

CEAOB International Equivalence and Adequacy sub-group

Terms of Reference and Work Plan 2017/2018

1. Introduction

According to rule 13(4) of the Committee of European Auditing Oversight Bodies (CEAOB) rules of procedures, each CEAOB sub-group should prepare an annual work plan.

This document supplements the CEAOB rules of procedures, which states that the sub-groups shall operate according to their own terms of reference, which shall be in line with the CEAOB rules of procedure and subject to the CEAOB's approval. The document has been drafted by the CEAOB international equivalence and adequacy sub-group (hereafter "the sub-group") and adopted by the CEAOB plenary meeting on 13 November 2017. It contains the Terms of Reference (section 2) and the Work Plan (section 3).

2. Terms of reference

2.1 Legal basis

The sub-group is established on the basis of Article 30(12) of Regulation 537/2014¹ for the purpose of carrying out the tasks referred to in point (c) of Article 30(7) of the Regulation.

2.2 Mandate

The purpose of the sub-group is to contribute to the technical assessment of the equivalence of the systems of public oversight, quality assurance, investigation and penalties of third countries. The sub-group will also contribute to the technical assessment of the adequacy of third countries' audit oversight authorities to exchange audit working papers with their European counterparts. The sub-group's technical advice will feed into the Commission's assessment in view of the adoption of a Commission Decision granting equivalence or adequacy to a third-country oversight system as provided for in Art 46(2) and 47(3) of Directive 2006/43/EC.

The sub-group will also further enhance international cooperation between audit oversight authorities within the EU equivalence and adequacy regulatory framework.

The final goal is to promote investor protection globally to the benefit of cross-border investment and high-quality audits.

2.3 Composition

The composition of the sub-group is published on the CEAOB website.

Chair

The Chair of the sub-group (ESMA) is appointed according to Article 30(12).

¹ Regulation (EU) No 537/2014 of the European Parliament and of the Council on specific requirements regarding statutory audit of public-interest entities and repealing Commission Decision 2005/909/EC

Members

All organisations that are represented by a member at the CEAOB, are entitled to be a member of the sub-group, including ESMA. Members may appoint a representative of their organisation to participate in the sub-group according to their level of expertise.

Observers

The European Banking Authority (EBA) and the European Insurance and Occupational Pensions Authority (EIOPA) are invited to participate in the sub-group meetings as observers. European Economic Area (EEA) authorities' representatives may be invited as observers, subject to the approval of the CEAOB members. Rule 6 of the CEAOB's rules of procedure shall apply *mutatis mutandis*.

CEAOB Chair and Vice-Chair

The CEAOB Chair and Vice-Chair (or appropriate Vice-Chair representative from the European Commission) will be invited to join sub-group's meetings and contribute to its work.

2.4 Working arrangements

In light of the above, the members of the sub-group hereby agree to the following terms:

Coordination and organisation

The Chair will organise the meetings, chair the meetings, prepare agenda and minutes, coordinate the work and prepare an annual work plan. Members of the sub-group may suggest topics for the agenda to be considered and included, where possible, by the Chair.

Sub-group meetings

Meetings will be organised by conference calls on a regular basis and where necessary, physical meetings depending on the circumstances. Meetings will be hosted, on a voluntary basis, by a member of the CEAOB or the Commission. If deemed necessary, meetings may be linked to other sub-group meetings or CEAOB plenary meetings.

Confidentiality

The Confidentiality rules applicable within the CEAOB are also applicable within this sub-group (including those referred to in Rule 16 (3) of the CEAOB's rules of procedure).

Decision making arrangements

The Chair shall aim to seek consensus on all topics put forward for approval to the sub-group members. If matters for approval cannot be decided by consensus, decisions shall be taken by vote during sub-group meetings by a simple majority of the sub-group members with voting rights. Each of the members of the sub-group have one vote each. The sub-group Chair, the CEAOB Chair, the CEAOB Vice-Chair and the observers do not have voting rights.

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Decisions may also be taken by written procedure. Rule 12 of the CEAOB's rules of procedure shall apply *mutatis mutandis*.

Reporting to CEAOB

The Chair will report to the CEAOB plenary meetings on the sub-group work on a regular basis.

Communications with other CEAOB sub-groups

As certain matters discussed by the sub-group may be of interest to other CEAOB sub-groups, the Chair of the sub-group will liaise with other sub-groups to identify common areas where synergies can be build up. In particular, it is envisaged that the sub-group will be interested in the interactions of the Inspection sub-group in relation to developments with third-country auditors' oversight authorities.

External communications

Any external communications including press notices will be drafted by the sub-group Chair for approval by the International Equivalence and Adequacy sub-group. Press notices will be sent to the CEAOB secretariat for inclusion on the CEAOB website.

The sub-group shall not issue any CEAOB view or position without due approval from the CEAOB membership.

3. Work plan

Having regard to the International Equivalence and Adequacy sub-group mandate in the Terms of Reference, the following Work Plan sets out the priorities and activities for the period to the end of 2018. Nevertheless, some of the projects are multiannual and they will continue in 2019. Any activity of the sub-group beyond the period covered by the 2018 CEA OB Work Programme may be subject to revision after the adoption of the 2019 CEA OB Work Programme.

