



FAQ regarding the recognition, professional experience and the quality of work of *réviseurs d'entreprises agréés* (approved statutory auditors) (REA) in the framework of the prudential supervision of the financial sector

VERSION 2 – DECEMBER 2021

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1. Who must have the REA, chosen to carry out the statutory audit, recognised by the CSSF?

The entities of the financial sector subject to the prudential supervision of the CSSF in accordance with Article 2(1) of the Law of 23 December 1998 establishing a financial sector supervisory commission ("Commission de surveillance du secteur financier") ("CSSF Law") must, pursuant to the applicable sectoral law, entrust the statutory audit of their annual accounting documents (individual or consolidated accounts) to one or several REAs¹ which can show that they possess adequate professional experience.

These sectoral laws provide that the supervised entities are required to have the REA of their choice recognised beforehand by the CSSF in order to enable the CSSF to ensure that this REA possesses adequate professional experience, adapted to the profile of the supervised entity. Similarly, any subsequent change of the REA must be authorised in advance by the CSSF.

As the decisions taken by the CSSF in this context are considered as administrative decisions, the CSSF laid down a formal recognition procedure for REAs which defines the rules to be complied with for a recognition request, the reference criteria for the assessment of the adequate professional experience and the follow-up regime once the recognition has been granted (assessing the quality of the audit work).

¹ In the subsequent text and as set out in the answer to question 2, reference is made to réviseur d'entreprises agréé (approved statutory auditor) (REA) to designate a cabinet de révision agréé (approved audit firm) (CRA). However, in certain cases, a distinction shall be made between a CRA which is a REA being a legal person, and a REA being a natural person. In this case, it is duly specified in the text with the notion of key audit partner.

2. Who must be recognised by the CSSF, the audit firm or the statutory auditor, and what does this recognition mean?

The 4th and 7th European Directives¹ on the annual accounts and consolidated accounts of companies with limited liability require a statutory audit. Under the 8th European Directive on the statutory audit of annual accounts and consolidated accounts, the statutory audit is assigned either to a natural person approved for that purpose (referred to as “statutory auditor”), or to a legal person approved for that purpose (referred to as “audit firm”).

References to “*réviseur d’entreprises agréé* (approved statutory auditor)” in Luxembourg laws applicable to the financial sector cover the two alternatives referred to in the European Directive.

In practice, the supervised entities propose a *cabinet de révision agréé* (approved audit firm) (CRA) as statutory auditor. The recognition procedure of the CSSF is intended for the CRA, i.e. REA legal person. The CRA is represented by a REA natural person who acts as a key audit partner within the meaning of the Law of 23 July 2016 concerning the audit profession (Audit Law).

Both the CRA and its key audit partner must be approved by the CSSF in accordance with the Audit Law to carry out the assignments reserved by law to the *réviseurs d’entreprises agréés* including, in particular, the statutory audit.

The **recognition** of a REA by the CSSF for the statutory audit of a supervised entity is separate from the approval under the Audit Law. It represents a **specific examination**, the purpose of which is to verify that the REA possesses adequate professional experience to carry out the mandate required in the financial sector.

¹ Repealed and replaced by Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings.

3. What are the rules for filing a request for recognising a REA?

a) When shall a recognition request be filed?

An entity supervised by the CSSF shall have its REA recognised:

- within the context of the review of the initial authorisation file of the supervised entity;
- upon any subsequent change of the legal status of the supervised entity;
- upon any subsequent change of the REA.

A change of the key audit partner belonging to the already recognised REA does not represent a change of REA and, consequently, does not require a new recognition request, but the CSSF must be informed thereof.

b) Who shall file the recognition request?

The supervised entity shall submit the recognition request to the CSSF by indicating the name of the proposed REA and the name of the key audit partner who shall be responsible for the statutory audit (cf. also answer to question 2).

The request shall be filed prior to the appointment of the REA by the bodies of the supervised entity.

c) In which form shall the recognition request be filed?

Insofar as the application file for obtaining/changing the legal status of a supervised entity includes information on the REA and its key audit partner, the CSSF does not require a separate formal recognition request. In this case, the introduction of such a file replaces the request for recognising the REA by the CSSF.

Upon any subsequent change of REA, the supervised entity shall file a written formal recognition request with the CSSF. This request shall include the reasons for the change of REA and specify as from what financial year the change will become effective. It is reminded that, in case of resignation or dismissal of the REA during its term of office, Article 32 of the Audit Law requires an adequate explanation for the resignation or dismissal of the REA.

4. How does the CSSF proceed after having received a request for recognising a REA: full procedure or simplified procedure?

