereto.*

14bc. The following articles are added:

Article 30B [ex Article 62 Regulation 2011/0359 (COD)]

Sanctioning powers

- 1. Member States shall provide for competent authorities to have the power to take and or impose at least the following administrative measures and sanctions for breaches of the provisions of this Directive and, where applicable, Regulation XXX:*

- (a) a notice requiring the natural or legal person responsible for the breach to cease the conduct and to desist from a repetition of that conduct;***
- (b) a public statement which indicates the person responsible and the nature of the breach, published on the website of competent authorities;***
- (c) a temporary prohibition of up to three years for the statutory auditor, the audit firm or the key audit partner to carry out statutory audits and/or signing audit reports.***
- (d) a declaration that the audit report does not meet the requirements of Article 28 of Directive or, where applicable, Article 22 of Regulation XXX;***
- (e) a temporary ban of up to three years against a member of an audit firm or a public interest entity administrative or management body to exercise functions in audit firms or public-interest entities;***
- (g) administrative pecuniary sanctions for natural and legal persons.***

- 1a. Member States shall ensure that the competent authorities may exercise their sanctioning powers in accordance with this Directive and national law and in any of the following ways:
 - (a) directly;*
 - (b) in collaboration with other authorities;*
 - (c) by application to the competent judicial authorities.**
- 2. Member States may give to competent authorities other sanctioning powers in addition to those referred to in paragraph 1.*
- 4. By derogation from paragraph 1, Member States may give to authorities supervising public interest entities, when they are not designated as the competent authority according to art. 35 (2) of the Regulation XXX, powers to impose sanctions for breaches of reporting duties provided by the Regulation XXX.*

Effective application of sanctions

1. *When establishing rules under Article 30, Member States shall require that when determining the type and level of administrative sanctions and measures, competent authorities shall take into account all relevant circumstances, including where appropriate:*
 - (a) *the gravity and the duration of the breach;*
 - (b) *the degree of responsibility of the responsible person;*
 - (c) *the financial strength of the responsible person, for example as indicated by the total turnover of the responsible undertaking or the annual income of the responsible natural person;*

- (d) the amounts of the profits gained or losses avoided by the responsible person, insofar as they can be determined;*
- (e) the level of cooperation of the responsible person with the competent authority;*
- (f) previous breaches by the responsible legal or natural person.*

Additional factors may be taken into account by competent authorities, if such factors are specified in national law.

Article 30D [ex Article 64 Regulation 2011/0359 (COD)]

Publication of sanctions and measures

- 1. Competent authorities shall publish on their official website at least any administrative sanction imposed for breach of the provisions of this Directive or of Regulation XXX in respect of which all rights of appeal have been exhausted or have expired as soon as reasonably practicable immediately after the person sanctioned is informed of that decision, including information on the type and nature of the breach and the identity of a natural or legal person on whom the sanction is imposed.*

Where Member States permit publication of sanctions which are subject to appeal, Competent Authorities shall, as soon as reasonably practicable, also publish on their official website information on the appeal status and outcome thereof.

2. *Competent Authorities shall publish the sanctions on an anonymous basis, in a manner which is in conformity with national law, in any of the following circumstances:*
- a) *where, in case the sanction is imposed on a natural person, publication of personal data is shown to be disproportionate by an obligatory prior assessment of the proportionality of such publication;*
 - b) *where publication would jeopardise the stability of financial markets or an on-going criminal investigation;*
 - c) *where publication would cause disproportionate damage to the institutions or individuals involved.*

3. *Competent Authorities shall ensure that any publication in accordance with paragraph 1 shall be of proportionate duration and shall remain on their official website for a minimum period of five years after all rights of appeal have been exhausted or have expired.*

The publication of sanctions and measures and any public statement shall respect fundamental rights as laid down in the EU Charter of Fundamental Rights, in particular the right to respect for private and family life and the right to the protection of personal data. Member States may decide that such publication or any public statement shall not contain personal data within the meaning of Article 2(a) of Directive 95/46/EC.

Article 30E [ex Article 65 Regulation 2011/0359 (COD)]

Appeal

Member States shall ensure that decisions taken by the competent authority in accordance with this Directive and Regulation XXX are subject to the right of appeal.

