**Consultation by the Department of Jobs, Enterprise and Innovation on**

**Member State Options under the Audit Regulation (EU) No 537/2014**

**Article 2 – Scope**

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| **MS Option - Article 2.3** | **Questions** |
| Where a cooperative within the meaning of point (14) of Article 2 of Directive 2006/43/EC, a savings bank or a similar entity as referred to in Article 45 of Directive 86/635/EEC, or a subsidiary or a legal successor of a cooperative, a savings bank or a similar entity as referred to in Article 45 of Directive 86/635/EEC is required or permitted under national provisions to be a member of a non-profit-making auditing entity, the Member State **may decide** that this Regulation or certain provisions of it shall not apply to the statutory audit of such entity, provided that the principles of independence laid down in Directive 2006/43/EC are complied with by the statutory auditor when carrying out the statutory audit of one of its members and by persons who may be in a position to influence the statutory audit. | This Member State (MS) option appears to be intended for specific Member States and does not appear to be applicable in Ireland. |

**Article 4 - Audit Fees**

This provision is designed to enhance auditor independence from the audited entity. Article 4 places restrictions on the level of non-audit services (other than those set out at Article 5(1)) provided by auditors/audit firms to audit clients to no more than 70% of the average of the audit fees charged in the preceding three years.

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| **MS Option - Article 4.2** | **Questions** |
| When the statutory auditor or the audit firm provides to the audited entity, its parent undertaking or its controlled undertakings, for a period of three or more consecutive financial years, non-audit services other than those referred to in Article 5(1) of this Regulation, the total fees for such services shall be limited to no more than 70 % of the average of the fees paid in the last three consecutive financial years for the statutory audit(s) of the audited entity and, where applicable, of its parent undertaking, of its controlled undertakings and of the consolidated financial statements of that group of undertakings.  For the purposes of the limits specified in the first subparagraph, non-audit services, other than those referred to in Article 5(1), required by Union or national legislation shall be excluded.  MS **may provide** that a competent authority may, upon a request by the statutory auditor or the audit firm, on an exceptional basis, allow that statutory auditor or audit firm, on an exceptional basis to be **exempt** from the requirements in the first subparagraph (of Article 4.2) (that *the total fees for non-audit services other than those referred to in Article 5(1) shall for the last three consecutive financial years shall be* **limited to no more than 70%** *of the average of the audit fees paid in the last three consecutive years)* in respect of an audited entity for a period not exceeding two financial years. | (a) While requiring Member States to impose a cap of 70% on non-audit services income based on the average of the total audit fees for the previous three consecutive years, MS are allowed to impose a cap of a lesser order of magnitude than 70%.  Respondents are invited to give views on whether they consider 70% to be an appropriate level of cap and if so, why, or whether they consider a lower level more appropriate and if so, what that level might be and why?  (b) The MS exemption available from the stipulated threshold is for a maximum two year period and should be provided on an “exceptional basis”.  Do you consider that Ireland should avail of this option? If so, please set out the extenuating circumstances which you consider that the granting of the option would serve to address and any other arguments for providing for access to the option.  If you consider that the option should not be taken, please specify the reasons for this. |

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| **MS Option - Article 4.4** | **Questions** |
| 4.3  When the total fees received from a public-interest entity in each of the last three consecutive financial years are more than 15 % of the total fees received by the statutory auditor or the audit firm or, where applicable, by the group auditor carrying out the statutory audit, in each of those financial years, such a statutory auditor or audit firm or, as the case may be, group auditor, shall disclose that fact to the audit committee and discuss with the audit committee the threats to their independence and the safeguards applied to mitigate those threats. The audit committee shall consider whether the audit engagement should be subject to an engagement quality control review by another statutory auditor or audit firm prior to the issuance of the audit report.  Where the fees received from such a public-interest entity continue to exceed 15 % of the total fees received by such a statutory auditor or audit firm or, as the case may be, by a group auditor carrying out the statutory audit, the audit committee shall decide on the basis of objective grounds whether the statutory auditor or the audit firm or the group auditor, of such an entity or group of entities may continue to carry out the statutory audit for an additional period which shall not, in any case, exceed two years.  4.4  Member States **may apply** more stringent requirements than set out in this Article. | Article 4.4 provides that MS may apply more stringent requirements than those set out in Article 4. Option (a) above invites views on the establishment of a lower threshold than 70% in respect of paragraph 2.  At paragraph 2, sub-paragraph 2, it is provided that “For the purposes of the limits specified in the first subparagraph, non-audit services, other than those referred to in Article 5(1), required by Union or national legislation shall be excluded. Member States may provide that a competent authority may, upon a request by the statutory auditor or the audit firm, on an exceptional basis, allow that statutory auditor or audit firm to be exempt from the requirements in the first subparagraph in respect of an audited entity for a period not exceeding two financial years.”.  Scope exists there for MS to limit the exemption period in question to less than two years, for example, to a one year period.  Do respondents consider that a two year exemption should be provided for or a period less than that in this instance?  Please substantiate responses on this issue. |

