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EUROPEAN CENTRAL BANK

OPINION OF THE EUROPEAN CENTRAL BANK

of 4 June 2021

on a proposal for a regulation of the European Parliament and of the Council on digital operational resilience for the financial sector

(CON/2021/20)

(2021/C 343/01)

Introduction and legal basis

On 22, 23 and 29 December 2020 the European Central Bank (ECB) received requests from the Council of the European Union and the European Parliament, respectively, for an opinion on a proposal for a regulation of the European Parliament and of the Council on digital operational resilience for the financial sector and amending Regulations (EC) No 1060/2009, (EU) No 648/2012, (EU) No 600/2014 and (EU) No 909/2014 ([1]) (hereinafter the 'proposed regulation') and a proposal for a directive amending Directives 2006/43/EC, 2009/65/EC, 2009/138/EC, 2011/61/EU, 2013/36/EU, 2014/65/EU, (EU) 2015/2366 and (EU) 2016/2341 ([2]) (hereinafter the 'proposed amending directive', together with the 'proposed regulation', the 'proposed acts').

The ECB's competence to deliver an opinion is based on Articles 127(4) and 282(5) of the Treaty on the Functioning of the European Union, as the proposed acts contain provisions falling within the ECB's fields of competence, in particular, the definition and implementation of monetary policy, the promotion of the smooth operation of payment systems, the contribution to the smooth conduct of policies pursued by competent authorities relating to the stability of the financial market system, and the ECB's tasks concerning the prudential supervision of credit institutions pursuant to the first and fourth indents of Article 127(2), Article 127(5) and Article 127(6) of the Treaty. In accordance with the first sentence of Article 17.5 of the Rules of Procedure of the European Central Bank, the Governing Council has adopted this opinion.

1. General observations

1.1 The ECB welcomes the proposed regulation, which aims to enhance the cyber security and operational resilience of the financial sector. In particular, the ECB welcomes the aim of the proposed regulation to remove obstacles to, and improve the establishment and functioning of, the internal market for financial services by harmonising the rules applicable in the area of information and communication technology (ICT) risk management, reporting, testing and ICT third-party risk. Furthermore, the ECB welcomes the aim of the proposed regulation to streamline and harmonise any overlapping regulatory requirements or supervisory expectations to which financial entities are currently subject under Union law.

1.2 The ECB understands that the proposed regulation represents, in relation to financial entities identified as operators of essential services ([3]), sector specific legislation (*lex specialis*) in accordance with the meaning as set out in Article 1(7) of Directive (EU) 2016/1148 of the European Parliament and of the Council ([4]) (hereinafter the 'NIS Directive'); this implies that the requirements under the proposed regulation would, in principle, prevail over the NIS Directive. In practice, financial entities identified as operators of essential services ([5])

([1]) COM(2020) 595 final.
([2]) COM(2020) 596 final.
([3]) See Article 1(2) of the proposed regulation.
([4]) Directive (EU) 2016/1148 of the European Parliament and of the Council of 6 July 2016 concerning measures for a high common level of security of network and information systems across the Union (OJ L 194, 19.7.2016, p. 1).
([5]) See Article 5 of the NIS Directive.

would, inter alia, report incidents in accordance with the proposed regulation rather than the NIS Directive. While the ECB welcomes the reduction of potential overlapping requirements for financial entities in the field of incident reporting, further consideration should be given to the interplay between the proposed regulation and the NIS Directive. For example, under the proposed regulation an ICT third-party service provider ([6]) could be subject to recommendations issued by the lead overseer ([7]). At the same time, the very same ICT third-party service provider may be classified as an operator of essential services under the NIS Directive and be subject to binding instructions issued by the competent authority ([8]). In such case, the ICT third-party service provider could be subject to conflicting recommendations issued under the proposed regulation and binding instructions issued under the NIS Directive. The ECB suggests that the Union legislative bodies reflect further on potential inconsistencies between the proposed regulation and the NIS Directive that may hamper the harmonisation and reduction of overlapping and conflicting requirements for financial entities.

1.3 The ECB also understands that under the proposal for a directive of the European Parliament and of the Council on measures for a high common level of cybersecurity across the Union, repealing Directive (EU) 2016/1148 ([9]) (hereinafter the 'proposed NIS2 directive'), 'near misses' ([10]) will be subject to reporting obligations ([11]). While Recital (39) of the proposed NIS2 directive refers to the meaning of the term 'near misses', it is unclear whether the intention is to require that near misses be reported by the financial entities listed in Article 2 of the proposed regulation. In this regard, and also taking into account that near misses can only be identified as such after they have occurred, the ECB would welcome receiving notification of significant near-misses in a timely manner, as is currently the case for cyber incidents. The ECB suggests that there should be greater coordination between the proposed regulation and the proposed NIS2 directive to clarify the exact scope of reporting to which any given financial entity may be subject under these two distinct but connected pieces of Union legislation. At the same time, 'near misses' would need to be defined and provisions clarifying their significance would need to be developed.

1.4 The ECB welcomes incentivising financial entities to share on a voluntary basis cyber threat intelligence information amongst each other to enhance and bolster their cyber resilience postures. The ECB itself has assisted with the market-driven Cyber threat Intelligence Information Sharing Initiative (CIISI-EU) and has made available the blueprints for anyone to build and foster such an initiative ([12]).

1.5 The ECB supports cooperation between the competent authorities for the purposes of the proposed regulation, the European Supervisory Authorities (ESAs), and the Computer Security Incident Response Teams (CSIRTS) ([13]). It is essential to exchange information in order to ensure the operational resilience of the Union, as information sharing and cooperation among authorities can contribute to the prevention of cyber-attacks and help reduce the spread of ICT threats. A common understanding of ICT-related risks should be promoted and assessing such risks in a consistent manner should be ensured across the Union. It is of utmost importance that information be shared with the single point of contact ([14]) and the national CSIRTS by competent authorities ([15]) only when there are clearly established classification and information sharing mechanisms, coupled with adequate safeguards to ensure confidentiality.

1.6 Finally, the ECB would welcome the introduction under the proposed regulation of rules on personal data and data retention. The length of the retention period should take into account the investigation, inspection, request for information, communication, publication, evaluation, verification, assessment and drafting of oversight or supervisory plans that the competent authorities may have to carry out as part of their

([6]) See Article 3(15) of the proposed regulation.
([7]) See Article 31(1)(d) of the proposed regulation.
([8]) See Article 15(3) of the NIS Directive.
([9]) COM(2020) 823 final.
([10]) Events that could potentially have caused harm, but were successfully prevented from fully transpiring; see Recital (39) of the NIS2 Directive.
([11]) See Article 11 of the NIS2 Directive.
([12]) Cyber threat Intelligence Information Sharing Initiative (CIISI-EU) available at the ECB's website www.ecb.europa.eu.
([13]) See Article 42 of the proposed regulation.
([14]) See Article 8(3) of the NIS Directive.
([15]) See also Articles 11, 26 and 27 of the NIS2 Directive.

respective obligations and duties under the proposed regulation. In this respect, a 15-year retention period would be adequate. This data retention period could be shortened or extended, as specific instances require. In this respect, the ECB suggests that the Union legislative bodies, in their formulation of the relevant provision on personal data and data retention, also take into account the data minimisation principle, as well as further processing for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes ([16]).

2. **Specific observations on oversight and securities clearing and settlement**

2.1 *ESCB and Eurosystem oversight competences*

2.1.1 Closely linked to its basic monetary policy tasks, the Treaty and the Statute of the European System of Central Banks and of the European Central Bank (hereinafter the Statute of the ESCB) provide for the Eurosystem's conduct of oversight over clearing and payment systems. Pursuant to the fourth indent of Article 127(2) of the Treaty, as mirrored in Article 3.1 of the Statute of the ESCB, one of the basic tasks to be carried out through the European System of Central Banks (ESCB) is to promote the smooth operation of payment systems. In the performance of this basic task, the ECB and the national central banks may provide facilities, and the ECB may make regulations, to ensure efficient and sound clearing and payments systems within the Union and with other countries ([17]). Pursuant to its oversight role, the ECB adopted Regulation (EU) No 795/2014 of the European Central Bank (ECB/2014/28) (hereinafter the 'SIPS Regulation') ([18]). The SIPS Regulation implements, in prescriptive form, the Principles for financial market infrastructures of April 2012 issued by the Committee on Payment and Settlement Systems and the International Organisation of Securities Commissions ([19]), which are legally binding and cover both large-value and retail payment systems of systemic importance, operated either by a Eurosystem central bank or a private entity. The Eurosystem oversight policy framework ([20]) identifies payment instruments as an 'integral part of payment systems' and thus includes these within the scope of its oversight. The oversight framework for payment instruments is currently under review ([21]). Under that framework, a payment instrument (e.g. a card, credit transfer, direct debit, e-money transfer and digital payment token ([22])) is defined as a personalised device (or a set of devices) and/or set of procedures agreed between the payment service user and the payment service provider used in order to initiate a transfer of value ([23]).

2.1.2 In the light of the above, the ECB welcomes the exclusion from the proposed regulation's scope article of system operators as defined in point (p) of Article 2 of Directive 98/26/EC of the European Parliament and of the Council ([24]), payment systems (including those operated by central banks), payment schemes and payment

([16]) See Articles 4(b) and 13 of Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

([17]) See Article 22 of the Statute of the ESCB.

([18]) Regulation (EU) No 795/2014 of the European Central Bank of 3 July 2014 on oversight requirements for systemically important payment systems (ECB/2014/28) (OJ L 217, 23.7.2014, p. 16).

([19]) Available on the Bank for International Settlements' website at www.bis.org.

([20]) Eurosystem oversight policy framework, Revised version (July 2016) available on the ECB's website at www.ecb.europa.eu.

([21]) See the revised and consolidated Eurosystem oversight framework for electronic payment instruments, schemes and arrangements of October 2020 (PISA framework), available on the ECB's website at www.ecb.europa.eu.

([22]) A digital payment token is a digital representation of value backed by claims or assets recorded elsewhere and enabling the transfer of value between end users. Depending on the underlying design, digital payment tokens can foresee a transfer of value without necessarily involving a central third-party and/or using payment accounts.

([23]) 'Transfer of value' 'The act, initiated by the payer or on the payer's behalf or by the payee, of transferring funds or digital payment tokens, or placing or withdrawing cash on/from a user account, irrespective of any underlying obligations between the payer and the payee. The transfer can involve a single or multiple payment service providers.' This definition of 'transfer of value' under the PISA framework departs from the definition of a transfer of 'funds' under Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC (OJ L 337, 23.12.2015, p. 35). A 'transfer of value' in the context of a 'payment instrument' as defined in that Directive can only refer to a transfer of 'funds'. Under that Directive, 'funds' do not include digital payment tokens unless the tokens can be classified as electronic money (or more hypothetically as scriptural money).

([24]) Directive 98/26/EC of the European Parliament and of the Council of 19 May 1998 on settlement finality in payment and securities settlement systems (OJ L 166, 11.6.1998, p. 45).

arrangements in view of the application of the above-referenced oversight frameworks. For these reasons, the ESCB's competences under the Treaty and the Eurosystem's competences under the SIPS Regulation should be clearly spelled out in the recitals of the proposed regulation.

2.1.3 By the same token, the ECB welcomes the exclusion from the application of the oversight framework set out in the proposed regulation of ICT third-party service providers that are subject to oversight frameworks established for the purposes of supporting the tasks referred to in Article 127(2) of the Treaty ([25]). In this respect, the ECB would like to stress that ESCB central banks acting in their monetary capacities ([26]) and the Eurosystem when providing services via TARGET2, TARGET2-Securites (T2S) ([27]) and TARGET Instant Payment Settlement (TIPS) ([28]) are not subject to the scope article of the proposed regulation, nor can they be deemed ICT third-party service providers and thus potentially classified as critical ICT third-party service providers for the purposes of the proposed regulation. The Eurosystem oversees T2S in connection with its mandate to ensure efficient and sound clearing and payment systems. Furthermore, ESMA has clarified that T2S is not a critical service provider ([29]) within the meaning of Regulation (EU) No 909/2014 of the European Parliament and of the Council ([30]) (hereinafter the 'CSD Regulation'). As a result, T2S's organisational and operational safety, efficiency and resilience are ensured through the applicable legal, regulatory and operational framework and agreed governance arrangements or T2S, as opposed to via the CSD Regulation.

2.1.4 In addition, the Eurosystem's oversight policy framework ([31]) covers critical service providers such as the Society for Worldwide Interbank Financial Telecommunication (SWIFT). SWIFT is a limited liability cooperative company established in Belgium, which provides secure messaging services internationally. The Nationale Bank van België/Banque Nationale de Belgique acts as lead overseer of SWIFT, and conducts, on the basis of a cooperative oversight arrangement, oversight in respect of SWIFT, in cooperation with the other G10 central banks, including the ECB. The G10 overseers recognise that the main focus of oversight is SWIFT's operational risk, as this is considered to be the primary risk category through which SWIFT could pose a systemic risk to the financial system in the Union. In this regard, the SWIFT Cooperative Oversight Group has developed a specific set of principles and high-level expectations that apply to SWIFT, such as risk identification and management, information security, reliability and resilience, technology planning and communication with users. The G10 overseers expect SWIFT to adhere to the Committee on Payment and Market Infrastructures (CPMI) and the International Organisation of Securities Commissions (IOSCO) Guidance on cyber resilience ([32]) as well as other international standards on ICT security which, when taken together, exceed the requirements set out in the proposed regulation.

2.1.5 One cannot be certain that SWIFT and perhaps other service providers subject to the Eurosystem oversight policy framework, could become subject to the proposed regulation as ICT third-party service providers if they were to provide services not covered under Article 127(2) of the Treaty. The ECB therefore strongly welcomes that service providers already subject to the Eurosystem oversight policy framework, including but not limited to SWIFT, be excluded from the scope of application of the oversight framework set out under the proposed regulation.

([25]) See Article 28(5) of the proposed regulation.

([26]) See paragraph 1.3 of Opinion of the European Central Bank of 19 February 2021 on a proposal for a regulation on Markets in Crypto-assets, and amending Directive (EU) 2019/1937 (CON/2021/4). All ECB Opinions are published in EUR-Lex.

([27]) See Annex IIa to Guideline ECB/2012/27 of the European Central Bank of 5 December 2012 on a Trans-European Automated Real-time Gross settlement Express Transfer system (TARGET2) (OJ L 30, 30.1.2013, p. 1). Guideline ECB/2012/13 of the European Central Bank of 18 July 2012 on TARGET2-Securities (OJ L 215, 11.8.2012, p. 19); Decision ECB/2011/20 of the European Central Bank of 16 November 2011 establishing detailed rules and procedures for implementing the eligibility criteria for central securities depositories to access TARGET2-Securities services (OJ L 319, 2.12.2011, p. 117). See also the T2S Framework Agreement and the Collective Agreement.

([28]) See Annex IIb to Guideline ECB/2012/27.

([29]) See Article 30(5) of Regulation (EU) No 909/2014 of the European Parliament and of the Council of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories and amending Directives 98/26/EC and 2014/65/EU and Regulation (EU) No 236/2012 (OJ L 257, 28.8.2014, p. 1) and Article 68 of Commission Delegated Regulation (EU) 2017/392 of 11 November 2016 supplementing Regulation (EU) No 909/2014 of the European Parliament and of the Council with regard to regulatory technical standards on authorisation, supervisory and operational requirements for central securities depositories (OJ L 65, 10.3.2017, p. 48).

