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⁽¹⁾ Text with EEA relevance.

EN

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⁽¹⁾ Text with EEA relevance.

II

(Non-legislative acts)

REGULATIONS

COMMISSION DELEGATED REGULATION (EU) 2019/885

of 5 February 2019

supplementing Regulation (EU) 2017/2402 of the European Parliament and of the Council with regard to regulatory technical standards specifying information to be provided to a competent authority in an application for authorisation of a third party assessing STS compliance

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2017/2402 of the European Parliament and of the Council of 12 December 2017 laying down a general framework for securitisation and creating a specific framework for simple, transparent and standardised securitisation, and amending Directives 2009/65/EC, 2009/138/EC and 2011/61/EU and Regulations (EC) No 1060/2009 and (EU) No 648/2012 ⁽¹⁾, and in particular Article 28(4) thereof,

Whereas:

- (1) The information to be provided by a third party seeking authorisation to assess the compliance of securitisations with the STS criteria provided for in Articles 19 to 22 or Articles 23 to 26 of Regulation (EU) 2017/2402 should enable a competent authority to evaluate whether and to what extent the applicant meets the conditions of Article 28(1) of the Regulation (EU) 2017/2402.
- (2) An authorised third party will be able to provide STS assessment services across the Union. The application for authorisation should therefore comprehensively identify that third party, any group to which it belongs as well as the scope of its activities. With regard to the STS assessment services to be provided, the application should include the envisaged scope of the services to be provided as well as their geographical scope.
- (3) To facilitate the effective use of a competent authority's authorisation resources, each application for authorisation should include a table clearly identifying each submitted document and its relevance to the conditions that must be met for authorisation to be granted.
- (4) To enable the competent authority to assess whether the fees charged by the third party are non-discriminatory and are sufficient and appropriate to cover the costs for the provision of the STS assessment services, as required by Article 28(1)(a) of Regulation (EU) 2017/2402, the third party should provide comprehensive information on pricing policies, pricing criteria, fee structures and fee schedules.
- (5) To enable the competent authority to assess whether the third party is able to ensure the integrity and independence of the STS assessment process, that third party should provide information on the structure of those internal controls. Furthermore, to enable the competent authority to assess whether the quality of the operational safeguards over the STS assessment process is sufficiently high to ensure that its results cannot be unduly influenced, and to assess whether the members of the management body comply with the requirements

⁽¹⁾ OJ L 347, 28.12.2017, p. 35.

laid down in Article 28(1)(d) of Regulation (EU) 2017/2402, the third party should provide comprehensive information on the composition of the management body and on the qualifications and repute of each of its members.

- (6) The concentration of a third party's revenue is a determinative factor in the assessment of its independence and integrity. Revenue concentration may not only come from a single undertaking but can also arise via revenue streams earned from a group of economically connected undertakings. In that context, a group of economically connected undertakings should be understood as a group of related entities as referred to in paragraph 9(b) of International Accounting Standard 24 ('related party disclosures') in the Annex to Commission Regulation (EC) No 1126/2008 ⁽²⁾, where the terms 'entity' and 'reporting entity' should be construed as referring to 'undertaking' for the purposes of this Regulation.
- (7) Securitisation instruments are complex, evolving products that require specialised knowledge. To enable the competent authority to assess whether the third party has sufficient operational safeguards and internal processes to assess STS compliance, the third party should provide information on its procedures relating to the required qualification of its staff. The third party should also demonstrate that its STS assessment methodology is sensitive to the type of securitisation and that specifies separate procedures and safeguards for ABCP transactions/programmes and non-ABCP securitisations.
- (8) The use of outsourcing arrangements and a reliance on the use of external experts can raise concerns about the robustness of the operational safeguards and internal processes. The application should therefore contain specific information about the nature and scope of any such outsourcing arrangements or use of external experts as well as the third party's governance over those arrangements.
- (9) This Regulation is based on the draft regulatory technical standards submitted by the European Securities and Markets Authority (ESMA) to the Commission.
- (10) ESMA has conducted open public consultations on the draft regulatory technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the opinion of the Securities and Markets Stakeholder Group established by Article 37 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council ⁽³⁾,

HAS ADOPTED THIS REGULATION:

Article 1

Identification of the third party

1. An application for authorisation as referred to in Article 28(4) of Regulation (EU) 2017/2402 shall contain the following information, to the extent relevant:
 - (a) the corporate name of the third party and its legal form;
 - (b) the third party's Legal Entity Identifier (LEI) or, where not available, another identifier required by the applicable national law;
 - (c) the third party's legal address as well as the addresses of any of its offices within the Union;
 - (d) the Uniform Resource Locator (URL) of the third party's website;
 - (e) an excerpt from a relevant commercial or court register, or another form of certified evidence, valid at the date of application, confirming the place of incorporation and the scope of business activity of the third party;
 - (f) the articles of incorporation of the third party, or other statutory documentation, stating that the third party is to assess the compliance of securitisations against the criteria provided for in Articles 19 to 22 or Articles 23 to 26 of Regulation (EU) 2017/2402 ('STS compliance');

⁽²⁾ Commission Regulation (EC) No 1126/2008 of 3 November 2008 adopting certain international accounting standards in accordance with Regulation (EC) No 1606/2002 of the European Parliament and of the Council (OJ L 320, 29.11.2008, p. 1).

⁽³⁾ Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84).

- (g) the most recent annual financial statements of the third party, including individual and consolidated financial statements, where available, and where the financial statements of the third party are subject to a statutory audit as defined in Article 2(1) of Directive 2006/43/EC of the European Parliament and of the Council ⁽⁴⁾, the audit report on these financial statements;
 - (h) the name, title, address, email address and the telephone number(s) of the contact person for the purposes of the application;
 - (i) the list of Member States in which the third party intends to provide STS compliance services;
 - (j) the list of types of securitisation for which the third party intends to provide STS compliance services, distinguishing between non ABCP securitisations and ABCP securitisations/programmes;
 - (k) a description of any services, other than providing STS compliance services, that the third party provides or intends to provide;
 - (l) a list of parties to whom the third party provides advisory, audit or equivalent services.
2. An application for authorisation shall include the following documentation as attachments:
- (a) a list containing the name and business address of each person or entity that holds 10 % or more of the third party's capital or 10 % or more of its voting rights, or the holding of which makes it possible to exercise a significant influence over the third party, together with:
 - (i) the percentage of the capital and voting rights held, and, where applicable, a description of the arrangements enabling the person or entity to exercise a significant influence over the third party's management;
 - (ii) the nature of the business activities of the persons and entities referred to in point (a);
 - (b) a list containing the name and business address of any entity in which a person or entity referred to in point (a) holds 20 % or more of the capital or voting rights and a description of that entity's activities.
 - (c) a completed copy of the table set out in Annex 1.
3. Where the third party has a parent undertaking, the application referred to in paragraph 1 shall state whether the immediate parent undertaking or ultimate parent undertaking is authorised, registered or subject to supervision, and where this is the case, state any associated reference number and the name of the responsible supervisory authority.
4. Where the third party has subsidiaries or branches, the application for authorisation shall identify the names and business addresses of those subsidiaries or branches and shall describe the areas of business activities of each subsidiary or branch.
5. An application for authorisation shall include a chart showing the ownership links between the third party, its parent undertaking and ultimate parent undertaking, its subsidiaries and affiliates, and any other persons and entities associated with or connected with a network as defined in point 7 of Article 2 of Directive 2006/43/EC. The chart shall identify the undertakings by their full name, the LEI or, where not available, another identifier required in accordance with the applicable national law, legal form and business address.

Article 2

Composition of the management body and the organisational structure

1. The application referred to in Article 1 shall include the third party's internal governance policies and the terms of procedure which govern its management body, its independent directors and, where established, the committees or substructures of its management bodies.
2. The application referred to in Article 1 shall identify the members of the management body, including independent directors, and, where applicable, the members of committees or other substructures set-up within that management body. For each member of the management body, including its independent directors, the application shall describe the position held within the management body, the responsibilities allocated to that position and the time that will be devoted to fulfil those responsibilities.

⁽⁴⁾ Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts, amending Council Directives 78/660/EEC and 83/349/EEC and repealing Council Directive 84/253/EEC (OJ L 157, 9.6.2006, p. 87).

3. The application referred to in Article 1 shall contain a chart detailing the organisational structure of the third party, which clearly identifies the roles of each member of the management body of that third party. Where the third party provides or intends to provide other services than STS compliance services, the organisational chart shall detail the identity and responsibility of the members of the management body in respect of those services.

4. The application referred to in Article 1 shall contain the following information in respect of each member of the management body:

(a) a copy of each member's curriculum vitae, including:

(i) an overview of the member's relevant education;

(ii) the member's complete employment history with relevant dates, positions held and a description of the positions occupied;

(iii) any professional qualification held by the member, together with the date of acquisition and, where applicable, the status of any membership in a relevant professional body;

(b) details of any criminal convictions, in particular in the form of an official criminal record certificate;

(c) a declaration signed by the member, stating whether he or she:

(i) has been subject to an adverse decision in any proceedings of a disciplinary nature brought by a regulatory authority, government body, agency or professional body;

(ii) has been subject to an adverse judicial finding in civil proceedings before a court, including for impropriety or fraud in the management of a business;

(iii) has been part of the management body (board or senior management) of an undertaking whose registration or authorisation was withdrawn by a regulatory authority, government body, or agency;

(iv) has been refused the right to perform activities which require registration or authorisation by a regulatory authority, government body, agency, or professional body;

(v) has been a member of the management body of an undertaking that has gone into insolvency or liquidation, either while he or she was part of that undertaking's management body or within a year of him or her ceasing to be a member of that management body;

(vi) has been a member of the management body of an undertaking which has been subject to an adverse decision or penalty by a regulatory authority, government body, agency, or professional body;

(vii) as a consequence of misconduct or malpractice, has been disqualified from acting as a director, disqualified from acting in any managerial capacity, or dismissed from employment or other appointment in an undertaking;

(viii) has been otherwise fined, suspended, disqualified, or been subject to any other sanction, including in relation to fraud or embezzlement, by a regulatory authority, government body, agency, or professional body;

(ix) is subject to any current investigation, or pending judicial, administrative, disciplinary or other proceedings, including relation to fraud or embezzlement by a regulatory authority, government body, agency, or professional body;

(d) a signed declaration of any potential conflict of interest that the member may have in performing his or her duties and how those conflicts will be managed, including an inventory of any positions held in other undertakings;

(e) where not already included in point (a), a description of the member's knowledge of and experience in the tasks relevant for the third party's provision of STS compliance services, and in particular, knowledge of and experience in different types of securitisation or securitisations of different underlying exposures.

5. The application referred to in Article 1 shall contain the following, in respect of each independent director:

(a) evidence of the director's independence within the management body;

(b) disclosures of any past or present business, employment or other relationship that creates or might create a potential conflict of interest;

(c) disclosures of any business, family or other relationship with the third party, its controlling shareholder or the management of either, that creates or might create a conflict of interest.

*Article 3***Corporate governance**

Where the third party adheres to a corporate governance code of conduct for the appointment and role of the independent directors and the management of conflicts of interest, the application referred to in Article 1 shall identify that code and provide an explanation for any deviation by the third party's from that code.

*Article 4***Independence and avoidance of conflicts of interest**

1. The application referred to in Article 1 shall contain detailed information about the applicant's internal control systems for the management of conflicts of interest, including a description of the third party's compliance function and its risk assessment arrangements.

2. The application referred to in Article 1 shall contain information about the policies and procedures for the identification, management, elimination, mitigation and disclosure of existing or potential conflicts of interest and threats to the independence of the third party's provision of STS compliance services.

3. The application referred to in Article 1 shall contain a description of any other measures and controls applied to ensure the proper and timely identification, management and disclosure of conflicts of interest.

4. The application referred to in Article 1 shall contain an up-to-date inventory of any potential or existing conflicts of interest identified by the third party in accordance with Article 28(1)(f) of Regulation (EU) 2017/2402, and shall include:

- (a) a description of any actual or potential conflicts of interest involving the third party, shareholders, owners or members of the third party, members of the management body, managers, staff of the third party or any other natural person whose services are placed at the disposal or under the control of the third party;
- (b) a description of any actual or potential conflicts of interest arising from existing or envisaged business relationships of the third party, including any existing or envisaged outsourcing arrangements or from the third party's other activities.

5. The application referred to in Article 1 shall provide details on policies or procedures that aim to ensure that the third party does not provide any form of advisory, audit or equivalent services to the originator, sponsor, or the SSPE involved in the securitisation whose STS compliance the third party assesses.

6. The application referred to in Article 1 shall provide details on the following:

- (a) revenue from other non-STIS related services provided by the third party, disaggregated into the revenue from non-securitisation-related services and the revenue from securitisation-related services, over each of the three annual reporting periods preceding the date of submission of the application, or where not available, since the incorporation of the third party;
- (b) the projected proportion of revenue from STS compliance services compared with the total projected revenue for the forthcoming three years' reference period.

7. The application referred to in Article 1 shall include, where applicable, the following information on the concentration of revenue from a single undertaking or a group of undertakings:

- (a) information identifying any undertaking, or any group of economically connected undertakings, that provided more than 10 % of the third party's total revenue over each of the three annual reporting periods preceding the date of the submission of the application, or, where not available, since the incorporation of the third party;
- (b) a statement whether an undertaking, or a group of economically connected undertakings, is projected to provide at least 10 % of the third party's projected revenue from the provision of STS compliance services over each of the next three years.

8. Where applicable, the application referred to in Article 1 shall contain an assessment of how a concentration of revenue from a single undertaking or a group of economically connected undertakings identified in paragraph 7 is compatible with the third party's policies and procedures on the independence of the STS compliance services referred to in paragraph 2.

*Article 5***Fee structure**

1. The application referred to in Article 1 shall contain information on the pricing policies for providing the STS compliance services and shall include all of the following:
 - (a) pricing criteria and a fee structure or a fee schedule for the STS compliance services for each type of securitisation for which such services are offered (distinguishing non ABCP securitisations from ABCP securitisations and programmes), including any internal guidelines or procedures governing how the pricing criteria are used in order to determine or set individual fees;
 - (b) details of the methods used to record any specific costs incurred when providing STS compliance services, including additional incidental expenses related to the provision of STS compliance services, including transport and accommodation, and, where the third party intends to outsource parts of its provision of STS compliance services, a description as to how that outsourcing is to be taken into account in the pricing criteria;
 - (c) a detailed description of any established procedures for the modification of fees or for departing from the fee schedule, including under any frequent use programme;
 - (d) a detailed description of any established procedures or internal controls which ensure and monitor compliance with the pricing policies, including any procedures or internal controls which monitor the development of individual fees over time and across different customers to which STS compliance services are provided;
 - (e) a detailed description of any processes for reviewing and updating both the costing system and pricing policies;
 - (f) a detailed description of any procedures and internal controls for maintaining records relating to fee schedules, individual fees applied, or modifications to the third party's pricing policies.
2. The application referred to in Article 1 shall provide information on the following:
 - (a) whether the fees are set in advance of the provision of the STS compliance service;
 - (b) whether prepaid fees are non-refundable;
 - (c) any operational safeguards aimed at ensuring that contractual agreements between the third party and an originator, sponsor or SSPE for the provision of STS compliance services do not include a contractual termination clause or provide for breach of the contract or non-performance of the contract where the result of the STS compliance assessment demonstrates that the securitisation does not comply with the STS criteria.

*Article 6***Operational safeguards and internal processes to assess STS compliance**

1. The application referred to in Article 1 shall include a detailed summary of any policies, procedures and manuals on the controls and operational safeguards established to ensure the independence of the third party's assessment of STS compliance and the integrity of its assessment.
2. The application referred to in Article 1 shall contain any information that demonstrates that the third party has established operational safeguards and internal processes to enable it to properly assess STS compliance, including the following:
 - (a) the number of staff, calculated on a full-time equivalent basis, disaggregated into types of positions within the third party;
 - (b) details on the policies and procedures established by the third party regarding:
 - (i) the independence of individual staff members;
 - (ii) the termination of employment contracts, including any measures to ensure the independence and integrity of the STS assessment process associated with the termination of the employment, including policies and procedures related to negotiating future employment contracts with other undertakings for staff directly involved in the STS assessment;
 - (iii) the qualification requirements for staff directly involved in providing STS compliance activities, distinguished by position type;

- (iv) training and development policies for staff directly involved in the provision of STS compliance services;
 - (v) the performance evaluation and compensation policies of staff directly involved in STS compliance services;
 - (c) a description of any measures established by the third party to mitigate the risk of over-reliance on any individual staff members for providing STS compliance services;
 - (d) the following information where the third party relies, in any STS assessment, on outsourcing or external experts:
 - (i) details on any policies and procedures with regards to the outsourcing of activities and the engagement of external experts;
 - (ii) a description of any outsourcing arrangements entered into or envisaged by the third party, accompanied by a copy of the contracts governing those outsourcing arrangements;
 - (iii) a description of the services to be provided by the external expert, including the scope of those services and the conditions under which those services should be rendered;
 - (iv) a detailed explanation of how the third party intends to identify, manage and monitor any risks posed by outsourcing and a description of the safeguards put in place to ensure independence of the STS assessment process;
 - (e) a description of any measures to be used in the event of a breach of any of the policies or procedures referred to in point (b) of paragraph 2 and point (i) of point (d) of paragraph 2;
 - (f) a description of any policies on the reporting to the competent authority of any material breach of the policies or procedures referred to in point (b) of paragraph 2 and point (i) of point (d) of paragraph 2 or any other fact, event or circumstance which is likely to amount to a breach of the conditions of the authorisation of the third party;
 - (g) a description of any arrangements established to ensure that the relevant persons are aware of the policies and procedures referred to in point (b) of paragraphs 2 and point (i) of point (d) of paragraph 2, and a description of any arrangement relating to the monitoring, review and updating of those policies and procedures.
3. The application referred to in Article 1 shall contain the following for each securitisation type for which the third party intends to provide STS compliance services:
- (a) a description of the STS assessment methodology to be applied, including any procedures and methodology for the quality assurance of that assessment;
 - (b) a template of the STS verification report to be provided to the originator, sponsor or the SSPE.

