



Mr. Krzysztof Burnos
Krajowa Izba Biegłych Rewidentów -
National Chamber of Statutory Auditors
(KIBR)
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Dear Mr. Burnos,

Re: Proposals for implementation of the Regulation on Statutory Audit for Public Interest Entities in Poland

FEE (the Federation of European Accountants, www.fee.be) is pleased to provide you below with our comments on certain issues which might arise regarding the proposals for implementation of the Regulation on Statutory Audit for Public Interest Entities (the Regulation) in Poland.

In general FEE believes that businesses can benefit from the adoption of harmonised legislation in the financial reporting area including audit, as access to global markets necessitates comparability, reliability, relevance, understandability and transparency within the different elements in the financial reporting chain.

In addition, differences in legislation between neighbouring countries can lead to a lack of clarity and unnecessary increases in compliance costs from companies that operate across borders. In this regard, FEE would conclude that Poland would benefit from a closer alignment of the Polish legislation with the legislation expected to come in force in the European Union (EU).

Approach to the prohibition of the provision of non-audit services and to the Appointment of the Auditor and the Duration of the Audit Engagement

FEE would like to refer to its Briefing Paper on the Provision of non-audit services to Public Interest Entity statutory audit clients of June 2014¹ and to the FEE Briefing Paper on the Appointment of the Auditor and the Duration of the Audit Engagement² for a balanced implementation of the prohibition of the provision of non-audit services as per Article 5 and the rotation of audit firms and auditors as per Articles 16 and 17 of the Regulation on the Statutory Audit of Public Interest Entities.

¹ See [http://www.fee.be/images/BP_140825 - Provision of NAS.pdf](http://www.fee.be/images/BP_140825_-_Provision_of_NAS.pdf)

² See [http://www.fee.be/images/BP_140825 - Appointment of the Auditor.pdf](http://www.fee.be/images/BP_140825_-_Appointment_of_the_Auditor.pdf)

In this respect, it is useful to repeat that a Regulation is defined in Article 288 of the Treaty on the Functioning of the European Union (TFEU)³ as 'binding in its entirety and directly applicable in all Member States'. Subsequent European Court of Justice case law has established that this means a Regulation immediately applies in all European Union (EU) Member States without the need for transposition and overrides any contradictory pre-existing legislation.

In addition, the Commission's impact assessment⁴ accompanying the audit reform proposals in 2011 considered whether a Directive or Regulation would be the most appropriate legal instrument (see Annex 14 on page 191). This assessment concluded that a Regulation would be the most effective legal instrument with regards to Public Interest Entities specifically because it would 'offer the highest degree of harmonisation' and 'would override incompatible provisions in domestic legislation.'

Prohibition of the provision of Non-Audit Services

In this respect, FEE would again like to refer to its Briefing Paper on the Provision of non-audit services to Public Interest Entity statutory audit clients of June 2014.

Specific reference is made to page 1 where, in line with Article 288 TFEU as referred to above, it is stated that: *"Whilst it is not realistic to expect all Member States to adopt the same approach to implementation, the extent to which there is divergence will increase complexity and costs to business and will not contribute to enhancing confidence in doing business in the EU."*

Furthermore, we added that *"Therefore, in order to help promote the consistency of the regulatory framework governing statutory audit across the EU and to ensure that any burdens on business are minimised, it is essential that there is effective implementation of this legislation in all EU Member States. This will be a challenge as issues with regard to the meaning of certain articles of this new legislation are already being flagged by stakeholders, including Member States. This paper is therefore designed to highlight some of the key issues that have been identified."*

FEE would also like to refer to its Briefing Paper on the Provision of Non-Audit Services to Audit Clients of June 2011⁵. More specifically, in more general terms and in relation to non-Public Interest Entities, FEE put forward that: *"Such [as for Public Interest Entities] rigorous requirements are less justifiable or relevant for other entities or non-Public Interest Entities, including Small and Medium-sized Entities (SMEs). This, compared to audits of Public Interest Entities, results in less prohibitions of non-audit services and more permitted services for auditors auditing non-Public Interest Entities. [...] Most EU Member States have used a similar approach to regulate the provision of non-audit services by auditors and their audit firm network."*

³ See <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12012E/TXT&from=EN>

⁴ See http://ec.europa.eu/internal_market/auditing/docs/reform/impact_assesment_en.pdf

⁵ See [http://www.fee.be/images/publications/auditing/BP_110630 - Auditing - Provision of Non-Audit Services to Audit Clients.pdf](http://www.fee.be/images/publications/auditing/BP_110630_-_Auditing_-_Provision_of_Non-Audit_Services_to_Audit_Clients.pdf)

Although the implementation of this EU legislation and the choice in Member options is currently being considered in EU Member States, we understand at this point in time that for the prohibition of the provision of non-audit services by audit firms and auditors to audit clients being Public Interest Entities:

- The vast majority of EU Member States plan to adopt the provision in Article 5 of the Regulation as agreed on EU level without adding prohibited services to the so called 'black list' of prohibited non-audit services in Article 5 (1);
- Only **one EU Member State plans to keep its current 'white list'** approach by permitting only specified non-audit services and prohibiting all others, being the Netherlands⁶;
- **Very few EU Member States are considering a 'white list' approach**, namely in France it is discussed whether to keep all or part of its current 'white list' of permissible non-audit services and there also appear to be some discussion on a 'white list' in the United Kingdom as well as in a few very small EU Member States;
- **Not one other EU Member State is currently envisioning to extend** any of the provisions included in Article 5 of the Regulation on the prohibition of the provision of non-audit services **to audit firms and auditors of non-Public Interest Entities**. They are of the view that doing so would put an unjustifiable burden on non-Public Interest Entities, including Small and Medium-sized Entities (SMEs).

