

## Member State Options Table for Directive 2014/56/EU

Article and paragraph of Directive 2014/56/EU that amends Directive 2006/43/EC	What is the option and where is it in Directive 2006/43/EC?	Did these options exist under Directive 2006/43/EC	If MS option pre-exists new Directive was this taken up by MS previously? If no but it will be taken up now explain why	If no, is there existing national law in line with the EU option for certain entities despite the option not being previously available?	Who is likely to make decision on this option
<p style="text-align: center;">Article 1 Paragraph 2(a) Definitions</p>	<p><b>Article 2(1)</b> - “statutory audit” means an audit of annual or consolidated financial statements in so far as: ... (c) voluntarily carried out at the request of small undertakings which meet national legal requirements that are equivalent to those for an audit under point (b), where <b>national legislation defines such audits as statutory audits;</b></p>	<p>No – when that Directive was passed, audits of small undertakings were required by the 4<sup>th</sup> and 7<sup>th</sup> company law Directives subject to a MS option to provide an exemption. Had this definition applied, these audits would have been caught by Article 2(1)(a). Points (b) and (c) of Article 2(1) are new. They make sure small undertakings are still covered by this Directive even though the Accounting Directive no longer applies to the audits of small undertakings.</p>	<p>In line with the 4<sup>th</sup> and 7<sup>th</sup> Directives, the UK previously provided that these audits are statutory audits, as under the Companies Act the exemption does not apply unless the directors make a statement in the balance sheet that the company is exempt. We have no plans to change this.</p>	<p style="text-align: center;">Yes – see previous column.</p>	<p style="text-align: center;">Discussion document proposes that these audits should continue to be regulated as statutory audits.</p>
<p style="text-align: center;">Article 1 Paragraph 2(f) Definitions</p>	<p><b>Article 2(13)</b> - Member States <b>may</b> also <b>designate</b> other entities as public-interest entities (“PIEs”).</p>	<p>Yes, though fewer additional requirements applied to the audits of PIEs under the 2006 Directive (in Chapter X) and Member States could disapply these for non-listed PIEs .  Though Chapter X has now</p>	<p>The implementation of Chapter X of the 2006 Audit Directive generally only applied to audits of companies with securities admitted to trading on a regulated market. This was because the UK exercised</p>	<p style="text-align: center;">N/A</p>	<p style="text-align: center;">This will be for the Government in legislation.  However, decisions on the wider application of certain requirements to non-PIEs will be a matter for the FRC where the relevant</p>

		<p>been replaced, that Chapter, the Audit Regulation and Article 38(3) all apply to audits of PIEs only.</p>	<p>the option in Article 39 to exempt non-listed PIEs from Chapter X.</p> <p>Examples of this limited application are the FRC's Statutory Auditors (Transparency) Instrument 2008 and the FCA's DTR 7.1 on Audit Committees. However, the Audit Directive was (and is) minimum harmonisation and in places the implementation continued to allow wider application to be determined by FRC. The main example is the definition of "major audit" in Schedule 10 to the Companies Act, paragraph 13(10), on the AQR inspection remit. However note that this does not extend the definition of a PIE.</p>		<p>requirements fall to it to implement.</p>
<p>Article 1 Paragraph 10</p> <p>Approval of auditors from another Member State</p>	<p><b>Article 14(2)</b> - The host MS shall <b>decide whether</b> a statutory auditor seeking approval is to be subject to an adaptation period... <b>or</b> an aptitude test...</p>	<p>No. Currently only an aptitude test is provided for.</p>	<p>N/A</p>	<p>Under the Recognition of Professional Qualifications Directive, for those qualifications where the UK has the ability to choose between provision for an aptitude test and for an</p>	<p>We are considering the possibility, subject to consideration of respondents views, that the FRC should be able to determine whether, in order to register as eligible</p>

				adaptation period, the UK does at times choose to provide one or the other, rather than both.	for appointment as a statutory auditor, an EEA auditor should be subject to an aptitude test or to an adaptation period, or whether the auditor should be able to choose themselves which procedure to take advantage of.
Article 1 Paragraph 11  Public register	<b>Article 15(1)</b> - MSs may <b>derogate from</b> the disclosure requirements for the <i>register of statutory auditors</i> to the extent necessary to mitigate an imminent and significant threat to the personal security of any person.	Yes. Wording was made clearer only – effect unchanged.	Yes	N/A	Existing BIS legislation unlikely to require amendment
Article 1 Paragraph 16  Preparation of statutory audit and assessment of threats to independence	<b>Article 22b sub 2</b> - MS may <b>provide</b> simplified requirements for audits of certain small undertakings	No. Both these obligations (in several respects though not entirely) and this option are new to the Directive.  Though this option is primarily intended for use in relation to new requirements, it may also affect some pre-existing requirements in the 2006 Directive, or that were previously applied in the UK on a domestic basis.	N/A	FRC Ethical Standard Provisions available for Small Entities (ES PASE) provide exemptions from certain ethical requirements This option will allow ES PASE to continue and may allow FRC to consider going further in limited respects for audits of certain small undertakings.	Likely to propose, subject to subject to respondents' views, to allocate responsibility to the FRC on whether and how to implement this option.

