

# Factsheet

*Standing for trust and integrity*



June 2014

## Cross-border audit oversight

### The equivalence of systems of public oversight, quality assurance, investigation and penalties for the audit profession in the European Union (EU) and third countries

#### Introduction

The European Commission regularly publishes decisions regarding the equivalence of systems of public oversight, quality assurance, investigation and penalties for the audit profession in the European Union and third (i.e. non-EU) countries.

The purpose of this factsheet is:

- To provide a summary of these decisions, in addition to some background information on the EU legislative framework applicable to audit oversight relations within the EU and between EU and third-country oversight authorities; and
- To outline the importance of providing formal mechanisms for the timely exchange of information and coordination of oversight in cross-border cases. This will be of particular interest for FEE member bodies and for auditors<sup>1</sup> of entities registered on a stock exchange outside the EU and/or third-country subsidiaries of EU-based clients.

#### Background

The Directive 2014/56/EU<sup>2</sup> of the European Parliament and the Council of the EU on statutory audits of annual accounts and consolidated accounts (referred to as “the Directive”) and the Regulation (EU) No 537/2014<sup>3</sup> of the European Parliament and the Council of the EU on specific requirements regarding statutory audit of public interest entities (referred to as “the Regulation”) have been adopted on 16 April 2014 and entered into force on 17 June 2014<sup>4</sup>. By 17 June 2016, the Directive needs to be transposed by the respective Member States into their national legislation in order to become effective. Most provisions of the Regulation will also be applicable as from 17 June 2016, which ties in with the implementation date of the Directive.

<sup>1</sup> For the purposes of this factsheet, ‘auditors’ should be understood to include auditors, audit firms and audit entities.

<sup>2</sup> [http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:JOL\\_2014\\_158\\_R\\_0006&from=EN](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:JOL_2014_158_R_0006&from=EN)

<sup>3</sup> [http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:JOL\\_2014\\_158\\_R\\_0002&from=EN](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:JOL_2014_158_R_0002&from=EN)

<sup>4</sup> The texts were published in the Official Journal of the EU on 27 May 2014 and entered into force 20 days later.

The Directive and Regulation include specific provisions with regard to the following:

- **Public oversight and regulatory arrangements between EU Member States**

In accordance with the Directive, Member States are required to establish an effective system of public oversight of statutory auditors<sup>5</sup> and to enable effective cooperation of oversight on the EU level<sup>6</sup>. The coordination of these national public-oversight systems at EU level was performed by the European Group of Auditors' Oversight Bodies (EGAOB) since December 2005; this body is to be replaced by the Committee of European Auditing Oversight Bodies (CEAOB) in accordance with the Regulation<sup>7</sup>.

- **Public oversight of statutory auditors of companies in third countries whose transferable securities are admitted to trading on a regulated market of a Member State**

Third-country auditors must be registered by the competent Member-State authorities in accordance with Article 45 of the Directive. This article also requires that they be subject to the Member States' systems of public oversight, quality assurance, investigation and penalties. However, article 46 of the Directive allows Member States to derogate from these requirements if the third-country auditors concerned are subject to similar systems that the Commission has deemed equivalent to those in Member States. The relevant requirements for Member States' systems are set out in articles 29, 30 and 32.

The equivalence of systems established in third countries is assessed by the Commission in cooperation with Member States. Should systems not be deemed equivalent, the Commission may nonetheless allow the auditors concerned to continue their audit activities in accordance with the requirements of the relevant Member State during an appropriate transitional period.

Collaboration in regulatory activity is also promoted by the International Forum of Independent Audit Regulators (IFIAR), which was established in 2006 to share knowledge of the audit market environment and practical experience of independent audit regulatory activity.

### **Recent Commission decisions concerning relations between the EU and third countries**

#### **Decision 2011/30/EU<sup>8</sup>**

On 19 January 2011, the Commission issued a decision on the equivalence of certain third-country systems of public oversight, quality assurance, investigation and penalties for auditors. The ultimate objective of such equivalence is for EU Member States and third countries to reach mutual reliance on each other's oversight systems in order to limit unnecessary administrative and regulatory burdens.

