

Briefing Paper

Standing for trust and integrity

June 2014



PROVISION OF NON-AUDIT-SERVICES TO PUBLIC INTEREST ENTITY STATUTORY AUDIT CLIENTS: A Need for Clarification and Consistency

Introduction

In the context of the implementation of the new European audit legislation, FEE seeks to address in this paper issues that Public Interest Entities (PIEs), their audit committees and auditors may face in relation to interpreting the requirements of the auditor independence provisions in the legal texts in relation to the provision by auditors of non-audit services (NAS) to statutory audit clients which are PIEs.

The drafting of certain articles in the legal texts leaves considerable scope for interpretation. The European accountancy profession is committed to informing the debate

Background

The requirements in relation to the provision of NAS by the statutory auditor to clients that are PIEs are included in the two following pieces of legislation:

- The **Directive 2014/56/EU**¹, which amends the Statutory Audit Directive (SAD) 2006/43/EC and contains a series of amended and new provisions on the independence and objectivity of the auditor governing every statutory audit in the EU. References to the "Directive" in this paper refer to SAD 2006/43/EC as amended to take account of the revisions introduced by Directive 2014/56/EU; and
- The **Regulation (EU) 537/2014**², which contains additional requirements relating specifically to statutory audits of PIEs in addition to the ones stated in the Directive (hereafter referred to as the "Regulation")³.

¹ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014L0056&from=EN>

² <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014R0537&from=EN>

³ Although it is a Regulation, many options are available in the text that may hamper consistent application of these new requirements in the EU. FEE has published a table summarising the options available that is accessible at: http://www.fee.be/images/publications/auditing/Option_Table_-_Audit_Regulation_2014.pdf. Reference is also made to the fact sheet FEE has prepared; it summarises the main requirements included in both texts and is accessible at: http://www.fee.be/index.php?option=com_content&view=article&id=1419&Itemid=106&lang=en

with the objective to enhance consistency in scope and in meaning as far as possible. In addition, as detailed further below, translation issues have emerged, which could also impact on the objective of ensuring consistent application of the legislation across the EU.

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.

Given the two-year transposition period for Member States included in the Directive and the two-year delay in the application of most provisions included in the Regulation, the implementation and clarification process is just beginning.

Whilst primarily targeted at the auditing profession in the EU, the audit legislation also imposes requirements on PIEs and their audit committees. 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.

In certain respects, the auditor independence provisions in the legislation adopt a similar approach to that taken in the International Ethics Standards Board for Accountants (IESBA) Code⁴, including the use of a threats and safeguards approach.

However, both within the Directive and the Regulation, there are several requirements that are more restrictive than existing practice in many Member States. This is particularly true in relation to the provisions dealing with the auditor providing NAS to statutory audit clients which are PIEs, and which therefore forms the subject of this paper.

Whilst the definition of a PIE in the Directive is nearly the same as the one included in the EU Accounting Directive⁵ and indeed the 2006 SAD, the scope of entities to which the provisions on audit committees and auditor independence apply are likely to increase when implementing the Directive. This is due to the removal of the Member State option allowing a Member State to limit the scope of entities to which these PIE-provisions apply to entities listed on regulated markets.

Audit committee: central role in overseeing the independence of the auditor⁶

Article 39(6) of the Directive places considerable responsibility on the audit committee with respect to the monitoring and review of the statutory auditor's independence. This approach will be new to some Member States, therefore additional guidance for members of audit committees may be necessary to help them perform their duties. One of the main issues in this context is the audit committee's responsibility for overseeing the provision of NAS to the audited entity.

Audit firms and any member firm of their network are permitted to provide NAS to their PIE audit clients, its parent undertaking in the EU and controlled undertakings within the EU, other than those which are specifically prohibited by article 5(1) of the Regulation (or any additional Member State prohibitions), provided that the provision of such services has been approved by the PIE's audit committee. There is also a ceiling "cap" which restricts the maximum amount of permissible NAS which can be provided in a financial year.

Prior to giving its approval, the audit committee is tasked with assessing the threats to the auditor's independence and the appropriateness of any necessary safeguards that have been applied in the circumstances. The Regulation is silent as to whether this approval can be met by the adoption by the audit committee of an approved list of permissible NAS or whether each specific service would need to be subject to a separate evaluation and approval process by the audit committee. For the purpose of minimising the regulatory burden, FEE believes that business would favour the former approach.