Article 7

Format of the application

1. A third party shall allocate a unique reference number to each document it submits to the competent authority as part of its application.
2. A third party shall include a substantiated explanation in its application for any requirement of this Regulation considered non-applicable.
3. The application referred to in Article 1 shall be accompanied by a letter signed by a member of the third party's management body confirming that:
 - (a) the submitted information is accurate and complete to the best of his or her knowledge, as of the date of the submission of the application;
 - (b) the applicant is neither a regulated entity as defined in point (4) of Article 2 of Directive 2002/87/EC⁽⁵⁾, nor a credit rating agency as defined in point (b) of Article 3(1) of Regulation (EC) No 1060/2009.⁽⁶⁾

⁽⁵⁾ Directive 2002/87/EC of the European Parliament and of the Council of 16 December 2002 on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate and amending Council Directives 73/239/EEC, 79/267/EEC, 92/49/EEC, 92/96/EEC, 93/6/EEC and 93/22/EEC, and Directives 98/78/EC and 2000/12/EC of the European Parliament and of the Council (OJ L 35, 11.2.2003, p. 1).

⁽⁶⁾ Regulation (EC) No 1060/2009 of the European Parliament and of the Council of 16 September 2009 on credit rating agencies (OJ L 302, 17.11.2009, p. 1).

*Article 8***Entry into force**

This Regulation shall enter into force on the twentieth day following 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, 5 February 2019.

For the Commission
The President
Jean-Claude JUNCKER

ANNEX

Document references

Article of this Regulation	Unique reference number of document	Title of the document	Chapter or section or page of the document where the information is provided or reason why the information is not provided

COMMISSION DELEGATED REGULATION (EU) 2019/886**of 12 February 2019****amending and correcting Delegated Regulation (EU) No 480/2014 as regards the provisions on financial instruments, simplified cost options, audit trail, scope and content of audits of operations and methodology for the selection of the sample of operations and Annex III**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006 ⁽¹⁾, and in particular Article 38(4), Article 39a(7), Article 40(4), Article 41(3), Article 42(6), point (b) of Article 61(3), the second paragraph of Article 68, the first subparagraph of Article 125(8), Article 125(9) and Article 127(7) thereof,

Whereas:

- (1) Commission Delegated Regulation (EU) No 480/2014 ⁽²⁾ lays down, among others, specific rules on the role, liabilities and responsibility of bodies implementing financial instruments, as well as on the related selection criteria and financial products. Following the amendment of Title IV of Part Two of Regulation (EU) No 1303/2013 by Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council ⁽³⁾, Delegated Regulation (EU) No 480/2014 should be amended to be in line with those changes.
- (2) In Article 38(1) of Regulation (EU) No 1303/2013, a new implementation option for combining funds from the ESI Funds with EIB financial products under the European Fund for Strategic Investment was introduced, the conditions of which were set out in detail in the new Article 39a thereof. Accordingly, the legal basis and scope of certain provisions of Delegated Regulation (EU) No 480/2014 on the role, liabilities and responsibility of bodies implementing financial instruments, as well as on the related selection criteria and financial products should be amended in order to include also a reference to Article 39a of Regulation (EU) No 1303/2013.
- (3) In Article 38(4) of Regulation (EU) No 1303/2013, the rules for direct award to publicly-owned banks or institutions were clarified. Article 7 and 10 of Delegated Regulation (EU) No 480/2014 should be amended accordingly. As the changes in Article 38 of Regulation (EU) No 1303/2013 of the European Parliament and of the Council apply from 1 January 2014, the amendments in Article 7 to Delegated Regulation (EU) No 480/2014 should apply from 1 January 2014. As the changes in Article 39a of Regulation (EU) No 1303/2013 of the European Parliament and of the Council apply from 1 January 2018, the amendment in Article 10 to Delegated Regulation (EU) No 480/2014 should apply from 1 January 2018.
- (4) The new Article 43a of Regulation (EU) No 1303/2013 clarifies the rules governing the differentiated treatment of investors in case of profit and risk sharing. Articles 6(1) and 9(1) of Delegated Regulation (EU) No 480/2014 should be amended accordingly.

⁽¹⁾ OJ L 347, 20.12.2013, p. 320.

⁽²⁾ Commission Delegated Regulation (EU) No 480/2014 of 3 March 2014 supplementing Regulation (EU) No 1303/2013 of the European Parliament and of the Council laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund (OJ L 138, 13.5.2014, p. 5).

⁽³⁾ Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

- (5) Article 40 of Regulation (EU) No 1303/2013 was amended in order to enable the designated authorities to obtain the necessary assurance when carrying out their obligations with regard to verifications, checks and audits on the basis of consistent, qualitative and timely reports to be provided by the EIB or other international financial institutions in which a Member State is a shareholder. Accordingly, and based on lessons learned concerning the implementation of paragraphs 3 and 4 of Article 9 of Delegated Regulation (EU) No 480/2014, those paragraphs should be deleted.
- (6) Article 9 of Delegated Regulation (EU) No 480/2014 lays down additional specific rules on the management and control of financial instruments set up at national, regional, transnational or cross-border level. In addition, point (c) of paragraph 1 of that Article contains a mistaken reference to Regulation (EU) No 1305/2013 for the EAFRD which should be corrected.
- (7) References in the relevant provisions of Delegated Regulation (EU) No 480/2014 should be aligned to the terminology in the amended provisions in Regulation (EU) No 1303/2013 in relation to the direct award, the differentiated treatment of investors, the State aid law term 'investor operating under the market economy principle' as well as to reflect the same treatment of international financial institutions as the EIB in accordance with Article 40 of Regulation (EU) No 1303/2013.
- (8) Article 61(8) of Regulation (EU) No 1303/2013 was amended by Regulation (EU, Euratom) 2018/1046 in order to provide that it does not apply to operations for which support constitutes State aid. Article 19(6) of Delegated Regulation (EU) No 480/2014 provides that the establishment of financial discount rates is to be done at Member State level. However, in order to ensure a homogenous and smooth review of major projects as far as financial profitability indicators are concerned for projects under State aid, Article 19(6) of Delegated Regulation (EU) No 480/2014 should be deleted in order to allow for project-specific financial discount rates reflecting the nature of the investor or the sector.
- (9) In addition, Articles 67, and 68 of Regulation (EU) No 1303/2013 on simplified cost options were amended and Articles 68a and 68b were introduced by Regulation (EU, Euratom) 2018/1046. Therefore, Articles 20 and 21 of Delegated Regulation (EU) No 480/2014 should be amended accordingly to ensure correct references to the provisions of Regulation (EU) No 1303/2013.
- (10) Specific rules should also be provided for in this Regulation with regard to the audit trail and the audit of operations laid down in Articles 25 and 27 of Delegated Regulation (EU) No 480/2014 respectively as regards the new form of support to operations through financing not linked to costs referred to in point (e) of the first subparagraph of Article 67(1) Regulation (EU) No 1303/2013.
- (11) In order to ensure a coherent approach on obtaining assurance on the reliability of data relating to indicators and milestones, it is appropriate to specify in Article 27(2) of Delegated Regulation (EU) No 480/2014 that this element should be part of the audit work on audit of operations.
- (12) Article 28(8) of Delegated Regulation (EU) No 480/2014 specifies the sample selection procedure where conditions for the proportional control arrangements provided for in Article 148(1) of Regulation (EU) No 1303/2013 apply. In order to clarify the available options for the audit authority, the provision should be amended to state that the decision to use either the exclusion or replacement of sampling units should be taken by the audit authority based on its professional judgement. Taking into account that this clarification has already been provided to Member States, it is appropriate for that amendment to apply retroactively with effect from the date of entry into force of this Regulation as first adopted.
- (13) Article 28(9) of Delegated Regulation (EU) No 480/2014 on the sub-sampling methodology should be amended to clarify the different possible levels of sub-sampling in complex operations and to cover all particularities, including non-statistical sampling methods and specific characteristics of operations implemented under the European territorial cooperation goal. Taking into account that this clarification has already been provided to Member States, it is appropriate for that amendment to apply retroactively with effect from the date of entry into force of this Regulation as first adopted.
- (14) Due to the changes of the definition of 'beneficiary' in point (a) of Article 2(10) of Regulation (EU) No 1303/2013 introduced by Regulation (EU, Euratom) 2018/1046, certain data fields in Annex III of Delegated Regulation (EU) No 480/2014 should be amended accordingly.

- (15) In accordance with Article 149(3a) of Regulation (EU) No 1303/2013, the measures provided for in this Regulation have been subject to consultation of experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making ⁽⁴⁾.
- (16) In order to ensure legal certainty and to limit discrepancies between the amended provisions of Regulation (EU) No 1303/2013 which apply from 2 August 2018 or earlier in accordance with Article 282 of Regulation (EU, Euratom) 2018/1046 and the provisions of this Regulation to a minimum, this Regulation should enter into force on the day following that of its publication in the *Official Journal of the European Union*.
- (17) Delegated Regulation (EU) No 480/2014 should therefore be amended and corrected accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Delegated Regulation (EU) No 480/2014 is amended as follows:

(1) Article 6 is amended as follows:

(a) the sub-title is replaced by the following:

‘Third subparagraph of Article 38(4) and Article 39a(7) of Regulation (EU) No 1303/2013’;

(b) in paragraph 1, point (d) is replaced by the following:

‘(d) differentiated treatment of investors operating under the market economy principle and of the EIB, when using the EU guarantee pursuant to Regulation (EU) 2015/2017, as referred to in Article 37(2)(c) and Article 43a of Regulation (EU) No 1303/2013, is proportionate to the risks taken by these investors and is limited to the minimum necessary to attract such investors, which shall be ensured through terms and conditions and procedural safeguards’;

(2) Article 7 is amended as follows:

(a) the sub-title is replaced by the following:

‘Third subparagraph of Article 38(4) and Article 39a(7) of Regulation (EU) No 1303/2013’;

(b) in paragraph 1, the introductory wording is replaced by the following:

‘1. When selecting a body to implement a financial instrument in accordance with point (a) of Article 38(4), subpoint (iii) of point (b) of Article 38(4), point (c) of Article 38(4) and Article 39a(5) of Regulation (EU) No 1303/2013, the managing authority shall satisfy itself that this body fulfils the following minimum requirements’;

(c) paragraph 3 is replaced by the following:

‘3. Where a body that implements a fund of funds, including the EIB and an international financial institution in which a Member State is a shareholder, further entrusts implementation tasks to a financial intermediary, it shall ensure that the requirements and criteria referred to in paragraphs 1 and 2 are met in respect of that financial intermediary’;

(d) the following paragraph 4 is added:

‘4. Without prejudice to paragraph 3, when the body implementing a financial instrument under Article 39a(5) of Regulation (EU) No 1303/2013 is the EIB or an international financial institution in which a Member State is a shareholder, paragraphs 1 and 2 shall not apply’;

(3) in Article 8, the sub-title is replaced by the following:

‘Third subparagraph of Article 38(4) and Article 39a(7) of Regulation (EU) No 1303/2013’;

⁽⁴⁾ Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission of 13 April 2016 on Better Law-Making (OJ L 123, 12.5.2016, p. 1).

(4) Article 9 is amended as follows:

(a) the title is replaced by the following:

Management and control of financial instruments referred to in points (b) and (c) of Article 38(1) of Regulation (EU) No 1303/2013

(Article 40(4) of Regulation (EU) No 1303/2013);

(b) paragraph 1 is amended as follows:

(i) the introductory wording is replaced by the following:

‘1. For operations involving support from programmes to financial instruments referred to in points (b) and (c) of Article 38(1) of Regulation (EU) No 1303/2013, the managing authority shall ensure that:’;

(ii) point (e) is amended as follows:

(aa) point (ii) is replaced by the following:

‘(ii) documents identifying the amounts contributed by each programme and under each priority axis to the financial instrument, the expenditure that is eligible under the programmes and the interest and other gains generated by support from the ESI Funds and re-use of resources attributable to the ESI Funds in accordance with Articles 43, 43a and 44 of Regulation (EU) No 1303/2013’;

(ab) point (iv) is replaced by the following:

‘(iv) documents demonstrating compliance with Articles 43, 43a, 44 and 45 of Regulation (EU) No 1303/2013’;

(c) in paragraph 2, the second subparagraph is replaced by the following:

‘For operations involving support from programmes to financial instruments under the EAFRD, the audit bodies shall ensure that financial instruments are audited throughout the programming period until closure in the framework of systems audits and audits of operations in accordance with Article 9(1) of Regulation (EU) No 1306/2013 of the European Parliament and of the Council (*).’

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

(d) paragraphs 3 and 4 are deleted.

(5) Article 10 is replaced by the following:

‘Article 10

Rules for withdrawal of payments to financial instruments and consequent adjustments in respect of applications for payment

(Article 41(3) of Regulation (EU) No 1303/2013)

Member States and managing authorities may withdraw contributions from programmes to the financial instruments referred to in points (a) and (c) of Article 38(1) and the financial instruments referred to in point (b) of Article 38(1) implemented in accordance with points (a), (b), and (c) of Article 38(4) of Regulation (EU) No 1303/2013 only if the contributions have not already been included in an application for payment as referred to in Article 41 of that Regulation. However, as regards financial instruments supported by the ERDF, the ESF, the Cohesion Fund and the EMFF, contributions may also be withdrawn if the next payment application is amended to withdraw or replace the corresponding expenditure.’;

(6) in Article 13, paragraph 5 is replaced by the following:

‘5. Where the majority of the capital invested in financial intermediaries providing equity is provided by investors operating under the market economy principle and the programme contribution is provided *pari passu* with those investors, the management costs and fees shall conform to market terms and shall not exceed those payable by the private investors.’;

(7) in Article 19, paragraph 6 is deleted;

(8) in Article 20, the sub-title is replaced by the following:

‘(Second paragraph of Article 68 of Regulation (EU) No 1303/2013);’

(9) in Article 21, the sub-title is replaced by the following:

‘(Second paragraph of Article 68 of Regulation (EU) No 1303/2013)’

(10) Paragraph 1 of Article 25 is amended as follows:

(a) the first subparagraph is amended as follows:

(i) point (d) is replaced by the following:

‘(d) in relation to costs determined in accordance with point (d) of Article 67(1) and point (a) of the first paragraph of Article 68 of Regulation (EU) No 1303/2013, the audit trail shall demonstrate and justify the calculation method, where applicable, and the basis on which the flat rates have been decided, and the eligible direct costs or costs declared under other chosen categories to which the flat rate applies.’;

(ii) the following point (da) is inserted:

‘(da) in relation to financing which is not linked to costs referred to in point (e) of the first subparagraph of Article 67(1) of Regulation (EU) No 1303/2013, the audit trail shall allow verification of the achievement of the financing conditions and reconciliation of the underlying data relating to the conditions for the reimbursement of expenditure.’;

(iii) point (e) is replaced by the following:

‘(e) in relation to costs determined in accordance with points (b) and (c) of the first paragraph of Article 68 and with Articles 68a(1) and 68b of Regulation (EU) No 1303/2013, Article 14(2) of Regulation (EU) No 1304/2013 prior to the entry into force of Regulation (EU, Euratom) 2018/1046 and Article 19 of Regulation (EU) No 1299/2013, the audit trail shall allow the eligible direct costs to which the flat rate applies to be substantiated and verified.’;

(b) the second subparagraph is replaced by the following:

‘For costs referred to in points (c) and (d), the audit trail shall allow the calculation method used by the managing authority to be verified for compliance with Article 67(5), Article 68 of Regulation (EU) No 1303/2013 and Article 14(3) of Regulation (EU) No 1304/2013 prior to the entry into force of Regulation (EU, Euratom) 2018/1046.’;

(11) Article 27 is amended as follows:

(a) paragraph 2 is amended as follows:

(i) in the first subparagraph, the following point (d) is added:

‘(d) that the data relating to indicators and milestones is reliable’;

(ii) the following second subparagraph is inserted:

‘Only the following aspects laid down in point (a) shall apply to operations subject to the financing which is not linked to costs referred to in point (e) of the first subparagraph of Article 67(1) of Regulation (EU) No 1303/2013: that the operation has been implemented in accordance with the approval decision and fulfilled any conditions applicable at the time of the audit concerning its functionality, use and objectives to be attained.’;

(b) the following subparagraph is added in paragraph 3:

‘For operations subject to the form of support referred to in point (e) of the first subparagraph of Article 67(1) of Regulation (EU) No 1303/2013, audits of operations shall verify that the conditions for reimbursement of expenditure to the beneficiary have been met.’;

(12) Article 28 is amended as follows:

(a) paragraph 8 is replaced by the following:

'Where conditions for the proportional control provided for in Article 148(1) of Regulation (EU) No 1303/2013 apply, the audit authority may either exclude the items referred to in that Article from the population to be sampled or maintain the items in the population to be sampled and replace them if selected. The decision to use either exclusion or replacement of sampling units should be taken by the audit authority based on its professional judgement.'

(b) in paragraph 9, the second and third subparagraphs are replaced by the following:

'However, depending on the characteristics of sampling unit, the audit authority may decide to apply sub-sampling. The methodology for selection of the sub-sampling units shall follow the principles allowing projection at the level of the sampling unit.'

(13) Annex III is amended as follows:

(a) data field 2 is replaced by the following:

'Information whether the beneficiary is a public law body or a private law body or a natural person';

(b) data field 46 is replaced by the following:

'Amount of eligible expenditure in payment claim forming the basis for each payment to the beneficiary, accompanied, for operations subject to the form of support referred to in point (e) of the first subparagraph of Article 67(1) of Regulation (EU) No 1303/2013, by a reference to the corresponding fulfilled financing condition';

(c) data field 80 is replaced by the following:

'The total amount of eligible expenditure incurred by the beneficiary and paid in implementing the operation included in each payment application, accompanied, for operations subject to the form of support referred to in point (e) of the first subparagraph of Article 67(1) of Regulation (EU) No 1303/2013, by a reference to the corresponding fulfilled financing condition';

(d) data field 87 is replaced by the following:

'In the case of State aid where Article 131(5) of Regulation (EU) No 1303/2013 applies, the amount of the advance included in a payment application which, within three years of the payment of the advance, has been covered by expenditure paid by the beneficiary or, where Member States have decided that the beneficiary is the body granting the aid pursuant to point (a) of Article 2(10), by the body receiving the aid';

(e) data field 88 is replaced by the following:

'In the case of State aid where Article 131(5) of Regulation (EU) No 1303/2013 applies, the amount paid to the beneficiary under the operation or, where Member States have decided that the beneficiary is the body granting the aid pursuant to point (a) of Article 2(10), to the body receiving the aid, as an advance included in a payment application which has not been covered by expenditure paid by the beneficiary and for which the three-year period has not yet elapsed'.

