

DECISIONS

COMMISSION IMPLEMENTING DECISION

of 13 June 2013

amending Decision 2011/30/EU 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

(notified under document C(2013) 3491)

(Text with EEA relevance)

(2013/288/EU)

THE EUROPEAN COMMISSION,

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

Having regard to Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts, amending Council Directives 78/660/EEC and 83/349/EEC and repealing Council Directive 84/253/EEC ⁽¹⁾, and in particular the first subparagraph of Article 46(2) thereof,

Whereas:

- (1) Commission Decision 2011/30/EU ⁽²⁾ allowed the auditors and audit entities from the third countries and territories listed in the Annex to that Decision to continue their activities in the Union in relation to audit reports concerning the annual or consolidated accounts for financial years starting during the period from 2 July 2010 to 31 July 2012.
- (2) The Commission has carried out assessments of the public oversight, quality assurance, investigation and penalty systems for auditors and audit entities of the third countries and territories listed in the Annex to Decision 2011/30/EU. The assessments were carried out with the assistance of the European Group of Auditors' Oversight Bodies. The public oversight, quality assurance, investigation and penalty systems for auditors and audit entities of those third countries and territories were assessed in the light of the criteria set out in Articles

29, 30 and 32 of Directive 2006/43/EC which govern the public oversight, quality assurance, investigation and penalty systems for auditors and audit firms of the Member States. The ultimate objective of cooperation between Member States and third country systems of public oversight, quality assurance, investigation and penalty for auditors and audit entities should be to reach mutual reliance on each other's oversight systems based on their equivalence.

- (3) Following such assessments, it appears that Abu Dhabi, Brazil, Dubai International Financial Centre, Guernsey, Indonesia, Isle of Man, Jersey, Malaysia, Taiwan and Thailand have public oversight, quality assurance, investigation and penalty systems for auditors and audit entities that operate under similar rules to those set out in Articles 29, 30 and 32 of Directive 2006/43/EC. Therefore, it is appropriate to consider the public oversight, quality assurance, investigation and penalty systems for auditors and audit entities of those third countries as equivalent to the public oversight, quality assurance, investigation and penalty systems for auditors and audit firms of the Member States.
- (4) Bermuda, Cayman Islands, Egypt, Mauritius, New Zealand, Russia and Turkey have established or are in the process of establishing public oversight, quality assurance, investigation and penalty systems for auditors and audit entities. However, information about the functioning and the rules governing such systems is not sufficient to carry out an equivalence assessment. In order to carry out a further assessment for the purpose of taking a final equivalence decision in respect of such systems, there is a need to obtain additional information from those third countries and territories in order to better understand their system. Therefore, it is appropriate to extend the transitional period granted by Decision 2011/30/EU in respect of the auditors and audit entities that provide audit reports concerning the annual or consolidated accounts of companies incorporated in those third countries and territories.

⁽¹⁾ OJ L 157, 9.6.2006, p. 87.

⁽²⁾ OJ L 15, 20.1.2011, p. 12.

(5) The auditors and audit entities that provide audit reports concerning the annual or consolidated accounts of companies incorporated in Hong Kong, India and Israel benefited from the transitional period granted by Decision 2011/30/EU. Since then, those third countries or territories have not established an independent system of public oversight, quality assurance, investigations and penalties. They have not provided information regarding their audit regulatory and oversight systems. Under these circumstances, it appears that those third countries or territories have not taken the necessary measures to have their audit regulation recognised by the Commission as equivalent to the public oversight, quality assurance, investigation and penalty systems for auditors and audit entities of the Member States. Therefore, the transitional period granted to them by Decision 2011/30/EU should not be extended in respect of the auditors and audit entities that provide audit reports concerning the annual or consolidated accounts of companies incorporated in those third countries.

(6) In order to protect investors, 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 this Decision should be able to continue their audit activities during the transitional period in the Union without being registered under Article 45 of Directive 2006/43/EC only if they provide the required information. Provided they give the information, those auditors and audit entities should be able to continue their activities in relation to audit reports concerning annual or consolidated accounts for financial years starting during the period from 1 August 2012 to 31 July 2015. This Decision should not affect the right of the Member States to apply their investigation and penalty systems in respect of such auditors and audit entities.

