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Contents

[1] Text with EEA relevance

EN

Acts whose titles are printed in light type are those relating to day-to-day management of agricultural matters, and are generally valid for a limited period.

The titles of all other acts are printed in bold type and preceded by an asterisk.

DECISIONS

II

(Non-legislative acts)

REGULATIONS

COMMISSION REGULATION (EU) 2015/2030

of 13 November 2015

amending Regulation (EC) No 850/2004 of the European Parliament and of the Council on persistent organic pollutants as regards Annex I

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 850/2004 of the European Parliament and of the Council of 29 April 2004 on persistent organic pollutants and amending Directive 79/117/EEC ([1]), and in particular Article 14(3) thereof,

Whereas:

(1) Regulation (EC) No 850/2004 implements in the law of the Union the commitments set out in the Stockholm Convention on Persistent Organic Pollutants approved by Council Decision 2006/507/EC ([2]) and in the 1998 Aarhus Protocol on Persistent Organic Pollutants (hereinafter 'the Protocol') to the 1979 Convention on Long-Range Transboundary Air Pollution on Persistent Organic Pollutants (hereinafter 'CLRTAP') approved by Council Decision 2004/259/EC ([3]).

(2) Decision 2009/2 ([4]), adopted by the CLRTAP Executive Body at its 27th Session from 14 to 18 December 2009, identified short-chain chlorinated paraffins (hereinafter 'SCCPs') as a persistent organic pollutant. As such, they were added to the Protocol for elimination, subject to two exemptions: use as fire retardants in rubber used in conveyor belts in the mining industry or in dam sealants. Decision 2009/2 obliges the Parties to the Protocol to eliminate these two uses once suitable alternatives are available. 2/EC was implemented in the law of the Union by Commission Regulation (EU) No 519/2012 ([5]), which listed SCCPs in Annex I to Regulation (EC) No 850/2004.

(3) The SCCPs entry in Annex I to Regulation (EC) No 850/2004 provides for derogation for the production, placing on the market, and use of SCCPs in conveyor belts in the mining industry and in dam sealants. To comply with Decision 2009/2, according to that entry, as soon as new information on details of uses and safer alternative substances or technologies become available, the Commission must review the derogations with a view to phasing out the remaining uses of SCCPs. Such review, whilst mandated by Decision 2009/2, is in line with Article 14(3) of Regulation (EC) No 850/2004.

([1]) OJ L 158, 30.4.2004, p. 7.
([2]) Council Decision 2006/507/EC of 14 October 2004 concerning the conclusion, on behalf of the European Community, of the Stockholm Convention on Persistent Organic Pollutants (OJ L 209, 31.7.2006, p. 1).
([3]) Council Decision 2004/259/EC of 19 February 2004 concerning the conclusion, on behalf of the European Community, of the Protocol to the 1979 Convention on Long Range Transboundary Air Pollution on Persistent Organic Pollutants (OJ L 81, 19.3.2004, p. 35).
([4]) C.N.556.2010.TREATIES-4.
([5]) Commission Regulation (EU) No 519/2012 of 19 June 2012 amending Regulation (EC) No 850/2004 of the European Parliament and of the Council on persistent organic pollutants as regards Annex I (OJ L 159, 20.6.2012, p. 1).

(4) In accordance with Decision 2009/2 and the SCCPs entry in Annex I to Regulation (EC) No 850/2004, the review of the exemptions should focus on the existence of suitable alternatives for the two remaining uses. Once such alternatives are identified, the exemptions should be deleted from the entry.

(5) In 2010 the Netherlands submitted a dossier on SCCPs entitled 'Evaluation of possible restrictions on short chain chlorinated paraffins' (hereinafter 'the dossier') ([1]). The dossier identifies a number of alternatives which could be used instead of SCCPs in conveyor belts in the mining industry and in dam sealants. The dossier takes into the consideration the outcome of a public consultation which was conducted during its preparation by the Netherlands.

(6) Among the various alternatives identified, the most well-known are the medium- and long-chain chlorinated paraffins (MCCPs and LCCPs), with MCCPs appearing to be the alternative of choice for the vast majority of users. Both MCCPs and LCCPs combine performance characteristics that resemble those of SCCPs. Other available alternatives include substances such as organophosphate flame retardants and phosphate plasticisers, inorganic flame retardants and several others.

(7) In the course of that public consultation, it has been suggested by some European companies that a transition to alternatives may not necessarily be smooth and reformulation could take a considerable time. However, examples show that there are European companies that have begun using alternatives without major difficulties. With particular regard to the two applications that are exempt under Regulation (EC) No 850/2004, a major manufacturer of the conveyor belts has indicated that transition to MCCPs was smooth and incurred only low cost. At the time of the preparation of the same consultation, two other companies were working on alternatives.

(8) In 2013 the Commission consulted with the relevant stakeholders in the mining industry. The consultation indicated that conveyer belts containing SCCPs are no longer used by the industry for mining purposes.

(9) With regard to dam sealants containing SCCPs, they do not appear to be manufactured, placed on the market or used in the Union. Indeed, already in 2008 the relevant stakeholders indicated to the European Chemicals Agency ([2]) that SCCPs do not appear to be in use or are in the process of being phased out in sealants (including dam sealants) in Europe.

(10) In June 2012, the only known entity that registered manufacture of SCCPs under Regulation (EC) No 1907/2006 of the European Parliament and of the Council ([3]) declared that they had stopped and do not intend to restart manufacture of the substances.

(11) There are suitable alternatives to the use of SCCPs in conveyor belts in the mining industry and in dam sealants. Consequently, the Commission is obliged by Decision 2009/2 and the review clause in the SCCPs entry in Annex I to Regulation (EC) No 850/2004 to eliminate those two uses. Although the industry appears to have voluntarily phased out those two uses, the exemptions in the entry should be deleted to ensure full compliance with the thrust of the international agreement to eliminate the use of persistent organic pollutants.

(12) It is also necessary to clarify that, with regard to SCCPs, the prohibition in Article 3(1) of Regulation (EC) No 850/2004 does not apply to conveyor belts in the mining industry and dam sealants already in use before or on the date of entry into force of this Regulation.

(13) It is furthermore necessary to clarify that articles that contain SCCP in concentrations lower than 0,15 % by weight are allowed to be placed on the market and used, as this is the amount of SCCP that may be present as an impurity in an article produced with MCCP.

(14) The measures provided for in this Regulation are in accordance with the opinion of the Committee established by Council Directive 67/548/EEC ([4]),

([1]) 'Evaluation of possible restrictions on short chain chlorinated paraffins (SCCPs)', prepared for the National Institute for Public Health and the Environment (RIVM), the Netherlands, RPA July 2010.

([2]) http://echa.europa.eu/documents/10162/13640/tech_rep_alkanes_chloro_en.pdf

([3]) Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC (OJ L 396, 30.12.2006, p. 1).

([4]) Council Directive 67/548/EEC of 27 June 1967 on the approximation of laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances (OJ 196, 16.8.1967, p. 1).

HAS ADOPTED THIS REGULATION:

Article 1

Annex I to Regulation (EC) No 850/2004 is amended in accordance with the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 13 November 2015.

For the Commission
The President
Jean-Claude JUNCKER

ANNEX

In Part B of Annex I to Regulation (EC) No 850/2004, the entry for Alkanes C10-C13, chloro (short-chain chlorinated paraffins) (SCCPs) is replaced by the following:

'Alkanes C10-C13, chloro (short-chain chlorinated paraffins) (SCCPs)	85535-84-8	287-476-5	1. By way of derogation, the production, placing on the market and use of substances or preparations containing SCCPs in concentrations lower than 1 % by weight or articles containing SCCPs in concentrations lower than 0,15 % by weight shall be allowed. 2. Use shall be allowed in respect of: (a) conveyor belts in the mining industry and dam sealants containing SCCPs already in use before or on 4 December 2015; and (b) articles containing SCCPs other than those referred to in (a) already in use before or on 10 July 2012. 3. Article 4(2) third and fourth subparagraphs shall apply to the articles referred to in point 2 above.'

COMMISSION IMPLEMENTING REGULATION (EU) 2015/2031

of 13 November 2015

amending Regulation (EC) No 1918/2006 opening and providing for the administration of tariff quota for olive oil originating in Tunisia

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 ([1]), and in particular points (a), (c) and (d) of Article 187 thereof

Whereas:

(1) Commission Regulation (EC) No 1918/2006 ([2]) has opened an annual tariff quota for the import into the Union of virgin olive oil falling within CN codes 1509 10 10 and 1509 10 90, wholly obtained in Tunisia and transported directly from that country. Article 2(2) of that Regulation lays down monthly limits for the quantity of olive oil for which import licences may be issued under the overall volume of the quota provided for in paragraph 1 of that Article. In view of the need to take measures to alleviate Tunisia's economic situation, it is appropriate to facilitate trade in the olive oil between the Union and Tunisia by reducing the administrative burden for the administration of the quota opened by Regulation (EC) No 1918/2006. It is therefore necessary to suppress the monthly limits provided for in Article 2(2) of that Regulation.

(2) The amount of the security fixed in Article 3(4) of Regulation (EC) No 1918/2006 should be increased to guarantee that the undertaking to import will be fulfilled during the period of validity of the import licences.

(3) Regulation (EC) No 1918/2006 should therefore be amended accordingly.

(4) The measures provided for in this Regulation are in accordance with the opinion of the Committee for the Common Organisation of the Agricultural Markets,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1918/2006 is amended as follows:

(1) Article 2 is amended as follows:

(a) paragraph 2 is replaced by the following:

'2. The quota shall be opened from 1 January each year.';

(b) paragraph 3 is deleted.

(2) Article 3 is amended as follows:

(a) paragraph 1 is replaced by the following:

'1. By way of derogation from Article 6(1) of Regulation (EC) No 1301/2006, applicants may lodge one import licence application each week, either on Monday or Tuesday.';

([1]) OJ L 347, 20.12.2013, p. 671.
([2]) Commission Regulation (EC) No 1918/2006 of 20 December 2006 opening and providing for the administration of tariff quota for olive oil originating in Tunisia (OJ L 365, 21.12.2006, p. 84).

(b) paragraph 4 is replaced by the following:

'4. The import licence shall be valid from the actual day of its issue, in accordance with Article 22(2) of Commission Regulation (EC) No 376/2008 (*), until the last day of the import tariff quota period.

The amount of the security shall be EUR 20 per 100 kg net.

(*) Commission Regulation (EC) No 376/2008 of 23 April 2008 laying down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products (OJ L 114, 26.4.2008, p. 3).'.

Article 2

This Regulation shall enter into force on the seventh day following that of its publication in the *Official Journal of the European Union*.

It shall apply for the quota periods starting from 1 January 2016.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 13 November 2015.

For the Commission
The President
Jean-Claude JUNCKER

COMMISSION IMPLEMENTING REGULATION (EU) 2015/2032

of 13 November 2015

amending Implementing Regulation (EU) 2015/1089 as regards budgetary ceilings for 2015 applicable to certain direct support schemes for the United Kingdom

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1307/2013 of the European Parliament and of the Council of 17 December 2013 establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy and repealing Council Regulation (EC) No 637/2008 and Council Regulation (EC) No 73/2009 ([1]), and in particular Articles 22(1), 42(2) and 51(4) thereof,

Whereas:

(1) Commission Implementing Regulation (EU) 2015/1089 ([2]) fixed the annual national ceilings for the relevant direct payment measures in 2015.

(2) In the United Kingdom, the legislation implementing the Union rules on direct payments in Wales has been quashed by a national court order. As a consequence, new decisions were taken by the United Kingdom for the implementation of direct payments in Wales and notified to the Commission. While it is for the United Kingdom to ensure that those new decisions respect the applicable legal framework and general principles of Union law, it is appropriate to take those new decisions into account. More precisely, as those new decisions affect the calculation of the annual national ceilings for 2015 for the basic payment scheme and the payment for young farmers for the United Kingdom, it is appropriate to amend those ceilings accordingly. In addition, on the basis of those decisions it is appropriate to set the ceiling for the redistributive payment for 2015 for the United Kingdom.

(3) Implementing Regulation (EU) 2015/1089 should therefore be amended accordingly.

(4) Concerning the year 2015, the implementation of direct support schemes provided for in Regulation (EU) No 1307/2013 started on 1 January 2015. For the sake of consistency between the applicability of that Regulation for the claim year 2015 and the applicability of the corresponding budgetary ceilings, this Regulation should apply from the same date.