Article 2

Point (c) of Article 9(1) of Delegated Regulation (EU) No 480/2014 is corrected as follows:

'(c) management verifications are carried out throughout the programming period and during the set-up and implementation of the financial instruments in accordance with Article 125(4) of Regulation (EU) No 1303/2013 for the ERDF, the ESF, the Cohesion Fund and the EMFF, and in accordance with Article 58(1) and (2) of Regulation (EU) No 1306/2013 for the EAFRD';

Article 3

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

Point (2) of Article 1 shall apply from 1 January 2014.

Point (5) of Article 1 shall apply from 1 January 2018.

Point (12) of Article 1 and Article 2 shall apply from 14 May 2014.

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

Done at Brussels, 12 February 2019.

For the Commission
The President
Jean-Claude JUNCKER

COMMISSION DELEGATED REGULATION (EU) 2019/887**of 13 March 2019****on the model financial regulation for public-private partnership bodies referred to in Article 71 of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council**

THE EUROPEAN COMMISSION,

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

Having regards to Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 ⁽¹⁾, and in particular the third paragraph of Article 71 thereof,

Whereas:

- (1) By Delegated Regulation (EU) No 110/2014 ⁽²⁾, the Commission adopted a the model financial regulation for public-private partnership bodies referred to in Article 209 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council ⁽³⁾.
- (2) Regulation (EU, Euratom) No 966/2012 has been repealed and replaced by Regulation (EU, Euratom) 2018/1046. It is therefore necessary to adopt a model financial regulation for public-private partnership bodies referred to in Article 71 of Regulation (EU, Euratom) 2018/1046 (hereafter 'PPP bodies').
- (3) In order to adopt rules ensuring sound financial management of Union funds and to enable PPP bodies to adopt their own financial rules, it is necessary to adopt a model financial regulation for those bodies. The PPP bodies' financial rules may not depart from this Regulation except where their specific needs so require, and with the Commission's prior consent.
- (4) The model financial regulation for PPP bodies should be consistent with the provisions of Regulation (EU, Euratom) 2018/1046 and should allow for additional simplification and clarification to take into account the experience gained in their application.
- (5) Following the adoption of Regulation (EU, Euratom) 2015/1929 ⁽⁴⁾ of the European Parliament and of the Council, Commission Regulation (EU) 2015/2461 ⁽⁵⁾ amended Delegated Regulation (EU) No 110/2014 on the model financial regulation for public-private partnership bodies to align the rules on discharge, reporting and external audit on those applicable to the bodies referred to in Article 70 of Regulation (EU, Euratom) 2018/1046. Rules on governance, internal audit and accountability applicable to PPP bodies should be made consistent with the corresponding provisions of Commission Delegated Regulation (EU) 2019/715 ⁽⁶⁾ applicable to the bodies referred to in Article 70 of Regulation (EU, Euratom) 2018/1046.
- (6) Given that Commission Delegated Regulation (EU) No 1268/2012 ⁽⁷⁾ has been repealed, the obligation for the PPP bodies to adopt their own implementing rules should also be removed.

⁽¹⁾ OJ L 193, 30.7.2018, p. 1.

⁽²⁾ Commission Delegated Regulation (EU) No 110/2014 of 30 September 2013 on the model financial regulation for public-private partnership bodies referred to in Article 209 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council (OJ L 38, 7.2.2014, p. 2-15).

⁽³⁾ Regulation of the European Parliament and of the Council of 25 October 2012 (EU, Euratom) No 966/2012 and repealing Council Regulation (EC, Euratom) No 1605/2002 on the financial rules applicable to the general budget of the Union (OJ L 298, 26.10.2012, p. 1).

⁽⁴⁾ Regulation (EU, Euratom) 2015/1929 of the European Parliament and of the Council of 28 October 2015 amending Regulation (EU, Euratom) No 966/2012 on the financial rules applicable to the general budget of the Union (OJ L 286, 30.10.2015, p. 1).

⁽⁵⁾ Commission Delegated Regulation (EU) 2015/2461 of 30 October 2015 amending Delegated Regulation (EU) No 110/2014 on the model financial regulation for public-private partnership bodies referred to in Article 209 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council (OJ L 342, 29.12.2015, p. 1-6).

⁽⁶⁾ Commission Delegated Regulation (EU) 2019/715 of 18 December 2018 on the framework financial regulation for the bodies set up under the TFEU and Euratom Treaty and referred to in Article 70 of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council (OJ L 122, 10.5.2019, p. 1).

⁽⁷⁾ Commission Delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union (OJ L 362, 31.12.2012, p. 1).

- (7) PPP bodies should establish and implement their budget in accordance with the budgetary principles of unity, budgetary accuracy, annuality, equilibrium, unit of account, universality, specification and sound financial management, which requires transparency and effective and efficient internal control.
- (8) To ensure continuity of operation and in order to allow for the commitment of routine administrative expenditure at the end of a financial year, PPP bodies should be able under specific conditions to commit such expenditure in advance against the appropriations provided for the following financial.
- (9) Taking into account their specificities, PPP bodies should not be able to use corporate sponsoring.
- (10) The concept of performance as regards the budget should be clarified. Performance should be linked to the principle of sound financial management. The principle of sound financial management should be defined. A link should be established between, on the one hand, the objectives set and performance indicators and, on the other hand, the results and the economy, efficiency and effectiveness in the use of appropriations.
- (11) In order to ensure the overall implementation of the tasks and activities of a PPP body, it should be able to enter the unused appropriations for a given year in the estimate of revenue and expenditure of the following three financial years.
- (12) It is necessary to specify the powers and responsibilities of the accounting officer and of the authorising officer, taking into account the public-private nature of PPP bodies. The authorising officers should be fully responsible for all revenue and expenditure operations executed under their authority and should be held accountable for their actions, including, where necessary, through disciplinary proceedings. In order to prevent errors and irregularities, authorising officers should set up a multiannual control strategy which should be based on risk-based and cost-effectiveness considerations.
- (13) In order to guarantee that each PPP body is accountable for the implementation of its budget and adheres to the objectives assigned to it at its establishment, PPP bodies should be allowed, where necessary, to employ external private sector bodies for the performance of the tasks entrusted to them, where necessary, unless those tasks involve a public service mission or any use of discretionary powers of judgement.
- (14) In order to facilitate the implementation of their appropriations and in compliance with the principle of sound financial management, PPP bodies should have the possibility to conclude service-level agreements in accordance with Article 59(3) of Regulation (EU, Euratom) 2018/1046, in particular with the Union institutions and other Union bodies. Appropriate reporting on those service-level agreements should be ensured.
- (15) In order to improve cost-efficiency, PPP bodies should have the possibility of sharing services or transferring them to another body or the Commission, in particular by allowing the accounting officer of the Commission to be entrusted with all or part of the tasks of the accounting officer of a PPP body.
- (16) To identify and correctly manage risk of actual or perceived conflict of interests, PPP bodies should be required to adopt rules on the prevention and management of conflict of interests. Such rules should take into account guidance provided by the Commission.
- (17) The principles to be followed as to the revenue and expenditure operations of each PPP body should be laid down.
- (18) In line with the specific nature of the PPP bodies, their members should bear the costs of their contribution to the administrative costs of the PPP body. Non-member beneficiaries of funding provided by a PPP body should not contribute to such costs directly or indirectly and in any form, and they should not be invited or requested to contribute to the administrative costs of the PPP body when participating to projects co-financed by that body.
- (19) PPP bodies shall adopt its annual work programme for a particular year by the end of the previous year. This annual work programme should contain a description of the activities to be financed and an indication of the amounts allocated to each of them, information on the overall strategy for the implementation of the programme entrusted to the PPP body, as well as the strategy for achieving efficiency gains and synergies. The annual work

programme should also contain a strategy for organisational management and internal control systems, including an anti-fraud strategy and an indication of measures to prevent recurrence of cases of conflict of interests, irregularities and fraud, in particular where weaknesses have led to critical recommendations

- (20) In addition to the forms of Union contribution already well established (reimbursement of the eligible costs actually incurred, unit cost, lump sums and flat-rate financing), it is appropriate to allow PPP bodies to provide support through financing not linked to the costs of the relevant operations. This additional form of financing should be based on the fulfilment of certain conditions *ex ante* or on the achievement of results measured by reference to previously set milestones or through performance indicators.
- (21) In order to protect the financial interests of the Union, the rules on a single early-detection and exclusion system set up by Regulation (EU, Euratom) 2018/1046 should apply to PPP bodies.
- (22) In order to strengthen the governance of PPP bodies, they should report cases of fraud, financial irregularities and investigations to the Commission without delay.
- (23) Given the public-private nature of PPP bodies and in particular the private sector contribution to the budget of a PPP body, flexible procedures for the award of procurement contracts should be provided for. These procedures should respect the principles of transparency, proportionality, equality of treatment and non-discrimination and can depart from the relevant provisions laid down in Regulation (EU, Euratom) 2018/1046. Reinforced cooperation among the members of PPP bodies is expected to contribute to better and cheaper supply of goods and services, as well as the avoidance of excessive costs in managing procurement procedures. For the supply of products, provision of services or performance of work that those members provide directly and without having recourse to third parties, PPP bodies should therefore have the possibility to conclude contracts without having recourse to a procurement procedure with their members other than the Union.
- (24) PPP bodies should be able to use external experts for the evaluation of grant applications, projects and tenders and for providing opinions and advice in specific cases. These experts should be selected in accordance with the principles of non-discrimination, equal treatment and absence of conflict of interests.
- (25) As regards the award of grants and prizes, in order to ensure a coherent implementation with the actions directly managed by the Commission, the relevant provisions of Regulation (EU, Euratom) 2018/1046 should apply, subject to specific provisions of the constituent act of the PPP body or of the basic act of the programme the implementation of which is entrusted to the PPP body.
- (26) Pursuant to Article 8(1) of Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council ⁽⁸⁾, PPP bodies shall transmit to the European Anti-Fraud Office without delay any information relating to possible cases of fraud, corruption or any other illegal activity affecting the financial interests of the Union. Pursuant to Article 24(1) of Council Regulation (EU) 2017/1939 ⁽⁹⁾, PPP bodies shall without undue delay report to the European Public Prosecutor's Office any criminal conduct in respect of which it could exercise its competence in accordance with that regulation. In order to strengthen the governance of PPP bodies, they should also report cases of fraud, financial irregularities, as well as investigations, to the Commission without delay. The Commission and the PPP bodies should put procedures in place that duly protect personal data and ensure the respect of the need-to-know principle in any transmission of information related to presumed fraud and other irregularities and on-going or completed investigations.
- (27) Delegated Regulation (EU) No 110/2014 should be repealed. The reference to the repealed regulation should be construed as references to this Regulation.
- (28) In order to allow for the timely adoption of the revised financial regulations by the PPP bodies as of 1 September 2019 and so that the PPP bodies may benefit from the simplification and alignment with Regulation (EU, Euratom) 2018/1046, this Regulation should enter into force as a matter of urgency.

⁽⁸⁾ Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.9.2013, p. 1).

⁽⁹⁾ Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO') (OJ L 283, 31.10.2017, p. 1-71).

HAS ADOPTED THIS REGULATION:

CHAPTER 1

SCOPE

Article 1

Subject Matter

This Regulation lays down the essential principles on the basis of which the public-private partnership bodies referred to in Article 71 of Regulation (EU, Euratom) 2018/1046 ('PPP bodies') shall adopt their own financial rules. The financial rules of the PPP body shall not depart from this Regulation except where its specific needs so require and with the Commission's prior consent in accordance with the fourth subparagraph of Article 71 of Regulation (EU, Euratom) 2018/1046. The PPP body shall publish its financial rules on its website.

Article 2

Definitions

For the purposes of this Regulation, the following definitions shall apply:

- (1) 'governing board' means the main internal body of the PPP body that is responsible for taking decisions on financial and budgetary matters, irrespective of the name given to it in the constituent act of the PPP body,
- (2) 'director' means the person responsible for implementing the decisions of the governing board and the PPP body's budget as authorising officer, irrespective of the title given to him in the constituent act of the PPP body,
- (3) 'member' means a member of the PPP body in accordance with its constituent act,
- (4) 'constituent act' means the instrument of Union law governing the main aspects of the creation and operation of the PPP body,

Article 2 of Regulation (EU, Euratom) 2018/1046 shall apply *mutatis mutandis*.

Article 3

Scope of the budget

For each financial year, the budget of the PPP body shall forecast and authorize all revenue and expenditure considered necessary for the PPP body. It shall consist of:

- (a) the revenue of the PPP body, comprising:
 - (i) its members' financial contribution to the administrative costs;
 - (ii) its members' financial contribution to the operational costs;
 - (iii) revenue assigned to specific items of expenditure;
 - (iv) any revenue generated by the PPP body;
- (b) the expenditure of the PPP body, including administrative expenditure.

CHAPTER 2

BUDGETARY PRINCIPLES

Article 4

Respect for budgetary principles

The budget of the PPP body shall be established and implemented in accordance with the principles of unity, budgetary accuracy, annuality, equilibrium, unit of account, universality, specification, sound financial management and transparency as set out in this Regulation.

*Article 5***Principles of unity and of budgetary accuracy**

1. All revenue and expenditure shall be booked to a budget line in the budget of the PPP body.
2. No expenditure may be committed or authorised in excess of the appropriations authorised by the budget of the PPP body.
3. An appropriation may be entered in the budget of the PPP body only if it is for an item of expenditure considered necessary.
4. Interests generated by pre-financing payments made from the budget of the PPP body shall not be due to the PPP body.

*Article 6***Principle of annuality**

1. The appropriations entered in the budget of the PPP body shall be authorised for a financial year which shall run from 1 January to 31 December.
2. Commitment appropriations shall cover the total cost of the legal commitments entered into during the financial year.
3. Payment appropriations shall cover payments made to honour the legal commitments entered into in the financial year or preceding financial years.
4. For administrative appropriations, expenditure shall not exceed the revenue expected for the year as referred in Article 3(a)(i).
5. Given the needs of the PPP body, the unused appropriations may be entered in the estimate of revenue and expenditure of up to the following three financial years. These appropriations must be used first.
6. Paragraphs 1 to 5 shall not prevent budget commitments for actions extending over more than one financial year being broken down over several years into annual instalments where the constituent act so provides or where they relate to administrative expenditure.

*Article 7***Commitment of appropriations**

1. The appropriations entered in the budget may be committed with effect from 1 January, once the budget of the PPP body has been definitively adopted.
2. As of 15 October of the financial year, routine administrative expenditure may be committed in advance against the appropriations provided for the following financial year, provided that such expenditure has been approved in the last budget of the PPP body duly adopted, and only up to a maximum of one quarter of the total corresponding appropriations decided upon by the governing board for the current financial year.

*Article 8***Principle of equilibrium**

1. Revenue and payment appropriations shall be in balance.
2. Commitment appropriations shall not exceed the relevant annual Union contribution as set out in the annual transfer of funds agreement with the Commission, plus annual contributions from other members than the Union, any other revenue referred to in Article 3 and the amount of the unused appropriations referred to in Article 6(5).

3. The PPP body shall not raise loans within the framework of the budget of the PPP body.
4. If the budget result is positive, it shall be entered in the budget of the following financial year as revenue.

If the budget result is negative, it shall be entered in the budget for the following financial year as payment appropriations.

Article 9

Principle of unit of account

The budget of the PPP body shall be drawn up and implemented in euro and the accounts shall be presented in euro. However, for cash-flow purposes, the accounting officer shall be authorised to carry out operations in other currencies as laid down in the financial rules of the PPP body.

Article 10

Principle of universality

1. Without prejudice to paragraph 2, total revenue shall cover total payment appropriations. All revenue and expenditure shall be entered in full without any adjustment against each other, subject to any specific provision in the financial rules of the PPP body on cases where certain deductions may be made from payment requests, which shall then be passed for payment of the net amount.
2. Revenue earmarked for a specific purpose, such as income from foundations, subsidies, gifts and bequests, shall be used to finance specific items of expenditure.
3. The director may accept any donation made to the PPP body, such as income from foundations, subsidies, gifts and bequests.

Acceptance of donations which may involve a significant financial charge shall be subject to the prior authorisation of the governing board, which shall take a decision within two months of the date on which the request is submitted to it. If the governing board fails to take a decision within that period, the donation shall be deemed to be accepted.

The amount above which the financial charge involved is considered significant shall be set by a decision of the governing board.

Article 11

Corporate sponsoring

Article 26 of Regulation (EU, Euratom) 2018/1046 shall not apply to the PPP bodies.

Article 12

Principle of specification

1. Appropriations shall be earmarked for specific purposes at least by title and chapter.
2. The director may transfer appropriations:
 - (a) from one title to another up to a maximum of 10 % of the appropriations for the year shown on the line from which the transfer is made;
 - (b) from one chapter to another and within each chapter without limit.
3. Beyond the limits referred to in paragraph 2, the director may propose transfers of appropriations from one title to another to the governing board. The governing board shall have three weeks to oppose the proposed transfers. After that time limit the proposed transfers shall be deemed to be adopted.
4. The director shall inform the governing board as soon as possible of all transfers carried out under paragraph 2.

Article 13

Principle of sound financial management and performance

1. Appropriations shall be used in accordance with the principle of sound financial management, and thus be implemented respecting the following principles:
 - (a) the principle of economy which requires that the resources used by the PPP body in the pursuit of its activities shall be made available in due time, in appropriate quantity and quality and at the best price;
 - (b) the principle of efficiency which concerns the best relationship between the resources employed, the activities undertaken and the achievement of objectives;
 - (c) the principle of effectiveness which concerns the extent to which the objectives pursued are achieved through the activities undertaken.
2. In line with the principle of sound financial management, the use of appropriations shall focus on performance and for that purpose:
 - (a) objectives for activities shall be established *ex-ante*;
 - (b) progress in the achievement of objectives shall be monitored with performance indicators;
 - (c) progress in, and problems with, the achievements of those objectives shall be reported to the European Parliament and the Council in accordance with point (d) of Article 16(2) and with Article 23(2).
3. Specific, measurable, attainable, relevant and time-bound objectives referred to in paragraphs 1 and 2 shall be set for all sectors of activity covered by the budget of the PPP body and relevant, accepted, credible, easy and robust indicators shall be defined where relevant. Information on the indicators shall be provided annually by the director to the governing board, at the latest when submitting the documents accompanying the draft budget of the PPP body.
4. Unless the constituent act provides for evaluations to be conducted by the Commission, the PPP body, in order to improve decision-making, shall undertake evaluations, including retrospective evaluations, which shall be proportionate to the objectives and expenditure. Evaluation results shall be sent to the governing board.
5. Retrospective evaluations shall assess the performance of the activity, including aspects such as effectiveness, efficiency, coherence, relevance and EU added value. Retrospective evaluations shall be based on the information generated by the monitoring arrangements and indicators established for the action concerned. They shall be undertaken at least once every multiannual financial framework and where possible in sufficient time for the findings to be taken into account in *ex-ante* evaluations or impact assessments which support the preparation of related programmes and activities.

