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# **Verordening inzake de onafhankelijkheid van Accountants bij assurance opdrachten<sup>1</sup>**

Effective 17 June 2016

## **Disclaimer**

**This is an English translation of the original Dutch text, accomplished for convenience only. In case of any conflict between this translation and the original text, the latter shall prevail. This translation was written with the greatest possible care. However, the NBA does not accept liability for any inaccuracy or incompleteness in this translation.**

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<sup>1</sup> Code of Ethics for Professional Accountants, a regulation with respect to independence.

Koninklijke Nederlandse  
Beroepsorganisatie  
van Accountants



**NBA**

## Verordening inzake de onafhankelijkheid van accountants bij assurance opdrachten

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## Verordening inzake de onafhankelijkheid van accountants bij assurance opdrachten

*The Board of the Royal NBA, Netherlands Institute of Chartered Accountants (NBA) announces the regulation below as approved by the General Meeting of 16 December 2013, in accordance with Article 23, paragraph 1 of the Auditors Profession Act.*

The general meeting of the 'Nederlandse Beroepsorganisatie van Accountants' (Royal NBA, Netherlands Institute of Chartered Accountants),

With regard to Article 19, second paragraph, introduction and part a, of the Auditors Profession Act,

Considering that the social interaction, and the users of assurance engagements in particular, regard the independent performance of an assurance engagement essential,

Considering that the professional accountant ultimately responsible for an assurance engagement safeguards the independent performance of the assurance engagement,

Considering that it is sometimes necessary in the public interest to give interpretation to the manner in which the professional accountant safeguards the independent performance,

Considering that other professional accountants shall not threaten the independent performance of the assurance engagement themselves or through a close personal relationship,

Has established the following regulation:

### 1 Definitions

#### *Article 1*

In this regulation and further provisions founded thereupon, the following terms have the meaning attributed below, unless otherwise determined:

- *Accountant*: professional accountant as referred to in Article 1 of the Wet op het accountantsberoep (Auditors Profession Act, Wab);
- *Audit department*: audit department as referred to in Article 1 of the Verordening op de Ledengroepen (regulation to the member groups);
- *Audit unit*: audit department or audit practice;
- *Audit firm*: audit firm as referred to in Article 1, paragraph 1, part a of the 'Wet toezicht accountantsorganisaties' (Wta, *Audit Firms Supervision Act*);
- *Audit practice*: audit practice as referred to in Article 1 of the regulation to the member groups;
- *Assurance object*: subject matter and the information regarding the subject matter;
- *Assurance engagement*: a professional service as referred to in Article 1 of the Verordening Gedrags- en Beroepsregels (VGBA) (Code of Ethics), in which a professional accountant expresses a conclusion that aims to enhance the confidence of the users, not the responsible party, in the outcome of the evaluation or measurement against the applicable criteria;
- *Assurance team*:
  - a Engagement team;
  - b All other individuals within the audit unit or within network firm of the audit practice who can directly influence the outcome of an assurance engagement. These specifically include the person who:
    - 1° makes recommendations regarding the compensation of the engagement partner, who supervises or directs the engagement partner regarding the assurance engagement;
    - 2° provides technical consultations for the assurance engagement; or

- 3° performs the engagement quality control review of the assurance engagement to be completed; and
- c The person who performs the periodical internal quality research of completed assurance engagements.
- *Threat*: Unacceptable risk an assurance engagement is not performed independently due to self-interest, self-review, advocacy, familiarity, or intimidation;
  - *Code of Ethics*: the applicable, most recent version of the Code of Ethics for Professional Accountant issued by the Ethics Standards Board for Accountants;
  - *Those charged with governance*: de person, persons or organization(s) responsible for overseeing the strategic direction of the responsible entity and the obligations related to the accountability of the responsible entity. This responsibility includes overseeing the financial reporting process. In some entities in some jurisdictions, those charged with governance may include management personnel, for example executive members of a governance board in a private or public sector entity or an owner-manager;
  - *Direct financial interest*:
    - a financial interest over which an individual or an entity has the control, or an interest controlled by others (also) on behalf of the individual or the entity;
    - b financial interest which is beneficially owned through a collective investment vehicle, estate, trust, or other intermediary and over which the individual or the entity has the control or the possibility to influence investment decisions;
  - *Engagement partner*: professional accountant who is responsible for the performance of assurance engagements and who signs the assurance report;
  - *European regulation*: regulation (EU) no. 537/2014 of the European Parliament and of the Council of 16 April 2014, on specific requirements regarding statutory audit of public-interest entities and repealing Commission Decision 2005/909/EC Text (PbEU 2014, L 158);
  - *Financial interest*: equity interest or other securities including ordinary and preferential debentures, participating preference shares, claims, warrants, privileges, and other derivative rights or obligations to obtain such interests of derivative instruments that are directly related to such interests;
  - *Gift*: Something offered to someone else, usually on the occasion of a special event;
  - *Indirect financial interest*: financial interest beneficially owned through a collective investment vehicle, estate, trust, or other intermediary and over which the individual or the entity has no control nor the possibility to influence investment decisions;
  - *Internal auditor*: professional accountant as referred to in Article 1 of the Verordening op de Ledengroepen (regulation to the member groups);
  - *Key assurance partner*: engagement partner, the person who performs the engagement quality control review of the assurance engagement to be completed, or a professional accountant within an assurance team who is co-responsible for reporting on important matters;
  - *Specified group of users*: persons who are considered to be the intended users by the engaging party, the responsible party and the engagement partner, or the audit unit, prior to the assurance engagement;
  - *Close financial relation*: A close personal relationship:
    - a that is financially dependent of the professional accountant or with whom the professional accountant has a joint household;
    - b to which the financial position of the professional accountant directly or indirectly is related;
    - c for which the professional accountant has financial control or to which he provides financial advice;
  - *Close personal relationship*: family member with whom there is close social contact;
  - *Network*:
    - a collaboration to which an audit practice belongs that clearly aims for sharing profit or expenses, or which is dominated by:
      - 1° sharing common ownership, control or management;
      - 2° common quality control policies and procedures;
      - 3° a common business strategy;
      - 4° a common brand name; or
      - 5° sharing a significant of professional resources;
    - b collaboration of audit departments;
  - *NV COS*: Nadere voorschriften controle- en overige standaarden (Further provisions for audit- and other standards);