(5) The measures provided for in this Regulation are in accordance with the opinion of the Committee for Direct Payments,

HAS ADOPTED THIS REGULATION:

Article 1

Amendment of Implementing Regulation (EU) 2015/1089

The Annex to Implementing Regulation (EU) 2015/1089 is amended in accordance with the Annex to this Regulation.

Article 2

Entry into force and application

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2015.

([1]) OJ L 347, 20.12.2013, p. 608.

([2]) Commission Implementing Regulation (EU) 2015/1089 of 6 July 2015 establishing budgetary ceilings for 2015 applicable to certain direct support schemes provided for in Regulation (EU) No 1307/2013 of the European Parliament and of the Council and setting the share for the special de-mining reserve for Croatia (OJ L 176, 6.7.2015, p. 29).

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 13 November 2015.

For the Commission
The President
Jean-Claude JUNCKER

ANNEX

The Annex to Implementing Regulation (EU) 2015/1089 is amended as follows:

(1) In point I, the entry for the United Kingdom is replaced by the following:

'United Kingdom	2 100 795'

(2) In point III, the following entry for the United Kingdom is added:

'United Kingdom	16 134'

(3) In point VI, the entry for the United Kingdom is replaced by the following:

'United Kingdom	51 798'

COMMISSION IMPLEMENTING REGULATION (EU) 2015/2033

of 13 November 2015

renewing the approval of the active substance 2,4-D in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending the Annex to Commission Implementing Regulation (EU) No 540/2011

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC ([1]), and in particular Article 20(1) thereof,

Whereas:

(1) The approval of the active substance 2,4-D, as set out in Part A of the Annex to Commission Implementing Regulation (EU) No 540/2011 ([2]), expires on 31 December 2015.

(2) An application for the renewal of the inclusion of 2,4-D in Annex I to Council Directive 91/414/EEC ([3]) was submitted in accordance with Article 4 of Commission Regulation (EU) No 1141/2010 ([4]) within the time period provided for in that Article.

(3) The applicant submitted the supplementary dossiers required in accordance with Article 9 of Regulation (EU) No 1141/2010. The application was found to be complete by the rapporteur Member State.

(4) The rapporteur Member State prepared a renewal assessment report in consultation with the co-rapporteur Member State and submitted it to the European Food Safety Authority (hereinafter 'the Authority') and the Commission on 4 March 2013.

(5) The Authority communicated the renewal assessment report to the applicant and to the Member States for comments and forwarded the comments received to the Commission. The Authority also made the supplementary summary dossier available to the public.

(6) On 7 August 2014 and 11 March 2015 ([5]) the Authority communicated to the Commission its conclusion on whether 2,4-D can be expected to meet the approval criteria provided for in Article 4 of Regulation (EC) No 1107/2009. The Commission presented the draft review report for 2,4-D to the Standing Committee on Plants, Animals, Food and Feed on 28 May 2015.

(7) It has been established with respect to one or more representative uses of at least one plant protection product containing the active substance that the approval criteria provided for in Article 4 are satisfied. Those approval criteria are therefore deemed to be satisfied.

(8) It is therefore appropriate to renew the approval of 2,4-D.

(9) In accordance with Article 14(1) of Regulation (EC) No 1107/2009 in conjunction with Article 6 thereof and in the light of current scientific and technical knowledge, it is, however, necessary to include certain conditions and restrictions. It is, in particular, appropriate to require further confirmatory information.

([1]) OJ L 309, 24.11.2009, p. 1.
([2]) Commission Implementing Regulation (EU) No 540/2011 of 25 May 2011 implementing Regulation (EC) No 1107/2009 of the European Parliament and of the Council as regards the list of approved active substances (OJ L 153, 11.6.2011, p. 1).
([3]) Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market (OJ L 230, 19.8.1991, p. 1).
([4]) Commission Regulation (EU) No 1141/2010 of 7 December 2010 laying down the procedure for the renewal of the inclusion of a second group of active substances in Annex I to Council Directive 91/414/EEC and establishing the list of those substances (OJ L 322, 8.12.2010, p. 10).
([5]) EFSA Journal 2014; 12(9): 3812. Available online: www.efsa.europa.eu

(10) The risk assessment for the renewal of the approval of 2,4-D is based on a limited number of representative uses, which however do not restrict the uses for which plant protection products containing 2,4-D may be authorised. It is therefore appropriate not to maintain the restriction to uses as a herbicide.

(11) In accordance with Article 20(3) of Regulation (EC) No 1107/2009, in conjunction with Article 13(4) thereof, the Annex to Implementing Regulation (EU) No 540/2011 should be amended accordingly.

(12) This Regulation should apply from the day after the date of expiry of the approval of the active substance 2,4-D, as referred to in recital 1.

(13) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

HAS ADOPTED THIS REGULATION:

Article 1

Renewal of the approval of active substance

The approval of the active substance 2,4-D, as specified in Annex I, is renewed subject to the conditions laid down in that Annex.

Article 2

Amendments to Implementing Regulation (EU) No 540/2011

The Annex to Implementing Regulation (EU) No 540/2011 is amended in accordance with Annex II to this Regulation.

Article 3

Entry into force and date of application

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2016.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 13 November 2015.

For the Commission
The President
Jean-Claude JUNCKER

ANNEX I

Common Name, Identification Numbers	IUPAC Name	Purity (1)	Date of approval	Expiration of approval	Specific provisions
2,4-D CAS No: 94-75-7 CIPAC No: 1	(2,4-dichlorophenoxy)acetic acid	≥ 960 g/kg Impurities: Free phenols (expressed as 2,4-DCP): not more than 3 g/kg. Sum of dioxins and furans (WHO-TCDD TEQ) (2): not more than 0,01 mg/kg.	1 January 2016	31 December 2030	For the implementation of the uniform principles, as referred to in Article 29(6) of Regulation (EC) No 1107/2009, the conclusions of the review report on 2,4-D, and in particular Appendices I and II thereof, shall be taken into account. In this overall assessment Member States shall pay particular attention to the risk to aquatic organisms, terrestrial organisms and consumers in cases of uses above 750 g/ha. Conditions of use shall include risk mitigation measures, where appropriate. The applicant shall submit to the Commission, the Member States and the Authority: (1) confirmatory information in the form of the submission of the complete results from the existing extended one-generation study; (2) confirmatory information in the form of the submission of the Amphibian Metamorphosis Assay (AMA) (OECD (2009) Test No 231) as to verify the potential endocrine properties of the substance. The information set out in point (1) shall be submitted by 4 June 2016 and the information set out in point (2) by 4 December 2017.

(1) Further details on identity and specification of active substance are provided in the review report.
(2) Dioxins (sum of polychlorinated dibenzo-para-dioxins (PCDDs) and polychlorinated dibenzofurans (PCDFs), expressed as World Health Organisation (WHO) toxic equivalent (TEQ) using the WHO-toxic equivalency factors (WHO-TEFs)).

ANNEX II

The Annex to Implementing Regulation (EU) No 540/2011 is amended as follows:

(1) in Part A, entry 27 on 2,4-D is deleted;

(2) in Part B, the following entry is added:

'94	2,4-D CAS No: 94-75-7 CIPAC No: 1	(2,4-dichlorophenoxy) acetic acid	≥ 960 g/kg Impurities: Free phenols (expressed as 2,4-DCP): not more than 3 g/kg. Sum of dioxins and furans (WHO-TCDD TEQ) (*): not more than 0,01 mg/kg.	1 January 2016	31 December 2030	For the implementation of the uniform principles, as referred to in Article 29(6) of Regulation (EC) No 1107/2009, the conclusions of the review report on 2,4-D, and in particular Appendices I and II thereof, shall be taken into account. In this overall assessment Member States shall pay particular attention to the risk to aquatic organisms, terrestrial organisms and consumers in cases of uses above 750 g/ha. Conditions of use shall include risk mitigation measures, where appropriate. The notifier shall submit to the Commission, the Member States and the Authority: (1) confirmatory information in the form of the submission of the complete study results from the existing extended one-generation study; (2) confirmatory information in the form of the submission of the Amphibian Metamorphosis Assay (AMA) (OECD (2009) Test No 231) as to verify the potential endocrine properties of the substance. The information set out in point (1) shall be submitted by 4 June 2016 and the information set out in point (2) by 4 December 2017.

(*) Dioxins (sum of polychlorinated dibenzo-para-dioxins (PCDDs) and polychlorinated dibenzofurans (PCDFs), expressed as World Health Organisation (WHO) toxic equivalent (TEQ) using the WHO-toxic equivalency factors (WHO-TEFs)).'

COMMISSION IMPLEMENTING REGULATION (EU) 2015/2034

of 13 November 2015

establishing the standard import values for determining the entry price of certain fruit and vegetables

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 ([1]),

Having regard to Commission Implementing Regulation (EU) No 543/2011 of 7 June 2011 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 in respect of the fruit and vegetables and processed fruit and vegetables sectors ([2]), and in particular Article 136(1) thereof,

Whereas:

(1) Implementing Regulation (EU) No 543/2011 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission fixes the standard values for imports from third countries, in respect of the products and periods stipulated in Annex XVI, Part A thereto.

(2) The standard import value is calculated each working day, in accordance with Article 136(1) of Implementing Regulation (EU) No 543/2011, taking into account variable daily data. Therefore this Regulation should enter into force on the day of its publication in the *Official Journal of the European Union*,

HAS ADOPTED THIS REGULATION:

Article 1

The standard import values referred to in Article 136 of Implementing Regulation (EU) No 543/2011 are fixed in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 13 November 2015.

For the Commission,
On behalf of the President,
Jerzy PLEWA
Director-General for Agriculture and Rural Development

([1]) OJ L 347, 20.12.2013, p. 671.
([2]) OJ L 157, 15.6.2011, p. 1.

ANNEX

Standard import values for determining the entry price of certain fruit and vegetables

(EUR/100 kg)

CN code	Third country code (1)	Standard import value
0702 00 00	AL	50,7
	MA	82,7
	MK	43,3
	ZZ	58,9
0707 00 05	AL	78,9
	TR	147,0
	ZZ	113,0
0709 93 10	MA	81,2
	TR	168,9
	ZZ	125,1
0805 20 10	CL	185,6
	MA	91,0
	PE	166,7
	TR	83,5
	ZZ	131,7
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	TR	69,1
	ZA	95,1
	ZZ	82,1
0805 50 10	TR	99,6
	ZZ	99,6
0806 10 10	BR	289,3
	EG	231,3
	PE	253,2
	TR	173,2
	ZZ	236,8
0808 10 80	AR	151,8
	CA	163,3
	CL	84,7
	MK	29,8
	NZ	136,8
	US	150,6
	ZA	214,0
	ZZ	133,0
0808 30 90	BA	86,2
	CN	64,9
	TR	131,0
	ZZ	94,0

(1) Nomenclature of countries laid down by Commission Regulation (EU) No 1106/2012 of 27 November 2012 implementing Regulation (EC) No 471/2009 of the European Parliament and of the Council on Community statistics relating to external trade with non-member countries, as regards the update of the nomenclature of countries and territories (OJ L 328, 28.11.2012, p. 7). Code 'ZZ' stands for 'of other origin'.

DECISIONS

COUNCIL DECISION (EU) 2015/2035

of 26 October 2015

on the position to be taken on behalf of the European Union within the Trade and Sustainable Development Sub-Committee and the Association Committee in Trade configuration established by the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Georgia, of the other part, as regards the adoption of the Rules of Procedure of the Trade and Sustainable Development Sub-Committee, the establishment of the list of experts on trade and sustainable development by that Sub-Committee, and the establishment of the list of arbitrators by the Association Committee in Trade configuration

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular the first subparagraph of Article 207(4) in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) Article 431 of the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Georgia, of the other part ([1]) ('the Agreement') provides for provisional application of the Agreement in part.

(2) Article 3 of Council Decision 2014/494/EU ([2]) specifies which parts of the Agreement are to be applied provisionally, including the provisions on the establishment and functioning of the Trade and Sustainable Development Sub-Committee and of the Association Committee in Trade configuration, as set out in Article 408(4) of the Agreement ('the Association Committee in Trade configuration'), the provisions regarding trade and sustainable development and those on dispute settlement.

(3) Pursuant to Article 240(3) of the Agreement, the Trade and Sustainable Development Sub-Committee is to adopt its rules of procedure.

(4) Pursuant to Article 243(3) of the Agreement, the Trade and Sustainable Development Sub-Committee is to establish at its first meeting a list of at least 15 individuals who are willing and able to serve as experts in panel procedures on trade and sustainable development.

