



STATUTORY INSTRUMENTS.

S.I. No. 67 of 2017

EUROPEAN UNION (THIRD COUNTRY AUDITORS AND AUDIT
ENTITIES EQUIVALENCE, TRANSITIONAL PERIOD AND FEES)
(AMENDMENT) REGULATIONS 2017

EUROPEAN UNION (THIRD COUNTRY AUDITORS AND AUDIT ENTITIES EQUIVALENCE, TRANSITIONAL PERIOD AND FEES) (AMENDMENT) REGULATIONS 2017

I, MARY MITCHELL O’CONNOR, Minister for Jobs, Enterprise and Innovation, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) and for the purpose of giving effect to Commission Implementing Decision 2016/1155/EU of 14 July 2016¹ and Commission Implementing Decision 2016/1223/EU of 25 July 2016², hereby make the following regulations:

1. (1) These Regulations may be cited as the European Union (Third Country Auditors and Audit Entities Equivalence, Transitional Period and Fees) (Amendment) Regulations 2017.

(2) These Regulations shall be construed together with the European Union (Third Country Auditors and Audit Entities Equivalence, Transitional Period Measures and Fees) Regulations 2012 (S.I. No. 312 of 2012) and the European Union (Third Country Auditors and Audit Entities Equivalence, Transitional Period and Fees) Regulations 2014 (S.I. No. 555 of 2014).

2. In these Regulations, “Regulations of 2012” means the European Union (Third Country Auditors and Audit Entities Equivalence, Transitional Period Measures and Fees) Regulations 2012 (S.I. No. 312 of 2012).

3. Regulation 2(1) of the Regulations of 2012 is amended—

(a) by the substitution of the following definition for the definition of “Commission Decision”:

“ ‘Commission Decision’ means Commission Decision 2011/30/EU of 19 January 2011³ as amended by—

(a) Commission Implementing Decision 2013/288/EU of 13 June 2013⁴, and

(b) Commission Implementing Decision 2016/1223/EU of 25 July 2016;”,

and

¹OJ L190, 15.7.2016, p. 80

²OJ L201, 27.7.2016, p. 23

³OJ L15, 20.1.2011, p. 12

⁴OJ L163, 15.6.2013, p. 26

Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 10th March, 2017.

(b) by the insertion of the following definitions—

“ ‘Audit Directive’ means Directive 2006/43/EC of the European Union and of the Council of 17 May 2006⁵ as amended by Directive 2014/56/EU of the European Parliament and of the Council of 16 April 2014⁶ on statutory audits of annual accounts and consolidated accounts;

‘Commission Implementing Decision 2016’ means Commission Implementing Decision 2016/1155/EU of 14 July 2016⁷;”.

4. Regulation 3 of the Regulations of 2012 is amended—

(a) by the insertion of the following paragraphs after paragraph (1C):

“(1D) In accordance with the third paragraph of Article 1 of the Commission Decision and for the purpose of Article 46(1) of the Audit Directive, the public oversight, quality assurance, investigation and penalty systems for third country auditors and audit entities of—

(a) Mauritius,

(b) New Zealand, and

(c) Turkey,

meet requirements which shall be considered equivalent to those of Articles 29, 30 and 32 of the Audit Directive in relation to audit activities concerning annual or consolidated accounts for financial years starting from 1 August 2016.

(1E) In accordance with Article 1 of Commission Implementing Decision 2016 and for the purpose of Article 46(1) of the Audit Directive, the public oversight, quality assurance, investigation and penalty systems for auditors and audit entities of the Securities and Exchange Commission of the United States of America and the Public Company Accounting Oversight Board of the United States of America shall be considered to meet requirements that are equivalent to those of Articles 29, 30 and 32 of the Audit Directive.

(1F) In accordance with Article 3 of Commission Implementing Decision 2016, paragraph (1E) shall apply from 1 August 2016 to 31 July 2022.”,

and

(b) in paragraph (2), by the substitution of “paragraphs (1), (1A), (1B), (1D) and (1E)” for “paragraphs (1), (1A) and (1B)” in each place that it occurs.

⁵OJ L157, 9.6.2006, p. 87

⁶OJ L158, 27.5.2014, p. 196

⁷OJ L90, 15.7.2016, p. 80

5. Regulation 4A of the Regulations of 2012 are amended by the substitution of the following paragraphs for paragraphs (1) and (2):

“(1) This Regulation applies to the provision by a third-country auditor or third-country audit entity of an audit report concerning the annual or consolidated accounts for a company incorporated in a third country specified in Annex II to the Commission Decision for a financial year starting during the period from 2 July 2010 to 31 July 2018 where the transferable securities of such company are admitted to trading on a regulated market of the State within the meaning of point 14 of Article 4(1) of Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004⁸.