Article 30F [ex Article 66 Regulation 2011/0359 (COD)]

Reporting of breaches

- 1. Member States shall ensure that effective mechanisms are established to encourage reporting of breaches of this Directive or of Regulation XXX to the competent authorities.*
- 2. The mechanisms referred to in paragraph 1 shall include at least:*
 - (a) specific procedures for the receipt of reports of breaches and their follow-up;*

- (c) protection of personal data concerning both the person who reports the suspected or actual breaches and the person who is suspected of committing, or who allegedly has committed a breach, in compliance with the principles laid down in Directive 95/46/EC;*
 - (d) appropriate procedures to ensure the right of the accused person to a defence and to be heard before the adoption of a decision concerning him and the right to seek effective remedy before a tribunal against any decision or measure concerning him.*
- 3. Member States shall ensure that audit firms establish appropriate procedures for their employees to report potential or actual breaches of this Directive or of Regulation XXX internally through a specific channel.*

Article 30G [ex Article 67 Regulation 2011/0359 (COD)]

Exchange of information

- 1. Competent Authorities shall provide the CEAOB annually with aggregated information regarding all administrative measures, sanctions and fines imposed in accordance with this chapter. CEAOB shall publish this information in an annual report.*
- 2. Competent Authorities shall immediately communicate to CEAOB all temporary prohibitions referred to in Article 30B.*

14c. Article 31 is deleted.

15. Article 32 is amended as follows:

(a) paragraph 1 is replaced by the following:

█ 1. Member States shall *organise an effective system of* public oversight *for* statutory auditors and audit firms based on the principles set out in paragraphs 2 to 7 *and shall designate a competent authority responsible for such oversight.*

(b) paragraph 3 is replaced by the following:

█ 3. The competent authority *shall be governed by* non-practitioners who are knowledgeable in the areas relevant to statutory audit. *They shall be* selected in accordance with an independent and transparent nomination procedure. █

The competent authority may engage practitioners to carry out specific tasks and may also be assisted by experts when this is essential for the proper fulfilment of its tasks. In such instances, both the practitioner and the experts shall not be involved in any decision-making

(c) █ paragraph 4 is replaced by the following:

‘The competent authority shall have the ultimate responsibility for the oversight of:’

(a) the approval and registration of statutory auditors and audit firms;

(b) the adoption of standards on professional ethics, internal quality control of audit firms and auditing, except where those standards are adopted or approved by other Member State authorities;

(c) continuing education,

(d) quality assurance system;

(e) investigative and administrative disciplinary systems.

4a. *Member States shall designate one or more competent authorities for the purposes of the tasks provided for in this Directive. Member States shall designate only one competent authority bearing the ultimate responsibility for the tasks referred in this Article except for the purpose of the statutory audit of cooperatives, savings banks or similar entities as referred to in Article 45 of Directive 86/635/EEC, or a subsidiary or legal successor of a cooperative, a savings bank or a similar entity as referred to in Article 45 of Directive 86/635/EEC. Member States shall inform the Commission of their designation. The competent authorities shall be organised in such a manner that conflicts of interests are avoided.*

4b. Member States may delegate or allow the competent authority to delegate any of its tasks to other authorities or bodies designated or otherwise authorised by law to carry out such tasks.

The delegation shall specify the delegated tasks and the conditions under which they are to be carried out. The authorities or bodies shall be organized in such a manner that there are no conflicts of interest.

Where the competent authority delegates tasks to other authorities or bodies, it shall be able to reclaim these competences on a case-by-case basis.

(d) *paragraph 5 is replaced by the following:*

- 5. The competent authority shall have the right, where necessary, to initiate and conduct investigations in relation to statutory auditors and audit firms and the right to take appropriate action. ■

Where a competent authority contracts experts for carrying out specific assignments, the authority shall ensure that there are no conflicts of interest between these experts and the statutory auditor or audit firm in question. These experts shall comply with the same requirements as those provided for at Article 29(1A).

The competent authority shall be given the powers necessary to carry out its tasks and responsibilities under this Directive.