(5) Pursuant to Article 268(1) of the Agreement, the Association Committee in Trade configuration is to establish a list of at least 15 individuals who are willing and able to serve as arbitrators in dispute settlement proceedings within 6 months of the start of the provisional application of the Agreement.

(6) It is therefore appropriate to determine the Union position as regards the rules of procedure to be adopted by the Trade and Sustainable Development Sub-Committee, the list of experts on trade and sustainable development to be established by that Sub-Committee, and as regards the list of arbitrators to be established by the Association Committee in Trade configuration,

([1]) OJ L 261, 30.8.2014, p. 4.
([2]) Council Decision 2014/494/EU of 16 June 2014 on the signing, on behalf of the European Union, and provisional application of the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Georgia, of the other part (OJ L 261, 30.8.2014, p. 1).

HAS ADOPTED THIS DECISION:

Article 1

1. The position to be taken on behalf of the Union within the Trade and Sustainable Development Sub-Committee established by Article 240 of the Agreement, as regards the adoption of the Rules of Procedure of that Sub-Committee and the establishment of the list of experts on trade and sustainable development shall be based on the draft Decisions of that Sub-Committee attached to this Decision.

2. Minor technical corrections to the draft Decisions may be agreed by the representatives of the Union in the Trade and Sustainable Development Sub-Committee without further decision of the Council.

Article 2

1. The position to be taken on behalf of the Union within the Association Committee in Trade configuration, as regards the establishment of the list of arbitrators shall be based on the draft Decision of that Committee attached to this Decision.

2. Minor technical corrections to the draft Decision may be agreed by the representatives of the Union in the Association Committee in Trade configuration without further decision of the Council.

Article 3

This Decision shall enter into force on the date of its adoption.

Done at Brussels, 26 October 2015.

For the Council
The President
F. MOGHERINI

DRAFT

DECISION No 1/2015 OF THE EU-GEORGIA TRADE AND SUSTAINABLE DEVELOPMENT SUB-COMMITTEE

of …

adopting its Rules of Procedure

THE EU-GEORGIA TRADE AND SUSTAINABLE DEVELOPMENT SUB-COMMITTEE,

Having regard to the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Georgia, of the other part ([1]) ('the Agreement'), and in particular Article 240 thereof,

Whereas:

(1) In accordance with Article 431 of the Agreement, parts of the Agreement have been applied provisionally since 1 September 2014.

(2) Pursuant to Article 240 of the Agreement, the Trade and Sustainable Development Sub-Committee is to oversee the implementation of Chapter 13 (Trade and Sustainable Development) of Title IV (Trade and Trade-related matters) of the Agreement.

(3) Pursuant to Article 240(3) of the Agreement, the Trade and Sustainable Development Sub-Committee is to adopt its rules of procedure,

HAS ADOPTED THIS DECISION:

Article 1

The Rules of Procedure of the Trade and Sustainable Development Sub-Committee, as set out in the Annex, are hereby adopted.

Article 2

This Decision shall enter into force on the date of its adoption.

Done at …,

For the Trade and Sustainable Development Sub-Committee

The Chair

([1]) OJ L 261, 30.8.2014, p. 4.

ANNEX

Rules of Procedure of the EU-Georgia Trade and Sustainable Development Sub-Committee

Article 1

General provisions

1. The Trade and Sustainable Development Sub-Committee established in accordance with Article 240 of the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Georgia, of the other part ('the Agreement') shall assist the Association Committee in Trade configuration, as set out in Article 408(4) of the Agreement ('the Association Committee in Trade configuration'), in the performance of its duties.

2. The Trade and Sustainable Development Sub-Committee shall perform the functions set out in Chapter 13 (Trade and Sustainable Development) of Title IV (Trade and trade-related matters) of the Agreement.

3. The Trade and Sustainable Development Sub-Committee shall be composed of representatives of the European Commission and of Georgia, responsible for trade and sustainable development matters.

4. A representative of the European Commission or of Georgia who is responsible for trade and sustainable development matters shall act as Chair of the Trade and Sustainable Development Sub-Committee in accordance with Article 2.

5. The term 'the Parties' in these Rules of Procedure shall be defined as provided for in Article 428 of the Agreement.

Article 2

Specific provisions

1. Articles 2 to 14 of the Rules of Procedure of the EU-Georgia Association Committee shall apply, unless otherwise provided for in these Rules of Procedure.

2. The references to the Association Council shall be read as references to the Association Committee in Trade configuration. The references to the Association Committee or the Association Committee in Trade configuration shall be read as references to the Trade and Sustainable Development Sub-Committee.

Article 3

Meetings

The Trade and Sustainable Development Sub-Committee shall meet as necessary. The Parties shall aim to meet once a year.

Article 4

Amendment of Rules of Procedure

These Rules of Procedure may be amended by a decision of the Trade and Sustainable Development Sub-Committee in accordance with Article 240 of the Agreement.

DRAFT

DECISION No 2/2015 OF THE EU-GEORGIA TRADE AND SUSTAINABLE DEVELOPMENT SUB-COMMITTEE

of …

establishing the list of experts on trade and sustainable development

THE EU-GEORGIA TRADE AND SUSTAINABLE DEVELOPMENT SUB-COMMITTEE,

Having regard to the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Georgia, of the other part ([1]) ('the Agreement'), and in particular Article 243 thereof,

Whereas:

(1) In accordance with Article 431 of the Agreement, parts of the Agreement have been applied provisionally since 1 September 2014.

(2) Pursuant to Article 243(3) of the Agreement, the Trade and Sustainable Development Sub-Committee is to establish a list of at least 15 individuals who are willing and able to serve as experts in panel procedures,

HAS ADOPTED THIS DECISION:

Article 1

The list of experts on trade and sustainable development for the purposes of Article 243 of the Agreement is established as set out in the Annex.

Article 2

This Decision shall enter into force on the date of its adoption.

Done at …,

For the Trade and Sustainable Development Sub-Committee

The Chair

([1]) OJ L 261, 30.8.2014, p. 4.

ANNEX

LIST OF EXPERTS ON TRADE AND SUSTAINABLE DEVELOPMENT

I. Experts proposed by Georgia

1. Nata Sturua
2. David Kikodze
3. Marina Shvangiradze
4. Ilia Osepashvili
5. Roin Migriauli

II. Experts proposed by the EU

1. Eddy Laurijssen
2. Jorge Cardona
3. Karin Lukas
4. Hélène Ruiz Fabri
5. Laurence Boisson De Chazournes
6. Geert Van Calster

III. Chairpersons

1. Jill Murray (Australia)
2. Janice Bellace (USA)
3. Ross Wilson (New Zealand)
4. Arthur Appleton (USA)
5. Nathalie Bernasconi (Switzerland)

DRAFT

DECISION No 3/2015 OF THE EU-GEORGIA ASSOCIATION COMMITTEE IN TRADE CONFIGURATION

of …

establishing the list of arbitrators referred to in Article 268(1) of the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Georgia, of the other part

THE ASSOCIATION COMMITTEE IN TRADE CONFIGURATION,

Having regard to the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Georgia, of the other part [1] ('the Agreement'), and in particular Article 268(1) thereof,

Whereas:

(1) In accordance with Article 431 of the Agreement, parts of the Agreement have been applied provisionally since 1 September 2014.

(2) Pursuant to Article 408(3) of the Agreement, the Association Committee has the power to adopt decisions as provided for in the Agreement.

(3) Pursuant to Article 268(1) of the Agreement, the Association Committee in Trade configuration, as set out in Article 408(4) of the Agreement, is to establish a list of at least 15 individuals who are willing and able to serve as arbitrators in dispute settlement proceedings within six months of the start of the provisional application of the Agreement,

HAS ADOPTED THIS DECISION:

Article 1

The list of arbitrators for the purposes of Article 268(1) of the Agreement is established as set out in the Annex.

Article 2

This Decision shall enter into force on the date of its adoption.

Done at …,

For the Association Committee in Trade configuration

The Chair

[1] OJ L 261, 30.8.2014, p. 4.

ANNEX

LIST OF ARBITRATORS

I. Arbitrators proposed by Georgia

1. Christian Häberli (Switzerland)
2. Donald McRae (Canada)
3. John Adank (New Zealand)
4. Ronald Saborio (Costa Rica)
5. Thomas Cottier (Switzerland)

II. Arbitrators proposed by the EU

1. Claus–Dieter Ehlermann
2. Giorgio Saccerdoti
3. Jacques Bourgeois
4. Pieter Jan Kuijper
5. Ramon Torrent

III. Chairpersons

1. David Unterhalter (South Africa)
2. Merit Janow (US)
3. Helge Seland (Norway)
4. Leora Blumberg (South Africa)
5. William Davey (US)

COUNCIL DECISION (EU) 2015/2036

of 26 October 2015

appointing four Italian alternate members of the Committee of the Regions

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 305 thereof,

Having regard to the proposal of the Italian Government,

Whereas:

(1) On 26 January, on 5 February and on 23 June 2015, the Council adopted Decisions (EU) 2015/116 ([1]), (EU) 2015/190 ([2]) and (EU) 2015/994 ([3]) appointing the members and alternate members of the Committee of the Regions for the period from 26 January 2015 to 25 January 2020.

(2) Four alternate members' seats on the Committee of the Regions have become vacant following the end of the term of office of Ms Bianca Maria D'ANGELO, Ms Paola GIORGI, Ms Carmen MURATORE and Mr Nicola VENDOLA,

HAS ADOPTED THIS DECISION:

Article 1

The following are hereby appointed as alternate members to the Committee of the Regions for the remainder of the current term of office, which runs until 25 January 2020:

— Sig.ra Manuela BORA, *Consigliere regionale e Assessore della Regione Marche*,

— Sig.ra Ilaria CAVO, *Consigliere regionale e Assessore della Regione Liguria*,

— Sig. Vincenzo DE LUCA, *Presidente della Regione Campania*,

— Sig. Michele EMILIANO, *Presidente della Regione Puglia*.

Article 2

This Decision shall enter into force on the day of its adoption.

Done at Luxembourg, 26 October 2015.

For the Council
The President
C. DIESCHBOURG

([1]) OJ L 20, 27.1.2015, p. 42.
([2]) OJ L 31, 7.2.2015, p. 25.
([3]) OJ L 159, 25.6.2015, p. 70.

COUNCIL DECISION (EU) 2015/2037

of 10 November 2015

authorising Member States to ratify, in the interests of the European Union, the Protocol of 2014 to the Forced Labour Convention, 1930, of the International Labour Organisation with regard to matters relating to social policy

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 153(2), in conjunction with points (a) and (b) of Article 153(1) and Article 218(6)(a)(v) thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament,

Whereas:

(1) The Union is promoting the ratification of international labour conventions, classified by the International Labour Organisation (ILO) as up to date, to contribute to the Union's efforts to promote human rights and decent work for all and to eradicate trafficking in human beings both inside and outside the Union. The protection of fundamental principles and rights at work is a key aspect of that promotion.

(2) The Forced Labour Convention, 1930, of the International Labour Organisation, which the Protocol of 2014 supplements, is a fundamental ILO Convention and has a bearing on rules which make reference to core labour standards.

(3) Parts of the rules provided for in the Protocol of 2014 to the Forced Labour Convention, 1930, of the International Labour Organisation ('the Protocol') fall within Union competence in accordance with Article 153(2) of the Treaty on the Functioning of the European Union (TFEU). In particular, some of the rules provided for in the Protocol are already covered by Union *acquis* in the area of social policy. In that regard, Articles 1(1), 2(a) and 2(d) of the Protocol, in particular, concern matters covered by Council Directive 91/533/EEC ([1]), Directive 2008/104/EC of the European Parliament and of the Council ([2]), as well as Directives on health and safety at work, including Council Directive 89/391/EEC ([3]), Directive 2003/88/EC of the European Parliament and of the Council ([4]), Council Directive 94/33/EC ([5]) and Council Directive 92/85/EEC ([6]).

(4) Article 19(4) of the ILO Constitution, on the adoption and ratification of Conventions, similarly applies to Protocols, which are binding international agreements, subject to ratification and linked to Conventions.

(5) The Union cannot ratify the Protocol as only States can be parties thereto.

(6) Member States should therefore be authorised to ratify the Protocol, acting jointly in the interests of the Union, with regard to those parts falling within Union competence in accordance with Article 153(2) TFEU.

(7) The parts of the Protocol falling within the competence conferred upon the Union, other than the parts related to social policy, will be subject to a Decision adopted in parallel to this Decision,

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([1]) Council Directive 91/533/EEC of 14 October 1991 on an employer's obligation to inform employees of the conditions applicable to the contract or employment relationship (OJ L 288, 18.10.1991, p. 32).