**Article 5 – Prohibition of the provision of non-audit services**

This is another auditor independence-related measure. Article 5 prohibits an auditor/audit firm or any other member of the network to which either of these is a member from providing specified non-audit services to Public Interest Entity audit clients. Subject to specified criteria, there is a limited MS option to allow certain non-audit services to be provided. However, MS may avail of the option to ban non-audit services other than those listed at paragraph 1. The provision of certain of the prohibited non-audit services in the year prior to the first year the auditor/audit firm is in office is not allowed.

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| **MS Option – Article 5.2** | **Questions** |
| Member States **may prohibit** services other than those listed in paragraph 1 (of Article 5) (..*provision of certain tax services, services that involve playing any part in the management or decision-making of the audited entity, bookkeeping and preparing accounting records and financial statements, payroll services, designing and implementing internal control or risk management procedures, valuation services, selected legal services; internal audit services, selected services linked to financing, capital structure and allocation and investment strategy, promoting, dealing in or underwriting shares, selected human resources services..), where they consider that those services represent a threat to independence*.    Member States shall communicate to the Commission any additions to the list in paragraph 1*.* | Do you consider that this MS Option should be taken?  Taking the option does not necessarily equate to applying it and it also has to be borne in mind the criterion applicable to the invocation of the option - “***where they consider that those services represent a threat to independence”.*** The availability of this option would serve to “future proof” these independence provisions by providing, for example, that non-audit services not currently on offer which might be developed at a time in the future and which had the potential to inhibit auditor independence could be covered by this provision.  In your opinion are there non-audit services currently being supplied other than those listed at Article 5.1 which should be prohibited? If so, please specify the non-audit services in question.  If you consider that there is no basis for Ireland to invoke this option, please give your reasons why.  Any other observations? |

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| **MS Option – Article 5.3** | **Questions** |
| By way of derogation from the second subparagraph of paragraph 1 (..*list of prohibited non-audit services, as referred to in Article 5.2..),* Member States **may allow** the provision of the services referred to in Article 5.1 points (a) (i), (a) (iv) to (a) (vii) and (f*) (..preparation of tax forms, identification of public subsidies and tax incentives etc., support regarding tax inspections by tax authorities, calculation of direct and indirect tax and deferred tax, provision of tax advice, and valuation services..)*, provided that the following requirements are complied with:   1. They have no direct or have immaterial effect, separately or in the aggregate on the audited financial statements; 2. The estimation of the effect on the audited financial statements is comprehensively documented and explained in the additional report to the audit committee referred to in Article 11; and 3. The principles of independence laid down in Directive 2006/43/EC are complied with by the statutory auditor or the audit firm. | Do you consider that the **option** should be availed of to allow the non-audit services in question to be provided on the basis proposed?  If so, it is your view that **all** of the non-audit services in question should be permitted to be provided, please give your reasons for this.  If you consider that some of the non-audit services on the list should be permitted, but not others, please substantiate your view in respect of each non-audit service in both categories.  Any other observations? |