(e) paragraph 6 is replaced by the following:

‘6. The competent authority shall be transparent. This shall include the publication of annual work programmes and activity reports’.

(e) *paragraph 7 is replaced by the following:*

7. The system of public oversight shall be adequately funded and shall have adequate resources to initiate and conduct investigations, referred to in paragraph 5. The funding for the public oversight system shall be secure and free from any undue influence by statutory auditors or audit firms.

15a. In Article 34 the following subparagraph is added in Paragraph 1

Without prejudice to the first sub-paragraph, audit firms approved in one Member State that perform audit services in another Member State pursuant to Article 3b of this Directive shall be subject to quality assurance review in the home Member State and oversight of any audit carried out in the host Member State.

15ab. Article 34(2) is replaced by the following:

- 2. *In the case of a statutory audit of consolidated financial statements, the Member State requiring the statutory audit of the consolidated financial statements may not impose additional requirements in relation to the statutory audit concerning registration, quality assurance review, auditing standards, professional ethics and independence on a statutory auditor or audit firm carrying out a statutory audit of a subsidiary established in another Member State.***

15ac. Article 34(3) is replaced by the following:

- 3. In the case of a company whose securities are traded on a regulated market in a Member State other than that in which that company has its registered office, the Member State in which the securities are traded may not impose any additional requirements in relation to the statutory audit concerning registration, quality assurance review, auditing standards, professional ethics and independence on a statutory auditor or audit firm carrying out the statutory audit of the annual or consolidated financial statements of that company*

15ad. Article 34 the following paragraph is added:

- 4. Where a statutory auditor or audit firm is registered in any Member State as a consequence of approval in accordance with Article 3 or 44 and that statutory auditor or audit firm provides audit reports concerning annual financial statements or consolidated financial statements referred to in paragraph 1 of Article 45, the Member State in which the auditor or audit firm is registered shall subject that statutory auditor or audit firm to its systems of oversight, its quality assurance systems and its systems of investigation and penalties.*

15b. Article 35 is deleted



17. Article 36 is amended as follows:

(-a) paragraph 1 is replaced by the following:

- 1. The competent authorities of Member States responsible for approval, registration, quality assurance, inspection and discipline, the competent authorities designated in accordance with Article 35 of Regulation XXX and the relevant European Supervisor Authorities shall cooperate with each other whenever necessary for the purpose of carrying out their respective responsibilities and tasks under this Directive and the Regulation XXX. The competent authorities in a Member State shall render assistance to competent authorities in other Member States and the relevant European Supervisor Authorities. In particular, competent authorities shall exchange information and cooperate in investigations related to the carrying-out of statutory audits.**

(a) paragraph 3 is replaced by the following:

‘3. Paragraph 2 shall not prevent competent authorities from exchanging confidential information. Information thus exchanged shall be covered by the obligation of professional secrecy, to which persons employed or formerly employed by competent authorities are subject. The obligation of professional secrecy shall also apply to any other person to whom the competent authorities have delegated tasks in relation to the purposes set out in this Directive.’;

(b) In paragraph 4, point (b) is amended, as follows:

(b) 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; or

(c) In paragraph 4, point (c) is amended, as follows:

(c) final judgment has already been passed in respect of the same actions and on the same persons by the competent authorities of the requested Member State.

Without prejudice to the obligations to which they are subject in judicial proceedings, competent authorities or European Supervisory Authorities which receive information pursuant to paragraph 1 may use it only for the exercise of their functions within the scope of this Directive or the Regulation XXX and in the context of administrative or judicial proceedings specifically related to the exercise of those functions.

(d) a new paragraph 4a is added as follow:

4a. Member States may allow competent authorities to transmit to the competent authorities responsible for supervising public-interest entities, central banks, the European System of Central Banks and the European Central Bank, in their capacity as monetary authorities, and the European Systemic Risk Board confidential information intended for the performance of their tasks. Such authorities or bodies shall not be prevented from communicating to the competent authorities information that the competent authorities may need in order to carry out their duties under the Regulation XXX.