- *Engagement team*: all partners and other persons performing the assurance engagement, and all persons who have been engaged by an audit unit or network firm and who perform activities for the assurance engagement. This does not include an engagement partner's external expert and who is engaged by the audit unit or by network firm;
- *Public interest entity*: entity as referred to in Article 1, first paragraph, part 1 of the Wta (Audit Firms Supervision Act);
- *Governmental auditor*: professional accountant as referred to in Article 1 of the Verordening op de Ledengroepen (regulation to the member groups);
- *Partner*: any individual with authority to bind the firm with respect to the performance of a professional services engagement on behalf of the audit unit;
- *Personal expression of hospitality*: paying for a third party's expenses of excursions, trips, lunches, dinners and the like, that are not professional by nature;
- *Contingent fee*: a fee calculated on a predetermined basis and depends on the outcome of the activities performed in accordance with the engagement;
- *Responsible entity*: Entity responsible for the assurance object;
- *Responsible party*: responsible person or responsible entity;
- *Responsible person*: person responsible for the assurance object;
- *Accounting period*: period covered by accounts on the assurance object;
- *Related third party*: natural or legal person who is factually policy-setting in the responsible entity, or may significantly influence the professional and economic policy of that responsible entity, and the economy in which the responsible entity is factually policy-setting or is can significantly influence the professional and financial policy;
- *Statutory audit*: audit as referred to in Article 1, part p, of the Wta (Audit Firms Supervision Act);
- *Wta*: Wet toezicht accountantsorganisaties, (*Audit Firms Supervision Act*).

## 2 General Provisions

### 2.1 Scope

#### *Article 2*

This regulation applies to assurance engagements to which, based on the rules on professional conduct of the NBA, the Nadere voorschriften controle- en overige standaarden (NV COS) (Further Provisions ISAs and other Standards) apply.

### 2.2 Independent performance of an assurance engagement

#### *Article 3*

- 1 The engagement partner ensures an independent performance of the assurance engagement.
- 2 Independence is required in mind and in appearance.
- 3 Independence is required:
  - a starting from the period to which responsibility for the assurance object relates; and
  - b during the period in which the assurance work is performed.
- 4 A professional accountant does not maintain relations with the responsible party or a related third party if this relationship threatens the independent performance of an assurance engagement.
- 5 A professional accountant ensures that the independent performance of an assurance engagement is not threatened due to relations held between a close relationship and the responsible party or a related third party.
- 6 Independence with respect to an assurance engagement with a not specified range of users applies to the assurance object and the responsible person, and the responsible party.
- 7 Independence with respect to an assurance engagement with a specified range of users applies to the assurance object and the responsible person, provided that:
  - a the assurance report:
    - 1° is addressed to the specified range of users;
    - 2° clearly states the limitation in use and distribution;
    - 3° clearly states the application of this Article paragraph;

- b all users outside the responsible entity and its related third party agree to the application of this paragraph in advance. The state, the provinces and the municipalities are considered to be part of one of the responsible entities and its related third party.
- 8 Independence with respect to an assurance engagement for a specified range of users applies to the assurance object, the responsible person and the responsible entity if the terms in the seventh paragraph, parts a and b are not met.

#### *Article 4*

Contrary to Article 3, paragraphs 6 to 8, an assurance engagement performed by a governmental auditor is considered to be performed independently if:

- a the governmental auditor can perform this assurance engagement by or under law;
- b this assurance engagement is performed independently, both in mind and in appearance, of the assurance objects and the responsible person; and
- c the governmental auditor meets the requirements by or under law, if any, regarding an independent performance of the assurance engagement.

### **2.3 Framework of measurement**

#### *Article 5*

When complying with this regulation, a professional accountant exercises professional judgment based on:

- a that which an objective, reasonable and informed third party considers acceptable and sufficient; and
- b the circumstances of which he knows or should know.

#### *Article 6*

- 1 The engagement partner identifies and assesses circumstances that may be a threat to the independent performance of the assurance engagement.
- 2 The engagement partner is prohibited to perform the assurance engagement in specific circumstances where a threat arises that cannot be eliminated, indicated with a prohibition in chapters 3 to 13.
- 3 The engagement partner declines or terminates the assurance engagement if he has identified and assessed circumstances that chapter 3 to 13 determine to be a threat that:
  - a requires a specific safeguard and this is not applied; or
  - b requires the engagement partner to select a safeguard that secures the independent performance and this safeguard is not, or will not be, applied.
- 4 The engagement partner declines or terminates the assurance engagement if he has identified and assessed a threat which is not mentioned in chapters 3 to 13, and there are no safeguard to secure the independent performance.

