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*Committee on Economic and Monetary Affairs*

**2004/0065(COD)**

17.3.2005

## **OPINION**

of the Committee on Economic and Monetary Affairs

for the Committee on Legal Affairs

on the proposal for a Directive of the European Parliament and of the Council on Statutory audit of annual accounts and consolidated accounts and amending Council Directives 78/660/EEC and 83/349/EEC (COM(2004)0177 – C6-0005/2004 – 2004/0065(COD))

Draftsman: Wolf Klinz

(\* ) Enhanced cooperation between committees - Rule 47 of the Rule of Procedure

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## SHORT JUSTIFICATION

### Introduction

The auditing profession has been through a number of difficult years worldwide. Scandals such as those relating to Enron, Parmalat and Flowtex have weakened the trust of consumers and investors. These scandals have reached frightening proportions and have included various types of fraud such as insider trading, falsification of balance sheets and simulated transactions.

The scandals required action. Yet, to re-establish trust in markets is not the only goal of the proposed Directive. It aims also at strengthening the rights of shareholders, increasing investment security and the competitiveness of European enterprises and ensuring the benefits of the internal market.

### The Commission's Proposal

The Commission's proposal on statutory audit is the outcome of years of preparation and takes into account the recommendations of 2000 and 2002. The Directive will replace the 8th Directive on statutory auditors (1984), which only contains rules about the accreditation of auditors but says nothing about the audit procedure, supervision or external quality control. Thus the proposed Directive will remedy this.

The proposed Directive clarifies the duties of statutory auditors and sets out certain ethical principles to ensure their professionalism and independence, i.e. **integrity, objectivity, professional competence, confidentiality and professional secrecy and overall responsibility**. Overall responsibility means that the group auditor bears the full responsibility for the audit report on the consolidated accounts; thus the group auditor reviews the work of other auditors. Through such overall responsibility fraud should be avoided and quality increased. The same goals are being pursued by **quality assurance reviews** (at least every six years), **transparency reports** (written by the audit firms every year), **introduction of International Accounting Standards (IAS)**, **increased cooperation between relevant authorities** and the **creation of a European audit regulatory committee**. Through the creation of an **audit committee** communicating directly with the auditor, auditors should get help to resist inappropriate pressure from managers. Moreover, independence should be guaranteed through **exclusion of any incompatible activity** and **rotation** (internal and external).

### Critical Analysis

Your rapporteur wishes to express his strong support for the aims of the Directive. Your rapporteur remains, nevertheless, sceptical about a number of points. It is necessary to strike a balance between lowering the risk of fraud and ensuring healthy competition and high levels of service and quality. The rapporteur has thus proposed some amendments intended to provide clarification, other amendments which take into consideration the specific

characteristics of certain banking structures (savings and cooperative banks) and various other amendments concerning the audit committee, the rotation principle, the scope of services offered by the auditor and liability (the latter has not been taken up by the Commission). Most of these subjects have also been the subject of discussion in the Council.

The obligation to create an **audit committee** would mean for some listed SMEs that their board would automatically be identical with the audit committee and that at least one member of the board must have auditing expertise. Thus, the obligation to create an audit committee could lead to a change of board members. Nevertheless, the benefit of having professional expertise seems to render such a change worthwhile. When an audit committee is created, steps must be taken to ensure that the chairman of the board is not the head of the audit committee, as amended. Apart from the changes for SMEs, there is one other party, which is more negatively affected: Special Purpose Vehicles (SPVs). As SPVs do not pursue activities other than the issue of securities the obligation to create an audit committee is not justified. Therefore there should be an exception concerning the obligation to install an audit committee (see amendment).

The **rotation principle** generally should be welcomed as it ensures independence. On the one hand, rotation has disadvantages such as additional costs, the loss of know-how and therefore the danger of mistakes. On the other hand, it reinforces independence and objective assessment. The rotation of the key audit partner(s) should take place at least every seven years with an engagement interval of at least 2 years.

The **scope of services** offered by audit firms should not be limited to purely auditing. Often problems such as tax questions or the need for experts' opinions arise during the auditing process and consequently are most easily solved by the auditor. However, consulting services should not become more important than auditing services. Therefore the scope of non-audit services should be limited (see amendment).

Unlimited **liability** does not produce any advantages. On the contrary: where liability is unlimited, audit firms can not pay the compensation and entities do not get back the money they have lost. Thus, an amendment proposes the introduction of a liability cap.