([30]) Regulation (EU) No 909/2014 of the European Parliament and of the Council of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories and amending Directives 98/26/EC and 2014/65/EU and Regulation (EU) No 236/2012 (OJ L 257, 28.8.2014, p. 1).

([31]) Eurosystem oversight policy framework, Revised version (July 2016) available on the ECB's website at www.ecb.europa.eu.

([32]) Available on the Bank for International Settlements' website at www.bis.org.

2.2 *ESCB competences in the area of securities settlement*

2.2.1 Central securities depositories (CSDs) are financial market infrastructures (FMIs) that are strictly regulated and supervised by different authorities pursuant to the CSD Regulation, which sets out requirements pertaining to the settlement of financial instruments as well as rules on the organisation and conduct of CSDs. Furthermore, CSDs should take note of the CPMI-IOSCO Guidance on cyber resilience, which has been operationalised by the Cyber resilience oversight expectations for financial market infrastructures (December 2018) ([33]) . In addition to the supervisory competences entrusted to national competent authorities (NCAs) under the CSD Regulation, the members of the ESCB act as 'relevant authorities', in their capacity as overseers of securities settlement systems operated by CSDs, central banks issuing the most relevant currencies in which settlement takes place and central banks in whose books the cash leg of transactions is settled ([34]). In this regard, recital 8 of the CSD Regulation states that the Regulation should apply without prejudice to the responsibilities of the ECB and the national central banks to ensure efficient and sound clearing systems and payment systems within the Union and other countries. Recital 8 also states that the CSD Regulation should not prevent the members of the ESCB from accessing information relevant to the performance of their duties ([35]), including the oversight of CSDs and other FMIs ([36]).

2.2.2 In addition, the members of the ESCB often act as settlement agents for the cash leg of securities transactions and the Eurosystem offers settlement services via T2S to CSDs. The Eurosystem's oversight of T2S is related to its mandate to ensure efficient and sound clearing and payment systems, while competent and relevant authorities of CSDs aim to ensure their smooth functioning, the safety and efficiency of settlement and the proper functioning of financial markets in their respective jurisdictions.

2.2.3 Under the proposed regulation ([37]) ESCB central banks are not involved in the development of technical standards as regards the specification of ICT risks. Similarly, under the proposed regulation ([38]) the relevant authorities are not informed of any ICT related incidents. ESCB central bank should keep the same level of involvement as currently provided under the CSD Regulation and the relevant authorities should be notified of ICT related incidents. The Eurosystem is the relevant authority for all euro area CSDs and for several other EU CSDs. ESCB central banks would need to be informed about ICT-related incidents that are relevant to the performance of their duties, including the oversight of CSDs and other FMIs. The risks to which CSDs are exposed, including ICT risks, have the potential to threaten the sound functioning of CSDs. Therefore, ICT risks are of importance to relevant authorities, which should be provided with a full and detailed overview of these risks in order to assess them and influence the CSDs' risk management approach. The proposed regulation should not provide for less restrictive requirements as regards ICT risks when compared to those provided under the CSD Regulation and current related regulatory technical standards.

2.2.4 In addition, the Union legislative bodies should clarify the interplay between the proposed regulation ([39]) and the regulatory technical standards supplementing the CSD Regulation. In particular, it is not clear whether a CSD is to be exempted from the obligation of having its own secondary site where its ICT third-party service provider maintains such a site ([40]). Should a CSD be exempt from this obligation to maintain a secondary site,

([33]) Available on the ECB's website at www.ecb.europa.eu.
([34]) See Article 12 of Regulation (EU) No 909/2014.
([35]) See also Article 13, and Articles 17(4) and 22(6) of Regulation (EU) No 909/2014.
([36]) See paragraph 7.3 of Opinion of the European Central Bank of 6 April 2017 on the identification of critical infrastructures for the purpose of information technology security (CON/2017/10); paragraph 7.2 of Opinion of the European Central Bank of 8 November 2018 on designation of essential services and operators of essential services for the purpose of network and information systems security (CON/2018/47); paragraph 3.5.2 of Opinion of the European Central Bank of 2 May 2019 on the security of network and information systems (CON/2019/17); and paragraph 3.5.2 of Opinion of the European Central Bank of 11 November 2019 on the security of network and information systems (CON/2019/38).
([37]) See Article 54(5) of the proposed regulation and Article 45(7) of Regulation (EU) No 909/2014.
([38]) See Article 54(4) of the proposed regulation and Article 45(6) of Regulation (EU) No 909/2014.
([39]) See Article 11(5) of the proposed regulation.
([40]) See Article 78(3) of Commission Delegated Regulation (EU) 2017/392 of 11 November 2016 supplementing Regulation (EU) No 909/2014 of the European Parliament and of the Council with regard to regulatory technical standards on authorisation, supervisory and operational requirements for central securities depositories (OJ L 65 10.3.2017, p. 48).

it is unclear what legal value this requirement would have. By the same token, the proposed regulation ([41]) refers to a recovery time objective and recovery point objectives for each function ([42]), while the relevant regulatory technical standard makes a distinction between critical functions ([43]) and critical operations ([44]) in relation to the recovery time set for CSDs' critical operations. Further clarification and reflection by the Union legislative bodies are warranted on the interplay between the proposed regulation and the regulatory technical standards supplementing the CSD Regulation in order to avert the risk of conflicting requirements. Finally, it should be clarified that exemptions granted to CSDs operated by certain public entities under the CSD Regulation ([45]) are extended under the proposed regulation.

2.3 *ESCB competences in the area of securities clearing*

2.3.1 ESCB central banks are entrusted with oversight competences in relation to central counterparties (CCPs). In this respect, the Eurosystem national central banks often cooperate with the relevant national competent authorities in the oversight and supervisory functions of CCPs and participate in the respective CCP's college established under Regulation (EU) No 648/2012 of the European Parliament and of the Council ([46]) (hereinafter 'EMIR'). The relevant members of the Eurosystem ([47]) participate in EMIR colleges in their oversight capacity and represent the Eurosystem as a central bank of issue for CCPs where the euro is one of the most relevant currencies for the financial instruments cleared (and for offshore CCPs that clear a significant proportion of financial instruments in euro). The ECB is the central bank of issue for non-euro area CCPs.

2.3.2 Under the proposed regulation ([48]) ESCB central banks are not involved in the development of technical standards as regards the specification of ICT risks. Moreover, the proposed regulation ([49]) lacks any reference to the recovery time objective and the recovery point objective requirements under EMIR ([50]). The proposed regulatory set-up should not provide for less restrictive requirements regarding ICT risks than those that currently exist. Hence, it is critical to set clear recovery time and point objectives in order to have a sound business continuity management framework. Maintaining specific recovery time and point objectives is also part of the CPMI-IOSCO Principles for Financial Market Infrastructures ([51]). The current provision under EMIR should be retained, and the proposed regulation should be adapted accordingly. The ESCB central banks should be involved in the preparation of any secondary level legislation, as well as further clarification and reflection by the Union legislative bodies on the interplay between the proposed regulation and the regulatory technical standards supplementing, so as to avert the risk of conflicting or overlapping requirements.

3. **Specific observations on prudential supervisory aspects**

3.1 Council Regulation (EU) No 1024/2013 ([52]) (hereinafter the 'SSM Regulation') confers specific tasks on the ECB concerning the prudential supervision of credit institutions within the euro area and makes the ECB responsible for the effective and consistent functioning of the Single Supervisory Mechanism (SSM), within which specific supervisory responsibilities are distributed between the ECB and the participating NCAs. In particular, the ECB has the task of authorising and withdrawing the authorisation of all credit institutions. The ECB also has the task, among others, to ensure compliance with the relevant Union laws imposing prudential requirements on credit institutions, including the requirement to have in place robust governance arrangements, such as sound risk management processes and internal control mechanisms ([53]). To this end, the ECB is given all supervisory powers to intervene in the activity of credit institutions that are necessary for the exercise of its functions. The ECB and the

([41]) See Article 11(6) of the proposed regulation.
([42]) See Article 3(17) of the proposed regulation.
([43]) See Article 76(2)(d) and (e) of Commission Delegated Regulation (EU) 2017/392.
([44]) See Article 78(2) and (3) of Commission Delegated Regulation (EU) 2017/392.
([45]) See Article 1(4) of Regulation (EU) No 909/2014.
([46]) Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories (OJ L 201, 27.7.2012, p. 1).
([47]) See Article 18(2)(g) and (h) of EMIR.
([48]) See Article 53(2)(b) and (3) of the proposed regulation and Article 34(3) of EMIR.
([49]) See Article 53(2)(a) of the proposed regulation.
([50]) See Article 34 of EMIR.
([51]) See CPMI-IOSCO Principles for Financial Market Infrastructures available on the website of the Bank for International Settlements: www.bis.org.
([52]) Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions (OJ L 287, 29.10.2013, p. 63).
([53]) See Articles 4(1)(e) and 6(4) of Regulation (EU) No 1024/2013.

relevant NCAs are thus the competent authorities exercising specified prudential supervisory powers under Regulation 2013/575/EU of the European Parliament and of the Council ([54]) (hereinafter the 'Capital Requirements Regulation') and Directive 2013/36/EU of the European Parliament and of the Council ([55]) (hereinafter the 'Capital Requirements Directive).

3.2 The proposed regulation states that the single rulebook and system of supervision should be further developed to cover digital operational resilience and ICT security, by enlarging the mandates of financial supervisors tasked with monitoring and protecting financial stability and market integrity ([56]). The aim is to foster a comprehensive ICT or operational risk framework through the harmonisation of key digital operational resilience requirements for all financial entities ([57]). In particular, the proposed regulation aims at consolidating and upgrading ICT risk requirements that are, to date, separately addressed in different pieces of legislation ([58]).

3.3 The requirements related to ICT risk for the financial sector are currently spread over a number of acts of Union law, including the Capital Requirements Directive, and soft law instruments (such as EBA guidelines), and are diverse and occasionally incomplete. In some cases, ICT risk has only been implicitly addressed as part of operational risk, whereas in others it has not been addressed at all. This should be remedied by aligning the proposed regulation and those acts. To that end, the proposed amending directive puts forward a set of amendments that appear necessary to bring legal clarity and consistency in relation to the application of the various digital operational resilience requirements. However, the amendments to the Capital Requirements Directive currently suggested by the proposed amending directive ([59]) only refer to the provisions on contingency and business continuity plans ([60]), given that, purportedly, they implicitly serve as a basis for addressing ICT risk management.

3.4 Furthermore, the proposed regulation ([61]) provides that financial entities, including credit institutions, shall have in place internal governance and control frameworks that ensure an effective and prudent management of all ICT risks. The proposed regulation ([62]) provides for the application at the individual and consolidated level of the requirements set out in it, but without sufficient coordination with the sector specific legislation referred to. Last, under the proposed regulation ([63]), it is provided that without prejudice to the provisions on the oversight framework for critical ICT third-party service providers referred to in the proposed regulation ([64]), compliance with the obligations set out therein shall be ensured, for credit institutions, by the competent authority designated in accordance with Article 4 of Capital Requirements Directive, without prejudice to the specific tasks conferred on the ECB by the SSM Regulation.

3.5 In view of the foregoing, the ECB understands that, in relation to credit institutions, and save for the provisions of the proposed regulation relating to the oversight framework for critical ICT third-party service providers ([65]), the proposed regulation intends to set forth a prudential internal governance framework for the management of ICT risk that will be integrated into the general internal governance framework under the Capital Requirements Directive. Moreover, given the prudential nature of the proposed framework, the competent authorities responsible for supervision of the compliance with the obligations set out under the proposed framework, including the ECB, will be the authorities responsible for banking supervision in accordance with the SSM Regulation.

([54]) 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 (OJ L 176, 27.6.2013, p. 1).
([55]) Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p. 338).
([56]) See Recital (8) of the proposed regulation.
([57]) See Recital (11) of the proposed regulation.
([58]) See Recital (12) of the proposed regulation.
([59]) See Recitals (4) and (5) of the proposed amending directive.
([60]) See Article 85 of the Capital Requirements Directive.
([61]) See Article 4(1) of the proposed regulation.
([62]) See Article 25(3)(4) of the proposed regulation.
([63]) See Article 41 of the proposed regulation.
([64]) See Section II of Chapter V of the proposed regulation.
([65]) See Section II of Chapter V of the proposed regulation.

3.6 The Union legislative bodies may thus wish to take into consideration the following suggestions to increase clarity and coordination between the proposed regulation and the Capital Requirements Directive. First, the requirements under the proposed regulation may expressly be qualified as prudential, as has been done, inter alia, in the CSD Regulation ([66]). Second, the recitals of the proposed amending directive ([67]) could broaden their wording given that the requirements under the proposed regulation go beyond the sole phase of contingency and business continuity plans. ICT risk governance measures, overall, fall under the more general scope of robust governance arrangements under Article 74 of the Capital Requirements Directive ([68]). Third, the proposed regulation ([69]) should be amended in order to recall in the recitals the ECB's competence for the prudential supervision of credit institutions under the Treaty and the SSM Regulation. Fourth, the reference to the application at the individual and consolidated level of the requirements therein provided ([70]) should be revised since sub-consolidated and consolidated levels are not defined in the proposed regulation, and certain types of intermediaries are not subject to consolidated supervision under the relevant legislation (e.g. payment institutions). Moreover, the level of application of the requirements under the proposed regulation should spring solely from the legislation applicable to each type of financial entity. In the case of credit institutions, a clear connection between the Capital Requirements Directive and the proposed regulation is provided for, and so the requirements under the proposed regulation would automatically apply at individual, sub-consolidated or consolidated level ([71]), as the case may be. Finally, the Union legislative bodies could consider providing a transitional regime to manage the period between the entry into force of the proposed regulation and the entry into force of the regulatory technical standards envisaged in the proposed regulation, given that some intermediaries, including credit institutions, are already subject to rules on ICT risks that are applicable to specific sectors and are more detailed than the general provisions of the proposed regulation.

3.7 The ECB has been entrusted under the SSM Regulation with the task of ensuring compliance by credit institutions with Union law requirements requiring credit institutions to have in place robust risk management processes and internal control mechanisms ([72]). This means that the ECB must ensure that credit institutions implement policies and processes to evaluate and manage their exposure to operational risk, including model risk, and to cover low-frequency, high-severity events. Credit institutions are required to articulate what constitutes operational risk for the purposes of these policies and procedures ([73]).

3.8 In July 2017 the Governing Council of the European Central Bank (ECB) adopted the SSM Cyber Incident Reporting Framework (hereinafter referred to as the "Framework"), on the basis of a draft proposal of the Supervisory Board in accordance with Articles 26(8) and Article 6(2) of the SSM Regulation and Article 21(1) of Regulation (EU) No 468/2014 of the European Central Bank (ECB/2014/17) ([74]). The Framework consists of a binding request (individual decisions addressed to credit institutions) for information and/or reporting on the basis of Article 10 of the SSM Regulation ([75]). Some countries already have an incident reporting process in place, requiring credit institutions to report all significant cyber incidents to their NCAs. In those countries, significant credit institutions will still report incidents to the NCAs, which will then forward them without undue delay to the ECB on behalf of the supervised entities. Therefore, the decisions referred to above are also addressed to these national competent authorities to forward that information to the ECB based on the Framework. The ECB supports the Union

([66]) See title of Chapter II, Section 4, "Prudential requirements" of the CSD Regulation.