([2]) Directive 2008/104/EC of the European Parliament and of the Council of 19 November 2008 on temporary agency work (OJ L 327, 5.12.2008, p. 9).

([3]) Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work (OJ L 183, 29.6.1989, p. 1).

([4]) Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time (OJ L 299, 18.11.2003, p. 9).

([5]) Council Directive 94/33/EC of 22 June 1994 on the protection of young people at work (OJ L 216, 20.8.1994, p. 12).

([6]) Council Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding (tenth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) (OJ L 348, 28.11.1992, p. 1).

HAS ADOPTED THIS DECISION:

Article 1

Member States are hereby authorised to ratify, for the parts falling within the competence conferred upon the Union under Article 153(2) TFEU, the Protocol of 2014 to the Forced Labour Convention, 1930, of the International Labour Organisation.

Article 2

Member States should take the necessary steps to deposit their instruments of ratification of the Protocol with the Director-General of the International Labour Office as soon as possible, preferably by 31 December 2016.

Article 3

This Decision is addressed to the Member States.

Done at Brussels, 10 November 2015.

For the Council
The President
P. GRAMEGNA

COMMISSION IMPLEMENTING DECISION (EU) 2015/2038

of 13 November 2015

on the equivalence of the regulatory framework of the Republic of Korea for central counterparties to the requirements of Regulation (EU) No 648/2012 of the European Parliament and of the Council on OTC derivatives, central counterparties and trade repositories

THE EUROPEAN COMMISSION,

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

Having regard to 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 [1], and in particular Article 25(6) thereof,

Whereas:

(1) The procedure for recognition of central counterparties ('CCPs') established in third countries set out in Article 25 of Regulation (EU) No 648/2012 aims to allow CCPs established and authorised in third countries whose regulatory standards are equivalent to those laid down in that Regulation to provide clearing services to clearing members or trading venues established in the Union. That recognition procedure and the equivalence decision provided for therein thus contribute to the achievement of the overarching aim of Regulation (EU) No 648/2012 to reduce systemic risk by extending the use of safe and sound CCPs to clear over-the-counter ('OTC') derivative contracts, including where those CCPs are established and authorised in a third country.

(2) In order for a third country legal regime to be considered equivalent to the legal regime of the Union in respect of CCPs, the substantial outcome of the applicable legal and supervisory arrangements should be equivalent to Union requirements in respect of the regulatory objectives they achieve. The purpose of this equivalence assessment is therefore to verify that the legal and supervisory arrangements of the Republic of Korea (hereafter 'South Korea') ensure that CCPs established and authorised therein do not expose clearing members and trading venues established in the Union to a higher level of risk than the latter could be exposed to by CCPs authorised in the Union and, consequently, do not pose unacceptable levels of systemic risk in the Union.

(3) On 1 October 2013, the Commission received the technical advice of the European Securities and Markets Authority ('ESMA') on the legal and supervisory arrangements applicable to CCPs authorised in South Korea. The technical advice identified a number of differences between the legally binding requirements applicable, at a jurisdictional level, to CCPs in South Korea and the legally binding requirements applicable to CCPs under Regulation (EU) No 648/2012. This Decision is not only based, however, on a comparative analysis of the legally binding requirements applicable to CCPs in South Korea, but also on an assessment of the outcome of those requirements, and their adequacy to mitigate the risks that clearing members and trading venues established in the Union may be exposed to in a manner considered equivalent to the outcome of the requirements laid down in Regulation (EU) No 648/2012. The significantly lower risks inherent in clearing activities carried out in financial markets that are smaller than the Union financial market should thereby, in particular, be taken into account.

(4) In accordance with Article 25(6) of Regulation (EU) No 648/2012, three conditions need to be fulfilled in order to determine that the legal and supervisory arrangements of a third country regarding CCPs authorised therein are equivalent to those laid down in that Regulation.

(5) According to the first condition, CCPs authorised in a third country must comply with legally binding requirements which are equivalent to the requirements laid down in Title IV of Regulation (EU) No 648/2012.

(6) The legally binding requirements of South Korea for CCPs authorised therein consist of the Financial Investment Services and Capital Markets Act 2013 ('FSCMA'), including a number of subordinated regulations implementing the FSCMA.

[1] OJ L 201, 27.7.2012, p. 1.

(7) CCPs are authorised by the Financial Services Commission ('FSC'). To grant an authorisation for clearing, the FSC must be satisfied, among other things, that the CCP has equity capital equivalent to the established regulatory minimum, has a proper and sound business plan, has human resources, data-processing equipment and other physical facilities sufficient to protect investors and to conduct clearing business, does not have any officer who is disqualified under the FSCMA, has in place a system for preventing conflicts of interest and its shareholders have adequate financial capabilities, are of good financial standing and social credibility. The FSC may, when granting authorisation, attach conditions as may be necessary for ensuring soundness in management of the CCP and maintaining sound market order. Authorised CCPs are then subject to ongoing supervision by the FSC, as well as oversight by the Bank of Korea under the Bank of Korea Act.

(8) The FSC has stated its intention to assess its Financial Market infrastructures ('FMIs') against the international standards set out under the Principles for Financial Market Infrastructures ('PFMIs') issued in April 2012 by the Committee on Payment and Settlement Systems ([1]) ('CPSS') and the International Organization of Securities Commissions ('IOSCO'). In March 2015 the FSC released the Business Guideline for Financial Market Infrastructures, which provides specific standards that FMIs should comply with in conducting business pursuant to the FSCMA and its subordinate regulations. The Guideline has reorganised the 24 key principles of the PFMIs into 14 principles in accordance with domestic circumstances, and provides detailed standards for their implementation. In December 2012, the Bank of Korea amended its 'Regulation on the Operation and Management of Payment and Settlement Systems' to adopt the PFMIs as its oversight standards.

(9) The FSCMA and its subordinated regulations also require CCPs to adopt internal rules and procedures as are necessary for the proper regulation of its clearing and settlement facilities. The requirements of the FSCMA, its subordinated regulations, the Guideline and the Regulation on the Operation and Management of Payment and Settlement Systems are thus implemented in the internal rules and procedures of the clearing houses. Under the FSCMA, any revision to the articles of incorporation or internal rules and procedures of CCPs must be approved by the FSC.

(10) The legally binding requirements in South Korea therefore comprise a two-tiered structure. The FSCMA and its subordinated regulations set out the high-level standards which CCPs must comply with in order to obtain authorisation to provide clearing services in South Korea. Those primary rules comprise the first tier of the legally binding requirements in South Korea. In order to prove compliance with the primary rules, CCPs must submit their internal rules and procedures to the FSC for approval in accordance with the Business Guideline for Financial Market Infrastructures. Those internal rules and procedures comprise the second tier of requirements in South Korea.

(11) The equivalence assessment of the legal and supervisory arrangements applicable to CCPs in South Korea should also take account of the risk mitigation outcome that they ensure in terms of the level of risk to which clearing members and trading venues established in the Union are exposed to due to their participation in those entities. The risk mitigation outcome is determined by both the level of risk inherent in the clearing activities carried out by the CCP concerned which depends on the size of financial market in which it operates, and the appropriateness of the legal and supervisory arrangements applicable to CCPs to mitigate that level of risk. In order to achieve the same risk mitigation outcome, more stringent risk mitigation requirements are needed for CCPs carrying out their activities in bigger financial markets whose inherent level of risk is higher than for CCPs carrying out their activities in smaller financial markets whose inherent level of risk is lower.

(12) The size of the financial market in which CCPs authorised in South Korea carry out their clearing activities is significantly smaller than that in which CCPs established in the Union carry out theirs. In particular, over the past three years, the total value of derivative transactions cleared in South Korea represented less than 1 % of the total value of derivative transactions cleared in the Union. Therefore, participation in CCPs authorised in South Korea exposes clearing members and trading venues established in the Union to significantly lower risks than their participation in CCPs authorised in the Union.

(13) The legal and supervisory arrangements applicable to CCPs authorised in South Korea may therefore be considered as equivalent where they are appropriate to mitigate that lower level of risk. The primary rules

([1]) As of 1 September 2014 the Committee on Payment and Settlement Systems has changed its name to Committee on Payment and Market Infrastructures 'CPMI'.

applicable to those CCPs, complemented by their internal rules and procedures which implement the PFMIs, mitigate the lower level of risk existing in South Korea and achieve a risk mitigation outcome equivalent to that pursued by Regulation (EU) No 648/2012.

(14) The Commission therefore concludes that the legal and supervisory arrangements of South Korea ensure that CCPs authorised therein comply with legally binding requirements which are equivalent to the requirements laid down in Title IV of Regulation (EU) No 648/2012.

(15) According to the second condition under Article 25(6) of Regulation (EU) No 648/2012, the legal and supervisory arrangements of South Korea in respect of CCPs authorised therein must provide for effective supervision and enforcement of those CCPs on an ongoing basis.

(16) The FSC is responsible for establishing and implementing supervisory rules and for the inspection and examination of financial institutions. The FSC, as the primary supervisor of CCPs, has the comprehensive power to control and penalise them including, among other things, the power to cancel the license of CCPs, the power to suspend and transfer the business of CCPs, and the power to impose sanctions on the CCPs. Day-to-day supervision is conducted by the Financial Supervisory Service ('FSS') which acts under the oversight of the FSC. CCPs are subject to biannual inspection, each of four weeks duration, and non-periodic inspection on the supervisor's demand. The FSS conducts ongoing monitoring of CCPs' compliance with risk management requirements through surveillance and risk-based examination procedures including testing of prudential requirements. Additionally, one of the main objectives of the Bank of Korea's oversight of CCPs authorised in South Korea is to secure their safety and efficiency. It carries out oversight by assessing information on CCPs, conducting biennial assessments of them against the PFMIs, and requesting improvements if necessary. The Bank of Korea has the authority to require these improvements to be made, with the agreement of the Monetary Policy Committee if it is a major improvement.

(17) The Commission therefore concludes that the legal and supervisory arrangements of South Korea in respect of CCPs authorised therein provide for effective supervision and enforcement on an ongoing basis.

(18) According to the third condition under Article 25(6) of Regulation (EU) No 648/2012, the legal and supervisory arrangements of South Korea must include an effective equivalent system for the recognition of CCPs authorised under third country legal regimes ('third-country CCPs').

(19) Third country CCPs which want to clear OTC derivatives in South Korea have to apply to the FSC for approval.

(20) In order for approval to be granted, the jurisdiction in which the CCP is established must have a sufficiently robust regulatory regime similar to the legal and supervisory arrangements applicable in South Korea. The conclusion of cooperative arrangements between South Korean and competent third-country authorities is also required before the third country CCP application is approved.

(21) The recognition procedure of the legal regime of South Korea applicable to third country CCPs that want to clear OTC derivatives therein should therefore be considered as providing for an effective equivalent system for the recognition of third country CCPs.

(22) The conditions laid down in Article 25(6) of Regulation (EU) No 648/2012 can therefore be considered to be met by the legal and supervisory arrangements of South Korea regarding CCPs authorised therein, and those legal and supervisory arrangements should be considered to be equivalent to the requirements laid down in Regulation (EU) No 648/2012. The Commission should continue monitoring on a regular basis the evolution of the legal and supervisory framework for CCPs in South Korea and the fulfilment of the conditions on the basis of which this decision has been taken.

(23) The regular review of the legal and supervisory arrangements applicable in South Korea to CCPs authorised therein should be without prejudice to the possibility of the Commission to undertake a specific review at any time outside the general review, where relevant developments make it necessary for the Commission to reassess the equivalence granted by this decision. Such reassessment could lead to the withdrawal of the recognition of equivalence.

(24) The measures provided for in this Decision are in accordance with the opinion of the European Securities Committee,

HAS ADOPTED THIS DECISION:

Article 1

For the purposes of Article 25 of Regulation (EU) No 648/2012, the legal and supervisory arrangements of South Korea consisting of the Financial Investment Services and Capital Markets Act 2013 and it subordinated regulations as complemented by the Business Guideline for Financial Market Infrastructures and the Regulation on the Operation and Management of Payment and Settlement Systems, and applicable to CCPs authorised therein shall be considered to be equivalent to the requirements laid down in Regulation (EU) No 648/2012.

Article 2

This Decision shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Done at Brussels, 13 November 2015.