#### *Article 7*

The engagement partner terminates the engagement if he identifies conflicts with a provision in this regulation, unless:

- a a safeguard is applied that secures the independent performance of the assurance engagement until that moment;
- b a safeguard is applied that secures the independent performance for the remaining performance of the engagement. This includes the requirements in chapter 3 to 13; and
- c the engaging party and those charged with governance have agreed to the following in writing:
  - 1° the safeguard, as referred to in part a; and
  - 2° that the assurance engagement may be continued.

#### *Article 8*

The provisions of articles 21, 22, 29 and 41 do not apply if the assurance engagement for a specified range of users is conducted for a public interest entity, provided that:

- a the assurance report:
  - 1° is addressed to the specified range of users;
  - 2° clearly states the limitation in use and distribution;
  - 3° clearly states the application of this Article.
- b all users outside the responsible entity and its related third party agree to the application of this Article in advance; and

- c the engagement partner applies the same provisions in this regulation as in the conduct of an assurance engagement for a responsible party that is not a public interest entity.

## 2.4 International relations

### Article 9

Articles 6 to 8, 10 and 17 to 46 do not apply to relations between a part of the network located abroad or a person connected thereto, and:

- a a third party located abroad;
- b a person connected to a third party located abroad,

If the engagement partner determines that identification and assessment of a threat due to those relations is performed and a safeguard is applied in accordance with rules that are at least as strict as the Code of Ethics.

## 2.5 Relations with a related third party

### Article 10

- 1 The engagement partner also considers a related third party when identifying and assessing circumstances as referred to in Article 6, first paragraph.
- 2 Chapters 4 to 7 and 9 to 13 correspondingly apply to relations with a related third party as referred to in the first paragraph, understanding that:
  - a <<responsible entity>> refers to: responsible entity or related third party;
  - b <<responsible party>> refers to: responsible party or related third party.

## 2.6 Relationship with the organisational structure

### Article 11

The engagement partner only performs the assurance engagement if the organizational structure of the audit unit enables him to apply adequate safeguards in order to secure the independent performance of the assurance engagement.

## 2.7 Documentation

### Article 12

The engagement partner is responsible for including in the assurance file exactly how he has secured the independent performance of the assurance engagement. For this purpose, the assurance file should at least contain:

- a a record of the nature and size of every identified and assessed threat;
- b a record of every safeguard applied regarding that threat;
- c the supported conclusion as to how the safeguard applied secures the independent performance;
- d if applicable, as referred to in Article 3, paragraph 7, the agreement of the specified range of users outside the responsible entity and its related third party.
- e in the position, as referred to in Article 7, the written arrangement of the engaging party and those charged with governance; and
- f in the position, as referred to in Article 8, the agreement of the specified range of users outside the responsible entity and its related third party.

## 2.8 Listed entities that do not qualify as public interest entities

### Article 13

The Articles in this regulation regarding an assurance engagement related to a public interest entity, excluding Articles 16 and 17, correspondingly apply to an assurance engagement related to a listed entity that does not qualify as a public interest entity.

## 2.9 Mergers and Acquisitions

### Article 14

- 1 If the independent performance of an assurance engagement cannot reasonable directly be secured due to a merger or acquisition, and those charged with governance request to continue the assurance engagement, this contravention of Article 6 is permitted, provided that:
  - a the independent performance will be secured as soon as possible, within no more than three months after the merger or acquisition date;



- b those charged with governance confirm their request to continue the assurance engagement in writing; and
  - c the threat is not caused by a person who is a member of the engagement team or a person who performs the engagement quality control review of the assurance engagement.
- 2 Supplementary to Article 12, the following is included in the assurance file:
- a the consideration why the independent performance cannot reasonably be secured directly; and
  - b the written request from those charged with governance.

## 2.10 Hardship Clause

### Article 15

- 1 The engagement partner who, in a situation where he no longer complies with Articles 3, 6, or 7, continues an assurance engagement based on a grand public interest is expected to secure the independent performance of an assurance engagement if:
- a those charged with governance confirm the continuance of the assurance engagement in writing;
  - b he immediately comes to a written agreement with the *Autoriteit Financiële Markten* (AFM, Netherlands Authority for the Financial Markets) in case of a statutory audit, and with the NBA in case of another assurance engagement concerning the safeguard that is to be applied; and
  - c the safeguard agreed upon is applied.
- 2 Supplementary to Article 12, the confirmation and agreement obtained based upon the first paragraph are included in the assurance file.