Article 14

Internal control of budget implementation

1. Pursuant to the principle of sound financial management, the budget of the PPP body shall be implemented in compliance with effective and efficient internal control.
2. For the purposes of the implementation of the budget of the PPP body, internal control shall be applied at all levels of management and shall be designed to provide reasonable assurance of achieving the following objectives:
 - (a) effectiveness, efficiency and economy of operations;
 - (b) reliability of reporting;
 - (c) safeguarding of assets and information;
 - (d) prevention, detection, correction and follow-up of fraud and irregularities;
 - (e) adequate management of the risks relating to the legality and regularity of the underlying transactions, taking into account the multi-annual character of programmes as well as the nature of the payments concerned.
3. Effective and efficient internal control shall be based on best international practices and on the Internal Control Framework laid down by the Commission for its own departments, and shall include, in particular, the elements laid down in Article 36(3) and (4) of Regulation (EU, Euratom) 2018/1046.

*Article 15***Principle of transparency**

1. The budget of the PPP body shall be established and implemented and the accounts presented in accordance with the principle of transparency.
2. The budget of the PPP body including the establishment plan and any amending budgets, as adopted, including any adaptations as provided in Article 17(1), shall be published on the internet site of the PPP body within four weeks of their adoption and shall be transmitted to the Commission and the Court of Auditors.
3. The PPP body shall make available on its website no later than 30 June of the year following the financial year in which the funds were legally committed, information on the recipients of funds financed from the budget of the PPP body, including the experts contracted pursuant to Article 44 of this Regulation, in accordance with Article 38 of Regulation (EU, Euratom) 2018/1046, and following a standard presentation, subject to any specific procedure laid down in the basic act of the programme the implementation of which is entrusted to the PPP body.

The published information shall be easily accessible, transparent and comprehensive. The information shall be made available with due observance of the requirements of confidentiality and security, in particular the protection of personal data laid down in Regulation (EU) 2018/1725 of the European Parliament and of the Council ⁽¹⁰⁾.

CHAPTER 3

FINANCIAL PLANNING*Article 16***Estimate of revenue and expenditure**

1. The PPP body shall send to the Commission and to the other members no later than 31 January of the year preceding that in which the budget of the PPP body is to be implemented an estimate of its revenue and expenditure and the general guidelines underlying that estimate, together with a draft of the annual work programme referred to in Article 33(4). It shall be adopted by the Governing Board in accordance with the procedure provided for in the constituent act of the PPP body.
2. The estimate of revenue and expenditure of the PPP body shall include:
 - (a) an estimate of the number of permanent and temporary posts, by function group and by grade, as well as of the contract staff and seconded national experts expressed in full-time equivalents, within the limits of the budget appropriations;
 - (b) where there is a change in the number of persons in post, a statement justifying the request for new posts;
 - (c) a quarterly estimate of cash payments and receipts;
 - (d) information on the progress in the achievement of all the objectives being pursued;
 - (e) the targets set for the financial year to which the estimate relates, indicating any specific budgetary needs dedicated to achieving these targets;
 - (f) the administrative costs and the implemented budget of the PPP body in the preceding financial year;
 - (g) the amount of financial contributions made in year N-1 by the members and the value of contributions in kind made by the members, other than the Union;
 - (h) information on the unused appropriations that are entered in the estimate of revenue and expenditure per year in accordance with Article 6(5).

⁽¹⁰⁾ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

*Article 17***Establishment of the budget**

1. The budget of the PPP body and the staff establishment plan, including the number of permanent and temporary posts by function group and by grade and complemented with the number of contract staff and of seconded national experts expressed in full-time equivalents, shall be adopted by the governing board in accordance with the constituent act of the PPP body. Detailed provisions may be laid down in the financial rules of the PPP body. Any amendment to the budget of the PPP body, including the establishment plan, shall be the subject of an amending budget of the PPP body adopted by the same procedure as the initial budget of the PPP body. The budget of the PPP body and, where appropriate, the amending budgets of the PPP body shall be adapted in order to take into account the amount of the Union contribution as laid down in the budget of the Union. The annual budget for a particular year shall be adopted by the end of the previous year.
2. The budget of the PPP body shall consist of a statement of revenue and a statement of expenditure.
3. The budget of the PPP body shall show:
 - (a) in the statement of revenue:
 - (i) the estimated revenue of the PPP body for the financial year concerned ('year N');
 - (ii) the estimated revenue for year N-1 and the revenue for year N-2;
 - (iii) appropriate remarks on each revenue line;
 - (b) in the statement of expenditure:
 - (i) the commitment and payment appropriations for year N;
 - (ii) the commitment and payment appropriations for the preceding financial year and the expenditure committed and the expenditure paid in year N-2, the latter also expressed as a percentage of the budget of the PPP body of year N;
 - (iii) a summary statement of the schedule of payments due in subsequent financial years to meet budget commitments entered into in earlier financial years;
 - (iv) appropriate remarks on each subdivision.
4. The establishment plan shall show next to the number of posts authorised for the financial year, the number authorised for the preceding year and the number of posts actually filled. The same information shall be shown for temporary posts, as well as for contract staff and seconded national experts.

CHAPTER 4

FINANCIAL ACTORS*Article 18***Segregation of duties**

1. The duties of authorising officer and accounting officer shall be segregated and mutually exclusive.
2. Each PP body shall provide each financial actor with the resources required to perform his or her duties and a charter describing in detail his or her tasks, rights and obligations.

*Article 19***Budget implementation in accordance with the principle of sound financial management**

1. The director shall perform the duties of authorising officer. The director shall implement the revenue and expenditure of the budget of the PPP body in accordance with the financial rules of the PPP body and the principle of sound financial management, including through ensuring reporting on performance, under his or her own responsibility and within the limits of the appropriations authorised. The director shall be responsible for ensuring compliance with the requirements of legality, regularity and equal treatment of recipients of Union funds.

Without prejudice to the responsibilities of the authorising officer as regards prevention and detection of fraud and irregularities, the PPP body shall participate in fraud prevention activities of the European Anti-Fraud Office (OLAF).

2. The director may delegate the powers of budget implementation to staff of the PPP body covered by the Staff Regulations of Officials of the European Union and the Conditions of Employment of Other Servants of the Union, laid down in Council Regulation (EEC, Euratom, ECSC) No 259/68 ⁽¹⁾ ('Staff Regulations'), where those apply to the staff of the PPP body, in accordance with the conditions laid down in the financial rules of the PPP body. Those so empowered may act only within the limits of the powers expressly conferred upon them.

Article 20

Powers and duties of the authorising officer

1. The budget of the PPP body shall be implemented by the director in the departments placed under his or her authority.
2. In order to facilitate the implementation of their appropriations, PPP bodies may conclude service-level agreements as referred to in Article 59 of Regulation (EU, Euratom) 2018/1046.
3. Technical expertise tasks and administrative, preparatory or ancillary tasks not involving the exercise of public authority or the use of discretionary powers of judgement may be entrusted by contract to external private-sector entities, where this proves to be indispensable.
4. The director shall put in place the organisational structure and the internal control systems suited to the performance of duties of the director, in accordance with the minimum standards or principles adopted by the governing board, on the basis of the Internal Control Framework laid down by the Commission for its own departments and having due regard to the risks associated with the management environment and the nature of the actions financed. The establishment of such structure and systems shall be supported by a risk analysis which takes into account their cost-effectiveness and performance considerations.

The director may establish within his or her departments an expertise and advice function designed to help him or her control the risks involved in his or her activities.

5. The director shall set up paper-based or electronic systems for the keeping of original supporting documents relating to budget implementation. Such documents shall be kept for at least five years from the date of the decision on which the European Parliament grants discharge for the financial year to which the documents relate. Personal data contained in the supporting documents shall where possible be deleted when those data are not necessary for control and audit purposes. Article 88 of Regulation (EU) 2018/1725 shall apply to the conservation of data.

Article 21

Ex ante controls

1. In order to prevent errors and irregularities before the authorisation of operations and to mitigate risks of non-achievement of objectives, each operation shall be subject at least to an *ex-ante* control relating to the operational and financial aspects of the operation, on the basis of a multiannual control strategy which takes risk into account.

The extent in terms of frequency and intensity of the *ex-ante* controls shall be determined by the authorising officer responsible taking into account the results of prior controls as well as risk-based and cost-effectiveness considerations, on the basis of his/her own risk analysis. In case of doubt, the authorising officer responsible for validating the relevant operations shall, as part of the *ex-ante* control, request complementary information or perform an on-the-spot control in order to obtain reasonable assurance.

For a given operation, the verification shall be carried out by staff other than those who initiated the operation. The staff who carry out the verification shall not be subordinate to the members of staff who initiated the operation.

⁽¹⁾ Regulation (EEC, Euratom, ECSC) No 259/68 of the Council of 29 February 1968 laying down the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Communities and instituting special measures temporarily applicable to officials of the Commission (OJ L 56, 4.3.1968, p. 1).

2. *Ex ante* controls shall comprise the initiation and the verification of an operation.

Initiation and verification of an operation shall be separate functions.

3. Initiation of an operation shall be understood as all the operations which are preparatory to the adoption of the acts implementing the budget of the PPP body by the authorising officer responsible.

4. *Ex ante* controls shall verify the coherence among supporting documents requested and any other information available.

The purpose of the *ex ante* controls shall be to ascertain that:

- (a) the expenditure is in order and complies with the provisions applicable;
- (b) the principle of sound financial management set out in Article 13 has been applied.

For the purpose of controls, a series of similar individual transactions relating to routine expenditure on salaries, pensions, reimbursement of mission expenses and medical expenses may be considered by the authorising officer responsible to constitute a single operation.

Article 22

Ex post controls

1. The authorising officer may put in place *ex post* controls to detect and correct errors and irregularities or operations after they have been authorised. Such controls may be organised on a sample basis according to risk and shall take account of the results of prior controls as well as cost-effectiveness and performance considerations.

The *ex post* controls may be carried out on the basis of documents and, where appropriate, on the spot.

2. The *ex post* controls shall be carried out by staff other than that responsible for the *ex ante* controls. The staff responsible for the *ex post* controls shall not be subordinate to the members of the staff responsible for the *ex ante* controls.

Authorising officers responsible and staff responsible for budget implementation shall have the necessary professional skills.

Article 23

Consolidated Annual Activity report

1. The authorising officer shall report annually to the governing board on the performance of his or her duties for year N-1 in the form of a consolidated annual activity report containing:

(a) information on:

- (i) the achievement of the objectives and results set in the annual work programme referred to in Article 33 through the reporting on performance indicators;
- (ii) the implementation of the PPP body's annual work programme, budget and staff resources;
- (iii) organisational management and the efficiency and effectiveness of the internal control systems including the implementation of the body's anti-fraud strategy, the summary of number and type of internal audits carried out by the internal auditor, the internal audit capabilities, the recommendations made and the action taken on those recommendations and on the recommendations of previous years, as referred to in Articles 28 and 30;
- (iv) any observations of the Court of Auditors and the actions taken on those observations;
- (v) the service-level agreements concluded in accordance with Article 20(2).

- (b) a declaration of the authorising officer stating whether he or she has a reasonable assurance that unless otherwise specified in any reservations related to defined areas of revenue and expenditure:
- (i) the information contained in the report presents a true and fair view;
 - (ii) the resources assigned to the activities described in the report have been used for their intended purpose and in accordance with the principle of sound financial management;
 - (iii) the control procedures put in place give the necessary guarantees concerning the legality and regularity of the underlying transactions.
2. The consolidated annual activity report shall indicate the results of the operations by reference to the objectives set and performance considerations, the risks associated with the operations, the use made of the resources provided and the efficiency and effectiveness of the internal control systems, including an overall assessment of the costs and benefits of controls.

The consolidated annual report shall be submitted to the governing board for assessment.

3. No later than 1 July each year, the governing board shall send the consolidated annual activity report together with its assessment of it to the Court of Auditors, the Commission, the European Parliament and the Council.
4. Additional reporting requirements may be laid down in the constituent act in duly justified cases, in particular when it is required by the nature of the field in which the PPP body operates.
5. Once assessed by the governing board, the annual activity report shall be published on the website of the PPP body.

Article 24

Protection of the financial interests of the Union

1. If a member of staff involved in the financial management and control of transactions considers that a decision he or she is required by his or her superior to apply or to agree to is irregular or contrary to the principles of sound financial management or the professional rules which that member of staff is required to observe, he or she shall inform the director who shall, if the information is given in writing, reply in writing. If the director fails to take action within a reasonable time given the circumstances of the case and in any event within a month or if he or she confirms the initial decision or instruction and the member of staff believes that such confirmation does not constitute a reasonable response to his or her concern, the member of staff shall inform the relevant panel referred to in Article 143 of Regulation (EU, Euratom) 2018/1046 and the governing board in writing.
2. In the event of any illegal activity, fraud or corruption which may harm the interests of the Union, of the PPP body or of its members, a member of staff or other servant, including national experts seconded to the PPP body, shall inform their immediate superior, the director or the governing board of the PPP body or, as far as the interests of the Union or of the PPP body are concerned, the OLAF or the European Public Prosecutor's Office (EPPO) directly. Contracts with external auditors carrying out audits of the financial management of the PPP body shall provide for an obligation of the external auditor to inform the director or, if the latter may be involved, the governing board of any suspected illegal activity, fraud or corruption which may harm the interests of the Union, of the PPP body or of its members.

Article 25

Accounting officer

1. The governing board shall appoint an accounting officer covered by the Staff Regulations, where those apply to the staff of the PPP body, who shall be totally independent in the performance of his or her duties. The accounting officer shall be responsible in the PPP body for:
- (a) properly implementing payments, collecting revenue and recovering amounts established as being receivable;
 - (b) keeping, preparing and presenting the accounts in accordance with Chapter 8 of this Regulation;
 - (c) implementing, in accordance with Chapter 8 of this Regulation, the accounting rules and the chart of accounts;

- (d) laying down and validating the accounting systems and, where appropriate, validating systems laid down by the authorising officer to supply or justify accounting information;
- (e) treasury management.

With respect to the tasks referred to in point (d) of the first subparagraph, the accounting officer shall be empowered to verify at any time compliance with the validation criteria.

2. Two or more PPP bodies may appoint the same accounting officer.

PPP bodies may also agree with the Commission that the accounting officer of the Commission shall also act as accounting officer of the PPP body.

They may also entrust the accounting officer of the Commission with part of the tasks of the accounting officer of the PPP body taking into account cost-benefit considerations.

In the cases referred to in this paragraph, they shall make necessary arrangements in order to avoid any conflict of interests.

3. The accounting officer shall obtain from the authorising officer all the information necessary for the production of accounts which give a true and fair view of the PPP body's financial situation and of budgetary implementation. The authorising officer shall guarantee the reliability of that information.

4. Before the adoption of the accounts by the director, the accounting officer shall sign them off, thereby certifying that he or she has a reasonable assurance that the accounts present a true and fair view of the financial situation of the PPP body.

For the purpose of the first subparagraph, the accounting officer shall verify that the accounts have been prepared in accordance with the accounting rules referred to in Article 47 and that all revenue and expenditure is entered in the accounts.

The accounting officer shall be empowered to check the information received as well as to carry out any further checks he or she deems necessary in order to sign off the accounts.

The accounting officer shall make reservations, if necessary, explaining exactly the nature and scope of such reservations.

Subject to paragraph 5, only the accounting officer shall be empowered to manage cash and cash equivalents. The accounting officer shall be responsible for their safekeeping.

5. The accounting officer may, in the performance of his or her duties, delegate certain tasks to staff members subject to the Staff Regulations, where those apply to the staff of the PPP body, where this is indispensable for the performance of his or her duties in accordance with the financial rules of the PPP body.

6. Without prejudice to any disciplinary action, the accounting officer may at any time be suspended temporarily or definitively from his or her duties by the governing board. In such a case, the governing board shall appoint an interim accounting officer.

Article 26

Liability of the financial actors

1. Articles 18 to 27 are without prejudice to any liability under criminal law which the financial actors may incur as provided for in the applicable national law and in the provisions in force concerning the protection of the Union's financial interests and the fight against corruption involving Union officials or officials of Member States.

2. Each authorising officer and accounting officer shall be liable to disciplinary action and payment of compensation as laid down in the Staff Regulations. In the event of illegal activity, fraud or corruption which may harm the interests of the PPP body or of its members, the matter shall be submitted to the authorities and bodies designated by the applicable legislation, in particular to the OLAF.

3. Any member of the staff may be required to compensate, in whole or in part, any damage suffered by the PPP body as a result of a serious misconduct on his or her part in the course of or in connection with the performance of his or her duties. The appointing authority shall take a reasoned decision after completing the formalities laid down by the applicable legislation with regard to disciplinary matters.

*Article 27***Conflict of interests**

1. Financial actors within the meaning of this Chapter and other persons, including the members of the governing board, involved in budget implementation and management, including acts preparatory thereto, audit or control, shall not take any action which may bring their own interests into conflict with those of the PPP body. They shall also take appropriate measures to prevent a conflict of interests from arising in the functions under their responsibility and to address situations which may objectively be perceived as a conflict of interests, taking into account the specific nature of the PPP body as set out in its constituent act.

Where there is a risk of a conflict of interests, the person in question shall refer the matter to the competent authority. The competent authority shall confirm in writing whether a conflict of interests is found to exist. In that case, the competent authority shall ensure that the person concerned ceases all activities in the matter. The competent authority shall take any further appropriate action.

2. For the purposes of paragraph 1, a conflict of interests exists where the impartial and objective exercise of the functions of a financial actor or other person, as referred to in paragraph 1, is compromised for reasons involving family, emotional life, political or national affinity, economic interest or any other direct or indirect personal interest

3. The competent authority referred to in paragraph 1 shall be the director. If the member of staff is the director, the competent authority shall be the governing board. In case of a conflict of interest involving a member of the governing board, the competent authority shall be the governing board, exclusive of the member concerned.

