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Committee on Economic and Monetary Affairs

2011/0389(COD)

26.10.2012

AMENDMENTS

13 - 40

Draft opinion
Kay Swinburne
(PE496.499v01-00)

on the proposal for a directive of the European Parliament and of the Council
amending Directive 2006/43/EC on statutory audits of annual accounts and
consolidated accounts

Proposal for a directive
(COM(2011)0778 – C7-0461/2011 – 2011/0389(COD))

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United in diversity

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Amendment 13
Olle Schmidt

Proposal for a directive
Recital 2

Text proposed by the Commission

Amendment

(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. As a consequence, the provisions on the statutory audits of public-interest entities of Directive 2006/43/EC should be deleted from that Directive and statutory audits of public-interest entities should be regulated by Regulation (EU) No [XXX] of [XXX].

deleted

Or. en

Justification

An EU Regulation is not a suitable format of regulation, in particular in view of the highly detailed and intervening nature of the Commission's proposal. It represents an "one-size-fits-all" approach that is not taken the nature of different corporate governance systems throughout the EU into account. It would lead to decreased corporate governance standards in some Member States.

Amendment 14
Emilie Turunen
on behalf of the Verts/ALE Group

Proposal for a directive
Recital 6

Text proposed by the Commission

(6) 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.

Amendment

(6) 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 ***or has ownership*** 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.

Or. en

Amendment 15
Krišjānis Kariņš

Proposal for a directive
Recital 13

Text proposed by the Commission

(13) The burdens weighing on small and medium-sized undertakings within the Union in connection to the audit of their financial statements should be reviewed to the necessary minimum without compromising investor protection. Member States should ensure that the application of auditing standards according to which the statutory audit of the financial statements of those undertakings is performed is proportionate to the scale of small and medium-sized undertakings.

Amendment

(13) The burdens weighing on small and medium-sized undertakings within the Union in connection to the audit of their financial statements should be reviewed to the necessary minimum without compromising investor protection. Member States should ensure that the application of auditing standards according to which the statutory audit of the financial statements of those undertakings is performed is proportionate to the scale of small and medium-sized undertakings. ***It should also be taken into account that both small and medium-sized enterprises exist in different sizes and that, moreover, their operations vary in complexity.***

Or. lv

Amendment 16

Emilie Turunen

on behalf of the Verts/ALE Group

Proposal for a directive

Recital 20

Text proposed by the Commission

(20) Since the objective of this Directive, namely reinforcing investor protection in 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.

Amendment

(20) Since the objective of this Directive, namely reinforcing **public oversight with regard to the auditing of public interest entities and** investor protection in 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.

Or. en

Amendment 17

Markus Ferber

Proposal for a directive

Article 1 – paragraph 1 – point 2 – point d

Directive 2006/43/EC

Article 2 – point 13

Text proposed by the Commission

13. [...]

Amendment

13. public-interest entities' means 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, credit institutions as defined in point 1 of Article 1 of Directive 2000/12/EC of the European Parliament and of the Council of 20 March 2000 relating to the taking up and pursuit of the business of credit institutions (1) and insurance undertakings within the meaning of Article 2(1) of Directive 91/674/EEC. Member States may also designate other entities as public-interest entities, for instance entities that are of significant public relevance because of the nature of their business, their size or the number of their employees;

Or. en

Justification

Reinstatement of the previous PIE definition of Directive 2006/43/EC as it is not clearly demonstrated that the entities additionally captured by the proposed change in definition are actually crucial to be subject to PIE requirements.