After having received a request for recognising a REA, the CSSF first examines whether this REA has already been recognised by the CSSF for a similar statutory audit mandate. If so, the CSSF applies the simplified procedure set out in the answer to question 6. If not, the CSSF applies the full procedure of the first recognition set out in the answer to question 5.

5. How is the full procedure for the first recognition carried out?

In the event of a first request for recognising a REA for a statutory audit mandate of a supervised entity, the CSSF first requires that the REA submit a file containing the information listed in Annex 1.

In addition, the REA, represented by the key audit partner proposed for the mandate is contacted for an interview. This interview enables the CSSF to supplement the information received in the file and to assess the professional qualification of the key audit partner. It also enables the key audit partner to demonstrate his level of competence and thus his apparent ability to fulfil a statutory audit mandate of a given supervised entity. Following this interview, the CSSF may, if necessary, request additional information/documents.

Based on the collected data, the CSSF assesses the “adequate professional experience” in view of the conditions laid down (cf. answers to questions 8 and 9) and issues a decision of approval of recognition or refusal of recognition.

The decision to recognise or not to recognise is then communicated to the supervised entity and the REA (according to the procedures described in the answer to question 10).

6. When and how does the CSSF apply the simplified recognition procedure?

Where the proposed REA has already been recognised by the CSSF for a similar statutory audit mandate, the CSSF applies a simplified recognition procedure.

In general, where the request concerns a type of entity for which the REA has already been recognised or a different type of entity that is less complex and the quality of the audit work of the key audit partner who shall be responsible for the conduct of the proposed mandate is satisfactory, the recognition is directly granted.

Where the request concerns an entity of the same type but whose activities are more complex or an entity of a different type requiring a different professional experience, the procedure mainly consists in assessing whether the skills and the resources of the key audit partner, who shall be responsible for fulfilling the proposed mandate, continue to be sufficient and adapted to the complexity of the activities of the entity concerned by the request. In this respect, the key audit partner shall provide the CSSF, a priori, only with detailed information on the proposed mandate (i.e. information listed in point 2 of Annex 1). If conditions warrant, the key audit partner may be contacted for an interview.

7. What does the recognition procedure relate to?

The recognition procedure corresponds to an ex ante validation of the apparent ability of the REA to execute a statutory audit mandate of a given supervised entity. This analysis takes into account:

- the professional skills and experience of the key audit partner;
- the organisational aspects of the audit firm;
- the specificities related to the status and the activity of the supervised entity.

The combination of these three elements enables the CSSF to assess whether the choice of the REA is suitable.

Concretely, the assessment of the “adequate professional experience” centres around seven conditions that shall be fulfilled simultaneously (cf. answer to question 8).

Certain specific conditions apply due to the legal status of the supervised entity or the complexity of its activity (cf. answer to question 9).

8. How does the CSSF assess the concept of “adequate professional experience” of the REA?

The assessment of the “adequate professional experience” centres around seven conditions that shall be fulfilled simultaneously:

1. The REA as well as its key audit partner shall have an approval from the CSSF, granted in accordance with the Audit Law to carry out assignments reserved by law to REAs.
2. The key audit partner shall have current experience in statutory audit. This implies that the key audit partner shall carry out, in a routine manner and on a regular basis, audit engagements in Luxembourg.
3. The key audit partner shall have sufficient knowledge and a current experience of the accounting standard on the basis of which annual accounting documents

(individual or consolidated accounts), subject to statutory audit, are established.

4. The key audit partner shall have sufficient technical knowledge of the activities carried out by the supervised entity and the risks arising therefrom.
5. The key audit partner shall have current knowledge of the regulations (laws, regulations and circulars, etc.) applicable to the supervised entity which he intends to audit.
6. The REA shall have sufficient human and technical means adapted to the complexity of the activities of the type of supervised entities targeted.
7. The quality of the audit work of the key audit partner and of the REA, respectively, shall be satisfactory.

Certain specific conditions may apply due to the legal status of the supervised entity or the complexity of its activity (cf. answer to question 9).

9. What are the specific conditions applicable to specific areas of activity of the financial sector?

The conditions set out in the answer to question 8 are supplemented by specific conditions in order to take into account the specificities related to the status or activity of certain supervised entities. The conditions concerned are the following:

- Credit institutions, investment firms, payment institutions, UCIs: The ad hoc use of experts shall be guaranteed, insofar as the key audit partner has himself a sufficient level of knowledge to assess the quality and adequacy of the due diligence performed and the conclusions drawn up by the expert. Experts may be used either by way of membership in an international audit network¹, or by way of the development, through cooperation agreements, of a network of standardised professional relations, whereby unconditional and immediate access to expert resources is guaranteed;
- Specialised PFS: Given the diversity of the statuses grouped under the term specialised PFS, a nuanced approach is applied. In particular, PFS acting under the status of administrative agent (AA) or registrar agent (RA) include a dimension of contagion risks for the financial sector. Consequently, for these PFS, the key audit partner shall carry out, normally, the statutory audit of entities likely to use the services of an administrative agent or a registrar agent (for example of UCIs, SIFs or SICARs);

¹ Notion of network according to IFAC Code of Ethics, failing any common definition in Europe.

