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II

(Non-legislative acts)

REGULATIONS

COMMISSION DELEGATED REGULATION (EU) 2021/923

of 25 March 2021

supplementing Directive 2013/36/EU of the European Parliament and of the Council with regard to regulatory technical standards setting out the criteria to define managerial responsibility, control functions, material business units and a significant impact on a material business unit's risk profile, and setting out criteria for identifying staff members or categories of staff whose professional activities have an impact on the institution's risk profile that is comparably as material as that of staff members or categories of staff referred to in Article 92(3) of that Directive

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC ⁽¹⁾, and in particular Article 94(2) thereof,

Whereas:

- (1) Not only the professional activities of the staff members referred to in Article 92(3), points (a), (b) and (c), of Directive 2013/36/EU can have a material impact on an institution's risk profile, but also the professional activities of other staff members. That will in particular be the case where such staff members have managerial responsibilities for material business units or for control functions because they can make strategic or other fundamental decisions that have an impact on the business activities or on the control framework applied. Such control functions include, typically, risk management, compliance and internal audit. The risks taken by material business units and the way those units are managed are the most important factors for an institution's risk profile.
- (2) It is therefore necessary to lay down criteria to identify staff members, other than the staff members referred to in Article 92(3), points (a), (b) and (c), of Directive 2013/36/EU, the professional activities of which have a material impact on the institution's risk profile. Those criteria should take into account the authority and responsibilities of such staff members, the institution's risk profile and performance indicators, the institution's internal organisation, and the nature, scope and complexity of the institution concerned. Those criteria should also enable institutions to set proper incentives in their remuneration policies to ensure that the staff members concerned act prudently when performing their tasks. Lastly, those criteria should reflect the level of risk of different activities within the institution.
- (3) Some staff members are responsible for providing internal support that is crucial to the operation of an institution's business activities. Their activities and decisions can also have a material impact on an institution's risk profile, because their activities and decisions may expose the institution to material operational and other risks.
- (4) Credit risk and market risk are typically entered into in order to generate business. Depending on the amounts and risk involved, such business activities can have a material impact on an institution's risk profile. It is therefore appropriate to use criteria based on limits of authority to identify staff members the activities of which can have a

⁽¹⁾ OJ L 176, 27.6.2013, p. 338.

material impact on an institution's risk profile. Those criteria should be calculated at least annually on the basis of capital figures and approaches used for regulatory purposes. To ensure the proportionate application of the criteria within small institutions, however, a *de minimis* threshold for credit risk should be applied.

- (5) The criteria to identify staff members the professional activities of which have a material impact on an institution's risk profile should also take into account that for some institutions, the requirements relating to the trading book can be waived under Regulation (EU) No 575/2013 of the European Parliament and of the Council ⁽²⁾ and that in that Regulation limits are set in different ways for institutions using different approaches to calculate capital requirements.
- (6) Appropriate qualitative criteria should ensure that staff members are identified as having a material impact on an institution's risk profile where they are responsible for groups of staff whose activities could have a material impact on the institution's risk profile. This includes situations where the activities of individual staff members under their management do not individually have a material impact on the institution's risk profile but the overall scale of their activities could have such an impact.
- (7) The total remuneration of staff members typically depends on the contribution that staff make to the successful achievement of the institution's business objectives. That remuneration thus depends on the responsibilities, duties, abilities and skills of staff members, and on the performance of staff members and the institution. Where a member of staff is awarded a total remuneration that exceeds a certain threshold, it is reasonable to presume that such remuneration is linked to the staff member's contribution to the institution's business objectives and, therefore, to the impact of the staff member's professional activities on the risk profile of the institution. It is therefore appropriate to use quantitative criteria related to the total remuneration of a staff member, both in absolute terms and relative to other members of staff within the same institution, to determine whether the professional activities of such staff member could have a material impact on the institution's risk profile.
- (8) Clear and appropriate thresholds should be established to identify staff whose professional activities have a material impact on an institution's risk profile. Institutions should be expected to apply the quantitative criteria in a timely manner. Quantitative criteria should follow developments in remuneration to be realistic. A first method to follow such developments is to base those criteria on the total remuneration awarded in the preceding performance year, which includes the fixed remuneration paid for that performance year, and the variable remuneration awarded in that performance year. A second method to follow such developments is to base those criteria on the total remuneration awarded for the preceding performance year, which includes the fixed remuneration paid for that performance year and the variable remuneration awarded in the current performance year for the preceding financial year. The second method provides for a better alignment of the identification process with the actual remuneration awarded for a performance period, but can only be applied where a timely calculation for the application of the quantitative criteria is still possible. Where such calculation is no longer possible, the first method should be used. Under either method, the variable remuneration can include amounts that are awarded based on performance periods that are longer than one year, depending on the performance criteria used by the institution.
- (9) Article 92(3) of Directive 2013/36/EU sets a quantitative threshold of EUR 500 000 combined with the average of the remuneration of members of the management body and senior management for the identification of staff the activities of which have a material impact on the risk profile of a material business unit. Remuneration above that quantitative threshold or amounting to one of the highest remunerations within the institution thus establishes a strong presumption that the activities of staff receiving such remuneration have a material impact on the institution's risk profile, in which case more supervisory scrutiny should be applied to establish whether the professional activities of such staff members have a material impact on the institution's risk profile.