The table below sets out the proposed timings for sub-group projects in 2018 and ongoing activities 2019. Depending on the resources available, the sub-group will discuss the priorities for third-country equivalence and adequacy assessments to begin in the second half of 2018.

Further detail on each project is provided below the table.

	Q4 2017	H1 2018	H2 2018	2019
Set up sub-group				
Finalise work plan for presentation to CEA OB				
Implementation of the legal framework				
Impact of the new audit regulatory framework on previous equivalence and adequacy decisions.				
Impact of the entry into force of the General Data Protection Regulation				
Preparation of the guidelines on the content of cooperation agreements and exchange of information with third-country competent authorities.				
Equivalence assessments				
Reassessment of those third countries under the transitional period for equivalence.				
Assessment of the impact of the UK departing from the EU.				
Identification of and set up dialogue with potential third-country audit oversight authorities.				
Adequacy assessments				
Reassessment of those third countries under the transitional period for adequacy.				
Identification of and set up dialogue with potential third-country audit oversight authorities.				
Interaction with other sub-groups				
Dialogue with CEA OB Inspection sub-group				
Other matters				
Input into annual CEA OB report				

Implementation of the legal framework

Impact of the new audit regulatory framework on previous equivalence and adequacy decisions.

The new EU regulatory framework introduced new requirements into the Statutory Audit Directive. In addition, the Audit Regulation introduces an additional regulatory framework with specific requirements regarding statutory audits of public interest entities. The sub-group has concluded that

some of these requirements have an impact on the equivalence and adequacy assessments. As a result, the sub-group is revising the equivalence and adequacy assessment methodological framework. Afterwards, the sub-group will analyse the impact on the previous equivalence and adequacy decisions and the need for revising them. The conclusions of the assessment will be reported to the CEAOB.

Impact of the entry into force of the General Data Protection Regulation

Article 47.1.e) of the Audit Directive requires that international transfers of personal data between EU authorities and non-EU authorities to be done in accordance with Chapter IV of Directive 95/46/EC. The EU General Data Protection Regulation (GDPR) will replace the Data Protection Directive 95/46/EC in 25 May 2018. The GDPR has been designed to harmonize data privacy laws across EU, to protect and empower all EU citizens' data privacy and to reshape the way organizations across the EU approach data privacy.

In order to comply with Article 47.1.e) of the AD, EU competent authorities have signed, together with cooperation agreements, data protection agreements with third-country authorities. As a result, the subgroup together with the European Commission will analysis the impact of the entry into force of the GDPR into these data protection agreements and the need for amending them.

Preparation of the guidelines on the content of cooperation agreements and exchange of information with third-country competent authorities.

Article 36 of the Audit Regulation states that competent authorities may conclude cooperation agreements on exchange of information with third-country competent authorities for the performance of the tasks of those competent authorities under the Audit Regulation. The sub-group will continue its work on identifying the relevant information to be exchanged and the content of the cooperation agreements.

Equivalence assessments

The sub-group will perform the reassessment of those third countries which are in the transitional period until 31 July 2019: Bermuda, Egypt, Russia and Cayman Islands². The sub-group will maintain an ongoing dialogue with those third countries that will need to be reassessed at a later stage (the US³ by end 2021 at the latest).

The sub-group will assess the impact of the UK exit and will liaise with the EC to determine if any (follow-up) actions are required.

In addition, the sub-group will continue working on identifying other relevant third countries to be included under the equivalence regime and start establishing dialogue with those that have already expressed an interest to be included in the equivalence assessment programme. Due to the limited resources, the sub-group will establish priorities for performing equivalence assessment of those third countries.

² European Commission implementing Decision 2016/1223 on the equivalence of certain third countries public oversight, quality assurance, investigations and penalty systems for auditors and audit entities.

³ European Commission implementing Decision 2016/1155 on the equivalence of the public oversight, quality assurance, investigations and penalty systems for auditors and audit entities of the United States of America.

Adequacy assessments

The sub-group will perform the reassessment of those third countries that are in a transitional until 31 July 2019: South Africa and Indonesia⁴. The sub-group will maintain an ongoing dialogue with those third countries that will need to be reassessed at a later stage (the US⁵ by end 2021 at the latest).

In addition, the sub-group will continue working on identifying relevant third countries to be included under the adequacy regime and start establishing dialogue with those that have already expressed an interest to be included in the adequacy assessment programme. Due to the limited resources, the sub-group will establish priorities for performing adequacy assessment of those third countries.

Interaction with other sub-groups

The sub-group will liaise with Inspections sub-group to discuss developments with the US PCAOB, other third-country auditors' oversight authorities on the equivalence and adequacy area and third-country auditors registered under Article 45 of the AD.

Input into CEAOB annual report

The activities of the sub-group will be summarised for input into the CEAOB annual report for 2017.

⁴ European Commission implementing Decision 2016/1010 on the adequacy of the competent authorities of certain third countries and territories.

⁵ European Commission implementing Decision 2016/1156 on the adequacy of the competent authorities of the United States of America.