- Support PFS, electronic money institutions and entities using complex or significant IT organisation: The REA shall have skills and experience adapted to the specificity of the IT environment of these entities to ensure a good understanding of the risks arising therefrom and the implementation of an appropriate audit approach. A REA has the required technical skills if its team includes a sufficient number of IT expert analysts¹ or if it can use them forthwith through a network or pursuant to cooperation agreements;
- UCIs, SIFs, SICARs, securitisation undertakings, pension funds: Some of these vehicles engage in investments whose valuation may be very complex. In the recognition procedure, emphasis is placed on the experience of the key audit partner in the valuation of complex assets and, as far as the REA is concerned, on the means to use experts in the valuation, through a network or through cooperation agreements.

If necessary, other specific conditions may be laid down to meet specific requirements in terms of adequate professional experience of the REA for a given supervised entity.

10. Who shall be informed of the decision of recognition?

Decision to approve recognition

- **Within the context of an authorisation request of a new supervised entity or a request for a change of status of a supervised entity**

a) Communication to the supervised entity

The authorisation of the supervised entity implies the recognition of the REA; the CSSF does not send a confirmation letter in this respect to the supervised entity.

b) Communication to the REA

In case of a first recognition decision for the REA for a type of entity, the CSSF sends its recognition decision by letter, following the authorisation of the new supervised entity or change of status of a supervised entity.

¹ Holders of professional certificates such as CISA (Certified Information System Auditor).

The recognition letter confirms the recognition decision applicable to the specific supervised entity. Moreover, it serves as a reminder of the main obligations of the REA in the field of cooperation and communication with the CSSF and it includes an inventory of the reports to be provided by the REA as part of its mandate.

➤ **Within the context of a request for a change of REA**

The decision of the CSSF is:

- communicated to the REA by letter (cf. point (b) above);
- confirmed to the supervised entity by letter.

Decision not to recognise

The rules of the non-litigious administrative procedure (PANC) are applicable.

First, and before taking the final decision not to recognise the REA, the CSSF notifies its intention not to grant the recognition to both, the REA and the supervised entity. The letter sent to the supervised entity does only include, where appropriate, the factual elements on the relevant REA.

This first letter, sent to the REA by registered letter with acknowledgement of receipt, includes the intention of the CSSF not to grant the recognition of the REA as well as elements of fact and law on which the CSSF bases its intention. It invites the recipients to take position and to comment on the decision which the CSSF envisages to take. In this respect, the letter mentions a period which cannot be less than eight days as from the receipt of the letter. In exceptional cases (to be assessed on a case-by-case basis), the facts taken into consideration for the refusal may be established through an interview with conflicting views.

Then, the final decision occurs after the recipients have submitted their comments or after the expiry of the period for comments. The final decision is reasoned and includes the legal basis as well as the elements of fact which are at the source of it. Moreover, it includes the remedies available. The decision is sent to the REA by registered letter with acknowledgement of receipt.

11. What is the status of a decision of approval or refusal of recognition?

Any decision on recognition represents a specific administrative decision because it takes into consideration the suitability of the professional experience of the REA with respect to a specific supervised entity by taking into account the “type of entity”, i.e. the legal status of the supervised entity, as defined in the sectoral law governing its activity, as well as the specificities of the mandate.

A decision to approve recognition means that the CSSF considers that the REA appears to possess adequate professional experience adapted to the nature and complexity of the activities of a given supervised entity.

A decision not to grant recognition implies that the REA does not meet all the requirements laid down by the CSSF to assess the legal condition of the adequate professional experience for a proposed mandate (cf. answer to question 8). A decision of refusal constitutes an administrative decision communicated to the REA and to the supervised entity in compliance with the provisions of the non-litigious procedure (PANC) (cf. also answer to question 10).

12. How is the monitoring following the approval of recognition of the REA (ex post assessment of the quality of the audit work for a supervised entity) carried out?

The responsibility entrusted to the CSSF, within the context of the supervision of the financial sector, implies that it assesses both the qualification of the REA at the time of recognition (cf. answer to question 7) for a statutory audit mandate of a supervised entity and also that it monitors and assesses the quality of the documents provided by the key audit partner.

At the level of the statutory audit mandate, the report of the REA on the annual accounts (individual and consolidated accounts) as well as, where appropriate, its long form report and its management letter are assessed.