⁽²⁾ Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (OJ L 176, 27.6.2013, p. 1).

- (10) Staff members should not be subject to Article 94 of Directive 2013/36/EU where institutions establish on the basis of additional objective criteria that the activities of such staff members does in fact not have a material impact on the institution's risk profile, taking into account all risks to which the institution is or may be exposed. To ensure effective and consistent application of those objective criteria, competent authorities should approve the exclusion of the highest earning staff members identified under the quantitative criteria. For staff members that are awarded more than EUR 1 000 000 (high earners), competent authorities should inform the European Banking Authority ('EBA') before approving exclusions, so that the EBA can assess the consistent application of those criteria.
- (11) In order for competent authorities and auditors to be able to review the assessments carried out by institutions to identify their staff whose professional activities have a material impact on their risk profiles, it is critical that institutions keep record of the assessments made and their results, including of staff who have been identified under criteria based on their total remuneration but whose professional activities are assessed as not to have a material impact on the institution's risk profile.
- (12) Commission Delegated Regulation (EU) No 604/2014 ⁽³⁾ should be repealed. Investment firms as defined in Article 4(1), point (2), of Regulation (EU) No 575/2013 should, however, not bear unjustified costs when complying with this Regulation. Delegated Regulation (EU) No 604/2014 should therefore continue to apply to such firms until 26 June 2021, date by which Member States must adopt and publish the measures to comply with Directive (EU) 2019/2034 of the European Parliament and of the Council ⁽⁴⁾.
- (13) This Regulation is based on the draft regulatory technical standards submitted to the Commission by EBA.
- (14) EBA 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 advice of the Banking Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council ⁽⁵⁾,

HAS ADOPTED THIS REGULATION:

Article 1

Definitions

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

- (1) 'managerial responsibility' means a situation, in which a staff member:
 - (a) heads a business unit or a control function and is directly accountable to the management body as a whole or to a member of the management body or to the senior management;
 - (b) heads one of the functions laid down in Article 5(a);
 - (c) heads a subordinated business unit, or a subordinated control function in a large institution as defined in Article 4(1), point (146), of Regulation (EU) No 575/2013 and reports to a staff member that has the responsibilities as referred to in point (a);
- (2) 'control function' means a function that is independent from the business units it controls and that is responsible to provide an objective assessment of institution's risks, review or report on those, including, but not limited to, the risk management function, the compliance function and the internal audit function;

⁽³⁾ Commission Delegated Regulation (EU) No 604/2014 of 4 March 2014 supplementing Directive 2013/36/EU of the European Parliament and of the Council with regard to regulatory technical standards with respect to qualitative and appropriate quantitative criteria to identify categories of staff whose professional activities have a material impact on an institution's risk profile (OJ L 167, 6.6.2014, p. 30).

⁽⁴⁾ Directive (EU) 2019/2034 of the European Parliament and of the Council of 27 November 2019 on the prudential supervision of investment firms and amending Directives 2002/87/EC, 2009/65/EC, 2011/61/EU, 2013/36/EU, 2014/59/EU and 2014/65/EU (OJ L 314, 5.12.2019, p. 64).

⁽⁵⁾ Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p. 12).

- (3) 'material business unit' means a business unit as defined in Article 142(1), point (3), of Regulation (EU) No 575/2013 that meets any of the following criteria:
- (a) it has allocated internal capital of at least 2 % of the internal capital of the institution as referred to in Article 73 of Directive 2013/36/EU, or is otherwise assessed by the institution as having a material impact on the institution's internal capital;
 - (b) it is a core business line as defined in Article 2(1), point (36), of Directive 2014/59/EU of the European Parliament and of the Council ⁽⁶⁾.

