

COMMISSION IMPLEMENTING DECISION (EU) 2016/1223**of 25 July 2016****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(2016) 4637)***(Text with EEA relevance)**

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) By virtue of Commission Decision 2011/30/EU ⁽²⁾, the 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 that Decision and whose transferable securities are admitted to trading on a regulated market of a Member State, have been exempted from the requirements of Article 45 of Directive 2006/43/EC for certain financial years provided that they provide the competent authorities of that Member State with a certain set of information.
- (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 listed in Annex II to Decision 2011/30/EU. The assessments were carried out with the assistance of the European Group of Auditors' Oversight Bodies in 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. Following such assessments, it appears that Mauritius, New Zealand and Turkey have public oversight, quality assurance, investigation and penalty systems for auditors and audit entities that meet requirements equivalent to those set out in Articles 29, 30 and 32 of Directive 2006/43/EC. Therefore, it is appropriate to consider those systems equivalent to the public oversight, quality assurance, investigation and penalty systems for auditors and audit firms of the Member States.
- (3) The ultimate objective of cooperation between Member States and third countries with respect to systems of public oversight, quality assurance, investigation and penalties for auditors and audit entities should be to reach mutual reliance on each other's oversight systems based on their equivalence.
- (4) Bermuda, Cayman Islands, Egypt and Russia have established or are in the process of establishing public oversight, quality assurance, investigation and penalty systems for auditors and audit entities. However, due to the recent establishment of those systems, certain information is still missing, rules are not fully implemented, inspections are not carried out or sanctions are not imposed. In order to carry out a further assessment for the purpose of taking a decision in respect of the equivalence of such systems, there is a need to obtain additional information from those third countries in order to better understand those systems. 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 whose transferable securities are admitted to trading on a regulated market of a Member State.

⁽¹⁾ OJ L 157, 9.6.2006, p. 87.

⁽²⁾ 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 (OJ L 15, 20.1.2011, p. 12).

- (5) In order to protect investors, auditors and audit entities that provide audit reports concerning the annual or consolidated accounts of companies that are incorporated in the third countries listed in Annex II to Decision 2011/30/EU and whose transferable securities are admitted to trading on a regulated market of a Member State should be able to continue their audit activities in the Union without being registered under Article 45 of Directive 2006/43/EC during an additional period running from 1 August 2016 to 31 July 2018 on condition that they provide the required information. In such a case, those auditors and audit entities should be able to continue their activities in accordance with the requirements of the relevant Member State in relation to audit reports concerning annual or consolidated accounts for financial years starting during the period from 1 August 2016 to 31 July 2018. This Decision does not affect the power of the Member States to apply their investigation and penalty systems in respect of such auditors and audit entities.
- (6) The Commission will monitor developments in the supervisory and regulatory cooperation with third countries on a regular basis. The Decision to grant equivalence or to extend the transitional period is without prejudice to the possibility of the Commission to undertake a review of the Decision at any time. That review may lead to the withdrawal of the recognition of equivalence or the premature end of the transitional period. Decision 2011/30/EU should therefore be amended accordingly.
- (7) 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 third paragraph is added:

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

- (1) Mauritius;
- (2) New Zealand;
- (3) Turkey.;

- (2) Article 2(2) is replaced by the following:

‘2. A Member State 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 listed in Annex II to this Decision and whose transferable securities are admitted to trading on a regulated market of that Member State within the meaning of point 14 of Article 4(1) of Directive 2004/39/EC of the European Parliament and of the Council (*), for financial years starting during the period from 2 July 2010 to 31 July 2018, provided that the auditor or audit entity concerned provides the competent authorities of that Member State with all of the following:

- (a) the name and address of the auditor or the 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 of the 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.

(*) Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments amending Council Directives 85/611/EEC and 93/6/EEC and Directive 2000/12/EC of the European Parliament and of the Council and repealing Council Directive 93/22/EEC (OJ L 145, 30.4.2004, p. 1).;

(3) Annex II is replaced by the text in the Annex to this Decision.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 25 July 2016.

For the Commission
Valdis DOMBROVSKIS
Vice-President

ANNEX

ANNEX II

LIST OF THIRD COUNTRIES

Bermuda
Cayman Islands
Egypt
Russia.