([67]) See Recital (4) of the proposed amending directive.

([68]) Article 85 of Directive 2013/36/EU is a mere specification. In this regard, please see also pages 4, 11 and 37 of the European Banking Authority Guidelines on ICT and security risk management of 29 November 2019 (hereinafter the "EBA Guidelines"), where the general legal basis is expressly found in Article 74 of Directive 2013/36/EU.

([69]) See Article 41(1) of the proposed regulation.

([70]) See Article 25(3) and (4) of the proposed regulation.

([71]) See also Article 109 of the Capital Requirements Directive.

([72]) See Article 4(1)(e) of the SSM Regulation.

([73]) See Article 85 of the Capital Requirements Directive.

([74]) Regulation (EU) No 468/2014 of the European Central Bank of 16 April 2014 establishing the framework for cooperation within the Single Supervisory Mechanism between the European Central Bank and national competent authorities and with national designated authorities (SSM Framework Regulation) (ECB/2014/17) (OJ L 141, 14.5.2014, p. 1).

([75]) Specifically, a cyber incident (an identified possible breach of information security, whether malicious or accidental) must be reported to the ECB if at least one of the following conditions is met: (1) there is a potential financial impact of €5 million or 0.1% of CET1; (2) the incident is publicly reported or causes reputational damage; (3) the incident was escalated to the CIO outside of the regular reporting; (4) the bank notified the incident to the CERT/CSIRT, a security agency or the police; (5) disaster recovery or business continuity procedures have been triggered or a cyber insurance claim has been filed; (6) there has been a breach of legal or regulatory requirements; or (7) the bank uses internal criteria and expert judgement (including a potential systemic impact) and decides to inform the ECB.

legislative bodies' effort to promote harmonisation and streamlining, inter alia, regarding the set of rules and obligations applicable to credit institutions on incident reporting. In view of this, the ECB stands ready to amend (and potentially repeal) the Framework, where necessary, in the light of the eventual adoption of the proposed regulation.

4. Specific observations on ICT risk management, incident reporting, operational resilience testing and ICT third-party risk

4.1 *ICT risk management*

4.1.1 The ECB welcomes the introduction by the proposed regulation of a robust and comprehensive ICT risk management framework that encompasses the CPMI-IOSCO Guidance on cyber resilience and is closely aligned to best practices, including the Eurosystem Cyber Resilience Oversight Expectations for FMIs.

4.1.2 The ECB supports the notion that financial entities should have to perform risk assessments upon each 'major change' in the network and information system infrastructure ([76]). Having said that, the proposed regulation contains no definition of 'major change', creating unwelcome scope for diverging interpretations by financial entities that could ultimately hamper the proposed regulation's harmonisation aims. For the sake of legal certainty, the Union legislative bodies might wish to consider the introduction of a definition of 'major change' in the proposed regulation.

4.1.3 The ECB generally supports the idea that financial entities other than microenterprises shall report relevant costs and losses caused by ICT disruptions and ICT related incidents to competent authorities ([77]). However, to ensure the overall effectiveness of the system, and to avoid the possibility of overwhelming competent authorities and financial entities with an excessive number of reports, the introduction of relevant thresholds, possibly of a quantitative nature, could be usefully explored by the Union legislative bodies.

4.1.4 The ECB acknowledges the possibility of financial entities delegating to intra-group or external undertakings the tasks of verifying compliance with ICT risk management requirements, upon approval by the competent authorities ([78]). At the same time, it is important that the Union legislative bodies clarify how the approval by the competent authorities would be granted in cases where a financial entity is subject to multiple competent authorities. This could occur where a financial entity is a credit institution, a crypto-assets service provider and/or a payment service provider. Finally, in relation to the identification and classification to be performed by financial entities under the proposed regulation ([79]), the ECB would consider prudent, for the purposes of the classification of assets, that the proposed regulation also require financial entities to take into account the criticality of such assets (i.e. whether they support critical functions).

4.2 *Incident reporting*

4.2.1 The ECB welcomes the efforts outlined in the proposed regulation to harmonise the ICT incident reporting landscape within the Union and work towards a centralised reporting of major ICT-related incidents ([80]). The introduction of a harmonised framework for the reporting of major ICT-related incidents ([81]) to the relevant competent authorities would in principle streamline and harmonise the reporting burden of financial entities, including credit institutions. Competent authorities would benefit from the broader scope of incidents covered, going beyond cyber-related incidents currently covered by existing frameworks ([82]). The future adoption of the proposed regulation would require reviewing and potentially repealing existing frameworks, including the SSM Cyber Incident Reporting Framework. Having said that, in order to achieve a true streamlining and full alignment across all frameworks, it is critical to ensure that the scope of the incident reporting provisions under the proposed regulation, including all the relevant definitions, thresholds and reporting parameters, be fully aligned with relevant frameworks. In particular, it is of the utmost importance to ensure alignment between on the one hand the proposed regulation, and, on the other hand, Directive (EU) 2015/2366 of the European Parliament and of the

([76]) See Article 7(3) of the proposed regulation.
([77]) See Article 10(9) of the proposed regulation.
([78]) See Article 5(10) of the proposed regulation.
([79]) See Article 7 of the proposed regulation.
([80]) See Article 19 of the proposed regulation.
([81]) See Articles 3(7), 17 and 18 of the proposed regulation.
([82]) See for example the Framework.

Council ([83]) (hereinafter the 'PSD2') and the EBA Guidelines on major incident reporting (hereinafter the 'EBA Guidelines'). The proposed amending directive ([84]) contains amendments to the PSD2 in relation to the delineation of the incident reporting between the proposed regulation and the PSD2, which would affect mainly payment service providers, who could also be authorised as credit institutions, as well as the competent authorities. There is a lack of clarity as regards the incident notification process, and there is a potential overlap between some of the incidents that need to be reported under both the proposed regulation and the EBA Guidelines.

4.2.2 The processes for notifying major incidents under, respectively, the proposed regulation ([85]), the PSD2 and the corresponding EBA Guidelines would require payment service providers to submit an incident report to their respective competent authority once the incident has been classified. As a matter of fact, initial reports do not capture the essence, cause or functional area affected by the incident and payment service providers may only be in a position to make such distinctions at a later stage, when more detailed information about the incident becomes available. As a result, initial incidents reports could be submitted both under the proposed regulation and the EBA Guidelines, or payment service providers may decide upon a single reporting framework and correct their submissions at a later date. The same uncertainty (as regards, for instance, the root cause of any incident) may also be reflected in intermediate and final reports. This would once again raise the potential for parallel submission of reports to the competent authorities under the proposed regulation and the PSD2.

4.2.3 Some incidents that may be categorised as ICT-related incidents may also have an impact on other areas and, as a result, would need to be notified under the EBA Guidelines. This may be the case where an incident has an impact from an ICT perspective but, at the same time, has also affected the provision of payment services directly and/or other non-ICT functional areas or channels. In addition, there could be instances where it is not possible to distinguish between operational and ICT-related incidents. Furthermore, in the case where the same financial entity is a significant credit institution and a payment service provider, under the proposed regulation the same entity would have to report the ICT-related incident twice, being subject to two competent authorities. In view of the foregoing, the proposed regulation should articulate more clearly how the interplay between the PSD2 and the EBA Guidelines is meant to work in practice. More significantly, it would be important, for the sake of harmonisation and streamlining of reporting obligations, that the Union legislative bodies reflect on residual issues of double reporting, and that it clarify whether the proposed regulation on the one hand, and the PSD2 and EBA Guidelines on the other hand, would co-exist, or whether there should be a single set of incident reporting requirements.

4.2.4. The proposed regulation introduces a requirement for the competent authorities ([86]), upon receipt of a report, to acknowledge receipt of notification and as quickly as possible to provide all necessary feedback or guidance to the financial entity, in particular to discuss remedies at the level of the entity or ways to minimise the adverse impact across sectors. This would mean that the competent authorities should actively contribute to managing and remediating incidents while at the same time also assessing the response of a supervised entity to critical incidents. The ECB emphasises that the responsibility for and ownership of the remediation and the consequences of an incident should remain solely and clearly with the financial entity concerned. The ECB would therefore propose to limit the feedback and guidance to high-level prudential feedback and guidance only. If feedback were wider, it would require specialised professionals with very considerable technical knowledge not typically available in the talent pool available to prudential authorities.

4.3 *Digital operational resilience testing*

4.3.1 The ECB welcomes the requirements set out under the proposed regulation ([87]) on digital operational resilience testing across financial entities and the need for each institution to have its own testing programme. The proposed regulation ([88]) describes different types of tests as indicatory to financial entities. The types of tests are not very clear and some tests, such as compatibility tests, questionnaires, or scenario-based tests, are open to interpretation by

([83]) Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC (OJ L 337, 23.12.2015, p. 35).
([84]) See Article 7(9) of the proposed amending directive.
([85]) See Article 17(3) of the proposed regulation.
([86]) See Article 20 of the proposed regulation.
([87]) See Articles 21 and 22 of the proposed regulation.
([88]) See Article 22(1) of the proposed regulation.

ESAs, competent authorities or financial entities. In addition, there is also no guidance as to the frequency of each test. A possible approach could be that the proposed regulation would set out generic testing requirements, with a more precise description of the types of tests being set out in regulatory and implementing technical standards.

4.3.2 Threat-led penetration testing (TLPT) is a powerful tool to test security defences and preparedness. The ECB therefore encourages TLPT by financial entities. With this tool not only technical measures are tested, but also staff and processes. The results of these tests can significantly increase the security awareness of the senior management within the entities being tested. The European Framework for Threat Intelligence Based Ethical Red-teaming (TIBER-EU) ([89]) and other TLPT tools already available, outside the Union, are primary instruments for entities themselves to assess, test, practise and improve their cyber resilience posture and defences.

4.3.3 In most Member States where TIBER-EU has been implemented, overseers and supervisors do not play an active role in the implementation of a localised TIBER-XX program and the TIBER Cyber Team (TCT) is situated in almost all cases independently of these functions. For this reason, advanced testing under the proposed regulation ([90]), by means of TLPT, should be implemented as a tool to strengthen the financial ecosystem and enhance financial stability rather than a purely supervisory tool. In addition, there is no need for the development of a new advanced cyber resilience testing framework as Member States have already widely adopted TIBER-EU, the only such framework in the EU at present.

4.3.4 Requirements for testers should not be contained in the main body of the proposed regulation, as the TLPT-related sector is still developing and innovation may be hindered by mandating specific requirements. Having said that, the ECB is of the view that in order to ensure a high degree of independence when conducting tests, financial entities should not employ or contract testers that are employed or contracted by financial entities in their own group or that are otherwise owned and/or controlled by the financial entities to be tested.

4.3.5 In order reduce the risk of fragmentation and ensure harmonisation, the proposed regulation should mandate one TLPT framework that applies to the financial sector across the Union. Fragmentation may lead to increases in terms of costs, and of technical, operational and financial resource requirements, for both competent authorities and financial institutions. These increased costs and requirements may ultimately have a negative impact on the mutual recognition of tests. This lack of harmonisation and the resulting issues with mutual recognition are especially critical for financial entities, which may hold multiple licences and/or operate in multiple jurisdictions across the Union. The regulatory and implementing technical standards, which are to be drafted for TLPT under the proposed regulation, should be in accordance with TIBER-EU. Furthermore, the ECB welcomes the opportunity to be involved in the preparation of these regulatory and implementing technical standards in cooperation with the ESAs.

4.3.6 The active involvement of competent authorities in the tests could result in a potential conflict of interest with the other function they perform, i.e. assessing the financial entity's testing framework. Against this background, the ECB proposes to remove from the proposed regulation any obligation for competent authorities regarding the validation of documents and the issuance of an attestation for a TLPT test.

4.4 *ICT third-party risk*

4.4.1 The ECB welcomes the introduction of a comprehensive set of key principles and a robust oversight framework to identify and manage ICT risks stemming from ICT third-party service providers, regardless of whether these belong to the same group of financial entities. Having said that, in order to achieve an effective ICT risk identification and management, it is important to correctly identify and classify, inter alia, critical ICT third-party service providers. In this regard, while the introduction of delegated acts ([91]) that will supplement the criteria to be used for classification purposes ([92]) is welcomed, the ECB should be consulted prior to the adoption of such delegated acts.

([89]) Available on the ECB's website at www.ecb.europa.eu.
([90]) Articles 23 and 24 of the proposed regulation.
([91]) See Article 28(3) of the proposed regulation.
([92]) See Article 28(2) of the proposed regulation.

4.4.2 As regards the structure of the oversight framework ([93]), further clarification is needed with respect to the role to be undertaken by the Joint Committee. At the same time, the ECB welcomes its inclusion in the Oversight Forum as an observer, as this role will provide the ECB with the same access to documentation and information as voting members ([94]). The ECB would like to draw the Union legislative bodies' attention to the fact that the ECB, in its role as an observer, would contribute to the work of the Oversight Forum both in its capacity as a central bank of issue, with responsibility for the oversight of market infrastructures, and as prudential supervisor of credit institutions. In addition, the ECB notes that, besides being an observer in the Oversight Forum, the ECB would also, as competent authority, be part of the joint examination team. In this respect, further reflection by the Union legislative bodies could be given to the composition of the joint examination teams ([95]) so as to ensure an appropriately weighty involvement of the relevant competent authorities. By the same token, the ECB believes that the maximum number of participants in the joint examination teams should be increased, taking into account the criticality, the complexity and the scope of the ICT third-party services.

4.4.3 The ECB notes that under the proposed regulation the lead overseer may prevent critical ICT third-party service providers from entering into further subcontracting arrangements where (i) the envisaged sub-contractor is an ICT third-party service provider or an ICT sub-contractor established in a third country and (ii) the subcontracting concerns a critical or important function of the financial entity. The ECB wishes to highlight that these powers can only be exercised by the lead overseer in the context of subcontracting arrangements where a critical ICT third-party service provider subcontracts a critical or important function to a separate legal entity established in a third country. The ECB understands that the lead overseer could not exercise comparable powers to prevent a critical ICT third-party service provider from outsourcing critical or important functions of the financial entity to facilities of that service provider that are located in a third country. It could be the case, for example, that, from an operational standpoint, critical data and/or information may be stored or processed by facilities located outside the European Economic Area (EEA). In such a case, the powers of the lead overseer may not adequately empower the competent authorities to access all information, premises, infrastructures and personnel relevant for the performance of all critical or important functions of the financial entity. In order to ensure that the ability of competent authorities to perform their tasks unhindered, the ECB suggests that the lead overseer should be granted the power to also restrict the use by critical ICT third-party service providers of facilities located outside the EEA. This power could be exercised in those specific cases where administrative arrangements with the relevant third country authorities, as provided under the proposed regulation are not in place ([96]), or the representatives of the critical ICT third-party service providers fail to provide sufficient reassurances under the framework of the relevant third country as to the access to the information, premises, infrastructure and personnel which is needed to conduct oversight or supervisory tasks.