## 3 Concurrence of Services at a PIE where a statutory audit is performed

### Article 16

- 1 In supplement to Article 5, paragraph 1 of the European regulation, it is prohibited to perform a statutory audit at a public interest entity if services other than audit services as referred to in article 24b Audit Firms Supervision Act are provided to that organization or an affiliated entity by:
- a the audit firm for the public interest entity or an affiliated entity as intended in Article 24b, paragraph 1 of the Wta (Audit Firms Supervision Act);
  - b network firm located in the Netherlands that is located at:
    - 1° the public interest entity;
    - 2° an entity affiliated with the public interest entity as intended in Article 24b, paragraph 3 of the Wta (Audit Firms Supervision Act), which is located in the Netherlands or another EU member state; or
    - 3° an entity affiliated with the public interest entity as intended in Article 24b, paragraph 3, part a of the Wta (Audit Firms Supervision Act), which is not located in a EU member state; or
  - c network firm that is not located in the Netherlands and is not part of the public interest entity or an affiliated entity which is located in the Netherlands, as intended in Article 24b, paragraph 3 of the Wta (Audit Firms Supervision Act).
- 2 In supplement to Article 5, paragraph 1 of the European regulation, it is prohibited to perform a statutory audit at a public interest entity if network firm located outside of the Netherlands provides services other than audit services as referred to in Article 24b, first paragraph of the Wta (Audit firms Supervision Act) to that organization or an affiliated entity as referred to in Article 24b paragraph 3, part a, which is located in a non-EU member state, and the engagement partner cannot determine that the identification and assessment of a threat arising from those services and the safeguards applied has not been dealt with in accordance with rules that are at least equivalent to the Code of Ethics.
- 3 The prohibition formulated in the first and second paragraphs applies if services other than audit services, as stipulated in Article 24b, first paragraph of the Wta, during:
- a the reporting period to the publication of the auditor's report;
  - b the reporting period immediately prior to the period referred to in paragraph a if the services are provided in accordance with Article 5, first paragraph, part e of the European regulation.
- 4 For the application of the first paragraph, an audit service entails a service:

- a that is provided for the purpose of external users or the supervisory board;
- b of which the activities to be performed are aimed at verifying information of which the responsible party gives account;
- c where the nature of the activities corresponds with the activities included in the ISAs 100 – 3850N; and
- d to which the Standards NV COS below or Standards NV COS that are alike in nature and size apply:
  - 1° ISAs 100 – 999, Audits or Reviews of Historical Financial Information;
  - 2° ISAs 2000 – 2699, Audits or Reviews of Historical Financial Information;
  - 3° ISAs 3000 – 3850, Assurance Engagements other than Audits or Reviews of Historical Financial Information; or
  - 4° ISA 4400, Engagements to Perform Agreed-Upon Procedures Regarding Financial Information.

## **4 Concurrence of Services at a PIE where no statutory Audit is Performed or at an entity that is not a PIE**

### **4.1 General**

#### *Article 17*

This chapter does not apply if the audit unit at the responsible entity performs a statutory audit and this entity is qualified as a public interest entity.

#### *Article 18*

It is prohibited to perform an assurance engagement at a responsible entity if the engagement partner, the audit unit or network firm:

- a assumes a management responsibility for the benefit of the responsible entity, insofar that management responsibility affects the assurance object;
- b participates in the responsible party's decision-making process regarding the assurance object.

### **4.2 Concurrence of Services at an entity that is not a PIE**

#### *Article 19*

A threat that requires a safeguard occurs when the audit unit of network firm provides or has provided a non-assurance service which has a material effect on the assurance object to the responsible party that is not a public interest entity.

#### *Article 20*

- 1 It is prohibited to perform an assurance engagement at a responsible entity that is not a public interest entity if the audit unit or network firm provides, or has provided, a non-assurance service to the entity that has a material effect on the assurance object and:
  - a is subjective or not-routine;
  - b has a treatment in the assurance object as a result, and the assurance team doubt whether this treatment is appropriate; or
  - c leads to a threat due to advocacy.
- 2 The first paragraph does not apply when:
  - a the terms, as referred to in article 3, paragraph 7, parts a and b as well as article 4 are met; and
  - b a safeguard is applied that secures the independent performance of the engagement.

### **4.3 Concurrence of Services at a PIE where no statutory audit is Performed**

#### *Article 21*

It is prohibited to perform an assurance engagement at a responsible entity being a public interest entity, if the audit practice or network firm that provides, or has provided, a non-assurance service to that entity which has a material effect on the assurance object.

#### *Article 22*

It is prohibited to perform an assurance engagement at a responsible entity being a public interest entity, if the audit practice or network firm that provides, or has provided, an accounting service to that entity which has an effect on the assurance object.

## **5 Fees**

### **5.1 Contingent Fees**

#### *Article 23*

It is prohibited to perform an assurance engagement if:

- a a contingent fee for the assurance engagement was agreed upon; or
- b the audit practice or network firm provides, or has provided, a non-assurance service to the responsible party for which a contingent fee was agreed upon insofar:
  - 1° the outcome of the non-assurance service is material to the assurance object; or
  - 2° the contingent fee for the audit firm or network firm is, or is expected to be, material.

### **5.2 Relative Size of Fees**

#### *Article 24*

A threat that requires a safeguard occurs when the total of fees charged to a responsible party is material to:

- a the audit firm;
- b the network;
- c the engagement partner; or
- d a part of the audit firm or the network for which these fees are an important performance measure.

#### *Article 25*

- 1 A threat that requires a specific safeguard occurs when the annual total fee that the audit practice has charged, or expects to charge, to a responsible party in two or more consecutive reporting periods consists of more than fifteen percent of the total revenue of the audit firm regarding these reporting periods.
- 2 As a specific safeguard, there will be an engagement quality review, to be performed by a professional accountant outside the audit firm, for each assurance report provided from the second reporting period and onwards and as long as the threat exists.
- 3 The first and second paragraph correspondingly apply when the fees charged to the responsible party by the network located in the Netherlands, contains more than fifteen percent of the total revenue of the part of the network located in the Netherlands.

