Official Journal of the European Union

L 436

English edition

Legislation

Volume 64

7 December 2021

Contents

[1] Text with EEA relevance.

EN

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

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

([1]) Text with EEA relevance.

II

(Non-legislative acts)

REGULATIONS

COUNCIL IMPLEMENTING REGULATION (EU) 2021/2151

of 6 December 2021

implementing Regulation (EU) 2020/1998 concerning restrictive measures against serious human rights violations and abuses

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to Council Regulation (EU) 2020/1998 of 7 December 2020 concerning restrictive measures against serious human rights violations and abuses ([1]), and in particular Article 14(4) thereof,

Having regard to the proposal from the High Representative of the Union for Foreign Affairs and Security Policy,

Whereas:

(1) On 7 December 2020, the Council adopted Regulation (EU) 2020/1998.

(2) Pursuant to Article 14(4) of Regulation (EU) 2020/1998, the Council has reviewed the list of natural or legal persons, entities or bodies subject to restrictive measures set out in Annex I to that Regulation. On the basis of that review, the entry concerning one deceased person should be removed from that Annex and the entries concerning seven persons should be updated.

(3) Regulation (EU) 2020/1998 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Annex I to Regulation (EU) 2020/1998 is amended as set out in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the 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, 6 December 2021.

For the Council
The President
J. CIGLER KRALJ

([1]) OJ L 410 I, 7.12.2020, p. 1.

ANNEX

In Annex I to Regulation (EU) 2020/1998, the list of natural persons set out in Section A ('Natural persons') is amended as follows:

(1) entry 11 (concerning Mohammed Khalifa AL-KANI (a.k.a. Mohamed Khalifa Abderrahim Shaqaqi AL-KANI, Mohammed AL-KANI, Muhammad Omar AL-KANI)) is deleted;

(2) the entries for the following seven natural persons are replaced by the following:

	Names (Transliteration into Latin script)	Names	Identifying information	Reasons for listing	Date of listing
'4.	Viktor Vasilievich (Vasilyevich) ZOLOTOV	Виктор Васильевич ЗОЛОТОВ	Position(s): Director of the Federal Service of National Guard Troops of the Russian Federation (Rosgvardia) DOB: 27.1.1954 POB: Sasovo, Russian SFSR (now Russian Federation) Nationality: Russian Gender: male	Viktor Zolotov has been the Director of the Federal Service of National Guard Troops of the Russian Federation (Rosgvardia) since 5 April 2016 and therefore Commander-in-Chief of the National Guard Troops of the Russian Federation, as well as Commander of OMON – the Special Purpose Mobile Unit integrated in Rosgvardia. In that position, he oversees all activities of Rosgvardia and OMON troops. In his capacity as Director of Rosgvardia, he is responsible for serious human rights violations in Russia, including arbitrary arrests and detentions and systematic and widespread violations of freedom of peaceful assembly and of association, in particular by violently repressing protests and demonstrations. Rosgvardia was employed to quell the pro-Navalny protests of 23 January and 21 April 2021, and many OMON and National Guard officers were reported to have used brutality and violence against protesters. Dozens of journalists were targeted with aggression by the security forces, including Meduza's correspondent Kristina Safronova, who was hit by an OMON officer, and Novaya Gazeta's journalist Yelizaveta Kirpanova, who was hit on the head with a truncheon leaving her bleeding. During the 23 January 2021 protests, security forces arbitrarily detained more than 300 minors.	2.3.2021
5.	ZHU Hailun	朱海仑 (Chinese spelling)	Position(s): Member of the 13th National People's Congress of the People's Republic of China (in session from 2018 to 2023) representing the Xinjiang Uyghur Autonomous Region (XUAR); Member of the National People's	Former Secretary of the Political and Legal Affairs Committee of the Xinjiang Uyghur Autonomous Region (XUAR) and former Deputy Secretary of the Party Committee of the XUAR (2016 to 2019). Former Deputy Head of the Standing Committee of the 13th People's Congress of the XUAR, a regional legislative body (2019 to 5 February 2021 but still active until at least March 2021). Member of the 13th National People's Congress of the People's Republic of China (in session from 2018 to 2023)	22.3.2021

