

**2008 No. 2639**

**COMPANIES**

**AUDITORS**

**The Statutory Auditors and Third Country Auditors  
(Amendment) (No. 2) Regulations 2008**

<i>Made</i> - - - -	<i>6th October 2008</i>
<i>Laid before Parliament</i>	<i>7th October 2008</i>
<i>Coming into force</i> - -	<i>31st October 2008</i>

In exercise of the powers conferred by sections 1239(1)(b), (2) and (5)(d), 1246(1) and 1292(1)(c) of the Companies Act 2006(a), the Secretary of State makes the following Regulations.

1. These Regulations may be cited as the Statutory Auditors and Third Country Auditors (Amendment) (No. 2) Regulations 2008 and come into force on 31st October 2008.

2.—(1) The Statutory Auditors and Third Country Auditors Regulations 2007(b) are amended as follows.

(2) For regulation 29 (interpretation) substitute—

“29. In this Part of these Regulations—

“the Commission Decision” means Commission Decision 2008/627/EC of 29 July 2008 concerning a transitional period for audit activities of certain third country auditors and audit entities(c);

“the designated body” means the body known as the Professional Oversight Board established under the articles of association of The Financial Reporting Council Limited(d);

“exempt third country auditor” means a third country auditor—

(a) who is—

- (i) overseen or regulated by a third country competent authority established in a specified third country, and
- (ii) eligible to conduct audits of the accounts of bodies corporate incorporated or formed under the law of that specified third country; and

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(a) 2006 c. 46.  
(b) S.I. 2007/3494, amended by S.I. 2008/499.  
(c) OJ L202, 31.7.2008, p.70.  
(d) Registered number 02486368.

- (b) in relation to whom the designated body has, for the purposes of the Commission Decision, directed under section 1239(7) of the Companies Act 2006<sup>(a)</sup> that requirements imposed by this Part specified in the direction are not to apply;

“specified third country” means any of the Channel Islands, the Isle of Man and the following countries and territories—

Argentina, Australia, The Bahamas, Bermuda, Brazil, Canada, Cayman Islands, Chile, China, Croatia, Hong Kong, India, Indonesia, Israel, Japan, Kazakhstan, Malaysia, Mauritius, Mexico, Morocco, New Zealand, Pakistan, Russia, Singapore, South Africa, South Korea, Switzerland, Taiwan, Thailand, Turkey, Ukraine, United Arab Emirates, United States of America.”.

(3) In regulation 35 (application for registration of third country auditor), after paragraph (3) insert—

“(3A) An application for registration of an exempt third country auditor must include—

- (a) a statement of the auditing standards and independence requirements applied to the audit or audits in respect of which the application is made,
- (b) a description of the auditor’s internal quality control system,
- (c) a statement of whether and (if so) when a quality assurance review has been carried out in respect of the auditor,
- (d) information required by the designated body about the outcome of a quality assurance review.”.

(4) At the end of regulation 39 (duty to provide updated information) add—

“(2) An exempt third country auditor who for the purpose of registration has provided to the designated body information falling within subparagraphs (a) to (d) and the first sentence of subparagraph (e) of Article 1.1 of the Commission Decision<sup>(b)</sup> must take all reasonable steps to notify the designated body without undue delay of any change or addition to that information.”.

(5) In regulation 40 (removal of third country auditor from the register)—

- (a) in paragraph (2)(a), for “regulation 39” substitute “regulation 39(1)”, and
- (b) after paragraph (2) insert—

“(3) The designated body may remove an exempt third country auditor from the register if—

- (a) it considers that the auditor—
  - (i) has failed—
    - (aa) to comply with the obligations of the auditor under regulation 39(2) (duty of exempt third country auditor to provide updated information), or
    - (bb) to apply the auditing standards and independence requirements set out in the statement provided for in regulation 35(3A)(a), or
  - (ii) is not a fit and proper person to conduct audits of the accounts of UK-traded non-EEA companies, or
- (b) it appears to the designated body that a third country competent authority which oversees or regulates the auditor considers that the auditor is not—
  - (i) a fit and proper person to conduct audits in the specified third country in which the authority is established, or
  - (ii) eligible to conduct audits of the accounts of bodies corporate incorporated or formed under the law of that country.”.