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| **MS Option – Article 5.4** | **Questions** |
| Member States **may establish stricter rules** setting out the conditions under which a statutory auditor, an audit firm or a member of a network to which the statutory auditor or audit firm belongs may provide to the audited entity, to its parent undertaking or to its controlled undertakings non-audit services other than the prohibited non-audit services referred to in paragraph 1*.* | Do you consider that the option should be taken of requiring stricter rules setting out conditions under which the auditor, audit firm or a member of a network to which either of these is a member may provide non-audit services other than those set out in paragraph 1 and/or arising from invocation of the option at paragraph 2 to the audited entity, to its parent undertaking or to its controlled undertakings?  If so, is this based on having additional rule-making powers available to provide for contingencies that, may arise, or do you consider that additional rules are required under existing circumstances?  If the latter, what additional rules do you consider are required?  If you consider that the option here should be taken and that stricter rules are required, or envisaged to be required in the future, please give your reasons.  If respondents consider the option to impose stricter rules should not be taken please specify why not. |

**Article 10 – Audit Report**

The audit report requirements under this Article are additional to those required under the provisions of Article 28 Of Directive 2006/43/EC and must at least contain the information set out at paragraph 2 of this Article. There is provision at the last sub-paragraph of paragraph 2 for Member States to impose additional requirements.

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| **MS Option – Article 10.2** | **Questions** |
| Member States **may lay down** additional requirements in relation to the content of the audit report. | Do you consider that this MS Option should be taken?  If so, is this based on having the flexibility to prescribe additional content requirements to the audit report to take account of possible future developments, or do you consider that additional requirements are needed under existing circumstances?  If the former, what future developments might warrant this?  If the latter, what additional requirements would you envisage as being necessary to provide for existing circumstances and why?  If you do not consider that the option should be taken, please give your reasons.  Any other observations? |

**Article 11 - Additional report to the audit committee**

This Article provides that auditors must report separately to the audit committee on their audit work. The auditor/audit firm is required to make this additional report available to the competent authorities on request and in accordance with national law. Member States can require that this additional report be submitted to the administrative or supervisory body of the audited entity. In addition, Member States can allow the audit committee to disclose this report to prescribed third parties. There is provision at the second last sub-paragraph of paragraph 2 for Member States to impose additional requirements in relation to the content of the additional report.

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| **MS Option – Article 11.1, para 1** | **Questions** |
| Member States **may** additionally **require** that this additional report be submitted to the administrative or supervisory body of the audited entity. | Do you consider that this MS option to require the submission of the additional audit report to the administrative or supervisory body of the audited entity should be taken or not?  Please set out the reasons for your chosen option.  Any other observations? |

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| **MS Option – Article 11.1, para 2** | **Questions** |
| Member States **may allow** the audit committee to disclose that additional report to such third parties as are provided for in their national law. | This option provides that MS can allow the additional report to be disclosed to prescribed third parties. If you consider that this option should be taken, in addition to explaining your reasons for this, please identify the third parties you consider might be prescribed as recipients.  If you consider that this option should not be taken, please set out your reasons for this.  Any other observations? |

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| **MS Option – Article 11.2** | **Questions** |
| Member States **may lay down** additional requirements in relation to the content of the additional report to the audit committee. | Do you consider that this MS option to prescribe further requirements in respect of the content of this additional report should be taken?  If so, is this to provide for possible future developments, or do you consider that additional content is required under existing circumstances?  If the former, is it possible to specify what these might be? If the latter, please specify what these additional requirements are and why?  If you do not consider that the option should be taken, please set out your reasons for this.  Any other observations? |

**Article 12 - Report to supervisors of public interest entities**

This provides that auditors/audit firms of Public Interest Entities are required to promptly report to the competent authority for the oversight of that Public Interest Entity, or where so determined by a Member State, to the oversight body of the auditor/audit firm, information which has come to notice of the auditor/audit firm in the conduct of the audit which could bring about any of the outcomes set out at Article 12.1(a), (b) or (c). On the same basis as the foregoing, this information requires to be reported by the auditor/audit firm in relation to an undertaking having “close links” ( as defined at Article 4.1 of Regulation 575/2013 ) with the public interest entity being audited, and in respect of which, the auditor/audit firm is also carrying out the statutory audit.