## AMENDMENTS

The Committee on Economic and Monetary Affairs calls on the Committee on Legal Affairs, as the committee responsible, to incorporate the following amendments in its report:

Text proposed by the Commission

Amendments by Parliament

Amendment 1  
RECITAL 9

(9) It is important that statutory auditors and

(9) It is important that statutory auditors and

audit firms respect the privacy of their clients. They should therefore be bound by strict rules on confidentiality and professional secrecy which, however, should not impede proper enforcement of accounting standards.

audit firms respect the privacy of their clients. They should therefore be bound by strict rules on confidentiality and professional secrecy which, however, should not impede proper enforcement of accounting standards. ***These confidentiality rules should also apply to any statutory auditor or audit firm which has ceased to be involved in a specific audit task.***

#### *Justification*

*The professional secrecy requirement does not come to an end with the audit task. The general scope of this requirement should be emphasised, therefore.*

#### Amendment 2 RECITAL 10

(10) Statutory auditors and audit firms should be independent when carrying out a statutory audit. If they find themselves in a situation that might lead to an impairment of their independence, they should resign from the audit engagement. They should also refuse to undertake any non-audit service that might constitute a threat to their independence.

(10) Statutory auditors and audit firms should be independent when carrying out a statutory audit. If they find themselves in a situation ***where the significance of threats to their independence, even after application of safeguards to mitigate these threats, is too high***, they should resign ***or abstain*** from the audit engagement. ***The conclusion that there is a relationship which compromises the auditor's independence may be different for the relationship between the auditor and the audited entity or between the network and the audited entity. Threats to the independence of a statutory auditor or audit firm may include for example a direct or indirect financial interest in the audited entity. Also the level of fees for non-audit services received from one audited entity and/or the structure of the fees may threaten the independence of a statutory auditor or audit firm. Types of safeguards to be applied to mitigate or eliminate these threats include prohibitions, restrictions, other policies and procedures and disclosure. Statutory auditors and audit firms may offer non-audit services provided they do not compromise their independence.***

Amendment 3  
RECITAL 11

(11) It is important to ensure a consistent high quality of all statutory audits required by Community law. All statutory audits should therefore be carried out on the basis of international auditing standards. Member States should be allowed to impose additional audit procedures if these follow from specific requirements relating to the *scope* of the statutory audit.

(11) It is important to ensure a consistent high quality of all statutory audits required by Community law. All statutory audits should therefore be carried out on the basis of international auditing standards ***once these have been adopted by the Commission in accordance with the provisions of Article 26(2) of this Directive. A technical committee or group on auditing should assist the Commission in assessing the technical soundness of the international standards on auditing (ISAs), and should also involve the system of public supervisory bodies of Member States. In order to achieve a maximum degree of harmonisation, Member States should only be allowed to impose national additional audit procedures or requirements if these follow from specific national legal requirements relating to the statutory audit of annual or consolidated accounts, meaning that these requirements have not been covered by the adopted ISAs. Member States could maintain these additional audit procedures until the audit procedures or requirements have been covered by subsequently adopted ISAs. Any additional requirements imposed by Member States should help to give the annual accounts of companies a high level of credibility and be conducive to the public good. The above implies that Member States may for example require an additional auditor's report to the supervisory board or lay down other reporting and audit requirements based on national corporate governance rules.***

*Justification*

*One problem lies in the fact that the ISA principles, devised by the auditing profession, are still incomplete, as well as being too lax and, in some cases, still in the process of revision. Member States should therefore be free to lay down more stringent auditing principles at national level as and where they think fit. In particular, they should also be allowed to introduce national auditing principles not relating to the scope of audits. Conversely, they must be prevented from drawing up less stringent principles than the ISAs.*

Amendment 4  
RECITAL 12

(12) To adopt an international auditing standard for application in the Community, it is necessary that it is generally accepted internationally and that it has been developed with full participation of all interested parties following an open and transparent procedure, that it adds to the credibility of annual accounts and consolidated accounts and that it is conducive to the European public good.

