

Annex to the Application Form H for Registration of Third-Country Audit Entities according to Article 45 of the Directive 2006/43/EC of 17 May 2006 on Statutory Audits of Annual Accounts and Consolidated Accounts and Article 12c of the Audit firms Supervision Act

Registration

1. Why do third-country audit entities have to register with authorities in Member States?

The EU Statutory Audit Directive ("Directive 2006/43/EC") sets minimum regulatory requirements for statutory audits across the European Union/European Economic Area ("EU/EEA"). The interrelation of capital markets underlines the need also to ensure that auditors from third countries carry out high quality audit work in relation to the capital market within the EU/EEA. Directive 2006/43/EC therefore requires that the relevant statutory audit entities and auditors from third countries should be entered on a public register, and subject to a level of regulation equivalent to the minimum required for EU/EEA auditors. In addition the European Commission has made transitional measures to facilitate the introduction of these new requirements.

Registration is required according to Article 45 of the Directive 2006/43/EC if a third-country audit entity provides and a audit report concerning the annual or consolidated accounts of a relevant audit client (see FAQ no. 3.). According to Article 2 (4) of Directive 2006/43/EC a 'third-country audit entity' means an entity, regardless of its legal form, which carries out audits of the annual or consolidated account of a company incorporated in a third-country.

2. Who should use Form H? (Item 1.0)

A third-country audit entity that audits the annual or consolidated accounts of a company whose home country in one of the third countries included within the scope of the European Commission's Decision of 29 July 2008 concerning a transitional period for audit activities of certain third auditors and audit entities (OJ L 202/70) is able to take advantage of the transitional measures in that decision and apply for registration using Form I, i.e., Argentina, Australia, Bahamas, Bermudas, Brazil, Canada, Cayman Islands, Chile, China, Croatia, Guernsey, Jersey, Isle of Man, 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, and United States of America. In case the audit client's home country is **not** one of the countries listed above, the third-country audit entity must use Form H.

3. What is a "relevant audit client"? (Item 9.0)

A relevant audit client is a company incorporated outside the EU/EEA whose transferable securities are admitted to trading on a regulated market of any Member State of the EU/EEA within the meaning of point 14 of Article 4(1) of Directive 2004/39/EC. This refers to an issuer as defined in Article 2 (1) (d) of Directive 2004/109/EC, except when:

- the company is an issuer exclusively of debt securities admitted to trading on a regulated market in the relevant Member State of the EU/EEA within the meaning of Article 2(1)(b) of Directive 2004/109/EC, the denomination per unit of which is at least EUR 50 000 or, in case of debt securities denominated in another currency, equivalent, at the date of issue, to at least EUR 50 000; or
- the company is an issuer exclusively of units issued by collective investment undertakings other than closed-end type, or units acquired or deposited of in such collective investment undertakings within the meaning of Article 1 (2) of Directive 2004/109/EC.

The applicant should only include current audit clients.

4. Does registration entitle third-country audit entities to provide statutory audit services in the EU/EEA?

No. Registration does not give approval to carry out statutory audits as required by Community law (see Article 2 (1) of Directive 2006/43/EC). Nor does it recognise the qualifications of third-country auditors.

5. What are the requirements for registration as a third-country audit entity under Article 45?

A Member State can only register a third-country audit entity if:

- the third-country audit entity provides information for the public register, as required by Article 17 for EU audit firms with appropriate modification;
- a majority of the members of the administrative or management body of the third-country audit entity hold an audit qualification equivalent to that required for EU statutory auditors;
- individual third-country auditors responsible for carrying out the audit on behalf of the third-country audit entity hold an audit qualification equivalent to that required for EU statutory auditors;
- the third-country audit entity undertakes to carry out the relevant audits in accordance with international auditing standards (or equivalent) and in

accordance with the minimum independence standards required by the Directive for EU audit firms (or equivalent);

- e. the third-country audit entity undertakes to publish an annual transparency report which includes information as required under Article 40 for EU audit firms, or meets equivalent disclosure requirements;
- f. the third-country audit entity and the individual third-country auditors are of good repute.