The audit committee is charged with the responsibility to oversee the provision of non-audit services (NAS) by the audit firm, and thus requested to establish an approval process for the audit client to commission NAS to its audit firm. Whether this is done via an approved list of permissible NAS or on a case by case basis, the audit committee is always requested to assess the threats to the auditor's independence and the appropriateness of any necessary safeguards applied, prior to giving its approval.

Prohibited Non-Audit Services for Public Interest Entities

NAS prohibitions apply to the audit firm and its network

Article 5(1) of the Regulation introduces a list of prohibited NAS (the so called "black list") that the audit firm and any member of its network are not allowed to provide to any statutory audit

client which is a PIE, to its parent undertaking in the EU or to its controlled undertakings within the EU. This article therefore - unlike the cap (see below) - specifically refers not only to the audit firm, but also to other members of its network. The list of prohibited NAS is included in the **Appendix** to this Briefing Paper along with a comparison of the equivalent requirements in the IESBA Code.

⁴ <http://www.ifac.org/sites/default/files/publications/files/2013-IESBA-Handbook.pdf>

⁵ Article 2 of the 2013 Accounting Directive accessible at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:182:0019:0076:EN:PDF>

⁶ Exemptions from the obligation to have an audit committee may be granted to PIEs with a body performing equivalent functions to an audit committee in accordance with legal provisions in the Member State or, for reasons of proportionality, to a small or medium-sized undertaking where the functions of the audit committee are performed by an administrative or supervisory body.

Briefing Paper

Period covered by prohibitions

The prohibitions apply in the period between the beginning of the period audited and the issuing of the audit report. For certain services falling under the category “Designing and implementing internal control or risk management procedures related to the preparation and/or control of financial information” or “Designing and implementing financial information technology systems”, the respective prohibitions extend to the financial year preceding the financial year subject to audit. It should be emphasised that PIEs, and in particular their audit committees, need to be aware of this additional period of prohibition when selecting their statutory auditor and/or when developing a policy on service providers.

As with other matters included below and covered by the Regulation, there is a need for clarity with regard to the financial year in which these prohibitions will first come into effect. If it is assumed that a PIE has a year end of 31 December 2016, then the logical conclusion would be that the period covered would begin for the statutory audit of the financial year 2017. This would be based on the premise that the provisions in the Regulation should not be applied retrospectively.

Implications of EU approach to prohibited NAS

Risk of inconsistent interpretation

It is essential that, as far as possible, there is a common understanding of and consistency of interpretation of the legal requirements within the EU in a bid to minimise the impact on business. This consistency is required in two ways:

- In the scope of the provisions; and
- In the meaning of the wording.

In relation to the latter point, there is a risk that the prohibited NAS, as described in article 5(1) of the Regulation, may be interpreted differently within the EU due to the lack of supporting guidance. This issue will potentially be exacerbated around the globe. Without further guidance to help those impacted to interpret the specific prohibitions, there is a real danger that the applicability, consistency and effectiveness of the rules will be reduced, contrary to the intention of the Regulation.

To address this lack of guidance, use could be made of the relevant provisions of the IESBA Code or the European Commission (EC) Recommendation 2002/590/EC on statutory

auditors’ independence in the EU to help those affected better understand which NAS are actually prohibited.

No equivalent provisions

There are prohibitions included in article 5(1) of the Regulation which have no equivalent provision in either the IESBA Code or EC Recommendation. This is for instance the case for tax services related to “custom duties” or “identification of public subsidies and tax incentives”. This creates a vacuum which is unhelpful, particularly for audit committees. FEE requests therefore that the EC enters into discussions with key stakeholders, such as business representative organisations, and also the profession, to help facilitate a common understanding of what exactly is meant by the specific prohibitions concerned.

There is a need for a consistent approach, both in the scope and in the meaning of the provisions included in the Regulation. Where existing, the relevant guidance for equivalent provisions provided by the IESBA Code of Ethics or the European Commission (EC) Recommendation 2002/590/EC should be used. The Appendix to this Briefing Paper provides a comparison of the prohibited services as per the Regulation (EU) 537/2014 with the prohibitions for PIE audits included in the IESBA Code of Ethics.