	Names (Transliteration into Latin script)	Names	Identifying information	Reasons for listing	Date of listing
			Congress Supervisory and Judicial Affairs Committee (since 19 March 2018) DOB: January 1958 POB: Lianshui, Jiangsu (China) Nationality: Chinese Gender: male	representing the XUAR. Member of the National People's Congress Supervisory and Judicial Affairs Committee since 19 March 2018. As Secretary of the Political and Legal Affairs Committee of the XUAR (2016 to 2019), Zhu Hailun was responsible for maintaining internal security and law enforcement in the XUAR. As such, he held a key political position in charge of overseeing and implementing a large-scale surveillance, detention and indoctrination programme targeting Uyghurs and people from other Muslim ethnic minorities. Zhu Hailun has been described as the 'architect' of this programme. He is therefore responsible for serious human rights violations in China, in particular large-scale arbitrary detentions inflicted upon Uyghurs and people from other Muslim ethnic minorities. As Deputy Head of the Standing Committee of the 13th People's Congress of the XUAR (2019 to 5 February 2021), Zhu Hailun continued to exercise a decisive influence in the XUAR where the large-scale surveillance, detention and indoctrination programme targeting Uyghurs and people from other Muslim ethnic minorities continues.	
9.	JONG Kyong-thaek (a.k.a. CHO'NG Kyo'ng-t'aek)	정경택 (Korean spelling)	Position(s): Minister of State Security of the Democratic People's Republic of Korea (DPRK) DOB: between 1.1.1961 and 31.12.1963 Nationality: Democratic People's Republic of Korea (DPRK) Gender: male	Jong Kyong-thaek is the Minister of State Security of the Democratic People's Republic of Korea (DPRK) since 2017. The Ministry of State Security of the DPRK is one of the leading institutions in charge of implementing the repressive security policies of the DPRK, with a focus on identifying and suppressing political dissent, the inflow of 'subversive' information from abroad, and any other conduct considered a serious political threat to the political system and its leadership. As Head of the Ministry of State Security, Jong Kyong-thaek is responsible for serious human rights violations in the DPRK, in particular torture and other cruel, inhuman or degrading treatment or punishment, extrajudicial, summary or arbitrary	22.3.2021

	Names (Transliteration into Latin script)	Names	Identifying information	Reasons for listing	Date of listing
				executions and killings, enforced disappearance of persons, and arbitrary arrests or detentions, as well as widespread forced labour and sexual violence against women.	
10.	RI Yong Gil (a.k.a. RI Yong Gi, RI Yo'ng-kil, YI Yo'ng-kil)	리영길 (Korean spelling)	Position(s): Minister of National Defence of the Democratic People's Republic of Korea (DPRK) DOB: 1955 Nationality: Democratic People's Republic of Korea (DPRK) Gender: male	Ri Yong Gil is the Minister of National Defence of the Democratic People's Republic of Korea (DPRK). He was the Minister of Social Security from January 2021 until June or July 2021. He was Chief of the General Staff of the Korean People's Army (KPA) between 2018 and January 2021. As Minister of National Defence, Ri Yong Gil is responsible for serious human rights violations in the DPRK, including by members of the Military Security Command and other KPA units. The Ministry of Social Security of the DPRK (formerly known as the Ministry of People's Security or Ministry of Public Security) and the Military Security Command are leading institutions in charge of implementing the repressive security policies of the DPRK, including interrogation and punishment of people 'illegally' fleeing the DPRK. In particular, the Ministry of Social Security is in charge of running prison camps and short-term labour detention centres through its Correctional Bureau, where prisoners/detainees are subject to deliberate starvation and other inhuman treatment. As former Head of the Ministry of Social Security, Ri Yong Gil is responsible for serious human rights violations in the DPRK, in particular torture and other cruel, inhuman or degrading treatment or punishment, extrajudicial, summary or arbitrary executions and killings, enforced disappearance of persons, and arbitrary arrests or detentions, as well as widespread forced labour and sexual violence against women. As former Chief of the General Staff of the KPA, Ri Yong Gil is also responsible for the widespread serious human rights violations committed by the KPA.	22.3.2021