The decision reinforced the EU's cooperation with Australia, Canada, China, Croatia, Japan, Singapore, South Africa, South Korea and Switzerland by confirming that those countries' systems of public oversight, quality assurance, investigation and penalties had been deemed equivalent to those in EU Member States.

<sup>5</sup> 2014 Directive, Article 32

<sup>6</sup> 2014 Directive, Article 33

<sup>7</sup> 2014 Regulation, Article 30

<sup>8</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:015:0012:0016:EN:PDF>

The decision also exempted for a transitional period auditors of companies incorporated in certain third countries from the full regulatory requirements of article 45 of the Directive on the condition that they provide the appropriate Member State authorities with specific information.

#### **Decision 2013/288/EU<sup>9</sup>**

A more recent Commission implementing decision, issued on 13 June 2013, updates Decision 2011/30/EU by recognising in addition the equivalence of the systems of public oversight, quality assurance, investigation and penalties in Abu Dhabi, Brazil, Dubai International Financial Centre, Guernsey, Indonesia, the Isle of Man, Jersey, Malaysia, Taiwan and Thailand.

It is also stated that, while Bermuda, the Cayman Islands, Egypt, Mauritius, New Zealand, Russia and Turkey have established or are in the process of establishing the relevant systems for auditors, information about the functioning and the rules governing such systems is not currently sufficient for an equivalence assessment to be performed. The transitional period granted by Decision 2011/30/EU in respect of the auditors of companies incorporated in these countries has therefore been extended until 31 July 2015.

The decision does not extend the transitional period for Hong Kong, India or Israel, however. These countries have not established independent systems of public oversight, quality assurance, investigation and penalties; nor have they provided information regarding their audit regulatory and oversight systems. They have thus not taken the necessary measures to have their audit regulation recognised by the Commission as equivalent to that of EU Member States.

To date, the Commission has recognised the equivalence of the systems of public oversight, quality assurance, investigation and penalties in the following third countries:

**Abu Dhabi, Australia, Brazil, Canada, China, Croatia, Dubai International Financial Centre, Guernsey, Indonesia, the Isle of Man, Japan, Jersey, Malaysia, Singapore, South Africa, South Korea, Switzerland, Taiwan and Thailand.**

<sup>9</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:163:0026:0029:EN:PDF>

## Recent Commission decisions concerning relations between the EU and the United States

### Decision 2011/30/EU

This decision also acknowledged that the systems of public oversight, quality assurance, investigation and penalties for auditors in the US operated under similar rules to those set out in articles 29, 30 and 32 of the Directive.

However, as the competent authorities in the US – namely, the Securities and Exchange Commission (SEC) and the Public Company Accounting Oversight Board (PCAOB) – had not recognised the equivalence of the EU systems, the Commission stated that the US systems should be reviewed again at a later date for the purpose of assessing the progress made towards reaching mutual reliance.

### Decision 2013/281/EU<sup>10</sup>

The provisions of Decision 2011/30/EU concerning relations between the EU and the US were due to expire on 31 July 2013.

On 11 June 2013, following an equivalence assessment performed in conjunction with the EGAOB, the Commission issued a new implementing decision regarding the relevant US systems. The decision again confirms that these systems are equivalent to those in EU Member States.

However, as the PCAOB intends to further evaluate the auditor oversight systems in the Member States before deciding whether to rely on the oversight performed by the Member-State authorities, the decision calls for the US systems to be reviewed once more in the future. The Commission reasserts its view that the ultimate objective of cooperation between Member States and the US should be that of mutual reliance.