(12) To adopt an international auditing standard for application in the Community, it is necessary that it is generally accepted internationally and that it has been developed with full participation of all interested parties following an open and transparent procedure, that it adds to the credibility of annual accounts and consolidated accounts and that it is conducive to the European public good.  
***During the adoption procedure, the Commission should consult the European Parliament and the Council, and representatives of the profession and firms, with a view to ensuring that due account is taken of the European interest.***

*Justification*

*Steps should be taken to avoid the problems which arise in connection with the adoption of international accounting standards (IAS) by the Commission and to ensure that the proposed procedure is transparent and open.*

Amendment 5  
RECITAL 15

(15) Regular inspections are a good means to achieve a consistent high quality of statutory audits. Statutory auditors and audit firms should therefore be subject to a system of quality assurance that is organised in a manner which is independent from the reviewed statutory auditors and audit firms.

(15) Regular inspections are a good means to achieve a consistent high quality of statutory audits. Statutory auditors and audit firms should therefore be subject to a system of quality assurance that is organised in a manner which is independent from the reviewed statutory auditors and audit firms.  
***For the application of the provisions of Article 29 on quality assurance, Member***

*States may provide that, if individual auditors have a common quality assurance policy, the only requirements which need to be considered are those applicable to audit firms. Member States may organise the system of quality assurance in such a manner that each individual auditor shall be subject to a quality assurance review every 6 years. In this respect, the funding for the quality assurance system should be free from undue influence.*

#### *Justification*

*This amendment is an outcome of the discussions in the Council for Parliament to adopt in order to reach a single reading.*

*Notwithstanding equal conditions concerning the quality assurance must be provided thus it should take place at an equal rhythm in every Member State, i.e. every six years.*

#### Amendment 6 RECITAL 18

(18) The statutory auditor or audit firm should be appointed by the general meeting of shareholders of the audited entity. In order to protect the independence of the auditor it is important that dismissal is only possible where there are proper grounds and if these grounds are communicated to the authority or authorities responsible for public oversight.

(18) The statutory auditor or audit firm should be appointed by the general meeting of shareholders *or members* of the audited entity. ***Member States may allow alternative systems for the appointment provided that these do not threaten the independence of the auditor from the audited entity.*** In order to protect the independence of the auditor it is important that dismissal is only possible where there are proper grounds and if these grounds are communicated to the authority or authorities responsible for public oversight.

#### Amendment 7 RECITAL 23

(23) The measures necessary for the implementation of this Directive should be

(23) The measures necessary for the implementation of this Directive should be



adopted in accordance with Council Decision 1999/468/EC of 1999 laying down the procedures for the exercise of implementing powers conferred to the Commission and with due regard to the declaration made by the Commission in the European Parliament on 5 February 2002 concerning the implementation of financial services legislation. For that purpose a committee which assists the Commission shall be set up.

adopted in accordance with Council Decision 1999/468/EC of 1999 laying down the procedures for the exercise of implementing powers conferred to the Commission and with due regard to the declaration made by the Commission in the European Parliament on 5 February 2002 concerning the implementation of financial services legislation. For that purpose a committee which assists the Commission shall be set up. ***The powers of the European Parliament, and, in particular, its right of call-back, should be duly taken into account by the Commission, in particular in connection with the prerogatives of the committee provided for in Articles 21(2) and 48 of this Directive.***

#### *Justification*

*The comitology procedure established by means of the Lamfalussy procedure must not lead to the adoption of political principles at level 2. On the same basis as the Council, Parliament must be able to check that the European Commission is observing this principle and, if that is not the case, it must have the means to intervene.*

#### Amendment 8 RECITAL 23 A (new)

***(23a) The European Parliament should have three months from when the draft implementing measures are first forwarded to scrutinise them and give its opinion. If Parliament adopts a resolution within that period, the draft measures are to be re-examined by the Commission in accordance with Article 8 of Decision 1999/468/EC.***

#### Amendment 9 ARTICLE 2, POINT 3

(3) "Audit firm" means an entity that is approved in accordance with the provisions of this Directive by the competent authorities of a Member State to carry out statutory audits regardless of its legal form;

(3) "Audit firm" means ***a legal body or any other*** entity that is approved in accordance with the provisions of this Directive by the competent authorities of a Member State to carry out statutory audits regardless of its

legal form;

*Justification*

*The Commission's proposal does not account for the auditing institutions of savings and cooperative banks since they are not firms in the above sense.*

Amendment 10  
ARTICLE 2, POINT 5

(5) "Network" means the larger structure to which a statutory auditor or an audit firm belongs and which **makes** use of a common brand-name or **through which** professional resources **are shared**;

(5) "Network" means the larger structure **aimed at cooperation** to which a statutory auditor or an audit firm belongs and which **is clearly aimed at profit and cost sharing or shares common ownership, control or management, common quality policies and procedures, a common business strategy, the use of a common brand-name or a significant part of** professional resources;