4.4.4 Finally, requiring the competent authorities to follow up on the recommendations of the lead overseer ([97]) could risk proving ineffective, as competent authorities may not have a holistic view of the risks generated by each critical ICT third-party service provider. In addition, the competent authorities may be required to take actions against their supervised financial entities where the recommendations are not addressed by the critical third-party service providers. Under the proposed regulation ([98]), the competent authorities may require their supervised financial entities to temporarily suspend the critical third-party service or to terminate outstanding contracts with critical third-party service providers. It is difficult to translate the envisaged follow-up process into concrete actions. Specifically, it is not clear whether a supervised financial entity will be in a position to suspend or terminate a contract with a critical third-party service provider. This is because the critical ICT third-party service provider could be a significant provider for that financial entity, or because of the costs and damages, contractual or otherwise, that the financial entity may suffer as a consequence of such a suspension or termination. Moreover, this approach is not supportive of oversight convergence, since competent authorities may interpret the same recommendation in divergent manner. This could ultimately hamper the envisaged harmonisation and consistent approach in the monitoring of critical ICT third-party risk at the Union level. In view of the foregoing, the Union legislative bodies may wish to consider granting the legal overseers specific enforcement powers vis-à-vis critical ICT third party service providers, taking into account the limits imposed by the *Meroni* doctrine, as partially mitigated by the Court of Justice in its judgement in the ESMA case ([99]).

([93]) See Article 29 of the proposed regulation.
([94]) See Article 29(3) of the proposed regulation.
([95]) See Article 35 of the proposed regulation.
([96]) See Article 39(1) of the proposed regulation.
([97]) See Article 29(4) and Article 37 of the proposed regulation.
([98]) See Article 37(3) of the proposed regulation.
([99]) See Judgment of the Court (Grand Chamber), 22 January 2014 United Kingdom of Great Britain and Northern Ireland v European Parliament and Council of the European Union Regulation (EU) No 236/2012 — Case C-270/12.

Where the ECB recommends that the proposed regulation be amended, specific drafting proposals are set out in a separate technical working document accompanied by an explanatory text to this effect. The technical working document is available in English on EUR-Lex.

Done at Frankfurt am Main, 4 June 2021.

The President of the ECB
Christine LAGARDE

IV

(Notices)

NOTICES FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES AND AGENCIES

EUROPEAN COMMISSION

Euro exchange rates [1]

25 August 2021

(2021/C 343/02)

1 euro =

	Currency	Exchange rate		Currency	Exchange rate
USD	US dollar	1,1736	CAD	Canadian dollar	1,4827
JPY	Japanese yen	129,00	HKD	Hong Kong dollar	9,1357
DKK	Danish krone	7,4366	NZD	New Zealand dollar	1,6900
GBP	Pound sterling	0,85590	SGD	Singapore dollar	1,5901
SEK	Swedish krona	10,2248	KRW	South Korean won	1 370,17
CHF	Swiss franc	1,0739	ZAR	South African rand	17,5801
ISK	Iceland króna	148,60	CNY	Chinese yuan renminbi	7,6031
NOK	Norwegian krone	10,3863	HRK	Croatian kuna	7,4925
BGN	Bulgarian lev	1,9558	IDR	Indonesian rupiah	16 943,59
CZK	Czech koruna	25,531	MYR	Malaysian ringgit	4,9350
HUF	Hungarian forint	348,76	PHP	Philippine peso	58,495
PLN	Polish zloty	4,5779	RUB	Russian rouble	86,6276
RON	Romanian leu	4,9290	THB	Thai baht	38,465
TRY	Turkish lira	9,8787	BRL	Brazilian real	6,1707
AUD	Australian dollar	1,6191	MXN	Mexican peso	23,7798
			INR	Indian rupee	87,1520

[1] *Source*: reference exchange rate published by the ECB.

COMMISSION DECISION

of 4 August 2021

setting up the expert group for technical advice on organic production (EGTOP)

(2021/C 343/03)

THE EUROPEAN COMMISSION,

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

Whereas:

(1) Regulation (EU) 2018/848 of the European Parliament and of the Council ([1]) defines objectives and principles applicable to organic production and lays down basic requirements with regard to the production, labelling and control of organic products.

(2) The Commission needs technical advice to take decisions on the authorisation of products, substances and techniques for use in organic farming and processing in accordance with Regulation (EU) 2018/848. The Commission also needs technical advice when considering the development or improvement of other organic production rules and, more generally, for any other technical matter of organic production. For such advice, the Commission needs to call upon the expertise of specialists in an advisory body.

(3) It is therefore necessary to set up a group of experts in the field of organic production and to define its tasks and its structure, in compliance with Commission Decision C(2016) 3301 final ([2]).

(4) The group should consist of scientists with expertise on the relevant products, substances and techniques and of experts with competences related to organic production, capable of delivering independent, excellent and transparent technical advice to the Commission.

(5) Commission Decision 2009/427/EC ([3]) established an expert group for the purposes of Council Regulation (EC) No 834/2007 ([4]). That group delivered opinions on some categories of substances and products used in organic production. The decisions on the authorisation of those substances were delayed several times because of the lack of available experts. Under the new legal framework of Regulation (EU) 2018/848, more categories of substances will need to be evaluated, such as substances for cleaning and disinfection and specialised and innovative techniques and methods in food processing. Therefore, the number of opinions requested have increased seriously, while the available experts willing to participate without remuneration in an expert group to assist the Commission have diminished.

(6) The new group of experts should deliver to the Commission opinions on technical dossiers with regard to the authorisation of products, substances and techniques for use in organic farming and processing and with regard to other organic production rules and other technical matters of organic production. Those opinions are essential to the development and monitoring of the Union's policy and legislation on organic production, in particular to the adoption of implementing acts by the Commission, such as those referred to in Articles 16(3), 17(3) and 24(9) of Regulation (EU) 2018/848. Without independent advice provided by independent experts, the Union policy concerned could not reach its objectives. Therefore, the members of the group should receive special allowances beyond reimbursement of expenses, which is proportionate to the particular tasks attributed to them and in line with international standards.

([1]) Regulation (EU) 2018/848 of the European Parliament and of the Council of 30 May 2018 on organic production and labelling of organic products and repealing Council Regulation (EC) No 834/2007 (OJ L 150, 14.6.2018, p. 1).

([2]) Commission Decision C(2016) 3301 final of 30 May 2016 establishing horizontal rules on the creation and operation of Commission expert groups.

([3]) Commission Decision 2009/427/EC of 3 June 2009 establishing the expert group for technical advice on organic production (OJ L 139, 5.6.2009, p. 29).

([4]) Council Regulation (EC) No 834/2007 of 28 June 2007 on organic production and labelling of organic products and repealing Regulation (EEC) No 2092/91 (OJ L 189, 20.7.2007, p. 1).

(7) Article 6, point (a), of Regulation (EU) No 1306/2013 of the European Parliament and of the Council ([5]) provides for the financing of measures relating to technical and administrative assistance.

(8) Rules on disclosure of information by members of the group should be laid down.

(9) Personal data should be processed in accordance with Regulation (EU) 2018/1725 of the European Parliament and of the Council ([6]).

(10) Decision 2009/427/EC should be repealed,

HAS DECIDED AS FOLLOWS:

Article 1

Subject matter

The expert group for technical advice on organic production ('the group') is set up.

Article 2

Tasks

The group's tasks shall be:

(a) to assist the Commission in evaluating technical matters of organic production, including products, substances, methods and techniques that may be used in organic production, taking into account the objectives and principles laid down in Regulation (EU) 2018/848 and additional policy objectives with regard to organic production;

(b) to assist the Commission in improving existing rules and developing new rules related to Regulation (EU) No 2018/848;

(c) to stimulate an exchange of experience and good practices in the field of technical issues related to organic production.

Article 3

Consultation

1. The Commission may consult the group on any matter relating to organic production.

2. The chairperson of the group may advise the Commission to consult the group on a specific question.

Article 4

Membership — Appointment

1. The group shall be composed of up to 13 members.

2. The members shall be individuals appointed in a personal capacity who shall act independently and in the public interest.

([5]) Regulation (EU) No 1306/2013 of the European Parliament and of the Council of 17 December 2013 on the financing, management and monitoring of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008 (OJ L 347, 20.12.2013, p. 549).

([6]) Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

3. Members who are no longer capable of contributing effectively to the group's deliberations, who, in the opinion of the Commission's Directorate-General for Agriculture and Rural Development ('DG AGRI'), do not comply with the conditions set out in Article 339 of the Treaty on the Functioning of the European Union or who resign, shall no longer be part of the group and may be replaced for the remainder of their term of office.

Article 5

Selection process

1. The selection of the group's members shall be carried out via a public call for applications, to be published in the Register of Commission expert groups and other similar entities ('the Register of expert groups'). In addition, the call for applications may be published through other means, including on dedicated websites. The call for applications shall clearly outline the selection criteria, including the required expertise in relation to the work to be performed. The minimum deadline for applications shall be four weeks.

2. Individuals applying to be appointed as members of the group shall disclose any circumstances that could give rise to a conflict of interest. In particular, the Commission shall require those individuals to submit a declaration of interests ('DOI') form on the basis of the standard DOI form for expert groups ([7]), together with an updated curriculum vitae (CV), as part of their application. Submission of a duly completed DOI form shall be necessary in order to be eligible to be appointed as a member in a personal capacity. The conflict of interest assessment shall be performed by the Commission in compliance with the Commission's horizontal rules on expert groups ('the horizontal rules').

3. The members of the group shall be appointed by the Director General of DG AGRI from specialists with competence in the areas referred to in Articles 2 and 3(1) and who have responded to the public call for applications.

4. The other suitable candidates who have responded to the public call for applications and who are not appointed as members of the group shall be listed in a reserve list. The Commission shall ask applicants for their consent before including their names on the reserve list.

5. Members of the group shall be appointed for a 4-year term of office, renewable, and may not serve for more than three consecutive mandates. They shall remain in office until the end of their term of office or until such time as they are replaced in accordance with Article 4(3).

Article 6

Chair

DG AGRI shall appoint the chairperson and two vice-chairpersons of the group.

Article 7

Operation

1. The group shall act at the request of DG AGRI.

2. Meetings of the group shall, in principle, be held on Commission premises or remotely if circumstances require so. In agreement with DG AGRI, the group may, by simple majority of its members, decide that proceedings of individual meetings shall be recorded, in compliance with relevant data protection rules.

([7]) See Article 11 of the horizontal rules and its Annex 4.

3. DG AGRI shall provide secretarial services. Commission officials from other departments with an interest in the proceedings may attend meetings of the group and its sub-groups.

4. In agreement with the DG AGRI, the group may, by simple majority of its members, decide that deliberations shall be public.

5. Minutes on the discussion on each point on the agenda and on the opinions delivered by the group shall be meaningful and complete. Minutes shall be drafted by the secretariat under the responsibility of the chair.

6. In principle, the group shall adopt its opinions, recommendations or reports by consensus. In the event of a vote, the outcome of the vote shall be decided by simple majority of the members. Members who have voted against shall have the right to have a document summarising the reasons for their position annexed to the opinions, recommendations or reports.

Article 8

Sub-groups

1. DG AGRI may set up sub-groups for the purpose of examining specific questions on the basis of the terms of reference it defines. Sub-groups shall operate in compliance with the horizontal rules and shall report to the group. They shall be dissolved as soon as their mandates are fulfilled.

2. DG AGRI shall select members of sub-groups from the members of the group or from the reserve list referred to in Article 5(4).

Article 9

Invited experts

DG AGRI may invite experts with specific expertise with respect to a subject matter on the agenda to take part in the work of the group or sub-groups on an *ad hoc* basis.

Article 10

Observers

1. Organisations may be granted an observer status, in compliance with the horizontal rules, by direct invitation.

2. Organisations appointed as observers shall nominate their representatives.

3. Observers'representatives may be permitted by the chair to take part in the discussions of the group and provide expertise. However, they shall not have voting rights and shall not participate in the formulation of recommendations or advice of the group.

Article 11

Rules of procedure

On a proposal by, and in agreement with, the DG AGRI, the group shall adopt its rules of procedure by simple majority of its members, on the basis of the standard rules of procedure for expert groups, in compliance with the horizontal rules ([8]).

([8]) See Article 17 of the horizontal rules

Article 12

Professional secrecy and handling of classified information

The members of the group and their representatives, as well as invited experts and observers, are subject to the obligation of professional secrecy, which by virtue of the Treaties and the rules implementing them applies to all members of the institutions and their staff, as well as to the Commission's rules on security regarding the protection of Union classified information, laid down in Commission Decisions (EU, Euratom) 2015/443 ([9]) and 2015/444 ([10]). Should they fail to respect these obligations, the Commission may take all appropriate measures.

Article 13

Transparency

1. The group and its sub-groups shall be registered in the Register of expert groups.

2. As concerns the group and sub-groups composition, the following data shall be published on the Register of expert groups:

(a) the name of individuals appointed in a personal capacity;

(b) the name of observers.

3. All relevant documents, including the agendas, the minutes, the opinions and the participants' submissions, shall be made available either on the Register of expert groups or *via* a link from the Register to a dedicated website, where this information can be found. Access to dedicated websites shall not be submitted to user registration or any other restriction. In particular, the agenda and other relevant background documents shall be published in due time ahead of the meeting, followed by timely publication of minutes and the opinions. Exceptions to publication shall only be foreseen where it is deemed that disclosure of a document would undermine the protection of a public or private interest as defined in Article 4 of Regulation (EC) No 1049/2001 of the European Parliament and of the Council ([11]).

Article 14

Meeting expenses

Travel and subsistence expenses incurred by members of the group and invited experts as a result of their participation in the meetings of the group or sub-groups shall be reimbursed by the Commission in accordance with the provisions in force within the Commission, within the limits of the available appropriations allocated under the annual procedure for the allocation of resources.

Article 15

Special allowances

Members of the group and the invited experts shall be entitled to special allowances for their preparatory work and/or participation in the activities of the group and related meetings, as set out in the Annex.

([9]) Commission Decision (EU, Euratom) 2015/443 of 13 March 2015 on Security in the Commission (OJ L 72, 17.3.2015, p. 41)

([10]) Commission Decision (EU, Euratom) 2015/444 of 13 March 2015 on the security rules for protecting EU classified information (OJ L 72, 17.3.2015, p. 53)

([11]) Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43). These exceptions are intended to protect public security, military affairs, international relations, financial, monetary or economic policy, privacy and integrity of the individual, commercial interests, court proceedings and legal advice, inspections/investigations/audits and the institution's decision-making process.

Article 16

Repeal

Decision 2009/427/EC is repealed.

References to the repealed Decision shall be construed as references to this Decision.

Done at Brussels, 4 August 2021.

For the Commission
Janusz WOJCIECHOWSKI
Member of the Commission

ANNEX

Special allowances

(1) The members of the group or of a sub-group and invited experts shall be entitled to a special allowance, which compensates them for participating, in person or remotely, in the meetings of the group or sub-group. The special allowance shall be paid in the form of a daily unit cost for each full working day, as specified in the table below. The total allowance shall be calculated and rounded upwards to the amount corresponding to the nearest half working day.

Group meetings / Sub-group meetings	EUR per full day ([1])
Chair	450
Vice-chair/rapporteur	450
Members	300
Invited expert	300

([1]) If the participation only takes place in a morning or in an afternoon, the allowance shall be 50 % of the full day allowance.

