

EBA-Op-2015-21

17 December 2015

Opinion of the European Banking Authority on the Equivalence of Supervisory and Regulatory Requirements in relation to Turkey and New Zealand

Introduction and legal basis

1. The EBA's competence to deliver an opinion is based on Articles 34(1) and 33(2) of Regulation (EU) No 1093/2010,¹ as third country supervisory and regulatory equivalence relates to the EBA's area of competence.
2. In accordance with Article 14(5) of the Rules of Procedure of the Board of Supervisors,² the Board of Supervisors has adopted this Opinion.
3. In accordance with Articles 107(3), 114(7), 115(4), 116(5), 132(3) and 142(2) of Regulation (EU) No 575/2013 (Capital Requirements Regulation, CRR), the exposures of institutions in third countries may be treated in the manner laid down therein (preferential treatment), provided that the third country applies to institutions prudential, supervisory and regulatory requirements and arrangements at least equivalent to those applied in the European Union. The European Commission may adopt an Implementing Decision as to whether a third country applies prudential supervisory and regulatory requirements or arrangements that are at least equivalent to those applied in the Union.
4. Following the European Commission's call for advice, the EBA is providing input for the assessment of whether the prudential, supervisory and regulatory requirements and arrangements applied to institutions in Turkey and New Zealand are equivalent to those of the Union. The EBA was requested to provide technical advice on the equivalence between the legal

¹ Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority) (OJ L 331, 15.12.2010, p. 12).

² Decision adopting the Rules of Procedure of the European Banking Authority Board of Supervisors of 27 November 2014 (EBA/DC/2011/01 Rev4).

and supervisory frameworks of these countries and the EU framework in view of the prudential requirements for EU credit institutions and investment firms as regards:

- exposures to third country investment firms, credit institutions, clearing houses and exchanges (CRR Article 107(3) and (4)), exposures to third country central governments and central banks (CRR Article 114(7)), exposures to third country regional governments or local authorities (CRR Article 115(4)), exposures to third country public sector entities (CRR Article 116(5)), and exposures in the form of units or shares in third country collective investment undertakings (CIUs) (CRR Article 132 (3)); and
- the definition of a large financial sector entity (CRR Article 142 (4)).

Assessment scope, process and methodology

5. The EBA established a network of equivalence composed of experts from national competent authorities to support the assessment work. The network developed a questionnaire to facilitate the collection of data and guide the equivalence assessment.³ The assessment work has been based on the input from the relevant third country authorities in the questionnaire, as well as subsequent communication with the authorities and relevant local legislative and regulatory documents.
6. The scope of the assessment covers the regulatory and supervisory framework for credit institutions as foreseen in the CRR and Directive 2013/36/EU (Capital Requirements Directive, CRD). For investment firms, the responses and information received did not allow for a consistent and meaningful assessment of the applicable regulatory and supervisory framework.
7. The assessment is structured around eight topics covering several sections that are assessed using a qualitative approach with a five-grade scoring scale (super equivalent, equivalent, largely equivalent, partially equivalent, and non-equivalent). At country level, a two-grade scoring scale is used (equivalent, non-equivalent) to aggregate the section and topic scores.
8. The equivalence assessment is based on the relevant supervisory and regulatory framework in force as documented in domestic laws and regulations and explained by local authorities. The actual enforcement of the supervisory and regulatory framework could not be assessed in practice.
9. The assessment of equivalence is based on the legislation and regulation in force at the time of the assessment. Whereas planned and future regulation can be mentioned in the assessment, it is not considered to be an adequate support for the equivalence decision.

³ The questionnaire has been made publicly available on the EBA website: http://www.eba.europa.eu/documents/10180/1094990/Annex+I+-+EBA+questionnaire+on+regulatory+equivalence_publication.pdf

Specific comments

10. Based on the detailed assessment as provided in the Annex, the EBA considers that the following countries apply to credit institutions prudential, supervisory and regulatory requirements and arrangements that are to be regarded as equivalent:

- Turkey; and
- New Zealand.

This opinion will be published on the EBA's website.

Done at London, 17 December 2015.

(signed)

Andrea Enria

Chairperson

For the Board of Supervisors

Annex – Detailed Country Assessment with Country Introduction for Turkey and New Zealand