<p>Article 1 Paragraph 18</p> <p>Internal organisation of statutory auditors and audit firms</p>	<p><b>Article 24a(1) sub 3</b> - MS <b>may provide</b> simplified requirements for audits of certain small undertakings</p>	<p>No. Both this obligation and this option are new to the Directive.</p> <p>However, these requirements were already applicable in the UK via the FRC's technical standards, which include ISQC1.</p>	<p>N/A</p>	<p>Currently there are no "simplified" requirements in FRC standards established specifically for audits of small undertakings. However, there are some concerns that ISQC1 in particular does not have sufficient regard to the circumstances of smaller auditors.</p>	<p>Implementation should not preclude the provision of such simplified requirements. Likely to propose, subject to respondents' views, to allocate responsibility to the FRC on whether and how to implement this option.</p>
<p>Article 1 Paragraph 19</p> <p>Organisation of the work</p>	<p><b>Article 24b(3)</b> - MS <b>may exempt</b> statutory auditors and audit firms from the obligation to keep records of any breaches of the provisions of this Directive and, where applicable, of the Regulation with regard to minor breaches.</p>	<p>No. Both this obligation to record breaches and this option are new to the Directive.</p>	<p>N/A</p>	<p>Monitoring all breaches of the Directive/Regulation is not currently required by Standards (or by the Audit Regulations).</p>	<p>Proposing, subject to respondents' views, to allocate responsibility to the FRC on whether and how to implement these options.</p>
	<p><b>Article 24b(7)</b> - MS <b>may lay down</b> simplified requirements for audits of certain small undertakings with regard to keeping records of any breaches of this Directive and the related Regulation</p>	<p>No. Both this obligation to record breaches and this option are new to the Directive.</p>		<p>There are no special provisions within ISAs (UK and Ireland) for the audit of small entities ( although some guidance specific to small entities is included).</p>	
<p>Article 1 Paragraph 21</p> <p>Auditing standards</p>	<p><b>Article 26(1) sub 2</b> - MSs <b>may apply</b> national auditing standards, procedures or requirements as long as the</p>	<p>Yes</p>	<p>Yes. Under the 2006 Audit Directive, as the Commission did not use its power to adopt ISAs, the</p>	<p>UK domestic law already provides this power for FRC to adopt national auditing standards or ISAs and the FRC</p>	<p>Proposing, subject to respondents' views, continue to provide FRC with powers to implement</p>

	Commission has not adopted an international auditing standard covering the same subject-matter.		FRC used its existing statutory powers to apply national auditing standards and then ISAs (UK and Ireland), effectively taking up this option.	currently does this	this option
	<p><b>Article 26(4) sub 1 - MSs may impose</b> audit procedures or requirements in addition to the international auditing standards adopted by the Commission, where:</p> <ul style="list-style-type: none"> <li>those audit procedures or requirements are necessary in order to give effect to national legal requirements; or,</li> <li>to the extent necessary to add to the credibility and quality of financial statements.</li> </ul>	Yes, but the option has been changed. First it is extended to allow for national auditing standards, where necessary, to add to the credibility and quality of financial statements. Second, MSs used to have the ability in exceptional cases to “carve out” parts of international standards to give effect to national legal requirements.	Yes in that the FRC’s ISAs (UK and Ireland) do contain certain additional requirements for both these purposes.	UK domestic law already provides this power for FRC to adopt additional requirements	Further consideration will be needed either later in the implementation, or at the time of EU adoption of ISAs whether the constraints on the FRC’s powers that are provided here should be reflected in UK law.
	<b>Article 26(5) MSs may take measures</b> in order to ensure the proportionate application of the auditing standards to the statutory audits of small undertakings.	No. FRC’s ISAs (UK and Ireland) were viewed as scalable without additional adaptation being needed for audits of any small undertakings	N/A	UK domestic law already provides power for FRC to adapt ISAs where needed. Currently there are no special provisions within the ISAs (UK and Ireland) for the audit of small entities (although some guidance specific to small entities is included).	Consideration may be needed at the time of EU adoption of ISAs of whether FRC’s powers should be redrawn to reflect the adoption and to make sure that the FRC would be able to take up this option if needed.
Article 1 Paragraph 23	<b>Article 28(2) sub 2 - MSs may lay down</b> additional	No, although not needed as	Yes UK requirements in auditing standards in	Article 28 has been substituted by the new	Propose, subject to respondents’ views, to