4. The PPP body shall adopt rules on the prevention and management of conflicts of interests and shall publish annually on its website the declaration of interests of the governing board members.

CHAPTER 5

INTERNAL AUDIT*Article 28***Appointment, powers and duties of the internal auditor**

1. The PPP body shall have an internal audit function which shall be performed in compliance with the relevant international standards.

2. The internal audit function shall be performed by the Commission's internal auditor. The internal auditor may be neither authorising officer nor accounting officer.

3. The internal auditor shall advise the PPP body on dealing with risks, by issuing independent opinions on the quality of management and control systems and by issuing recommendations for improving the conditions of implementation of operations and promoting sound financial management.

The internal auditor shall be responsible in particular for:

(a) assessing the suitability and effectiveness of internal management systems and the performance of departments in implementing programmes and actions by reference to the risks associated with them;

(b) assessing the efficiency and effectiveness of the internal control and audit systems applicable to each budget implementation operation.

4. The internal auditor shall perform his or her duties in relation to all the PPP body's activities and departments. The internal auditor shall enjoy full and unlimited access to all information required to perform his or her duties, if necessary on the spot access, including in the Member States and in third countries.

5. The internal auditor shall take note of the consolidated annual activity report of the authorising officer referred to in Article 23 and of any other pieces of information identified.

6. The internal auditor shall report to the governing board and the director on his or her findings and recommendations. The PPP body shall ensure that action is taken with regard to recommendations resulting from audits.

7. The internal auditor shall also report in any of the following cases:

- (a) critical risks and recommendations have not been addressed,
- (b) there are significant delays in the implementation of the recommendations made in the previous years.

The governing board and the director shall ensure the regular monitoring of the implementation of audit recommendations. The governing board shall examine the information referred to in Article 23 and whether the recommendations have been fully and timely implemented.

Each PPP body shall consider whether the recommendations made in the reports of its internal auditor are suitable for an exchange of best practices with other PPP bodies.

8. The PPP body shall make available the contact details of the internal auditor to any natural or legal person involved in expenditure operations, for the purposes of confidentially contacting the internal auditor.

9. The reports and findings of the internal auditor shall be accessible to the public only after validation by the internal auditor of the action taken for their implementation.

Article 29

Independence of the internal auditor

1. The internal auditor shall enjoy complete independence in the conduct of his or her audits. Special rules applicable to the internal auditor shall be laid down by the Commission and shall be such as to guarantee that the internal auditor is completely independent in the performance of his or her duties, and to establish the internal auditor's responsibility.

2. The internal auditor may not be given any instructions nor be restricted in any way as regards the performance of the functions which, by virtue of his or her appointment, are assigned to him or her under the Financial Regulation.

Article 30

Establishment of an internal audit capability

1. The governing board may establish with due regard to cost effectiveness and added value, an internal audit capability which shall perform its duties in compliance with the relevant international standards.

The purpose, authority and responsibility of the internal audit capability shall be provided for in the internal audit charter and shall be subject to the approval of the governing board.

The annual audit plan of an internal audit capability shall be drawn up by the Head of internal audit capability taking into consideration, inter alia, the director's assessment of risk in the PPP body.

The annual audit plan shall be reviewed and approved by the governing board.

The internal audit capability shall report to the governing board and the director on his or her findings and recommendations.

If the internal audit capability of a single PPP body is not cost-effective or is not able to meet international standards, the PPP body may decide to share an internal audit capability with other PPP bodies functioning in the same policy area.

In such cases the governing board of the concerned PPP bodies shall agree on the practical modalities of the shared internal audit capabilities.

The internal audit actors shall cooperate efficiently through exchanging information and audit reports and, where appropriate, establishing joint risk assessments and carrying out joint audits.

2. The governing board and the director shall ensure the regular monitoring of the implementation of the internal audit capability's recommendations.

CHAPTER 6

REVENUE AND EXPENDITURE OPERATIONS

Article 31

Implementation of revenue

1. Implementation of revenue shall comprise drawing up estimates of amounts receivable, establishing entitlements to be recovered and recovering undue amounts. It shall also include the possibility of waiving established entitlements, where appropriate.
2. Amounts wrongly paid shall be recovered.

If actual recovery has not taken place by the due date stipulated in the debit note, the accounting officer shall inform the authorising officer responsible and immediately launch the procedure for effecting recovery by any means offered by the law, including, where appropriate, by offsetting and, if this is not possible, by enforced recovery.

Where the authorising officer responsible plans to waive or partially waive recovery of an established amount receivable, he or she shall ensure that the waiver is in order and is in accordance with the principles of sound financial management and proportionality. The waiver decision shall be substantiated. The waiver decision shall state that action has been taken to secure recovery and the points of law and fact on which it is based.

The accounting officer shall keep a list of amounts due to be recovered. The PPP body's entitlements shall be grouped in the list according to the date of issue of the recovery order. The accounting officer shall also indicate decisions to waive or partially waive recovery of established amounts. The list shall be added to the PPP body's report on budgetary and financial management referred to in Article 53.

3. Any debt not repaid on the due date laid down in the debit note shall bear interest in accordance with Article 99 of Regulation (EU, Euratom) 2018/1046.
4. Entitlements of the PPP body in respect of third parties and entitlements of third parties in respect of the PPP body shall be subject to a limitation period of five years.

Article 32

Members' contribution

1. The PPP body shall present to its members requests for payment of all or part of their contribution under terms and at intervals set out in the constituent act or agreed with them.
2. The funds paid to the PPP body by its members by way of a contribution shall bear interest for the benefit of the budget of the PPP body.
3. Members shall bear the costs of their contribution to the administrative costs of the PPP body. Beneficiaries of funding provided by the PPP body, who are not member or constituent entities of the members of the PPP body, shall not contribute to such costs directly or indirectly and in any form. In particular, such beneficiaries shall not be invited or requested to contribute to the administrative costs of the PPP body when participating to projects co-financed by the PPP body.

Article 33

Implementation of expenditure

1. To implement expenditure, the authorising officer shall make budgetary commitments and legal commitments, shall validate expenditure and authorise payments and shall undertake the preliminary steps for the implementation of appropriations.
2. Every item of expenditure shall be committed, validated, authorised and paid.

Validation of expenditure is the act whereby the authorising officer responsible confirms a financial operation.

Authorisation of expenditure is the act by which the authorising officer responsible, having verified that the appropriations are available, instructs the accounting officer to pay the validated expenditure.

3. In respect of any measure which may give rise to expenditure chargeable to the budget of the PPP body, the authorising officer responsible shall make a budgetary commitment before entering into a legal commitment with third parties.

4. The annual work programme of the PPP body shall provide the authorisation by the governing board for the operational expenditure of the PPP body on the activities it covers, provided that the elements set out in this paragraph are clearly identified.

The annual work programme shall comprise detailed objectives and expected results including performance indicators. It shall contain the following:

- (a) a description of the activities to be financed;
- (b) an indication of the amount allocated to each activities;
- (c) information on the overall strategy for the implementation of the programme entrusted to the PPP body;
- (d) a strategy for achieving efficiency gains and synergies;
- (e) a strategy for the organisational management and internal control systems including their anti-fraud strategy as last updated and an indication of measures to prevent recurrence of cases of conflict of interest, irregularities and fraud, in particular where weaknesses have led to critical recommendations reported under Article 23 or 28(6).

The PPP body shall adopt its annual work programme for a particular year by the end of the previous year. The annual work programme shall be published on the website of the PPP body.

Any substantial amendment to the annual work programme shall be adopted by the same procedure as the initial work programme, in accordance with the provisions of the constituent act.

The governing board may delegate the power to make non-substantial amendments to the work programme to the authorising officer of the PPP body.

Article 34

Time limits

The payment of expenditure must be carried out within the time limits specified in and in accordance with Article 116 of Regulation (EU, Euratom) 2018/1046.

CHAPTER 7

IMPLEMENTATION OF THE BUDGET OF THE PPP BODY

Article 35

Forms of the PPP body contributions

1. The PPP body contributions shall help achieve a Union policy objective and results specified and may take any of the following forms:

- (a) financing not linked to costs of the relevant operations based on:
 - (i) the fulfilment of conditions set out in sector specific rules or Commission Decisions or;
 - (ii) the achievement of results measures by reference to the previously set milestones or through performance indicators.
- (b) reimbursement of eligible costs actually incurred;
- (c) unit costs, which cover all or certain specific categories of eligible costs which are clearly identified in advance by reference to an amount per unit;
- (d) lump sums, which cover in global terms all or certain specific categories of eligible costs which are clearly identified in advance;

- (e) flat-rate financing, which covers specific categories of eligible costs, which are clearly identified in advance, by applying a percentage;
- (f) a combination of the forms referred to in points (a) to (e).

The PPP bodies' contributions under point (a) of the first subparagraph shall be established in accordance with Article 181 of Regulation (EU, Euratom) 2018/1046, sector specific rules or a Commission decision. The PPP body contributions under points (c), (d) and (e) of the first subparagraph shall be established in accordance with Article 181 of Regulation (EU, Euratom) 2018/1046 or sector specific rules.

2. When determining the appropriate form of a contribution, the potential recipients' interests and accounting methods shall be taken into account to the greatest extent possible.

3. The authorising officer responsible shall report on financing not linked to costs pursuant to points (a) and (f) of the first subparagraph of paragraph 1 in the consolidated annual activity report referred to in Article 23.

Article 36

Cross-reliance on assessments

Article 126 of Regulation (EU, Euratom) 2018/1046 shall apply *mutatis mutandis*.

Article 37

Cross-reliance on audits

Article 127 of Regulation (EU, Euratom) 2018/1046 shall apply.

Article 38

Use of already available information

Article 128 of Regulation (EU, Euratom) 2018/1046 shall apply.

Article 39

Cooperation for protection of the financial interests of the Union

Article 129 of Regulation (EU, Euratom) 2018/1046 shall apply *mutatis mutandis*.

Article 40

Information to the Commission on cases of fraud and other financial irregularities

1. Without prejudice to its obligations pursuant to Article 8(1) of Regulation (EU, Euratom) No 883/2013 and Article 24(1) of Council Regulation (EU) 2017/1939, the PPP body shall inform the Commission without delay on cases of presumed fraud and other financial irregularities.

Moreover, it shall inform the Commission of any ongoing or completed investigations by the EPPO, the OLAF, and of any audits or controls by the Court of Auditors or the Internal Audit Service (IAS) without endangering the confidentiality of the investigations.

2. Where the Commission's responsibility to implement the Union's budget may be affected or in cases involving a potentially serious reputational risk for the Union, the EPPO and/or OLAF shall inform the Commission without delay of any ongoing or completed investigation, without endangering its confidentiality and effectiveness.

*Article 41***Early-detection and exclusion system**

Article 93 and Section 2 of Chapter 2 of Title V of Regulation (EU, Euratom) 2018/1046 shall apply.

*Article 42***Rules on procedures, management and e-government**

Section 1 and section 3 of Chapter 2 and Chapter 3 of Title V of Regulation (EU, Euratom) 2018/1046 shall apply *mutatis mutandis*.

*Article 43***Procurement**

1. As regards procurement, Title VII of Regulation (EU, Euratom) 2018/1046 shall apply subject to paragraphs 2 to 5 of this Article and any specific provisions of the constituent act or the basic act of the programme the implementation of which is entrusted to the PPP body.
2. For contracts with a value between EUR 60 000 and the thresholds laid down in Article 175 of Regulation (EU, Euratom) 2018/1046 the procedures set out in Section 2 of Chapter 1 Annex I to Regulation (EU, Euratom) 2018/1046 for contracts with a value not exceeding EUR 60 000 may be used.
3. The PPP body may be associated, at its request, as contracting authority, in the award of Commission or inter institutional contracts and with the award of contracts of other Union or PPP bodies.
4. The PPP body may conclude service-level agreements as referred to in paragraph 2 of Article 20, without having recourse to a public procurement procedure.

The PPP body may conclude a contract, without having recourse to a public procurement procedure, with its members other than the Union for the supply of goods, provision of services or performance of work that those members directly provide without having recourse to third parties.

The goods, services or work provided under the first and second subparagraph shall not be considered part of the contribution of the members to the budget of the PPP body.

5. The PPP body may use joint procurement procedures with contracting authorities of the host Member State to cover its administrative needs or with contracting authorities of Member States, the European Free Trade Association States or Union candidate countries which participate in it as members. In such cases, Article 165 of Regulation (EU, Euratom) 2018/1046 shall apply *mutatis mutandis*.

The PPP body may use joint procurement procedures with its private members or with contracting authorities of countries participating in Union programmes which participate in it as members. In such cases, Article 165 of Regulation (EU, Euratom) 2018/1046 shall apply *mutatis mutandis*.

*Article 44***Experts**

1. Article 237 of Regulation (EU, Euratom) 2018/1046 shall apply *mutatis mutandis* for the selection of experts subject to any specific procedure laid down in the basic act of the programme the implementation of which is entrusted to the PPP body.

The PPP body may use the lists drawn up by the Commission or by other Union or PPP bodies.

The PPP body may, if deemed appropriate and in duly justified cases, select any individual with the appropriate skills from outside the lists.

2. Article 238 of Regulation (EU, Euratom) 2018/1046 shall apply *mutatis mutandis* to non-remunerated experts.

Article 45

Grants

1. As regards grants, Title VIII of Regulation (EU, Euratom) 2018/1046 shall apply subject to any specific provisions of the constituent act or of the basic act of the programme the implementation of which is entrusted to the PPP body.
2. The PPP body shall use the relevant lump sums, unit costs or flat rate financing authorised in accordance with Article 181(3) of Regulation (EU, Euratom) 2018/1046 by a decision of the Commission authorising officer responsible for the programme the implementation of which is entrusted to the PPP body. In the absence of such decision, the PPP body may submit a proposal for adoption to the Commission authorising officer responsible accompanied with a detailed justification to substantiate its proposal. The proposed decision shall comply with Article 181(3) of Regulation (EU, Euratom) 2018/1046. The Commission authorising officer responsible shall notify the PPP body of its decision to adopt or reject its proposal and the reasons thereof. The Commission authorising officer responsible may adopt the proposed decision with modifications to ensure compliance with Article 181(3) of Regulation (EU, Euratom) 2018/1046.

Article 46

Prizes

1. As regards prizes, the provisions of Title IX of Regulation (EU, Euratom) 2018/1046 shall apply subject to paragraph 2 of this Article and to any specific provisions of the constituent act or of the basic act of the programme the implementation of which is entrusted to the PPP body.
2. Contests for prizes with a unit value of EUR 1 000 000 or more may only be published if they are mentioned in the annual work programme referred to in Article 33(4) and after information on such prizes has been submitted to the Commission, which shall proceed to the information of the European Parliament and Council in accordance with Article 206(2) of Regulation (EU, Euratom) 2018/1046.

CHAPTER 8

ACCOUNTING FRAMEWORK

Article 47

Accounting rules

The PPP body shall set up an accounting system providing accurate, complete and reliable information in a timely manner.

The accounting officer of the PPP body shall apply the rules adopted by the accounting officer of the Commission based on internationally accepted accounting standards for the public sector.

For the purposes of the first paragraph of this Article, Articles 80 to 84 and 87 of Regulation (EU, Euratom) 2018/1046 shall apply. Articles 85 and 86 of Regulation (EU, Euratom) 2018/1046 shall apply *mutatis mutandis*.

Article 48

Structure of the accounts

The annual accounts of the PPP body shall be prepared for each financial year which shall run from 1 January to 31 December. Those accounts shall be comprised of:

- (a) the financial statements of the PPP body;
- (b) the budget implementation reports of the budget of the PPP body.

*Article 49***Supporting documents**

Each entry into the accounts shall be based on appropriate supporting documents in accordance with Article 20(5) of this Regulation.

*Article 50***Financial statements**

1. The financial statements shall be presented in euro in accordance with the accounting rules referred to in Article 47 of this Regulation and shall comprise:

- (a) the balance sheet which represent all assets and liabilities and the financial situation prevailing on 31 December of the preceding financial year;
- (b) the statement of financial performance, which presents the economic result for the preceding financial year;
- (c) the cash-flow statement showing amounts collected and disbursed during the financial year and the final treasury position;
- (d) the statement of changes in net assets presenting an overview of the movements during the year in reserves and accumulated results.

2. The financial statements shall present information, including information on accounting policies, in a manner that ensures it is relevant, reliable, comparable and understandable.

3. The notes to the financial statements shall supplement and comment on the information presented in the statements referred to in paragraph 1 and shall supply all the additional information prescribed by the accounting rules referred to in Article 47 of this Regulation and the internationally accepted accounting practice where such information is relevant to the PPP body's activities. The notes shall contain at least the following information:

- (a) accounting principles, rules and methods;
- (b) explanatory notes, supplying additional information not contained in the body of the financial statements, which is necessary for a fair presentation of the accounts.

4. The accounting officer shall, after the close of the financial year and up to the date of transmission of the general accounts, make any adjustments which, without involving disbursement or collection in respect of that year, are necessary for a true and fair view of those accounts.

*Article 51***Budget implementation reports**

1. The budget implementation reports shall be presented in euro and shall be comparable year by year. They shall consist of:

- (a) reports which aggregate all budgetary operations for the year in terms of revenue and expenditure;
- (b) explanatory notes, which shall supplement and comment on the information given in the reports.

2. The structure of the budget implementation reports shall be the same as that of the budget of the PPP body itself.

3. The budget implementation reports shall contain:

- (a) information on revenue, in particular, changes in the revenue estimates, the revenue outturn and entitlements established;
- (b) information showing changes in the total commitment and payment appropriations available;
- (c) information showing the use made of the total commitment and payment appropriations available;
- (d) information showing commitments outstanding, those carried over from the preceding financial year and those made during the financial year.

*Article 52***Provisional accounts and final accounts**

1. The accounting officer of the PPP body shall send the provisional accounts to the accounting officer of the Commission and to the Court of Auditors by 1 March of the following year.

The accounting officer of the PPP body shall also provide by 1 March of the following year the required accounting information for consolidation purposes to the accounting officer of the Commission, in the manner and format laid down by the latter.

2. In accordance with Article 246(1) of Regulation (EU, Euratom) 2018/1046, the Court of Auditors shall, by 1 June, make its observations on the provisional accounts of the PPP body.