5A (NL). How have the requirements under Article 45 of the Statutory Audits Directive been implemented in the national law of the Netherlands?

The requirements under Article 45 of the Statutory Audits Directive have been implemented in Article 12c (1) of the Audit Firms Supervision Act. The AFM will register a third-country audit entity if this entity demonstrates that:

- a. it provides audit reports concerning the annual or consolidated accounts of companies incorporated outside the European Union/European Economic Area whose transferable securities are admitted to trading on a regulated market in the Netherlands except when the company is an issuer exclusively of debt securities admitted to trading on a regulated market in the Netherlands within the meaning of Article 2 (1) (b) of Directive 2004/109/EC, the denomination per unit of which is at least EUR 50 000 or, in case of debt securities denominated in another currency, equivalent, at the date of issue, to at least EUR 50 000;
- b. it complies with requirements equivalent to those set by Articles 15 (1), 16, and 19 of the Act;
- c. the relevant audits are performed in accordance with the International Standards on Auditing (ISA) and in compliance with rules equivalent to those set by Article 25 of the Act; and
- d. it publishes on its website an annual transparency report which provides equivalent information to reports which EU audit firms must prepare under Article 40 of the Statutory Audits Directive.

The above-mentioned Articles from the Act are as follows:

Article 15

1. The integrity of the persons who determine or co-determine the day-to-day policies of the audit firm must be beyond any doubt.

Article 16

1. The natural persons who determine the day-to-day policies of the audit firm must be knowledgeable in regard to the quality control system used by the audit firm.
2. The day-to-day policies of the audit firm must be determined in majority by audit firms, audit entities or natural persons that satisfy requirements equivalent to those set by Article 25 in regard to the competence of external auditors. If the audit firm has two persons who determine the day-to-day policies, at least one of these persons must satisfy these requirements.

Article 19

The audit firm must satisfy the rules prescribed by or pursuant to the order in council in regard to its independence.

Article 25

The external auditor must satisfy the rules prescribed by or pursuant to an order in council in regard to its competence, independence, objectivity and integrity.

More detailed rules in regard to these Articles are included in the Decree on the supervision of audit firms. Both the Act and the Decree can be downloaded from the AFM website.

6. What happens if an applicant does not meet the requirements for registration under Article 45 of Directive 2006/43/EC?

According to Article 45 (4) of Directive 2006/43/EC audit reports issued by third-country audit entities that are not registered in a Member State will have no legal effect in that Member State which means that the accounts would be considered as "not audited" for EU purposes.

Application procedure

7. How does a third-country audit entity apply for registration in the EU/EEA?

The Directive does not provide for a single registration across the EU/EEA, although Member States are cooperating closely on the implementation of these requirements. Therefore registration is the responsibility of each Member State. Applications must be made to the relevant body in each Member State where registration is required. There is a list of relevant bodies and contacts at Attachment 1.

7A (NL). How does a third-country audit entity apply for registration with the AFM?

Third-country audit entities whose audit client's home country is not one of the countries to which the European Commission has granted a transitional period (see also FAQ no. 2), can apply for registration by submitting the application Form H including all applicable annexes to the AFM.

The application form needs to be filled in electronically and sent to the AFM:

1. by e-mail (as attachment to wta@afm.nl); and
2. by post (printed, dated, signed, and supplied with all applicable annexes).

The AFM will send a receipt when the application form has been received by e-mail and by post. After having received Form H, including all applicable supplements, the AFM will start processing the application. Before registration, the AFM will assess whether the third-country audit entity meets the requirements laid down in Article 12c of the Audit Firms Supervision Act. In principle, the AFM will decide on the application within twelve months after having

received Form H, including all applicable annexes.

8 (NL). When will third-country audit entities be able to apply for registration with the AFM?

Third-country audit entities will be able to apply for registration with the AFM from 28 June 2008. Third-country audit entities that apply for registration in the period from 28 June 2008 until 28 July 2008 make use of the Forms G1 and G2. Third-country audit entities that apply for registration from 28 July 2008 make use of Form H.