For the Commission
The President
Jean-Claude JUNCKER

COMMISSION IMPLEMENTING DECISION (EU) 2015/2039

of 13 November 2015

on the equivalence of the regulatory framework of South Africa for central counterparties to the requirements of Regulation (EU) No 648/2012 of the European Parliament and of the Council on OTC derivatives, central counterparties and trade repositories

THE EUROPEAN COMMISSION,

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

Having regard to 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 [1], and in particular Article 25(6) thereof,

Whereas:

(1) The procedure for recognition of central counterparties ('CCPs') established in third countries set out in Article 25 of Regulation (EU) No 648/2012 aims to allow CCPs established and authorised in third countries whose regulatory standards are equivalent to those laid down in that Regulation to provide clearing services to clearing members or trading venues established in the Union. That recognition procedure and the equivalence decision provided for therein thus contribute to the achievement of the overarching aim of Regulation (EU) No 648/2012 to reduce systemic risk by extending the use of safe and sound CCPs to clear over-the-counter ('OTC') derivative contracts, including where those CCPs are established and authorised in a third country.

(2) In order for a third country legal regime to be considered equivalent to the legal regime of the Union in respect of CCPs, the substantial outcome of the applicable legal and supervisory arrangements should be equivalent to Union requirements in respect of the regulatory objectives they achieve. The purpose of this equivalence assessment is therefore to verify that the legal and supervisory arrangements of South Africa ensure that CCPs established and authorised therein do not expose clearing members and trading venues established in the Union to a higher level of risk than the latter could be exposed to by CCPs authorised in the Union and, consequently, do not pose unacceptable levels of systemic risk in the Union.

(3) This Decision is based on the outcome of the legal and supervisory arrangements applicable in South Africa and their adequacy to mitigate the risks that clearing members and trading venues established in the Union may be exposed to in a manner considered equivalent to the outcome of the requirements laid down in Regulation (EU) No 648/2012. The significantly lower risks inherent in clearing activities carried out in financial markets that are smaller than the Union financial market should thereby, in particular, be taken into account.

(4) In accordance with Article 25(6) of Regulation (EU) No 648/2012, three conditions need to be fulfilled in order to determine that the legal and supervisory arrangements of a third country regarding CCPs authorised therein are equivalent to those laid down in that Regulation.

(5) According to the first condition, CCPs authorised in a third country must comply with legally binding requirements which are equivalent to the requirements laid down in Title IV of Regulation (EU) No 648/2012.

(6) The legally binding requirements of South Africa for CCPs authorised therein consist of the Financial Markets Act, Act No 19 of 2012 ('FMA'). The Registrar of Securities Services ('the Registrar') has a comprehensive set of powers to oversee, monitor and investigate clearing houses authorised to operate in South Africa ('licensed clearing houses').

(7) The FMA sets out the duties and requirements with which clearing houses must comply. In particular, under the FMA, the Registrar grants the authorisation to operate as a licensed clearing house, provided that the applicant complies with those requirements and contributes to the achievement of the objectives set out in the FMA, including systemic risk mitigation and ensuring that the South African financial markets are fair, efficient and transparent. In order to ensure those requirements are met, the Registrar may impose the conditions it considers appropriate when granting an authorisation. Licensed clearing houses must conduct their business in a fair and transparent manner and with due regard to the rights of clearing members and their clients. Moreover, pursuant

[1] OJ L 201, 27.7.2012, p. 1.

to the FMA, licensed clearing houses must comply with international supervisory standards, including the Principles for Financial Markets Infrastructures ('PFMIs') issued in April 2012 by the Committee on Payment and Settlement Systems ([1]) and the International Organization of Securities Commissions ('IOSCO').

(8) The FMA empowers the Minister of Finance to make regulations regarding any matter required or permitted to be prescribed by the FMA or any other matter necessary for the better administration and implementation of the FMA. Moreover, the Registrar is empowered under the FMA to issue guidelines on the application and interpretation of the FMA and take any measures it considers necessary for the proper performance and exercise of its functions or duties or for the implementation of the FMA.

(9) The equivalence assessment of the legal and supervisory arrangements applicable to licensed clearing houses should also take account of the risk mitigation outcome that they ensure in terms of the level of risk to which clearing members and trading venues established in the Union are exposed to due to their participation in licensed clearing houses. The risk mitigation outcome is determined by both the level of risk inherent in the clearing activities carried out by the CCP concerned which depends on the size of the financial market in which it operates, and the appropriateness of the legal and supervisory arrangements applicable to CCPs to mitigate that level of risk. In order to achieve the same risk mitigation outcome, more stringent risk mitigation requirements are needed for CCPs carrying out their activities in bigger financial markets whose inherent level of risk is higher than for CCPs carrying out their activities in smaller financial markets whose inherent level of risk is lower.

(10) The size of the financial market in which licensed clearing houses carry out their clearing activities is significantly smaller than that in which CCPs established in the Union carry out theirs. In particular, over the past three years, the total value of derivative transactions cleared in South Africa represented less than 1 % of the total value of derivative transactions cleared in the Union. Therefore, participation in licensed clearing houses exposes clearing members and trading venues established in the Union to significantly lower risks than their participation in CCPs authorised in the Union.

(11) The legal and supervisory arrangements applicable to licensed clearing houses may therefore be considered as equivalent where they are appropriate to mitigate that lower level of risk. The primary rules applicable to licensed clearing houses, which require compliance with the PFMIs, mitigate the lower level of risk existing in South Africa and achieve a risk mitigation outcome equivalent to that pursued by Regulation (EU) No 648/2012.

(12) The Commission therefore concludes that the legal and supervisory arrangements of South Africa ensure that licensed clearing houses authorised therein comply with legally binding requirements which are equivalent to the requirements laid down in Title IV of Regulation (EU) No 648/2012.

(13) According to the second condition under Article 25(6) of Regulation (EU) No 648/2012, the legal and supervisory arrangements of South Africa in respect of CCPs authorised therein must provide for effective supervision and enforcement of those CCPs on an ongoing basis.

(14) The Registrar supervises and enforces compliance with the FMA. In particular, the Registrar annually assesses whether licensed clearing houses comply with the FMA and their internal rules and procedures, as well as with directives, requests, conditions or requirements of the Registrar made pursuant to the FMA. The Registrar is also empowered to revoke or suspend the authorisation of a licensed clearing house if the latter fails to comply with the FMA, its internal rules and procedures or with a directive, request, condition or requirement made by the Registrar pursuant to the FMA, among others.

(15) The Registrar has the power to request information or documents from licensed clearing houses and to conduct on-site inspections. After an on-site inspection has taken place, the Registrar can, among other things, request a licensed clearing house to take any steps or to refrain from performing any act in order to terminate or remedy an irregularity. Penalties may be imposed by the Registrar in case of failure by a licensed clearing house to submit any information pursuant to the FMA. Moreover, in order to ensure the implementation and administration of the FMA, the Registrar may issue general directives or directives addressed to a specific entity.

(16) The Commission therefore concludes that the legal and supervisory arrangements of South Africa in respect of CCPs authorised therein provide for effective supervision and enforcement on an ongoing basis.

([1]) As of 1 September 2014 the Committee on Payment and Settlement Systems has changed its name to Committee on Payment and Market Infrastructures.

(17) According to the third condition under Article 25(6) of Regulation (EU) No 648/2012, the legal and supervisory arrangements of South Africa must include an effective equivalent system for the recognition of CCPs authorised under third country legal regimes ('third country CCPs').

(18) CCPs authorised in a third-country in which the legal and supervisory arrangements are equivalent to those of the South African regulatory framework, which have equivalent regulation on anti-money laundering and combating financial terrorism, and in which CCPs are subject to effective supervision may provide services in South Africa provided they are authorised by the Registrar. For granting an authorisation, the Registrar will assess the application for authorisation taking into consideration the regulatory framework of the third country and may take into account information provided by any other supervisory authority, including third-country supervisory authorities. Moreover, the Registrar may exempt the third country CCPs from some or all of the requirements required under the FMA. The Registrar may enter into cooperation arrangements with third-country regulatory or supervisory authorities with the purpose of coordinating the supervision on an ongoing basis and exchanging information regarding third-country CCPs authorised in a third-country in which the legal and supervisory arrangements are equivalent to those of the South African regulatory framework and which are subject to effective supervision in the third-country in which they are authorised.

(19) While noting that the structure of the recognition procedure of the legal regime of South Africa applicable to third-country CCPs differs from the procedure laid down in Regulation (EU) No 648/2012, it should nonetheless be considered as providing for an effective equivalent system for the recognition of third-country CCPs.

(20) The conditions laid down in Article 25(6) of Regulation (EU) No 648/2012 can therefore be considered to be met by the legal and supervisory arrangements of South Africa regarding licensed clearing houses, and those legal and supervisory arrangements should be considered to be equivalent to the requirements laid down in Regulation (EU) No 648/2012. The Commission should continue monitoring on a regular basis the evolution of the legal and supervisory framework for CCPs in South Africa and the fulfilment of the conditions on the basis of which this decision has been taken.

(21) The regular review of the legal and supervisory arrangements applicable in South Africa to CCPs authorised therein should be without prejudice to the possibility of the Commission to undertake a specific review at any time outside the general review, where relevant developments make it necessary for the Commission to reassess the equivalence granted by this decision. Such reassessment could lead to the withdrawal of the recognition of equivalence.

(22) The measures provided for in this Decision are in accordance with the opinion of the European Securities Committee,

HAS ADOPTED THIS DECISION:

Article 1

For the purposes of Article 25 of Regulation (EU) No 648/2012, the legal and supervisory arrangements of South Africa consisting of the Financial Markets Act and applicable to licensed clearing houses authorised therein shall be considered to be equivalent to the requirements laid down in Regulation (EU) No 648/2012.

Article 2

This Decision shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Done at Brussels, 13 November 2015.

For the Commission

The President

Jean-Claude JUNCKER

COMMISSION IMPLEMENTING DECISION (EU) 2015/2040

of 13 November 2015

on the equivalence of the regulatory framework of certain provinces of Canada for central counterparties to the requirements of Regulation (EU) No 648/2012 of the European Parliament and of the Council on OTC derivatives, central counterparties and trade repositories

THE EUROPEAN COMMISSION,

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

Having regard to 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 [1] and in particular Article 25(6) thereof,

Whereas:

(1) The procedure for recognition of central counterparties ('CCPs') established in third countries set out in Article 25 of Regulation (EU) No 648/2012 aims to allow CCPs established and authorised in third countries whose regulatory standards are equivalent to those laid down in that Regulation to provide clearing services to clearing members or trading venues established in the Union. That recognition procedure and the equivalence decision provided for therein thus contribute to the achievement of the overarching aim of Regulation (EU) No 648/2012 to reduce systemic risk by extending the use of safe and sound CCPs to clear over-the-counter ('OTC') derivative contracts, including where those CCPs are established and authorised in a third country.

(2) In order for a third country legal regime to be considered equivalent to the legal regime of the Union in respect of CCPs, the substantial outcome of the applicable legal and supervisory arrangements should be equivalent to Union requirements in respect of the regulatory objectives they achieve. The purpose of this equivalence assessment is therefore to verify that the legal and supervisory arrangements of the provinces of Alberta, British Columbia, Manitoba, Ontario and Quebec (hereinafter 'the relevant provinces') in Canada ensure that CCPs established and authorised therein do not expose clearing members and trading venues established in the Union to a higher level of risk than the latter could be exposed to by CCPs authorised in the Union and, consequently, do not pose unacceptable levels of systemic risk in the Union.

(3) This Decision is based on the assessment of the legal and supervisory arrangements applicable in the relevant provinces, and their adequacy to mitigate the risks that clearing members and trading venues established in the Union may be exposed to in a manner considered equivalent to the outcome of the requirements laid down in Regulation (EU) No 648/2012. The significantly lower risks inherent in clearing activities carried out in financial markets that are smaller than the Union financial market should thereby, in particular, be taken into account.

(4) In accordance with Article 25(6) of Regulation (EU) No 648/2012, three conditions need to be fulfilled in order to determine that the legal and supervisory arrangements of a third country regarding CCPs authorised therein are equivalent to those laid down in that Regulation.

(5) According to the first condition, CCPs authorised in a third country must comply with legally binding requirements which are equivalent to the requirements laid down in Title IV of Regulation (EU) No 648/2012.

(6) The legally binding requirements of Canada for CCPs authorised in the relevant provinces consist of the respective securities acts and rules and regulations pursuant to such acts adopted by the securities regulators of each province as well as any decision, direction or order made or issued by such securities regulators (the provincial securities regime) and which are applicable to CCPs operating in those provinces.

[1] OJ L 201, 27.7.2012, p. 1.