Article 2

Application of criteria

1. Where this Regulation is applied on an individual basis in accordance with Article 109(1) of Directive 2013/36/EU, compliance with the criteria set out in Articles 3 to 6 of this Regulation shall be assessed against the institution's individual risk profile.
2. Where this Regulation is applied on a consolidated or sub-consolidated basis in accordance with Article 109, paragraphs 2 to 6 of Directive 2013/36/EU, compliance with the criteria set out in Articles 3 to 6 of this Regulation shall be assessed against the risk profile of the relevant parent institution, financial holding company or mixed financial holding company on a consolidated or sub-consolidated basis.
3. Where Article 6(1), point (a), is applied on an individual basis, the remuneration awarded by the institution shall be considered. Where Article 6(1), point (a), is applied on a consolidated or sub-consolidated basis, the consolidating institution shall consider the remuneration awarded by any entity that falls within the scope of consolidation.
4. Article 6(1), point (b), shall only apply on an individual basis.

Article 3

Criteria for determining whether the professional activities of staff members have a significant impact on the relevant material business unit's risk profile as referred to in Article 94(2), point (b), of Directive 2013/36/EU

Institutions shall apply within their remuneration policies all of the following criteria to determine whether the professional activities of staff members have a significant impact on the risk profile of a material business unit:

- (a) the risk profile of the material business unit;
- (b) the distribution of internal capital to cover the nature and level of the risks, as referred to in Article 73 of Directive 2013/36/EU;
- (c) the risk limits of the material business unit;
- (d) the risk and performance indicators used by the institution to identify, manage and monitor risks of the material business unit in accordance with Article 74 of Directive 2013/36/EU;
- (e) the relevant performance criteria set by the institution in accordance with Article 94(1), points (a) and (b), of Directive 2013/36/EU;
- (f) the duties and authorities of staff members or categories of staff in the material business unit concerned.

⁽⁶⁾ Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a Framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council (OJ L 173, 12.6.2014, p. 190).

*Article 4***Staff members or categories of staff the professional activities of which have an impact on the institution's risk profile that is comparably as material as that of staff referred to in Article 92(3) of Directive 2013/36/EU**

Institutions shall identify staff members or categories of staff as having an impact on an institution's risk profile that is comparably as material as that of the staff members referred to in Article 92(3) of Directive 2013/36/EU where those staff members or categories of staff meet any of the criteria laid down in Articles 5 or 6 of this Regulation.

*Article 5***Qualitative criteria**

In addition to staff members identified under the criteria set out in Article 92(3), points (a), (b) and (c) of Directive 2013/36/EU, staff members shall be deemed to have a material impact on an institution's risk profile where one or more of the following qualitative criteria are met:

- (a) the staff member has managerial responsibility for:
 - (i) legal affairs;
 - (ii) the soundness of accounting policies and procedures;
 - (iii) finance, including taxation and budgeting;
 - (iv) performing economic analysis;
 - (v) the prevention of money laundering and terrorist financing;
 - (vi) human resources;
 - (vii) the development or implementation of the remuneration policy;
 - (viii) information technology;
 - (ix) information security;
 - (x) managing outsourcing arrangements of critical or important functions as referred to in Article 30(1) of Commission Delegated Regulation (EU) 2017/565 ⁽⁷⁾;
- (b) the staff member has managerial responsibilities for any of the risk categories set out in Articles 79 to 87 of Directive 2013/36/EU, or is a voting member of a committee responsible for the management of any of the risk categories set out in those Articles;
- (c) with regard to credit risk exposures of a nominal amount per transaction, representing 0,5 % of the institution's Common Equity Tier 1 capital and which is at least EUR 5 million, the staff member meets one of the following criteria:
 - (i) the staff member has the authority to take, approve or veto decisions on such credit risk exposures;
 - (ii) the staff member is a voting member of a committee which has the authority to take the decisions as referred to in point (i) of this point (c);
- (d) in relation to an institution for which the derogation for small trading book businesses set out in Article 94 of Regulation (EU) No 575/2013 does not apply, the staff member meets one of the following criteria:
 - (i) the staff member has the authority to take, approve or veto decisions on transactions on the trading book that in aggregate represent one of the following thresholds:
 - where the standardised approach is used, an own funds requirement for market risks that represents 0,5 % or more of the institution's Common Equity Tier 1 capital;
 - where an internal model-based approach is approved for regulatory purposes, 5 % or more of the institution's internal value-at-risk limit for trading book exposures at a 99th percentile (one-tailed confidence interval level);

⁽⁷⁾ Commission Delegated Regulation (EU) 2017/565 of 25 April 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council as regards organisational requirements and operating conditions for investment firms and defined terms for the purposes of that Directive (OJ L 87, 31.3.2017, p. 1).

