

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 (Text with EEA relevance)

## CHAPTER IV

### PROFESSIONAL ETHICS, INDEPENDENCE, OBJECTIVITY, CONFIDENTIALITY AND PROFESSIONAL SECRECY

#### *Article 21*

#### **[<sup>F1</sup>Professional ethics and scepticism]**

1 Member States shall ensure that all statutory auditors and audit firms are subject to principles of professional ethics, covering at least their public-interest function, their integrity and objectivity and their professional competence and due care.

[<sup>F12</sup> Member States shall ensure that, when the statutory auditor or the audit firm carries out the statutory audit, he, she or it maintains professional scepticism throughout the audit, recognising the possibility of a material misstatement due to facts or behaviour indicating irregularities, including fraud or error, notwithstanding the statutory auditor's or the 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 entity's ability to continue as a 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.]

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#### **Textual Amendments**

- F1** Substituted by [Directive 2014/56/EU of the European Parliament and of the Council of 16 April 2014 amending Directive 2006/43/EC on statutory audits of annual accounts and consolidated accounts \(Text with EEA relevance\).](#)

#### *Article 22*

#### **Independence and objectivity**

[<sup>F11</sup> 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.

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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 an audit firm takes 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 the 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 the audit firm, or any person directly or indirectly linked to the statutory auditor or the audit firm by control.

The statutory auditor or the 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,

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

[<sup>F12</sup> Member States shall ensure that a statutory auditor, an audit firm, their key audit partners, their employees, and any other natural person whose services are placed at the disposal or under the control of such statutory auditor or audit 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<sup>(1)</sup>, do 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.]

3 Member States shall ensure that a statutory auditor or audit firm documents in the audit working papers all significant threats to his, her or its independence as well as the safeguards applied to mitigate those threats.

[<sup>F14</sup> Member States shall ensure that persons or firms referred to in paragraph 2 do 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.]

[<sup>F25</sup> Persons or firms referred to in paragraph 2 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 thereof as trivial or inconsequential.]

6 If, during the period covered by the financial statements, an audited entity is acquired by, merges with, or acquires another entity, the statutory auditor or the 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 the auditor's independence and ability to continue with the statutory audit after the effective date of the merger or acquisition.

As soon as possible, and in any event within three months, the statutory auditor or the 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.]

#### Textual Amendments

- F1** Substituted by [Directive 2014/56/EU of the European Parliament and of the Council of 16 April 2014 amending Directive 2006/43/EC on statutory audits of annual accounts and consolidated accounts \(Text with EEA relevance\)](#).
- F2** Inserted by [Directive 2014/56/EU of the European Parliament and of the Council of 16 April 2014 amending Directive 2006/43/EC on statutory audits of annual accounts and consolidated accounts \(Text with EEA relevance\)](#).

### *F<sup>2</sup> Article 22a*

#### **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 does not, before a period of at least one year, or in the case of statutory audit of public-interest entities 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 where 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 Member States shall ensure that employees and partners other than key audit partners of a statutory auditor or of 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 statutory auditor or audit firm, do not, when such employees, partners or other natural persons are personally approved as statutory auditors, take up any of the duties referred to in points (a), (b) and (c) of paragraph 1 before a period of at least one year has elapsed since he or she was directly involved in the statutory audit engagement.]

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#### Textual Amendments

- F2** Inserted by [Directive 2014/56/EU of the European Parliament and of the Council of 16 April 2014 amending Directive 2006/43/EC on statutory audits of annual accounts and consolidated accounts \(Text with EEA relevance\)](#).

### *[<sup>F2</sup>Article 22b*

#### **Preparation for the statutory audit and assessment of threats to independence**

Member States shall ensure that, before accepting or continuing an engagement for a statutory audit, a statutory auditor or an audit firm assesses and documents 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 and the safeguards applied to mitigate those threats;
- whether he, she or it has the competent employees, time and resources needed in order to carry out the statutory 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 points (b) and (c) of point 1 of Article 2.]

#### Textual Amendments

- F2** Inserted by [Directive 2014/56/EU of the European Parliament and of the Council of 16 April 2014 amending Directive 2006/43/EC on statutory audits of annual accounts and consolidated accounts \(Text with EEA relevance\)](#).

### *Article 23*

#### **Confidentiality and professional secrecy**

1 Member States shall ensure that all information and documents to which a statutory auditor or audit firm has access when carrying out a statutory audit are protected by adequate rules on confidentiality and professional secrecy.

[<sup>F12</sup> 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 (EU) No 537/2014.]

[<sup>F13</sup> Where a statutory auditor or an 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 of that entity.]

4 A statutory auditor or audit firm who has ceased to be engaged in a particular audit assignment and a former statutory auditor or audit firm shall remain subject to the provisions of paragraphs 1 and 2 with respect to that audit assignment.

[<sup>F25</sup> Where a statutory auditor or an audit firm carries out a 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 the audit firm of relevant documentation concerning 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 an 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 relating 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.

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.]

#### **Textual Amendments**

- F1** Substituted by [Directive 2014/56/EU of the European Parliament and of the Council of 16 April 2014 amending Directive 2006/43/EC on statutory audits of annual accounts and consolidated accounts \(Text with EEA relevance\)](#).
- F2** Inserted by [Directive 2014/56/EU of the European Parliament and of the Council of 16 April 2014 amending Directive 2006/43/EC on statutory audits of annual accounts and consolidated accounts \(Text with EEA relevance\)](#).