(7) For the purposes of this Decision, the securities regulators are the Alberta Securities Commission (ASC) in Alberta; the Autorité des marchés financiers (AMF) in Quebec; the British Columbia Securities Commission (BCSC) in British Columbia; the Manitoba Securities Commission (MSC) in Manitoba and the Ontario Securities Commission (OSC) in Ontario. The securities regulators work cooperatively to develop and implement securities laws and regulations and to administer, monitor and enforce existing laws in a consistent and coordinated manner.

(8) A CCP seeking to carry out business in a relevant province must be authorised by the relevant securities regulator. That authorisation can take the form of either recognition or an exemption from recognition. Recognition implies the full application of the respective provincial securities regime. CCPs operating in several of the relevant provinces have to be authorised as a recognised CCP at least in one province and are subject to the most stringent requirements amongst those applicable in the provinces in which they operate. Exemption from recognition is generally provided to CCPs recognised in another province, and therefore subject to direct supervision by the securities regulator of the province where the CCP is recognised, provided they are not considered by the relevant securities regulator to be systemically important or to pose significant risk to the capital markets. Securities regulators impose conditions on CCPs exempted from recognition where those CCPs are subject in the provinces where they are recognised to less cumbersome requirements than in the provinces where they are exempted from recognition. The Bank of Canada can also designate CCPs as systemically important where they have the potential to pose systemic risk to the Canadian financial system.

(9) The legally binding requirements applicable to CCPs authorised in Alberta consist of the Securities Act (Alberta), the rules and regulations adopted pursuant to it and any decision, direction or order made or issued by the ASC (hereinafter 'Alberta securities laws'). In order to provide clearing services in Alberta, a CCP has to be authorised by the ASC either as a recognised clearing agency or as a clearing agency exempted from recognition (exempted clearing agency). CCPs authorised in Alberta must comply with the Alberta securities laws. In general, the ASC authorises CCPs as recognised clearing agencies where it considers it appropriate to subject them to its supervision. However, the ASC may also rely on another securities regulator's supervision for some clearing houses recognised in other provinces. The ASC can impose conditions and terms on the authorisation of a clearing agency, either as a recognised clearing agency or as an exempted clearing agency. The ASC has issued recognition orders in respect of all clearing agencies authorised by it as recognised clearing agencies, requiring them to comply with the Principles for Financial Markets Infrastructures (PFMIs) issued in April 2012 by the Committee on Payment and Settlement Systems ([1]) and the International Organization of Securities Commissions.

(10) The legally binding requirements applicable to CCPs authorised in British Columbia consist of the Securities Act (British Columbia), the rules and regulations issued pursuant to it and the orders issued by the BCSC. In order to provide clearing services in British Columbia, a CCP has to be authorised by the BCSC either as a recognised clearing agency or as a clearing agency exempted from recognition (exempted clearing agency), which depends on a number of factors, including the impact of the operations of the clearing agency in British Columbia. The BCSC can impose conditions and terms on the authorisation of a clearing agency, either as a recognised clearing agency or as an exempted clearing agency. The BCSC has issued recognition orders in respect of all clearing agencies authorised by it as recognised clearing agencies requiring them to comply with the PFMIs.

(11) The legally binding requirements applicable to CCPs authorised in Manitoba consist of the Commodity Futures Act (Manitoba), the Securities Act (Manitoba) and the rules and orders issued by MSC pursuant to them. In order to provide clearing services in Manitoba, a CCP has to be authorised by the MSC either as a recognised clearing house in respect of commodity futures, or as a recognised clearing agency in respect of other securities, or as a clearing house or clearing agency, respectively, exempted from recognition (exempted clearing agency or clearing house). The MSC can impose conditions and terms to the authorisation of a clearing agency or clearing house, either as a recognised clearing agency or clearing house or as an exempted clearing agency or clearing house. The

([1]) As of 1 September 2014 the Committee on Payment and Settlement Systems has changed its name to Committee on Payment and Market Infrastructures 'CPMI').

MSC has issued recognition orders in respect of all clearing agencies and clearing houses authorised by it as recognised clearing agencies or clearing houses, requiring them to comply with the PFMIs.

(12) The legally binding requirements applicable to CCPs authorised in Ontario consist of the Securities Act (Ontario), the regulations and rules issued under the Securities Act (Ontario), and the directions, decisions, orders, rulings or other requirements made pursuant to it. In order to provide clearing services in Ontario, a CCP has to be authorised by the OSC either as a recognised clearing agency or as a clearing agency exempted from recognition (exempted clearing agency). The OSC can impose conditions and terms on the authorisation of a clearing agency, either as a recognised clearing agency or as an exempted clearing agency. The OSC has issued recognition orders in respect of all clearing agencies authorised by it as recognised clearing agencies requiring them to comply with the PFMIs.

(13) The legally binding requirements applicable to CCPs authorised in Quebec consist of the Securities Act (Quebec), the Derivatives Act (Quebec) and the Act respecting the Autorité des marchés financiers (AAMF); the regulations adopted pursuant to the Securities Act (Quebec) and the Derivatives Act (Quebec) and the decisions and orders issued by the AMF. In order to provide clearing services in Quebec, a CCP has to be authorised by the AMF either as a recognised clearing house or as a clearing house exempted from recognition (exempted clearing house). The AMF can impose conditions and terms on the authorisation of a clearing house, either as a recognised clearing house or as an exempted clearing house. The AMF has issued recognition orders in respect of all clearing houses authorised by it as recognised clearing houses requiring them to comply with the PFMIs.

(14) The equivalence assessment of the legal and supervisory arrangements applicable to CCPs authorised in the relevant provinces should also take account of the risk mitigation outcome that they ensure in terms of the level of risk to which clearing members and trading venues established in the Union are exposed to due to their participation in CCPs authorised therein. The risk mitigation outcome is determined by both the level of risk inherent in the clearing activities carried out by the CCP concerned which depends on the size of the financial market in which it operates, and the appropriateness of the legal and supervisory arrangements applicable to CCPs to mitigate that level of risk. In order to achieve the same risk mitigation outcome, more stringent risk mitigation requirements are needed for CCPs carrying out their activities in bigger financial markets whose inherent level of risk is higher than for CCPs carrying out their activities in smaller financial markets whose inherent level of risk is lower.

(15) The size of the financial market in which CCPs authorised in the relevant provinces carry out their clearing activities is significantly smaller than those in which CCPs established in the Union carry out theirs. In particular, over the past 3 years, the total value of derivative transactions cleared in Canada represented less than 3 % of the total value of derivative transactions cleared in the Union. Therefore, participation in CCPs authorised in the relevant provinces exposes clearing members and trading venues established in the Union to significantly lower risks than their participation in CCPs authorised in the Union.

(16) The legal and supervisory arrangements applicable to CCPs authorised in the relevant provinces may therefore be considered as equivalent where they are appropriate to mitigate that lower level of risk. The rules applicable to CCPs authorised in the relevant provinces, including the recognition orders issued by the securities regulators which require compliance with the PFMIs, mitigate the lower level of risk existing in the relevant provinces and achieve a risk mitigation outcome equivalent to that pursued by Regulation (EU) No 648/2012.

(17) The Commission therefore concludes that the legal and supervisory arrangements of the relevant provinces ensure that CCPs authorised therein comply with legally binding requirements which are equivalent to the requirements laid down in Title IV of Regulation (EU) No 648/2012.

(18) According to the second condition under Article 25(6), the legal and supervisory arrangements in respect of CCPs authorised in the relevant provinces must provide for effective supervision and enforcement of those CCPs on an ongoing basis.

(19) Supervision of CCPs which are authorised in multiple provinces is carried out in a cooperative way between the securities regulators of the relevant provinces. For CCPs designated by the Bank of Canada as capable of posing systemic risk, supervision of CCPs is carried out cooperatively between the securities regulators of the relevant provinces and the Bank of Canada.

(20) In Alberta, the ASC has broad powers to take any remedial or dissuasive actions against an authorised clearing agency, either recognised or exempted from recognition, in the public interest or where a clearing agency has violated the Alberta securities laws. Both recognised and exempted clearing agencies must provide information, documents or records for the purposes of ensuring compliance with the applicable rules. The ASC can, both regarding recognised and exempted clearing agencies, impose administrative penalties and suspend, change the terms of or revoke a clearing agency's recognition or an order exempting a clearing agency from recognition. The ASC can also request a declaration of non-compliance by the courts, initiate other judicial proceedings and conduct investigations which can result in the imposition of a variety of sanctions. Penalties may also be imposed on directors and officers of persons or companies, or other persons that authorise, permit or acquiesce in the breach of Alberta securities laws. In addition, as regards recognised clearing agencies, the ASC conducts on-site inspections, regular consultations and review and analysis of required filings, and can make decisions with regard to any internal rule, procedure or practice of any recognised clearing agency if the ASC considers it is in the public interest to do so.

(21) In British Columbia, the BCSC conducts ongoing supervision of recognised clearing agencies through the use of periodic on-site inspections and regular communication with senior management of the clearing agency, as well as review of the information reported by the clearing agency and compliance with the clearing agency's requirements relating to the management of risks, among others. The BCSC has broad powers to take any remedial or dissuasive action against a recognised clearing agency in the public interest or where a clearing agency has violated the Securities Act (British Columbia). Such actions include making any decision about the bylaws, rules, procedures or practices or the manner in which a recognised clearing agency carries on business, and can make orders regarding the recognised clearing agency, including the suspension or revocation of the recognition of clearing agencies as well as conduct investigations which can result in the imposition of sanctions.

(22) In Manitoba, the MSC conducts ongoing supervision of authorised clearing agencies, either recognised or exempted from recognition. However, exempted clearing agencies are subject to more limited supervision by the MSC. For recognised clearing agencies or clearing houses, supervision is carried out through periodic reporting review, periodic on-site inspections, regular communication with senior management of the clearing agency or clearing house and an annual assessment of risks and controls. The MSC has several tools available to remedy breaches of certain requirements by an authorised clearing agency or a clearing house, either recognised or exempted including imposing terms or conditions on the authorisation of the clearing agency, suspending or revoking the clearing agency's or clearing house's authorisation orders or conducting investigations which can result in the imposition of fines and in other sanctions.

(23) In Ontario, the OSC conducts ongoing supervision of CCPs authorised as recognised clearing agencies through the use of periodic on-site inspections and regular communication with senior management of the clearing agency, regular assessment of risks and controls, as well as review of the information reported by the clearing agency and of compliance with the clearing agency's requirements relating to the management of risks, among others. However, exempted clearing agencies are subject to more limited supervision by the OSC. The OSC has broad powers to make any decision in respect of any by-law, rule and procedure of a recognised clearing agency and the manner in which a recognised clearing agency carries on its business, and to take any remedial or dissuasive actions against an authorised clearing agency, either recognised or exempted from recognition, where in the public interest or where a clearing agency has violated the Securities Act (Ontario). Such actions include the adoption of decisions or orders regarding the clearing agency, the imposition of terms, conditions, restrictions

or requirements on the clearing agency, the suspension or revocation of the clearing agency's authorisation as well as conducting investigations which can result in the imposition of fines and penalties.

(24) In Quebec, the AMF is vested with exhaustive supervisory authority over all the activities of authorised clearing houses and it supervises CCPs' compliance with the Securities Act (Quebec), the Derivatives Act (Quebec) and the AAMF. These acts establish the general legal framework applicable to the control the AMF exercises over the financial entities it supervises or oversees, such as authorised clearing houses. The AMF has the power, over any authorised clearing house, to request information, to require submission to an examination under oath, to conduct an investigation and to conduct on-site inspections. The AMF has several tools available to remedy breaches of requirements by clearing houses. These include the power to suspend the application of the internal rules and procedures of a recognised clearing house, to order an amendment to a provision or practice of a recognised clearing house in order to make it consistent with applicable legislative provisions, to take action against an authorised clearing house to ensure compliance with undertakings given to the AMF or with applicable legal requirements, to impose fines to an authorised clearing house and to modify, suspend or withdraw all or part of an authorisation or an exemption granted to a clearing house.

(25) The Commission therefore concludes that the legal and supervisory arrangements of the relevant provinces in respect of CCPs authorised therein provide for effective supervision and enforcement on an ongoing basis.

(26) According to the third condition under Article 25(6) of Regulation (EU) No 648/2012, the legal and supervisory arrangements of the relevant provinces must include an effective equivalent system for the recognition of CCPs authorised under third country legal regimes ('third country CCPs').