3. The accounting officer of the PPP body shall provide, by 15 June, the required accounting information to the accounting officer of the Commission, in the manner and format laid down by the Commission, with a view to drawing up the final consolidated accounts.

On receiving the Court of Auditor's observations on the provisional accounts of the PPP body, the accounting officer shall draw up the final accounts of the PPP body. The director shall send the final accounts to the governing board which shall issue an opinion on these accounts.

The director shall send the final accounts, together with the opinion of the governing board, to the accounting officer of the Commission, the Court of Auditors, the European Parliament and the Council, by 1 July of the following financial year.

The accounting officer of the PPP body shall also send to the Court of Auditors, with a copy to the accounting officer of the Commission, a representation letter covering those final accounts. The representation letter shall be established at the same date at which the final accounts of the PPP body are drawn up.

The final accounts shall be accompanied by a note drawn up by the accounting officer in which the latter declares that the final accounts were prepared in accordance with this chapter and with the applicable accounting principles, rules and methods.

A link to the pages of the website where the final accounts of the PPP body are disclosed shall be published in the Official Journal of the European Union by 15 November of the following year.

The director of the PPP body shall send to the Court of Auditors a reply to the observations made in the Court of Auditors annual report by 30 September of the following financial year at the latest. The replies of the director shall be sent to the Commission at the same time.

*Article 53***Annual report on budgetary and financial management**

1. The PPP body shall prepare a report on budgetary and financial management for the financial year. This report shall give an account, both in absolute terms and expressed as a percentage, at least, of the rate of implementation of appropriations together with summary information on the transfers of appropriations among the various budget items.

2. The director shall send the report on budgetary and financial management to the European Parliament, the Council, the Commission and the Court of Auditors by 31 March of the following financial year.

CHAPTER 9

EXTERNAL AUDIT, DISCHARGE AND COMBATTING FRAUD*Article 54***External audit**

1. An independent external auditor shall verify that the annual accounts of the PPP body properly present the income, expenditure and financial position of the PPP body prior to the possible consolidation in the final accounts of the Commission.

Unless otherwise provided for in the constituent act, the Court of Auditors shall prepare a specific annual report on the PPP body in line with the requirements of Article 287(1) of the Treaty on the Functioning of the European Union. In preparing that report, the Court of Auditors shall consider the audit work performed by the independent external auditor referred to in the first subparagraph and the action taken in response to the external auditor's findings.

2. The PPP body shall send to the Court of Auditors the budget of the PPP body, as finally adopted. It shall inform the Court of Auditors, as soon as possible, of all decisions and acts adopted pursuant to Articles 6, 8 and 12.

3. The scrutiny carried out by the Court of Auditors shall be governed by Articles 254 to 259 of Regulation (EU, Euratom) 2018/1046.

Article 55

Timetable of the discharge procedure

1. The European Parliament, upon a recommendation from the Council, shall, before 15 May of year N+2 except where otherwise provided in the constituent act, give a discharge to the director in respect of the implementation of the budget for year N. The director shall inform the governing board of the observations of the European Parliament contained in the resolution accompanying the discharge decision.

2. If the time limit laid down in paragraph 1 cannot be met, the European Parliament or the Council shall inform the director of the reasons for the postponement.

3. If the European Parliament postpones the decision giving a discharge, the director, in cooperation with the governing board, shall make every effort to take measures as soon as possible to remove or facilitate removal of the obstacles to that decision.

Article 56

The discharge procedure

1. The discharge decision shall cover the accounts of all the revenue and expenditure of the PPP body, the budget result and the assets and liabilities of the PPP body shown in the financial statement.

2. With a view to granting the discharge, the European Parliament shall, after the Council has done so, examine the accounts and financial statements of the PPP body. It shall also examine the annual report drawn up by the Court of Auditors, together with the replies of the director of the PPP body, any relevant special reports by the Court of Auditors in respect of the financial year concerned and the Court of Auditors' statement of assurance as to the reliability of the accounts and the legality and regularity of the underlying transactions.

3. The director shall submit to the European Parliament, at its request, in the same manner as provided for in Article 261(3) of Regulation (EU, Euratom) 2018/1046 any information required for the smooth application of the discharge procedure for the financial year concerned.

Article 57

Follow-up measures

1. The director shall take all appropriate steps to act on the observations accompanying the European Parliament's discharge decision and on the comments accompanying the recommendation for discharge adopted by the Council.

2. At the request of the European Parliament or the Council, the director shall report on the measures taken in the light of the observations and comments referred to paragraph 1. The director shall send a copy thereof to the Commission and the Court of Auditors.

*Article 58***On-the-spot checks by the Commission, the Court of Auditors and OLAF**

1. The PPP body shall grant Commission staff and other persons authorised by the Commission, as well as the Court of Auditors, access to its sites and premises and to all the information, including information in electronic format, needed in order to conduct their audits.
2. OLAF may carry out investigations, including on-the-spot checks and inspections, in accordance with the provisions and procedures laid down in Regulation (EU, Euratom) No 883/2013 and Council Regulation (Euratom, EC) No 2185/96 ⁽¹²⁾ with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union.

CHAPTER 10

FINAL AND TRANSITIONAL PROVISIONS*Article 59***Information requests**

The Commission and the members of the PPP body other than the Union may request any necessary information or explanations from the PPP body regarding budgetary matters within their fields of competence.

*Article 60***Adoption of the PPP body's financial rules**

1. Without prejudice to paragraph 2, each PPP body referred to in Article 71 of Regulation (EU, Euratom) 2018/1046 shall adopt new financial rules within nine months of the date on which the PPP body falls within the scope of Article 71 of that Regulation.
2. Each PPP body referred to in Article 71 of Regulation (EU, Euratom) 2018/1046 which has already adopted its financial rules in accordance with Regulation (EU, Euratom) No 966/2012 shall revise them to ensure compliance with this Regulation. The revised financial rules shall enter into force at the latest by 1 September 2019.

*Article 61***Repeal**

1. Delegated Regulation (EU, Euratom) No 110/2014 is repealed with effect from the date of entry into force of this Regulation. However, Articles 20 and 31(4) of that Regulation shall continue to apply until 31 December 2019.
2. References to the repealed Regulation shall be construed as references to this Regulation and shall be read in accordance with the correlation table in Annex.

*Article 62***Entry into force**

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 this date. However, Articles 23 and 33(4) shall apply from 1 January 2020, with the exception of Article 33(4)c), which shall apply from 1 January 2021.

⁽¹²⁾ Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (OJ L 292, 15.11.1996, p. 2).

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

Done at Brussels, 13 March 2019.

For the Commission
The President
Jean-Claude JUNCKER

ANNEX

Correlation table

Commission Delegated Regulation (EU) No 110/2014	This Regulation
Article 1	Article 1
Article 2	Article 2
Article 3	Article 3
Article 4	Article 4
Article 5	Article 5
Article 6	Article 6
Article 7	Article 8
Article 8	Article 9
Article 9	Article 10
Article 10	Article 12
Article 11	Article 13
Article 12	Article 14
Article 13	Article 15
Article 14	Article 16
Article 15	Article 17
Article 16	Article 19
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Article 21	Article 24
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Article 23	Article 26
Article 24	Article 27
Article 25	Article 18
Article 26	Article 28
Article 27	Article 29
Article 28	Article 30
Article 29	Article 31
Article 30	Article 32

Commission Delegated Regulation (EU) No 110/2014	This Regulation
Article 31	Article 33
Article 32	Article 34
Article 33	Article 43
Article 34	Article 44
Article 35	Article 45
Article 36	Article 46
Article 37	Article 42
Article 38	Article 47
Article 39	Articles 48 and 53
Article 40	Articles 47 and 50
Article 41	Article 50
Article 42	Article 51
Article 43	Article 52
Article 44	Article 47
Article 45	Article 47
Article 46	Article 54
Article 47	Article 55
Article 47a	Article 56
Article 47b	Article 57
Article 48	Article 58
Article 49	Article 59
Article 50	Article 60
Article 51	Article 62

COMMISSION DELEGATED REGULATION (EU) 2019/888**of 13 March 2019****amending Annex I to Regulation (EU) 2018/956 of the European Parliament and of the Council as regards the data on new heavy-duty vehicles to be monitored and reported by Member States and by manufacturers****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2018/956 of the European Parliament and of the Council of 28 June 2018 on the monitoring and reporting of CO₂ emissions from and fuel consumption of new heavy-duty vehicles ⁽¹⁾, and in particular point (a) of Article 11(1) thereof,

Whereas:

- (1) Part A of Annex I to Regulation (EU) 2018/956 specifies the data to be monitored and reported by the Member States relating to new heavy-duty vehicles registered for the first time in the Union.
- (2) Part B of Annex I to Regulation (EU) 2018/956 specifies in its point 2 the data to be monitored and reported by heavy-duty vehicle manufacturers for each new heavy-duty vehicle.
- (3) As of 1 July 2019, vehicle manufacturers determine and declare additional data related to the CO₂ emissions and fuel consumption of new heavy-duty vehicles pursuant to Regulation (EC) No 595/2009 of the European Parliament and of the Council ⁽²⁾ and its implementing measures. With a view to an effective implementation of the CO₂ legislation for heavy-duty vehicles, it is important to ensure a comprehensive, transparent and appropriate collection of data related to the configuration of the heavy-duty vehicle fleet in the Union, its development over time and potential impact on CO₂ emissions. Heavy-duty vehicle manufacturers should therefore monitor those data and report them to the Commission.
- (4) To allow for a thorough analysis of such additional data, in particular for the identification of vocational vehicles, it is also appropriate that Member State competent authorities monitor and report complementary registration information.
- (5) Annex I to Regulation (EU) 2018/956 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Annex I to Regulation (EU) 2018/956 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*.⁽¹⁾ OJ L 173, 9.7.2018, p. 1.⁽²⁾ Regulation (EC) No 595/2009 of the European Parliament and of the Council of 18 June 2009 on type-approval of motor vehicles and engines with respect to emissions from heavy duty vehicles (Euro VI) and on access to vehicle repair and maintenance information and amending Regulation (EC) No 715/2007 and Directive 2007/46/EC and repealing Directives 80/1269/EEC, 2005/55/EC and 2005/78/EC (OJ L 188, 18.7.2009, p. 1).

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

Done at Brussels, 13 March 2019.

For the Commission
The President
Jean-Claude JUNCKER

ANNEX

Annex I to Regulation (EU) 2018/956 is amended as follows:

(1) Part A is amended as follows:

(a) point (d) is replaced by the following:

‘(d) for vehicles registered until 31 December 2019 where available, and for vehicles registered from 1 January 2020 in all cases, the code for the bodywork as specified in entry 38 of the certificate of conformity, including, where applicable, the supplementing digits referred to in Appendix 2 to Annex II to Directive 2007/46/EC;’

(b) the following point (f) is added:

‘(f) for vehicles registered from 1 January 2020, the maximum speed of the vehicle as specified in entry 29 of the certificate of conformity.’

(2) in Part B, point 2 is amended as follows:

(a) entry 5 is replaced by the following:

No	Monitoring parameters	Source Part I of Annex IV to Regulation (EU) 2017/2400, unless otherwise specified	Description
‘5	Axle certification number	1.7.2	Axle specifications’;

(b) entry 15 is replaced by the following:

No	Monitoring parameters	Source Part I of Annex IV to Regulation (EU) 2017/2400, unless otherwise specified	Description
‘15	Make (trade name of manufacturer)	—	Vehicle specifications’;

(c) entry 21 is replaced by the following:

No	Monitoring parameters	Source Part I of Annex IV to Regulation (EU) 2017/2400, unless otherwise specified	Description
‘21	Fuel type (Diesel CI/CNG PI/LNG PI ...)	1.2.7	Engine specifications’;

(d) entry 73 is replaced by the following:

No	Monitoring parameters	Source Part I of Annex IV to Regulation (EU) 2017/2400, unless otherwise specified	Description
‘73	Cryptographic hash of the manufacturer’s records file	3.1.4	Software information’;

(e) the following entries 79 to 100 are added:

No	Monitoring parameters	Source Part I of Annex IV to Regulation (EU) 2017/2400, unless otherwise specified	Description
79	Vehicle model	1.1.2	Vehicle specifications
80	Vocational vehicle (yes/no)	1.1.9	
81	Zero emission heavy-duty vehicle (yes/no)	1.1.10	
82	Hybrid electric heavy-duty vehicle (yes/no)	1.1.11	
83	Dual-fuel vehicle (yes/no)	1.1.12	
84	Sleeper cab (yes/no)	1.1.13	
85	Engine model (*)	1.2.1	Engine specifications
86	Transmission model (*)	1.3.1	Transmission specifications
87	Retarder model (*)	1.4.1	Retarder specifications
88	Retarder certification number	1.4.2	
89	Certification option used for generation of a loss map (standard values/measurement)	1.4.3	
90	Torque converter model (*)	1.5.1	Torque converter specifications
91	Torque converter certification number	1.5.2	
92	Certification option used for generation of a loss map (standard values/measurement)	1.5.3	
93	Angle drive model (*)	1.6.1	Angle drive specifications
94	Angle drive certification number	1.6.2	
95	Axle model (*)	1.7.1	Axle specifications
96	Air drag model (*)	1.8.1	Aerodynamics
97	Engine stop-start during vehicle stops (yes/no)	1.12.1	Advanced driver assistance systems (ADAS)
98	Eco-roll without engine stop-start (yes/no)	1.12.2	
99	Eco-roll with engine stop-start (yes/no)	1.12.3	
100	Predictive cruise control (yes/no)	1.12.4	

(*) Data entries 85, 86, 87, 90, 93, 95 and 96 shall not be made publicly available in the Central Register on heavy-duty vehicles.'

COMMISSION IMPLEMENTING REGULATION (EU) 2019/889**of 22 May 2019****approving amendments to the specification for a protected designation of origin or a protected geographical indication ‘Barbera d’Asti’ (PDO)**

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 Article 99 thereof,

Whereas:

- (1) The Commission examined Italy’s application pursuant to Article 105 of Regulation (EU) No 1308/2013 for the approval of amendments to the specification for the protected designation of origin ‘Barbera d’Asti’.
- (2) The Commission published the application for the approval of amendments to the specification in the *Official Journal of the European Union* ⁽²⁾, as required by Article 97(3) of Regulation (EU) No 1308/2013.
- (3) No statement of objection has been received by the Commission under Article 98 of Regulation (EU) No 1308/2013.
- (4) The amendments to the specification should therefore be approved in accordance with Article 99 of Regulation (EU) No 1308/2013.
- (5) The measures provided for in this Regulation are in accordance with the opinion of the Committee for the Common Organisation of Agricultural Markets,

HAS ADOPTED THIS REGULATION:

*Article 1*The amendments to the specification published in the *Official Journal of the European Union* regarding the name ‘Barbera d’Asti’ (PDO) are hereby approved.*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, 22 May 2019.

For the Commission

Phil HOGAN

Member of the Commission⁽¹⁾ OJ L 347, 20.12.2013, p. 671.⁽²⁾ OJ C 60, 15.2.2019, p. 4.

COMMISSION IMPLEMENTING REGULATION (EU) 2019/890**of 27 May 2019****imposing special conditions governing the import of groundnuts from Gambia and Sudan and amending Regulation (EC) No 669/2009 and Implementing Regulation (EU) No 884/2014****(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 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety ⁽¹⁾, and in particular Article 53(1)(b)(ii) thereof,

Having regard to Regulation (EC) No 882/2004 of the European Parliament and of the Council of 29 April 2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules ⁽²⁾, and in particular Article 15(5) thereof,

Whereas:

- (1) Commission Regulation (EC) No 669/2009 ⁽³⁾ provides for an increased level of official controls to be carried out on imports of certain feed and food of non-animal origin listed in Annex I to that Regulation. Groundnuts from Gambia are already subject to an increased level of official controls as regards the presence of aflatoxins since October 2015. In addition, groundnuts from Sudan have been subject to an increased level of official controls regarding the presence of aflatoxins since April 2014.
- (2) The official controls carried out on those commodities by the Member States pursuant to Regulation (EC) No 669/2009 show either a persistent, high rate of non-compliance with prescribed maximum levels of aflatoxins or have resulted in a significant reduction in the number of consignments presented for import into the Union following initial high levels of non-compliance. Those results provide evidence that the import of those foods and feeds constitutes a risk for animal and human health. No improvement of the situation has been observed following several years of increased frequency of controls at Union borders.
- (3) Commission Implementing Regulation (EU) No 884/2014 ⁽⁴⁾ imposes special conditions on the import of certain feed and food from certain third countries due to a risk of contamination by aflatoxins. Currently it does not apply to the import of groundnuts from Gambia and Sudan.
- (4) In order to protect human and animal health in the Union, it is necessary to provide, in addition to an increased level of official controls, for special conditions in relation to that food and feed from Gambia and Sudan. All consignments of groundnuts from Gambia and Sudan should be accompanied by a health certificate stating that the products have been sampled and analysed for the presence of aflatoxins and have been found to be compliant with Union legislation. The results of the sampling and analysis should be attached to the accompanying health certificate.
- (5) Having regard to the high rate of non-compliance with prescribed maximum levels of aflatoxins, found in dried figs from Turkey, it is appropriate to increase the frequency of identity and physical checks of aflatoxin in dried figs from Turkey from 10 to 20 %. Furthermore, frequent findings of high levels of ochratoxin A in dried figs from Turkey have also been reported.

⁽¹⁾ OJ L 31, 1.2.2002, p. 1.

⁽²⁾ OJ L 165, 30.4.2004, p. 1.

⁽³⁾ Commission Regulation (EC) No 669/2009 of 24 July 2009 implementing Regulation (EC) No 882/2004 of the European Parliament and of the Council as regards the increased level of official controls on imports of certain feed and food of non-animal origin and amending Decision 2006/504/EC (OJ L 194, 25.7.2009, p. 11).

⁽⁴⁾ Commission Implementing Regulation (EU) No 884/2014 of 13 August 2014 imposing special conditions governing the import of certain feed and food from certain third countries due to contamination risk by aflatoxins and repealing Regulation (EC) No 1152/2009 (OJ L 242, 14.8.2014, p. 4).