Member State options to increase the list of prohibited NAS and to impose stricter conditions

Member States have the option to establish stricter conditions with regard to:

- The list of prohibited NAS; and/or
- The set-up of the conditions under which an audit firm, or a member of a network to which the audit firm belongs, may provide permissible NAS to the audited entity, to its parent undertaking or to its controlled undertakings.

FEE would ask Member States to give due consideration to the potential consequences of such an approach before electing to adopt these options. Where certain Member States elect to further restrict the NAS that audit firms can provide to their PIE statutory audit clients, the consequence will be regulatory divergence and fragmentation, resulting in more regulatory complexity across the Single Market. This burden will be most heavy on those PIEs operating in those Member States that have adopted different approaches to the Member State options. This is illustrated in the example on the next page.

FEE firmly believes that the EU should strive to have a level playing field in this respect and that Member States should respect the comprehensiveness of the list of prohibited NAS as established in the EU Regulation. FEE does not believe that consistency in this area should be achieved on the basis of alignment with the Member State which elects to adopt the most restrictive policy on provision of NAS.

Various options are available to Member States to apply stricter conditions on and to add to the list of prohibited non-audit services. The use of such options should be carefully considered to avoid unintended consequences, such as regulatory divergence and fragmentation across the Single Market, which might heavily bear on public interest entities operating across the EU.

An **example** is provided below to illustrate the regulatory complexity resulting from divergence of regulatory approach:

Company X is a PIE, which is based in Member State M, and is the parent undertaking of Group X. Company X has a subsidiary undertaking, Company Y, which is also a PIE and located in Member State S. Member State M has not exercised the option to add to the list of prohibited NAS but Member State S has done so. This divergence in regulatory approach will create unnecessary complexity for Group X and in particular its audit committee(s) in determining what NAS can be commissioned by its statutory audit firm(s) and other parts of its (their) network partners for the group and its respective undertakings.

Member State option to allow certain prohibited NAS on grounds of immateriality

Member States have the option to allow audit firms to provide certain prohibited tax and valuation services to PIE statutory audit clients (see table below) if all the following criteria are met:

- They have no direct effect, or any such direct effect is immaterial, separately or in the aggregate, on the audited financial statements;
- The estimation of the effect on the audited financial statements is comprehensively documented and explained in the additional report the audit firm issues to the PIE's audit committee; and
- The audit firm complies with the principles of independence as laid down in the Directive.

Tax services

- (i) Preparation of tax forms
- (ii) Identification of public subsidies and tax incentives unless support from the statutory auditor or the audit firm in respect of such services is required by law
- (iii) Support regarding tax inspections by tax authorities unless support from the statutory auditor or the audit firm in respect of such inspections is required by law
- (iv) Calculation of direct and indirect tax and deferred tax
- (v) Provision of tax advice

Valuation services

- (i) Valuation services, including valuations performed in connection with actuarial services or litigation support services

It appears advantageous to business for Member States to allow the use of this option. Although it may add some bureaucracy and complexity for audit committees and audit firms to administer, it does also provide them with a certain degree of flexibility. The provision of such NAS will require the approval of the audit committee, which is seen as an appropriate and proportionate safeguard in this respect. Ultimately from an EU perspective, as any such NAS are by definition required to have an immaterial impact on the financial statements, any deviation in approach by Member States is unlikely to have a significant impact on the Single Market regulatory approach.

Translation issues

FEE is aware that translation issues have emerged, which could impact on the objective of ensuring a common meaning of the legislation across the EU. As an example, the official translation in one language provides a significantly more narrow interpretation of what is restricted by "*legal services, with respect to: the provision of general counsel*", whereas the official translation in another language stipulates that the prohibition would refer to any type of legal advice. The latter would even be redundant due to the fact that this prohibition is listed as a sub-category under those "legal services" that are considered to be prohibited.

Briefing Paper

Upstream and downstream applications

As noted above, the Regulation's scope applies not just to the PIE statutory audit client but, where applicable, to its parent undertaking in the EU as well as controlled undertakings within the EU. This approach therefore creates potential upstream and downstream application issues which may impact on audit firms which are not part of the network of the audit firm which has responsibility for the audit of the parent undertaking (e.g. if an audit firm is auditing a subsidiary undertaking which is a PIE, then it is prohibited from providing NAS on the black list to the parent undertaking of the group, even if it is not part of the network that undertakes the audit of the parent undertaking).