Amendment 18
Astrid Lulling

Proposal for a directive
Article 1 – paragraph 1 – point 2 – point d
Directive 2006/43/EC
Article 2 – point 13(a)

Text proposed by the Commission

(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;

Amendment

(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, ***other than***
- insurance undertakings within the meaning of Articles 13(2), (4) and (5) of Directive 2009/138/EC of the European Parliament and of the Council;

- *Union alternative investment funds as defined in Article 4(1)(k) of Directive 2011/61/EC of the European Parliament and of the Council;*
- *undertakings for collective investment in transferable securities (UCITS) as defined in Article 1(2) of Directive 2009/65/EC of the European Parliament and of the Council;*
- *securitisation special purpose entities as defined in Article 4(1)(an) of Directive 2011/61/EC of the European Parliament and of the Council which issue their securities in denominations greater than € 50,000;*

Or. en

Justification

The definition of PIE, as laid down in the new draft of the Directive 2006/43/EC is too far reaching. The definition is designed to achieve enhanced protection of clients of key financial institutions. Institutions should only be included in the definition of PIE, if there is a real need to further increase investor protection.

Amendment 19 **Peter Skinner**

Proposal for a directive
Article 1 – paragraph 1 – point 2 – point d
Directive 2006/43/EC
Article 2 – point 13(a)

Text proposed by the Commission

(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;

Amendment

(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 **other than:**

i) insurance undertakings within the meaning of Article 13 (2) and (5) of Directive 2009/138/EC of the European

Parliament and of the Council;

ii) Union alternative investment funds as defined in Article 4(1)(k) of Directive 2011/61/EC of the European Parliament and of the Council.

Or. en

Justification

Removal of Insurance undertakings and Alternative Investment Funds from the broader definition of PIE in order to avoid disproportionate costs on business with no corresponding consumer benefit. Both are subject to specific EU legislation.

Amendment 20
Astrid Lulling

Proposal for a directive

Article 1 – paragraph 1 – point 2 – point d

Directive 2006/43/EC

Article 2 – point 13 – point c

Text proposed by the Commission

(c) insurance undertakings within the meaning of Article 13 of Directive 2009/138/EC of the European Parliament and of the Council(**);

Amendment

(c) insurance undertakings within the meaning of Article 13 **other than Article 13 (2), (4) and (5)** of Directive 2009/138/EC of the European Parliament and of the Council(**);

Or. en

Amendment 21
Peter Skinner

Proposal for a directive

Article 1 – paragraph 1 – point 2 – point d

Directive 2006/43/EC

Article 2 – point 13 – point c

Text proposed by the Commission

(c) insurance undertakings within the

Amendment

(c) insurance undertakings within the

meaning of Article 13 of Directive 2009/138/EC of the European Parliament and of the Council(**);

meaning of Article 13 *other than Article 13 (2) and (5)* of Directive 2009/138/EC of the European Parliament and of the Council

Or. en

Justification

Removal of captive insurance and re-insurance companies from the broader definition of PIE because these companies do not provide any services to third parties.

Amendment 22
Astrid Lulling

Proposal for a directive
Article 1 – paragraph 1 – point 2 – point d
Directive 2006/43/EC
Article 2 – point 13 – point f

Text proposed by the Commission

Amendment

(f) investment firms *as defined in point 1 of Article 4(1) of* Directive 2004/39/EC;

(f) investment firms *regulated under* Directive 2004/39/EC;

Or. en

Amendment 23
Olle Schmidt, Jürgen Creutzmann

Proposal for a directive
Article 1 – paragraph 1 – point 2 – point d
Directive 2006/43/EC
Article 2 – point 13 – point g

Text proposed by the Commission

Amendment

(g) *EU alternative investment funds as defined in Article 4(1)(k) of Directive 2011/61/EC of the European Parliament and of the Council(****);*

deleted

Or. en

Justification

These entities are no ordinary companies but investment vehicles which are held by custodian banks (which should remain PIES according to letter f) and i)) and should therefore not be classified as PIES. Moreover the public interest in audits of these entities is rather limited, not least since there is strict national regulation of these, which is why the added value of PIE audits is limited and disproportionate with a view to the costs and administrative burden this would entail.