(e) In paragraph 6, point (a) is replaced by the following:

- (a) such an investigation might adversely affect the sovereignty, security or public order of the requested Member State or breach national security rules; or***

18. In Article 37, the following paragraph 3 is added:

- 3.** Any contractual clause restricting the choice by the general meeting of shareholders or members of *the audited* entity pursuant to paragraph 1 to certain categories or lists of statutory auditors or audit firms regarding the appointment of a particular statutory auditor or audit firm to carry out the statutory audit of that entity ***shall be prohibited. Any such existing clauses*** shall be null and void.

18a. In Article 38, the following paragraph 3 is added:

- 3.** ***In case of statutory audit of a public-interest entity, shareholders, which represent 5% or more of the voting rights or the share capital, the other bodies of the audited entities when defined by national legislation, or the competent authorities referred to in Article 32 of this Directive or designated in accordance with Article 35(1) or, when provided by national law, to Article 35(2), of Regulation XXX shall be able to bring a claim before a national court for the dismissal of the statutory auditor(s) or audit firm(s) where there are proper grounds.***

19. Chapter X is deleted.

19a. The article 38a is inserted as follow:

Article 38a

Audit Committee

- 1. Member States shall ensure that each public-interest entity shall have an audit committee. The audit committee shall be either a stand-alone committee or a committee of the administrative body or supervisory body of the audited entity. The audit committee shall be composed of non-executive members of the administrative body and/or members of the supervisory body of the audited entity and/or members appointed by the general meeting of shareholders of the audited entity or, for entities without shareholders, by an equivalent body.*

At least one member of the audit committee shall have competence 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.

A majority of the members of the audit committee shall be independent of the audited entity. The chairman of the audit committee shall be appointed by its members or by the supervisory body of the audited entity and shall be independent of the audited entity. Member States may require the chairman of the audit committee to be elected annually by the general meeting of shareholders of the audited entity.

2. *By derogation from paragraph 1, Member States may decide that in the case of public-interest entities which meet the criteria set out in points (f) and (t) of Article 2(1) of Directive 2003/71/EC of the European Parliament and of the Council, the functions assigned to the audit committee may be performed by the administrative or supervisory body as a whole, provided that where the chairman of such a body is an executive member, he or she shall not act as chairman whilst such body is performing the functions of the audit committee.*

Where an audit committee forms part of the administrative body or the supervisory body of the audited entity in accordance with paragraph 1 Member States may permit or require that the administrative body or the supervisory body as appropriate performs the functions of the audit committee for the purpose of the obligations set out in this directive and in Regulation XXX.

3. *By derogation from paragraph 1, Member States may decide that the following public-interest entities are not required to have an audit committee:*
 - (a) *any public-interest entity which is a subsidiary undertaking within the meaning of Article 2 of Directive 2013/34/EU if the entity complies with the requirements in paragraphs 1, 2 and 6 of this Article, subparagraph 2 of Article 24 and paragraph 5 of Article 32 and of the Regulation XXX at group level;*

- (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;*
- (c) any public-interest entity the sole business of which is to act as issuer of asset backed securities as defined in Article 2(5) of Commission Regulation (EC) No 809/2004;*
- (d) any credit institution within the meaning of Article 1(1) of Directive 2006/48/EC whose shares are not 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 and which has, in a continuous or repeated manner, issued only debt securities admitted to trading in a regulated market, provided that the total nominal amount of all such debt securities remains below EUR 100 000 000 and that it has not published a prospectus under Directive 2003/71/EC.*

The public-interest entities referred to in point (c) shall explain to the public the reasons why it considers that it is not appropriate to have either an audit committee or an administrative or supervisory body entrusted to carry out the functions of an audit committee.