The approach adopted in the legislation therefore goes further than the "subject to audit" principle which is adopted in the IESBA Code and also for most services covered by the US Security Exchange Commission (SEC) Rules. This principle to permit the provision of NAS that are not subject to audit procedures by the audit firm would also allow an audit firm to provide NAS to an entity which is not an audit client but which has direct or indirect control over the audit client, if it is reasonable to conclude that:

- The services do not create a self-review threat because the results of the services will not be subject to audit procedures; and
- Any threats that are created by the provision of such services are eliminated or reduced to an acceptable level by the application of safeguards.

The cap on Non-Audit Services

Article 4(2) of the Regulation states:

"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.

Impact of provision of NAS outside the EU by a network firm

In situations where a network firm is providing NAS which are prohibited within the Member State in which the audit firm is situated, to a controlled undertaking within the group that is located outside the EU, the legislation introduces a requirement for the auditor to assess whether its independence would be compromised by the provision of such services by its network firm. If the audit firm's independence is deemed to be affected, then it is required to apply appropriate safeguards and ultimately, the audit firm can only continue with the audit engagement if the provision of such services is not believed to affect its professional judgement and hence the audit report. In this context, the provision of certain prohibited services by a network firm is deemed to pose such a threat to the audit firm's independence that a mitigation by any safeguards is not possible. These are:

- Services that involve playing any part in the management or decision-making of the audited entity;
- Bookkeeping and preparing accounting records and financial statements; and
- Designing and implementing internal control or risk management procedures related to the preparation and/or control of financial information or designing and implementing financial information technology systems.

The auditor is required to assess whether the provision of any other service would compromise the audit firm's independence and therefore necessitate the use of appropriate safeguards.

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."

This article is not entirely clear as to what is the specific requirement and different interpretations are emerging;

these issues are discussed below. What is clear is that the requirement relates to the specific audit firm and not to the rest of the network to which it may belong. This is in contrast to the approach taken in relation to the list of prohibited NAS where network firms are captured.

How the cap of 70% may work in practice

Does the cap apply in the third or the fourth year?

FEE is aware that two different interpretations of the question “In what year does the cap apply?” are being discussed. The difference in these interpretations is that one promotes the use of the cap in year 3, based on the audit fees charged in years 1, 2 and 3 (provisional), whereas, the other promotes the use of the cap in year 4, based on the actual audit fees charged in years 1, 2 and 3.

Year	Audit fee charged by firm B	Three-year average audit fees	Cap (70% of the three-year average audit fee)	Total fees for NAS provided (Not prohibited)	Cap
31/12/2021	200	N/A	N/A	200	N/A: no period of three consecutive years.
31/12/2022	203	N/A	N/A	180	N/A: no period of three consecutive years.
31/12/2023	208	203.67	N/A	150	N/A: the period of three consecutive years is complete at year-end: the cap therefore applies in the next financial year.
31/12/2024	210	207	142.57	87	Cap applies but no breach as NAS of 87 is less than 142.57.
31/12/2025	215	211	144.9	0	No NAS provided: breaks the calculation
31/12/2026	219	214.67	N/A	140	N/A: no period of three consecutive years.
31/12/2027	234	222.67	N/A	300	N/A: no period of three consecutive years.
31/12/2028	245	232.67	155.87	250	N/A: no period of three consecutive years.
31/12/2029	250	243	162.87	150	Cap applies but no breach as NAS of 150 is less than 162.87.

In which year does the cap first apply?

There has been considerable discussion regarding the financial year in which the cap on NAS will first come into effect. If it is assumed that a PIE has a year end of 31 December 2016, then the logical conclusion would be that this would be in the year to 31 December 2020. This would be based on the premise that the

FEE believes it would be more logical for the latter method to be adopted as it enables the use of actual figures (audit and non-audit fees) of three years, as opposed to possibly having to use estimated fees in the third year.

The cap also only becomes applicable when NAS have been provided for three or more consecutive financial years. The following example illustrates how the cap would cease to apply when this period of consecutive provision of NAS is broken.