The reports issued by a key audit partner for a supervised entity within the context of other assignments (outsourced internal audit function, assessment of contributions in kind, etc.) may also be taken into consideration.

Moreover, the CSSF assesses whether the key audit partner has met the legal and prudential provisions in terms of communication to the CSSF ("whistleblowing" procedure).

Furthermore, the review of the annual reports of the supervised entities may allow identifying indicators which might arise from a lack of diligence in the audit.

Finally, quality assurance reviews performed on the basis of audit files by the CSSF within the context of its mission of public oversight of the audit profession provide an in-depth assessment of the quality of a REA's work. This quality assurance is distinct from the monitoring of the quality of the audit work which the CSSF carries out at the level of REAs recognised to carry out the statutory audit of supervised entities, whether in terms of scope of application or of objective. Quality assurance covers all the audit engagements of the supervised entities. It aims at verifying whether the REA carried out these mandates in accordance with the audit standards applicable to it, the standard-setting provisions on quality control, the code of ethics and, in particular, the independence rules. The conclusions set forth in this context are also taken into account within the context of the follow-up of the REAs recognised for the financial sector. In particular, the safeguards against a key audit partner in the broader context of the public oversight of the audit profession may lead to decisions of the CSSF affecting the recognition of the REA for other mandates held by this key audit partner in the financial sector (cf. answer to question 13).

13. What means of action are available to the CSSF in case of poor quality of the documents submitted by the REA for a supervised entity?

In case of unsatisfactory ex post assessment of the quality of the reports of a key audit partner, the CSSF may contact this partner for an interview, send him an observation letter or take other appropriate measures.

Depending on the severity of the various facts, the CSSF may request an entity to change the REA, prohibit a REA from carrying out the statutory audit in a particular business area of the financial sector, i.e. to withdraw its recognition as REA for the financial sector for a specified term or permanently.

The shortcomings identified during the quality assurance review carried out by the CSSF within its mission of public oversight of the audit profession may lead to the implementation of a “double-signature” safeguard measure¹ against a key audit partner. For the entities of the financial sector subject to the prudential supervision of the CSSF (as described in the answer to question 1), the double-signature measure imposed on their REA is systematically extended to the long form report.

Moreover, the key audit partner subject to this safeguard measure shall request prior approval from the CSSF for any new statutory audit mandate in the financial sector for which he would act as a key audit partner.

During the assessment of such a request, the CSSF examines, in particular, the experience, the skills, the authority and the availability of the second signatory.

Any decision taken by the CSSF and which is likely to have an impact on the exercise of the activity of statutory audit by the REA in the financial sector constitutes a non-litigious administrative decision which is communicated to the REA in compliance with the provisions of the non-litigious administrative procedure (PANC) as described in the answer to question 10.

¹ This measure means that all the audit files of a key audit partner shall be reviewed by a second audit partner REA and that all the audit reports issued by this key audit partner shall be countersigned by this second audit partner REA.

Constituent components of a file of a *réviseur d'entreprises agréé* (REA) requesting recognition by the CSSF for a statutory audit mandate of a supervised entity

1. General data on the REA

- a. "Statutory audit" activity:
 - i. annual number of audit engagements (over the last three months) in the following sectors:
 - 1. financial sector
 - 2. stock market
 - 3. insurance sector
 - 4. unregulated investment companies (unregulated private equity, unregulated securitisation companies, Soparfi)
 - 5. industrial/commercial sector
 - ii. names of the key audit partners assigned to the audit of the entities of the financial sector;
 - iii. staff (number, including those assigned to the audit in the financial sector, by seniority level, experience and qualification);
- b. Other duties performed by the REA in the financial sector (outsourced internal audit, consulting, etc.) in number and fees;
- c. Audit approach (audit manual, technical means (audit softwares) and other devices available);
- d. Membership of a network: general information on the network and/or technical association, global ranking, existence of a quality assurance system, quality control report of the network and/or technical association, etc.

2. Data relating to the audit mandate of the applicant client entity

- a. Description of the client acceptance approach with emphasis on the assessment of the risk profile of the regulated entity, the identified risks and the procedures provided for in this respect, as well as a description concerning the activity of the entity and a list of applicable laws, regulations and circulars;
- b. Name and curriculum vitae of the key audit partner of the mandate;
- c. Names and curricula vitae of the members of the audit team (including external experts if need be), as well as a table listing the breakdown of audit tasks among the audit team;
- d. Detailed budget/hours and audit fees for the mandate in question;
- e. "Non-audit" service provision for the same client (nature and fees).



Commission de Surveillance du Secteur Financier
283, route d'Arlon
L-2991 Luxembourg (+352) 26 25 1-1
direction@cssf.lu
www.cssf.lu