- (6) An existing exemption excludes consignments destined for a private person for personal consumption and use from the scope of Implementing Regulation (EU) No 884/2014. It is also appropriate to exclude consignments of feed and food sent as trade samples or as display items for exhibitions that are not intended to be placed on the market or are sent to be used for scientific purposes. This relates to very small consignments of certain feed and food but it is not appropriate to fix a specific weight, given the variety of products covered. However to avoid misuse, in addition to the abovementioned conditions for exemption, a maximum weight is established. Having regard to the low risk that such consignments pose to public health, it would be disproportionate to impose a requirement that these consignments be accompanied by a health certificate or by the results of the sampling and analytical tests.
- (7) The Brazilian, Ethiopian, Argentinian and Azerbaijani authorities have informed the Commission of a change of the competent authority whose authorised representative is entitled to sign the health certificate. Therefore, these changes should be introduced in Implementing Regulation (EU) No 884/2014 accordingly.
- (8) Furthermore, it is appropriate to update the relevant CN codes for *Capsicum annuum* due to recent changes of the CN code, and to add CN codes to hazelnut paste and also to figs prepared or preserved including mixtures because products corresponding to the description are traded under these codes.
- (9) Regulation (EC) No 669/2009 and Implementing Regulation (EU) No 884/2014 should therefore be amended accordingly.
- (10) 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

Annex I to Regulation (EC) No 669/2009 is amended in accordance with Annex I to this Regulation.

Article 2

Implementing Regulation (EU) No 884/2014 is amended as follows:

(1) the following points (o) and (p) are added to Article 1(1):

- '(o) groundnuts in shell and shelled, peanut butter, groundnuts otherwise prepared or preserved (feed and food) originating in or consigned from Gambia;
- (p) groundnuts in shell and shelled, peanut butter, groundnuts otherwise prepared or preserved (feed and food) originating in or consigned from Sudan;'

(2) Article 1(3) is replaced by the following:

'3. This Regulation shall not apply to consignments of feed and food referred to in paragraphs 1 and 2 which are destined for a private person for personal consumption and use only. In case of doubt, the burden of proof shall be borne by the recipient of the consignment. This Regulation shall also not apply to consignments of feed and food sent as trade samples, laboratory samples or as display items for exhibitions, that are not intended to be placed on the market or are sent to be used for scientific purposes.'

The gross weight of the consignments referred to in the first subparagraph shall in any case not exceed 30 kg.;

(3) Article 5(2) is amended as follows:

(a) point (a) is replaced by the following:

- '(a) the Ministry of Agriculture, Livestock and Food Supply (MAPA) (Ministério da Agricultura, Pecuária e Abastecimento (MAPA)) and Sistema Nacional de Vigilância Sanitária (SNVS) for feed and food from Brazil.'

(b) points (j), (k) and (l) are replaced by the following:

‘(j) the Ethiopian Food, Medicine and Health Care Administration and Control Authority (FMHACA) for food from Ethiopia;

(k) the National Agri-Food Health and Quality Service (Servicio Nacional de Sanidad y Calidad Agroalimentaria (SENASA)) and the National Institute of Nutrition (Instituto Nacional de Alimentos (INAL)) for feed and food from Argentina;

(l) the Food Safety Agency of the Republic of Azerbaijan for food from Azerbaijan.’;

(c) the following points (m) and (n) are added:

‘(m) the Food Safety and Quality Authority for feed and food from Gambia;

(n) the Ministry of Agriculture and Forestry for feed and food from Sudan’;

(4) Annex I to Implementing Regulation (EU) No 884/2014 is amended in accordance with Annex II to this Regulation.

Article 3

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

Consignments of feed and food referred to in Article 2(1) having left the country of origin prior to the date of entry into force may be imported into the Union without being accompanied by a health certificate and the results of sampling and analysis.

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

Done at Brussels, 27 May 2019.

For the Commission
The President
Jean-Claude JUNCKER

ANNEX I

In Annex I to Regulation (EC) No 669/2009 the following entries are deleted:

Feed and food (intended use)	CN code (1)	TARIC sub-division	Country of origin	Hazard	Frequency of physical and identity checks (%) at import
— Groundnuts (peanuts), in shell — Groundnuts (peanuts), shelled — Peanut butter — Groundnuts (peanuts), otherwise prepared or preserved (Feed and food)	— 1202 41 00 — 1202 42 00 — 2008 11 10 — 2008 11 91; 2008 11 96; 2008 11 98		Gambia (GM)	Aflatoxins	50
— Groundnuts (peanuts), in shell — Groundnuts (peanuts), shelled — Peanut butter — Groundnuts (peanuts), otherwise prepared or preserved (Feed and food)	— 1202 41 00 — 1202 42 00 — 2008 11 10 — 2008 11 91; 2008 11 96; 2008 11 98		Sudan (SD)	Aflatoxins	50

ANNEX II

Annex I to Implementing Regulation (EU) No 884/2014 is amended as follows:

(1) The following entries are added:

Feed and food (intended use)	CN code ⁽¹⁾	TARIC sub-division	Country of origin or country of consignment	Frequency of physical and identity checks (%)
— Groundnuts (peanuts), in shell	— 1202 41 00		Gambia (GM)	50
— Groundnuts (peanuts), shelled	— 1202 42 00			
— Peanut butter	— 2008 11 10			
— Groundnuts (peanuts), otherwise prepared or preserved	— 2008 11 91; 2008 11 96; 2008 11 98			
(Feed and food)				
— Groundnuts (peanuts), in shell	— 1202 41 00		Sudan (SD)	50'
— Groundnuts (peanuts), shelled	— 1202 42 00			
— Peanut butter	— 2008 11 10			
— Groundnuts (peanuts), otherwise prepared or preserved	— 2008 11 91; 2008 11 96; 2008 11 98			
(Feed and food)				

(2) The fifth entry as regards dried figs; mixtures of nuts or dried fruits containing figs; fig paste; and figs, prepared or preserved, including mixtures, from Turkey, is replaced by the following:

— Dried figs	— 0804 20 90		Turkey (TR)	20'
— Mixtures of nuts or dried fruits containing figs	— ex 0813 50			
— Dried fig paste	— ex 2007 10 or ex 2007 99			
— Dried figs, prepared or preserved, including mixtures	— ex 2008 99 or ex 2008 97			
— Flour, meal or powder of dried figs	— ex 1106 30 90			
(Food)				

(3) The sixth entry as regards hazelnuts; mixtures of nuts or dried fruits containing hazelnuts; hazelnut paste; hazelnuts, otherwise prepared or preserved, including mixtures; flour, meal and powder of hazelnuts; cut, sliced or broken hazelnuts; and hazelnut oil, from Turkey, is replaced by the following:

— Hazelnuts (<i>Corylus</i> spp.) in shell	— 0802 21 00		Turkey (TR)	5'
— Hazelnuts(<i>Corylus</i> spp.) shelled	— 0802 22 00			
— Mixtures of nuts or dried fruits containing hazelnuts	— ex 0813 50			
— Hazelnut paste	— ex 2007 10 or ex 2007 99 or ex 2008 97 or ex 2008 99			

— Hazelnuts, otherwise prepared or preserved, including mixtures	— ex 2008 19			
— Flour, meal and powder of hazelnuts	— ex 1106 30 90			
— Cut, sliced or broken hazelnuts	— ex 0802 22 00			
— Cut, sliced or broken hazelnuts, otherwise prepared or preserved	— ex 2008 19			
— Hazelnut oil	— ex 1515 90 99			
(Food)				

(4) The twelfth entry as regards *Capsicum annuum*, whole, crushed or ground; dried fruit of the genus *Capsicum*, whole, other than sweet peppers (*Capsicum annuum*); and nutmeg (*Myristica fragrans*), from India, is replaced by the following:

‘— <i>Capsicum annuum</i> , whole	— 0904 21 10		India (IN)	20’
— <i>Capsicum annuum</i> , crushed or ground	— ex 0904 22 00	11; 19		
— Dried fruit of the genus <i>Capsicum</i> , whole, other than sweet peppers (<i>Capsicum annuum</i>)	— ex 0904 21 90	20		
— Nutmeg (<i>Myristica fragrans</i>)	— 0908 11 00; 0908 12 00			
(Food - dried spices)				

COMMISSION REGULATION (EU) 2019/891**of 28 May 2019****amending Annexes I and II to Regulation (EC) No 1333/2008 of the European Parliament and of the Council as regards the functional class of ‘stabilisers’ and the use of ferrous lactate (E 585) on the mushroom *Albatrellus ovinus* as a food ingredient in Swedish liver pâtés****(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 1333/2008 of the European Parliament and of the Council of 16 December 2008 on food additives ⁽¹⁾, and in particular Article 9(2) and Article 10(3) thereof,

Whereas:

- (1) Regulation (EC) No 1333/2008 lays down rules on food additives, their functional classes and lays down the Union list of food additives.
- (2) Annex I to Regulation (EC) No 1333/2008 lays down functional classes of food additives in foods and of food additives in food additives and food enzymes.
- (3) Scientific progress and technological development has allowed better understanding of the technological function of the food additive ferrous lactate (E 585). When applied on the mushroom *Albatrellus ovinus*, ferrous lactate does not impart the colour on its own, nor does it amplify the existing colour of *Albatrellus ovinus*. It affects and changes the colour of *Albatrellus ovinus* (from white to dark) by reacting with certain tissue components of the mushroom such as polyphenols. This feature of ferrous lactate does not fall under the current functional class of ‘stabilisers’ nor any other functional class listed in Annex I to Regulation (EC) No 1333/2008. Therefore, the functional class of ‘stabilisers’ should be amended by removing the word ‘existing’ in order to cover the technological function of ferrous lactate (E 585) when applied on *Albatrellus ovinus*.
- (4) Annex II to Regulation (EC) No 1333/2008 lays down a Union list of food additives approved for use in foods and their conditions of use.
- (5) The Union list of food additives may be updated in accordance with the common procedure referred to in Regulation (EC) No 1331/2008 of the European Parliament and of the Council ⁽²⁾, either on the initiative of the Commission or following an application.
- (6) An application for the authorisation of the use of ferrous lactate (E 585) on the mushroom *Albatrellus ovinus* used as a food ingredient in Swedish liver pâtés was submitted on 25 October 2016 and was made available to the Member States pursuant to Article 4 of Regulation (EC) No 1331/2008.
- (7) In Sweden, certain liver pâtés (‘leverpastej’) traditionally contain the mushroom *Albatrellus ovinus* as a food ingredient. Before added to liver pâtés, there is a technological need for the use of ferrous lactate (E 585) in the treatment of naturally white mushroom *Albatrellus ovinus* in order to obtain the desired dark colour.
- (8) The Scientific Committee for Food had assessed the safety of use of ferrous lactate (E 585) on olives as acceptable ⁽³⁾. Swedish liver pâtés contain only about 0,5 % mushrooms. Therefore, the additional exposure to ferrous lactate when added to the mushroom *Albatrellus ovinus* used as a food ingredient in Swedish liver pâtés would be negligible.
- (9) Pursuant to Article 3(2) of Regulation (EC) No 1331/2008, the Commission is to seek the opinion of the European Food Safety Authority (‘The Authority’) in order to update the Union list of food additives set out in Annex II to Regulation (EC) No 1333/2008, except where the update in question is not liable to have an effect on human health.

⁽¹⁾ OJ L 354, 31.12.2008, p. 16.

⁽²⁾ Regulation (EC) No 1331/2008 of the European Parliament and of the Council of 16 December 2008 establishing a common authorisation procedure for food additives, food enzymes and food flavourings (OJ L 354, 31.12.2008, p. 1).

⁽³⁾ Report from the Scientific Committee for food, 25th series, 1990.

- (10) Since the authorisation of ferrous lactate (E 585) in the mushroom *Albatrellus ovinus* used as a food ingredient in Swedish liver pâtés constitutes an update of the Union list of food additives which is not liable to have an effect on human health, it is not necessary to seek the opinion of the Authority.
- (11) Therefore, it is appropriate to authorise ferrous lactate (E 585) as a stabiliser for the mushroom *Albatrellus ovinus* used as a food ingredient in Swedish liver pâtés.
- (12) Therefore, Annexes I and II to Regulation (EC) No 1333/2008 should be amended accordingly.
- (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

Annexes I and II to Regulation (EC) No 1333/2008 are 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, 28 May 2019.

For the Commission
The President
Jean-Claude JUNCKER

ANNEX

Regulation (EC) No 1333/2008 is amended as follows:

(1) In Annex I the entry 24 'stabilisers' is replaced as follows:

'24. "stabilisers" are substances which make it possible to maintain the physico-chemical state of a foodstuff; stabilisers include substances which enable the maintenance of a homogenous dispersion of two or more immiscible substances in a foodstuff, substances which stabilise, retain or intensify colour of a foodstuff and substances which increase the binding capacity of the food, including the formation of cross-links between proteins enabling the binding of food pieces into re-constituted food;'

(2) Part E of Annex II is amended as follows:

(a) In food category 04.2.2 'Fruit and vegetables in vinegar, oil, or brine', the entry for ferrous lactate (E 585) is replaced by the following:

	'E 585	Ferrous lactate	150	(56)	only mushroom <i>Albatrellus ovinus</i> used as a food ingredient in Swedish liver pâtés and olives darkened by oxidation'
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(b) In food category 04.2.3 'Canned or bottled fruit and vegetables', the entry for ferrous lactate (E 585) is replaced by the following:

	'E 585	Ferrous lactate	150	(56)	only mushroom <i>Albatrellus ovinus</i> used as a food ingredient in Swedish liver pâtés and olives darkened by oxidation'
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COMMISSION IMPLEMENTING REGULATION (EU) 2019/892

of 28 May 2019

concerning the authorisation of the preparation of *Saccharomyces cerevisiae* CNCM I-1079 as a feed additive for all pigs other than weaned piglets and sows and all minor porcine species (holder of authorisation Danstar Ferment AG represented by Lallemand SAS)

(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 1831/2003 of the European Parliament and of the Council of 22 September 2003 on additives for use in animal nutrition ⁽¹⁾, and in particular Article 9(2) thereof,

Whereas:

- (1) Regulation (EC) No 1831/2003 provides for the authorisation of additives for use in animal nutrition and for the grounds and procedures for granting such authorisation.
- (2) In accordance with Article 7 of Regulation (EC) No 1831/2003 an application was submitted for the authorisation of the preparation of *Saccharomyces cerevisiae* CNCM I-1079. That application was accompanied by the particulars and documents required under Article 7(3) of Regulation (EC) No 1831/2003.
- (3) That application concerns the authorisation of the preparation of *Saccharomyces cerevisiae* CNCM I-1079 as a feed additive for all pigs other than weaned piglets and sows and all minor porcine species to be classified in the additive category 'zootechnical additives'.
- (4) That preparation was already authorised as a zootechnical additive for 10 years by Commission Implementing Regulation (EU) 2018/347 ⁽²⁾ for use with weaned piglets and sows, and by Commission Implementing Regulation (EU) 2017/1905 ⁽³⁾ for use with chickens for fattening and minor poultry species for fattening.
- (5) The European Food Safety Authority ('the Authority') concluded in its opinion of 28 November 2018 ⁽⁴⁾ that, under the proposed conditions of use, the preparation of *Saccharomyces cerevisiae* CNCM I-1079 does not have an adverse effect on animal health, human health or the environment. It also concluded that the additive has the potential to be efficacious in all pigs. The Authority does not consider that there is a need for specific requirements of post-market monitoring. It also verified the report on the method of analysis of the feed additive in feed submitted by the Reference Laboratory set up by Regulation (EC) No 1831/2003.
- (6) The assessment of the preparation of *Saccharomyces cerevisiae* CNCM I-1079 shows that the conditions for authorisation, as provided for in Article 5 of Regulation (EC) No 1831/2003, are satisfied. Accordingly, the use of that preparation should be authorised as specified in the Annex to this Regulation.
- (7) 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

The preparation specified in the Annex, belonging to the additive category 'zootechnical additives' and to the functional group 'gut flora stabilisers', is authorised as an additive in animal nutrition, subject to the conditions laid down in that Annex.

⁽¹⁾ OJ L 268, 18.10.2003, p. 29.

⁽²⁾ Commission Implementing Regulation (EU) 2018/347 of 5 March 2018 concerning the authorisation of the preparation of *Saccharomyces cerevisiae* CNCM I-1079 as a feed additive for piglets and sows and amending Regulations (EC) No 1847/2003 and (EC) No 2036/2005 (holder of authorisation Danstar Ferment AG represented by Lallemand SAS) (OJ L 67, 9.3.2018, p. 21).

⁽³⁾ Commission Implementing Regulation (EU) 2017/1905 of 18 October 2017 concerning an authorisation of the preparation of *Saccharomyces cerevisiae* CNCM I-1079 as a feed additive for chickens for fattening and for minor poultry species for fattening (holder of authorisation Danstar Ferment AG represented by Lallemand SAS) (OJ L 269, 19.10.2017, p. 30).

⁽⁴⁾ EFSA Journal 2019;17(1):5535.

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, 28 May 2019.

For the Commission
The President
Jean-Claude JUNCKER

ANNEX

Identification number of the additive	Name of the holder of authorisation	Additive	Composition, chemical formula, description, analytical method	Species or category of animal	Maximum age	Minimum content	Maximum content	Other provisions	End of period of authorisation
						CFU/kg of complete feedingstuff with a moisture content of 12 %			

Category of zootechnical additives. Functional group: gut flora stabilisers.