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| **MS Option – Article 12.1** | **Questions** |
| Member States **may require** additional information from the statutory auditor or the audit firm provided it is necessary for effective financial market supervision as provided for in national law. | Do you consider that this MS option should be taken or not?  If so, what additional information do you consider should be required?  Please substantiate your chosen option.  Any other observations? |

**Article 15 - Record keeping**

This Article sets out a list of documents/information associated with the audit of a Public Interest Entity which an auditor/audit firm is required to retain for a period of at least five years following their creation. Member States are permitted to require auditors/audit firms to retain the documents/information in question for a longer period in accordance with national rules on personal data protection and administrative and judicial proceedings.

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| **MS Option – Article 15** | **Questions** |
| Member States **may require** statutory auditors and audit firms to keep the documents and information referred to in the first subparagraph (“.. *documents and information referred to in Article 4(3), Article 6, Article 7, Article 8(4) to (7), Articles 10, and 11, Article 12(1) and (2), Article 14, Article 16(2), (3), and (5) of this Regulation, and Articles 22d, 24a, 24b, 27 and 28 of the Directive 2006/43..”)* for a longer period *[than five years]* in accordance with their rules on personal data protection and administrative and judicial proceedings. | Do you consider that this MS option should be taken or not?  If so, what period of time would you recommend? Please substantiate your chosen option.  If you do not support providing for a lengthier period of 5 years, please substantiate this view?  In its decision in this matter, the Department will inform itself on the applicable data protection/Freedom of Information and other record keeping provisions at national level.  Any other observations? |

**Article 16 - Appointment of statutory auditors or audit firms**

### This Article lays down the procedures/conditions to be followed by a Public Interest Entity with regard to the appointment of an auditor/audit firm. It also provides that Member States can decide that a certain minimum number of auditors/audit firms are required to be appointed by a Public Interest Entity in particular circumstances, in which case the Member States are required to establish the conditions under which the auditors/audit firms in question will interact with each other. Please note that where the Member State option at Article 37(2) of Directive 2006/43/EC is invoked, alternative systems or modalities to those at paragraphs 2 to 5 of this Article will apply. Also, the selection procedure at paragraph 3 will not apply in two specific cases -

### (i)where the Public Interest Entity comes under the definition of “ small and medium sized enterprises” meaning that its last annual or consolidated accounts meet at least two of the following three criteria: an average number of employees of 250 during that financial year, a total balance sheet not exceeding €43m., and an annual net turnover not exceeding €50m.

### (ii) where a company listed on a regulated market has a market capitalization of less than €100m. on the basis of year end quotes for the previous three calendar years.

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| **MS Option – Article 16.7** | **Questions** |
| Member States **may decide** that a minimum number of statutory auditors or audit firms are to be appointed by public-interest entities in certain circumstances and establish the conditions governing the relations between the statutory auditors or audit firms appointed. If a Member State establishes any such requirement, it shall inform the Commission and the relevant European Supervisory Authority thereof. | This paragraph provides that Member State authorities can decide in the circumstances in question, that a certain minimum number of auditors/audit firms are required to be appointed by a Public Interest Entity in particular circumstances, in which case the Member State authorities are required to establish the conditions under which the auditors/audit firms in question will interact with each other. Such a requirement may arise for a number of reasons, e.g. if a Public Interest Entity was engaged in a highly specialized business or operated across a number of complex areas, such that no one auditor/audit firm possessed the range/depth of expertise to execute the audit on its own. It is not possible to predict whether such a scenario would arise in an Irish context, but it would appear prudential to have the means available to address such a situation in the event that it was to arise.  Do you consider that this MS option should be taken?  If so, what do you consider would be the appropriate “circumstances” for triggering such a decision.  What conditions should govern the relations between the statutory auditors or audit firms appointed?  If you do not think that the option should be taken, please set out your reasons for this.  Any other observations? |

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| **MS Option – Article 16.8** | **Questions** |
| Where the audited entity has a nomination committee in which shareholders or members have a considerable influence and which has the task of making recommendations on the selecting of auditors, Member States **may allow** that nomination committee to perform the functions of the audit committee that are laid down in this Article *[16]* and **require** it to submit the recommendation referred to in paragraph 2 (of Article 16) (*Recommendation for the appointment of statutory auditors or audit firms submitted by the audit committee to administrative or supervisory body of the audited entity)* to the general meeting of shareholders or members. | Under this option, MS are permitted to allowthe nomination committee in the circumstances in question to perform the functions of the audit committee as laid down in this Article and to **require** it to submit the recommendation provided for at paragraph 2 of the Article to the general meeting of shareholders/members.  Do you consider it appropriate that this Member State option should be taken or not? Please substantiate your chosen option.  Any other observations? |

