THE EU AUDIT REFORM IN BELGIUM

2016

The European Audit Reform (EAR) and its implementation in Belgium


From 17 June 2016 onwards, all EU Member States are required to implement the (EAR), adopted by the EU legislators in 2014. Both the Regulation and Directive include various Member State (MS) “options.” This overview seeks to establish where Member States have made use of their respective options and/or have deviated from minimum harmonisation with regards to the statutory audits of Public Interest Entities (PIEs).

This document addresses the following questions:

1. Is the definition of PIEs expanded by the Member State?
2. How long is the duration of audit mandates for solo audits/joint audits before mandatory rotation applies?
3. What are the rotation guidelines for key audit partners?
4. Are the scope and responsibilities of the audit committee extended?
5. What are the new reporting requirements?
6. How is the appointment process of statutory auditor(s) or audit firm(s) outlined? How will public tenders be organised?
7. Has the list of non-audit services been expanded?
8. Has the cap on permitted non-audit services increased?
9. Which entity is designated as the competent authority in charge of the oversight of PIE audits?
10. How will the transition period apply in the Member State?

The EU Audit Reform in Belgium

Belgium passed the following pieces of legislation: Law laying down various economic provisions on June 29, 2016, and the Law on the organisation of the profession and the public supervision of auditors on December 7, 2016, effective December 31.

<table>
<thead>
<tr>
<th>1 - Is the definition of PIEs expanded by the Member State?</th>
<th>Baseline measures</th>
<th>MS Option</th>
<th>Implementation: Belgium</th>
</tr>
</thead>
</table>
| In the EU legislation, PIEs refer to the following entities:  
  1. Listed entities and entities with listed debt;  
  2. Credit institutions;  
  3. Insurance undertakings (see Directive, Art. 2). | • MS may exempt cooperatives and saving banks with non-profit-making purposes.  
• MS may designate as PIEs any undertakings that are of significant public relevance. | • The legislation expanded the definition of PIEs and added settlement organisations to the list. |
2 - How long is the duration of audit mandates for solo audits/joint audits before mandatory rotation applies?

- 10-year maximum duration period of audit engagements with possible derogations.
- For sole audits, MS may provide that the first 10-year period be extended by another 10 years (20 years in total), if a competitive and open tender is performed at the end of the first 10 years.
- MS may privilege joint audits, for which the maximum duration period would be 24 years (no tendering required).
- MS are free to set more limited time periods.
- The Belgian law requires that the initial audit engagement must last for at least 3 years.
- The mandatory rotation period, set at 9 years, is shorter than the EU baseline.
- The audit engagement can be extended for another 9 years following a tender.
- The audit engagement can be extended for 15 years in case of a joint audit (thus reaching the maximum allowed period of 24 years).

3 - What are the rotation guidelines for key audit partners?

- Rotation after a maximum of 7 years, followed by a 3-year cooling-off period.
- MS have the option to impose stricter rotation guidelines for key audit partners.
- Key audit partners must rotate every 6 years, followed by a 3-year cooling-off period.

4 - Are the scope and responsibilities of the Audit Committee extended?

- Both the Directive and Regulation reinforce the role of the Audit Committee by expanding its responsibilities and clearly defining its composition (see Directive, Art. 39).
- MS may require that the Chairman of the Audit Committee be elected on an annual basis by the general meeting of shareholders.
- MS have the option to exempt the following entities from having an Audit Committee:
  - Subsidiaries of an ultimate parent undertaking;
  - Any PIE that is an Undertaking for Collective Investment in Transferable Securities (UCITS), or any Alternative Investment Fund (AIF).
- There are no additional requirements.
### 5 - What are the new reporting requirements?

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Additional Requirement</th>
<th>No Additional Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Directive specifies standard reporting requirements that all audit reports must meet (see Directive, Art. 28).</td>
<td>MS may specify additional requirements relative to the content of the audit report.</td>
<td>There are no additional requirements.</td>
</tr>
<tr>
<td>The Directive requires that every audit report be signed and dated by its statutory auditor.</td>
<td>MS may provide that such signature need not be disclosed to the public if such disclosure could lead to an imminent and significant threat to the personal security of any person.</td>
<td>There are no additional requirements.</td>
</tr>
<tr>
<td>The Regulation requires that audit reports for PIEs include certain additional information (see Regulation, Art. 10).</td>
<td>MS may specify additional information relative to audit reports issued for PIEs.</td>
<td>There are no additional requirements.</td>
</tr>
<tr>
<td>The Regulation requires that statutory auditors provide the Audit Committee of a PIE a more detailed and extensive supplementary report (before the audit report is submitted to the shareholders).</td>
<td>MS may specify additional requirements relative to the content of the additional report for the Audit Committee.</td>
<td>There are no additional requirements.</td>
</tr>
<tr>
<td>The Regulation determines that various information be included in this additional report (see Regulation, Art. 11).</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### 6 - How is the appointment process of statutory

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Additional Requirement</th>
<th>No Additional Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>The regulation specifies requirements regarding the PIE’s appointment procedure in selecting its Statutory Auditor.</td>
<td>MS may require additional information for the Statutory Auditor provided it is necessary for effective financial market supervision as provided for in national law.</td>
<td>There are no additional requirements.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

|                                                                                               | MS may allow a nomination committee to perform the functions of the Audit Committee in audited entities | There are no additional requirements.                                                      |

|                                                                                               |                                                                                        |                                                                                                                                 |

