

**Extract in relation to “Audit Committees” from Statutory
Instruments No. 312 of 2016 which implements the European
Union (Statutory Audits) Directive 2014/56/EU**

AUDIT COMMITTEES

Audit committees for public-interest entities

115. (1) The directors of each public-interest entity shall establish an audit committee for the entity.

(2) The majority of the members of the audit committee shall be non-executive directors of the public-interest entity, that is to say, directors—

(a) the terms of appointment of whom indicate or state that they are being appointed in a non-executive capacity, and

(b) who otherwise possess the requisite degree of independence (particularly with regard to each of them satisfying the condition in paragraph (3)) so as to be able to contribute effectively to the committee's functions.

(3) The condition referred to in paragraph (2)(b) is that the director does not have, and at no time during the period of 3 years preceding his or her appointment to the committee did have—

(a) a material business relationship with the public-interest entity, either directly, or as a partner, shareholder, director (other than as a non-executive director) or senior employee of a body that has such a relationship with the entity, or

(b) a position of employment in the public-interest entity.

(4) At least one of the directors referred to in paragraph (2) shall be a person who has competence in accounting or auditing.

(5) For the purposes of paragraphs (2) and (3)(a), a non-executive director is a director who is not engaged in the daily management of the public-interest entity or body concerned, as the case may be.

(6) The members of the audit committee as a whole shall have competence relevant to the sector in which the audited entity is operating.

(7) The chairman of the audit committee shall be appointed by its members and shall be independent of the audited entity.

(8) Any proposal of the directors of a public-interest entity with respect to the appointment of a statutory auditor or audit firm to the entity shall be based on a recommendation made to the directors by the audit committee.

(9) The statutory auditor or audit firm shall report to the audit committee of the public-interest entity on key matters arising from the statutory audit of the entity, and, in particular, on material weaknesses in internal control in relation to the financial reporting process.

(10) Without prejudice to paragraph (1), this Regulation shall not apply to a public-interest entity if it is—

- (a) a public-interest entity which is a subsidiary undertaking within the meaning of point 10 of Article 2 of Directive 2013/34/EU if that entity fulfils the requirements set out in paragraphs (1) and (2) and Articles 11(1) and (2) and 16(5) of Regulation (EU) No 537/2014 at group level,
- (b) any public-interest entity which is an UCITS as defined in Article 1(2) of Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009¹¹ on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) or an alternative investment fund (AIF) as defined in Article 4(1)(a) of Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011¹² on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010,
- (c) subject to paragraph (11), any public-interest entity the sole business of which is to act as an issuer of asset backed securities as defined in point 5 of Article 2 of Commission Regulation (EC) No 809/2004 of 29 April 2004¹³ 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, or
- (d) any credit institution within the meaning of point 1 of Article 3(1) of Directive 2013/36/EU whose shares are not admitted to trading on a regulated market of any Member State within the meaning of point 14 of Article 4(1) of Directive 2004/39/EC and which has, in a continuous or repeated manner, issued only debt securities admitted to trading in a regulated market, provided that the total nominal amount of all such debt securities remains below €100,000,000 and that it has not published a prospectus under Directive 2003/71/EC of the European Parliament and of the Council of 4 November 2003¹⁴ on the prospectus to be published when securities are offered to the public or admitted to trading and amending Directive 2001/34/EC.

(11) An entity that avails itself of the exemption under paragraph (10)(c) shall, by means of a statement to that effect included—

- (a) in any annual report published by it, or
- (b) in an annual return or other periodic statement delivered by it to the Registrar of Companies or Central Bank of Ireland,

set forth the reasons for why it considers the establishment of an audit committee by it is not appropriate and, accordingly, why it has availed itself of that exemption.

(12) Without prejudice to the responsibility of the directors of the public-interest entity, the responsibilities of the audit committee shall include—

- (a) to inform directors of the entity of the outcome of the statutory audit and explain how the statutory audit contributed to the integrity of financial reporting and what the role of the audit committee was in that process,
- (b) to monitor the financial reporting process and submit recommendations or proposals to the directors of the entity to ensure its integrity,
- (c) to monitor the effectiveness of the entity's internal quality control and risk management systems and, where applicable, its internal audit, regarding the financial reporting of the entity, without breaching its independence,
- (d) to monitor the statutory audit of the annual and consolidated financial statements, in particular, its performance, taking into account any findings and conclusions by the Supervisory Authority pursuant to Article 26(6) of Regulation (EU) No 537/2014,
- (e) to review and monitor the independence of the statutory auditors or the audit firms in accordance with Regulations 93 to 98 and Article 6 of Regulation (EU) No 537/2014, and, in particular, the appropriateness of the provision of non-audit services to the audited entity in accordance with Article 5 of that Regulation, and
- (f) to be responsible for the procedure for the selection of a statutory auditor or audit firm and recommend the statutory auditor or audit firm to be appointed in accordance with Article 16 of Regulation (EU) No 537/2014 except when Article 16(8) of that Regulation is applied.

(13) Paragraph (8) applies to a proposal of the directors (with respect to the appointment of a statutory auditor or audit firm to a public-interest entity) made at any time after the establishment of the audit committee in respect of the entity.

(14) The other provisions of these Regulations with regard to the performance of a function by the audit committee apply with respect to accounts of the public-interest entity for financial years beginning on or after the establishment of the audit committee in respect of the entity.

(15) A public-interest entity which, without reasonable excuse, contravenes paragraph (11) shall be guilty of an offence and shall be liable—

- (a) on summary conviction, to a class A fine, or
- (b) on conviction on indictment, to a fine not exceeding €12,500.