9. Will the information submitted by the third-country audit entity be treated as confidential?

Yes. According to Article 36 (2) of Directive 2006/43/EC the obligation of professional secrecy shall apply to all persons who are employed or who have been employed by competent authorities. Information covered by professional secrecy may not be disclosed to any other person or authority except by virtue of the laws, regulations or administrative procedures of a Member State. Some information will be stored in the register in electronic form and shall be electronically accessible to the public.

10. Will the information submitted by the third-country audit entity be subject to data protection rules?

Yes. All authorities in the Member States are subject to data protection provisions according to Directive 95/46/EC. However, some information will be publicly available in the register (see FAQ no. 23).

11. Which countries are members of the EU/EEA? (Item 1.0)

Members of the EU: Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, United Kingdom.

Members of the EEA that are not also members of the EU: Iceland, Liechtenstein and Norway.

12. What language should be used for registration purposes?

Registration is the responsibility of each Member State. Therefore Member States may require the submission of information in their own official language. However, the European Group of Auditors' Oversight Bodies has recommended that, where the law of the Member States does not prohibit, any information can be submitted in English.

Information required by forms H

13. What is a network? (Item 3.0)

According to Article 2 (7) of Directive 2006/43/EC a 'network' is:

- a. the larger structure which is aimed at cooperation and to which the applicant belongs, and
- b. which is clearly aimed at profit- or cost-sharing or shares common ownership, control or management, or shares common quality-control policies and procedures, or shares a common business strategy, or shares the use of a common branch-name or shares a significant part of professional resources.

14. What is an affiliate of the applicant? (Item 3.3)

In this context an 'affiliate' means any undertaking, regardless of its legal form, which is connected to the third-country audit entity by means of common ownership, control or management, and which provides services to clients according to item 9.0.

15. What is the difference between a registration as a third-country audit entity and registration as an audit firm in another member state of the EU/EEA? (Item 5.0)

An entity should apply as a 'third-country audit entity' with a member state of the EU/EEA when it meets the criteria of FAQ no. 1. However, it is possible that a third-country audit entity may also be registered as an 'audit firm' in a member state of the EU/EEA when it wishes to carry out audits of annual accounts or consolidated accounts insofar as required by the law of that member state (statutory audit according to Article 2 (1) of Directive 2006/43/EC). Statutory audits may only be carried out by audit firms which are approved by the member state requiring the statutory audit (see Article 3 (1) of Directive 2006/43/EC).

15A (NL). Who are co-policymakers? (Item 6.3)

Co-policymakers are persons that can significantly influence the members of the administrative and/or management body ("policymakers"). Therefore, co-policymakers are:

- those persons that formally hold a commissioner's position at the audit entity or that are member of the oversight or supervisory body of the audit entity;
- those persons holding over 50% of the voting rights and/or capital of the audit entity and that are not considered policymakers;
- in case the audit entity is part of a group of undertakings:
 - those persons that are members of the administrative or management body of the head of the group and that are not considered policymakers;

- o those persons that are commissioners or member of the oversight or supervisory body of the head of the group and that are not considered policymakers;
- other persons that are actually able to significantly influence the audit entity's policymakers.

Co-policymakers are, amongst others, those persons that are formally holding a position of supervisor of the administrative or management body of the audit entity. Whether this is the case depends on what has been documented in contracts, statutes, or regulations. In general, the name of the oversight body is irrelevant; it is the function of the body or its members that determines whether a person is considered a co-policymaker.

Both policymakers and co-policymakers must be of good repute. See also FAQ no. 22.

16. Who are third-country auditors? (Item 7.0)

Third-country auditors are those individuals designated by the applicant for a particular audit engagement listed under Item 9.0 as being primarily responsible for carrying out (or signing) the audit on behalf of the applicant or in the case of a group audit, at least the auditor(s) designated by the applicant as being primarily responsible for carrying out (or signing) the audit at the level of the group.