(7) Decision 2011/30/EU should therefore be amended accordingly.

(8) The measures provided for in this Decision are in accordance with the opinion of the Committee established by Article 48(1) of Directive 2006/43/EC,

HAS ADOPTED THIS DECISION:

Article 1

Decision 2011/30/EU is amended as follows:

(1) in Article 1, the following second paragraph is added:

'For the purpose of Article 46(1) of Directive 2006/43/EC, the public oversight, quality assurance, investigation and penalty systems for auditors and audit entities of the following third countries and territories shall be considered equivalent to the public oversight, quality assurance, investigation and penalty systems for auditors and audit firms of the Member States in relation to audit activities concerning annual or consolidated accounts for financial years starting from 1 August 2012:

- (1) Abu Dhabi;
- (2) Brazil;
- (3) Dubai International Financial Centre;
- (4) Guernsey;
- (5) Indonesia;
- (6) Isle of Man;
- (7) Jersey;
- (8) Malaysia;
- (9) Taiwan;
- (10) Thailand.;

(2) Article 2 is amended as follows:

- (a) in the introductory phrase of paragraph 1 the words 'the Annex' are replaced by 'Annex I';
- (b) paragraphs 2, 3 and 4 are replaced by the following:

'2. Member States shall not apply Article 45 of Directive 2006/43/EC in relation to auditors and audit entities that provide audit reports concerning the annual or consolidated accounts of companies incorporated in the third countries and territories listed in Annex II to this Decision, as referred to in Article 45(1) of that Directive, for financial years starting during the period from 2 July 2010 to 31 July 2015, in cases where the auditor or audit entity concerned provides the competent authorities of the Member State with all of the following:

- (a) the name and address of the auditor or audit entity concerned and information about its legal structure;
- (b) where the auditor or the audit entity belongs to a network, a description of the network;
- (c) the auditing standards and independence requirements which have been applied to the audit concerned;
- (d) a description of the internal quality control system of the audit entity;
- (e) an indication of whether and when the last quality assurance review of the auditor or audit entity was carried out and, unless this information is being provided by the third country competent authority, the necessary information about the outcome of the review. Where the necessary information about the outcome of the last quality assurance review is not public, the competent authorities of Member States shall treat such information on a confidential basis.

3. Member States shall ensure that the public is informed about the name and address of 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 this Decision and about the fact that the public oversight, quality assurance, investigation and penalty systems of those countries and territories are not yet recognised as equivalent under Article 46(2) of Directive 2006/43/EC. For those purposes, the competent authorities of Member States referred to in Article 45 of Directive 2006/43/EC may also register the auditors and audit entities that carry out audits of the annual or consolidated accounts of companies incorporated in the third countries listed in Annex II to this Decision.

4. Notwithstanding paragraph 2, Member States may apply their investigation and penalty systems to the auditors and audit entities that carry out audits of the annual or consolidated accounts of companies incorporated in third countries listed in Annex II.;

(c) the following paragraph 5 is added:

‘5. Paragraph 2 shall be without prejudice to cooperative arrangements on quality assurance reviews between the competent authorities of a Member State and the competent authorities of a third country listed in Annex II provided that such an arrangement meets all the following criteria:

(a) it includes carrying out quality assurance reviews on the basis of equality of treatment;

(b) it has been communicated in advance to the Commission;

(c) it does not pre-empt any Commission decision under Article 47 of Directive 2006/43/EC.;

(3) Article 4 is replaced by the following:

‘Article 4

Point 10 of the first paragraph of Article 1 shall cease to apply on 31 July 2013.;

(4) the Annex is replaced by Annex I to this Decision;

(5) Annex II is added as set out in Annex II to this Decision.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 13 June 2013.

For the Commission

Michel BARNIER

Member of the Commission

*ANNEX I***LIST OF THIRD COUNTRIES AND TERRITORIES**

Abu Dhabi
Brazil
Dubai International Financial Centre
Guernsey
Hong Kong
India
Indonesia
Isle of Man
Israel
Jersey
Malaysia
Taiwan
Thailand

*ANNEX II***LIST OF THIRD COUNTRIES**

Bermuda
Cayman Islands
Egypt
Mauritius
New Zealand
Russia
Turkey
