

Frequently Asked Questions

Application Form (LU) for registration of third-country auditors and audit entities

INTRODUCTION

Annex to the Application Form (LU) for registration of third-country auditors and audit entities according to Article 45 of the amended Directive 2006/43/EC of 17 May 2006 on Statutory Audits of Annual Accounts and Consolidated Accounts and the law of 23 July 2016 concerning the audit profession.

Registration

1. Why do third-country audit entities have to register with authorities in Member States?

The European Statutory Audit Directive 2006/43/EC (the "Audit Directive") as amended by the Directive 2014/56/EU sets minimum regulatory requirements for statutory audits across the European Union/European Economic Area ("EU/EEA"). The interrelation of capital markets underlines the need to ensure that auditors from third countries carry out high quality audit work in relation to capital markets within the EU/EEA. The Audit Directive therefore requires that the relevant statutory audit entities and auditors from third countries be entered in a public register and be subject to a level of regulation equivalent to the minimum required for EU/EEA auditors. The European Commission has declared a number of third countries as "equivalent" and has also made transitional measures to facilitate the introduction of these requirements.

Registration is required according to Article 45 of the Audit Directive if a third-country audit entity provides an audit report concerning the annual or consolidated accounts of a relevant audit client (see [FAQ no. 3.](#)).

2. Which auditors have to register as third-country audit entity in Luxembourg?

According to Article 2(4) of the Audit Directive a 'third-country audit entity' means an entity, regardless of its legal form, which carries out audits of the annual or consolidated financial statements of a relevant audit client (see [FAQ no. 3.](#)), other than an entity which is registered as an audit firm in any Member State as a consequence of approval in accordance with Article 3 of the Audit Directive.

3. What is a "relevant audit client" (Item 12.0)?

A relevant audit client is a company incorporated outside the EU/EEA whose transferable securities are admitted to trading on the regulated market in Luxembourg ("*Bourse de Luxembourg*") within the meaning of point 14 of Article 4(1) of Directive 2004/39/EC, except when the company in question is an issuer exclusively of outstanding debt securities for which one of the following applies:

- they have been admitted to trading on the regulated market in Luxembourg within the meaning of point (c) of Article 2(1) of Directive 2004/109/EC prior to 31 December 2010 and the denomination per unit of which is, at the date of issue, at least EUR 50 000 or, in the case of debt securities denominated in another currency, equivalent, at the date of issue, to at least EUR 50 000;

- they are admitted to trading on the regulated market in Luxembourg within the meaning of point (c) of Article 2(1) of Directive 2004/109/EC from 31 December 2010 and the denomination per unit of which is, at the date of issue, at least EUR 100 000 or, in case of debt securities denominated in another currency, equivalent, at the date of issue, to at least EUR 100 000.

The applicant should submit applications in **each Member State** where the audit client's securities are admitted to trading on a regulated market.

4. Does registration entitle third-country audit entities to provide statutory audit services in the EU/EEA?

No. In accordance with national legislation, registration as a third-country audit entity in Luxembourg does not give approval to carry out statutory audits as required by Community law (see Article 2(1) of the Audit Directive). Such a registration only allows the latter to provide an audit opinion of a third-country entity having securities admitted to trading on the Luxembourg regulated market. It does not recognize the qualifications of third-country auditors. In Luxembourg, statutory audits, which are reserved by law to approved auditors, may only be conducted by approved statutory auditors designated by the term "Réviseur d'Entreprises Agréé" and by approved audit firms designated by the term "Cabinet de Révision Agréé" which must have prior approval of the CSSF. By way of derogation, an audit firm which is approved in a Member State is also entitled to perform statutory audits in Luxembourg provided that the key audit partner who carries out the statutory audit on behalf of the audit firm is a "Réviseur d'Entreprises Agréé".