Amendment 24

Olle Schmidt, Jürgen Creutzmann

Proposal for a directive

Article 1 – paragraph 1 – point 2 – point d

Directive 2006/43/EC

Article 2 – point 13 – point h

Text proposed by the Commission

Amendment

(h) undertakings for collective investment in transferable securities (UCITS) as defined in Article 1(2) of Directive 2009/65/EC of the European Parliament and of the Council(**);*** ***deleted***

Or. en

Justification

These entities are no ordinary companies but investment vehicles which are held by custodian banks (which should remain PIES according to letter f) and i)) and should therefore not be classified as PIES. Moreover the public interest in audits of these entities is rather limited, not least since there is strict national regulation of these, which is why the added value of PIE audits is limited and disproportionate with a view to the costs and administrative burden this would entail.

Amendment 25

Emilie Turunen

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 3 – point b – point iii

Directive 2006/43/EC

Article 3 – paragraph 4 – subparagraph 2

Text proposed by the Commission

Amendment

(iii) the second subparagraph is replaced by the following: ***deleted***

‘Member States may not set additional conditions in relation to these points. Member States shall not be allowed to require that a minimum amount of capital or of voting rights in an audit firm is held by statutory auditors or audit firms.’

Or. en

Amendment 26
Olle Schmidt, Jürgen Creutzmann

Proposal for a directive
Article 1 – paragraph 1 – point 11 – point a
Directive 2006/43/EC
Article 22 – paragraph 1

Text proposed by the Commission

Amendment

1. Member States shall ensure that when carrying out a statutory audit, the statutory auditor and/or the audit firm ***and any holder of voting rights in the audit firm is independent of the audited entity and is not involved in the decision-taking of the audited entity.***

1. Member States shall ensure that when carrying out a statutory audit, the statutory auditor and/or the audit firm ***takes all necessary steps to ensure that the independence is not compromised by financial, personal, business, employment or other relationships involving the statutory auditor, the audit firm, its affiliate firms and network, and any natural person in a position to influence the outcome of the statutory audit.***

Or. en

Justification

Although requirements for statutory audits of public interest entities are more extensive, the basic standards for independence should be the same. The amendment therefore aligns the independence article in the Directive with the amended corresponding article in the PIE Regulation.

Amendment 27
Markus Ferber

Proposal for a directive
Article 1 – paragraph 1 – point 11 a (new)
Directive 2006/43/EC
Article 22 – paragraph 1

Text proposed by the Commission

Amendment

11a. Article 25a (new) Quality assurance payment scheme

1. Member States shall ensure that a quality assurance payment scheme is instituted for the conduct of statutory audits.

Member States shall ensure that the quality assurance payment scheme comprises at least the following rules:

(a) rules on the minimum number of hours to be spent on audits, depending on stated enterprise-specific factors such as the size of the undertaking, sector, turnover, balance sheet total and number of employees; and

(b) rules on the minimum hours to be spent on the audit by auditors.

2. Member States shall furthermore ensure that payment schemes for statutory audits:

(a) are not influenced by the provision of additional services to the audited entity;

(b) are appropriate and non-discriminatory.

For the purposes of this article, Member States may delegate powers to the competent national authority.

Or. de

Amendment 28
Sampo Terho

Proposal for a directive
Article 1 – paragraph 1 – point 12
Directive 2006/43/EC
Article 26 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Member States ***shall ensure*** that statutory auditors and audit firms comply with international auditing standards when carrying out statutory audits ***as long as those standards are in conformity with the requirements of this Directive and of Regulation XX/XX.***

Amendment

Member States ***may require*** that statutory auditors and audit firms comply with international auditing standards when carrying out statutory audits.

Or. en

Justification

The content of ISAs is highly general, ambiguous and often contradictory with Member States' legislation. The Commission encountered problems when trying to implement them, and the Member States would have similar problems if ISAs were binding standards. To avoid this, Member States should be able to choose if they implement the ISAs or not.