Example:

PIE A appointed audit firm B in early 2021. The audit firm had not previously provided any NAS to PIE A. The first year’s audit of PIE A by audit firm B was for the year end of 31 December 2021. The application of the cap, based on the 4-year test approach is as follows:

legislation should not be applied retrospectively and therefore, the three consecutive years would comprise the December year ends in 2017, 2018, and 2019. This logic excludes the year to 31 December 2016 on the basis that the legislation will not have been in-effect for a full financial year as at that date. If one interprets the cap as applying in year 3 of 3, then it would first apply in the year to 31 December 2019.

Briefing Paper

What does the second sub paragraph of article 4 mean?

It is FEE's view that this paragraph should be interpreted as permitting the fees for those NAS that are permissible on the grounds that they are specifically required by the law to be provided by the auditor, to be excluded in the cap calculation.

Other issues concerning the cap

In terms of the audit fees to be included, as the article specifically refers to the audit firm and no mention is made of other network firms, then it is only the audit fees which have been charged by the audit firm⁷ which should be included in the cap calculation.

If the audit firm has not provided NAS for three consecutive years, it is clear - as illustrated above - that the cap is not applicable. However, in the situation where the auditor has not been in situ for a consecutive period of three years, but NAS

were provided to the entity in question prior to the firm being appointed as statutory auditor, it is not clear whether the cap applies or not, and when.

There is an option in article 4(4) of the Regulation which allows Member States to establish a lower cap on the level of NAS that can be provided by the audit firm. If Member States take advantage of this option, this will merely add further unnecessary complexity to a provision which is already causing considerable uncertainty.

The provision on the cap on non-audit services as currently provided in the Regulation raises questions with respect to its practical application and hence causes considerable uncertainty for stakeholders. Some of FEE's points above are aimed at assisting stakeholders in their reflection on and implementation of this provision.

Summary and conclusions

As detailed above, four categories of non-audit services (NAS) can be identified:

- The ones that are prohibited in any case (black list without options as per article 5(1) of the Regulation);
- Those additional NAS which a Member State decides to add to the black list or to establish stricter rules (option as per articles 5(2) and 5(4) of the Regulation);
- Member State options to permit certain prohibited services provided that the following three set criteria are satisfied (option as per article 5(3) of the Regulation):
 - o No direct effect or any such direct effect is immaterial, separately or in the aggregate on the financial statements;
 - o Estimation of this effect is documented in the audit committee report; and
 - o Independence principles are applied.
- NAS that are permitted under the independence principles i.e.
 - o NAS approved by the audit committee (article 39(6) of the Directive); and
 - o NAS which do not exceed the cap (as per article 4(2) of the Regulation).

The use of a Regulation should have resulted in a more certain EU audit regulatory environment. However, due to the rare occurrence of making a series of options available to Member States in a Regulation, the extent to which these will be exercised will impact on the level of regulatory convergence. The risk is that an unnecessarily complex regulatory environment will be created which will affect the EU's growth agenda for business.

FEE asks Member States to mitigate this risk and to consider carefully the implications of utilising those options which are merely likely to add to the burden on business and hence would be a deviation from the level playing field of the Single Market.

⁷ Hence will include the audit fees charged to subsidiaries and/or parent inside and outside the EU where applicable.

Appendix: Table comparing the list of prohibited services as per the Regulation (EU) 2014/537 and the IESBA⁸ Code of Ethics. The extracts of Section 290 of the IESBA Code of Ethics that are presented below consist of references to provisions equivalent to the ones in the EU Regulation, but do not reflect the full scope of considerations that need to be taken into account; in particular, they do not refer to the general approach of threats and safeguards that has to be applied in any case.