17. What information should a transparency report contain? (Item 8.0)

A transparency report should normally contain the information as referred to in Article 40(1) of the Directive 2006/43/EC:

- a. a description of the legal structure and ownership of the third-country audit entity;
- b. where the third-country audit entity belongs to a network, a description of the network and the legal and structural arrangements in the network;
- c. a description of the governance structure of the third-country audit entity;
- d. a description of the internal quality control system of the third-country audit entity and a statement by the administrative or management body on the effectiveness of its functioning;
- e. an indication of when the last quality assurance review (see FAQ no. 20) took place;
- f. a list of public-interest entities for which the third-country audit entity has carried out audits during the preceding financial year; in this context a public-interest entity is considered a company listed under Item 9.0;
- g. a statement concerning the third-country audit entity's independence practices which also confirms that an internal review of independence compliance has been conducted;
- h. a statement on the policy followed by the third-country audit entity concerning the continuing education of third-country auditors referred to in Article 13 of Directive 2006/43/EC;
- i. financial information showing the importance of the third-country audit entity, such as the total turnover divided into fees from the audit of annual and consolidated accounts, and fees charged for other assurance services, tax advisory services and other non-audit services;
- j. information concerning the basis for the partners' remuneration.

The transparency report shall be signed by the third-country auditor or third-country audit entity, as the case may be. This can be done, for example, by means of an electronic signature as defined in Article 2(1) of Directive 1999/93/EC.

18. What auditing standards are acceptable under Article 45 (5) (d) of Directive 2006/43/EC? (Item 10.1)

Article 45 (5) (d) of Directive 2006/43/EC requires the relevant audits to be carried out in accordance with international auditing standards as adopted in the EU in accordance with Article 26 of the Directive or with equivalent standards. To date the EU has not adopted international auditing standards. In the meantime the relevant authorities in the Member States will accept in particular international standards on auditing ("ISAs"). Where these are not used, the Member States will accept the standards otherwise applied by the third-country audit entity. Acceptance of those standards is without prejudice to any decision by the EU either on the adoption of the international auditing standards or on the equivalence of third-country auditing standards.

19. What independence requirements are acceptable under Article 45 (5) (d) of Directive 2006/43/EC? (Item 10.2)

Article 45 (5) (d) of Directive 2006/43/EC requires the relevant audits to be carried out in accordance with independence requirements according to Articles 22, 24 and 25 of the Directive or equivalent requirements. Pending an EU decision on equivalence it is up to Member States to determine what is equivalent. The relevant authorities in the Member States will accept in particular independence requirements in accordance to the IFAC Code of Ethics.

20. What is a quality assurance review? (Item 11.0)

The quality assurance review can be a peer review, a monitoring visit by a professional body, or an inspection by an independent public oversight body in any jurisdiction. The quality assurance review should comprise both an assessment of the firm-wide procedures (including compliance with applicable auditing standards and independence requirements, of the quantity and quality of resources spent, of the audit fees charged and of the internal quality control system of the audit firm) and a adequate testing of selected audit files.

21. Why should it be in the interests of the applicant to provide voluntarily information on the external quality assurance review? (Item 11.0)

Information on the external quality assurance review is not a requirement for registration under Article 45 of Directive 2006/43/EC. However, since third-country audit entities registered under Article 45 are subject to inspection by EU audit regulatory authorities, providing this information will help the EU authorities to decide if and when inspection of the third-country audit entity is required. This information may also help the Member States of the EU/EEA to assess whether the third-country audit entity meets the requirements for registration.

If the applicant agrees to provide the information, such information should include the outcome, the main shortcomings, and the main measures the applicant has undertaken to address the shortcomings and to prevent them from recurring. Where possible the applicant should provide a full copy of the last quality

assurance review report, e.g. an inspection report issued by the home country regulator. However, when the applicant is not able to provide such report, for example as a result of legal impediments, it should provide a statement of this information.

22 (NL). What information is needed in respect of the "good repute" requirement for the AFM? (Item 12.0)

Article 45 (5) (b) and (c) of Directive 2006/43/EC refer to the requirement of good repute according to Article 4 of this Directive in relation to members of the administrative or management body of the third-country audit entity as well as the third-country auditors.