4. *By derogation from paragraph 1, Member States may decide or allow a public-interest entity not to have an audit committee provided that it has a body or bodies performing equivalent functions to an audit committee, established and functioning according to provisions in place in the Member State in which the entity to be audited is registered. In such a case the entity shall disclose which body carries out those functions and how that body is composed.*
- 4a. *Where all members of the audit committee are members of the supervisory body of the audited entity, the Member State may provide that the audit committee is exempted from the independence requirements of paragraph 1, subparagraph 4.*

5. Without prejudice to the responsibility of the members of the administrative, management or supervisory bodies, or of other members who are appointed by the general meeting of shareholders of the audited entity, the audit committee shall, inter alia:

- (aa) inform the administrative or supervisory body of the audited entity of the outcome of the statutory audit and explain how the statutory audit contributed to the integrity of financial reporting and what its role was in this process;***
- (a) monitor the financial reporting process and submit recommendations or proposals to ensure its integrity;***
- (b) monitor the effectiveness of the undertaking's internal control and risk management systems and, where applicable, internal audit, affecting the financial reporting of the audited entity, without breaching its independence;***

- (c) *monitor the statutory audit of the annual and consolidated financial statements, in particular, its performance, taking into account any findings and conclusions by the competent authority pursuant to Article 40(6) of Regulation (EU) No XX/XX;*
- (d) *review and monitor the independence of the statutory auditors or audit firms in accordance with Articles 22, 22c, 22d, 24a and 24b, and Article 11 of Regulation XXX, and in particular the appropriateness of the provision of additional services to the audited entity in accordance with Article 10 of Regulation XXX;*
- (e) *be responsible for the procedure for 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 Article 32 of Regulation XXX except when provision of Article 32(10) of Regulation XXX is applied.*

21. Article 45 is amended as follows:

(a) paragraph 1 is replaced by the following:

■ The competent authorities of a Member State shall, in accordance with Article 15, 16 and 17, register every third-country auditor and audit entity, *where* that *third country auditor or audit entity* provides an audit report concerning the annual or consolidated *financial statements* of an undertaking *[incorporated]* outside the Union whose transferable securities are admitted to trading on a regulated market of that Member State within the meaning of point 14 of Article 4(1) of Directive 2004/39/EC, except when the undertaking is an issuer exclusively of outstanding debt securities for which one of the following applies:

(a) they are admitted to trading on a regulated market in a Member State within the meaning of Article 2(1)(b) of Directive 2004/109/EC of the European Parliament and of the Council prior to 31 December 2010 the denomination per unit of which is at least EUR 50 000 or, in case of debt securities denominated in another currency, equivalent, at the date of issue, to at least *EUR* 50 000;

- (b) they are admitted to trading on a regulated market in a Member State within the meaning of Article 2(1)(b) of Directive 2004/109/EC from 31 December 2010 the denomination per unit of which is at least EUR 100 000 or, in case of debt securities denominated in another currency, equivalent, at the date of issue, to at least EUR 100 000.

- (b) paragraph 5 is amended as follows:

point (a) is deleted

point (d) is replaced by the following:

(d) the audits of the annual or consolidated financial statements referred to in paragraph 1 are carried out in accordance with international auditing standards as referred to in Article 26, as well as the requirements laid down in Articles 22, 22d and 25, or with equivalent standards and requirements;

(i) point (e) is replaced by the following:

■ (e) it publishes on its website an annual transparency report which includes the information referred to in Article 27 of Regulation [XXX] of [XXX] or it complies with equivalent disclosure requirements. ■

(ii) the following *paragraph 5a* is added:

5a. A Member State may register a third-country auditor, only if he or she meets the requirements set out in points 5(c), (d) and (e) of *this Article*.

(d) paragraph 6 is replaced by the following:

‘6. In order to ensure the uniform conditions of application of paragraph 5(d) of this Article, the Commission shall be empowered to decide upon the equivalence referred to therein by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 48(2). Member States may assess the equivalence referred to in paragraph 5(d) of this Article as long as the Commission has not taken any such decision.

The Commission shall be empowered to adopt delegated acts in accordance with Article 48a for the purpose of establishing the general equivalence criteria to be used when assessing whether the audits of the financial statements referred to in paragraph 1 of this Article are carried out in accordance with international auditing standards as referred to in Article 26 and the requirements laid down in Articles 22, 24 and 25. Such criteria which are applicable to all third countries shall be used by Member States when assessing equivalence at national level.’