EU Regulation applicable to PIEs List of prohibited services	IESBA Code of Ethics Prohibitions that apply to PIEs Extract of Section 290
<p>Tax services relating to:</p> <ul style="list-style-type: none"> • Preparation of tax forms; • Payroll tax; • Customs duties [no equivalence at all in the IESBA Code]; • Identification of public subsidies and tax incentives unless support from the statutory auditor or the audit firm in respect of such services is required by law [no equivalence at all in the IESBA Code]; • Support regarding tax inspections by tax authorities unless support from the statutory auditor or the audit firm in respect of such inspections is required by law; • Calculation of direct and indirect tax and deferred tax; • Provision of tax advice. 	<p>Taxation Services that include:</p> <ul style="list-style-type: none"> • Tax return preparation: does not generally create a threat to independence if management takes responsibility for the returns including any significant judgments; • Tax calculations for the purpose of preparing accounting entries (including the calculation of current and deferred tax liabilities or assets): prohibited if they are material to the financial statements on which the firm will express an opinion (except for emergency or unusual situations); • Tax planning and other tax advisory services: prohibited where the effectiveness of the tax advice depends on a particular accounting treatment or presentation in the financial statements and: <ul style="list-style-type: none"> (a) The audit team has reasonable doubt as to the appropriateness of the related accounting treatment or presentation under the relevant financial reporting framework; and (b) The outcome or consequences of the tax advice will have a material effect on the financial statements on which the firm will express an opinion; • Assistance in the resolution of tax disputes: prohibited where the taxation services involve acting as an advocate for an audit client before a public tribunal or court in the resolution of a tax matter and the amounts involved are material to the financial statements on which the firm will express an opinion.
<p>Services that involve playing any part in the management or decision-making of the audited entity</p>	<p>Assuming a management responsibility</p> <p>Management responsibilities involve leading and directing an entity, including making significant decisions regarding the acquisition, deployment and control of human, financial, physical and intangible resources.</p> <p>Whether an activity is a management responsibility depends on the circumstances and requires the exercise of judgment. Examples of activities that would generally be considered as management responsibility and that are thus prohibited include:</p> <ul style="list-style-type: none"> • Setting policies and strategic direction; • Directing and taking responsibility for the actions of the entity's employees; • Authorizing transactions; • Deciding which recommendations of the firm or other third parties to implement; and • Taking responsibility for designing, implementing and maintaining internal control. <p>On the contrary, activities, which are routine and administrative, or involve matters that are insignificant, generally are deemed not to be a management responsibility. Furthermore, providing advice and recommendations to assist management in discharging its responsibilities is not assuming a management responsibility.</p>

⁸ The International Ethics Standards Board for Accountants® (IESBA®, the Ethics Board) is an independent standard-setting body that serves the public interest by setting robust, internationally appropriate ethics standards, including auditor independence requirements, for professional accountants worldwide. These are compiled in the Code of Ethics for Professional Accountants™ (the Code). This Code is accessible at: <http://www.ifac.org/sites/default/files/publications/files/2013-IESBA-Handbook.pdf>