Amendment 29
Markus Ferber

Proposal for a directive
Article 1 – paragraph 1 – point 12
Directive 2006/43/EC
Article 26 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Member States shall ***ensure that*** statutory auditors and audit firms ***comply with international auditing standards when carrying out statutory audits as long as those standards are in conformity with the requirements of this Directive and of Regulation XX/XX.***

Amendment

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 the procedure referred to in Art. 48a.***

Justification

The reinstated text of Directive 2006/43/EC is more precise and leaves less room for interpretation.

Amendment 30

Sampo Terho

Proposal for a directive

Article 1 – paragraph 1 – point 12

Directive 2006/43/EC

Article 26 – paragraph 1 – subparagraph 2

Text proposed by the Commission

Member States may *impose audit procedures or requirements in addition to* the international auditing standards *only if those audit procedures or requirements stem from specific national legal requirements relating to the scope of statutory audits. Member States shall ensure that those audit procedures or requirements comply with the following conditions:*

Amendment

Member States may *also stipulate in more detail about the application of* the international auditing standards.

Justification

The content of ISAs is highly general, ambiguous and often contradictory with Member States' legislation. The Commission encountered problems when trying to implement them, and the Member States would have similar problems if ISAs were binding standards. To avoid this, Member States should be able to choose if they implement the ISAs or not.

Amendment 31

Sampo Terho

Proposal for a directive

Article 1 – paragraph 1 – point 12

Directive 2006/43/EC
Article 26 – paragraph 1 – point a

Text proposed by the Commission

Amendment

(a) they 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 [xxxx] on the annual financial statements and the consolidated financial statements of certain types of undertakings;

deleted

Or. en

Amendment 32
Sampo Terho

Proposal for a directive
Article 1 – paragraph 1 – point 12
Directive 2006/43/EC
Article 26 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(b) are conducive to the Union public good.

deleted

Or. en

Amendment 33
Sampo Terho

Proposal for a directive
Article 1 – paragraph 1 – point 12
Directive 2006/43/EC
Article 26 – paragraph 1 – subparagraph 3

Text proposed by the Commission

Amendment

Member States shall communicate those audit procedures or requirements to the Commission, ESMA and other Member

deleted

States.

Or. en

Amendment 34

Emilie Turunen

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 14 – point a – point iii

Directive 2006/43/EC

Article 29 – paragraph 1 – subparagraph 1a

Text proposed by the Commission

Amendment

The competent authority referred to in Article 32 shall make available *to interested parties, upon* their *request*, the report referred to in point (g) of the first subparagraph. The competent authority shall make sure that the report disclosed does not undermine the commercial interests of the audited entity under review, including its industrial and intellectual property.

The competent authority referred to in Article 32 shall make available *on* their *website* the report referred to in point (g) of the first subparagraph. The competent authority shall make sure that the report disclosed does not undermine the commercial interests of the audited entity under review, including its industrial and intellectual property.

Or. en

Amendment 35

Emilie Turunen

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 15 – point a

Directive 2006/43/EC

Article 32 – paragraph 1

Text proposed by the Commission

Amendment

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

1. Member States shall designate *the* competent *authorities* responsible for the public oversight of statutory auditors and audit firms based on the principles set out in paragraphs 2 to 7.

Amendment 36
Sari Essayah

Proposal for a directive
Article 1 – paragraph 1 – point 15 – point b
Directive 2006/43/EC
Article 32 – paragraph 3

Text proposed by the Commission

3. The competent authority may allow non-practitioners who are knowledgeable in the areas relevant to statutory audit to be involved in the governance of the public oversight system, provided that they are selected in accordance with an independent and transparent nomination procedure.
Practitioners shall not be allowed to be involved in the governance of the public oversight system.

