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Grand-Ducal Regulation of 18 December 2009 determining the conditions for the recognition of service providers from other Member States as provided for in Article 7 of the Law of 18 December 2009 on the audit profession

We Henri, Grand Duke of Luxembourg, Duke of Nassau,

Having regard to Article 7 of the Law of 18 December 2009 on the audit profession;

Having regard to Article 2(1) of the Law of 12 July 1996 reforming the Council of State and considering that there is urgency;

The opinions of the Chamber of Commerce and of the *Institut des Réviseurs d'Entreprises* having been sought;

Upon the report from Our Minister of Finance and after deliberation of the Government in the Cabinet;

Adopt the following:

Art. 1. Scope

This Grand-Ducal Regulation shall apply to services provided in a temporary and occasional manner by service providers of a Member State of the European Union or of a State party to the agreement on the European Economic Area by way of the free provision of services as regards the activities referred to in Article 1(29)(b) of the Law of 18 December 2009 on the audit profession;

Art. 2. Recognition procedure

In the case of a declaration made prior to the first provision of services to the *Commission de Surveillance du Secteur Financier*, hereinafter 'the CSSF', pursuant to Article 7 of the Law of 18 December 2009 on the audit profession, the CSSF shall effect a check of professional qualifications.

The CSSF may to this end consult the consultative committee provided for in the second paragraph of Article 1 of the Grand-Ducal Regulation of 15 February 2010 determining the requirements for the professional qualification of *réviseurs d'entreprises*;

If the check discloses a substantial difference in the professional qualifications required, the service provider must undergo an aptitude test.

Art. 3. Subjects covered by the aptitude test

The CSSF shall determine the aptitude test which the service provider has to take in one or more fields set out hereinafter:

- commercial law and company law;
- the standards relating to the activities concerned.

Art. 4. Course of the aptitude test

The organisation of the aptitude test shall be determined by the CSSF. The test shall take place if necessary twice a year.

The language of the test shall be French. At the express request of the service provider and subject to the agreement of the CSSF, he may express himself at the test in German or English.

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The aptitude test shall consist of a written test covering the subject(s) set out in Article 3 of this Grand-Ducal Regulation. The subject will be drawn up and the test will be marked by the CSSF.

In order to pass the aptitude test, the candidate must obtain at least half of the total marks for each subject.

Art. 5. Recognition

Where the service provider satisfies the requirements set out in Article 7 of the Law of 18 December 2009 on the audit profession or has passed the aptitude test referred to in Article 4 of this Grand-Ducal Regulation, the CSSF shall notify the service provider of the recognition of his professional qualifications to carry out the supply of services as requested under the system of the free provision of services.

Art. 6. Final provisions

This Grand-Ducal Regulation shall enter into force on the date of its publication in the *Mémorial* [Official Gazette].

Art. 7. Execution

Our Minister of Finance shall be responsible for the execution of this Grand-Ducal Regulation, which will be published in the *Mémorial*.

The Minister of Finance
Luc Frieden

Crans, 18 December 2009
Henri