### *Article 24*

#### **Independence and objectivity of the statutory auditors carrying out the statutory audit on behalf of audit firms**

Member States shall ensure that the owners or shareholders of an audit firm as well as the members of the administrative, management and supervisory bodies of such a firm, or of an affiliated firm, do not intervene in the execution 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.

### *[<sup>F2</sup>Article 24a*

#### **Internal organisation of statutory auditors and audit firms**

1 Member States shall ensure that a statutory auditor or an audit firm complies 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;

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- b a statutory auditor or an audit firm shall have sound administrative and accounting procedures, internal quality control mechanisms, effective procedures for risk assessment, and effective control and safeguard arrangements for information processing systems.

Those internal quality 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 his, her or its disposal or under his, her or 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 the audit firm's internal quality control and the ability of the competent authorities to supervise the statutory auditor's or the audit firm's compliance with the obligations laid down in this Directive and, where applicable, in Regulation (EU) No 537/2014;
- 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 as referred to in 22, 22a and 22b;
- 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 as referred to in Article 24b(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, responsibility for the internal quality control system shall lie with a person who is qualified as a statutory auditor;

- h a statutory auditor or an audit firm shall use appropriate systems, resources and procedures to ensure continuity and regularity in the carrying out of his, her or 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 in place adequate remuneration policies, 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 providing 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 carrying out 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 quality control mechanisms and arrangements established in accordance with this Directive and, where applicable, Regulation (EU) No 537/2014 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 the audit firm.

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

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

2 The statutory auditor or the audit firm shall take into consideration the scale and complexity of his, her or its activities when complying with the requirements set out in paragraph 1 of this Article.

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

#### Textual Amendments

- F2** Inserted by [Directive 2014/56/EU of the European Parliament and of the Council of 16 April 2014 amending Directive 2006/43/EC on statutory audits of annual accounts and consolidated accounts \(Text with EEA relevance\)](#).

### *F2* Article 24b

#### Organisation of the work

1 Member States shall ensure that, when the statutory audit is carried out by an audit firm, that audit firm designates 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 when the audit firm selects 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 enable him or her to carry out his or her duties appropriately.

3 Member States shall ensure that the statutory auditor or the audit firm keeps records of any breaches of the provisions of this Directive and, where applicable, of Regulation (EU) No 537/2014. Member States may exempt statutory auditors and audit firms from this obligation with regard to minor breaches. Statutory auditors and audit firms shall also keep records of any consequence of any breach, including the measures taken to address such breach and to modify their internal quality control system. They shall prepare an annual report containing an overview of any such measures taken and shall communicate that report internally.

When a statutory auditor or an audit firm asks external experts for advice, he, she or it shall document the request made and the advice received.

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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 name(s) of 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 the audit firm shall document at least the data recorded pursuant to Article 22b(1) of this Directive, and, where applicable, Articles 6 to 8 of Regulation (EU) No 537/2014.

The statutory auditor or the 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 10 and 11 of Regulation (EU) No 537/2014 and for monitoring compliance with this Directive and other applicable legal requirements.

The audit file shall be closed no later than 60 days after the date of signature of the audit report referred to in Article 28 of this Directive and, where applicable, Article 10 of Regulation (EU) No 537/2014.

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 lay down simplified requirements with regard to paragraphs 3 and 6 for the audits referred to in points (b) and (c) of point 1 of Article 2.]

#### **Textual Amendments**

- F2** Inserted by [Directive 2014/56/EU of the European Parliament and of the Council of 16 April 2014 amending Directive 2006/43/EC on statutory audits of annual accounts and consolidated accounts \(Text with EEA relevance\).](#)

### *Article 25*

#### **Audit fees**

Member States shall ensure that adequate rules are in place which provide that fees for statutory audits:

- (a) are not influenced or determined by the provision of additional services to the audited entity;
- (b) cannot be based on any form of contingency.

### *[<sup>F2</sup>Article 25a*

#### **Scope of the statutory audit**

Without prejudice to the reporting requirements referred to in Article 28 of this Directive and, where applicable, Articles 10 and 11 of Regulation (EU) No 537/2014, the scope of the statutory audit shall not include assurance on the future viability of the audited entity



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or on the efficiency or effectiveness with which the management or administrative body has conducted or will conduct the affairs of the entity.]

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**Textual Amendments**

- F2** Inserted by [Directive 2014/56/EU of the European Parliament and of the Council of 16 April 2014 amending Directive 2006/43/EC on statutory audits of annual accounts and consolidated accounts \(Text with EEA relevance\)](#).

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- (1) [<sup>F1</sup>Commission Directive 2004/72/EC of 29 April 2004 implementing Directive 2003/6/EC of the European Parliament and of the Council as regards accepted market practices, the definition of inside information in relation to derivatives on commodities, the drawing up of lists of insiders, the notification of managers' transactions and the notification of suspicious transactions (OJ L 162, 30.4.2004, p. 70).]

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**Textual Amendments**

- F1** Substituted by Directive 2014/56/EU of the European Parliament and of the Council of 16 April 2014 amending Directive 2006/43/EC on statutory audits of annual accounts and consolidated accounts (Text with EEA relevance).