5. What are the requirements for registration as a third-country audit entity under Article 45 of the Audit Directive?

A Member State may **only** register a third-country audit entity if:

- (a) the third-country audit entity provides information for the public register, as required by Article 17 of the Audit Directive with appropriate modification;
- (b) a majority of the members of the administrative or management body of the third-country audit entity hold an audit qualification equivalent to that required for European statutory auditors;
- (c) individual third-country auditors responsible for carrying out the audit on behalf of the third-country audit entity hold an audit qualification equivalent to that required for European statutory auditors;
- (d) the third-country audit entity undertakes to carry out the relevant audits in accordance with international auditing standards (or equivalent) and in accordance with the minimum independence standards required by the Audit Directive for European audit firms (or equivalent);
- (e) the third-country audit entity undertakes to publish an annual transparency report which includes information as required under Article 40 of the Audit Directive for European audit firms, or meets equivalent disclosure requirements;
- (f) the third-country audit entity and the individual third-country auditors carrying out the audit on behalf of the third-country audit entity are of good repute.

6. What happens if an applicant does not meet the requirements for registration under Article 45 of the Audit Directive?

According to Article 45(4) of the Audit Directive, audit reports issued by third-country audit entities which are not registered in a Member State will have no legal effect in that Member State which means that the accounts would be considered as “not audited” under EU purposes.

Application procedure

7. How does a third-country audit entity apply for registration in the EU/EEA?

The registration of third-country audit entities shall be carried out in each individual Member State. The Audit Directive does not provide a single registration for the EU/EEA. Therefore, registration is the responsibility of each Member State and third-country audit entities have to submit their applications separately to the relevant competent authority in each Member State where a registration is required. However, Member States are cooperating closely so that third-country audit entities will be able to use, as far as national regulatory systems allows, applications forms which follow the agreed common format.

In Luxembourg, third-country audit entities which are required to register in accordance with Article 45 **have to submit their Application Form (LU) to the CSSF**. The relevant form may be downloaded from the website, completed electronically and sent to the CSSF by e-mail to public.oversight@cssf.lu. The CSSF will inform the applicant on the approval or rejection of the registration application. The necessary information about the registered entity will be published in the register administrated by the CSSF (see [FAQ no. 22.](#)).

8. When will third-country audit entities be able to apply for registration?

Third-country audit entities are required to register with the CSSF if they intend to issue an auditor's report concerning the annual or consolidated financial statements of a relevant audit client (see [FAQ no. 3.](#)). Registration is required at the latest before the issuance of the auditor's opinion.

9. Will the information submitted by the third-country audit entity be treated as confidential?

Yes, other than in respect of the information available on the register that will be electronically accessible to the public (see [FAQ no. 22.](#)). According to Article 36(2) of the Audit Directive the obligation of professional secrecy shall apply to all persons who are employed or who have been employed by competent authorities. Information covered by professional secrecy may not be disclosed to any other person or authority except by virtue of the laws, regulations or administrative procedures of a Member State.

10. Will the information submitted by the third-country audit entity be subject to data protection rules?

Yes. All authorities in the Member States are subject to European data protection provisions according to Regulation (EU) 2016/679. However, as already mentioned, some information will be publicly available in the register (see [FAQ no. 22.](#)).

11. What language should be used for registration purposes?

Each Member State is responsible for registration. Therefore Member States may require the submission of information in their own official language.

Submitted information may be provided to the CSSF in the following languages: Luxembourgish, French, German or English. In principle, the CSSF does not require a certified translation of the provided information into any of those languages. Nevertheless, where the information supplied represents a translation in one of these languages, the applicant should mention it to the CSSF.

Other information required

12. What is a network (Item 3.0)?

According to Article 2(7) of the Audit Directive a 'network' is the larger structure:

- (a) which is aimed at cooperation and to which the applicant belongs, *and*
- (b) which is clearly aimed at profit- or cost-sharing *or* shares common ownership, control or management, *or* shares common quality-control policies and procedures, *or* shares a common business strategy, *or* shares the use of a common brand-name *or* shares a significant part of professional resources.