Briefing Paper

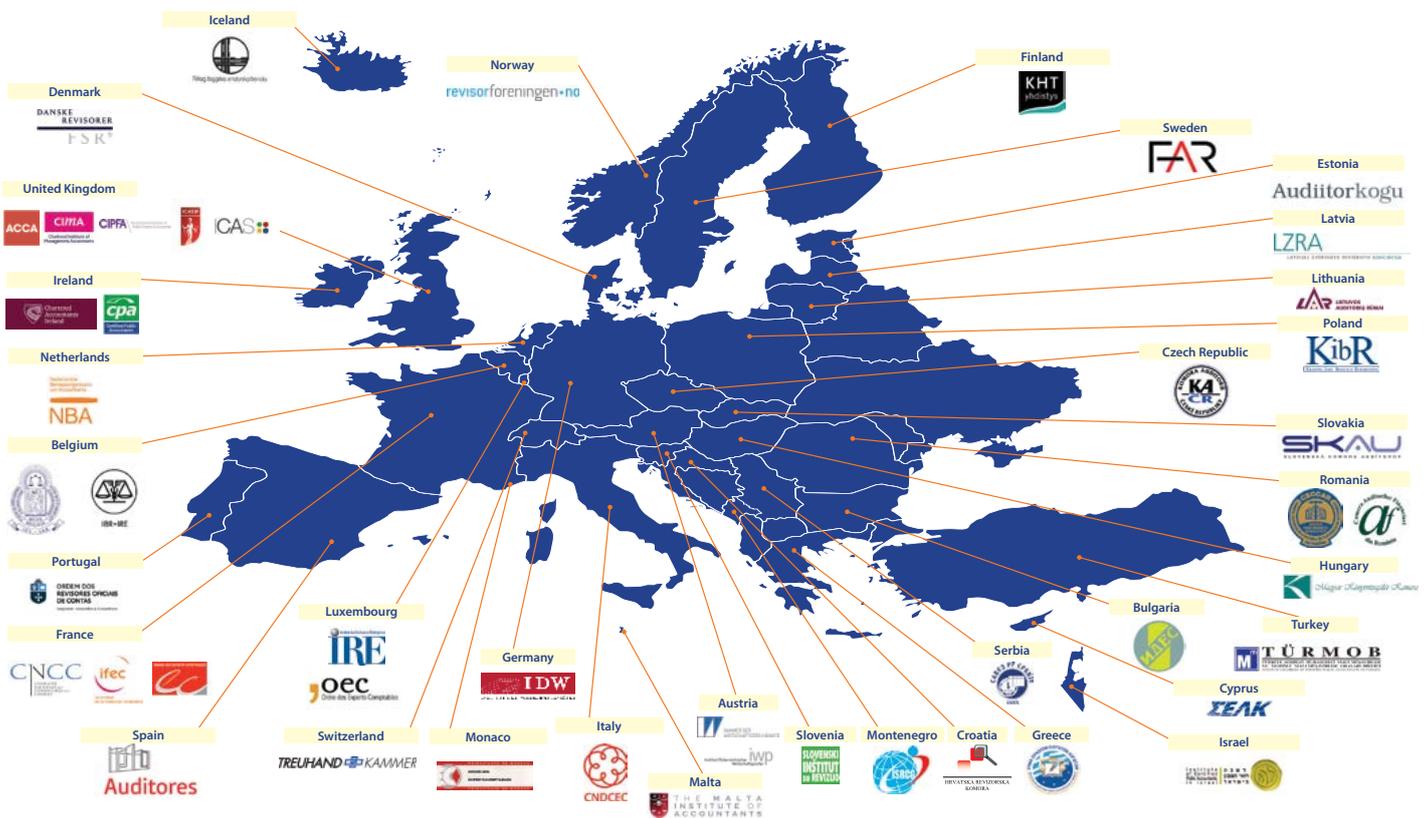
EU Regulation applicable to PIEs List of prohibited services	IESBA Code of Ethics Prohibitions that apply to PIEs Extract of Section 290
Bookkeeping and preparing accounting records and financial statements	<p>Preparing Accounting Records and Financial Statements</p> <p>Comprise accounting and bookkeeping services, such as preparing accounting records or financial statements.</p> <p>Prohibited: accounting and bookkeeping services, including payroll services, or preparing financial statements on which the firm will express an opinion or financial information which forms the basis of the financial statements.</p>
Payroll services	
<p>Designing and implementing internal control or risk management procedures related to the preparation and/or control of financial information</p> <p>or</p> <p>Designing and implementing financial information technology systems</p>	<p>IT Systems Services</p> <p>Services related to information technology (IT) systems include the design or implementation of hardware or software systems. The systems may aggregate source data, form part of the internal control over financial reporting or generate information that affects the accounting records or financial statements, or the systems may be unrelated to the audit client's accounting records, the internal control over financial reporting or financial statements.</p> <p>Prohibited where the services involve the design or implementation of IT systems that:</p> <ul style="list-style-type: none"> • Form a significant part of the internal control over financial reporting; or • Generate information that is significant to the client's accounting records or financial statements on which the firm will express an opinion.
<p>Valuation services, including valuations performed in connection with actuarial services or litigation support services</p>	<p>Valuation services</p> <p>Comprise making assumptions with regard to the future developments, the application of appropriate methodologies and techniques, and the combination of both to compute a certain value, or range of values, for an asset, a liability or for a business as a whole.</p> <p>Prohibited where the valuations would have a material effect, separately or in the aggregate, on the financial statements on which the firm will express an opinion.</p> <p>Litigation Support Services</p> <p>Litigation support services may include activities such as acting as an expert witness, calculating estimated damages or other amounts that might become receivable or payable as the result of litigation or other legal dispute, and assistance with document management and retrieval.</p> <p>Prohibited where the service involves estimating damages or other amounts that would have a material effect, separate or in aggregate, on the financial statements on which the firm will express an opinion.</p>