*Justification*

*This amendment is an outcome of the discussions in the Council for Parliament to adopt in order to reach a single reading. Notwithstanding the definition of "Network" should be not too wide as it should not include every imaginable kind of cooperation.*

Amendment 11  
ARTICLE 2, POINT (9)

(9) "International auditing standards" means International Standards on Auditing (ISA) and related **International Audit Practice Statements**, in so far as relevant to the statutory audit;

(9) "International auditing standards" means International Standards on Auditing (ISA) and related **standards**, in so far as relevant to the statutory audit;

*Justification*

*Apart from ISA it should be only referred to related Standards such as International Standard on Quality Control 1 (ISQC 1) but not to related International Audit Practice Statements because they have a lower level of authority and serve more as best practice.*

Amendment 12  
ARTICLE 3, PARAGRAPH 3, SUBPARAGRAPH 2, POINT (B)

(b) the majority of the voting rights must be held by statutory auditors or audit firms which are approved in a Member State;

(b) the majority of the voting rights must be held by statutory auditors or audit firms which are approved in a Member State *or by natural persons who satisfy at least the conditions imposed by Articles 4 and 6 to 12; Member States may provide that such natural persons must also be approved in any Member State. For the purpose of the statutory audit of cooperatives and similar entities as referred to in Article 45 of Directive 86/635/EEC, Member States may establish other specific provisions in relation to voting rights. For the remaining minority voting rights any potential person entitled to execute voting rights can only be accepted on the basis that he does not exercise any undue influence or appear to exercise such influence on the professionalism and the independence of the audit firm;*

*Justification*

*This amendment is an outcome of the discussions in the Council for Parliament to adopt in order to reach a single reading. Notwithstanding the participation of commercial entities in audit firms should be forbidden as it is not compatible with the independence and objectivity of the auditor.*

Amendment 13  
ARTICLE 6

A natural person may be approved to carry out **a statutory audit** only after having attained university entrance level, then completed a course of theoretical instruction, undergone practical training and passed an examination of professional competence of university final examination level, organized or recognized by the State.

A natural person may be approved to carry out **statutory audits of the documents referred to in Article 1** only after having attained university entrance level, then completed a course of theoretical instruction, undergone practical training and passed an examination of professional competence of university final examination level, organized or recognized by the **Member State. The learning and assessment must be at a level at least equivalent to a first cycle university degree of a minimum of three years' duration; significant parts of the learning**

*and assessment must be a second cycle degree level i.e. conditional upon successful completion of the first cycle level.*

*Member States shall ensure that such approved persons also demonstrate the retention by them of these competences and skills through continuous professional development.*

*These requirements are further specified in Articles 7, 8, 9 and 10.*

#### *Justification*

*In the Bologna Declaration first level of university degrees should cover a period of three years. A substantial part of statutory auditors' learning and assessment should be at second-degree level.*

#### Amendment 14 ARTICLE 7

#### ***Examination of*** professional competence

The ***examination*** of professional competence referred to in Article 6 shall ***guarantee the necessary level of theoretical knowledge of subjects relevant to statutory audit and the ability to apply such knowledge in practice. Part at least of that examination must be written.***

#### Professional competence

***The natural person approved to carry out statutory audits must be able to carry out a statutory audit of annual and consolidated accounts in accordance with the laws, regulations and standards that are relevant to that audit.***

The ***assessment*** of professional competence ***and skills*** referred to in Article 6 shall ***evaluate the ability of the person being assessed to:***

***(a) plan, perform and report on an audit of company or consolidated accounts in conformity with relevant laws, regulations, standards and professional codes of ethics;***

***(b) understand how to account for transactions and other events in both legal entity and consolidated accounts of business enterprises in accordance with relevant laws, regulations and standards;***

***(c) understand the legal, taxation and business environment in which firms operate;***

***(d) understand those aspects of strategic and business management, particularly financial management and information technology, that are relevant to the audit of the company or consolidated accounts;***

***(e) understand the processes, systems and controls of the business to the extent required to assess risks to the business and to the audit.***

#### *Justification*

*The conditions of education and training required to be approved and registered as a statutory auditor in an EU Member State in the Eighth Company Law Directive need to be amended substantially in order to:*

- recognise the changes that have taken place in ethical, financial reporting and auditing standards;*
- take into account the new education standards issued by the International Federation of Accountants;*