#### *Article 25a*

- 1 In supplement to Article 25, second paragraph, the engagement partner conducting a statutory audit at a public interest entity starting from the fourth reporting period must coordinate with the audit committee of that organisation as to whether the statutory audit may continue, and which safeguards must be applied, if any. The statutory audit continues after the engagement partner has obtained written approval from the audit committee.
- 2 The first paragraph and Article 25 apply, in deviation from the provisions of Article 4, first paragraph, first line of the European regulation.
- 3 The engagement partner is obliged to terminate a statutory audit at a public interest entity if the annual total fee that the audit firm has charged, or expects to charge, to a responsible party in two or more consecutive reporting periods consists of more than fifteen percent of the total revenue of the audit firm regarding each of these reporting periods.

### **5.3 Overdue Fees**

#### *Article 26*

A threat that requires a safeguard occurs if the audit practice has a considerable overdue fee receivable from the responsible party for assurance engagements and other services.

## **6 Gifts and Hospitality**

### **6.1 Gifts and Personal Expressions of Hospitality**

#### *Article 27*

- 1 It is prohibited to perform an assurance engagement when a member of the audit unit, network firm, a manager or internal officer charged with governance of the audit unit or network firm, or a member of the assurance team:
  - a asks for or receives a gift with a value that is not negligible or insignificant from the responsible entity or a person involved in the responsible entity;
  - b offers or provides a gift with a value that is not negligible or insignificant to the responsible entity or a person involved in the responsible entity;
- 2 If a gift valued at more than € 100 can be considered as negligible or insignificant:
  - a the engagement partner supports why the gift is negligible or insignificant;
  - b the engagement partner communicates why the gift and the reasons why the gift is negligible or insignificant to the designated person at the audit unit, who is not a member of the assurance team, or if this is not possible, to a policymaker at the audit unit; and
  - c the engagement partner informs those charged with governance at the responsible entity about the gift in the agreed-upon manner.
- 3 This article correspondingly applies to a personal expression of hospitality.

## **7 Long-term Involvement in Services to the Responsible Party**

### **7.1 General**

#### *Article 28*

- 1 A threat that requires specific safeguards occurs when an unacceptable risk of familiarity or self-interest arises due to long-term involvement of a key assurance partner or another senior member of the assurance team in providing services to the same responsible party.
- 2 After a period of seven consecutive years of involvement of a key assurance partner or another senior member with an assurance engagement for the same responsible party, without a threat as referred to in paragraph 1, the engagement partner annually supports the lack of such a threat by:
  - a justifiably recording that the duration of the involvement in the circumstances is no threat to the independence;
  - b obtaining written approval for this record from an official appointed by the audit unit who is not part of the responsible party;
  - c including this documentation and the written approval in the assurance file.

### **7.2 Additional Provision for a PIE**

#### *Article 29*

- 1 This article applies to an assurance engagement other than a statutory audit at a public interest entity.
- 2 In addition to Article 28, a threat that requires a specific safeguard occurs when a key assurance partner has been involved in an assurance engagement for seven consecutive years for the same public interest entity.
- 3 By means of a safeguard, the key assurance partner is no member of the assurance team of this responsible entity for three years.
- 4 The first and second paragraph correspondingly apply when a responsible entity qualifies as a public interest entity after the commencement of an assurance engagement.
- 5 In deviation from the first paragraph, a key assurance partner may complete the assurance engagement regarding the year in which the responsible party qualified as a public interest entity for the first time, even if he is involved in the assurance engagement for a total of more than seven consecutive years.

#### *Article 29a*

- 1 In addition to Article 28, in the event of a statutory audit at a public interest entity, a threat that requires a specific safeguard occurs when an engagement partner has been involved in an assurance engagement for five consecutive years for the same public interest entity, or another key assurance partner has been involved in an assurance engagement for seven consecutive years for the same public interest entity.
- 2 By means of a safeguard, the person referred to in the first paragraph may not be member of the assurance team for the public interest entity for three years.

## 8 Financial Interests

### *Article 30*

- 1 This chapter applies in as far a direct financial interest or a material indirect financial interest is held.
- 2 A financial product of a responsible entity is not considered a financial interest with respect to this regulation when:
  - a no risk-bearing capital is provided to the responsible entity by means of the financial product; and
  - b the responsible entity offers the financial product to a wide range of clients for normal business activities.
- 3 A financial product as referred to in the second paragraph is identified and assessed based on Chapter 9.

