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COMMISSION IMPLEMENTING DECISION

of 12 December 2014

on the equivalence of the supervisory and regulatory requirements of certain third countries and territories for the purposes of the treatment of exposures according to Regulation (EU) No 575/2013 of the European Parliament and of the Council

(Text with EEA relevance)

(2014/908/EU)

(OJ L 359, 16.12.2014, p. 155)

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**COMMISSION IMPLEMENTING DECISION****of 12 December 2014****on the equivalence of the supervisory and regulatory requirements of certain third countries and territories for the purposes of the treatment of exposures according to Regulation (EU) No 575/2013 of the European Parliament and of the Council****(Text with EEA relevance)**

(2014/908/EU)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 ⁽¹⁾, and in particular Articles 107(4), 114(7), 115(4), 116(5) and 142(2) thereof,

Whereas:

- (1) Institutions are to fulfil capital requirements which adequately reflect the risks undertaken by those institutions, including credit risk, having regard to the different geographical contexts in which they operate. The credit risk incurred by institutions attached to exposures to entities located outside the Union is determined, all other factors being equal, by the quality of the relevant regulatory framework and supervision implemented in the relevant third country.
- (2) Article 107(3) of Regulation (EU) No 575/2013 allows institutions to treat exposures to third country investment firms, credit institutions and exchanges as exposures to institutions only if the third country applies prudential and supervisory requirements to the entity concerned which are at least equivalent to those applied in the Union.
- (3) Articles 114(7), 115(4) and 116(5) of Regulation (EU) No 575/2013 set specific risk weights applicable to exposures to central governments, central banks, regional governments, local authorities, and public sector entities located in third countries that apply supervisory and regulatory arrangements at least equivalent to those applied in the Union.
- (4) Article 153 of Regulation (EU) No 575/2013 lays down the formula for the calculation of the risk weighted exposures amounts for exposures to corporates, institutions, central governments and central banks under the internal-ratings based (IRB) approach and details the parameters to be used for the calculation, including the coefficient of correlation. Article 153(2) of Regulation (EU) No 575/2013 sets the coefficient of

⁽¹⁾ OJ L 176, 27.6.2013, p. 1.

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correlation applicable to large financial sector entities. According to Article 142(1)(4)(b) of that Regulation, in order to qualify for the definition of ‘large financial sector entity’, the financial sector entity or one of its subsidiaries must be subject to the laws of a third country applying prudential supervisory requirements at least equivalent to those applied in the Union.

- (5) In order to determine the appropriate risk-weighted exposures for the calculation of capital requirements for the credit risk attached to exposures to certain categories of entities located in third countries, the Commission has assessed the equivalence of the supervisory and regulatory arrangements of third countries to the corresponding supervisory and regulatory arrangements in the Union.
- (6) The equivalence has been determined by an outcome-based analysis of the third country's regulatory and supervisory arrangements which tests their ability to achieve the same general objectives as the Union's supervisory and regulatory arrangements. The objectives refer, in particular, to the stability and integrity of both the domestic and the global financial system in its entirety; the effectiveness and adequacy of protection of depositors and other consumers of financial services; the cooperation between different actors of the financial system, including regulators and supervisors; the independence and the effectiveness of supervision; and the effective implementation and enforcement of relevant internationally agreed standards. In order to achieve the same general objectives of the Union's supervisory and regulatory arrangements, the supervisory and regulatory arrangements of the third country should comply with a series of operational, organisational and supervisory standards reflecting the essential elements of the Union's supervisory and regulatory requirements applicable to relevant categories of financial institutions. Taking into account independent assessments by the international organisations, such as those carried out by the Basel Committee on Banking Supervision, the International Monetary Fund and the International Organization of Securities Commissions, the Commission has assessed the supervisory and regulatory arrangements of certain third countries applicable to credit institutions, investment firms, and exchanges. This analysis has enabled the Commission to evaluate the equivalence of third country arrangements for the purposes of determining the treatment of the relevant categories of exposures mentioned in Articles 107, 114, 115, 116 and 142 of Regulation (EU) No 575/2013.
- (7) For the purposes of Articles 114, 115, and 116 of Regulation (EU) No 575/2013 equivalence should be determined by reference to the supervisory and regulatory arrangements applicable to credit institutions since these arrangements usually set the risk weights for the calculation of capital requirements for credit risk.
- (8) For the purposes of Article 142(1)(4)(b) of Regulation (EU) No 575/2013, the equivalence assessment is confined to the supervisory and regulatory arrangements applicable to third country

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undertakings with a main business comparable to that of a credit institution or investment firm, in accordance with the definition provided in Article 4(1)(27) of that Regulation.