(27) Third country CCPs seeking to carry on business as a clearing agency or clearing house in British Columbia and Manitoba may apply, and in Alberta, Ontario and Quebec must apply for recognition or exemption for recognition in the relevant province enabling them to provide the same clearing services in Canada as they are authorised to provide in the third country subject to appropriate terms and conditions of the recognition or exemption order. Exemption may be available where the third country CCP is not systemically important to the provincial market, or where it does not otherwise pose significant risk to the capital markets, provided that it is subject to a comparable regulatory regime. However, even in the case that the third country CCP is required to obtain recognition, the authorities may rely on the third country regulators supervision where the regulation applicable to the third country CCP is comparable to the regulation applicable under the relevant provincial regime.

(28) While noting that the structure of the recognition procedure of the legal regime of the relevant provinces in Canada applicable to third country CCPs differs from the procedure laid down in Regulation (EU) No 648/2012, it should nonetheless be considered as providing for an effective equivalent system for the recognition of third country CCPs.

(29) The conditions laid down in Article 25(6) of Regulation (EU) No 648/2012 can therefore be considered to be met by the legal and supervisory arrangements of the relevant provinces in Canada, and those legal and supervisory arrangements should be considered to be equivalent to the requirements laid down in Regulation (EU) No 648/2012. The Commission should continue monitoring on a regular basis the evolution of the legal and supervisory framework for CCPs in the relevant provinces and the fulfilment of the conditions on the basis of which this decision has been taken.

(30) The regular review of the legal and supervisory arrangements applicable in Canada to CCPs authorised therein should be without prejudice to the possibility of the Commission to undertake a specific review at any time outside the general review, where relevant developments make it necessary for the Commission to re-assess the equivalence granted by this decision. Such re-assessment could lead to the withdrawal of the recognition of equivalence.

(31) The measures provided for in this Decision are in accordance with the opinion of the European Securities Committee,

HAS ADOPTED THIS DECISION:

Article 1

For the purposes of Article 25 of Regulation (EU) No 648/2012, the legal and supervisory arrangements of the Canadian provinces of Alberta, British Columbia, Manitoba, Ontario and Quebec consisting of the Securities Act (Alberta), the Securities Act (British Columbia), the Commodity Futures Act (Manitoba), the Securities Act (Manitoba), the Securities Act (Ontario), the Securities Act (Quebec), the Derivatives Act (Quebec), the Act respecting the Autorité des marchés financiers, and the rules, regulations, decisions, directions and orders adopted pursuant to them, including recognition orders applicable to CCPs authorised therein shall be considered to be equivalent to the requirements laid down in Regulation (EU) No 648/2012.

Article 2

This Decision shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Done at Brussels, 13 November 2015.

For the Commission
The President
Jean-Claude JUNCKER

COMMISSION IMPLEMENTING DECISION (EU) 2015/2041

of 13 November 2015

on the equivalence of the regulatory framework of Mexico for central counterparties to the requirements of Regulation (EU) No 648/2012 of the European Parliament and of the Council on OTC derivatives, central counterparties and trade repositories

THE EUROPEAN COMMISSION,

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

Having regard to 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 ([1]), and in particular Article 25(6) thereof,

Whereas:

(1) The procedure for recognition of central counterparties ('CCPs') established in third countries set out in Article 25 of Regulation (EU) No 648/2012 aims to allow CCPs established and authorised in third countries whose regulatory standards are equivalent to those laid down in that Regulation to provide clearing services to clearing members or trading venues established in the Union. That recognition procedure and the equivalence decisions provided for therein thus contribute to the achievement of the overarching aim of Regulation (EU) No 648/2012 to reduce systemic risk by extending the use of safe and sound CCPs to clear over-the-counter ('OTC') derivative contracts, including where those CCPs are established and authorised in a third country.

(2) In order for a third country legal regime to be considered equivalent to the legal regime of the Union in respect of CCPs, the substantial outcome of the applicable legal and supervisory arrangements should be equivalent to Union requirements in respect of the regulatory objectives they achieve. The purpose of this equivalence assessment is therefore to verify that the legal and supervisory arrangements of Mexico ensure that CCPs established and authorised therein do not expose clearing members and trading venues established in the Union to a higher level of risk than the latter could be exposed to by CCPs authorised in the Union and, consequently, do not pose unacceptable levels of systemic risk in the Union.

(3) This Decision is not only based on a comparative analysis of the legally binding requirements applicable to CCPs in Mexico, but also on an assessment of the outcome of those requirements, and their adequacy to mitigate the risks that clearing members and trading venues established in the Union may be exposed to in a manner considered equivalent to the outcome of the requirements laid down in Regulation (EU) No 648/2012. The significantly lower risks inherent in clearing activities carried out in financial markets that are smaller than the Union financial market should thereby, in particular, be taken into account.

(4) In accordance with Article 25(6) of Regulation (EU) No 648/2012, three conditions need to be fulfilled in order to determine that the legal and supervisory arrangements of a third country regarding CCPs authorised therein are equivalent to those laid down in that Regulation.

(5) According to the first condition, CCPs authorised in a third country must comply with legally binding requirements which are equivalent to the requirements laid down in Title IV of Regulation (EU) No 648/2012.

(6) The legally binding requirements of Mexico for CCPs authorised therein consist of the Rules applicable to participants in the derivative contracts market issued by the Bank of Mexico, the Comisión Nacional Bancaria y de Valores (CNBV) and the Secretaría de Hacienda y Crédito Público (SHCP) and the Prudential requirements applicable to participants in the listed derivative contracts market issued by the CNBV (hereinafter referred to together as 'the primary rules'). The primary rules set out the requirements that CCPs have to comply with on an ongoing basis to be able to provide clearing services in Mexico. CCPs established in Mexico have to be authorised by the SHCP, on the basis of the opinion of the CNBV and the Bank of Mexico.

([1]) OJ L 201, 27.7.2012, p. 1.

(7) Both the CNBV and the Bank of Mexico have issued policy statements explaining that CCPs authorised in Mexico are required to comply with the Principles for Financial Markets Infrastructures ('PFMIs') issued in April 2012 by the Committee on Payment and Settlement Systems ([1]) and the International Organization of Securities Commissions.

(8) Pursuant to the primary rules, CCPs must adopt internal rules and procedures containing all the relevant aspects related to its function, including the safeguards to manage credit, liquidity and operational risk. Those internal rules and procedures need to be approved by the SHCP, on the basis of the opinion of the Bank of Mexico and the CNBV. Moreover, those internal rules and procedures cannot be amended if the SHCP, CNBV or the Bank of Mexico, objects to it. The internal rules and procedures of CCPs or their modifications can also be approved subject to certain amendments. The same procedure applies to the approval and modification of the corporate documentation. Moreover, the methodologies for the calculation of the financial resources and the CCP's liquidity plan are subject to the approval of the Bank of Mexico and of an opinion of the CNBV.

(9) The legally binding requirements in Mexico therefore comprise a two-tiered structure. The core principles for CCPs set out in the primary rules lay down the high-level standards with which CCPs must comply in order to obtain authorisation to provide clearing services in Mexico. The primary rules comprise the first tier of the legally binding requirements in Mexico. In order to prove compliance with the primary rules, CCPs must submit their internal rules and procedures, their corporate documentation, their methodologies for the calculation of the financial resources and the CCP's liquidity plan to the approval of the competent authorities. Those internal rules and procedures, corporate documentation, the liquidity plan and the methodologies for the calculation of the CCP financial resources comprise the second tier of the legally binding requirements in Mexico, which must provide prescriptive detail regarding the way in which the CCP will meet those standards. The CNBV and the Bank of Mexico assess compliance by the CCP with those standards and with the PFMIs. Once approved by the competent authorities, the internal rules and procedures, the corporate documentation, the liquidity plan and the methodologies for the calculation of the CCP financial resources become legally binding upon the CCP.

(10) The equivalence assessment of the legal and supervisory arrangements applicable to CCPs established in Mexico should also take account of the risk mitigation outcome that they ensure in terms of the level of risk to which clearing members and trading venues established in the Union are exposed to due to their participation in CCPs established in Mexico. The risk mitigation outcome is determined by both the level of risk inherent in the clearing activities carried out by the CCP concerned which depends on the size of the financial market in which it operates, and the appropriateness of the legal and supervisory arrangements applicable to CCPs to mitigate that level of risk. In order to achieve the same risk mitigation outcome, more stringent risk mitigation requirements are needed for CCPs carrying out their activities in bigger financial markets whose inherent level of risk is higher than for CCPs carrying out their activities in smaller financial markets whose inherent level of risk is lower.

(11) The size of the financial market in which CCPs authorised in Mexico carry out their clearing activities is significantly smaller than that in which CCPs established in the Union carry out theirs. In particular, over the past three years, the total value of derivative transactions cleared in Mexico represented less than 1 % of the total value of derivative transactions cleared in the Union. Therefore, participation in CCPs established in Mexico exposes clearing members and trading venues established in the Union to significantly lower risks than their participation in CCPs authorised in the Union.

(12) The legal and supervisory arrangements applicable to CCPs established in Mexico may therefore be considered as equivalent where they are appropriate to mitigate that lower level of risk. The primary rules applicable to CCPs authorised in Mexico, complemented by the internal rules and procedures, the corporate documentation, the liquidity plan and the methodology for the calculation of the CCP's financial resources, which implement the PFMIs, mitigate the lower level of risk existing in Mexico and achieve a risk mitigation outcome equivalent to that pursued by Regulation (EU) No 648/2012.

(13) The Commission therefore concludes that the legal and supervisory arrangements of Mexico ensure that CCPs authorised therein comply with legally binding requirements which are equivalent to the requirements laid down in Title IV of Regulation (EU) No 648/2012.

([1]) As of 1 September 2014 the Committee on Payment and Settlement Systems has changed its name to Committee on Payment and Market Infrastructures.

(14) According to the second condition under Article 25(6) of Regulation (EU) No 648/2012, the legal and supervisory arrangements of Mexico in respect of CCPs authorised therein must provide for effective supervision and enforcement of those CCPs on an ongoing basis.

(15) The supervision of CCPs authorised in Mexico is carried out by the CNBV and the Bank of Mexico within each authority's scope of powers. The CNBV and the Bank of Mexico are empowered to conduct ongoing monitoring of CCPs' compliance with the legally binding requirements applicable to them. In this sense, the CNBV and the Bank of Mexico may request information from CCPs, carry out on-site inspections, issue instructions to remedy infringements or potential infringements of the prudential requirements or practices which are against the well-functioning of the financial markets and order CCPs to set up internal control and risk control measures. The CNBV can also remove the management, some members of specific committees and other staff of the CCP. Further, the SHCP, on the basis of the opinion of the CNBV and the Bank of Mexico, is empowered to revoke the CCP's authorization. The CNBV and the Bank of Mexico may also impose disciplinary actions, as well as fines, to CCPs for failure to comply with the applicable provisions.

(16) The Commission therefore concludes that the legal and supervisory arrangements of Mexico in respect of CCPs authorised therein provide for effective supervision and enforcement on an ongoing basis.

(17) According to the third condition under Article 25(6) of Regulation (EU) No 648/2012, the legal and supervisory arrangements of Mexico must include an effective equivalent system for the recognition of CCPs authorised under third country legal regimes ('third-country CCPs').

(18) The Bank of Mexico may recognise third country CCPs clearing derivatives which are authorised in third countries in which the legal and supervisory arrangements applicable to CCPs authorised therein ensure similar outcomes to those ensured by the legal and supervisory arrangements applicable in Mexico and which comply with the PFMIs. Moreover, third country CCPs must be subject to effective supervision ensuring compliance with the applicable legal and supervisory arrangements. The conclusion of a memorandum of understanding between the Bank of Mexico or the CNBV and the competent third-country supervisory authority of the applicant CCP is also required for recognition to be granted.

(19) The recognition procedure of the legal regime of Mexico applicable to third country CCPs should therefore be considered as providing for an effective equivalent system for the recognition of third country CCPs.

(20) The conditions laid down in Article 25(6) of Regulation (EU) No 648/2012 are therefore considered to be met by the legal and supervisory arrangements of Mexico regarding CCPs established therein, and those legal and supervisory arrangements should be considered to be equivalent to the requirements laid down in Regulation (EU) No 648/2012. The Commission should continue monitoring on a regular basis the evolution of the legal and supervisory framework for CCPs in Mexico and the fulfilment of the conditions on the basis of which this decision has been taken.

(21) The regular review of the legal and supervisory arrangements applicable in Mexico to CCPs authorised therein should be without prejudice to the possibility of the Commission to undertake a specific review at any time outside the general review, where relevant developments make it necessary for the Commission to re-assess the equivalence granted by this decision. Such re-assessment could lead to the withdrawal of the recognition of equivalence.