Based on the above, FEE concludes that consistency in implementation is crucial and FEE strongly recommends EU Member States transposing the Regulation to stay as close as possible to the text of the Regulation without adding additional requirements or prohibitions.

The Appointment of the Auditor and the Duration of the Audit Engagement

FEE has also been working on this matter and we thought it may be of help to again bring the FEE Briefing Paper on the Appointment of the Auditor and the Duration of the Audit Engagement to your attention.

The wider context to rotation is included on the third page of this Briefing Paper as Article 17 (2) of the EU Regulation on mandatory audit firm rotation for Public Interest Entities states that: *"As per the Regulation, Public Interest Entities need to appoint their auditor or audit firm for a minimum of one year and a maximum of ten years, although States can extend the maximum duration period in specified circumstances."* Article 17 (7) on mandatory key audit partner rotation states for Public Interest Entities that: *"The key audit partner must rotate at least every seven years with a cooling off period of three years."*

⁶ Allowed services ('services of an audit nature') in the Netherlands clarified as those in ISAs 100 through ISAE 4400, if they:

- Relate to information from the Public Interest Entity.
- Are performed for the benefit of third parties and/or the supervisory board / audit committee in its supervisory role.

All other services in combination with the statutory audit are prohibited.

These requirements introduce also a number of Member State options and FEE is committed to informing the choice of Member States with the objective of **creating a workable single market** in this respect and **enhancing consistency of application throughout the EU as far as possible**.

Although the implementation of this EU legislation and the choice in Member options is currently being considered in EU Member States, we understand at this point in time that:

- The **vast majority of EU Member States plan to adopt the maximum initial duration period for the audit engagement of ten years for audit firms or auditors of Public Interest Entities;**
- **Majority of EU Member States will permit this maximum period to be extended for another period up to ten years following a tender process for audit firms or auditors of Public Interest Entities;**
- **Not one other EU Member State is currently envisioning to extend any of the provisions on mandatory audit firm rotation or mandatory key audit partner rotation included in Article 17 of the Regulation to audit firms or auditors of non-Public Interest Entities.**

As far as mandatory rotation of key audit partners is concerned, we indeed understand that most EU member states plan to use the durations included in the Regulation for auditors of Public Interest Entities only. Some EU member states are considering shorter periods, predominantly to align the duration of audit firm and audit partner rotation. For example, we understand at this point in time the following:

- Audit partner rotation after five years instead of the maximum allowed seven years for auditors of Public Interest Entities is being considered in Austria, Bulgaria, Greece, Ireland, Lithuania, Netherlands, Slovakia, Spain and United Kingdom;
- Audit partner rotation after six years instead of the maximum allowed seven years for auditors of Public Interest Entities is being considered in Belgium and France;
- Audit partner rotation after four years instead of the maximum allowed seven years for auditors of Public Interest Entities and non-Public Interest Entities is being considered in Poland only.

As stated on the fourth page of the FEE Briefing Paper, providing flexibility to businesses within the EU to allow Public Interest Entities to set the same rotation rules at group level for the entire entity would be beneficial to those businesses operating cross-border. Specifically, this flexibility permits parent companies and their subsidiaries in different EU Member States to more easily achieve compliance with one another's respective national maximum duration requirements based on Article 17 of the Regulation. Disruption due to different rotation timeframes could lead to additional audit procedures and inefficiencies in the coordination of audits with potential effects on the quality and cost of audits. In addition, differences in legislation between neighbouring countries can lead to a lack of clarity and unnecessary increases in compliance costs for local companies that operate across borders.

In case Poland would opt for a mandatory audit firm rotation period of eight years for Public Interest Entities, which might include subsidiaries of a larger European group of companies or financial institutions, these inefficiencies and additional costs are very likely to occur.

Equally, in case Poland would opt for also applying the very rigorous requirements of mandatory audit firm rotation as well as mandatory key audit partner rotation for other than Public Interest Entities, the additional burden on Small and Medium-sized Entities and on Small and Medium-sized Practices will be unjustifiably and disproportionately excessive.

Therefore, we would be very interested to understand the rationale and reasons for such a very short rotation period for Public Interest Entities and for imposing such extremely burdensome additional national mandatory audit firm and partner rotation requirements for non-Public Interest Entities in Poland and whether and how the potentially negative impact on the Polish economy and foreign investment has been assessed.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Petr Kriz', is located below the 'Yours sincerely,' text on the left side.

Petr Kriz
President

A handwritten signature in blue ink, appearing to read 'Olivier Boutellis-Taft', is located below the 'Yours sincerely,' text on the right side.

Olivier Boutellis-Taft
Chief Executive