*reflect the approach to curriculum content adopted by most professional bodies with a focus on the ability to perform the task and the roles expected of a statutory auditor rather than simply a list of topics.*

#### **Amendment 15 ARTICLE 8, PARAGRAPH 1**

##### ***Test of theoretical knowledge***

***1. The test of theoretical knowledge included in the examination shall cover the following subjects in particular:***

- (a) general accounting theory and principles,***
- (b) legal requirements and standards relating to the preparation of annual and consolidated accounts,***
- (c) international accounting standards,***
- (d) financial analysis,***

##### ***Assessment of Professional Competence***

***1. The assessment shall evaluate the ability of the person being assessed to:***

- (a) apply relevant theoretical knowledge in practice and integrate knowledge and experience;***
- (b) exercise the skills of analysis, evaluation, professional judgement and professional scepticism;***
- (c) act in the public interest in accordance with relevant professional codes of ethics.***

- (e) cost and management accounting,*
- (f) risk management and internal control,*
- (g) auditing,*
- (h) legal requirements and professional standards relating to statutory audit and statutory auditors,*
- (i) international auditing standards,*
- (j) professional skills,*
- (k) professional ethics and independence.*

*Justification*

*The conditions of education and training required to be approved and registered as a statutory auditor in an EU Member State in the Eighth Company Law Directive need to be amended substantially in order to:*

- recognise the changes that have taken place in ethical, financial reporting and auditing standards;*
- take into account the new education standards issued by the International Federation of Accountants;*

*reflect the approach to curriculum content adopted by most professional bodies with a focus on the ability to perform the task and the roles expected of a statutory auditor rather than simply a list of topics.*

Amendment 16  
ARTICLE 8, PARAGRAPH 2

***2. It shall also cover the following subjects in so far as they are relevant to auditing:***

***(a) company law and corporate governance,***

***2. A significant part of the assessment test must be written (including computer based).***

***It should ensure that the person being assessed has sufficient knowledge for the performance of an audit in the areas of:***

***(a) Audit:***

- assurance engagement concepts, processes and management,***
- international standards and national laws, regulations and standards relating to the statutory auditing of accounting documents and to those carrying out such audits,***
- analysis and critical assessment of financial statements.***

***(b) the law of insolvency and similar procedures,***

***(c) tax law,***

***(d) civil and commercial law,***

***(e) social-security law and law of employment,***

***(f) information technology and computer systems,***

***(g) business, general and financial***

***(b) Accounting and financial reporting:***

***- financial accounting and reporting,***

***- management accounting,***

***- management control,***

***- international standards and national laws, regulations and standards appropriate to the preparation of company and consolidated financial statements and to methods of valuing balance sheet items, of computing profits and losses, reporting cash flows and changes in equity.***

***(c) The legal, taxation and business environment:***

***- business and commercial law, civil law, the law of insolvency and similar procedures, and the fundamentals of the laws governing capital markets and employment,***

***- business valuations,***

***- taxation and its impact on financial and management decisions,***

***- information technology,***

***- business systems and controls,***

***- organisational and business knowledge including knowledge of general and financial economics, corporate governance, management science (including quantitative methods), organisational behaviour, financial management, international business and globalisation.***

***A substantial part of the knowledge in the areas of audit and accounting and financial reporting must be at a second cycle degree level. The other parts shall be at a level at least equivalent to a first cycle university degree of a minimum of three years' duration.***

*economics,*

*(h) mathematics and statistics,*

*(i) basic principles of the financial management of undertakings.*

*Justification*

*The conditions of education and training required to be approved and registered as a statutory auditor in an EU Member State in the Eighth Company Law Directive need to be amended substantially in order to:*

- *recognise the changes that have taken place in ethical, financial reporting and auditing standards;*
- *take into account the new education standards issued by the International Federation of Accountants;*
- *reflect the approach to curriculum content adopted by most professional bodies with a focus on the ability to perform the task and the roles expected of a statutory auditor rather than simply a list of topics.*

Amendment 17  
ARTICLE 8, PARAGRAPH 3

3. The Commission may in accordance with the procedure referred to in Article 49 (2) adapt the list of subjects to be included in the test of theoretical knowledge referred to in *paragraph 1*.

3. The Commission may in accordance with the procedure referred to in Article 49 (2) adapt the list of subjects to be included in the test of theoretical knowledge referred to in *paragraphs 1 and 2*.