### *Article 31*

- 1 It is prohibited to perform an assurance engagement when a member of the assurance team or a close financial relationship of a member of the assurance team holds a financial interest in:
  - a the responsible entity;
  - b an entity that has a policymaking influence within the responsible entity, in as far the responsible entity is material to that entity with policymaking influence; or
  - c an entity where the responsible party holds a financial interest, unless:
    - 1° this interest is immaterial to each of the parties involved; and
    - 2° the responsible party cannot affect the entity where it holds the financial interest.
- 2 It is prohibited to perform an assurance engagement when a financial interest in an entity as referred to in the first paragraph is held by:
  - a the audit firm;
  - b network firm; or
  - c a partner, a manager or internal officer charged with governance of the audit firm or of network firm;
  - d a close financial relationship of a person as referred to in part c.
- 3 A threat that requires a safeguard occurs when a financial interest in the responsible party is held by the audit firm or network firm for the purpose of a retirement scheme.
- 4 In deviation from the first paragraph, a threat that requires a specific safeguard occurs in an assurance engagement performed by an internal or a governmental auditor, when a member of the assurance team or a close financial relationship of a member of the assurance team holds a financial interest in the organization to which he is related. By means of a safeguard, the financial interest must be communicated at least to the audit committee or body charged with similar duties, or those charged with governance within that organization.
- 5 In deviation from the second paragraph, parts c and d, a threat that requires a safeguard occurs when a person as referred to in the second paragraph, parts c or d, holds a financial interest in a responsible party qualified as an investment fund.

### *Article 32*

In deviation from Article 31, second paragraph, a financial interest in the responsible entity that is held by a close financial relationship of a person as referred to in that article, second paragraph, part C, is not a threat if this financial interest is obtained because of a working relationship and will be disposed of when this is reasonably feasible.

*Article 33*

A financial interest as referred to in Article 31 that is obtained during the performance of an assurance engagement as a result of circumstances that are reasonably outside the control of those involved, will be disposed of as soon as possible.

## **9 Business Relationships**

### **9.1 Collective Business Interests**

*Article 34*

- 1 It is prohibited to perform an assurance engagement when a member of the assurance team, the audit unit, or network firm holds a material collective business interest for at least one of the parties, with:
  - a the responsible party;
  - b its management; or
  - c a person charged with governance.
- 2 A threat that requires a safeguard occurs when a close personal relationship of a member of the assurance team holds, for at least one of the parties involved, a material collective business interest with:
  - a the responsible party;
  - b its management; or
  - c a person charged with governance.
- 3 In deviation from the first and second paragraph, a threat that requires a specific safeguard occurs when an assurance engagement is performed by an internal or governmental auditor, when there is a business relationship between a member of the assurance team on one hand and the organization to which he is related on the other. By means of a safeguard, the business interest must be communicated at least to the audit committee or body charged with similar duties, or those charged with governance within that organization.

### **9.2 Purchasing Goods or Services**

*Article 35*

- 1 It is prohibited to perform an assurance engagement when goods or services that do not meet the requirements referred to in the second paragraph, are purchased from the responsible entity by:
  - a the audit unit;
  - b network firm;
  - c a member of the assurance team; or
  - d a person with a close personal relationship to a member of the assurance team.
- 2 The requirements, as referred to in the first paragraph, include:
  - a supplying the goods or services fits in the framework of the normal business activities of the responsible entity;
  - b the goods or services are supplied in line with market conditions or, in the case of an internal or governmental auditor, in line with conditions that generally apply within the employer; and
  - c the responsible entity does not make purchasing the goods or services the condition for providing the assurance engagement.

### **9.3 Loans, Guarantees or other Forms of Debentures**

*Article 36*

- 1 It is prohibited to perform an assurance engagement when a loan that does not meet the requirements of the responsible party, as referred to in the second paragraph, is accepted by:
  - a the audit unit;
  - b network firm;
  - c a member of the assurance team; or
  - d a person with a close personal relationship to a member of the assurance team.
- 2 The requirements, as referred to in the first paragraph, include:
  - a the loan fits in the framework of the normal business activities of the responsible entity;

- b the loan is accepted in line with market conditions or, in case of an internal or governmental auditor in line with conditions that generally apply within the employer; and
  - c the responsible entity does not make accepting the loan the condition for providing the assurance engagement.
- 3 It is prohibited to perform an assurance engagement when an audit unit, network firm, a member of the assurance team or a close relationship of a member of the assurance team grants a loan to the responsible party and this loan is material to at least one of the parties involved.
  - 4 A threat that requires a safeguard occurs when the audit unit or network firm accepts a loan from the responsible party that meets the terms, as referred to in the second paragraph, and this loan is material to at least one of the parties involved.
  - 5 This Article correspondingly applies to a received or granted guarantee or another forms of debenture.

#### **9.4 Association with the Responsible Entity**

##### *Article 37*

- 1 It is prohibited to perform an assurance engagement when the audit unit concludes a relationship with the responsible entity where the audit unit is associated with the responsible entity for the purpose of advertising or marketing.
- 2 This prohibition does not apply to a relation, as referred to in paragraph one, that is negligible to both parties.
- 3 This prohibition correspondingly applies to a relationship between a member of the assurance team or network firm with the responsible entity, as referred to in the first paragraph.