13. What is an affiliate of the applicant (Item 2.0)?

According to Article 2(8) of the Audit Directive, an affiliate of an audit firm means any undertaking, regardless of its legal form, which is connected to an audit firm by means of common ownership, control or management.

14. Who are third-country auditors (Item 8.0)?

Third-country auditors are those **individuals** designated by the applicant for a particular audit engagement listed under Item 12.0 as being primarily responsible for carrying out (or signing) the audit on behalf of the applicant *or* in the case of a group audit, at least the auditor(s) designated by the applicant as being primarily responsible for carrying out (or signing) the audit at the level of the group.

15. What information should a transparency report contain (Item 9.0)?

A transparency report should normally contain the information as referred to in Article 13 of the Regulation (EU) N°537/2014:

- (a) a description of the legal structure and ownership of the third-country audit entity;
- (b) where the third-country audit entity belongs to a network, a description of the network and the legal and structural arrangements in the network;
- (c) a description of the governance structure of the third-country audit entity;
- (d) a description of the internal quality control system of the third-country audit entity and a statement by the administrative or management body on the effectiveness of its functioning;
- (e) an indication of when the last quality assurance review (see [FAQ no. 17.](#)) took place;

- (f) a list of public-interest entities for which the third-country audit entity has carried out audits during the preceding financial year. In this context a public-interest entity is defined as a company which is listed under Item 12.0 'Relevant audit clients';
- (g) a statement concerning the third-country audit entity's independence practices which also confirms that an internal review of independence compliance has been conducted;
- (h) a statement on the policy followed by the third-country audit entity concerning the continuing education of third-country auditors referred to in Article 13 of the Audit Directive;
- (i) information concerning the basis for the partners' remuneration.
- (j) a description of the statutory auditor's or the audit firm's policy concerning the rotation of key audit partners and staff in accordance with Article 17(7) of the Regulation (EU) N°537/2014;
- (k) where not disclosed in its financial statements within the meaning of Article 4(2) of Directive 2013/34/EU, information about the total turnover of the statutory auditor or the audit firm, divided into the following categories:
 - (i) revenues from the statutory audit of annual and consolidated financial statements of public-interest entities and entities belonging to a group of undertakings whose parent undertaking is a public-interest entity;
 - (ii) revenues from the statutory audit of annual and consolidated financial statements of other entities;
 - (iii) revenues from permitted non-audit services to entities that are audited by the statutory auditor or the audit firm; and
 - (iv) revenues from non-audit services to other entities.

The transparency report shall be signed by the third-country auditor or third-country audit entity, as the case may be. The CSSF will accept transparency reports prepared by third-country audit entities which provide equivalent information to the one contained in European transparency reports that audit firms must prepare under Article 13 of the Regulation (EU) N°537/2014.

16. What should be included in the description of the applicant's internal quality control system (Item 10.0)?

A description of the applicant's internal quality control system should include at least a description of:

- (a) the policies designed to provide reasonable assurance that the firm and its personnel comply with professional standards and regulatory and legal requirements, and that reports issued by the firm or engagement partners are appropriate in the circumstances, and
- (b) the procedures necessary to implement and monitor compliance with these policies.

17. What is an external quality assurance review (Item 11.0)?

The external quality assurance review may be:

- a peer review under the supervision of a professional body or an independent public oversight body;
- a review carried out by a professional body;
- a review carried out by a professional body under the supervision of an independent public oversight body; or
- an inspection by an independent public oversight body in any jurisdiction.

The external quality assurance review should comprise both an assessment of the firm-wide procedures (including an assessment of compliance with applicable auditing standards and independence requirements, of the quantity and quality of resources spent, of the audit fees charged and of the internal quality control system of the audit firm) and adequate testing of selected audit files.

Nevertheless, it is important to note that this obligation **only** applies if an external quality assurance review **has been carried out** and a corresponding report exists.