The European Audit Reform - Belgium
| auditor(s) or audit firm(s) outlined? How will public tenders be organised? | Auditor or Audit Firm (see Regulation, Art. 16).  
- The appointment procedure takes place under the responsibility of the Audit Committee.  
- The audited entity must organise a tender before appointing new or extending existing contracts with Statutory Auditors or Audit Firms. | with a nomination committee in which shareholders have considerable influence.  
- MS decide the minimum number of Statutory Auditors or Audit Firms that shall be appointed by PIEs, and establish the conditions governing the relations between the auditors or firms appointed. |  
| 7 - Has the list of non-audit services been expanded? | • The Statutory Auditor or Audit firm may not provide to the audited entity, to its parent undertaking or to any of its controlled undertakings within the EU, any of the prohibited non-audit services listed in the regulation (see Regulation, Art. 5.1 in Appendix).  
  - E.g. Tax services, bookkeeping, management projects, payroll services, internal control and risk management, technology systems, valuation services, legal services, internal audit functions, etc. (see Appendix). | • MS may add services to the list of prohibited non-audit services if threats to the auditor's independence are identified.  
• MS may allow tax services if they satisfy certain requirements (see Regulation, Art. 5.3). | • Belgium used the derogation that allows provision of certain tax and valuation services.  
• Restructuring and legal services were added to the non-audit services list. |  
| 8 - Has the cap on permitted non-audit services increased? | • The fees for providing non-audit services are limited to a maximum of 70% of the average total statutory fees paid during the last 3 consecutive financial years (see Regulation, Art. 4.2).  
• The regulation also requires the approval of the Audit Committee for any non-audit services.  
• If total fees received from a PIE in 3 consecutive years exceed 15% of the total fees received by the Statutory | • MS may apply more stringent requirements to the thresholds mentioned in the Regulation.  
• MS may apply more stringent requirements. | • There are no additional requirements. |
Auditor or Audit Firm, the auditor must inform the Audit Committee to assess whether independence is safeguarded. If fees continue to exceed 15%, the Audit Committee may not engage the auditor after a 2-year time period. (See Regulation, Art. 4.3).

<table>
<thead>
<tr>
<th>9 - Which entity is designated as the competent authority in charge of the oversight of PIE audits?</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Each MS is to designate a single Competent Authority to bear ultimate responsibility for the audit oversight system.</td>
</tr>
<tr>
<td>• The Belgian law designated the “Collège de Supervision des Réviseurs d’Entreprises”/“College van toezicht op de bedrijfsrevisoren”, a new entity, to be in charge of the oversight of PIE audits and the supervision of the profession. This entity is composed of 6 members, all non-auditors, and is managed by the prudential authority, the FSMA.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>10 - How will the transition period apply in the Member State?</th>
</tr>
</thead>
</table>
| • Where the existing audit tenure is equal to 20 years or more on 17 June 2014, the company may not reappoint the incumbent auditor after 17 June 2020;  
- is between 11 and 20 years on 17 June 2014, the company may not reappoint the incumbent auditor after 17 June 2023;  
- is 10 years or less, the legislation applies in full. |
| • MS may choose to apply stricter transition periods. |
| • Transition periods are in line with the EU baseline. |

Additional Specifics
Your Mazars reference in Belgium:

**Philippe de Harlez**

Partner

[Philippe.de.harlez@mazars.be](mailto:Philippe.de.harlez@mazars.be)
Appendix

Regulation (EU) No 537/2014

Article 5(1) – Prohibited Non-Audit Services
A statutory auditor or an audit firm carrying out the statutory audit of a public-interest entity, or any member of the network to which the statutory auditor or the audit firm belongs, shall not directly or indirectly provide to the audited entity, to its parent undertaking or to its controlled undertakings within the Union any prohibited non-audit services in:

a. the period between the beginning of the period audited and the issuing of the audit report; and

b. the financial year immediately preceding the period referred to in point (a) relative to the services listed in point (e) of the second subparagraph.

For the purposes of this Article, prohibited non-audit services shall mean:

a) Tax Services relating to:
   i) preparation of tax forms*;
   ii) payroll tax;
   iii) customs duties;
   iv) 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*;
   v) support regarding tax inspections by tax authorities unless support from the statutory auditor or the audit firm in respect of such inspection is required by law*;
   vi) calculation of direct and indirect tax and deferred tax*;
   vii) provision of tax advice*;

b) services that involve playing any part in the management or decision-making of the audited entity;

c) bookkeeping and preparing accounting records and financial statements;

d) payroll services;

e) 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;

f) valuation services, including valuations performed in connection with actuarial services or litigation support services*;

g) legal services, with respect to:
   i) the provision of general counsel;
   ii) negotiating on behalf of the audited entity; and
   iii) acting in an advocacy role in the resolution of litigation;

h) services related to the audited entity’s internal audit function;

i) services linked to the financing, capital structure and allocation, and investment strategy of the audited entity, except
   i) providing assurance services relative to the financial statements, such as the issuing of comfort letters in connection with prospectuses issued by the audited entity;

j) promoting, dealing in, or underwriting shares in the audited entity;

k) human resources services, with respect to:
   i) 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:
      - searching for or seeking out candidates for such position; or
      - undertaking reference checks of candidates for such positions;
   ii) structuring the organisation design; and
   iii) cost control.

* Services subject to Member State derogation.