(2) For the purposes of Regulation 135(9) of the European Union (Statutory Audits) (Directive 2006/43/EC, as amended by Directive 2014/56/EU, and Regulation (EU) No 537/2014) Regulations 2016 (S.I. No. 312 of 2016), a third-country auditor or audit entity shall—

(a) provide the competent authority with supervisory and other functions with all of the information specified in subparagraphs (a) to (e) of Article 2(2) of the Commission Decision, and

(b) pay the fee specified in Regulation 7.”.

6. Regulation 135 of the European Union (Statutory Audits) (Directive 2006/43/EC, as amended by Directive 2014/56/EU, and Regulation (EU) No 537/2014) Regulations 2016 (S.I. No. 312 of 2016) is amended—

(a) in paragraph (8), by the substitution of the following subparagraph for subparagraph (b):

“(b) that audit report concerns a company referred to in paragraph (3) that is incorporated in a third-country specified in Annex I to Commission Decision 2011/30/EU of 19 January 2011 on the equivalence of certain third country public oversight, quality assurance, investigation and penalty systems for auditors and audit entities and a transitional period for audit activities of certain third country auditors and audit entities in the European Union, as amended by—

(i) Commission Implementing Decision 2013/288/EU of 13 June 2013, and

(ii) Commission Implementing Decision 2016/1223/EU of 25 July 2016, and”.

and

(b) by the substitution of the following paragraph for paragraph (9):

⁸OJ L145, 30.4.2004, p. 1

“(9) Paragraph (1) shall not apply in respect of an audit report referred to in that paragraph for a financial year starting during the period from 2 July 2010 to 31 July 2018 if—

- (a) that audit report is provided by a third-country auditor or audit entity,
- (b) that audit report concerns the annual or consolidated accounts of companies referred to in paragraph (3) that are incorporated in a third-country specified in Annex II to Commission Decision 2011/30/EU of 19 January 2011, as amended by—
 - (i) Commission Implementing Decision 2013/288/EU of 13 June 2013, and
 - (ii) Commission Implementing Decision 2016/1223/EU of 25 July 2016,and
- (c) the third-country auditor or audit entity concerned complies with Regulations 4A(2) and 7 of the European Union (Third Country Auditors and Audit Entities Equivalence, Transitional Period Measures and Fees) Regulations 2012 (S.I. No. 312 of 2012).”.

7. The Regulations of 2012 are amended by the insertion of the following Regulation after Regulation 6B:

“6C. Regulation 3(1E) shall be without prejudice to a cooperative arrangement on individual quality assurance reviews between the Supervisory Authority and the competent authorities of the United States of America.”.

8. Regulation 78(1) of the European Union (Statutory Audits) (Directive 2006/43/EC, as amended by Directive 2014/56/EU, and Regulation (EU) No 537/2014) Regulations 2016 (S.I. No. 312 of 2016) is amended, in subparagraph (b), by the substitution of “the holding company” for “any of the undertakings”.



GIVEN under my Official Seal,
7 March 2017.

MARY MITCHELL O’CONNOR,
Minister for Jobs, Enterprise and Innovation.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation)

These Regulations give effect to Commission Implementing Decision (EU) 2016/1155 of 14 July 2016 and Commission Implementing Decision (EU) 2016/1223 of 25 July 2016 on (i) the extension of equivalence of certain third country public oversight, quality assurance, investigation and penalty systems for auditors and audit entities and (ii) a continued transitional period for audit activities of auditors and audit entities, which are auditors of companies incorporated in certain third countries.

- (i) It provides that, for the purpose of Article 46(1) of Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006, the public oversight, quality assurance, investigation and penalty systems for auditors and audit entities shall be considered equivalent for the three third countries listed within Article 1(1) of Commission Implementing Decision (EU) 2016/1223 to the corresponding systems in Member States for the financial years starting from 1 August 2016.

Provision is made, as set out in Commission Implementing Decision (EU) 2016/1155, for equivalence being specified in relation to the United States of America for a limited period of time, from 1 August 2016 to 31 July 2022.

- (ii) It provides for a transitional period regarding the registration requirements, set out at Article 45 of Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006, for auditors and audit entities that provide audit reports concerning the annual or consolidated accounts of companies incorporated in the third countries listed in Annex II to the Commission Implementing Decision (EU) 2016/1223. The arrangements provided for in these Regulations apply for the financial years starting during the period from 2 July 2010 to 31 July 2018.

The Irish Auditing and Accounting Supervisory Authority (IAASA) is the competent authority in Ireland for the purposes of these Commission Implementing Decisions and these Regulations.

These Regulations also contain an amendment to Regulation 78(1) of the Statutory Audits Regulations 2016 (S.I. No. 312 of 2016) which clarifies the position for a group auditor.

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