*Justification*

*Conditional upon adoption of John Purvis' amendments to Article 8, paragraphs 1 and 2.*

Amendment 18  
ARTICLE 9, PARAGRAPH 1

1. By way of derogation from Articles 7 and 8, a Member State may provide that a person who has passed *a* university or equivalent **examination** or holds a university degree or equivalent qualification in one or more of the subjects referred to in Article 8 may be exempted from the **test** of theoretical knowledge in the subjects covered by *that examination* or degree.

1. By way of derogation from Articles 7 and 8, a Member State may provide that a person who has passed university or equivalent **assessments** or holds a university degree or equivalent qualification in one or more of the subjects referred to in Article 8 may be exempted from the **assessment** of theoretical knowledge in the subjects covered by *the assessments* or degree *in question*.



*Justification*

*Since bodies may choose to assess people in a variety of ways, "assessment" is a more appropriate term than "examination".*

Amendment 19  
ARTICLE 9, PARAGRAPH 2

2. By way of derogation from Article 7, a Member State may provide that a holder of a university degree or equivalent qualification in one or more of the subjects referred to in Article 8 may be exempted from the **test** of the ability to apply in practice his theoretical knowledge of such subjects **if** he has received practical training in them attested by **an examination** or diploma recognized by the State.

2. By way of derogation from Article 7, a Member State may provide that a holder of a university degree or equivalent qualification in one or more of the subjects referred to in Article 8 may be exempted from the **assessment** of the ability to apply in practice his theoretical knowledge of such subjects **when** he has received practical training in them attested by **assessments** or **a** diploma recognized by the State.

*Justification*

*Since bodies may choose to assess people in a variety of ways, "assessment" is a more appropriate term than "examination".*

Amendment 20  
ARTICLE 10, PARAGRAPH 1

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

1. In order to ensure the ability to apply theoretical knowledge in practice, a test of which is included in the **assessment**, a trainee shall complete a minimum of three years' practical training in inter alia the auditing of annual accounts, consolidated accounts or similar financial statements. At least two-thirds of such practical training **must** be completed **under the supervision of a person approved under the law of the Member State where the training is carried out in accordance with this Directive; the Member State may, however, permit practical training to be carried out under the supervision of a person approved by the law of another Member State in accordance with this Directive**.

*Justification*

*Since bodies may choose to assess people in a variety of ways, "assessment" is a more appropriate term than "examination".*

*The amendment clarifies the intention of the European Commission proposal that an auditor approved in another EU Member State may be permitted to carry out the supervision of practical training.*

Amendment 21  
ARTICLE 10, PARAGRAPH 2

2. Member States shall ensure that all training is carried out **with** persons providing adequate guarantees regarding training.

2. Member States shall ensure that all training is carried out **under the supervision of** persons providing adequate guarantees regarding training.

*Justification*

*Clarification.*

Amendment 22  
ARTICLE 22, PARAGRAPH 2 A (new)

**2a. These confidentiality rules shall also apply to any statutory auditor or audit firm which has ceased to be involved in a specific audit task.**

*Justification*

*The professional secrecy requirement does not come to an end with the audit task. Its general scope should be emphasised, therefore.*

Amendment 23  
ARTICLE 23, PARAGRAPH 1

1. Member States shall ensure that when carrying out a statutory audit, a statutory auditor or the audit firm is independent from the audited entity and is not in any way involved in **management decisions** of the audited entity. **A statutory auditor or an**

1. Member States shall ensure that when carrying out a statutory audit, a statutory auditor or audit firm is independent from the audited entity and is in no way involved in **decision making** of the audited entity.

*audit firm shall not carry out a statutory audit if there is any financial, business, employment or other relationship, including the provision of additional services, with the audited entity that might compromise the statutory auditor's or audit firm's independence.*

Amendment 24  
ARTICLE 23, PARAGRAPH 2

2. Member States shall ensure that *the statutory auditor or audit firm documents in the audit working papers all threats to their independence as well as the safeguards applied to mitigate those threats.*

2. Member States shall ensure that *if the statutory auditor's or audit firm's independence is affected by threats, such as self review, self interest, advocacy, familiarity or trust or intimidation, the statutory auditor or audit firm must apply safeguards in order to mitigate such threats. If the significance of the threats compared to the safeguards applied is such that their independence is compromised, the statutory auditor or audit firm shall not carry out the statutory audit.*

