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COMMISSION REGULATION (EC) No 1569/2007

of 21 December 2007

establishing a mechanism for the determination of equivalence of accounting standards applied by third country issuers of securities pursuant to Directives 2003/71/EC and 2004/109/EC of the European Parliament and of the Council

(OJ L 340, 22.12.2007, p. 66)

Amended by:

		Official Journal		
		No	page	date
►M1	Commission Delegated Regulation (EU) No 310/2012 of 21 December 2011	L 103	11	13.4.2012
►M2	Commission Delegated Regulation (EU) 2015/1605 of 12 June 2015	L 249	3	25.9.2015

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THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Directive 2003/71/EC of the European Parliament and of the Council of 4 November 2003 on the prospectus to be published when securities are offered to the public or admitted to trading and amending Directive 2001/34/EC ([1]), and in particular Article 7(1) thereof,

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 ([2]), and in particular Article 23(4)(i) thereof,

Whereas:

(1) Article 23(4) of Directive 2004/109/EC requires the Commission to set up a mechanism for the determination of the equivalence of the information required under this Directive, including financial statements and the corresponding requirements under the law, regulations or administrative provisions of third countries. This Article also requires the Commission to take decisions in relation to the equivalence of accounting standards used by third country issuers, and enables the Commission to allow the use of third country accounting standards during an appropriate transitional period. Given the close interconnection of the information required under Directive 2004/109/EC with the information required under Directive 2003/71/EC, it is appropriate that the same criteria for determination of equivalence apply in the framework of both Directives.

(2) Given the objectives of Directive 2003/71/EC to ensure that investors are able to make an informed assessment of the assets and liabilities, financial position, profit and losses and prospects of an issuer, and the objectives of Directive 2004/109/EC to enable investors to make an informed assessment of the financial situation of issuers with securities admitted to trading on a regulated market, it is appropriate that equivalence should be defined by reference to the ability of investors to make a similar assessment of the issuer's financial position and prospects, irrespective of whether financial statements are drawn up in accordance with the accounting standards of a third country or with International Financial Reporting Standards (hereinafter IFRS).

([1]) OJ L 345, 31.12.2003, p. 64.
([2]) OJ L 390, 31.12.2004, p. 38.

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(3) In order to ensure that a determination of the equivalence of third country accounting standards is made in all cases that are relevant to Community markets, the Commission should assess the equivalence of third country accounting standards either upon a request from the competent authority of a Member State or an authority responsible for accounting standards or market supervision of a third country, or on its own initiative. The Commission will first consult the Committee of the European Securities Regulators (CESR) with regard to the assessment of equivalence of the accounting standards in question. In addition, the Commission will actively monitor ongoing progress in the work by the relevant third country authorities to eliminate any requirement for Community issuers accessing the financial markets of a third country to reconcile financial statements prepared using IFRS adopted pursuant to Regulation (EC) No 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards ([1]). The decision of the Commission will have to be such that Community issuers are permitted to use IFRS adopted pursuant to Regulation (EC) No 1606/2002 in the third country concerned.

(4) The President of the European Council, the President of the Commission and the President of the United States have agreed in April 2007 to promote and secure conditions for US Generally Accepted Accounting Principles (GAAP) and IFRS to be recognised in both jurisdictions without the need for reconciliation by 2009 or sooner. The Commission and the US Securities and Exchange Commission (SEC) have pursued their dialogue towards the acceptance of IFRS adopted pursuant to Regulation (EC) No 1606/2002 in the United States, which would relieve issuers using IFRS from costly reconciliation requirements. Steps should be taken to achieve similar arrangements with other countries on whose exchanges EU companies list their securities before the end of 2008. The Accounting Standards Board of Japan (ASBJ) is pursuing the implementation of its joint work programme with the International Accounting Standards Board (IASB) towards the convergence of Japanese GAAP with IFRS. The Accounting Standards Board of Canada (AcSB) published an Implementation Plan for incorporating IFRS into Canadian GAAP as from 1 January 2011.