- (9) Following the assessment, it appears that Australia, Brazil, Canada, China, Guernsey, Hong Kong, India, Isle of Man, Japan, Jersey, Mexico, Monaco, Saudi Arabia, Singapore, South Africa, Switzerland and the USA have in place supervisory and regulatory arrangements which comply with a series of operational, organisational and supervisory standards reflecting the essential elements of the Union's supervisory and regulatory arrangements applicable to credit institutions. Therefore, it is appropriate to consider the supervisory and regulatory requirements for credit institutions located in those third countries and territories as at least equivalent to those applied in the Union for the purposes of Article 107(4) and Article 142(1)(4)(b) of Regulation (EU) No 575/2013.
- (10) Following the assessment, it appears that Australia, Brazil, Canada, China, Mexico, Saudi Arabia, Singapore, South Africa and the USA have in place supervisory and regulatory arrangements which comply with a series of operational, organisational and supervisory standards reflecting the essential elements of the Union's supervisory and regulatory arrangements applicable to investment firms. Therefore, it is appropriate to consider the supervisory and regulatory requirements applying to investment firms located in those third countries as at least equivalent to those applied in the Union for the purposes of Article 107(4) and Article 142(1)(4)(b) of Regulation (EU) No 575/2013.
- (11) Following the assessment, it appears that Brazil, Canada, China, India, Japan, Mexico, Saudi Arabia, Singapore, South Africa and the USA have in place supervisory and regulatory arrangements which comply with a series of operational standards reflecting the essential elements of the Union's supervisory and regulatory arrangements applicable to exchanges. Therefore, it is appropriate to consider the supervisory and regulatory requirements of those third countries applied to exchanges as at least equivalent to those applied in the Union for the purposes of Article 107(4) of Regulation (EU) No 575/2013 limited to exposures to exchanges located in those third countries.
- (12) The sole purpose of this Decision is to determine equivalence for the purposes of assigning risk weights under Articles 107, 114, 115, 116 and 142 of Regulation (EU) No 575/2013.
- (13) The list of third countries and territories considered to be equivalent for the purposes of this Decision is not definitive. The Commission, with the assistance of the European Banking Authority, will continue monitoring on a regular basis the evolution of the supervisory and regulatory arrangements of third countries and territories with a view to updating, as appropriate and at least every 5 years, the lists of third countries and territories set out in this Decision in light, in particular, of the constant development of supervisory and regulatory arrangements, in the Union and at global level, and taking into account new available sources of relevant information.

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- (14) The regular review of the prudential and supervisory requirements applicable in the third countries and territories listed in the Annexes should be without prejudice to the possibility of the Commission to undertake a specific review relating to an individual third country or territory at any time outside the general review, where relevant developments make it necessary for the Commission to re-assess the recognition granted by this Decision. Such re-assessment could lead to the withdrawal of the recognition of equivalence.
- (15) The provisions in this Decision are closely linked, since they deal with the equivalence of the supervisory and regulatory requirements of certain third countries and territories for the purposes of the treatment of exposures according to Regulation (EU) No 575/2013. To ensure coherence between those provisions, which should enter into force at the same time, and to facilitate a comprehensive view and compact access to them by institutions subject to those obligations, it is desirable to include certain implementing acts required by Regulation (EU) No 575/2013 in a single Decision.
- (16) The measures provided for in this Decision are in accordance with the opinion of the European Banking Committee.
- (17) In order to avoid a sudden increase in capital requirements for credit institutions and investment firms in the Union, this Decision should enter into force on 1 January 2015,

HAS ADOPTED THIS DECISION:

Article 1

Equivalence of requirements applied to credit institutions for the purposes of Article 107(4) of Regulation (EU) No 575/2013

For the purposes of Article 107(4) of Regulation (EU) No 575/2013, the third countries and territories listed in Annex I to this Decision shall be considered as applying supervisory and regulatory arrangements to credit institutions equivalent to those applied in the Union.

Article 2

Equivalence of requirements applied to investment firms for the purposes of Article 107(4) of Regulation (EU) No 575/2013

For the purposes of Article 107(4) of Regulation (EU) No 575/2013, the third countries listed in Annex II to this Decision shall be considered as applying supervisory and regulatory arrangements to investment firms equivalent to those applied in the Union.