The applicant should submit for each (co-)policymaker as listed at item 6.0 (see also FAQ no. 17) the following forms :

- Prospective appointment notification form: for each (co-)policymaker to be completed by the third-country audit entity. This form should be downloaded from the website, filled in manually, and sent to the AFM by post (the "send form"-button has been disabled);
- Integrity test form: to be completed by each (co-)policymaker. This form should be downloaded from this website, filled in manually, and sent to the AFM by post (the "send form"-button has been disabled).

Register

23. What information provided in the form will be available on the public register?

The information provided under Items 1.1 to 1.12, 2.1, 3.3, 4.1, 5.1, 6.1, 6.3, and 7.1 of Form H will be stored in the register in electronic form and shall be electronically accessible to the public.

Registration fees

24. Is there a common system of registration fees across the EU/EEA?

Directive 2006/43/EC does not provide for a single registration fee across the EU/EEA. This is a matter for individual Member States.

24A (NL). What are the registration fees in the Netherlands?

Applicants are charged with the costs of processing the application for registration. The registration fees will be determined by ministerial order [*"Regeling toezichtskosten Wet toezicht accountantsorganisaties"*]. More information on registration fees can be found on the AFM website.

24B (NL). When will payment of the registration fees be due?

The registration fee will be due in two terms. The first payment is due at the time of submission of the application. The second payment is due at the time the AFM will start assessing the application. The second payment consists of a fixed fee for the assessment of the application and a fee per integrity test for each of the applicant's (co-)policymakers (see FAQ no. 22 for more information).

Updating of registration information

25 (NL). What does the registered third-country audit entity need to do to update registration information?

According to Article 18 of Directive 2006/43/EC registered third-country audit entities have to notify the competent authorities in the Member States in charge of the public register without undue delay of any change of information contained in the public register (see FAQ no. 23). Furthermore, registered third-country audit entities have to notify the competent authorities quarterly of any change of information included in the application documentation but not contained in the public register. A change of information can be done by completing form U2 and sending it to the AFM. Form U2 can be found on the AFM website.

25A (NL). How should applicants inform the AFM of any changes in the information included in the application for registration?

Applicants shall notify the AFM without undue delay of any change of information contained in Form H. A change of information contained in Form H can be done by completing form U1 and sending it to the AFM. Form U1 can be found on the AFM website.

Further questions and contact details

26 (NL). How can third-country audit entities contact the AFM for any further questions regarding the application for registration?

More information about the AFM and the public oversight on third-country audit entities as well as contact information can be found on the AFM website (www.afm.nl).

Attachment 1: Provisional list of competent authorities in the relevant Member States and EEA countries

MEMBER STATES	MEMBER OF THE EGAOB	WEBSITE
Belgium	High Council for the Economic Professions	http://www.cspe-hreb.be
Denmark	Danish Commerce and Companies Agency	http://www.eogs.dk
Finland	Auditing Board of the Central Chamber of Commerce (AB3C)	http://www.keskuskauppakamari.fi/en_GB/
France	Haut Conseil du Commissariat aux Comptes	http://www.h3c.org/
Germany	AuditorOversight Commission (AOC)	www.apak-aoc.de
Italy	Commissione Nazionale per le Società e la Borsa (CONSOB)	www.consob.it/
Ireland	Irish Auditing and Accounting Supervisory Authority (IAASA)	http://www.iaasa.ie/
Luxembourg	Commission de Surveillance du Secteur Financier (CSSF)	http://www.cssf.lu/
Netherlands	Netherlands Authority for the Financial Markets (AFM)	http://www.afm.nl/
Norway	Financial Supervisory Authority of Norway	www.kredittilsynet.no
Slovakia	Authority for Oversight of Performance of Audit	http://www.finance.gov.sk/En/
Spain	Instituto de Contabilidad y Auditoria de Cuentas (ICAC)	http://www.icac.meh.es/
Sweden	Swedish Supervisory Board of Public Accountants	http://www.revisorsnamnden.se/rn/index.html
United Kingdom	Financial Reporting Council (FRC)	http://www.frc.org.uk/