- (ii) the staff member is a voting member of a committee that has the authority to take the decisions mentioned in point (i) of this point;
- (e) the staff member heads a group of staff members who have individual authorities to commit the institution to transactions and either of the following conditions is met:
 - (i) the sum of those authorities equals or exceeds the threshold referred to in point (c)(i) or in point (d)(i), the first indent;
 - (ii) where an internal model-based approach is approved for regulatory purposes, those authorities amount to 5 % or more of the institution's internal value-at-risk limit for trading book exposures at a 99th percentile (one-tailed confidence interval level); where the institution does not calculate a value-at-risk at the level of that staff member, the value-at-risk limits of staff under the management of this staff member shall be added up;
- (f) the staff member meets either of the following criteria with regard to decision on approving or vetoing the introduction of new products:
 - (i) the staff member has authority to take such decisions;
 - (ii) the staff member is a voting member of a committee that has authority to take such decisions.

Article 6

Quantitative criteria

1. In addition to staff members identified under the criteria set out in Article 92(3), points (a) and (b), of Directive 2013/36/EU, staff members shall be deemed to have a material impact on an institution's risk profile where any of the following quantitative criteria are met:
 - (a) the staff members, including staff members as referred to in Article 92(3), point (c), of Directive 2013/36/EU, have been awarded in or for the preceding financial year a total remuneration that is equal to or greater than EUR 750 000;
 - (b) where the institution has over 1 000 members of staff, the staff members are within the 0,3 % of staff, rounded to the next higher integral figure, which has, within the institution, been awarded the highest total remuneration in or for the preceding financial year on an individual basis.
2. The criteria laid down in paragraph 1 shall not apply where the institution determines that the professional activities of the staff member do not have a material impact on the institution's risk profile, because the staff member, or the category of staff to which the staff member belongs, meet any of the following conditions:
 - (a) the staff member or categories of staff only carry out professional activities and has authorities in a business unit that is not a material business unit;
 - (b) the professional activities of the staff member or category of staff have no significant impact on the risk profile of a material business unit having regard to the criteria set out in Article 3.
3. The application of paragraph 2 by an institution shall be subject to the prior approval of the competent authority responsible for prudential supervision of that institution. The competent authority shall only give its prior approval where the institution can demonstrate that one of the conditions set out in paragraph 2 are satisfied.
4. Where the staff member was awarded a total remuneration of EUR 1 000 000 or more in or for the preceding financial year, the competent authority shall only give its prior approval under paragraph 3 in exceptional circumstances. In order to ensure the consistent application of this paragraph, the competent authority shall inform the EBA before giving its approval in respect of such a staff member.

The existence of exceptional circumstances shall be demonstrated by the institution and assessed by the competent authority. Exceptional circumstances shall be situations that are unusual and very infrequent or far beyond what is usual. The exceptional circumstances shall be related to the staff member.

*Article 7***Calculation of the average total remuneration for members of the management body and senior management and of variable remuneration awarded**

1. The average total remuneration of all members of the management body and senior management shall be calculated by taking into account the total of the fixed and variable remuneration of all members of the management body in its management function and supervisory function as well as of all staff that belongs to the senior management as defined in Article 3(1), point (9), of Directive 2013/36/EU.
2. For the purposes of this Regulation, variable remuneration that has been awarded but has not yet been paid shall be valued as at the date of the award without taking into account the application of the discount rate referred to in Article 94(1), point (g)(iii), of Directive 2013/36/EU or reductions in pay-outs, through clawback, malus or otherwise.
3. All amounts of the variable and fixed remuneration shall be calculated gross and on a full-time equivalent basis.
4. Institution's remuneration policies shall set out the reference year for the variable remuneration that they take into account when calculating the total remuneration. That reference year shall be either the year preceding the financial year in which the variable remuneration is awarded or the year preceding the financial year for which the variable remuneration is awarded.