## **10 Working Relationships with a Responsible Entity**

### **10.1 Former Colleague Working for the Responsible Entity**

#### *10.1.1 General*

##### *Article 38*

- 1 It is prohibited to perform an assurance engagement on behalf of an unspecified group of users, or to conduct a statutory audit within a year after the key assurance partner has terminated his involvement in the assurance engagement, has left the audit unit and works for the responsible entity:
  - a as a director;
  - b as a member of the audit committee or body charged with similar duties, or another function charged with governance; or
  - c in a position where he can considerably influence the assurance object,
- 2 The first paragraph correspondingly applies to an accountant in the assurance team who:
  - a is registered as an external accountant in the AFM register;
  - b has been authorised by the audit practice to act as an assignment partner as specified in the NV COS glossary, or who has received similar authorisations from an audit department.
- 3 It is prohibited to perform an assurance engagement when a former member of the assurance team has terminated his involvement in the assurance engagement, has left the audit unit and works for the responsible entity in a position as described in the first paragraph, while other significant close relations exist between the former member and the audit unit or network firm.
- 4 The third paragraph correspondingly applies to:
  - a a former partner of the audit practice;
  - b a former partner of network firm; or
  - c a former employee of the audit department.
- 5 Significant close relations with the audit unit or network firm are considered to apply when the person, as referred to in the third or fourth paragraph or, part a and b:
  - a is involved in the business or professional activities of the audit practice or the other part of the network, or conveys the impression that he is; or
  - b can make a claim to payments or employee benefits of the audit practice or the other part of the network in as far they:

- 1° are not included in predetermined conditions; and
  - 2° are material to the audit practice or the other part of the network.
- 6 Significant close relations with the audit unit as specified in the third paragraph are assumed to exist when a former member of the assurance team or a former employee of the audit department is involved in the business or professional activities of the audit department, or conveys the impression that this is the case.

#### *Article 38a*

The following persons involved in the conduct of a statutory audit, and who have left the audit firm or are planning on leaving the firm, may not accept a position at the relevant audit client for a period of at least one year after the termination of the individual's involvement with the firm, as stipulated in Article 38, first paragraph:

- a a key assurance partner;
- b any accountant who is registered as an external accountant in the AFM register;
- c an accountant who has been authorised by the audit firm to act as an engagement partner as specified in the NV COS glossary, or who has received similar authorisations from an audit department.

#### *Article 39*

- 1 A threat that requires a safeguard occurs when a former partner of the audit practice started working for a responsible entity prior to the performance of an assurance engagement by the audit firm for this entity, in the event that:
- a there are still significant close relations between the former partner and the audit practice as stipulated in Article 38, fifth paragraph; and
  - b the former partner still works for the entity:
    - 1° as a director;
    - 2° as a member of the audit committee or body charged with similar duties, or another function charged with governance; or
    - 3° in a position where he can exercise considerable influence on the assurance object,
- 2 The first paragraph correspondingly applies to a former partner or network firm.

#### *Article 40*

A threat that requires a safeguard occurs when a member of the assurance team has communicated his attention to start working for the responsible entity.

#### *10.1.2 Additional Provision at a Public Interest Entity*

#### *Article 41*

In supplement to Articles 38, 39, and 40, it is prohibited to perform an assurance engagement when:

- a a key assurance partner of an assurance engagement for a responsible entity, being a public interest entity, starts working for the entity:
  - 1° as a director;
  - 2° as a member of the audit committee or body charged with similar duties, or another function charged with governance; or
  - 3° in a position where he can exercise considerable influence on the assurance object, before at least two years have passed since he has ceased working as a key assurance partner;
- b the CEO or similar official of the audit practice or network firm starts working for a responsible entity, being a public interest entity in a position as described in part a, before at least two years have passed since he has resigned from his position as CEO or similar official.

### **10.2 Commencement Employment of Responsible Entity's Staff at the Audit Unit**

#### *Article 42*

It is prohibited to perform an assurance engagement when a member of the assurance team was working for the responsible entity in the previous two years:

- a as a director;
- b as a member of the audit committee or body charged with similar duties, or another function charged with governance; or
- c in another position where he can exercise influence on the assurance object.



### 10.3 Additional Functions

#### Article 43

- 1 It is prohibited to perform an assurance engagement if the engagement partner has an additional function at the responsible entity:
  - a as a director;
  - b as a member of the audit committee or body charged with similar duties, or another function charged with governance; or
  - c as an administrator; or
  - d where he can significantly influence the assurance object.
- 2 The first paragraph correspondingly applies to:
  - a another person related to het audit unit; or
  - b a person related to network firm.

### 11 Close Personal Relationships

#### Article 44

- 1 It is prohibited to perform an assurance engagement when a close personal relationship of a member of het assurance team works for the responsible entity:
  - a as a director;
  - b as a member of the audit committee or body charged with similar duties, or another function charged with governance; or
  - c in another position where that relationship can significantly influence the assurance object.
- 2 A threat that requires a safeguard occurs when a close personal relationship of a member of the assurance team works for the responsible entity in a position where he can significantly influence a financial position, financial performance or cash flow reflected in the assurance object.
- 3 This Article correspondingly applies when a close personal relationship of a member of the assurance team was working for the responsible entity in a position as referred to in the first or second paragraph, during the period that is covered by the assurance object.

### 12 Legal Proceedings Against the Responsible Party

#### Article 45

- 1 A threat that requires a safeguard occurs in the case of impending or instituted legal proceedings between an audit unit or network firm and the responsible party.
- 2 It is prohibited to perform an assurance engagement when there are imminent or instituted legal proceedings between the responsible entity and:
  - a the engagement partner or another member of the assurance team; or
  - b the audit unit or network firm, in as far these proceedings are related to the opinion or conclusion regarding a previously completed assurance engagement.