*Article 3***Equivalence of requirements applied to exchanges for the purposes of Article 107(4) of Regulation (EU) No 575/2013**

For the purposes of Article 107(4) of Regulation (EU) No 575/2013, the third countries listed in Annex III to this Decision shall be considered as applying supervisory and regulatory arrangements to exchanges equivalent to those applied in the Union.

*Article 4***Equivalence of requirements applied to exposures to central governments, central banks, regional governments, local authorities and public sector entities for the purposes of Articles 114, 115, 116 of Regulation (EU) No 575/2013**

For the purposes of Articles 114(7), 115(4) and 116(5) of Regulation (EU) No 575/2013, the third countries and territories listed in Annex IV to this Decision shall be considered as applying supervisory and regulatory arrangements equivalent to those applied to credit institutions in the Union.

*Article 5***Equivalence of requirements to credit institutions and investment firms for the purposes Article 142 of Regulation (EU) No 575/2013**

For the purposes of Article 142(2) of Regulation (EU) No 575/2013, the third countries and territories listed in Annex V to this Decision shall be considered as applying supervisory and regulatory arrangements equivalent to those applied in the Union.

*Article 6***Entry into force**

This Decision shall enter into force on 1 January 2015.

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ANNEX I

**LIST OF THIRD COUNTRIES AND TERRITORIES FOR THE
PURPOSES OF ARTICLE 1 (CREDIT INSTITUTIONS)**

- (1) Australia
- (2) Brazil
- (3) Canada
- (4) China
- (5) Guernsey
- (6) Hong Kong
- (7) India
- (8) Isle of Man
- (9) Japan
- (10) Jersey
- (11) Mexico
- (12) Monaco
- (13) Saudi Arabia
- (14) Singapore
- (15) South Africa
- (16) Switzerland
- (17) USA

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ANNEX II

**LIST OF THIRD COUNTRIES AND TERRITORIES FOR THE
PURPOSES OF ARTICLE 2 (INVESTMENT FIRMS)**

- (1) Australia
- (2) Brazil
- (3) Canada
- (4) China
- (5) Hong Kong
- (6) Indonesia
- (7) Japan (limited to Type I Financial Instruments Business Operators)
- (8) Mexico
- (9) South Korea
- (10) Saudi Arabia
- (11) Singapore
- (12) South Africa
- (13) USA

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ANNEX III

**LIST OF THIRD COUNTRIES FOR THE PURPOSES OF ARTICLE 3
(EXCHANGES)**

- (1) Australia
- (2) Brazil
- (3) Canada
- (4) China
- (5) India
- (6) Indonesia
- (7) Japan
- (8) Mexico
- (9) South Korea
- (10) Saudi Arabia
- (11) Singapore
- (12) South Africa
- (13) USA

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ANNEX IV

**LIST OF THIRD COUNTRIES AND TERRITORIES FOR THE
PURPOSES OF ARTICLE 4 (CREDIT INSTITUTIONS)**

- (1) Australia
- (2) Brazil
- (3) Canada
- (4) China
- (5) Guernsey
- (6) Hong Kong
- (7) India
- (8) Isle of Man
- (9) Japan
- (10) Jersey
- (11) Mexico
- (12) Monaco
- (13) Saudi Arabia
- (14) Singapore
- (15) South Africa
- (16) Switzerland
- (17) USA

▼M1*ANNEX V***LIST OF THIRD COUNTRIES AND TERRITORIES FOR THE PURPOSES OF ARTICLE 5 (CREDIT INSTITUTIONS AND INVESTMENT FIRMS)**

Credit institutions:

- (1) Australia
- (2) Brazil
- (3) Canada
- (4) China
- (5) Guernsey
- (6) Hong Kong
- (7) India
- (8) Isle of Man
- (9) Japan
- (10) Jersey
- (11) Mexico
- (12) Monaco
- (13) Saudi Arabia
- (14) Singapore
- (15) South Africa
- (16) Switzerland
- (17) USA

Investment firms:

- (1) Australia
- (2) Brazil
- (3) Canada
- (4) China
- (5) Hong Kong
- (6) Indonesia
- (7) Japan (limited to Type I Financial Instruments Business Operators)
- (8) Mexico
- (9) South Korea
- (10) Saudi Arabia
- (11) Singapore
- (12) South Africa
- (13) USA