Audit report	requirements in relation to the content of the audit report.	the Directive is minimum harmonisation.	particular exceed those in Article 28 as inserted by Article 35 of the new Accounting Directive. Most (if not all) of these requirements are applied via FRC auditing standards.	Accounting Directive and is yet to be implemented in UK law. This paragraph is then substituted again to include this option, certain further requirements and the modification to para (2)(e) which reflects the contents of the existing auditing standards.	continue to provide FRC with powers to implement this option.
	<b>Article 28(4) sub 1</b> – In exceptional circumstances MS <b>may provide</b> that the signature of the statutory auditor/s 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.	Yes. Wording was made clearer only – effect unchanged.	Yes	N/A	Existing BIS legislation unlikely to require amendment
Article 1 Paragraph 25  Investigations and sanctions	<b>Article 30(2) sub 2</b> - MSs <b>may decide</b> not to lay down rules for administrative sanctions for infringements which are already subject to national criminal law.	No. Both these obligations in respect of sanctions and this option are new to the Directive.	N/A	We think there is only limited criminal law in this area that could apply effectively in place of administrative sanctions.	This option would be likely to be for implementation in legislation. But, subject to respondents' views, we would be unlikely to make use of it due to the limited applicable criminal law.
	<b>Article 30(3)</b> - MSs <b>may decide</b> that such disclosure of <i>measures taken and sanctions imposed</i> shall not contain personal data...	No. Both these obligations in respect of sanctions and this option are new to the Directive.	N/A	Provision on this is currently contained in the FRC's Disciplinary scheme and associated publications guidance However large numbers of minor sanctions	Implementation likely to be in legislation. Discussion document does not consider this option in detail as this area is likely to be covered by horizontal

				are imposed by the RSBs under their own schemes and largely outside legislation.	legislative provisions in the UK on protection of personal data.
Article 1 Paragraph 25	<b>Article 30a(3)</b> - MSs may confer sanctioning powers on the Competent Authorities additional to those required	Yes – in that the Directive is minimum harmonisation.	We think there are likely to be sanctions available in the UK that are not available in the Directive, or at least there is the potential to go further than the Directive provides.	No but in this case the provisions would be in the FRC’s or the professional bodies’ disciplinary rules.	This would most likely fall to be implemented in legislation. Discussion document will ask whether any additional sanctioning powers are needed.
Sanctioning powers  [Should we mention what could be classed as an option at the end of Article 30b? Not sure there is much to say about it.]	<b>Article 30a(4)</b> - MSs may confer on the competent authorities supervising PIEs, designated pursuant to Article 20(2) of the Regulation, powers to impose sanctions for breaches of reporting duties provided for by the Regulation.	No. None of (i) the obligation to designate a single competent authority with ultimate responsibility, nor (ii) the ability to designate a different authority for the purpose of Title III of the Regulation, nor (iii) the framework on sanctions were contained in the 2006 Directive. This option was also not provided.	N/A	The “reporting duties” being sanctioned here appear to be duties on the auditor. The FRC, will be the competent authority for the purpose of paragraphs (1) and (2) of Article 20 of the Regulation.	Discussion document proposes there is no need to implement this option in the UK as FRC is the competent authority for both purposes under Article 20 of the Regulation.
Article 1 Paragraph 25  Effective application of sanctions	<b>Article 30b sub 2</b> - ...when determining the type and level of administrative sanctions and measures, competent authorities are to take into consideration... Additional factors may be taken into account., where such factors are specified in national legislation.	No. There is no framework in the 2006 Directive on determination of sanctions for auditor disciplinary cases beyond that they must be “effective, proportionate and dissuasive”.	N/A	No. There is no provision in the Companies Act 2006 on determination of sanctions for auditor disciplinary cases.	Discussion document suggests it will not be necessary to specify in law “additional factors” that may be taken into account in determining administrative sanctions.