*Article 8***Repeal of Delegated Regulation (EU) No 604/2014**

Delegated Regulation (EU) No 604/2014 is repealed. That Delegated Regulation, however, shall continue to apply to investment firms as defined in Article 4(1), point (2), of Regulation (EU) No 575/2013 until 26 June 2021.

*Article 9***Entry into force**

This Regulation shall enter into force on the fifth 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, 25 March 2021.

For the Commission
The President
Ursula VON DER LEYEN

DECISIONS

COUNCIL DECISION (EU) 2021/924

of 3 June 2021

on the position to be adopted on behalf of the European Union within the International Cocoa Council as regards the extension of the International Cocoa Agreement 2010

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission,

Whereas:

- (1) The International Cocoa Agreement 2010 (the 'Agreement') was concluded by the Union by Council Decision 2012/189/EU ⁽¹⁾ and entered into force on 1 October 2012.
- (2) Pursuant to Article 62(1) of the Agreement, the Agreement remains in force until 30 September 2022, unless extended.
- (3) Pursuant to Article 7(1) of the Agreement, the International Cocoa Council of the International Cocoa Organization (the 'ICCO Council') is to exercise all such powers and perform or arrange for the performance of all such functions as are necessary to carry out the express provisions of the Agreement. Pursuant to Article 62(4) of the Agreement, the ICCO Council may adopt a decision extending the Agreement beyond its current expiry date for two periods not exceeding two cocoa years each, that is until 30 September 2024 for the first period and until 30 September 2026 for the second period.
- (4) The ICCO Council is to adopt a decision on the extension of the Agreement following its 103rd session on 22 and 23 April 2021.
- (5) It is appropriate to establish the position to be adopted on the Union's behalf in the ICCO Council, as the ICCO Council's decision as regards the extension of the Agreement will be binding on the Union.
- (6) It is in the interests of the Union that the Agreement be extended and that the Union remain a party to it, considering the importance of the cocoa sector for a number of Member States and for the economy of the Union.
- (7) Extending the Agreement for a maximum of four years should give members of the ICCO Council appropriate time to undertake a substantial revision of the Agreement that focuses on its modernisation and simplification,

HAS ADOPTED THIS DECISION:

Article 1

The position to be adopted on the Union's behalf within the International Cocoa Council of the International Cocoa Organization as regards the extension of the International Cocoa Agreement 2010 shall be to vote in favour of its extension for two periods not exceeding two cocoa years each, that is until 30 September 2024 for the first period and until 30 September 2026 for the second period.

⁽¹⁾ Council Decision 2012/189/EU of 26 March 2012 on the conclusion of the International Cocoa Agreement 2010 (OJ L 102, 12.4.2012, p. 1).

Article 2

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

Done at Luxembourg, 3 June 2021.

For the Council
The President
P. N. SANTOS

COUNCIL DECISION (EU) 2021/925**of 7 June 2021****on the position to be taken on behalf of the European Union in the World Forum for Harmonisation of Vehicle Regulations of the United Nations Economic Commission for Europe as regards the proposals for modifications to UN Regulations Nos 13, 13-H, 24, 30, 41, 49, 79, 83, 95, 101, 124, 129, 134, 137 and 157, and the proposals for modifications to Global Technical Regulations Nos 4 and 9**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114, in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) By Council Decision 97/836/EC ⁽¹⁾, the Union acceded to the Agreement of the United Nations Economic Commission for Europe (UNECE) concerning the adoption of uniform technical prescriptions for wheeled vehicles, equipment and parts which can be fitted to and/or be used on wheeled vehicles and the conditions for reciprocal recognition of approvals granted on the basis of those prescriptions (the 'Revised 1958 Agreement'). The Revised 1958 Agreement entered into force on 24 March 1998.
- (2) By Council Decision 2000/125/EC ⁽²⁾, the Union acceded to the Agreement concerning the establishing of global technical regulations for wheeled vehicles, equipment and parts, which can be fitted and/or be used on wheeled vehicles (the 'Parallel Agreement'). The Parallel Agreement entered into force on 15 February 2000.
- (3) Regulation (EU) 2018/858 of the European Parliament and of the Council ⁽³⁾ lays down administrative provisions and technical requirements for the type-approval and placing on the market of all new vehicles, systems, components and separate technical units. That Regulation incorporates regulations adopted under the Revised 1958 Agreement ('UN Regulations') in the EU type-approval system, either as requirements for type-approval or as alternatives to Union legislation.
- (4) Pursuant to Article 1 of the Revised 1958 Agreement and Article 6 of the Parallel Agreement, the UNECE World Forum for Harmonisation of Vehicle Regulations (UNECE WP.29) may adopt proposals for modifications to UN Regulations, UN Global Technical Regulations (UN GTRs) and UN Resolutions as well as proposals for new UN Regulations, UN GTRs and UN Resolutions concerning the approval of vehicles. Moreover, pursuant to those provisions, UNECE WP.29 may adopt proposals for authorisations to develop amendments to UN GTRs or to develop new UN GTRs, and may adopt proposals for the extension of mandates for UN GTRs.
- (5) UNECE WP.29, during the 184th session of the World Forum to be held between 22 and 24 June 2021, may adopt the proposals for modifications to UN Regulations Nos 13, 13-H, 24, 30, 41, 49, 79, 83, 95, 101, 124, 129, 134, 137 and 157, and the proposals for modifications to Global Technical Regulations Nos 4 and 9.
- (6) It is appropriate to establish the position to be taken on the Union's behalf in UNECE WP.29, as regards the adoption of those proposals, as the UN Regulations will be binding on the Union and, together with the UN GTRs, capable of decisively influencing the content of Union law in the field of vehicle type-approval.