(2) The members of the group or of a sub-group shall be entitled to a special allowance for acting as rapporteur, to compensate them for the work performed for activities such as preparation and finalisation of the input to the report of the group or sub-group meeting outside the meeting. This special allowance shall be paid with the sum of EUR 450 in the form of a daily unit cost for each full working day.

(3) The members of the group or of a sub-group and invited experts are entitled to a special allowance for acting as rapporteur to provide scientific reports (summaries, inquiries and background information) in preparation of group or sub-group meetings, or to write the report of the group or sub-group meetings following the meetings.

(4) The chair is entitled to a special allowance for the scientific supervision and organisation of group work outside the group's meetings.

When requesting preparatory work, consisting in particular of writing of the group or sub-group reports or opinions, analysis to substantiate impact assessment, or scientific supervision, the Commission will specify the tasks to be carried out as well as their timeframe. The calculation of the number of the working days depends in particular on the workload related to the complexity of the matter, the length of the period needed to complete the tasks due to the amount and accessibility of data and scientific literature and information to be collected and processed. The indicative number of working days provided below can therefore be departed from only in duly substantiated and exceptional cases:

Indicative number of working days	Type of tasks requested
1-10 days	Preparatory work (scientific reports, research, analysis to substantiate impact assessment)
4-6 days	Report following the group or sub-group meeting, EGTOP opinion
10-30 days	Scientific supervision and organisation of group work outside group meetings, in particular to advise the Commission on general scientific planning, on mobilising external experts, on the definition of terms of references for the scientific reports as well as group and sub-group meetings

	and on ensuring availabilities of existing data and scientific research, to prepare and coordinate the setup and meetings of sub-groups, to liaise with other advisory bodies and stakeholders and with Commission services (both with the Directorate-General for Agriculture and Rural Development and other Directorates-General and the Joint Research Centre)

Experts acting as rapporteur to provide scientific reports in preparation of group or sub-group meetings, or to write the report of the group or sub-group meetings following the meetings, and the chair for the scientific supervision and organisation of group work outside group meetings, shall be paid with the sum of EUR 450 in the form of a daily unit cost for each full working day.

NOTICES CONCERNING THE EUROPEAN ECONOMIC AREA

EFTA SURVEILLANCE AUTHORITY

State aid – Decision to raise no objections

(2021/C 343/04)

The EFTA Surveillance Authority raises no objections to the following state aid measure:

Date of adoption of the decision	12 May 2020
Case No	86817
Decision No	041/21/COL
EFTA State	Norway
Title (and/or name of the beneficiary)	COVID-19 Prolongation and amendments to the compensation scheme for large public events
Legal basis	Parliamentary decision authorising the scheme and setting out its main conditions and a letter of assignment from the Ministry of Trade, Industry and Fisheries to Innovation Norway
Type of measure	Aid scheme
Objective	Compensation of damage caused by exceptional occurrence
Form of aid	Direct grant
Budget	NOK 260 million
Intensity	60 %
Duration	Until 31 December 2021
Economic sectors	All sectors
Name and address of the granting authority	Innovation Norway Pb. 448 Sentrum Akersgata 13 N-0104 Oslo NORWAY

The authentic text of the decision, from which all confidential information has been removed, can be found on the EFTA Surveillance Authority's website: http://www.eftasurv.int/state-aid/state-aid-register/decisions/

State aid – Decision to raise no objections

(2021/C 343/05)

The EFTA Surveillance Authority raises no objections to the following state aid measure:

Date of adoption of the decision	10 May 2021
Case No	86805
Decision No	037/20/COL
EFTA State	Iceland
Title (and/or name of the beneficiary)	COVID-19 amendments and prolongations of the Closure grants and Resilience grants schemes
Legal basis	Legislative Act amending Act No 38/2020 and Act No 160/2020
Type of measure	Schemes
Objective	Contribute to the continued economic activity of undertakings that have suffered loss of income during the COVID-19 pandemic and containment measures imposed to fight the spreading of the virus
Form of aid	Direct grants
Budget	Resilience grants scheme: Estimated budget of 20.5 billion Closure grants scheme: Estimated budget of ISK 1 billion and a maximum budget of ISK 2 billion
Duration	Resilience grants scheme: 31 December 2021 Closure grants scheme: 30 September 2021
Economic sectors	All sectors
Name and address of the granting authority	Iceland Revenue and Customs Tryggvagata 19 101 Reykjavík ICELAND

The authentic text of the decision, from which all confidential information has been removed, can be found on the EFTA Surveillance Authority's website: http://www.eftasurv.int/state-aid/state-aid-register/decisions/

State aid – Decision to raise no objections

(2021/C 343/06)

The EFTA Surveillance Authority raises no objections to the following state aid measure:

Date of adoption of the decision	11 May 2021
Case No	86811
Decision No	039/21/COL
EFTA State	Iceland
Title	COVID-19 amendments to the digital gift voucher scheme
Legal basis	Legislative act Amending Act No 54/2020 on Digital Vouchers (*lög um ferðagjöf*)
Type of measure	Scheme
Objective	To increase domestic demand for tourist services, thereby benefitting the tourist service sector
Form of aid	Grants (indirect aid)
Budget	ISK 1.4 billion
Duration	1 June 2021 to 31 August 2021
Economic sectors	Tourism
Name and address of the granting authority	The Ministry of Finance and Economic Affairs Arnarhvoli við Lindargötu 101 Reykjavík ICELAND

The authentic text of the decision, from which all confidential information has been removed, can be found on the EFTA Surveillance Authority's website: http://www.eftasurv.int/state-aid/state-aid-register/decisions/

State aid – Decision to raise no objections

(2021/C 343/07)

The EFTA Surveillance Authority raises no objections to the following state aid measure:

Date of adoption of the decision	12 May 2021
Case No	86812
Decision No	040/21/COL
EFTA State	Norway
Title (and/or name of the beneficiary)	COVID-19 Amendments and prolongation of the liquidity support grant scheme for undertakings in the tourism sector
Legal basis	Parliamentary Decision, authorising the amendments and prolongation, and a letter of additional assignment to Innovation Norway from the Ministry of Trade, Industry and Fisheries.
Type of measure	Scheme
Objective	Providing access to liquidity for undertakings facing a sudden shortage of liquidity due to the impact on the economy of the COVID-19 outbreak.
Form of aid	Grants
Budget	NOK 1 550 million
Intensity	Up to 80 % of the eligible costs for small and medium sized businesses. Up to 70 % of the eligible costs for large enterprises. The costs for tangible and intangible assets necessary for project implementation up to a maximum of 50 %.
Duration	12.5.2021 – 31.12.2021
Economic sectors	NACE 49, 50, 51, 55, 56, 74.903, 77, 79, 82.3, 90, 91 and 93.
Name and address of the granting authority	Innovation Norway Akersgata 13 N-0104 Oslo NORWAY Pb. 448 Sentrum

The authentic text of the decision, from which all confidential information has been removed, can be found on the EFTA Surveillance Authority's website: http://www.eftasurv.int/state-aid/state-aid-register/decisions/

State aid – Decision to raise no objections

(2021/C 343/08)

The EFTA Surveillance Authority raises no objections to the following state aid measure:

Date of adoption of the decision	18.5.2021
Case No	86828
Decision No	042/21/COL
EFTA State	Norway
Title (and/or name of the beneficiary)	COVID-19 amendments to the aid scheme for voluntary sector organisations
Legal basis	The amended regulation on scheme to aid organisations in the voluntary sector (no reference number yet)
Type of measure	Scheme
Objective	To ensure liquidity for voluntary organisations and through that stimulate activity and help voluntary organisations through the current COVID-19 crisis
Form of aid	Direct grants
Budget	NOK 1155 million
Intensity	— Applicants may receive a grant of 70 % of additional costs and/or costs connected to the development and/or adjustment of activities — For events and other specified activities that take place as planned, applicants may receive a grant of 70 % of eligible costs — For events and other specified activities that are cancelled, applicants may receive a grant of 50 % of eligible costs
Duration	18.5.2021 – 31.12.2021
Economic sectors	Voluntary sector
Name and address of the granting authority	Norwegian Gaming and Foundation Authority P.O. Box 800 N-6805 Førde NORWAY

The authentic text of the decision, from which all confidential information has been removed, can be found on the EFTA Surveillance Authority's website: http://www.eftasurv.int/state-aid/state-aid-register/decisions/

State aid – Decision to raise no objections

(2021/C 343/09)

The EFTA Surveillance Authority raises no objections to the following state aid measure:

Date of adoption of the decision	20.5.2020
Case No	86839
Decision No	051/21/COL
EFTA State	Norway
Title (and/or name of the beneficiary)	COVID-19 aid scheme for lost inventory
Legal basis	The amended regulation on complementing and executing the law on temporary aid scheme for undertakings with substantial loss in turnover after august 2020 (not yet adopted)
Type of measure	Scheme
Objective	To compensate restaurants, cafes, bars and hotels that offer food to other customers than hotel guests, and flower retailers, for inventory loss
Form of aid	Direct grants
Budget	25 million NOK
Intensity	100 %
Duration	9.6.2021 – 31.12.2021
Economic sectors	Food services and flower retailers
Name and address of the granting authority	Brønnøysundregistrene Postboks 900 N-8910 Brønnøysund NORWAY

The authentic text of the decision, from which all confidential information has been removed, can be found on the EFTA Surveillance Authority's website: http://www.eftasurv.int/state-aid/state-aid-register/decisions/

V

(Announcements)

COURT PROCEEDINGS

EFTA COURT

Action brought on 9 July 2021 by SÝN hf. against the EFTA Surveillance Authority

(Case E-4/21)

(2021/C 343/10)

An action against the EFTA Surveillance Authority was brought before the EFTA Court on 9 July 2021 by SÝN hf., represented by Dóra Sif Tynes, Attorney at Law, ADVEL, Kalkofnsvegur 2, 101 Reykjavik, Iceland.

SÝN hf. requests the EFTA Court to:

1. Annul the EFTA Surveillance Authority Decision, No 023/21/COL of 26 March 2021, aid to Farice ehf. for investment in a third submarine cable.
2. Order the EFTA Surveillance Authority to pay the full legal costs.

Legal and factual background and pleas in law adduced in support:

— Sýn ('the applicant') is an electronic communications and media company active in all telecommunications and broadcasting markets in Iceland, with its registered address for business at Suðurlandsbraut 8 in Reykjavik. The company traces its roots to the establishment of Íslandssími hf. and Tal hf. in the late '90s following the liberalisation of the provision of telecommunications services in Iceland. The applicant provides comprehensive electronic communications services, including the provisions of date centre services, under the brand name Vodafone subject to a partnership agreement with Vodafone Group plc.

— Farice hf. was established in 2002 by Icelandic and Faroese parties, with the purpose of preparing, constructing and operating a submarine electronic communication cable system providing international connectivity between Iceland, the Faroe Islands and the UK.

— This application is an action for an annulment of the EFTA Surveillance Decision No 023/21/COL ('the contested decision'). The contested decision was adopted on 26 March 2021, following a notification from the Icelandic authorities submitted on 23 March 2021.

— The applicant seeks the annulment of the contested decision on the grounds that the EFTA Surveillance Authority has:

  — Breached its obligation to open the formal investigation procedure under Article 1(2) of Part I of Protocol 3 to the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice ('SCA') as it should have had doubts with regard to the compatibility of the measure with the EEA Agreement.

  — Breached its obligations under Article 16 SCA to adequately state reasons.

OTHER ACTS

EUROPEAN COMMISSION

Publication of a communication of approval of a standard amendment to a product specification for a name in the wine sector referred to in Article 17(2) and (3) of Commission Delegated Regulation (EU) 2019/33

(2021/C 343/11)

This communication is published in accordance with Article 17(5) of Commission Delegated Regulation (EU) 2019/33 [1].

COMMUNICATION OF A STANDARD AMENDMENT TO THE SINGLE DOCUMENT

'Régnié'

PDO-FR-A0912-AM02

Date of communication: 7 June 2021

DESCRIPTION OF AND REASONS FOR THE APPROVED AMENDMENT

1. **Geographical area**

In chapter I, section IV, point 1, the words 'based on the 2019 Official Geographical Code' have been added after 'Rhône'.

This editorial amendment allows the geographical area to be identified with reference to the 2019 version of the Official Geographical Code, which is updated by the National Institute of Statistics and Economic Studies (INSEE), and gives the definition of the geographical area legal certainty.

The boundaries of the geographical area remain unchanged.

The phrase 'are undertaken' has been replaced by 'take place'.

Point 6 of the single document has been amended to include these changes.

A sentence has also been added with the information that cartographic documents pertaining to the geographical area are available on the INAO website.

The single document is not affected by this amendment.

2. **Area in immediate proximity**

In chapter I, section IV, point 3, the words 'based on the 2019 Official Geographical Code' have been added after 'the following municipalities'.

A reference to the 2019 Official Geographical Code has been added and the list of municipalities updated. The date of approval of the geographical area of the designation by the competent national committee of the National Institute of Origin and Quality has also been added. These amendments change the wording but do not have any effect on the boundary of the geographical area in question. They are necessary as a result of mergers and splits among municipalities, or parts of municipalities, or name changes.

The new wording ensures that the municipalities in the geographical area continue to be clearly identified in the specification.

The section of the single document headed 'Further conditions' has been amended accordingly.

[1] OJ L 9, 11.1.2019, p. 2.

3. **Provisions relating to maturation**

In chapter I, section IX, point 2, '1 March' has been replaced by '15 January'.

The end date of the minimum maturation period for the wines has been brought forward from 1 March to 15 January of the year following harvest. This is due to early harvests becoming more common as a result of climate change, thus allowing earlier completion of the wine-making process.

Bringing forward the end date of the minimum maturation period does not affect the quality of the wines produced from these vines. The practices in the vineyard and in the winery are selected to preserve the aromatic potential of the gamay N grape variety grown in these poor soils. These practices result in wines with a fruity expression when young.

Point 5 of the single document has been amended. Wine making practices

4. **Placing on the market for sale to consumers**

In chapter I, section IX, point 5, '15 March' has been replaced by '1 February'.

As the end date of the minimum maturation period has been brought forward, the date for placing the wines on the market for sale to consumers has also been brought forward, from 15 March to 1 February.

This amendment does not require any changes to the single document.

5. **Transport between authorised warehouses**

Point 5(b), section IX, chapter 1, concerning the date from which the wines can transported between authorised warehouses, has been deleted.

The minimum maturation period has been reduced and the date on which wines are placed on the market has been brought forward. It is therefore necessary to allow the wines to be transported between operators sooner. There is no need to establish an earlier date before which the wines cannot be transported.

The title of chapter I, section IX, point 5 has therefore been amended, with the removal of the words 'the transport of products and'.

The single document is not affected by these amendments to the specification.

6. **Transitional measures**

At chapter I, section XI, point 1(a), the phrase 'at the latest' has been added before the words 'up to and including the 2034 harvest', in order to be more specific about the conditions for this measure.

Point 3 has been deleted as the specific measure concerned is no longer in force.

The single document is not affected by these amendments to the specification.

7. **Matters concerning monitoring the specification**

— Operators are now monitored by a certification body. The words 'inspection plan' have been replaced by the words 'monitoring plans' in the relevant paragraphs in chapter II of the specification.

The single document is not affected by this amendment.