*A statutory auditor or an audit firm shall not carry out a statutory audit if there is any direct or indirect financial, business or employment relationship between the statutory auditor, audit firm or the network and the audited entity that compromises the statutory auditor's or audit firm's independence.*

*Member States shall, in particular, ensure that where statutory audits of public interest entities are concerned, the statutory auditor or audit firm may provide additional non-audit services to the audited entity but only if an objective and reasonable assessment would conclude that their independence is not compromised and the level of remuneration should be such as not to threaten their independence.*

Amendment 25  
ARTICLE 26, PARAGRAPH 1

1. Member States shall require statutory auditors and audit firms to carry out statutory audits in accordance with international auditing standards adopted by the Commission in accordance with the procedure referred to in Article 49 (2).

1. Member States shall require statutory auditors and audit firms to carry out statutory audits in accordance with international auditing standards adopted by the Commission in accordance with the procedure referred to in Article 49 (2).  
***Member States may continue to apply national standards until such time as the Commission has adopted international standards covering the same matters.***

*Justification*

*Member States must be able to adopt transitional measures until such time as the Commission has adopted corresponding international auditing standards.*

*Moreover, there must be strict procedures to govern the adoption of international audit standards and such adoption must be consistent with the European public interest.*

Amendment 26  
ARTICLE 26, PARAGRAPH 2, POINT (A)

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

(a) are generally accepted internationally and are developed with proper due process ***involving the various groups concerned***, public oversight and transparency;

*Justification*

*Steps must be taken to ensure that all groups concerned, such as, alongside the major audit firms, representatives of small auditing firms, are involved in the decision-making process in connection with the adoption of international auditing standards.*

Amendment 27  
ARTICLE 26, PARAGRAPH 3

3. Member States may only impose ***additional*** audit procedures if these follow from specific requirements relating to the ***scope of*** the statutory audit. Member States shall communicate these ***additional procedures*** to the Commission.

3. Member States may only impose audit procedures ***or requirements in addition to the international auditing standards referred to in paragraph 1*** if these follow from specific ***national legal*** requirements relating to the statutory audit. Member States shall ***ensure that these additional audit procedures or requirements comply***

**with the provisions laid down in paragraph 2(b) and (c), and shall communicate these to the Commission and Member States before their adoption.**

*Justification*

*One problem lies in the fact that the ISA principles, devised by the auditing profession, are still incomplete, as well as being too lax and, in some cases, still in the process of revision. Member States should therefore be free to lay down more stringent auditing principles at national level as and where they think fit. In particular, they should also be allowed to introduce national auditing principles not relating to the scope of audits. Conversely, they must be prevented from drawing up less stringent principles than the ISAs.*

Amendment 28

ARTICLE 29, PARAGRAPH 1, SUBPARAGRAPH 1, POINT (H)

(h) quality assurance reviews must take place **at least** every six years;

(h) quality assurance reviews must take place every six years;

*Justification*

*To guarantee the same legislative burden for audit firms all over Europe.*

Amendment 29

ARTICLE 35

(35) The statutory auditor or audit firm shall be appointed by the general meeting of shareholders of the audited entity. ***In accordance with national law, Member States may provide that such appointment is subject to prior approval by a competent supervisory authority or that the appointment is made by a court or another organisation designated by national law.***

(35) The statutory auditor or audit firm shall be appointed by the general meeting of shareholders ***or members*** of the audited entity. ***Member States may allow alternative systems or modalities for the appointment of the statutory auditor or audit firm provided that these systems or modalities are designed to ensure the independence of the statutory auditor or audit firm from the members of the administrative body or the managerial body of the audited entity.***

Amendment 30

ARTICLE 39, PARAGRAPH 1

1. Public interest entities shall have an audit committee, composed of non-executive members of the administrative body or members of the supervisory body of the

Public interest entities shall have an audit committee, composed of non-executive members of the administrative body or members of the supervisory body of the

audited entity *with at least, one independent member with competence in accounting and/or auditing.*

audited entity. *The membership of the audit committee should consist of independent members with proven knowledge and experience in the financial field.*

*Justification*

*It is essential that employees should be represented on audit committees.*

Amendment 31  
ARTICLE 39, PARAGRAPH 3 A (new)

*3a. In small and medium-sized public interest entities which meet the criteria set out in Article 2(1) of the annex to Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises<sup>1</sup>, the functions assigned to the audit committee may be performed by the body as a whole, provided that at least one member has adequate competence at a practical level in accounting and/or auditing and that the chairman of the (supervisory) board is not the chairman of the audit committee.*