⁽¹⁾ Council Decision 97/836/EC of 27 November 1997 with a view to accession by the European Community to the Agreement of the United Nations Economic Commission for Europe concerning the adoption of uniform technical prescriptions for wheeled vehicles, equipment and parts which can be fitted to and/or be used on wheeled vehicles and the conditions for reciprocal recognition of approvals granted on the basis of these prescriptions ('Revised 1958 Agreement') (OJ L 346, 17.12.1997, p. 78).

⁽²⁾ Council Decision 2000/125/EC of 31 January 2000 concerning the conclusion of the Agreement concerning the establishing of global technical regulations for wheeled vehicles, equipment and parts which can be fitted and/or be used on wheeled vehicles ('Parallel Agreement') (OJ L 35, 10.2.2000, p. 12).

⁽³⁾ Regulation (EU) 2018/858 of the European Parliament and of the Council of 30 May 2018 on the approval and market surveillance of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles, amending Regulations (EC) No 715/2007 and (EC) No 595/2009 and repealing Directive 2007/46/EC (OJ L 151, 14.6.2018, p. 1).

- (7) In the light of experience and technical developments, the requirements relating to certain elements or features covered by UN Regulations Nos 13, 13-H, 24, 30, 41, 49, 79, 83, 95, 101, 124, 129, 134, 137 and 157, need to be amended, corrected or supplemented.
- (8) In addition, certain provisions in UN GTRs Nos 4 and 9 need to be amended,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on the Union's behalf in the 184th session of the UNECE World Forum for Harmonisation of Vehicle Regulations to be held between 22 and 24 June 2021 shall be to vote in favour of the proposals for modifications to UN Regulations Nos 13, 13-H, 24, 30, 41, 49, 79, 83, 95, 101, 124, 129, 134, 137 and 157, and the proposals for modifications to Global Technical Regulations Nos 4 and 9 ⁽⁴⁾.

Article 2

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

Done at Luxembourg, 7 June 2021.

For the Council
The President
F. VAN DUNEM

⁽⁴⁾ See document ST 9001/21 on <http://register.consilium.europa.eu>

COUNCIL DECISION (EU) 2021/926**of 7 June 2021****on the positions to be taken on behalf of the European Union in written procedures by the Participants to the Arrangement on Officially Supported Export Credits and by the Participants to the Sector Understanding on Export Credits for Civil Aircraft as regards the requests by the United Kingdom to become a Participant thereto**

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission,

Whereas:

- (1) The guidelines contained in the Arrangement on Officially Supported Export Credits (the 'Arrangement') developed within the framework of the Organisation for Economic Cooperation and Development (OECD) apply in the Union by virtue of Regulation (EU) No 1233/2011 of the European Parliament and of the Council ⁽¹⁾.
- (2) The Participants to the Arrangement are Australia, Canada, the European Union, Japan, Korea, New Zealand, Norway, Switzerland, Turkey and the United States.
- (3) The Sector Understanding on Export Credits for Civil Aircraft (the 'ASU') is contained in Annex III to the Arrangement and is an integral part of the Arrangement. The ASU therefore also applies in the Union by virtue of Regulation (EU) No 1233/2011.
- (4) The Participants to the ASU are Australia, Brazil, Canada, the European Union, Japan, Korea, New Zealand, Norway, Switzerland and the United States.
- (5) The Arrangement, including the ASU, provides a framework for the orderly and transparent use of officially supported export credits in their respective areas of application. It seeks to foster a level playing field for officially supported export credits, in order to encourage competition among exporters based on quality and price of goods and services exported rather than on the most favourable officially supported financial terms and conditions.
- (6) The United Kingdom of Great Britain and Northern Ireland (the 'United Kingdom') withdrew from the Union with effect from 1 February 2020 ⁽²⁾.
- (7) In accordance with Article 3 of the Arrangement, Members of the OECD who are not Participants to the Arrangement and non-members of the OECD may be invited to become Participants by the current Participants. A non-Participant to the ASU may become a Participant thereto in accordance with the procedures set out in Appendix I to the ASU.
- (8) In a letter of 28 January 2021, the United Kingdom requested that the Participants to the Arrangement and the Participants to the ASU agree to it becoming a Participant to the Arrangement and to the ASU, respectively. The Participants to the Arrangement and the Participants to the ASU are to decide by written procedure on those requests.
- (9) It is appropriate to establish the position to be taken on the Union's behalf on the decision to be adopted by the Participants to the Arrangement, as well as the position to be taken on the Union's behalf on the decision to be adopted by the Participants to the ASU, as both envisaged decisions will be binding on the Union by virtue of Article 2 of Regulation (EU) No 1233/2011,

⁽¹⁾ Regulation (EU) No 1233/2011 of the European Parliament and of the Council of 16 November 2011 on the application of certain guidelines in the field of officially supported export credits and repealing Council Decisions 2001/76/EC and 2001/77/EC (OJ L 326, 8.12.2011, p. 45).

⁽²⁾ Council Decision (EU) 2020/135 of 30 January 2020 on the conclusion of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (OJ L 29, 31.1.2020, p. 1).

HAS ADOPTED THIS DECISION:

Article 1

1. The position to be taken on the Union's behalf in the written procedure by the Participants to the Arrangement on Officially Supported Export Credits regarding the request by the United Kingdom to become a Participant to the Arrangement shall be to support that request.
2. The position to be taken on the Union's behalf in the written procedure by the Participants to the Sector Understanding on Export Credits for Civil Aircraft regarding the request by the United Kingdom to become a Participant to the Sector Understanding shall be to support that request.

Article 2

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

Done at Luxembourg, 7 June 2021.

For the Council
The President
F. VAN DUNEM

COMMISSION IMPLEMENTING DECISION (EU) 2021/927**of 31 May 2021****determining the uniform cross-sectoral correction factor for the adjustment of free allocations of emission allowances for the period 2021 to 2025***(notified under document C(2021) 3745)***(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Commission Delegated Regulation (EU) 2019/331 ⁽¹⁾ of 19 December 2018 determining transitional Union-wide rules for harmonised free allocation of emission allowances pursuant to Article 10a of Directive 2003/87/EC of the European Parliament and of the Council, and in particular Article 14(6) thereof,

Whereas:

- (1) Articles 10a(5), 10a(5a) and 10a(8) of Directive 2003/87/EC of the European Parliament and of the Council ⁽²⁾ provide for a maximum annual amount of allowances constituting the basis for calculating allowances allocated free of charge to installations not covered by Article 10a(3) of that Directive.
- (2) The maximum amount of free allocation of allowances provided for by Article 10a(5) of Directive 2003/87/EC minus the amount referred to in Article 10a(8) and taking into account the available additional amount, where necessary, set by Article 10a(5a) of that Directive should not be exceeded in order to respect the auctioning share set out in Article 10 of Directive 2003/87/EC. In order to ensure that that maximum annual amount of allowances is not exceeded, an annual cross-sectoral correction factor should be applied, if necessary, reducing in a uniform manner the number of free allowances for each installation eligible for free allocation.
- (3) Pursuant to Article 14(6) of Delegated Regulation (EU) 2019/331, the Commission is to determine the cross-sectoral correction factor for each year of the relevant allocation period once the preliminary annual amounts of free allowances for that period are notified.
- (4) The cross-sectoral correction factor applicable each year of the allocation period 2021 to 2025 to installations that are not identified as electricity generators and that are not new entrants should be determined based on the preliminary annual amount of emission allowances allocated free of charge over the allocation period, not including the free allowances allocated to the installations that are excluded by Member States from the emissions trading system within the Union (EU ETS), in accordance with Article 27 or 27a of Directive 2003/87/EC and including the free allowances allocated to installations that are included by Member States in accordance with Article 24 of that Directive.
- (5) For 2021, the Union-wide quantity of allowances referred to in Article 9 of Directive 2003/87/EC amounts to 1 571 583 007, as set out in Article 1 of Commission Decision (EU) 2020/1722 ⁽³⁾. In accordance with Article 10(1), first and second subparagraphs, of Directive 2003/87/EC, the maximum (annual) amount provided for by Article 10a(5) was calculated as 43 % of 1 571 583 007, that is 675 780 693. From this amount of 675 780 693, 32 500 000 allowances should be deducted annually in accordance with Article 10a(8) of Directive 2003/87/EC, leading to a maximum amount of 643 280 693 for 2021. Pursuant to Article 10a(5a) of Directive 2003/87/EC, an additional amount of up to 3 % of the total quantity of allowances, amounting to 413 420 157 over the ten-year period 2021 to 2030, would be used to increase the maximum amount available if the preliminary annual amounts of free allowances per installation as submitted by the Member States and the EEA EFTA states, applying the relevant factor determined in Annex V to Delegated Regulation (EU) 2019/331, exceeded the maximum quantity referred to in Article 10a(5) of the Directive. The latter was however not the case. Therefore, the annual cross-sectoral correction factor should be 100 %.

⁽¹⁾ OJ L 59, 27.2.2019, p. 8.

⁽²⁾ Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC (OJ L 275, 25.10.2003, p. 32).

⁽³⁾ Commission Decision (EU) 2020/1722 of 16 November 2020 on the Union-wide quantity of allowances to be issued under the EU Emissions Trading System for 2021 (OJ L 386, 18.11.2020, p. 26).

- (6) Any unused allowances from the maximum amounts in the year 2021 should be made available in the subsequent year, namely 2022. That logic should continue to apply for subsequent years during the allocation period 2021 to 2025 referred to in Article 2, point 15 of Delegated Regulation (EU) 2019/331.
- (7) The maximum amounts provided for by Article 10a(5), 10a(5a) and 10a(8) of Directive 2003/87/EC, the harmonised allocation rules and the cross-sectoral correction factor are to be applied in the EEA EFTA States ⁽⁴⁾. It is therefore necessary to take into account the preliminary annual amounts of emission allowances allocated free of charge over the period 2021 to 2025 based on the data accepted by the EFTA Surveillance Authority with regard to Iceland, Liechtenstein and Norway. The calculations referred to in recital 5 reflect this necessity,

HAS ADOPTED THIS DECISION:

Article 1

For each year in the allocation period 2021 to 2025, the uniform cross-sectoral correction factor for the adjustment of free allocations of emission allowances in accordance with Article 10a(5) and 10a(5a) of Directive 2003/87/EC shall be 100 %.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 31 May 2021.

For the Commission
Frans TIMMERMANS
Executive Vice-President

⁽⁴⁾ Decision of the EEA Joint Committee No 112/2020 of 14 July 2020 amending Annex XX (Environment) to the EEA Agreement (Not yet published in the Official Journal).

DECISION (EU) 2021/928 OF THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES

of 2 June 2021

appointing a Judge to the General Court

THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 19 thereof,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 254 and 255 thereof,

Whereas:

- (1) The terms of office of 23 Judges of the General Court expired on 31 August 2019.
- (2) In that context, Ms Maja BRKAN has been nominated for the post of Judge of the General Court.
- (3) The panel set up under Article 255 of the Treaty on the Functioning of the European Union has given a favourable opinion on the suitability of this candidate to perform the duties of Judge of the General Court.
- (4) Ms Maja BRKAN should therefore be appointed for the period from the date of entry into force of this Decision to 31 August 2025,

HAVE ADOPTED THIS DECISION:

Article 1

Ms Maja BRKAN is hereby appointed Judge of the General Court for the period from the date of entry into force of this Decision to 31 August 2025.

Article 2

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

Done at Brussels, 2 June 2021.

The President
N. BRITO

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