EU Regulation applicable to PIEs List of prohibited services	IESBA Code of Ethics Prohibitions that apply to PIEs Extract of Section 290
<p>Legal services, with respect to:</p> <ul style="list-style-type: none"> • The provision of general counsel; • Negotiating on behalf of the audited entity; and • Acting in an advocacy role in the resolution of litigation. 	<p>Legal services</p> <p>Legal services are defined as any services for which the person providing the services must either be admitted to practice law before the courts of the jurisdiction in which such services are to be provided or have the required legal training to practice law. Such legal services may include, depending on the jurisdiction, a wide and diversified range of areas including both corporate and commercial services to clients, such as contract support, litigation, mergers and acquisition, legal advice, support and assistance to clients' internal legal departments.</p> <p>General Counsel is generally a senior management position with broad responsibility for the legal affairs of a company.</p> <p>Prohibited where:</p> <ul style="list-style-type: none"> • Providing legal services will be acting in an advocacy role for an audit client in resolving a dispute or litigation when the amounts involved are material to the financial statements on which the firm will express an opinion; • Appointing a partner or an employee of the firm as General Counsel for legal affairs of the audit client.
<p>Services related to the audited entity's internal audit function</p>	<p>Internal Audit Services</p> <p>Internal audit activities may include:</p> <ul style="list-style-type: none"> • Monitoring of internal control – reviewing controls, monitoring their operation and recommending improvements thereto; • Examination of financial and operating information – reviewing the means used to identify, measure, classify and report financial and operating information, and specific inquiry into individual items including detailed testing of transactions, balances and procedures; • Review of the economy, efficiency and effectiveness of operating activities including non-financial activities of an entity; and • Review of compliance with laws, regulations and other external requirements, and with management policies and directives and other internal requirements. <p>Prohibited where internal audit services relate to:</p> <ul style="list-style-type: none"> • A significant part of the internal controls over financial reporting; • Financial accounting systems generate information that is, separately or in the aggregate, significant to the client's accounting records or financial statements on which the firm will express an opinion; or • Amounts or disclosures are, separately or in the aggregate, material to the financial statements on which the firm will express an opinion.

Briefing Paper

EU Regulation applicable to PIEs List of prohibited services	IESBA Code of Ethics Prohibitions that apply to PIEs Extract of Section 290
<p>Services linked to the financing, capital structure and allocation, and investment strategy of the audited entity, except providing assurance services in relation to the financial statements, such as the issuing of comfort letters in connection with prospectuses issued by the audited entity.</p>	<p>Corporate Finance Services</p> <p>Include assisting an audit client in developing corporate strategies, identifying possible targets for the audit client to acquire, advising on disposal transactions, assisting finance raising transactions, or providing structuring advice.</p> <p>Prohibited where corporate finance advice depends on a particular accounting treatment or presentation in the financial statements and:</p>
<p>Promoting, dealing in, or underwriting shares in the audited entity [The IESBA Code considers this service as a part of Corporate Finance Services].</p>	<ul style="list-style-type: none"> • The audit team has reasonable doubt as to the appropriateness of the related accounting treatment or presentation under the relevant financial reporting framework; and • The outcome or consequences of the corporate finance advice will have a material effect on the financial statements on which the firm will express an opinion. <p>Prohibited where services involve promoting, dealing in, or underwriting an audit client's shares.</p>
<p>Human resources services, with respect to:</p> <ul style="list-style-type: none"> • Management in a position to exert significant influence over the preparation of the accounting records or financial statements which are the subject of the statutory audit, where such services involve: <ul style="list-style-type: none"> o Searching for or seeking out candidates for such positions; or o Undertaking reference checks of candidates for such positions; • Structuring the organisation design; and • Cost control. 	<p>Recruiting Services</p> <p>Prohibited where the statutory auditor or audit firm would assume management responsibilities, including acting as a negotiator on the client's behalf, and where the hiring decisions would not be left to the client.</p> <p>Prohibited with respect to a director or officer of the entity or senior management in a position to exert significant influence over the preparation of the client's accounting records or the financial statements on which the firm will express an opinion:</p> <ul style="list-style-type: none"> • Searching for or seeking out candidates for such positions; and • Undertaking reference checks of prospective candidates for such positions.

FEE and its Members



FEE is a Regional Organisation of IFAC, the International Federation of Accountants

About FEE

FEE (Fédération des Experts-comptables Européens – Federation of European Accountants) is an international non-profit organisation based in Brussels that represents 47 institutes of professional accountants and auditors from 36 European countries, including all of the 28 EU member states.

FEE has a combined membership of more than 800,000 professional accountants, working in different capacities in public practice, small and large accountancy firms, businesses of all sizes, government and education – all of whom contribute to a more efficient, transparent and sustainable European economy.

Find us on