22. In Article 46, paragraph 2 is replaced by the following:

‘2. In order to ensure uniform conditions of application of paragraph 1 of this Article, the Commission shall be empowered to decide upon the equivalence referred to therein by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 48(2). Once the Commission has recognized the equivalence referred to in paragraph 1 of this Article, Member States may decide to rely on such equivalence partially or entirely and thus to disapply or modify the requirements in Article 45(1) and (3) partially or entirely. Member States may assess the equivalence referred to in paragraph 1 of this Article or rely on the assessments carried out by other Member States as long as the Commission has not taken such a decision. If the Commission decides that the requirement of equivalence referred to in paragraph 1 of this Article is not complied with, it may allow the auditors and audit entities concerned to continue their audit activities in accordance with the requirements of the relevant Member State during an appropriate transitional period.

The Commission shall be empowered to adopt delegated acts in accordance with Article 48a for the purpose of establishing the general equivalence criteria, based on the requirements laid down in Articles 29, 30 and 32, which shall be used when assessing whether the public oversight, quality assurance, investigation and penalties systems of a third country are equivalent to those of the Union. Such general criteria shall be used by Member States when assessing equivalence at national level in the absence of a Commission decision in respect of the third country concerned.’.

23. Article 47 is amended as follows:

(a) *The introductory words of Paragraph 1 are replaced by the following:*

1. *Member States may allow the transfer to the competent authorities of a third country of audit working papers or other documents held by statutory auditors or audit firms approved by them, and inspection or investigations reports related to the audits in question provided that:*

Point (a) of paragraph 1 is replaced by the following:

(a) those audit working papers or other documents relate to audits of companies which have issued securities in that third country or which form part of a group issuing statutory consolidated financial statements in that third country;

(b) in paragraph 2, the following point (ba) is inserted:

‘(ba) the protection of the commercial interests of the audited entity, including its industrial and intellectual property is not undermined;’;

- **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,**
- **final judgment has already been passed in respect of the same actions and on the same statutory auditors or audit firms by the competent authorities of the requested Member State.**

(c) paragraph 3 is replaced by the following:

‘3. In order to facilitate cooperation, the Commission shall be empowered to decide upon the adequacy referred to in paragraph 1(c) of this Article by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 48(2). Member States shall take the measures necessary to comply with the Commission's Decision.

The Commission shall be empowered to adopt delegated acts in accordance with Article 48a for the purpose of establishing the general adequacy criteria in accordance with which the Commission shall assess whether the competent authorities of third countries may be recognized as adequate to cooperate with the competent authorities of Member States on the exchange of audit working papers or other documents held by statutory auditors and audit firms. The general adequacy criteria shall be based on the requirements of Article 36 or essentially equivalent functional results to a direct exchange of audit working papers or other documents held by statutory auditors or audit firms.’;

(d) paragraph 5 is *deleted*

24. In Article 48, paragraph 1 and 2 are replaced by the following:

- ‘1. The Commission shall be assisted by a committee (hereinafter referred to as the Committee). That Committee shall be a Committee within the meaning of Regulation (EU) No 182/2011 of the European Parliament and of the Council.
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

25. The following Article 48a is inserted:

'Article 48a

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Articles █ 26(2a), 45(6), 46(2) █ and 47(3) shall be conferred on the Commission for *a* period of **5 years** from [date of entry into force of this Directive]. ***The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the 5 year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.***

3. The delegation of power referred to in Articles █ 26(2a), █ 45(6), 46(2) █ and 47(3) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
5. A delegated act adopted pursuant to Articles █ 26(2a) █ , 45(6), 46(2) *and* 47(3) █ shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of [*four* months] of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by [two months] at the initiative of the European Parliament or of the Council. █

26. *Article 49 is deleted*

Article 2

Transposition

1. ***Before [2 years after the entry into force of this Directive amending Directive 2006/43/EC]*** Member States shall ***adopt and publish the*** provisions necessary to comply with this Directive █ . They shall forthwith ***inform*** the Commission ***thereof***.
- 1a.*** When Member States adopt those provisions █ they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. ***The methods of making*** such reference ***shall be laid down by Member States***.
2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive █

Article 3

Entry into force

This Directive shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

Article 4

Addressees

This Directive is addressed to the Member States.

Done at Brussels,

For the European Parliament

The President

For the Council

The President