**Article 17 – Duration of the audit engagement**

Public Interest Entities will be required to change their statutory auditors after a maximum engagement period of 10 years assuming that the Member State in which the Public Interest Entity is based has opted for this maximum period. Member States can choose to permit the extension of this 10 year period by up to a further 10 years if public tenders have been carried out, or by up to another 14 years in the case of a joint audit. Member States may also have the option to make these time periods shorter. An auditor that reaches the end of the relevant period 20 years cannot be appointed again until the expiry of a four year “cooling off” period.

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| **MS Option – Article 17.2(a)** | **Questions** |
| Member States **may require** that the initial engagement referred to in paragraph 1 (*“A public-interest entity shall appoint a statutory auditor or audit firm for an initial engagement of at least one year..”)* be for a period of more than one year. | Article 17, paragraph 1 requires that a Public Interest Entity appoints an auditor/audit firm for an initial period of **at least** one year. Paragraph 1, subparagraph 2 provides that neither the initial period of engagement nor any period of its renewal, can exceed ten years.  The option at Article 17(2)(a) allows a MS to require that this initial engagement be for a period of **greater than** one year. To further contextualize matters, a MS option at sub-paragraph 2(b) allows for a period of **less than ten years** to be provided for either as regards the initial engagement or that combined with renewed engagements.  Do you see an advantage in availing of this MS option to require that the initial engagement period be for a period of greater than one year? If so please set out the merit which you see in taking up the option.  Do you have views on what the appropriate period of initial engagement might be and why?  Do you see benefits/difficulties with not taking this option to require an initial engagement period of more than one year and leaving it to the parties involved to decide this for themselves and, if so, please articulate and explain, bearing in mind the foregoing.  If the MS option is not taken up, would you see any implications for the operation of the derogation provided for at paragraph 4 to extend the maximum duration in the circumstances set out there?  Any other observations? |

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| **MS Option – Article 17.2(b)** | **Questions** |
| Member States **may set** a maximum duration of less than 10 years for the engagements referred to in the second subparagraph of paragraph 1 (*“Neither the initial engagement of a particular statutory auditor or audit firm, nor this in combination with renewed engagements therewith shall exceed a maximum duration of 10 years”).* | Article 17, paragraph 1, subparagraph 1 requires that a Public Interest Entity (PIEs) appoints an auditor/audit firm for an initial period of at least one year. As set out directly above, this provision is the subject of a MS option as regards providing for a longer period than this.  Neither this initial engagement nor this added to any renewed engagements can exceed a maximum of 10 years.  The MS option at sub-paragraph 2(b) allows for a period of **less than ten years** to be provided for either as regards the initial engagement or that combined with renewed engagements.  This option allows MS to decide on a maximum duration from a range years and the period chosen can vary from one MS to another. Does this have implications for PIEs which have a presence in a number of MS? If so, please explain.  What do you consider are the pros and cons of providing for periods of up to 10 years?  What do you consider to be the appropriate period, and why?  What are the pros and cons of opting for a 10 year period?  Any other observations? |