— References to the inspection body

In section II of chapter III: the rules on wording in this section were amended following approval of the specification in December 2011. The purpose was to remove full references to the inspection authority where monitoring is conducted by a certification body.

The single document is not affected by this amendment.

SINGLE DOCUMENT

1. **Name(s)**

Régnié

2. **Geographical indication type**

PDO – Protected Designation of Origin

3. **Categories of grapevine products**

1. Wine

4. **Description of the wine(s)**

Brief written description

These are still, dry red wines.

The wines have a minimum natural alcoholic strength by volume of 10,5 %.

After enrichment, the wines' total alcoholic strength by volume does not exceed 13 %.

At the time of packaging, the wines have a maximum malic acid content of 0,4 grams per litre.

Wines that are finished and ready to be released for consumption conform to the following analytical standards:

Maximum fermentable sugar content (glucose and fructose): 3 grams per litre

The standards provided for in EU regulations apply to the maximum total alcoholic strength, minimum actual alcoholic strength, minimum total acidity and maximum total sulphur dioxide content.

When young, the wines have a beautiful purplish red colour which develops over time into garnet red. On the nose, they often have floral notes as well as red fruit notes which acquire hints of spices as they develop.

In the mouth, the wines are bold but with finesse and abundant suppleness. They are very fruity.

General analytical characteristics

General analytical characteristics	
Maximum total alcoholic strength (in % volume)	
Minimum actual alcoholic strength (in % volume)	
Minimum total acidity	
Maximum volatile acidity (in milliequivalents per litre)	14,17
Maximum total sulphur dioxide (in milligrams per litre)	

5. **Wine-making practices**

5.1. *Specific oenological practices*

1. Specific oenological practice

— Use of wood chips is not permitted.

— After enrichment, the wines' total alcoholic strength by volume does not exceed 13 %.

— Subtractive enrichment techniques are permitted up to a concentration rate of 10 %.

— The wines must be aged until at least 15 January of the year following that of the harvest.

In addition to the above provisions, all wine-making practices followed must also comply with the requirements laid down at EU level and in the Rural and Maritime Fishing Code.

2. Cultivation method

Planting density

The minimum vine planting density is 6 000 plants per hectare.

The spacing between the rows is 2,1 meters or less. Between plants in the same row, spacing is at least 0,8 meters.

Provided that the minimum density of 6 000 plants per hectare is maintained, for the purposes of mechanisation, the spaces between rows may be a maximum of 3 meters.

Pruning rules

— Pruning is completed by 15 May.

— The wines are made from vines subject to spur pruning and trained to 'gobelet', 'éventail', or single or double 'cordon de Royat', or 'Charmet'. Each plant has a maximum of ten buds.

— Each plant has three to five spurs with a maximum of two buds. For regeneration purposes, each plant may also have a spur with a maximum of two buds cut from a water shoot arising from the permanent wood.

— During initial pruning, or conversion to a different form of pruning, vines are pruned to a maximum of 12 buds per plant.

Irrigation is prohibited.

Provisions relating to mechanised harvesting

— The harvest is piled no higher than 0,5 metres in the containers transporting it from the parcel to the winery.

— The containers are made of inert material suitable for food-use.

— The equipment for picking and transporting the harvest includes a special water-drainage and protection system.

5.2. *Maximum yields*

1. 61 hectolitres per hectare

6. **Demarcated geographical area**

The grapes are harvested and the wines are produced, developed and aged in the following municipalities of the Rhône department, based on the 2019 Official Geographic Code: Régnié-Durette and Lantignié.

7. **Main wine grape variety(-ies)**

Gamay N

8. **Description of the link(s)**

8.1. *Description of the natural factors relevant to the link*

The geographical area extends over the eastern side of the Beaujolais hills. The Fût d'Avenas hill rises above it at 842 metres. The area is 50 kilometres north of Lyon and 22 kilometres from Villefranche-sur-Saône.

The landscape is undulating, punctuated by knolls and hills covered by vines. The Ardières, a tributary of the Saône, forms its southern boundary.

The area also includes the municipalities of Régnié-Durette and Lantignié, in the Rhône department.

The geographical area is part of the huge array of metamorphic formations from the Paleozoic Era, on the western edge of the Massif Central. More specifically, it is at the heart of the granitic massif known as Fleurie. This coarse-grained granite breaks down to form areas of highly permeable sands.

The parcels demarcated for the grape harvest extend over the hillsides on granitic substrate, at a height of between 250 metres and 450 metres. They include:

— sandy surface soils that are highly effective at filtering, formed from granitic sands on the steep slopes at the centre and to the north;

— soils formed on colluvium and areas of deep sandy loam, generally rich in clay, in the southern part, on the gentler slopes;

— alluvial soils, formed on ancient terraces, with a clay texture and often very stony at the surface, at times compact in structure.

The climate is maritime, subject to continental and southern influences. Rainfall is evenly distributed throughout the year, with an annual average of 750 millimetres. The average annual temperature is close to 11 C. The Beaujolais hills play a vital role providing protection from the west winds, thereby diminishing the maritime influence. The hills produce a foehn effect that dries the damp air, enhancing the light and reducing rainfall correspondingly.

The broad Saône valley also plays a significant role in the development of the vines. It provides abundant light and channels southern influences, characterised in particular by intense heat in summer.

8.2. *Description of the human factors relevant to the geographical link*

In the 1907 work *Le vigneronnage en Beaujolais*, about the local share-cropping system in the vineyards of Beaujolais, the author François Myard confirmed the existence of a Gallo-Roman villa belonging to one Réginus, who presumably gave his name to the municipality. The system at the time points to the beginnings of the 'fruit-based crops, the system on which the current *vigneronnage* is based'.

Cluny Abbey appears to have owned vines near the village of Régnié. The charter of Cluny, in 992, states that one Umfred gifted to the abbey 'the chapel of Sainte-Marie in the village of Dueri (Durette) in the country of Mâcon, and all that he possesses in that parish in lands, vines, pastures and windmills'. It is recorded that, in 1602, Durette possessed 15 'hearths' (dwellings), and its land was considered 'only good for wine'.

The wines of 'Régnié' have long been highly regarded. As of 1769, Régnié and Durette were among the 16 parishes of the Beaujolais region permitted to send their wines to Paris.

In his 1945 *History of Régnié*, Bonardet said of the weaving industry of Rignyé (Régnié) in the 17th century: 'the old crafts, like weaving, gradually declined because the soil of Beaujolais was covered by vines'. Indeed, according to the intendant of Police, Justice and Finance, Lambert d'Antigny, a quarter of the territory was planted with vines.

The Grange Charton estate was established in Régnié. This wonderful ensemble of rural architecture from the 19th century, including vineyard workers' lodgings, cellars and storerooms, is the headquarters of the Hospices de Beaujeu estate. Bequeathed to the Hospices by the de Millières sisters in 1809, over the years the estate has grown thanks to gifts and bequests of vines. The auction of wines from the Hospices is the oldest known charity auction.

Once the jewel in the crown of wines with the controlled designation of origin 'Beaujolais' entitled to use the term 'Villages', the wines were recognised under the controlled designation of origin 'Régnié' by a decree of 20 December 1988.

The controlled designation of origin 'Régnié' represents a fusion of characteristic regional traditions with modern techniques. The gamay N grape variety has pride of place in the production of red wines. Known as a variety that lacks vigour but is fertile and early ripening, it is sensitive to late frost and vulnerable to harsh sunlight.

In pursuit of quality wines, the producers have learned to tame its growth, notably by using high planting density and spur pruning.

In order for the grapes to ripen properly, producers ensure that the canopy is sufficiently open. In this way, the vines can be trained on fixed trellising which also enables mechanisation.

Similarly, and in line with current practice, producers have adopted a particular wine-making method involving both traditional fermentation and semi-carbonic maceration.

In 2010, some 222 producers made 17 000 hectolitres from vineyards covering an area of 400 hectares.

8.3. *Causal interactions*

The geographical area of 'Régnié' lies mainly on granitic or altered granitic substrate.

The soils are generally sandy, acidic, with good filtering qualities and therefore low in fertility. In this natural environment, the gamay N grape variety reaches its full expression, allowing the possibility of producing fruity and elegant wines, with a concentration and balance that guarantee good ageing capacity.

The soil is diverse in nature with varying amounts of clay and, in places, rich in large granitic or sandstone fragments. This diversity produces subtle differences in the wines. Where the grapes come from parcels with clay soils, the wines are more structured. On the other hand, when the grapes are from parcels with sandy soils, the wines are more supple and fruity.

At the heart of an undulating landscape, the vines enjoy a favourable climate, protected from adverse winds by the wooded hill of Fût d'Avenas. Looking out over the broad Saône plain, the area benefits from the sunlight that encourages the action of chlorophyll in the vines. Their position on the mid-slopes means that the vines usually escape the spring frosts and morning mists of the Saône plain. They benefit from optimal sunshine, while the slopes ensure that any excess rainwater soon drains away.

Enjoying a foehn effect thanks to the protection of the Beaujolais hills, the Ardières valley, positioned east-west, offers a general aspect that enables optimal and consistent ripening of the grapes.

The producers have adopted practices, both in the vineyard and in the winery, to get the very best out of these particular conditions. The aromatic potential of the gamay N variety is preserved by adapting its vigour and production to the poor sandy soils through the use of special training and spur pruning, as well as methods in the winery. In this way, it is possible to produce wines with a fruity expression when young and with good keeping qualities.

Since 1967, the producers have come together to offer a carefully selected range of 'Régnié' wines available at the Caveau des Deux Clochers tasting centre. They organise numerous displays, shows and sporting events to publicise their village and their wine.

'Régnié' is the most recent municipal controlled designation of origin recognised in the region. The producers present it as the 'Prince of Beaujolais'.

9. **Essential further conditions (packaging, labelling, other requirements)**

Area in immediate proximity

Legal framework

National legislation

Type of further condition

Derogation concerning production in the demarcated geographical area

Description of the condition

The area in the immediate vicinity, defined by derogation for wine-making, maturing and ageing comprises the territory of the following municipalities, based on the Official Geographic Code for 2019:

— Department of Côte-d'Or:

Agencourt, Aloxe-Corton, Ancey, Arcenant, Argilly, Autricourt, Auxey-Duresses, Baubigny, Beaune, Belan-sur-Ource, Bévy, Bissey-la-Côte, Bligny-lès-Beaune, Boncourt-le-Bois, Bouix, Bouze-lès-Beaune, Brion-sur-Ource, Brochon, Cérilly, Chamboeuf, Chambolle-Musigny, Channay, Charrey-sur-Seine, Chassagne-Montrachet, Châtillon-sur-Seine, Chaumont-le-Bois, Chaux, Chenôve, Chevannes, Chorey-lès-Beaune, Clémencey, Collonges-lès-Bévy, Combertault, Comblanchien, Corcelles-les-Arts, Corcelles-les-Monts, Corgoloin, Cormot-Vauchignon, Corpeau, Couchey, Curley, Curtil-Vergy, Daix, Dijon, Ebaty, Echevronne, Epernay-sous-Gevrey, L'Etang-Vergy, Etrochey, Fixin, Flagey-Echézeaux, Flavignerot, Fleurey-sur-Ouche, Fussey, Gerland, Gevrey-Chambertin, Gilly-lès-Cîteaux, Gomméville, Grancey-sur-Ource, Griselles, Ladoix-Serrigny, Lantenay, Larrey, Levernois, Magny-lès-Villers, Mâlain, Marcenay, Marey-lès-Fussey, Marsannay-la-Côte, Massingy, Mavilly-Mandelot, Meloisey, Merceuil, Messanges, Meuilley, Meursanges, Meursault, Molesme, Montagny-lès-Beaune, Monthelie, Montliot-et-Courcelles, Morey-Saint-Denis, Mosson, Nantoux, Nicey, Noiron-sur-Seine, Nolay, Nuits-Saint-Georges, Obtrée, Pernand-Vergelesses, Perrigny-lès-Dijon, Plombières-lès-Dijon, Poinçon-lès-Larrey, Pommard, Pothières, Premeaux-Prissey, Prusly-sur-Ource, Puligny-Montrachet, Quincey, Reulle-Vergy, La Rochepot, Ruffey-lès-Beaune, Saint-Aubin, Saint-Bernard, Saint-Philibert, Saint-Romain, Sainte-Colombe-sur-Seine, Sainte-Marie-la-Blanche, Santenay, Savigny-lès-Beaune, Segrois, Tailly, Talant, Thoires, Vannaire, Velars-sur-Ouche, Vertault, Vignoles, Villars-Fontaine, Villebichot, Villedieu, Villers-la-Faye, Villers-Patras, Villy-le-Moutier, Vix, Volnay, Vosne-Romanée and Vougeot

— Department of Rhône:

Alix, Anse, L'Arbresle, Les Ardillats, Arnas, Bagnols, Beaujeu, Belleville-en-Beaujolais, Belmont-d'Azergues, Blacé, Le Breuil, Bully, Cercié, Chambost-Allières, Chamelet, Charentay, Charnay, Chasselay, Châtillon, Chazay-d'Azergues, Chénas, Chessy, Chiroubles, Cogny, Corcelles-en-Beaujolais, Dardilly, Denicé, Deux Grosnes (only the part corresponding to the territory of the former municipality of Avenas), Dracé, Emeringes, Fleurie, Fleurieux-sur-l'Arbresle, Frontenas, Gleizé, Juliénas, Jullié, Lacenas, Lachassagne, Lancié, Légny, Létra, Limas, Lozanne, Lucenay, Marchampt, Marcy, Moiré, Montmelas-Saint-Sorlin, Morancé, Odenas, Le Perréon, Pommiers, Porte des Pierres Dorées, Quincié-en-Beaujolais, Rivolet, Sain-Bel, Saint-Clément-sur-Valsonne, Saint-Cyr-le-Chatoux, Saint-Didier-sur-Beaujeu, Saint-Etienne-des-Oullières, Saint-Etienne-la-Varenne, Saint-Georges-de-Reneins, Saint-Germain-Nuelles, Saint-Jean-des-Vignes, Saint-Julien, Saint-Just-d'Avray, Saint-Lager, Saint-Romain-de-Popey, Saint-Vérand, Sainte-Paule, Salles-Arbuissonnas-en-Beaujolais, Sarcey, Taponas, Ternand, Theizé, Val d'Oingt, Vaux-en-Beaujolais, Vauxrenard, Vernay, Villefranche-sur-Saône, Ville-sur-Jarnioux, Villié-Morgon, Vindry-sur-Turdine (only the part corresponding to the territory of the former municipalities of Dareizé, Les Olmes and Saint-Loup)

— Department of Saône-et-Loire:

