



STATUTORY INSTRUMENTS.

**S.I. No. 312 of 2012**



EUROPEAN UNION (THIRD COUNTRY AUDITORS AND AUDIT  
ENTITIES EQUIVALENCE, TRANSITIONAL PERIOD AND FEES)  
REGULATIONS 2012

EUROPEAN UNION (THIRD COUNTRY AUDITORS AND AUDIT ENTITIES EQUIVALENCE, TRANSITIONAL PERIOD AND FEES) REGULATIONS 2012

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 Decision 2011/30/EU of 19 January 2011<sup>1</sup> 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 Measures and Fees) Regulations 2012.

(2) These Regulations shall be read as one with the Companies Acts.

2. (1) In these Regulations—

“Commission Decision” means Commission Decision 2011/30/EU of 19 January 2011<sup>1</sup>;

“competent authority with supervisory and other functions” has the meaning assigned to it by the Regulations of 2010;

“Directive” means Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006<sup>2</sup>;

“Member State audit firm” has the meaning assigned to it by the Regulations of 2010;

“Member State auditor” has the meaning assigned to it by the Regulations of 2010;

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

“third country” means a country or territory that is not a Member State or part of a Member State;

“third-country auditor” has the meaning assigned to it by the Regulations of 2010;

<sup>1</sup>OJ L15, 20.1.2011, p.12.

<sup>2</sup>OJ L157, 9.6.2006, p.87.

*Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 14th August, 2012.*

“third-country audit entity” has the meaning assigned to it by the Regulations of 2010.

(2) A word or expression which is used in these Regulations and which is also used in the Commission Decision has, unless the contrary intention appears, the same meaning in these Regulations as it has in the Commission Decision.

3. (1) In accordance with 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) Australia,
- (b) Canada,
- (c) China,
- (d) Croatia,
- (e) Japan,
- (f) Singapore,
- (g) South Africa,
- (h) South Korea,
- (i) Switzerland, and
- (j) 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 2 July 2010.

(2) For the purpose of Regulation 119(2)(a) of the Regulations of 2010, the Commission—

- (a) has carried out—
  - (i) for the purpose of Article 46(1) of the Directive, an assessment, in respect of the third countries specified in paragraph (1), of the systems referred to in Regulation 119(1) of the Regulations of 2010, and
  - (ii) each assessment in accordance with Article 46 of the Directive, and
- (b) has, in respect of the third countries specified in paragraph (1), assessed the systems referred to in subparagraph (a) as meeting the

requirements equivalent to those in the corresponding provisions of the Directive.

(3) In accordance with Article 4 of the Commission Decision, paragraph (1) shall cease to apply to the third country specified in paragraph (1)(j) on 31 July 2013.

4. (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 the Annex to the Commission Decision for a financial year starting during the period from 2 July 2010 to 31 July 2012.

(2) For the purposes of Regulation 113(6A) 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(1) 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 the Annex 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.

(4) Regulation 113 of the Regulations of 2010 is amended—

(a) in paragraph (1) by substituting “, (6) and (6A)” for “and (6)”, and

(b) by inserting the following paragraph after paragraph (6):

“(6A) 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 2012 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 the Annex to Commission Decision 2011/30/EU of 19 January 2011<sup>1</sup>, and
- (c) the third-country auditor or audit entity concerned complies with Regulations 4(2) and 7 of the European Union (Third Country Auditors and Audit Entities Equivalence, Transitional Period Measures and Fees) Regulations 2012.”.

5. (1) A person shall not disclose, except in accordance with law, information that—

- (a) is obtained by the competent authority with supervisory and other functions 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, and
- (b) is required, in accordance with Article 2(1)(e), to be treated on a confidential basis.

(2) Without limiting paragraph (1), the persons to whom that paragraph applies include the following:

- (a) a member or director, or former member or director, of the competent authority with supervisory and other functions;
- (b) an employee, or former employee, of the competent authority with supervisory and other functions;
- (c) a professional or other advisor, or former professional or other advisor, to the competent authority with supervisory and other functions.

(3) A person who contravenes paragraph (1) is guilty of an offence and is liable, on summary conviction, to a Class A fine.

(4) Proceedings for a summary offence under this Regulation may be brought and prosecuted by the Director of Corporate Enforcement.

6. Article 2(1) of the Commission Decision is without prejudice to cooperative arrangements on quality assurance reviews between the competent authority with supervisory and other functions and a competent authority of a third country specified in the Annex to the Commission Decision if those arrangements meet all of the criteria specified in subparagraphs (a) to (c) of Article 2(4) of the Commission Decision.

7. A third-country auditor or audit entity referred to in Regulation 4(1) shall in each year pay a fee, for the purposes of administrative expenses incurred pursuant to these Regulations, of €2,000 to the competent authority with supervisory and other functions.



GIVEN under my Official Seal,  
10 August 2012.

RICHARD BRUTON,  
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 Decision 2011/30/EU of 19 January 2011 on (i) the equivalence of certain third country public oversight, quality assurance, investigation and penalty systems for auditors and audit entities and (ii) a transitional period for audit activities of certain third country auditors and audit entities.

- (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 of the Commission Decision to the corresponding systems in Member States for the financial years starting from 2 July 2010. The equivalence specified above will cease to apply on 31 July 2013 to the United States of America.
- (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 and territories listed in the Annex to the Commission Decision (“third country auditors and audit entities”). The arrangements provided for in these Regulations apply for the financial years starting during the period from 2 July 2010 to 31 July 2012. 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 the Commission Decision and these Regulations.

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