<p>Article 1 Paragraph 25</p>	<p><b>Article 30c(1) sub (2)</b> - MS <b>may permit</b> publication of sanctions which are subject to appeal.</p>			<p>FRC Publication Policy under the Accountancy Disciplinary Scheme allows publication of sanctions that are subject to appeal.</p>	<p>Discussion document considers implementation via legislation.</p>
<p>Publication of sanctions and measures</p>	<p><b>Article 30c(3) sub (2)</b> – MS <b>may decide</b> that publication of sanctions and measures or any public statement is not to contain any information relating to personal data.</p>	<p>No. Neither these obligations on publication of sanctions and measures nor these options were provided in the 2006 Directive</p>	<p>N/A</p>	<p>Provision on this is currently contained in the FRC Disciplinary scheme and associated publication guidance.</p>	<p>Implementation likely to be in legislation. Discussion document does not consider this option in detail as this area is likely to be covered by horizontal legislative provisions in the UK on protection of personal data.</p>
<p>Article 1 Paragraph 26  Principles of public oversight</p>	<p><b>Article 32(4A) sub 1</b> - MSs shall designate one <b>or more</b> competent authorities to carry out the tasks provided for in this Directive.</p>	<p>Yes. The 2006 Directive required a single competent authority for the purpose of European cooperation (Article 33). But otherwise only required a “system” of public oversight for the purpose of domestic regulation, which could include a number of authorities or bodies.</p>	<p>The list of designated competent authorities for the UK under the 2006 Directive states that the Recognised Supervisory Bodies are competent authorities for approval, registration and continuing professional development of auditors, for inspections of non-major audits and for investigations and discipline in respect of cases that are not of major public interest. Meanwhile the FRC is the competent authority for oversight of audit regulation, European regulatory cooperation, for</p>	<p>Note:</p> <ul style="list-style-type: none"> <li>• Domestic UK framework only makes provision for governance by a majority of non-practitioners, and only in respect of the FRC. The amended Directive requires governance entirely by non-practitioners at least in respect of the single competent authority with ultimate responsibility.</li> </ul>	<p>Discussion document proposes (i) to designate the FRC as the single competent authority for all or most purposes in the Directive; (ii) to consider whether, as such it should have the ability to delegate to recognised bodies, in respect of some or all of those tasks (as opposed to the delegation being made in statute) and (iii) whether those bodies should be designated as competent authorities for specific tasks in the Directive, using an adapted version of the current framework</p>



			setting of standards for inspections of major audits and investigations and discipline in cases of major public interest.		for recognition of RSBs for the designation of competent authorities for specific regulatory purposes.
	<p><b>Article 32(4b) sub 1</b> - Member States <b>may delegate or allow</b> the competent authority to delegate any of its tasks to other <b>authorities or bodies</b> designated or otherwise authorised by law to carry out such tasks.</p>	<p>No. Concept of delegation is new, though the UK framework does allocate responsibilities to competent authorities as discussed above. However this allocation is sometimes effectively non-statutory (ie through the RSBs' audit regulations), though with statutory underpinning.</p>	<p>The UK's allocation of responsibilities has some limited similarities to the EU delegation framework in some areas:</p> <ul style="list-style-type: none"> <li>• On inspections the FRC can currently designate a class of audits as a major audits so that those audits are subject to FRC inspection. This is comparable to a system of partial delegation.</li> <li>• For investigations and discipline, functions are allocated to the RSBs but, the FRC is responsible for investigations and discipline of public interest cases including the ability to "call in" cases of major public interest on a case by case basis. . This is comparable to the ability of the competent authority in EU</li> </ul>		<p>Discussion document considers (i) whether FRC as the single competent authority with ultimate responsibility should be allocated functions in respect of (1) approval and registration (2) inspections (3) investigations and discipline, (4) setting of standards and (5) CPD, on the basis that some or all of (1) to (3) and (5) could then be delegated by the FRC to recognised bodies.</p> <p>Currently considering whether, for (2) and (3) in particular, if they were allocated and delegated in this way, it would preserve existing flexibilities under the Companies Act. For (1) to (3) and (5) this also opens up the possibility of non-delegation for eg auditors of PIEs, or</p>