Aluze, Ameugny, Azé, Barizey, Beaumont-sur-Grosne, Berzé-la-Ville, Berzé-le-Châtel, Bissey-sous-Cruchaud, Bissy-la-Mâconnaise, Bissy-sous-Uxelles, Bissy-sur-Fley, Blanot, Bonnay, Bouzeron, Boyer, Bray, Bresse-sur-Grosne, Burgy, Burnand, Bussières, Buxy, Cersot, Chagny, Chaintré, Chalon-sur-Saône, Chamilly, Champagny-sous-Uxelles, Champforgeuil, Chânes, Change, Chapaize, La Chapelle-de-Bragny, La Chapelle-de-Guinchay, La Chapelle-sous-Brancion, Charbonnières, Chardonnay, La Charmée, Charnay-lès-Mâcon, Charrecey, Chasselas, Chassey-le-Camp, Château, Châtenoy-le-Royal, Chaudenay, Cheilly-lès-Maranges, Chenôves, Chevagny-les-Chevrières, Chissey-lès-Mâcon, Clessé, Cluny, Cormatin, Cortambert, Cortevaix, Couches, Crêches-sur-Saône, Créot, Cruzille, Culles-les-Roches, Curtil-sous-Burnand, Davayé, Demigny, Dennevy, Dezize-lès-Maranges, Donzy-le-Pertuis, Dracy-le-Fort, Dracy-lès-Couches, Epertully, Etrigny, Farges-lès-Chalon, Farges-lès-Mâcon, Flagy, Fleurville, Fley, Fontaines, Fragnes-La-Loyère (only the part corresponding to the territory of the former municipality of La Loyère), Fuissé, Genouilly, Germagny, Givry, Granges, Grevilly, Hurigny, Igé, Jalogny, Jambles, Jugy, Jully-lès-Buxy, Lacrost, Laives, Laizé, Lalheue, Leynes, Lournand, Lugny, Mâcon, Malay, Mancey, Martailly-lès-Brancion, Massilly, Mellecey, Mercurey, Messey-sur-Grosne, Milly-Lamartine, Montagny-lès-Buxy, Montbellet, Montceaux-Ragny, Moroges, Nanton, Ozenay, Paris-l'Hôpital, Péronne, Pierreclos, Plottes, Préty, Prissé, Pruzilly, Remigny, La Roche-Vineuse, Romanèche-Thorins, Rosey, Royer, Rully, Saint-Albain, Saint-Ambreuil, Saint-Amour-Bellevue, Saint-Boil, Saint-Clément-sur-Guye, Saint-Denis-de-Vaux, Saint-Désert, Saint-Gengoux-de-Scissé, Saint-Gengoux-le-National, Saint-Germain-lès-Buxy, Saint-Gervais-sur-Couches, Saint-Gilles, Saint-Jean-de-Trézy, Saint-Jean-de-Vaux, Saint-Léger-sur-Dheune, Saint-Mard-de-Vaux, Saint-Martin-Belle-Roche, Saint-Martin-du-Tartre, Saint-Martin-sous-Montaigu, Saint-Maurice-de-Satonnay, Saint-Maurice-des-Champs, Saint-Maurice-lès-Couches, Saint-Pierre-de-Varennes, Saint-Rémy, Saint-Sernin-du-Plain, Saint-Symphorien-d'Ancelles, Saint-Vallerin, Saint-Vérand, Saint-Ythaire, Saisy, La Salle, Salornay-sur-Guye, Sampigny-lès-Maranges, Sancé, Santilly,

Sassangy, Saules, Savigny-sur-Grosne, Sennecey-le-Grand, Senozan, Sercy, Serrières, Sigy-le-Châtel, Sologny, Solutré-Pouilly, Taizé, Tournus, Uchizy, Varennes-lès-Mâcon, Vaux-en-Pré, Vergisson, Vers, Verzé, Le Villars, La Vineuse sur Fregande (only the part corresponding to the territory of the former municipalities of Donzy-le-National, Massy and La Vineuse), Vinzelles and Viré

— Department of Yonne:

Aigremont, Annay-sur-Serein, Arcy-sur-Cure, Asquins, Augy, Auxerre, Avallon, Bazarnes, Beine, Bernouil, Béru, Bessy-sur-Cure, Bleigny-le-Carreau, Censy, Chablis, Champlay, Champs-sur-Yonne, Chamvres, La Chapelle-Vaupelteigne, Charentenay, Châtel-Gérard, Chemilly-sur-Serein, Cheney, Chevannes, Chichée, Chitry, Collan, Coulangeron, Coulanges-la-Vineuse, Courgis, Cruzy-le-Châtel, Dannemoine, Deux Rivières, Dyé, Epineuil, Escamps, Escolives-Sainte-Camille, Fleys, Fontenay-près-Chablis, Gy-l'Evêque, Héry, Irancy, Island, Joigny, Jouancy, Junay, Jussy, Lichères-près-Aigremont, Lignorelles, Ligny-le-Châtel, Lucy-sur-Cure, Maligny, Mélisey, Merry-Sec, Migé, Molay, Molosmes, Montigny-la-Resle, Montholon (only the part in the territory of the former municipalities of Champvallon, Villiers sur Tholon and Volgré), Mouffy, Moulins-en-Tonnerrois, Nitry, Noyers, Ouanne, Paroy-sur-Tholon, Pasilly, Pierre-Perthuis, Poilly-sur-Serein, Pontigny, Préhy, Quenne, Roffey, Rouvray, Saint-Bris-le-Vineux, Saint-Cyr-les-Colons, Saint-Père, Sainte-Pallaye, Sainte-Vertu, Sarry, Senan, Serrigny, Tharoiseau, Tissey, Tonnerre, Tronchoy, Val-de-Mercy, Vallan, Venouse, Venoy, Vermenton, Vézannes, Vézelay, Vézinnes, Villeneuve-Saint-Salves, Villy, Vincelles, Vincelottes, Viviers and Yrouerre.

Labelling

Legal framework

National legislation

Type of further condition

Additional provisions relating to labelling

Description of the condition

a) Wines with the registered designation of origin may specify on their labels the name of a smaller geographical unit, provided that:

— it is the name of a place in the land register;

— it appears on the harvest declaration.

The name of the registered location appears immediately after the controlled designation of origin, and is printed in lettering no greater in both height and width than the letters in which the name of the controlled designation of origin is written.

b) The labels of wines entitled to the controlled designation of origin can mention the larger geographical entity 'Vin du Beaujolais', 'Grand Vin du Beaujolais' or 'Cru du Beaujolais'.

The size of the letters for the broader geographical unit must not be larger, either in height or width, than two-thirds of the size of the letters forming the name of the controlled designation of origin.

Link to the product specification

https://info.agriculture.gouv.fr/gedei/site/bo-agri/document_administratif-cc8d10c6-1898-4714-a513-2186ca061280

Publication of a communication of approval of a standard amendment to a product specification for a name in the wine sector referred to in Article 17(2) and (3) of Commission Delegated Regulation (EU) 2019/33

(2021/C 343/12)

This communication is published in accordance with Article 17(5) of Commission Delegated Regulation (EU) 2019/33 ([1]).

COMMUNICATION OF A STANDARD AMENDMENT TO THE SINGLE DOCUMENT

'Fleurie'

PDO-FR-A0930-AM02

Date of communication: 7 June 2021

DESCRIPTION OF AND REASONS FOR THE APPROVED AMENDMENT

1. Geographical area

In chapter I, section IV, point 1, the words 'based on the 2019 Official Geographical Code' have been added after 'Rhône'.

This editorial amendment allows the geographical area to be identified with reference to the 2019 version of the Official Geographical Code, which is updated by the National Institute of Statistics and Economic Studies (INSEE), and gives the definition of the geographical area legal certainty.

The boundaries of the geographical area remain unchanged.

The phrase 'are undertaken' has been replaced by 'take place'.

Point 6 of the single document has been amended to include these changes.

A sentence has also been added with the information that cartographic documents pertaining to the geographical area are available on the INAO website.

The single document is not affected by this amendment.

2. Area in immediate proximity

In chapter I, section IV, point 3, the words 'based on the 2019 Official Geographical Code' have been added after 'the following municipalities'.

A reference to the 2019 Official Geographical Code has been added and the list of municipalities updated. The date of approval of the geographical area of the designation by the competent national committee of the National Institute of Origin and Quality has also been added. These amendments change the wording but do not have any effect on the boundary of the geographical area in question. They are necessary as a result of mergers and splits among municipalities, or parts of municipalities, or name changes.

The new wording ensures that the municipalities in the geographical area continue to be clearly identified in the specification.

The section of the single document headed 'Further conditions' has been amended accordingly.

3. Provisions relating to maturation

In chapter I, section IX, point 2, '1 March' has been replaced by '15 January'.

The end date of the minimum maturation period for the wines has been brought forward from 1 March to 15 January of the year following that of the harvest. This is due to early harvests becoming more common as a result of climate change, thus allowing earlier completion of the wine-making process.

([1]) OJ L 9, 11.1.2019, p. 2.

Bringing forward the end date of the minimum maturation period does not affect the quality of the wines. The climatic and soil conditions of the area mean that the gamay N grape develops early, thereby allowing the wines to be enjoyed young.

Point 5 of the single document has been amended.

4. **Placing on the market for sale to consumers**

In chapter I, section IX, point 5, '15 March' has been replaced by '1 February'.

As the end date of the minimum maturation period has been brought forward, the date for placing the wines on the market for sale to consumers has also been brought forward, from 15 March to 1 February.

This amendment does require any changes to the single document.

5. **Transport between authorised warehouses**

Point 5(b), section IX, chapter 1, concerning the date from which the wines can transported between authorised warehouses, has been deleted.

The minimum maturation period has been reduced and the date on which wines are placed on the market has been brought forward. It is therefore necessary to allow the wines to be transported between operators sooner. There is no need to establish an earlier date before which the wines cannot be transported.

This amendment does not require any changes to the single document.

The title of chapter I, section IX, point 5 has therefore been amended, with the removal of the words 'the transport of products and'.

The single document is not affected by these amendments to the specification.

6. **Transitional measures**

At point 2(a), section XI, chapter 1, the phrase 'at the latest' has been added before the words 'up to and including the 2034 harvest', in order to be more specific about the conditions for this measure.

Point 4 has been deleted as the specific measure concerned is no longer in force.

The single document is not affected by these amendments to the specification.

7. **Matters concerning monitoring the specification**

— Operators are now monitored by a certification body. The words 'inspection plan' have been replaced by the words 'monitoring plan' in the relevant paragraphs in chapter II of the specification.

The single document is not affected by this amendment.

— References to the inspection body

In section II of chapter III: the rules on wording in this section were amended following approval of the specification in December 2011. The purpose was to remove full references to the inspection authority where monitoring is conducted by a certification body.

The single document is not affected by this amendment.

SINGLE DOCUMENT

1. **Name(s)**

Fleurie

2. **Geographical indication type**

PDO – Protected Designation of Origin

3. **Categories of grapevine products**

1. Wine

4. **Description of the wine(s)**

Brief written description

The wines are still, dry red wines. The wines have a minimum natural alcoholic strength by volume of 10,5 %.

The total alcoholic strength by volume of the wines after enrichment does not exceed 13 %.

At the time of packaging, the wines have a maximum malic acid content of 0,4 grams per litre.

Wines that are finished and ready to be released for consumption conform to the following analytical standards:

Maximum fermentable sugar content (glucose and fructose): 3 grams per litre.

The standards provided for in EU regulations apply to the maximum total alcoholic strength, minimum actual alcoholic strength, minimum total acidity and maximum total sulphur dioxide content.

The wines are a beautiful violet-red colour which develops garnet shades over time. On the nose, they often have floral as well as red fruit notes, developing spiced notes with ageing. In the mouth, they are bold but not aggressive. The acidity is not obvious. This wine is often referred to as the most 'feminine' of the '*crus de Beaujolais*', on account of its lightness and finesse.

General analytical characteristics

General analytical characteristics	
Maximum total alcoholic strength (in % volume)	
Minimum actual alcoholic strength (in % volume)	
Minimum total acidity	
Maximum volatile acidity (in milliequivalents per litre)	14,17
Maximum total sulphur dioxide (in milligrams per litre)	

5. **Wine-making practices**

5.1. *Specific oenological practices*

1. Specific oenological practice

— The use of wood chips is not permitted.

— The total alcoholic strength by volume of the wines after enrichment does not exceed 13 %.

— Subtractive enrichment techniques are permitted up to a concentration rate of 10 %.

— The wines must be aged until at least 15 January of the year following the harvest.

In addition to the above provisions, all wine-making practices followed must also comply with the requirements laid down at EU level and in the Rural and Maritime Fishing Code.

2. Cultivation method

Planting density

The minimum vine planting density is 6 000 plants per hectare.

The spacing between the rows is 2,1 meters or less. Between plants in the same row, spacing is at least 0,8 meters.

Provided that the minimum density of 6 000 plants per hectare is maintained, for the purposes of mechanisation, the spaces between rows may be a maximum of 3 meters.

Pruning rules

— Pruning is completed by 15 May.

— The wines are made from vines subject to spur pruning and trained to 'gobelet', 'éventail', or single or double 'cordon de Royat', or 'Charmet'. Each plant has a maximum of ten buds.

— Each plant has three to five spurs with a maximum of two buds. For regeneration purposes, each plant may also have a spur with a maximum of two buds cut from a water shoot growing out of the permanent wood.

— During initial pruning, or conversion to a different form of pruning, vines are pruned to a maximum of 12 buds per plant.

Irrigation is prohibited.

Provisions relating to mechanised harvesting

— The harvest is piled no higher than 0,5 metres high in the containers transporting it from the parcel to the winery.

— The containers are made of inert material suitable for food-use.

— The equipment for picking and transporting the harvest includes a special water-drainage or protection system.

5.2. *Maximum yields*

1. 61 hectolitres per hectare

6. **Demarcated geographical area**

The grapes are harvested and the wines are produced, developed and aged in the following municipality of the Rhône department, based on the 2019 Official Geographic Code: Fleurie

7. **Main wine grape variety(-ies)**

Gamay N

8. **Description of the link(s)**

8.1. *Description of the natural factors relevant to the link*

The geographical area is located at the heart of the 'Beaujolais' vineyards, on the eastern edge of the Beaujolais hills.

It occupies the sole municipality of Fleurie in the Rhône department, north of Lyon.

In an undulating landscape, the often steep slopes are almost entirely covered in vines. In the background, forest covers the higher hills.

The parcels demarcated for the grape harvest lie on a substrate of pink porphyroid granite, with a low mica content, known as 'Fleurie granite'.

There are two different geological formations with contrasting morphology:

— above the village, at an altitude of between 300 metres and 450 metres, there are steep inclines with frequent outcrops of bedrock and very sandy and poor soils;

— below the village, the slope steadily declines towards the Saône to a height of 230 metres, where the rock is covered by colluvium descended from the hillsides. Here, the soils become denser and richer in clay, fine sand and silt.

The '*bief de Roclaine*' millstream and the Presle stream flow down the mountain to join the Saône, carving up the formation and diversifying the aspects.

The climate is semi-maritime, with an annual average annual temperature close to 11 °C and moderate rainfall, 750 millimetres on average, evenly distributed throughout the year. The geographical area is subject to continental influences, such as summer storms and freezing winter fog. There are also southern influences with summer heat and most of the rain falling in autumn and spring. Sheltered from the west winds by the Beaujolais hills, the geographical area also occupies a small secondary set of hills. The south-east facing slopes are generally preferred for their aspect. As dawn breaks, the first rays of sunshine bring warmth and light to the hillside. Planted mid-slopes, the vines are usually spared the spring frosts and the morning mists from the Saône plain. They benefit from maximum sunshine, and any excess rainfall quickly drains away.

8.2. *Description of the human factors relevant to the geographical link*

Fleurie is an ancient village. Having a water supply, the site was suitable for very early human habitation, especially in the settlements on the western side.