<sup>1</sup> *OJ L 124, 20.5.2003, p. 36.*

Amendment 32  
ARTICLE 39, PARAGRAPH 3 B (new)

*3 b. Member States may exempt public interest entities from the requirement to have an audit committee if the sole business of the entity concerned is to act as issuer of asset-backed securities as defined in Article 2(5) of Commission Regulation (EC) No 809/2004 of 29 April 2004 implementing Directive 2003/71 EC of the European Parliament and of the Council as regards information contained in*

***prospectuses as well as the format, incorporation by reference and publication of such prospectuses and dissemination of advertisements<sup>2</sup>.***

<sup>2</sup> *OJ L 149, 30.4.2004, p. 1.*

*Justification*

*The public interest entities proposed for exclusion from the requirement to have an audit committee are already required to produce accounts in accordance with the Fourth Company Law Directive. In the particular circumstances of these special purpose entities, the requirement to have an audit committee would not provide meaningful additional oversight in the interests of investors, and would instead result in a disproportionate additional cost burden. Special Purpose Vehicles do not have the right or ability to engage in any activities other than issuing securities. They play an important role in improving liquidity without providing any material additional protection to the investors concerned.*

Amendment 33  
ARTICLE 40, POINT (C)

***(c) the statutory auditor or the key audit partner responsible for carrying out the statutory audit on behalf of the audit firm, shall rotate from the statutory audit engagement within a maximum period of five years, or alternatively, the audit firm shall rotate within a maximum period of seven years;***

***(c) the key audit partner(s) shall rotate from the statutory audit engagement within a maximum period of seven years after the date of appointment and shall be allowed to participate in the audit of the audited entity again after a minimum period of two years;***

Amendment 34  
ARTICLE 40, POINT C, PARAGRAPH 1 A (new)

***The preceding paragraph shall apply to quoted companies, those subject to public oversight, and those with an annual turnover exceeding EUR 100 million.***

*Justification*

*It is necessary to distinguish between quoted companies or those subject to public oversight and small and medium-sized enterprises audited by small firms that do not have the facilities for rotation and could consequently be in danger of losing their customers.*

Amendment 35  
ARTICLE 43 A (new)

*Article 43a*

*Liability*

**1. The Member States shall ensure that their legislation does not place an unlimited financial liability burden on statutory auditors and audit firms.**

**2. The Member States may opt to:**

**(a) impose by law a framework for compensation for injury and loss for which statutory auditors and audit firms may be liable; and**

**(b) permit statutory auditors and audit firms to limit liability to an exact or proportionate amount fixed by law or fixed by contract with the owners of the audited entity.**

Amendment 36  
ARTICLE 47, PARAGRAPH 1, POINT (D A) (new)

**(da) the transfer does not violate the rules governing professional confidentiality, data protection and similar rules.**

*Justification*

*The data protection and confidentiality must be stressed.*

Amendment 37  
ARTICLE 49, PARAGRAPH 2, SUBPARAGRAPH 1

2. Where reference is made to this paragraph the regulatory procedure laid down in Articles 5 and 7 of Decision 1999/468/EC shall apply, having regard to Article 8 thereof.

2. Where reference is made to this paragraph the regulatory procedure laid down in Articles 5 and 7 of Decision 1999/468/EC shall apply, having regard to Article 8 thereof. ***The European Parliament shall have three months from when the draft implementing measures are first forwarded to scrutinise them and give its opinion. If Parliament adopts a resolution within that***



*period, the draft measures shall be re-examined by the Commission.*

Amendment 38  
ARTICLE 50, POINT 1, POINT B  
Article 44, paragraph 1 (Directive 78/660/EEC)

*(b) Article 44(1) shall be replaced by the following:*

*“1. Member States may permit the companies referred to in Article 11 to draw up abridged notes on their accounts without the information required in Article 43(1)(5) to (12), (14)(a) and (15). However, the notes must disclose the information specified in Article 43(1) (6) in total for all the items concerned.”*

*(b) In Article 45, the following paragraph is added:*

*“3. Member States may exempt entities which have not issued transferable securities admitted to trading on a regulated market within the meaning of Article 4(1)(14) of Directive 2004/39/EC from the requirement of Article 43(1)(15).”*

*Justification*

*Small and middle enterprises should be exempted from this directive in order to avoid too much regulation.*