(5) In order to promote the objectives of Regulation (EC) No 1606/2002 and to encourage the use of IFRS throughout the global financial markets, and to minimise disruption to markets in the Community, it is appropriate to take account of any convergence programme with IFRS or commitment on the part of the relevant authority of the third country to adopt IFRS. Therefore it is necessary to further specify under which conditions convergence programmes can be considered as providing a sufficient basis for allowing third country issuers to apply their national accounting standards for a transitional period. The Commission will first consult CESR on the convergence programme or the progress towards adoption of IFRS, as the case may be.

([1]) OJ L 243, 11.9.2002, p. 1.

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(6) The measures provided for in this Regulation are in accordance with the opinion of the European Securities Committee,

HAS ADOPTED THIS REGULATION:

Article 1

Subject matter

This Regulation lays down the conditions under which the Generally Accepted Accounting Principles of a third country may be considered equivalent to International Financial Reporting Standards (hereinafter IFRS) and introduces a mechanism for the determination of such equivalence.

Article 2

Equivalence

The Generally Accepted Accounting Principles of a third country may be considered equivalent to IFRS adopted pursuant to Regulation (EC) No 1606/2002 if the financial statements drawn up in accordance with Generally Accepted Accounting Principles of the third country concerned enable investors to make a similar assessment of the assets and liabilities, financial position, profit and losses and prospects of the issuer as financial statements drawn up in accordance with IFRS, with the result that investors are likely to make the same decisions about the acquisition, retention or disposal of securities of an issuer.

Article 3

Equivalence mechanism

The decision on the determination of the equivalence of the Generally Accepted Accounting Principles of a third country may be taken on the initiative of the Commission, upon application submitted by the competent authority of a Member State or upon application of an authority responsible for accounting standards or market supervision of a third country.

Where the Commission decides to make a determination of equivalence, whether on an application or on its own initiative, it shall make that decision public.

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Article 4

Conditions for the acceptance of third country accounting standards for a limited period

1. Third country issuers may be permitted to use financial statements drawn up in accordance with the accounting standards of a third country in order to comply with obligations under Directive 2004/109/EC and, by derogation from Article 35(5) of Regulation (EC) No 809/2004, to provide historical financial information under that Regulation for a period commencing any time after 31 December 2008 and expiring no later than ►M2 31 March 2016 ◄ in the following cases:

(a) the third country authority responsible for the national accounting standards concerned has made a public commitment to converge

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these standards with International Financial Reporting Standards at the latest by ►**M2** 31 March 2016 ◄ and both the following conditions are met:

(i) the third country authority responsible for the national accounting standards concerned has established a convergence programme that is comprehensive and capable of being completed before ►**M2** 31 March 2016 ◄;

(ii) the convergence programme is effectively implemented, without delay, and the resources necessary for its completion are allocated to its implementation;

(b) the third country authority responsible for the national accounting standards concerned has made a public commitment to adopt International Financial Reporting Standards before ►**M2** 31 March 2016 ◄ and effective measures are taken in the third country to secure their timely and complete implementation by that date.

2. Any decision under paragraph 1 to permit the continued acceptance of financial statements drawn up in accordance with the accounting standards of a third country shall be made in accordance with the procedure referred to in Article 24 of Directive 2003/71/EC and Article 27(2) of Directive 2004/109/EC.

3. Where the Commission permits the continued acceptance of financial statements drawn up in accordance with the accounting standards of a third country in accordance with paragraph 1, it shall review regularly whether the conditions specified in point (a) or (b) (as the case may be) continue to be met, and shall report accordingly to the European Parliament.

4. If the conditions in point (a) or (b) of paragraph 1 are no longer met, the Commission shall take a decision in accordance with the procedure referred to in Article 24 of Directive 2003/71/EC and Article 27(2) of Directive 2004/109/EC amending its decision under paragraph 1 in respect of these accounting standards.

5. When complying with this Article, the Commission shall first consult ESMA on the convergence programme or the progress towards adoption of IFRS, as the case may be.

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Article 5

This Regulation shall enter into force on the third day following its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.