18. Why should it be in the interests of the applicant to provide voluntarily information on the external quality assurance review (Item 11.0)?

Information on the external quality assurance review is not a requirement for registration under Article 45 of the Audit Directive. However, since third-country audit entities registered under Article 45 are subject to inspection by European audit regulatory authorities, providing this information will help the latter to decide if and when inspection of the third-country audit entity is required.

If the applicant agrees to provide the information, such information should include the outcome, the main shortcomings, and the main measures the applicant has undertaken to address the shortcomings and to prevent them from recurring. Where possible the applicant should provide a full copy of the last quality assurance review report, e.g. an inspection report issued by the home country regulator.

19. What auditing standards are acceptable under Article 45(5)(d) of the Audit Directive (Item 13.1)?

Article 45(5)(d) of the Audit Directive requires the relevant audits to be carried out either in accordance with international auditing standards as adopted by the European Union pursuant to Article 26 of the Audit Directive *or* in accordance with equivalent standards.

To date, the European Union has not yet adopted international standards on auditing (“ISAs”), so that in the meantime, the CSSF will **accept** the use of ISAs since the application of ISAs is compulsory in Luxembourg pursuant to the Audit Law. Where these are not used, the CSSF will analyse the acceptability of the standards applied by a particular third-country audit firm on a case by case basis. Acceptance of those standards is without prejudice to any decision by the European Union either on the adoption of the international standards on auditing or on the equivalence of third-country auditing standards.

20. What independence requirements are acceptable under Article 45(5)(d) of the Audit Directive (Item 13.2)?

Article 45(5)(d) of the Audit Directive requires the relevant audits to be carried out in accordance with independence requirements pursuant to Articles 22, 22b and 25 of the Audit Directive or in accordance with equivalent requirements.

To date there has been no European decision on equivalence. In Luxembourg, audit firms apply the International Federation of Accountants (IFAC) Code of Ethics, to which additional material has been added in order to take into account some Luxembourg specificities. In this regard, the CSSF will accept independence requirements according to the IFAC Code of Ethics or similar ones.

21. What information is needed in respect of the “good repute” requirement (Item 14.0)?

Article 45(5)(b) and (c) of the Audit Directive refers to the requirement of good repute as laid down in Article 4 of this Directive in relation to members of the administrative or management body of the third-country audit entity as well as to individual third-country auditors carrying out the audit on behalf of the third-country audit entity.

In order to assess whether or not an audit entity, as well as relevant individuals are of good repute, applicants are requested to submit a “Declaration on Honour” to that effect, by using the relevant form “Declaration of honour – legal persons” or “Declaration of honour – Individuals”. These forms may be downloaded from the website, completed electronically and sent to the CSSF by e-mail to public.oversight@cssf.lu.

If the applicant is unsure as to whether it meets the good repute requirements, it should contact the CSSF. Where necessary, the CSSF may contact the applicant (either the single practitioner or the audit firm) in order to seek further information or confirmations from it. Information related to good repute requirements is likely to vary from Member State to Member State.

Public register

22. What information provided in the present application form will be available on the public register?

The information provided under Items 1.1 to 1.12, 2.1, 3.2, 3.4, 4.1, 5.1, 6.1 and 7.1 of the Application Form (LU) will be stored in the public register administrated by the CSSF and will be made electronically accessible to the public.

Registration cost

23. Is there a common system of registration fees across the EU/EEA?

No. The Audit Directive provides neither a common registration fee across Member States, nor any guidance on it. Consequently, registration fees are set by individual Member States.

In Luxembourg, registration fees levied by the CSSF are in line with its general policy and are laid down in a Grand-ducal regulation relating to the fees (taxes) to be levied by the CSSF. Detailed information on the level of fees to be levied and how applicants have to pay the related registration fees is available on our website: [Link](#)

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For further questions and information please contact:

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