4d1703	Danstar Ferment AG represented by Lallemand SAS	<i>Saccharomyces cerevisiae</i> CNCM I-1079	<p><i>Additive composition</i></p> <p>Preparation of <i>Saccharomyces cerevisiae</i> CNCM I-1079 containing a minimum of:</p> <ul style="list-style-type: none"> — 1×10^{10} CFU/g of additive (coated form); — 2×10^{10} CFU/g of additive (not-coated form). <p><i>Characterisation of the active substance</i></p> <p>Viable cells of <i>Saccharomyces cerevisiae</i> CNCM I-1079</p> <p><i>Analytical method</i> ⁽¹⁾</p> <p>Enumeration: pour plate method using chloramphenicol dextrose yeast extract agar (EN15789:2009)</p> <p>Identification: polymerase chain reaction (PCR) method (CEN/TS) 15790:2008</p>	All pigs other than sows and weaned piglets All minor porcine species	—	1×10^9		<ol style="list-style-type: none"> 1. In the directions for use of the additive and premixture, the storage conditions and stability to heat treatment shall be indicated. 2. For users of the additive and premixtures, feed business operators shall establish operational procedures and organisational measures to address potential risks resulting from their use. Where those risks cannot be eliminated or reduced to a minimum by such procedures and measures, the additive and premixtures shall be used with personal protective equipment, including breathing protection. 	18 June 2029
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⁽¹⁾ Details of the analytical methods are available at the following address of the Reference Laboratory: <https://ec.europa.eu/jrc/en/eurl/feed-additives/evaluation-reports>

COMMISSION IMPLEMENTING REGULATION (EU) 2019/893**of 28 May 2019****concerning the renewal of the authorisation of *Bacillus subtilis* DSM 15544 as a feed additive for chickens for fattening and repealing Regulation (EC) No 1444/2006 (holder of authorisation Asahi Calpis Wellness Co. Ltd, represented in the Union by Asahi Calpis Wellness Co. Ltd Europe Representative Office)****(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 1831/2003 of the European Parliament and of the Council of 22 September 2003 on additives for use in animal nutrition ⁽¹⁾, and in particular Article 9(2) thereof,

Whereas:

- (1) Regulation (EC) No 1831/2003 provides for the authorisation of additives for use in animal nutrition and for the grounds and procedures for granting and renewing such authorisation.
- (2) *Bacillus subtilis* C-3102 (DSM 15544) was authorised for 10 years as a feed additive for chickens for fattening by Commission Regulation (EC) No 1444/2006 ⁽²⁾.
- (3) In accordance with Article 14 of Regulation (EC) No 1831/2003, an application was submitted by the holder of that authorisation for the renewal of the authorisation of *Bacillus subtilis* C-3102 (DSM 15544) as a feed additive for chickens for fattening, requesting that additive to be classified in the additive category 'zootechnical additives'. That application was accompanied by the particulars and documents required under Article 14(2) of Regulation (EC) No 1831/2003.
- (4) The European Food Safety Authority ('the Authority') concluded in its opinion of 13 June 2018 ⁽³⁾ that the applicant has provided data demonstrating that the additive complies with the conditions of authorisation.
- (5) The assessment of *Bacillus subtilis* C-3102 (DSM 15544) shows that the conditions for authorisation, as provided for in Article 5 of Regulation (EC) No 1831/2003, are satisfied. Accordingly, the authorisation of that additive should be renewed as specified in the Annex to this Regulation.
- (6) As a consequence of the renewal of the authorisation of *Bacillus subtilis* C-3102 (DSM 15544) as a feed additive under the conditions laid down in the Annex to this Regulation, Regulation (EC) No 1444/2006 should be repealed.
- (7) 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

The authorisation of the additive specified in the Annex, belonging to the additive category 'zootechnical additives' and to the functional group 'gut flora stabilisers', is renewed subject to the conditions laid down in that Annex.

Article 2

Regulation (EC) No 1444/2006 is repealed.

⁽¹⁾ OJ L 268, 18.10.2003, p. 29.⁽²⁾ Commission Regulation (EC) No 1444/2006 of 29 September 2006 concerning the authorisation of *Bacillus subtilis* C-3102 (Calsporin) as a feed additive (OJ L 271, 30.9.2006, p. 19).⁽³⁾ EFSA Journal 2018;16(7):5340.

Article 3

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, 28 May 2019.

For the Commission
The President
Jean-Claude JUNCKER

ANNEX

Identification number of the additive	Name of the holder of authorisation	Additive	Composition, chemical formula, description, analytical method	Species or category of animal	Maximum age	Minimum content	Maximum content	Other provisions	End of period of authorisation
						CFU/kg of complete feedingstuff with a moisture content of 12 %			

Category of zootechnical additives. Functional group: gut flora stabilisers

4b1820	Asahi Calpis Wellness Co. Ltd, represented by Asahi Calpis Wellness Co. Ltd Europe Representative Office	<i>Bacillus subtilis</i> C-3102 (DSM 15544)	<p><i>Additive composition:</i></p> <p><i>Bacillus subtilis</i> C-3102 (DSM 15544) with minimum of 1×10^{10} CFU/g</p> <p><i>Characterisation of the active substance:</i></p> <p>Viable spores (CFU) of <i>Bacillus subtilis</i> C-3102 (DSM 15544)</p> <p><i>Analytical method</i> ⁽¹⁾</p> <p>Enumeration: spread plate method using tryptone soya agar (EN 15784:2009)</p> <p>Identification: pulsed-field gel electrophoresis (PFGE).</p>	Chickens for fattening	—	5×10^8	—	<ol style="list-style-type: none"> In the directions for use of the additive and premixture, the storage conditions and stability to heat treatment shall be indicated. The use is permitted in feed containing one of the following authorised coccidiostats: monensin sodium, salinomycin sodium, seduramycin sodium, lasalocid sodium, maduramycin ammonium, narasin/nicarbazin, diclazuril. For users of the additive and premixtures, feed business operators shall establish operational procedures and organisational measures to address potential risks resulting from their use. Where those risks cannot be eliminated or reduced to a minimum by such procedures and measures, the additive and premixtures shall be used with personal protective equipment, including eye and breathing protection. 	18 June 2029
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⁽¹⁾ Details of the analytical methods are available at the following address of the Reference Laboratory: <https://ec.europa.eu/jrc/en/eurl/feed-additives/evaluation-reports>

COMMISSION IMPLEMENTING REGULATION (EU) 2019/894**of 28 May 2019****concerning the authorisation of L-threonine produced by *Escherichia coli* CGMCC 7.232 as a feed additive for all animal species****(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 1831/2003 of the European Parliament and of the Council of 22 September 2003 on additives for use in animal nutrition ⁽¹⁾, and in particular Article 9(2) thereof,

Whereas:

- (1) Regulation (EC) No 1831/2003 provides for the authorisation of additives for use in animal nutrition and for the grounds and procedures for granting such authorisation.
- (2) In accordance with Article 7 of Regulation (EC) No 1831/2003 an application was submitted for the authorisation of L-threonine produced by *Escherichia coli* CGMCC 7.232 as a feed additive for use in feed for all animal species. That application was accompanied by the particulars and documents required under Article 7(3) of that Regulation (EC).
- (3) That application concerns the authorisation of L-threonine produced by *Escherichia coli* CGMCC 7.232 as a feed additive for all animal species to be classified in the additive category 'nutritional additives'.
- (4) The European Food Safety Authority ('the Authority') concluded in its opinion of 2 October 2018 ⁽²⁾ that, under the proposed conditions of use, L-threonine produced by *Escherichia coli* CGMCC 7.232 does not have an adverse effect on animal health, consumer safety or the environment. It also concluded that the additive is considered as a potential skin sensitiser and an eye and skin irritant and stated a risk for the users of the additive upon inhalation. Therefore, the Commission considers that appropriate protective measures should be taken to prevent adverse effects on human health, in particular as regards the users of the additive. The Authority also concluded that the additive is an efficacious source of the amino-acid L-threonine for all animal species and that in order to be as efficacious in ruminants as in non-ruminant species, the additive should be protected against degradation in the rumen. The Authority does not consider that there is a need for specific requirements of post-market monitoring. It also verified the report on the method of analysis of the feed additive in feed submitted by the Reference Laboratory set up by Regulation (EC) No 1831/2003.
- (5) The assessment of L-threonine produced by *Escherichia coli* CGMCC 7.232 shows that the conditions for authorisation, as provided for in Article 5 of Regulation (EC) No 1831/2003, are satisfied. Accordingly, the use of this additive should be authorised as specified in the Annex to this Regulation.
- (6) 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

The substance specified in the Annex, belonging to the additive category 'nutritional additives' and to the functional group 'amino acids, their salts and analogues', is authorised as an additive in animal nutrition, subject to the conditions laid down in that Annex.

⁽¹⁾ OJ L 268, 18.10.2003, p. 29.

⁽²⁾ EFSA Journal 2018;16(10):5458.

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, 28 May 2019.

For the Commission
The President
Jean-Claude JUNCKER

ANNEX

Identification number of the additive	Name of the holder of authorisation	Additive	Composition, chemical formula, description, analytical method.	Species or category of animal	Maximum age	Minimum content	Maximum content	Other provisions	End of period of authorisation
						mg/kg of complete feed with a moisture content of 12 %			
Category of nutritional additives. Functional group: amino acids, their salts and analogues.									
3c410	—	L-threonine	<p><i>Additive composition:</i></p> <p>Powder with a minimum of 98 % L-threonine (on a dry matter basis).</p> <p><i>Characterisation of the active substance:</i></p> <p>L-threonine produced by fermentation with</p> <p><i>Escherichia coli</i> CGMCC 7.232</p> <p>Chemical formula: C₄H₉NO₃</p> <p>CAS Number: 72-19-5.</p> <p><i>Analytical methods</i> ⁽¹⁾:</p> <p>For the determination of L-threonine in the feed additive:</p> <p>— Food Chemical Codex 'L-threonine monograph' and</p> <p>— Ion exchange chromatography coupled with post-column derivatisation and optical detection (IEC-VIS/FD) – EN ISO 17180.</p>	All species	—	—	—	<ol style="list-style-type: none"> L- threonine may be placed on the market and used as an additive consisting of a preparation. For users of the additive and premixtures, feed business operators shall establish operational procedures and organisational measures to address potential risks by inhalation. Where those risks cannot be eliminated or reduced to a minimum by such procedures and measures, the additive and premixtures shall be used with personal protective equipment, including breathing protection. The endotoxin content of the additive and its dusting potential shall ensure a maximal endotoxin exposure of 1 600 IU endotoxins/m³ air ⁽²⁾. L-threonine may be used via water for drinking. The labelling of the additive shall indicate the moisture content. 	18 June 2029

Identification number of the additive	Name of the holder of authorisation	Additive	Composition, chemical formula, description, analytical method.	Species or category of animal	Maximum age	Minimum content	Maximum content	Other provisions	End of period of authorisation
						mg/kg of complete feed with a moisture content of 12 %			
			<p>For the determination of threonine in premixtures:</p> <ul style="list-style-type: none"> — ion exchange chromatography coupled with post-column derivatisation and optical detection (IEC-VIS/FD) – EN ISO 17180 and — ion exchange chromatography coupled with post-column derivatisation and photometric detection (IEC-VIS), Commission Regulation (EC) No 152/2009 (Annex III, F). <p>For the determination of threonine in compound feed and feed materials:</p> <ul style="list-style-type: none"> — Ion exchange chromatography coupled with post-column derivatisation and photometric detection (IEC-VIS); Commission Regulation (EC) No 152/2009 (Annex III, F). <p>For the determination of threonine in water:</p> <ul style="list-style-type: none"> — ion exchange chromatography coupled with post-column derivatisation and optical detection (IEC-VIS/FD). 					<p>6. The labelling of the additive and premixtures shall indicate the following:</p> <p>‘If the additive is administered via water for drinking, protein excess should be avoided.’</p>	

(¹) Details of the analytical methods are available at the following address of the Reference Laboratory: <https://ec.europa.eu/jrc/en/eurl/feed-additives/evaluation-reports>

(²) Exposure calculated based on the endotoxin level and the dusting potential of the additive according to the method used by EFSA (*EFSA Journal* 2018;16(10):5458); analytical method: European Pharmacopoeia 2.6.14. (bacterial endotoxins).

DECISIONS

COUNCIL DECISION (EU) 2019/895

of 22 May 2019

on the position to be taken on behalf of the European Union in the ACP-EU Council of Ministers as regards the delegation of powers to the ACP-EU Committee of Ambassadors on the decision to adopt transitional measures pursuant to Article 95(4) of the ACP-EU Partnership Agreement

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 217, in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Partnership Agreement between the members of the African, Caribbean and Pacific Group of States of the one part, and the European Community and its Member States, of the other part ⁽¹⁾ ('the ACP-EU Partnership Agreement') was signed in Cotonou on 23 June 2000. The ACP-EU Partnership Agreement entered into force on 1 April 2003 and is to be applied until 29 February 2020.
- (2) In accordance with the first subparagraph of Article 95(4) of the of the ACP-EU Partnership Agreement, negotiations towards a new ACP-EU Partnership Agreement were launched in September 2018. It is necessary to adopt transitional measures in case the new Agreement is not ready to be applied by the expiry date of the current legal framework.
- (3) The second subparagraph of Article 95(4) of the ACP-EU Partnership Agreement provides for the Council of Ministers to adopt any transitional measures that may be required until the new Agreement comes into force.
- (4) Pursuant to Article 15(4) of the ACP-EU Partnership Agreement, the ACP-EU Council of Ministers may adopt a decision to delegate powers to the ACP-EU Committee of Ambassadors, including the power to adopt the decision on transitional measures.
- (5) The ACP-EU Council of Ministers is to have its yearly ordinary meeting on 23-24 May 2019 in Brussels. The transitional measures have not been agreed and can therefore not be adopted by the ACP-EU Council of Ministers at its ordinary meeting. As no further meetings of the ACP-EU Council of Ministers are foreseen before the expiry of the ACP-EU Partnership Agreement, and in order to ensure that the decision on transitional measures is taken in a timely manner, it is necessary that the decision to adopt transitional measures pursuant to Article 95(4) of the ACP-EU Partnership Agreement be delegated to the ACP-EU Committee of Ambassadors.
- (6) During its 44th session the ACP-EU Council of Ministers is to adopt a decision delegating the powers to adopt transitional measures to the ACP-EU Committee of Ambassadors ('the envisaged act').
- (7) It is appropriate to establish the position to be taken on the Union's behalf in the ACP-EU Council of Ministers, as the envisaged act is binding on the Union.
- (8) The position of the Union to approve the envisaged act in the ACP-EU Council of Ministers should be set out in this Decision,

⁽¹⁾ OJ L 317, 15.12.2000, p. 3.

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on the Union's behalf in the 44th session of the ACP-EU Council of Ministers shall be to approve the delegation of powers to the ACP-EU Committee of Ambassadors, in accordance with Article 15(4) of the ACP-EU Partnership Agreement, on the decision to adopt, pursuant to Article 95(4) of the ACP-EU Partnership Agreement, any transitional measures that may be required until the new Agreement comes into force.

Article 2

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

Done at Brussels, 22 May 2019.

For the Council
The President
C.B. MATEI

COMMISSION IMPLEMENTING DECISION (EU) 2019/896**of 28 May 2019****amending Implementing Decision (EU) 2019/450 as regards European Assessment Documents for internal partition kits for use as non-loadbearing walls, systems of mechanically fastened flexible roof waterproofing sheets, thin metal composite sheet, elastic micro hollow spheres as concrete admixture, decking fixing assemblies and self-supporting translucent roof kits with covering made of plastic sheets****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 305/2011 of the European Parliament and of the Council of 9 March 2011 laying down harmonised conditions for the marketing of construction products and repealing Council Directive 89/106/EEC ⁽¹⁾, and in particular Article 22 thereof,

Whereas:

- (1) In accordance with Regulation (EU) No 305/2011, Technical Assessment Bodies are to use methods and criteria provided in European Assessment Documents, the references of which have been published in the *Official Journal of the European Union*, for assessing performance of construction products covered by those documents in relation to their essential characteristics.
- (2) In accordance with Article 19 of Regulation (EU) No 305/2011, following several requests by manufacturers for European Technical Assessments, the organisation of Technical Assessment Bodies drew up and adopted several European Assessment Documents.
- (3) The European Assessment Documents relate to internal partition kits for use as non-loadbearing walls, systems of mechanically fastened flexible roof waterproofing sheets, thin metal composite sheet, elastic micro hollow spheres as concrete admixture, decking fixing assemblies and self-supporting translucent roof kits with covering made of plastic sheets. The European Assessment Documents contain a general description of the construction product, the list of essential characteristics, relevant for the intended use of the product as foreseen by the manufacturer and agreed between the manufacturer and the organisation of TABs, as well as the methods and criteria for assessing the performance of the product in relation to those essential characteristics.
- (4) While the European Assessment Documents relating to internal partition kits for use as non-loadbearing walls, systems of mechanically fastened flexible roof waterproofing sheets and self-supporting translucent roof kits with covering made of plastic sheets have been issued to supersede the corresponding previously used Guidelines for European technical approval (ETAGs), the European Assessment Documents relating to thin metal composite sheet, elastic micro hollow spheres as concrete admixture and decking fixing assemblies have been solely based on individual manufacturers' requests for European Technical Assessments.
- (5) The Commission has assessed whether the European Assessment Documents drafted by the organisation of Technical Assessment Bodies satisfy the demands to be met in relation to the basic requirements for construction works set out in Annex I to Regulation (EU) No 305/2011.
- (6) The European Assessment Documents drafted by the organisation of Technical Assessment Bodies satisfy the demands to be met in relation to the basic requirements for construction works set out in Annex I to Regulation (EU) No 305/2011, since the elements listed in recital 3 of this Decision have been duly incorporated in them. It is therefore appropriate to publish the references of those European Assessment Documents in the *Official Journal of the European Union*.
- (7) The list of European Assessment Documents is published by Commission Implementing Decision (EU) 2019/450 ⁽²⁾. For reasons of clarity, references of new European Assessment Documents should be added to that list.

⁽¹⁾ OJ L 88, 4.4.2011, p. 5.

⁽²⁾ Commission Implementing Decision (EU) 2019/450 of 19 March 2019 on publication of the European Assessment Documents (EADs) for construction products drafted in support of Regulation (EU) No 305/2011 of the European Parliament and of the Council (OJ L 77, 20.3.2019, p. 78).

- (8) Implementing Decision (EU) 2019/450 should therefore be amended accordingly.
- (9) In order to enable the use of the European Assessment Documents as early as possible, this Decision should enter into force on the day of its publication,

HAS ADOPTED THIS DECISION:

Article 1

The Annex to Implementing Decision (EU) 2019/450 is amended in accordance with the Annex to this Decision.

Article 2

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

Done at Brussels, 28 May 2019.

For the Commission
The President
Jean-Claude JUNCKER

ANNEX

In the Annex to Implementing Decision (EU) 2019/450, the following rows are added:

'030351-00-0402	Systems of mechanically fastened flexible roof waterproofing sheets (superseding technical specification "ETAG 006")
210005-00-0505	Internal partition kits for use as non-loadbearing walls (superseding technical specification "ETAG 003")
210046-00-1201	Thin metal composite sheet
220089-00-0401	Self-supporting translucent roof kits with covering made of plastic sheets (superseding technical specification "ETAG 010")
260017-00-0301	Elastic micro hollow spheres as concrete admixture
331924-00-0602	Decking fixing assemblies'

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