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<sup>(a)</sup> Section 1239(7) was amended by S.I. 2007/3494, regulation 30(5). The function of the Secretary of State under that section was delegated to the designated body (defined in regulation 29 of S.I. 2007/3494) by S.I. 2008/496.

<sup>(b)</sup> Those subparagraphs are set out in the Explanatory Note to these Regulations.

3. If—

- (a) before 31st October 2008 an exempt third country auditor, with a view to being registered in accordance with Article 1.2 of Commission Decision 2008/627/EC of 29 July 2008 concerning a transitional period for audit activities of certain third country auditors and audit entities, has provided to the designated body information falling within subparagraphs (a) to (d) and the first sentence of subparagraph (e) of Article 1.1 of that Decision, and
- (b) that information satisfies the requirements of regulation 35 of the Statutory Auditors and Third Country Auditors Regulations 2007 as it applies to that auditor,

the designated body may register the auditor under regulation 37 of those Regulations as if the auditor had made an application in accordance with regulation 35.

6th October 2008

*Gareth Thomas*  
Parliamentary Under Secretary of State for Trade and Consumer Affairs,  
Department for Business, Enterprise and Regulatory Reform

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Statutory Auditors and Third Country Auditors Regulations 2007 (“SATCAR”) to give effect to Commission Decision 2008/627/EC of 29 July 2008 concerning a transitional period for audit activities of certain third country auditors and audit entities (O.J. L202,31.7.2008, p.70). That Decision is made under article 46(2) of Directive 2006/43/EC on statutory audits of annual accounts and consolidated accounts (O.J. L157, 9.6.2006, p.87).

They make provision in respect of “exempt third country auditors”: auditors from a list of third countries set out in the definition of “specified third country” in regulation 2(2). If the Professional Oversight Board (“POB”) has directed that other provisions of SATCAR are not to apply to such auditors, the provisions in these amending Regulations apply to them.

Regulation 2(3) sets out information which exempt third country auditors must provide to POB in order to be registered.

Regulation 2(4) requires exempt third country auditors to inform POB of any change to information which they have provided falling within subparagraphs (a) to (d) and the first sentence of subparagraph (e) of Article 1.1 of the Commission Decision, which read—

- (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 necessary information about the outcome of the review’.

Regulation 2(5)(b) (regulation 2(5)(a) is purely consequential) provides that POB may remove an exempt third country auditor from the register if—

- the auditor has failed to inform POB of changes to the information which the auditor has provided, or
- the auditor has failed to apply the auditing standards and independence requirements which the auditor has told POB have been applied, or
- POB considers that the auditor is not fit and proper to conduct audits, or
- the competent authority in the exempt third country auditor’s own country considers that the auditor is not fit and proper or eligible to conduct audits.

Regulation 3 provides that exempt third country auditors who applied for registration before the Regulations come into force may then be registered as if they had applied in accordance with the Regulations.

A transposition note has been prepared which sets out how Directive 2006/43 is transposed into UK law, updated to reflect the implementation of Commission Decision 2008/627/EC. An Impact Assessment of the effect of the implementation of Directive 2006/43 on the costs of business, charities or voluntary bodies was also prepared. Both are available from the Department for Business, Enterprise and Regulatory Reform, Corporate Law and Governance Directorate, 1 Victoria Street, London, SW1H 0ET. They are also available electronically at [www.berr.gov.uk](http://www.berr.gov.uk). Copies have also been placed in the libraries of both Houses of Parliament. Otherwise, an Impact Assessment has not been produced for these Regulations as they have only a negligible impact on the costs of business, charities or voluntary bodies.

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STATUTORY INSTRUMENTS

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