			<p>law to reclaim delegated functions on a case-by-case basis in the Directive.</p> <p>However these “allocations” of responsibilities are via the professional bodies rules in compliance with statutory requirements.</p>		<p>exceptionally reclaiming on a case by case basis.</p> <p>(ii) Alternative, in relation to some or all of (1) to (3) and (5), would be for the legislation to delegate specific responsibilities directly to professional bodies by law to carry out certain tasks subject to FRC oversight.</p> <p>Discussion document considers whether audit regulations on the above , should be approved by FRC using new powers.</p>
<p>Article 1 Paragraph 29</p> <p>Professional secrecy and regulatory cooperation between MSs</p>	<p><b>Article 36(4a)</b> - MS may <b>allow</b> competent authorities to transmit confidential information to the competent authorities responsible for supervising PIs, to central banks, to the European System of Central Banks and to the European Central Bank, in their capacity as monetary authorities, and to the European Systemic Risk Board, where they are</p>	<p>No. These institutions were not provided for.</p>	<p>N/A</p>	<p>Existing legislative information gateways in Schedule 11A to the Companies Act already provides for the European Central Bank and other MS central banks.</p>	<p>Discussion document proposes to add to existing legislative information gateways as necessary.</p>

	intended for the performance of their tasks.				
(No amendment)  Appointment of statutory auditors or audit firms	<b>Article 37(2)</b> - Member States <b>may allow</b> alternative systems or modalities for the appointment of the statutory auditor or audit firm, provided that those systems or modalities are designed to ensure the independence of the statutory auditor or audit firm from the executive members of the administrative body or from the managerial body of the audited entity.	Yes. This provision (which is unchanged) only had limited effect under the 2006 Directive. However for PIEs that effect is increased considerably by the new Regulation. Where this option is implemented, mandatory retendering of audit firm appointments under the Regulation is not required other than to extend the current audit engagement for a further 10 years.	Yes for appointment of auditors by Directors in certain circumstances and for appointment by the SoS	N/A	Discussion document considers whether and to what extent current powers for Directors to appoint auditors in certain circumstances can be retained under this option.
Article 1 Paragraph 31  Dismissal of auditors	<b>Article 38(3)(b)</b> - MSs shall ensure it is permissible for... (b) the other bodies of the audited entities <b>when defined by national legislation</b> ;... to bring a claim before a national court for the dismissal of <i>auditors</i> where there are proper grounds	No.	N/A	There is currently no explicit right along these lines in UK law though minority shareholders can bring a claim for actions prejudicial to their interests. This explicitly includes unfair dismissal of the auditor but might also include retaining the auditor inappropriately.	Discussion document includes proposals on legislative implementation

<p>Article 1 Paragraph 32</p> <p>Audit committee</p>	<p><b>Article 39 – Various MS options in relation to audit committees</b></p>	<p>These options would be implemented through FCA DTRs for listed companies and PRA rules for unlisted banks and insurers.</p>			
<p>Article 1 Paragraph 33(d)</p> <p>Registration and oversight of third country auditors and audit firms</p>	<p><b>Article 45(6)</b> – Member States <b>may assess</b> the equivalence referred to in point (d) of paragraph 5 of this Article (ie equivalence to international auditing standards) as long as the Commission has not taken any such decision</p>	<p>Yes. Wording was made clearer only – effect unchanged.</p>	<p>Yes. Partly because ISAs have not yet been adopted under the 2006 Directive, the Commission has not taken a Decision on the equivalence of any third country standards</p>	<p>N/A</p>	<p>Existing BIS legislation unlikely to require amendment</p>
<p>Article 1 Paragraph 34</p> <p>Derogation in case of equivalence</p>	<p><b>Article 46(2) sub 1</b> – Member States <b>may decide</b> to rely on such equivalence <b>partially or entirely</b> and thus <b>to disapply or modify the requirements</b> in Article 45(1) and (3) <b>partially or entirely.</b></p>	<p>Yes. Wording was made clearer only – effect unchanged.</p>	<p>Yes. The FRC direction provides that in respect of inspections of third country auditors the FRC will usually rely on an equivalence decision entirely.</p>		

	<p><b>Article 46(2) sub 1 - Member States may assess the equivalence</b> referred to in paragraph 1 of this Article or rely on the assessments carried out by other Member States...</p>		<p>No. Commission transitional Decisions have consistently precluded these MS assessments for third countries that are not assessed as equivalent or subject to a transitional arrangement under the Decision</p>		
<p>Article 1 Paragraph 35(a)  Cooperation with third countries</p>	<p><b>Article 47(1) – MSs may allow</b> the transfer to the competent authority of a third country of audit working papers and other documents held by them and of inspection and investigation reports relating to the audits in question provided that...</p>	<p>Yes though provision (when viewed as an optional exception to a general duty of confidentiality) is wider than previously because of the inclusion of inspection and investigation reports. There is also a further proviso by way of an additional requirement as to the content of reciprocal arrangements that must be in place with the recipient competent authority.</p>	<p>Yes. UK took up the option to facilitate these transfers via the implementation of the relevant Commission Decisions on the adequacy of certain third country competent authorities.</p>	<p>N/A</p>	<p>Discussion document proposes implementation via amendment to existing legislation.</p>