### 13 Performance-based Review and Compensation

#### Article 46

- 1 It is prohibited to perform an assurance engagement when a review or compensation of a member of the assurance team is not negligible to his commercial performances related to the responsible party.
- 2 It is prohibited to perform an assurance engagement when a review or compensation of the engagement partner depends on the outcome of his opinion with respect to that assurance engagement.

## 14 Withdrawal of Regulations

### *Article 47*

- 1 The detailed rules independence internal auditor – assurance engagements, established by the board of the “Nederlandse Orde van Accountants-Administratieconsulenten” (Dutch Order of Accounting Consultants, NOvAA) and the Supplemental guidelines independence internal professional accountant – assurance engagements, established by the board of the Nederlands Instituut van Registeraccountants (Dutch Institute of Chartered Accountants, NIVRA) will be withdrawn.
- 2 The detailed rules independence external professional accountant – assurance engagements, established by the board of the “Nederlandse Orde van Accountants-Administratieconsulenten” and the detailed rules independence external professional accountant – assurance engagements, established by the board of the Nederlands Instituut van Registeraccountants will be withdrawn.
- 3 The detailed rules independence governmental professional accountant – assurance engagements, established by the board of the “Nederlandse Orde van Accountants-Administratieconsulenten” and the Supplemental guidelines independence governmental professional accountant – assurance engagements, established by the board of the Nederlands Instituut van Registeraccountants will be withdrawn.

## 15 Transitional and Final Provisions

### *Article 48*

- 1 The ViO, as formulated until 16 June 2016, applies to an assurance engagement pertaining to a reporting period that started prior to 17 June 2016.
- 2 In deviation from the first paragraph and notwithstanding the reporting period to which an assurance engagement pertains, the cooling-down period of two years stipulated in Article 29, second paragraph, as formulated until 16 June 2016, shall apply in the event that:
  - a a statutory audit at a public interest entity, if the cooling-down period began or begins before 17 December 2016;
  - b this article applies to an assurance engagement other than a statutory audit at a public interest entity, if the cooling-down period began or begins before 16 December 2017.
- 3 In deviation from the first paragraph, the cooling-down period of three years as stipulated in Article 29a, second paragraph, applies in the event of a statutory audit at a public interest entity, if:
  - a the statutory audit pertains to a reporting period that started prior to 17 June 2016; and
  - b the cooling-down period started on or after 17 June 2016.
- 4 In deviation from the first paragraph, Article 38 as formulated until 16 June 2016 applies to an assurance engagement other than a statutory audit pertaining to a reporting period that started prior to 16 December 2017.

### *Article 48a*

- 1 Article 28, second paragraph, of this regulation, does not apply to an assurance engagement entered into prior to 17 December 2013.
- 2 Article 29, as formulated until 16 June 2016, does not apply to an assurance engagement entered into prior to 17 December 2013.
- 3 The Requirements remain applicable to the situation, as referred to in paragraphs 1 or 2.
- 4 In the event of an assurance engagement as referred to in the first paragraph is periodically extended, the engagement partner terminates the agreement after completion of the assurance engagement regarding the first accounting period if the requirements of Article 28 of this regulation are not met.
- 5 In the event of an assurance engagement as referred to in the second paragraph is periodically extended, the engagement partner terminates the agreement after completion of the assurance engagement regarding the first accounting period if the requirements of Article 29 as formulated until 16 June 2016 are not met.
- 6 The Requirements remain applicable to a threat arising from:
  - a a working relationship as referred to in chapter 10 as formulated until 16 June 2016, and was entered into prior to 17 December 2013;

- b legal proceedings as referred to in Article 45 that were instituted before 17 December 2013.
- 7 In this Article the Requirements imply the following:
- a the Supplemental guidelines independence external professional accountant (AA qualification);
  - b the Supplemental guidelines independence external professional accountant (CA qualification);
  - c the Supplemental guidelines independence internal professional accountant – assurance engagements (AA qualification);
  - d the Supplemental guidelines independence internal professional accountant – assurance engagements (CA qualification);
  - e the Supplemental guidelines independence governmental professional accountant – assurance engagements (AA qualification); or
  - f the Supplemental guidelines independence governmental professional accountant – assurance engagements (CA qualification),
- as they are regarded until the effective date of this regulation on 1 January 2014.

*Article 49*

The board of the Nederlandse Beroepsorganisatie van Accountants (Dutch Professional Body of Professional Accountants, NBA) can, on the advice of the members, establish supplemental guidelines, regarding sections 2 to 46.

*Article 50*

This provision is referred to as: Verordening inzake onafhankelijkheid van accountants bij assurance-opdrachten (Code of Ethics for Professional Accountants, abbreviated as 'ViO').

*Article 51*

This regulation is effective on the first day after publication in the *Staatscourant* and is retroactive to January 1, 2014.

## Technical information regulations

Technical information regulations					
Re:	Article	Decree	Approval	Publication	Effective
Amendments	1, 8, 9, 14, 16, 20, 25, 25a (new article), 27, 29, 29a (new article), 31, 34, 38, 38a (new article), 39, 41, 42, 43, 44, 48, 48a (new article)	17-5-2016 (Amendment to ViO 2016)	13-6-2016 (2016-0000076786)	Stcrt 2016, 31296	17-6-2016
New regulation		16-12-2013	20-12-2013 (FM/2013/2268 M)	Stcrt. 2014, 164	1-1-2014

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