The decision adds that **Member States should make use of cooperative arrangements with the PCAOB** to determine which systems of public oversight, quality assurance, investigation and penalties should apply to the auditors of US companies. Member states may thus exempt certain auditors from the relevant EU systems in accordance with such arrangements. The decision also provides **audit regulators in Member States with additional time to negotiate cooperative arrangements on individual quality-assurance reviews**. The PCAOB has already signed cooperative agreements with the following Member States (in chronological order): the United Kingdom, the Netherlands, Germany, Spain and France<sup>11</sup>.

<sup>10</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:161:0008:0009:EN:PDF>

<sup>11</sup> <http://pcaobus.org/International/Pages/RegulatoryCooperation.aspx>

## FEE positions

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As stated in previous publications (see below), FEE believes that the coordination of audit oversight systems is of prime importance for the profession, allowing for the elimination of unnecessary and burdensome duplication of oversight arrangements and supporting the appropriate convergence of good practices.

FEE encourages its member bodies to contribute constructively to their Member States' efforts to enter into negotiations for cooperative arrangements with the PCAOB.

## References

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Additional information can be accessed via the following link:

[http://ec.europa.eu/internal\\_market/auditing/relations/index\\_en.htm](http://ec.europa.eu/internal_market/auditing/relations/index_en.htm)

Relevant FEE publications include:

- Discussion paper on European coordination of public oversight (September 2003)<sup>12</sup>
- Factsheet on the public oversight of the audit profession (December 2006)<sup>13</sup>
- Position paper on quality-assurance arrangements across Europe (December 2006)<sup>14</sup>
- Factsheet on quality assurance for statutory audit (September 2008)<sup>15</sup>
- Factsheet on EU Directive on Statutory Audits of Annual and Consolidated Accounts and EU Regulation on Statutory Audit of Public Interest Entities (April 2014)<sup>16</sup>
- Public Oversight of the Audit Profession: Enhancing Credibility and Supporting Cooperation (June 2014)<sup>17</sup>.

## About FEE

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**FEE (Fédération des Experts-comptables Européens – Federation of European Accountants) is an international non-profit organisation based in Brussels that represents 47 institutes of professional accountants and auditors from 36 European countries, including all of the 28 EU Member States.**

FEE has a combined membership of more than 800,000 professional accountants working in different capacities in public practice, small and large accountancy firms, businesses of all sizes, government and education – all of whom contribute to a more efficient, transparent and sustainable European economy.

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<sup>12</sup> [http://www.fee.be/images/publications/auditing/DP\\_European\\_Co-ordination\\_of\\_Public\\_Oversight\\_03092112005511215.pdf](http://www.fee.be/images/publications/auditing/DP_European_Co-ordination_of_Public_Oversight_03092112005511215.pdf)  
<sup>13</sup> [http://www.fee.be/images/publications/auditing/Public\\_Oversight\\_of\\_the\\_Audit\\_Profession212200755943.pdf](http://www.fee.be/images/publications/auditing/Public_Oversight_of_the_Audit_Profession212200755943.pdf)

<sup>14</sup> [http://www.fee.be/images/publications/auditing/Quality\\_Assurance\\_Arrangements\\_Across\\_Europe\\_0612181200761426.pdf](http://www.fee.be/images/publications/auditing/Quality_Assurance_Arrangements_Across_Europe_0612181200761426.pdf)  
<sup>15</sup> [http://www.fee.be/images/publications/auditing/Quality\\_Assurance\\_for\\_Statutory\\_Audit\\_0809222102008481051.pdf](http://www.fee.be/images/publications/auditing/Quality_Assurance_for_Statutory_Audit_0809222102008481051.pdf)

<sup>16</sup> [http://www.fee.be/images/publications/auditing/Factsheet\\_Audit\\_Policy\\_1404.pdf](http://www.fee.be/images/publications/auditing/Factsheet_Audit_Policy_1404.pdf)  
<sup>17</sup> [http://www.fee.be/images/BP\\_140627 - Public Oversight. of Audit Profession.pdf](http://www.fee.be/images/BP_140627 - Public Oversight. of Audit Profession.pdf)

## FEE and its Members



FEE is a Regional Organisation of IFAC, the International Federation of Accountants