Amendment

3. ***The competent authority shall be governed by a wide range of stakeholders.***
The competent authority may allow non-practitioners who are knowledgeable in the areas relevant to statutory audit to be involved in the governance of the public oversight system, provided that they are selected in accordance with an independent and transparent nomination procedure.
Member States may allow a minority of practitioners to be involved in the governance of the public oversight system.

Justification

To ensure a current and coherent level of knowledge regarding audit in practice, it should be possible for Member States to allow a minority of practitioners to be involved in the governance of the public oversight system. This is allowed in the current audit directive.

Amendment 37
Sampo Terho, Hannu Takkula

Proposal for a directive
Article 1 – paragraph 1 – point 15 – point b
Directive 2006/43/EC
Article 32 – paragraph 3

Text proposed by the Commission

3. The competent authority may allow non-

Amendment

3. The competent authority may allow non-

practitioners who are knowledgeable in the areas relevant to statutory audit to be involved in the governance of the public oversight system, provided that they are selected in accordance with an independent and transparent nomination procedure.

Practitioners shall not be allowed to be involved in the governance of the public oversight system.

practitioners who are knowledgeable in the areas relevant to statutory audit to be involved in the governance of the public oversight system, provided that they are selected in accordance with an independent and transparent nomination procedure.

Member States may, however, allow a minority of practitioners to be involved in the governance of the public oversight system.

Or. en

Justification

To ensure a current and coherent level of knowledge regarding audit in practice, it should be possible for Member States to allow a minority of practitioners to be involved in the governance of the public oversight system. This is allowed in the current audit directive.

Amendment 38

Emilie Turunen

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 16

Directive 2006/43/EC

Article 32a – paragraph 1

Text proposed by the Commission

Member States may allow the competent authority referred to in Article 32 to delegate tasks to other authorities ***or bodies*** designated by law only as regards the approval and registration of statutory auditors and audit firms. Any execution of tasks by other authorities or bodies shall be expressly delegated by the competent authority. 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. The ultimate responsibility for supervising compliance with this Directive

Amendment

Member States may allow the competent authority referred to in Article 32 to delegate tasks to other authorities designated by law only as regards the approval and registration of statutory auditors and audit firms. Any execution of tasks by other authorities or bodies shall be expressly delegated by the competent authority. The delegation shall specify the delegated tasks and the conditions under which they are to be carried out. The authorities shall be organized in such a manner that there are no conflicts of interest. The ultimate responsibility for supervising compliance with this Directive

and the implementing measures adopted pursuant thereto shall lie with the delegating competent authority.

and the implementing measures adopted pursuant thereto shall lie with the delegating competent authority

Or. en

Amendment 39
Markus Ferber

Proposal for a directive
Article 1 – paragraph 1 – point 16
Directive 2006/43/EC
Article 32a – paragraph 2

Text proposed by the Commission

Member States shall inform the Commission and the competent authorities of the other Member States of any arrangement entered into with regard to the delegation of tasks, including the precise conditions for regulating the delegations

Amendment

Member States shall inform the Commission, **ESMA** and the competent authorities of the other Member States of any arrangement entered into with regard to the delegation of tasks, including the precise conditions for regulating the delegations

Or. en

Amendment 40
Jean-Paul Gauzès

Proposal for a directive
Article 1 – paragraph 1 – point 20
Directive 2006/43/EC
Article 43b – paragraph 2

Text proposed by the Commission

Where a Member State has established rules ***on the carrying out of*** a limited review ***of*** the accounts of small undertakings ***as an alternative to statutory audit***, such Member State shall not be obliged to adapt the audit standards to the statutory audit of those undertakings.

Amendment

Where a Member State has established rules ***authorising*** a limited review ***task relating to*** the accounts of ***some of its*** small undertakings, such Member State shall not be obliged to adapt the audit standards to the statutory audit of those undertakings. ***However, Member States which have established such rules shall be***

required to replace this limited review task in these small undertakings with a proportionate statutory audit task within five years.

Or. fr