Evidence for vines on the site of 'Fleurie' dates back to 987 in the form of an act drawn up for Arpayé Abbey, located below the village and directly dependent on Cluny Abbey. The act contains negotiations for a '*curtil*', or patch of land, with 'vines'.

From the end of the 15th century, having grown rich from silk and banking, the bourgeoisie of Lyons developed viticulture.

In the 18th century, the highly rated wines of 'Fleurie' were brought to Paris by the wine-merchants of Burgundy. Then, gradually they were made available for sale to northern France and to England. At the start of the 20th century, the wine was being sold throughout France and on foreign markets in Switzerland, Belgium and Germany.

In 1927, thanks to the initiative of some enterprising local families, the cooperative wine-cellar of Fleurie opened its doors. Marguerite Chabert, whose family was behind the creation of the cooperative wine-cellar in Fleurie, served for a while as its president and left her mark on the history of the '*cru*' (vineyard).

In 1936, the controlled designation of origin 'Fleurie' was recognised. It is among the premium range of '*crus du Beaujolais*'. The Swiss market, in particular, buys the wines at very high prices.

The village is open to tourism. In 2007, some 30 estates collaborated to open a cellar called 'La maison de Fleurie'.

The people of Fleurie identify with '*la Madone*', the statue of the Madonna that protects the vineyards, watching over them from the chapel of Fleurie. Over the years, she has become the symbol of the municipality and vineyard, appearing on most of the labels and promotional logos.

The vines are entirely devoted to the production of red wines. The main grape variety is gamay N. In order to restrict the fertility of this variety, the vines are spur pruned with gobelet-training.

The estates are mostly family-owned. Multiple generations are involved, often working together. The average cultivated area of each holding is around 9 hectares. In 2010, the 'Fleurie' vineyards covered an area of around 1 400 hectares. The wine is produced by 180 producers, a cooperative cellar and a dozen '*négociants*' or wine merchants.

8.3. *Causal interactions*

Dating back over a millennium, down the years the historic vineyards of 'Fleurie' have forged a unique landscape in which they occupy the prime position.

In an undulating area and on a granitic substratum, the vines are located at heights rising from 200 metres to 450 metres, on slopes that are, at times, very steep. They enjoy excellent aspects, enabling them to produce wines of wonderful aromatic complexity.

Their position looking out over the broad Saône plain provides the sunlight necessary for the chlorophyll in the vines to function. These conditions, assisted by the altitude and mainly south-east aspect, ensure excellent and consistent ripening of the grapes.

The soils formed of granitic sand are poor with good filtering qualities, ideal for controlled production. The gamay N grape variety is soil-sensitive and especially suitable for soils with low fertility. It produces a light, perfumed wine with delicate tannins.

In these particular geographical conditions, down the generations producers of 'Fleurie' have developed techniques enabling them to make the most of gamay N.

Their know-how is evident in the customary practice of spur pruning, with the vines gobelet-trained, as well as in the high density planting, growing-techniques to limit soil erosion, wine-making practices adapted to produce a richly coloured premium product, while always preserving the finesse, fruitiness and elegance of the wines.

Long before 'Beaujolais Nouveau' had conquered the planet, the wines of 'Fleurie' were already highly rated and enjoyed a sound reputation. At the start of the 18th century, they were brought to Paris by the wine-merchants of Burgundy. In the 19th century, various authors including Jullien, Guyot and Danguy studied and wrote about the wines of France. The wines of 'Fleurie' were always ranked among the best.

Consumers of Switzerland and England, attracted by the similarity of the name 'Fleurie' to the word 'flower', contributed to its reputation all across Europe. This reputation is still in evidence during the trade fair which takes place in Fleurie every year, over the weekend following All Saints Day, and which draws a large crowd.

9. **Essential further conditions (packaging, labelling, other requirements)**

Area in immediate proximity

Legal framework

National legislation

Type of further condition

Derogation concerning production in the demarcated geographical area

Description of the condition

The area in the immediate vicinity, defined by derogation for wine-making, maturing and ageing comprises the territory of the following municipalities, based on the Official Geographic Code for 2019:

— Department of Côte-d'Or:

Agencourt, Aloxe-Corton, Ancey, Arcenant, Argilly, Autricourt, Auxey-Duresses, Baubigny, Beaune, Belan-sur-Ource, Bévy, Bissey-la-Côte, Bligny-lès-Beaune, Boncourt-le-Bois, Bouix, Bouze-lès-Beaune, Brion-sur-Ource, Brochon, Cérilly, Chamboeuf, Chambolle-Musigny, Channay, Charrey-sur-Seine, Chassagne-Montrachet, Châtillon-sur-Seine, Chaumont-le-Bois, Chaux, Chenôve, Chevannes, Chorey-lès-Beaune, Clémencey, Collonges-lès-Bévy, Combertault, Comblanchien, Corcelles-les-Arts, Corcelles-les-Monts, Corgoloin, Cormot-Vauchignon, Corpeau, Couchey, Curley, Curtil-Vergy, Daix, Dijon, Ebaty, Echevronne, Epernay-sous-Gevrey, L'Etang-Vergy, Etrochey, Fixin, Flagey-Echézeaux, Flavignerot, Fleurey-sur-Ouche, Fussey, Gerland, Gevrey-Chambertin, Gilly-lès-Cîteaux, Gomméville, Grancey-sur-Ource, Griselles, Ladoix-Serrigny, Lantenay, Larrey, Levernois, Magny-lès-Villers, Mâlain, Marcenay, Marey-lès-Fussey, Marsannay-la-Côte, Massingy, Mavilly-Mandelot, Meloisey, Merceuil, Messanges, Meuilley, Meursanges, Meursault, Molesme, Montagny-lès-Beaune, Monthelie, Montliot-et-Courcelles, Morey-Saint-Denis, Mosson, Nantoux, Nicey, Noiron-sur-Seine, Nolay, Nuits-Saint-Georges, Obtrée, Pernand-Vergelesses, Perrigny-lès-Dijon, Plombières-lès-Dijon, Poinçon-lès-Larrey, Pommard, Pothières, Premeaux-Prissey, Prusly-sur-Ource, Puligny-Montrachet, Quincey, Reulle-Vergy, La Rochepot, Ruffey-lès-Beaune, Saint-Aubin, Saint-Bernard, Saint-Philibert, Saint-Romain, Sainte-Colombe-sur-Seine, Sainte-Marie-la-Blanche, Santenay, Savigny-lès-Beaune, Segrois, Tailly, Talant, Thoires, Vannaire, Velars-sur-Ouche, Vertault, Vignoles, Villars-Fontaine, Villebichot, Villedieu, Villers-la-Faye, Villers-Patras, Villy-le-Moutier, Vix, Volnay, Vosne-Romanée and Vougeot

— Department of Rhône:

Alix, Anse, L'Arbresle, Les Ardillats, Arnas, Bagnols, Beaujeu, Belleville-en-Beaujolais, Belmont-d'Azergues, Blacé, Le Breuil, Bully, Chambost-Allières, Chamelet, Charentay, Charnay, Chasselay, Châtillon, Chazay-d'Azergues, Chénas, Chessy, Chiroubles, Cogny, Corcelles-en-Beaujolais, Dardilly, Denicé, Deux Grosnes (only the part corresponding to the territory of the former municipality of Avenas), Dracé, Emeringes, Fleurieux-sur-l'Arbresle, Frontenas, Gleizé, Juliénas, Jullié, Lacenas, Lachassagne, Lancié, Lantignié, Légny, Létra, Limas, Lozanne, Lucenay, Marchampt, Marcy, Moiré, Montmelas-Saint-Sorlin, Morancé, Odenas, Le Perréon, Pommiers, Porte des Pierres Dorées, Quincié-en-Beaujolais, Régnié-Durette, Rivolet, Sain-Bel, Saint-Clément-sur-Valsonne, Saint-Cyr-le-Chatoux, Saint-Didier-sur-Beaujeu, Saint-Etienne-des-Oullières, Saint-Etienne-la-Varenne, Saint-Georges-de-Reneins, Saint-Germain-Nuelles, Saint-Jean-des-Vignes, Saint-Julien, Saint-Just-d'Avray, Saint-Lager, Saint-Romain-de-Popey, Saint-Vérand, Sainte-Paule, Salles-Arbuissonnas-en-Beaujolais, Sarcey, Taponas, Ternand, Theizé, Val

d'Oingt, Vaux-en-Beaujolais, Vauxrenard, Vernay, Villefranche-sur-Saône, Ville-sur-Jarnioux, Villié-Morgon and Vindry-sur-Turdine (only the part corresponding to the territory of the former municipalities of Dareizé, Les Olmes and Saint-Loup)

— Department of Saône-et-Loire:

Aluze, Ameugny, Azé, Barizey, Beaumont-sur-Grosne, Berzé-la-Ville, Berzé-le-Châtel, Bissey-sous-Cruchaud, Bissy-la-Mâconnaise, Bissy-sous-Uxelles, Bissy-sur-Fley, Blanot, Bonnay, Bouzeron, Boyer, Bray, Bresse-sur-Grosne, Burgy, Burnand, Bussières, Buxy, Cersot, Chagny, Chaintré, Chalon-sur-Saône, Chamilly, Champagny-sous-Uxelles, Champforgeuil, Chânes, Change, Chapaize, La Chapelle-de-Bragny, La Chapelle-de-Guinchay, La Chapelle-sous-Brancion, Charbonnières, Chardonnay, La Charmée, Charnay-lès-Mâcon, Charrecey, Chasselas, Chassey-le-Camp, Château, Châtenoy-le-Royal, Chaudenay, Cheilly-lès-Maranges, Chenôves, Chevagny-les-Chevrières, Chissey-lès-Mâcon, Clessé, Cluny, Cormatin, Cortambert, Cortevaix, Couches, Crêches-sur-Saône, Créot, Cruzille, Culles-les-Roches, Curtil-sous-Burnand, Davayé, Demigny, Dennevy, Dezize-lès-Maranges, Donzy-le-Pertuis, Dracy-le-Fort, Dracy-lès-Couches, Epertully, Etrigny, Farges-lès-Chalon, Farges-lès-Mâcon, Flagy, Fleurville, Fley, Fontaines, Fragnes-La-Loyère (only the part corresponding to the territory of the former municipality of La Loyère), Fuissé, Genouilly, Germagny, Givry, Granges, Grevilly, Hurigny, Igé, Jalogny, Jambles, Jugy, Jully-lès-Buxy, Lacrost, Laives, Laizé, Lalheue, Leynes, Lournand, Lugny, Mâcon, Malay, Mancey, Martailly-lès-Brancion, Massilly, Mellecey, Mercurey, Messey-sur-Grosne, Milly-Lamartine, Montagny-lès-Buxy, Montbellet, Montceaux-Ragny, Moroges, Nanton, Ozenay, Paris-l'Hôpital, Péronne, Pierreclos, Plottes, Préty, Prissé, Pruzilly, Remigny, La Roche-Vineuse, Romanèche-Thorins, Rosey, Royer, Rully, Saint-Albain, Saint-Ambreuil, Saint-Amour-Bellevue, Saint-Boil, Saint-Clément-sur-Guye, Saint-Denis-de-Vaux, Saint-Désert, Saint-Gengoux-de-Scissé, Saint-Gengoux-le-National, Saint-Germain-lès-Buxy, Saint-Gervais-sur-Couches, Saint-Gilles, Saint-Jean-de-Trézy, Saint-Jean-de-Vaux, Saint-Léger-sur-Dheune, Saint-Mard-de-Vaux, Saint-Martin-Belle-Roche, Saint-Martin-du-Tartre, Saint-Martin-sous-Montaigu, Saint-Maurice-de-Satonnay, Saint-Maurice-des-Champs, Saint-Maurice-lès-Couches, Saint-Pierre-de-Varennes, Saint-Rémy, Saint-Sernin-du-Plain, Saint-Symphorien-d'Ancelles, Saint-Vallerin, Saint-Vérand, Saint-Ythaire, Saisy, La Salle, Salornay-sur-Guye, Sampigny-lès-Maranges, Sancé, Santilly, Sassangy, Saules, Savigny-sur-Grosne, Sennecey-le-Grand, Senozan, Sercy, Serrières, Sigy-le-Châtel, Sologny, Solutré-Pouilly, Taizé, Tournus, Uchizy, Varennes-lès-Mâcon, Vaux-en-Pré, Vergisson, Vers, Verzé, Le Villars, La Vineuse sur Fregande (only the part corresponding to the territory of the former municipalities of Donzy-le-National, Massy and La Vineuse), Vinzelles and Viré

— Department of Yonne:

Aigremont, Annay-sur-Serein, Arcy-sur-Cure, Asquins, Augy, Auxerre, Avallon, Bazarnes, Beine, Bernouil, Béru, Bessy-sur-Cure, Bleigny-le-Carreau, Censy, Chablis, Champlay, Champs-sur-Yonne, Chamvres, La Chapelle-Vaupelteigne, Charentenay, Châtel-Gérard, Chemilly-sur-Serein, Cheney, Chevannes, Chichée, Chitry, Collan, Coulangeron, Coulanges-la-Vineuse, Courgis, Cruzy-le-Châtel, Dannemoine, Deux Rivières, Dyé, Epineuil, Escamps, Escolives-Sainte-Camille, Fleys, Fontenay-près-Chablis, Gy-l'Evêque, Héry, Irancy, Island, Joigny, Jouancy, Junay, Jussy, Lichères-près-Aigremont, Lignorelles, Ligny-le-Châtel, Lucy-sur-Cure, Maligny, Mélisey, Merry-Sec, Migé, Molay, Molosmes, Montigny-la-Resle, Montholon (only the part corresponding to the territory of the former municipalities of Champvallon, Villiers sur Tholon and Volgré), Mouffy, Moulins-en-Tonnerrois, Nitry, Noyers, Ouanne, Paroy-sur-Tholon, Pasilly, Pierre-Perthuis, Poilly-sur-Serein, Pontigny, Préhy, Quenne, Roffey, Rouvray, Saint-Bris-le-Vineux, Saint-Cyr-les-Colons, Saint-Père, Sainte-Pallaye, Sainte-Vertu, Sarry, Senan, Serrigny, Tharoiseau, Tissey, Tonnerre, Tronchoy, Val-de-Mercy, Vallan, Venouse, Venoy, Vermenton, Vézannes, Vézelay, Vézinnes, Villeneuve-Saint-Salves, Villy, Vincelles, Vincelottes, Viviers and Yrouerre.

Labelling

Legal framework

National legislation

Type of further condition

Additional provisions relating to labelling

Description of the condition

a) Wines with the registered designation of origin may specify on their labels the name of a smaller geographical unit, provided that:

— it is the name of a place in the land register;

— it appears on the harvest declaration.

The name of the registered location appears immediately after the controlled designation of origin, and is printed in lettering no greater in both height and width than the letters in which the name of the controlled designation of origin is written.

b) The labels of wines entitled to the controlled designation of origin can mention the larger geographical entity 'Vin du Beaujolais', 'Grand Vin du Beaujolais' or 'Cru du Beaujolais'.

The size of the letters for the broader geographical unit must not be larger, either in height or width, than two-thirds of the size of the letters forming the name of the controlled designation of origin.

Link to the product specification

https://info.agriculture.gouv.fr/gedei/site/bo-agri/document_administratif-163ce6ee-43f3-40c6-b350-36ff801081a0

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