



STATUTORY INSTRUMENTS.

S.I. No. 555 of 2014

EUROPEAN UNION (THIRD COUNTRY AUDITORS AND AUDIT
ENTITIES EQUIVALENCE, TRANSITIONAL PERIOD AND
FEES)(AMENDMENT) REGULATIONS 2014

EUROPEAN UNION (THIRD COUNTRY AUDITORS AND AUDIT ENTITIES EQUIVALENCE, TRANSITIONAL PERIOD AND FEES)(AMENDMENT) REGULATIONS 2014

I, RICHARD BRUTON, 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 2013/281/EU of 11 June 2013¹ and Commission Implementing Decision 2013/288/EU of 13 June 2013² 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 2014.

(2) These Regulations shall be construed together with the Regulations of 2012.

2. In these Regulations—

“Regulations of 2010” means the the European Union (Statutory Audits)(Directive 2006/43/EC) Regulations 2010 (S.I. No. 220 of 2010);

“Regulations of 2012” means the the European Union (Third Country Auditors and Audit Entities Equivalence, Transitional Period 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 for the definition of “Commission Decision”:

“ ‘Commission Decision’ means Commission Decision 2011/30/EU of 19 January 2011³ as amended by Commission Implementing Decision 2013/288/EU of 13 June 2013²;”, and

(b) by the insertion of the following definition:

“ ‘Commission Implementing Decision’ means Commission Implementing Decision 2013/281/EU of 11 June 2013¹;”.

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

¹OJ No. L 161, 13.6.2013, p. 8.

²OJ No. L 163, 15.6.2013, p. 26.

³OJ No. L 15, 20.1.2011, p. 12.

Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 12th December, 2014.

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

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

- (a) Abu Dhabi,
- (b) Brazil,
- (c) Dubai International Financial Centre,
- (d) Guernsey,
- (e) Indonesia,
- (f) Isle of Man,
- (g) Jersey,
- (h) Malaysia,
- (i) Taiwan, and
- (j) Thailand,

shall be considered equivalent to the public oversight, quality assurance, investigation and penalty systems for Member State audit firms and Member State auditors in relation to audit activities concerning the annual or consolidated accounts for financial years starting from 1 August 2012.

(1B) In accordance with Article 1 of the Commission Implementing Decision and for the purpose of Article 46(1) of the Directive, the public oversight, quality assurance, investigation and penalty systems for auditors and audit entities of the United States of America shall be considered equivalent to the public oversight, quality assurance, investigation and penalty systems for Member State audit firms and Member State auditors in relation to audit activities concerning the annual or consolidated accounts for financial years starting from 1 August 2012.

(1C) In accordance with Article 3 of the Commission Implementing Decision paragraph (1B) shall apply from 1 August 2013 to 31 July 2016.”, and

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

5. Regulation 4 of the Regulations of 2012 is amended in paragraph (1) by the substitution of “Annex I” for “the Annex”.

6. The Regulations of 2012 are amended by the insertion of the following Regulation after Regulation 4:

“4A. (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 2015.

(2) For the purposes of Regulation 113(6B) of the Regulations of 2010 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.

(3) The competent authority with supervisory and other functions shall—

(a) record the information provided in accordance with paragraph (2), and

(b) inform the public—

(i) of the name and address of the third-country auditor and the third-country audit entity that provide audit reports concerning the annual or consolidated accounts of companies incorporated in the third countries specified in Annex II to the Commission Decision, and

(ii) that the public oversight, quality assurance, investigation and penalty systems of those countries are not yet recognised as equivalent under Article 46(2) of the Directive.”.

7. Regulation 113 of the Regulations of 2010 is amended—

(a) in paragraph (1) by the substitution of “, (6), (6A) and (6B)” for “, (6) and (6A)”,

(b) in paragraph (6A)(b) by the substitution of “Annex I to Commission Decision 2011/30/EU of 19 January 2011³ as amended by Commission Implementing Decision 2013/288/EU of 13 June 2013²” for “the Annex to Commission Decision 2011/30/EU of 19 January 2011³”, and

(c) by the insertion of the following paragraph after paragraph (6A):

“(6B) Paragraph (1) does 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 2015 if—

- (a) that audit report is provided by a third-country auditor or audit entity,
- (b) that audit report concerns a company referred to in paragraph (2) that is incorporated in a third-country specified in Annex II to Commission Decision 2011/30/EU of 19 January 2011³ as amended by Commission Implementing Decision 2013/288/EU of 13 June 2013², 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 and Fees) Regulations 2012 (S.I. No. 312 of 2012).”.

8. Regulation 5(1) of the Regulations of 2012 is amended—

(a) by the substitution of the following paragraph for paragraph (a):

“(a) is obtained by the competent authority with supervisory and other functions—

- (i) pursuant to Regulation 4(2)(a) in so far as it relates to information provided to it in respect of Article 2(1)(e) of the Commission Decision, or
- (ii) pursuant to Regulation 4A(2)(a) in so far as it relates to information provided to it in respect of Article 2(2)(e) of the Commission Decision, and”.

(b) in paragraph (b) by the substitution of “Article 2(1)(e) or 2(2)(e) of the Commission Decision” for “Article 2(1)(e)”.

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

“6A. Regulation 113(6B) of the Regulations of 2010 and Regulation 4A are without prejudice to a cooperative arrangement on quality assurance reviews between the competent authority with supervisory and other functions and the competent authority of a third country specified in Annex II to the Commission Decision if such cooperative arrangement—

- (a) includes carrying out quality assurance reviews on the basis of equality of treatment,
- (b) has been communicated in advance to the Commission, and

(c) does not pre-empt a Commission decision under Article 47 of the Directive.

6B. Regulation 3(1B) shall be without prejudice to a cooperative arrangement on individual quality assurance reviews between the competent authority with supervisory and other functions and the competent authorities of the United States of America if such arrangement meets the criteria set out in Article 2 of Commission Implementing Decision 2013/280/EU of 11 June 2013⁴ and does not pre-empt any Decision to be taken in accordance with Article 47(3) of the Directive.”.

10. Regulation 7 of the Regulations of 2012 is amended by the substitution of “Regulation 4(1) or Regulation 4A(1)” for “Regulation 4(1)”.

11. Regulation 4(3)(b) and Regulation 6 of the Regulations of 2012 are revoked.



GIVEN under my Official Seal,
2 December 2014.

RICHARD BRUTON,
Minister for Jobs, Enterprise and Innovation.

⁴OJ No. L 161, 13.6.2013, p. 4.

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 Decision 2013/281/EU of 11 June 2013 and Commission Decision 2013/288/EU of 13 June 2013 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 auditors and audit entities of audit activities 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 ten third countries listed within Article 1(1) of Commission Decision 2013/288/EU to the corresponding systems in Member States for the financial years starting from 1 August 2012.
- (ii) Provision is made, as set out in Commission Decision 2013/281/EU, for equivalence being specified in relation to the United States of America for a limited period of time, from 1 August 2012 to 31 July 2016.
- (iii) 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 Decision 2013/288/EU. The arrangements provided for in these Regulations apply for the financial years starting during the period from 2 July 2010 to 31 July 2015. These Regulations also specify the fee to be paid by a third country auditor or audit entity to the Irish Auditing and Accounting Supervisory Authority (IAASA).

IAASA is the competent authority in Ireland for the purposes of these Commission Decisions and these Regulations.

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