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| **MS Option – Article 17.4(a) and (b)** | **Questions** |
| Member States **may provide** that the maximum durations referred to in the second subparagraph of paragraph 1 (*“ Neither the initial engagement of a particular statutory auditor or audit firm, nor this in combination with renewed engagements therewith shall exceed a maximum duration of ten years”)* may be extended to the maximum duration of:   1. twenty years, where a public tendering process for the statutory audit is conducted in accordance with paragraphs 2 to 5 of Article 16 *[…the selection of and audit committee involvement with statutory auditor or audit firm], and takes effect upon* the expiry of the maximum durations referred to in the second subparagraph of paragraph *1 [“Neither the initial engagement of a particular statutory auditor or audit firm, nor this in combination with renewed engagements therewith shall exceed a maximum duration of ten years”]* and in point (b) of paragraph 2 [*MS may set a maximum duration of less than ten years]*; or 2. twenty four years, where, after the expiry of the maximum durations referred to in the second subparagraph of paragraph 1 (*“Neither the initial engagement of a particular statutory auditor or audit firm, nor this in combination with renewed engagements therewith shall exceed a maximum duration of ten years”)* and in point (b) of paragraph 2 (*MS may set a maximum duration of less than ten years),* more than one statutory auditor or audit firm is simultaneously engaged, provided that the statutory audit results in the presentation of the joint audit report [*…*]”. | Both these MS options entail derogations to the provisions at paragraph 1 and paragraph 2(b).  **Paragraph 4/4(a)**  Paragraph 4(a) provide that where a public tendering process is carried out in accordance with the requirements referred to there, and subject to satisfaction of the provisions of paragraph 5, MS can provide for the extension of the maximum durations set out at paragraph 1, second subparagraph and Article 2(b)**,** **up to a maximum of 20 years. This also means that MS taking this option have discretion to provide for a shorter extension period.**  Do you consider that the processes and provisions referred to/set out at paragraph 4 and 4(a) and 5 respectively satisfy the independence and other prudential considerations such as to warrant derogation from the engagement durations specified at paragraph 1 and paragraph 2(b)?  If so, please give the reasons for this and specify the length of the extension which you consider is warranted in these circumstances and the reasons for this.  If you are in favour of the option to extend the maximum duration of engagements as provided for here, what, **additional period** would you favour (within the permitted maximum of 10 years) where the maximum 10 year duration was applied under paragraph 1 and paragraph 2(b) and why?  What additional period would you favour in a situation where the initial duration was of less than 10 years duration?  Do you consider that it is necessary to offer a certain minimum extension period in order to attract significant interest among potential tenderers of the requisite quality?  If so, what do you consider is the necessary minimum additional period and why?    Any other observations on Paragraph 4(a)?  **Paragraph 4/4(b)**  Subject to the satisfaction of the applicable criteria, this offers a MS option of the extension of the maximum durations set out at paragraph 1, second subparagraph and Article 2(b)**,** up to a maximum of 24 years in the case of joint audits. This also means that MS taking this option have discretion to provide for a shorter extension period.  In general, the same general considerations as pertain to the preceding option are applicable here.  Comments are invited from respondents on all aspects of the option. |

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| **MS Option – Article 17.7** | **Questions** |
| By way of derogation, Member States **may require** that key audit partners responsible for carrying out a statutory audit cease their participation in the statutory audit of the audited entity earlier than seven years from the date of their respective appointment. | This option allows MS to require key audit partners responsible for the audit of a PIE audit to step down ahead of the permitted seven year period provided in EU legislation. The Regulation does not provide any “grounding criteria” in respect of the exercise of this option.  Do you consider that this option should be taken? (A distinction requires to be made between taking the option to require this and the invocation of this option).  It could be argued that the relevant MS authorities will only have recourse to the application of the option where there is a strong case for doing so. To this extent the measure could be regarded as affording flexibility for intervention by the relevant MS authorities where this is considered warranted. This may facilitate the addressing of issues which have arisen in a swift and direct fashion, thus obviating the need to undertake more significant and timely remedial action.  What in your view are the arguments for and against taking of this MS option?  Any other observations? |

**Article 20 - Designation of competent authorities**

This Article provides that Competent Authorities responsible for carrying out the tasks provided for in the Regulation are to be designated from amongst those listed there.

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| **MS Option – Article 20.2** | **Questions** |
| Member States **may decide** that the responsibility for ensuring **that all or part of the provisions of Title III** **(*“Appointment of statutory auditors or audit firms by PIEs”)* of this Regulation are applied is to be entrusted to, as** appropriate, the competent authorities referred to in:   1. Article 48 of Directive 2004/39/EC; *[Investment firms]* 2. Article 24(1) of Directive 2004/109/EC; *[Transparency Directive for Security Market Entities]* 3. point (h) of Article 24(4) of Directive 2004/109/EC; *[Transparency Directive for Security Market Entities]* 4. Article 20 of Directive 2007/64/EC; *[Payment services on the internal market]* 5. Article 30 of Directive 2009/138/EC; *[Insurance and Reinsurance]* 6. Article 4(1) of Directive 2013/36/EU; *[Credit institutions]*   **or to other authorities designated by national law.** | The functions in question in this option (Title III) arise at Article 17 “duration of the audit engagement”, Article 18 “hand-over file” and Article 19 “dismissal and resignation of the statutory auditors or the audit firms”.  Respondents are invited to give views on what they consider as the appropriate competent authorities to carry out the functions in questions and their reasons for this?  Breaches of company law arising in the case of the Articles listed above will be most appropriately dealt with by the ODCE. |

