

DECISIONS

COMMISSION IMPLEMENTING DECISION

of 11 April 2012

amending Decision 2008/961/EC on the use by third countries' issuers of securities of certain third country's national accounting standards and International Financial Reporting Standards to prepare their consolidated financial statements

(notified under document C(2012) 2256)

(Text with EEA relevance)

(2012/194/EU)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Directive 2004/109/EC of the European Parliament and of the Council of 15 December 2004 on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market and amending Directive 2001/34/EC⁽¹⁾, and in particular the third subparagraph of Article 23(4) thereof,

Whereas:

- (1) Pursuant to Article 23 of Directive 2004/109/EC, third country issuers may be exempted from the requirement of preparing consolidated accounts according to International Financial Reporting Standards (IFRS) adopted in the Union if the Generally Accepted Accounting Principles (GAAP) of the third country in question lay down equivalent requirements. In order to assess the equivalence of that third country's GAAP with adopted IFRS, Commission Regulation (EC) No 1569/2007⁽²⁾ provides for the definition of equivalence and establishes a mechanism for the determination of equivalence of the GAAP of a third country.
- (2) It is important to assess the efforts of those countries which have taken steps to converge their accounting standards to or adopt IFRS. Therefore, Regulation (EC) No 1569/2007 has been amended to extend the period of temporary equivalence until 31 December 2014.
- (3) Commission Decision 2008/961/EC⁽³⁾ provided that third country issuers may also prepare their consolidated

accounts from 1 January 2009 in accordance with IFRS. According to that Decision prior to financial years starting on or after 1 January 2012, third country issuers are permitted to prepare their annual and half-yearly consolidated financial statements in accordance with the GAAP of the People's Republic of China, Canada, the Republic of Korea or the Republic of India.

- (4) In June 2010, the Commission requested the then Committee of European Securities Regulators (CESR), replaced by the European Securities and Markets Authority (ESMA) by Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC⁽⁴⁾, to provide a technical assessment and an update on developments towards IFRS in China, Canada, South Korea and India. The Commission has taken full account of the report provided by CESR in November 2010 and the updates on China and India, received from ESMA in May 2011 following an on-the-spot investigation which it undertook in January 2011.
- (5) In April 2010 the Ministry of Finance of China issued a 'Roadmap for Continuing Convergence of the Accounting Standards for Business Enterprises (ASBE) with IFRS' which reiterated China's commitment to continue the process of convergence to IFRS. As of October 2010 all current standards and interpretations issued by International Accounting Standards Board (IASB) have been implemented in the ASBE. The level of convergence has been reported by ESMA as being satisfactory and reconciliation for the Union issuers which prepare their financial statements in accordance with IFRS is not required. Therefore, it is appropriate to consider the Chinese ASBE equivalent to adopted IFRS as of 1 January 2012.

⁽¹⁾ OJ L 390, 31.12.2004, p. 38.

⁽²⁾ OJ L 340, 22.12.2007, p. 66.

⁽³⁾ OJ L 340, 19.12.2008, p. 112.

⁽⁴⁾ OJ L 331, 15.12.2010, p. 84.

- (6) The Accounting Standards Board of Canada made a public commitment in January 2006 to adopt IFRS by 31 December 2011. It has approved the incorporation of IFRS into the Canadian Institute of Chartered Accountants Handbook as Canadian GAAP for all publicly accountable profit-oriented enterprises starting in 2011. Therefore, it is appropriate to consider the Canadian GAAP equivalent to adopted IFRS as of 1 January 2012.
- (7) The Korean Financial Supervisory Commission and the Korean Accounting Institute made a public commitment in March 2007 to adopt IFRS by 31 December 2011. The Korean Accounting Standards Board has adopted IFRS as Korean IFRS (K-IFRS). K-IFRS are identical to IFRS as issued by the IASB and are required for all listed companies in South Korea since 2011. Unlisted financial institutions and state-owned companies are also required to apply K-IFRS. Other unlisted companies may choose to do so. Therefore, it is appropriate to consider the South-Korean GAAP equivalent to adopted IFRS as of 1 January 2012.
- (8) The Indian Government and the Indian Institute of Chartered Accountants made a public commitment in July 2007 to adopt IFRS by 31 December 2011 with the aim that Indian GAAP would be fully IFRS compliant by the end of the programme. Following an on-the-spot investigation in January 2011, ESMA observed that the Indian Accounting Standards appear to have a number of differences from IFRS. Uncertainties remain about the timetable for the implementation of an IFRS-compliant reporting system.
- (9) Accordingly, it is appropriate to extend the transitional period for no more than three years, until 31 December 2014, in order to allow third country issuers to prepare their annual and half-yearly financial statements in accordance with the GAAPs of India in the Union.
- (10) Since the transitional period for which Decision 2008/961/EC granted equivalence to Chinese, Canadian, South-Korean and Indian GAAPs ended on 31 December 2011, for the sake of legal certainty, this Decision should apply from 1 January 2012.
- (11) Decision 2008/961/EC should therefore be amended accordingly.
- (12) The measures provided for in this Decision are in accordance with the opinion of the European Securities Committee,

HAS ADOPTED THIS DECISION:

Article 1

Article 1 of Decision 2008/961/EC is amended as follows:

1. the second paragraph is replaced by the following:

‘From 1 January 2012, with regard to annual consolidated financial statements and half-yearly consolidated financial statements, the following standards shall be considered as equivalent to IFRS adopted pursuant to Regulation (EC) No 1606/2002:

- (a) Generally Accepted Accounting Principles of the People’s Republic of China;
- (b) Generally Accepted Accounting Principles of Canada;
- (c) Generally Accepted Accounting Principles of the Republic of Korea.’;

2. the following third paragraph is added:

‘Third country issuers shall be permitted to prepare their annual consolidated financial statements and half-yearly consolidated financial statements in accordance with the Generally Accepted Accounting Principles of the Republic of India for financial years starting before 1 January 2015.’.

Article 2

This Decision is addressed to the Member States.

This Decision shall apply from 1 January 2012.

Done at Brussels, 11 April 2012.

For the Commission

Michel BARNIER

Member of the Commission