**Consultation Paper**

**by the Department of Jobs, Enterprise and Innovation on Member State Options under the**

**Audit Regulation (EU) No 537/2014 and the**

**Audit Directive 2014/56/EU**

**Subject of the Public Consultation**

The Department of Jobs, Enterprise and Innovation is seeking the views of interested parties on -

1. the **use of Member State options** under **Regulation (EU) No 537/2014** of the European Parliament and of the Council of 16 April 2014 on ***specific requirements regarding statutory audit of public-interest entities*** and repealing Commission Decision 2005/909/EC,
2. the **use of Member State options** under **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***,
3. ***cost/benefits*** of the options or any other provision of the Regulation/Directive,
4. difficulties of ***legal interpretation***
5. ***practical operability issues***, and
6. ***any other aspect*** of the Regulation/Directive that you may wish to raise.

**Background to the Regulation/Directive**

In the wake of the international financial crisis the European Commission brought forward proposals for an Audit Regulation and a Directive in December 2011 with the general aim of

* strengthening the independence of auditors
* introducing greater diversity into the audit market
* creating a Single Market for statutory audit services allowing auditors to exercise their profession freely and easily across Europe, once approved in one Member State
* introducing a strengthened and more coordinated approach to the supervision of auditors in the EU.

The Audit Regulation is directed at Public-Interest Entities (PIEs), entities which are of significant public interest because of their business, their size, their number of employees or their corporate status is such that they have a wide range of stakeholders. The category of PIE encompasses systemically important entities such as credit institutions and insurance undertakings many of which featured in the financial crisis. Listed companies are also classifiable as PIEs.

The Audit Directive is aimed at improving audit quality and includes measures to strengthen the independence of statutory auditors, make the audit report more informative, and strenghten audit supervision throughout the EU. It contains amendments to augment the provisions of the Statutory Audit Directive (2006/43/EC) which was transposed into Irish law by S.I. No. 220 of 2010.

**Approach to the Consultation**

The Department of Jobs, Enterprise and Innovation is specifically canvassing the views of interested parties with regard to Member State options contained in these two measures. It is **not consulting** on the balance of the Regulation/Directive, per se, which have direct effect/mandatory applicability and Member States have no discretion in this regard. It is however, inviting comments/questions etc. on all aspects of the Directive/Regulation.

The consultation is based on the sequence of the Articles which contain options as they appear in the Regulation/Directive, with the focus on the options set out under each Article.

Paraphrasing the content of the Articles contained in the consultation document is intended as abbreviated descriptors and not legal interpretations of the Articles.

The text of each option is set out with explanatory text from the Regulation/Directive included (as appropriate, in brackets) to assist with the understanding of the Article being discussed. The options, not the full Articles, in the interests of brevity, are inserted in the box headed “MS Option” (Member State Option). However, respondents are advised to refer to the full text of each of the Articles in question in order to be enabled to fully evaluate and comment on the option.

Summaries of the MS options are included in the box headed “Questions”, again these are not legal interpretations of the options.

**Questions**

Questions are posed as to whether the respondent is in favour of taking an option or not, how the respondent considers it might be exercised and an explanation is sought on the reasoning for the response provided. In this context, the intrinsic pros and cons need to be factored in to the consideration of the options. It must also be borne in mind that many of the options arise because there was no overall agreement on these issues in the EU negotiations. Consideration should be given, where applicable, to the advisability of taking of the option in total vis-a-vis that of taking elements of it. In addition, in considering certain options, it may be relevant to factor in implications which may arise for EU-wide coherence of approach in the area in question.

It should be borne in mind that responses need not be limited to questions raised under the various options. Any additional observations on the options are welcome and will be fully considered.

**Consultation Documents**

This consultation paper is accompanied by four documents –

(i) MS Options under the Regulation,

(ii) Regulation Response Template,

(iii) MS Options under the Directive and

(iv) Directive Response Template.

The document “MS Options under the Regulation” sets out the options and related questions in two separate panels. The documents “MS Options under the Directive” correlates the Articles of the current Directive (2014/56/EU) with the precursor Audit Directive (2006/43/EC) and, where appropriate, includes the transposing regulation from S.I. No. 220 of 2010. Also, the relevant text of Directive 2006/43/EC appears in the left-hand panel, the unmodified/amended/new option text contained in the new Directive 2014/56/EU is in the center panel, while the right-most panel raises Questions /solicits comments on the options contained in the Directive.

**Responses**

Separate Response Templates are provided for the Regulation and Directive. Please include your response in the blank box underneath the relevant Article title and across from the relevant option in the documents, relating both to the Regulation and the Directive, to set out/explain your choice of option and your views on each of the options. Completing the Response Templates will assist with achieving a consistent approach in responses returned and facilitate collation of responses.

As noted earlier, the present consultation is focused on Member State options. The Department of Jobs, Enterprise and Innovation also invites comments and questions from respondents on any aspect of the Regulation/Directive and are encouraged to do so as early as possible to facilitate the Department’s work of transposition of the measures.

In particular, the Department would welcome comments in relation to issues, apart from the options, such as –

(i) the cost/benefits of the provisions of the Regulation/Directive specifically regarding the options selected or any other provisons

(ii) the operability from a practical point of view of any of the provisions in the Regulation/Directive, and

(iii) any issues as regards legal interpretation.

Please **distinguish** clearly in your response that your views relate to the options **or** cost/benefits **or** operability of provisions **or** legal interpretation.

A separate box is included at the end of the Response Templates for any other general comments you may wish to make on any other aspect of the Regulation/Directive – again it would be appreciated if these issues are clearly labelled.

There are some Articles in respect of which the EU Commission has been requested to provide legal clarification. EU Workshops held over the coming time will help the process of clarification. The EU Commission is making available some of its clarifications on its website <http://ec.europa.eu/internal_market/auditing/reform/index_en.htm> and it is advisable to access this website for any updates during the course of the consultation period. A copy of the Regulation and Directive is also available on this website.

When responding, please indicate whether you are responding as an individual or representing the views of an organisation.

The deadline for submissions is **Friday, 21 November 2014**.

Submissions, to include comments on or questions about the Regulation/Directive, should preferably be sent by **e-mail** and hard copies can be sent by post to Marie Dempsey

E-mail: Marie.Dempsey@djei.ie

Post: Company Law

Department of Jobs, Enterprise and Innovation

Earlsfort Centre

Lower Hatch Street

Dublin 2

Telephone: 01-6312719

**Publication of Responses to Consultation Paper**

It is proposed to make the responses to the consultation paper available on the Department of Jobs, Enterprise and Innovation’s website. Any material contained in submissions made in response to the consultation that respondents do not wish to be made public in this way should be clearly identified as confidential in the submission. The Department will consult with respondents regarding such information before making a decision to disclose it either on its website or following a request under the Freedom of Information Act 1997 (as amended).

October, 2014