(22) The measures provided for in this Decision are in accordance with the opinion of the European Securities Committee,

HAS ADOPTED THIS DECISION:

Article 1

For the purposes of Article 25 of Regulation (EU) No 648/2012, the legal and supervisory arrangements of Mexico consisting of the Rules applicable to participants in the derivative contracts market and the Prudential requirements applicable to participants in the listed derivative contracts market, as complemented by the policy statements issued by the CNBV and the Bank of Mexico on the application of the Principles for Financial Markets Infrastructures, and applicable to CCPs authorised therein shall be considered to be equivalent to the requirements laid down in Regulation (EU) No 648/2012.

Article 2

This Decision shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Done at Brussels, 13 November 2015.

For the Commission
The President
Jean-Claude JUNCKER

COMMISSION IMPLEMENTING DECISION (EU) 2015/2042

of 13 November 2015

on the equivalence of the regulatory framework of Switzerland for central counterparties to the requirements of Regulation (EU) No 648/2012 of the European Parliament and of the Council on OTC derivatives, central counterparties and trade repositories

THE EUROPEAN COMMISSION,

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

Having regard to 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 ([1]), and in particular Article 25(6) thereof,

Whereas:

(1) The procedure for recognition of central counterparties ('CCPs') established in third countries set out in Article 25 of Regulation (EU) No 648/2012 aims to allow CCPs established and authorised in third countries whose regulatory standards are equivalent to those laid down in that Regulation to provide clearing services to clearing members or trading venues established in the Union. That recognition procedure and the equivalence decision provided for therein thus contribute to the achievement of the overarching aim of Regulation (EU) No 648/2012 to reduce systemic risk by extending the use of safe and sound CCPs to clear over-the-counter ('OTC') derivative contracts, including where those CCPs are established and authorised in a third country.

(2) In order for a third country legal regime to be considered equivalent to the legal regime of the Union in respect of CCPs, the substantial outcome of the applicable legal and supervisory arrangements should be equivalent to Union requirements in respect of the regulatory objectives they achieve. The purpose of this equivalence assessment is therefore to verify that the legal and supervisory arrangements of Switzerland ensure that CCPs established and authorised therein do not expose clearing members and trading venues established in the Union to a higher level of risk than the latter could be exposed to by CCPs authorised in the Union and, consequently, do not pose unacceptable levels of systemic risk in the Union.

(3) On 1 September 2013, the Commission received the technical advice of the European Securities and Markets Authority ('ESMA') on the legal and supervisory arrangements applicable to CCPs authorised in Switzerland. The technical advice concludes that the legal and supervisory arrangements applicable, at jurisdictional level, ensure that CCPs authorised in Switzerland comply with legally binding requirements which are equivalent to the requirements laid down in Title IV of Regulation (EU) No 648/2012.

(4) In accordance with Article 25(6) of Regulation (EU) No 648/2012, three conditions need to be fulfilled in order to determine that the legal and supervisory arrangements of a third country regarding CCPs authorised therein are equivalent to those laid down in that Regulation.

(5) According to the first condition, CCPs authorised in a third country must comply with legally binding requirements which are equivalent to the requirements laid down in Title IV of Regulation (EU) No 648/2012.

(6) The legally binding requirements of Switzerland for central counterparties authorised therein consist of the National Bank Ordinance of 18 March 2004 ('the National Bank Ordinance') and the regulations adopted pursuant to it by the Swiss National Bank ('SNB'), together with the Federal Act on Banks and Saving Banks ('the Act on Banks') and the ordinances and circulars issued by the Swiss Financial Market Supervisory Authority ('FINMA'). The National Bank Ordinance was recently revised aiming at implementing the Principles for Financial Markets Infrastructures ('PFMIs') issued by CPSS-IOSCO and achieving equivalence with Regulation (EU) No 648/2012. The revised regulatory framework brings a number of differences between the legally binding requirements applicable, at a jurisdictional level, to CCPs in Switzerland and the legally binding requirements applicable to CCPs under Regulation (EU) No 648/2012. The SNB issued however an Explanatory Report on the partial revision of the National Bank Ordinance providing interpretative guidance on the National Bank

([1]) OJ L 201, 27.7.2012, p. 1.

Ordinance in which it is explained, in particular, that the revised National Bank Ordinance implements the PFMIs and that the National Bank Ordinance should be interpreted taking into account the PFMIs and Titles IV and V of Regulation (EU) No 648/2012.

(7) Moreover, CCPs authorised in Switzerland must adopt statutes, organisation regulations and regulation of competences and certain organisation policies (the organisation regulations and policies), which must provide prescriptive detail regarding the way in which those CCP will meet those standards in accordance with, as explained in the Explanatory Report on the partial revision of the National Bank Ordinance, the PFMIs and Regulation (EU) No 648/2012.

(8) Both the SNB and FINMA share regulatory and supervisory functions regarding CCPs and cooperate in the exercise of those functions. CCPs established in Switzerland are authorised as banks by FINMA. FINMA can exempt CCPs from compliance with certain provisions of the Act on Banks and adapt its provisions to take into account the clearing activities and risk profile of CCPs. FINMA's circulars address, among other things, solvency, governance, risk management, audits and reporting.

(9) The legally binding requirements in Switzerland therefore comprise a two-tiered structure. The core principles for CCPs laid down in the Act on Banks and the National Bank Ordinance and the regulations, orders and circulars issued pursuant to them (the 'primary rules') set out the high-level standards with which CCPs must comply in order to obtain a license to provide clearing services in Switzerland. Those primary rules comprise the first tier of the legally binding requirements in Switzerland. In order to prove compliance with the primary rules, the CCP authorised in Switzerland must submit its organisation regulations and policies to FINMA for approval. Those organisation regulations and policies comprise the second tier of the legally binding requirements in Switzerland. Once approved by FINMA, those organisation regulations and policies become legally binding upon the CCP. Those regulations and policies therefore form an integral part of the legal and supervisory arrangements that the CCP authorised in Switzerland must comply with. In the case of non-compliance with the primary rules or the CCP's organisation regulations and policies FINMA has the power to take administrative actions against the CCP, including revoking the banking licence of the CCP concerned.

(10) The primary rules applicable to CCPs complemented by their organisation regulations and policies deliver substantial results equivalent to the effects of the rules contained in Title IV of Regulation (EU) No 648/2012. In particular, the legally binding requirements applicable to currently authorised CCPs in Switzerland regarding the number of defaults to be covered by total financial resources, liquidity risk, business continuity, collateral requirements, investment policy, settlement risk, segregation and portability, calculation of initial margins and governance, including organisational requirements, requirements relating to senior management, risk committee, record keeping, qualifying holdings, information transmitted to the competent authority, conflict of interests, outsourcing and conduct of business deliver substantial results equivalent to those laid down in Regulation (EU) No 648/2012 and therefore should be considered equivalent.

(11) The Commission therefore concludes that the legal and supervisory arrangements of Switzerland ensure that CCPs authorised therein comply with legally binding requirements which are equivalent to the requirements laid down in Title IV of Regulation (EU) No 648/2012.

(12) According to the second condition under Article 25(6) of Regulation (EU) No 648/2012, the legal and supervisory arrangements of Switzerland in respect of CCPs authorised therein must provide for effective supervision and enforcement of those CCPs on an ongoing basis.

(13) CCPs authorised in Switzerland are subject to ongoing supervision by FINMA and ongoing oversight by the SNB, aiming at monitoring continued compliance with the conditions of the authorisation and the other applicable regulatory requirements. CCPs authorised in Switzerland are subject to an annual audit. CCPs must provide the auditing entity with the information requested for carrying out the audit. If the auditing entity detects a violation of the supervisory provisions or other irregularities, it will give the CCP concerned a period to restore compliance and informs FINMA if compliance is not restored. In case of serious violations of supervisory provisions or serious irregularities, the auditing entity notifies FINMA directly. Moreover, both CCPs and auditing entities have to provide FINMA with all the necessary information for it to fulfil its tasks and must immediately report to it any incident that is of substantial importance for supervision. In addition, FINMA also carries out targeted on-site reviews, reviews periodic reports and meets regularly with CCP management and staff.

(14) FINMA may adopt specific measures when it concludes an infringement of the legal and supervisory arrangements has taken place. In particular, FINMA can impose a prohibition on a person to act in a management position or confiscate the profits made as a result of an infringement. FINMA can also appoint an investigation agent to investigate specific circumstances regarding the infringement of the legal and supervisory arrangements or to implement supervisory measures that it has ordered. The CCP under investigation has to let the investigation agent access to its premises and provide all the information and documents the investigation officer requests to carry out the investigation. Finally, FINMA can also revoke the banking licence of a CCP or cancel its registration in case it no longer complies with the applicable legal and supervisory arrangements and can issue directives to the governing bodies of the CCP.

(15) The SNB supervises CCPs in cooperation with FINMA. In particular, the SNB is responsible for assessing compliance by CCPs with the minimum requirements stipulated in the National Bank Ordinance. CCPs have to provide the SNB with the information necessary to assess compliance with those minimum requirements and submit to on-site inspections. In particular, CCPs have to submit periodic and ad hoc reports to the SNB and inform it in advance of specific issues or changes. The SNB can also impose penalties and other sanctions in case of information or evidence requested by the SNB not being provided, not respecting the formal requirements, being incomplete or inaccurate. For conducting its assessments, the SNB relies on a broad range of information, including a self-assessment and internal documentation of the CCP, audit reports, as well as regular reports and meetings held with the CCP management and staff. The SNB issues recommendations to CCPs which do not comply with the minimum requirements stipulated in the National Bank Ordinance. If the CCP concerned fails to comply with the recommendation, the SNB will issue an order. If the CCP does not comply with the order, the SNB can inform FINMA of its findings, which may take further supervisory and enforcement actions against the CCP.

(16) The Commission therefore concludes that the legal and supervisory arrangements of Switzerland in respect of CCPs authorised therein provide for effective supervision and enforcement of CCPs on an ongoing basis.

(17) According to the third condition under Article 25(6) of Regulation (EU) No 648/2012, the legal and supervisory arrangements of Switzerland must include an effective equivalent system for the recognition of CCPs authorised under third country legal regimes ('third country CCPs').

(18) Third country CCPs may apply for recognition with FINMA enabling them to provide services in Switzerland. The recognition of third country CCPs in Switzerland is based on the existence in the third country concerned of an effective equivalent system for recognition of third country CCPs. The SNB may also designate a third country CCP as systemically important for the stability of the Swiss financial markets and can discharge it from compliance with the minimum requirements stipulated by the National Bank Ordinance provided the legal and supervisory regime of the third country is considered equivalent and cooperation arrangements with the competent authorities of the third country for the supervision of CCPs have been concluded. Recognised CCPs also have to report and inform FINMA of specific issues. However, the reporting and information requirements to be provided by recognised CCPs to FINMA do not affect the supervisory functions for which the competent authorities of the third country are responsible.

(19) It should therefore be considered that the legal and supervisory arrangements of Switzerland provide for an effective equivalent system for the recognition of third country CCPs.

(20) The conditions laid down in Article 25(6) of Regulation (EU) No 648/2012 can therefore be considered to be met by the legal and supervisory arrangements of Switzerland regarding CCPs authorised therein and those legal and supervisory arrangements should be considered to be equivalent to the requirements laid down in Regulation (EU) No 648/2012. The Commission should continue monitoring on a regular basis the evolution of the legal and supervisory framework for CCPs in Switzerland and the fulfilment of the conditions on the basis of which this decision has been taken.

(21) The regular review of the legal and supervisory arrangements applicable in Switzerland to CCPs authorised therein should be without prejudice to the possibility of the Commission to undertake a specific review at any time outside the general review, where relevant developments make it necessary for the Commission to re-assess the equivalence granted by this decision. Such re-assessment could lead to the withdrawal of the recognition of equivalence.

(22) The measures provided for in this Decision are in accordance with the opinion of the European Securities Committee,

HAS ADOPTED THIS DECISION:

Article 1

For the purposes of Article 25 of Regulation (EU) No 648/2012, the legal and supervisory arrangements of Switzerland consisting of the National Bank Ordinance and the regulations adopted pursuant to it, the Federal Act on Banks and Saving Banks and the ordinances and circulars issued pursuant to it, as complemented by the Explanatory Report on the partial revision of the National Bank Ordinance providing interpretative guidance on the National Bank Ordinance and applicable to CCPs authorised therein shall be considered to be equivalent to the requirements laid down in Regulation (EU) No 648/2012.

Article 2

This Decision shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Done at Brussels, 13 November 2015.

For the Commission

The President

Jean-Claude JUNCKER

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