**Article 24 - Delegation of tasks**

This Article can be read in conjunction with Article 20. At Article 24.4 it is provided that MS may delegate the tasks at paragraph 1(c) subject to the satisfaction of certain criteria.

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| **MS Option – Article 24.4** | **Questions** |
| Member States may delegateor allow the competent authorities referred to in Article 20(1) to delegate any of the tasks required to be undertaken pursuant to this Regulation to other authorities or bodies designated or otherwise authorised by law to carry out such tasks, except for tasks related to:   1. the quality assurance system referred to in Article 26; 2. investigations referred to in Article 23 of this Regulation and Article 32 of Directive 2006/43/EC arising from that quality assurance system or from a referral by another authority; and 3. sanctions and measures, as referred to in Chapter VII of Directive 2006/43/EC related to the quality assurance reviews or investigation of statutory audits of public-interest entities.   Member States **may decide** to delegate the tasks referred to in point (c) of paragraph 1 (above) (*“sanctions and measures, […] related to the quality assurance reviews or investigation of statutory audits of public-interest entities”)* to other authorities or bodies designated or otherwise authorised by law to carry out such tasks, when the majority of the persons involved in the governance of the authority or body concerned is independent from the audit profession. | This option provides for derogation from the terms of paragraph 1(c) allowing MS to delegate the tasks related to 1(c), subject to the satisfaction of the criteria at paragraph 4.  Do you see scope for/merit in the invocation of this option? If so, please indicate how the option, if taken, might operate?  If you do not see this as a realistic option, please set out your reasons for this. |

**Article 28 - Transparency of competent authorities**

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| **MS Option – Article 28** | **Questions** |
| Competent authorities shall be transparent and shall **at least** publish:  (a) annual activity reports regarding their tasks under this Regulation;  (b) annual work programmes regarding their tasks under this Regulation;  (c) a report on the overall results of the quality assurance system on an annual basis. This report shall include information on recommendations issued, follow-up on the recommendations, supervisory measures taken and sanctions imposed. It shall also include quantitative information and other key performance information on financial resources and staffing, and the efficiency and effectiveness of the quality assurance system; | Competent Authorities are required to publish ***at least*** the information set out at (a) to (d) here, with the option to go beyond this. As an enabling provision which may or may not be called upon to be exercised, circumstances may arise where recourse may be prudential or necessary.  Do you consider that this MS option should be taken or not?  What are your reasons for considering that the option should/not be taken?  If you consider that the option should be taken, do you have thoughts on what other information it might be appropriate to have the power to publish.  Any other observations? |

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| **MS Option – Article 28(d)** | **Questions** |
| (d) the aggregated information on the findings and conclusions of inspections referred to in the first subparagraph of Article 26(8). Member States ***may require*** the publication of those findings (*“The findings and conclusions of inspections on which recommendations are based, including the findings and conclusions related to a transparency report…”)* and conclusions on individual inspections. | Article 28(d), first sentence, requires the publication of aggregated information on the findings and conclusions referred to there. The second sentence provides a MS may require the publication of the findings and conclusions in question as regards ***individual inspections.***  The options appear to be:   * No publication of individual reports * Publishing left to the discretion of the competent authority which may or may not choose to do so * Similar to international counterparts (e.g. PCAOB) – publishing either by exception or in all cases only certain sections or reports or findings * Publishing all reports with no discretion   However, there appears to be a legal issue as to whether this option is binary i.e. no publication of individual reports or requiring all individual reports to be published.  This issue will be referred by the Department to the EU Commission for legal adjudication.  Your views on the foregoing options on (d) are invited with reasons substantiating your views. |