	Names (Transliteration into Latin script)	Names	Identifying information	Reasons for listing	Date of listing
12.	Abderrahim AL-KANI (a.k.a. Abdul-Rahim AL-KANI, Abd-al-Rahim AL-KANI)	عبد الرحيم الكاني (Arabic spelling)	Position(s): member of the Kaniyat Militia DOB: 7.9.1997 Nationality: Libyan Passport number: PH3854LY ID number: 119970331820 Gender: male	Abderrahim Al-Kani is a key member of the Kaniyat Militia and brother of the Head of the Kaniyat Militia, Mohammed Khalifa Al-Khani (deceased in July 2021). The Kaniyat Militia exercised control of the Libyan town of Tarhuna between 2015 and June 2020. Abderrahim Al-Kani is in charge of internal security for the Kaniyat Militia. In that capacity, he is responsible for serious human rights abuses in Libya, in particular extrajudicial killings and enforced disappearances of persons between 2015 and June 2020 in Tarhuna. Abderrahim Al-Kani and the Kaniyat Militia fled Tarhuna in early June 2020 to eastern Libya. After that, several mass graves attributed to the Kaniyat Militia were discovered in Tarhuna.	22.3.2021
13.	Aiub Vakhaevich KATAEV (a.k.a. Ayubkhan Vakhaevich KATAEV)	Аюб Вахаевич КАТАЕВ (a.k.a. Аюбхан Вахаевич КАТАЕВ) (Russian spelling)	Position(s): Former Head of Department of the Ministry of Internal Affairs of the Russian Federation in the city of Argun in the Chechen Republic DOB: 1.12.1980 or 1.12.1984 Nationality: Russian Gender: male	Head of Department of the Ministry of Internal Affairs of the Russian Federation in the city of Argun in the Chechen Republic until 2018. In his capacity as Head of Department of the Ministry of Internal Affairs of the Russian Federation in Argun, Aiub Kataev oversaw the activities of local state security and police agencies. In this position, he personally oversaw widespread and systematic persecutions in Chechnya, which began in 2017. The repressions are directed against lesbian, gay, bisexual, transgender and intersex (LGBTI) persons, those presumed to belong to LGBTI groups, and other individuals suspected of being opponents of the Head of the Chechen Republic Ramzan Kadyrov. Aiub Kataev and forces formerly under his command are responsible for serious human rights violations in Russia, in particular torture and other cruel, inhuman or degrading treatment, as well as arbitrary arrests and detentions and extrajudicial or arbitrary executions and killings. According to numerous witnesses, Aiub Kataev personally supervised and took part in torturing detainees.	22.3.2021

	Names (Transliteration into Latin script)	Names	Identifying information	Reasons for listing	Date of listing
14.	Abuzaid (Abuzayed) Dzhandarovich VISMURADOV	Абузайд Джандарович ВИСМУРАДОВ (Russian spelling)	Position(s): Former Commander of the Special Rapid-Response Unit (SOBR) Team 'Terek', Deputy Prime Minister of the Chechen Republic, unofficial bodyguard of the Head of the Chechen Republic Ramzan Kadyrov DOB: 24.12.1975 POB: Akhmat-Yurt/Khosi-Yurt, former Checheno-Ingush Autonomous Soviet Socialist Republic (ASSR), now Chechen Republic (Russian Federation) Nationality: Russian Gender: male	Former Commander of the Special Rapid-Response Unit (SOBR) Team 'Terek'. Since 23 March 2020, Deputy Prime Minister of the Chechen Republic. Unofficial bodyguard of the Head of the Chechen Republic Ramzan Kadyrov. Abuzaid Vismuradov was the Commander of the SOBR detachment 'Terek' from March 2012 until March 2020. In this position, he personally oversaw widespread and systematic persecutions in Chechnya, which began in 2017. The repressions are directed against lesbian, gay, bisexual, transgender and intersex (LGBTI) persons, those presumed to belong to LGBTI groups and other individuals suspected of being opponents of the Head of the Chechen Republic Ramzan Kadyrov. Abuzaid Vismuradov and the 'Terek' unit previously under his command are responsible for serious human rights violations in Russia, in particular torture and other cruel, inhuman or degrading treatment, as well as arbitrary arrests and detentions and extrajudicial and arbitrary killings and executions. According to numerous witnesses, Abuzaid Vismuradov personally supervised and took part in torturing detainees. He is a close associate of Ramzan Kadyrov, the Head of the Chechen Republic, who has been conducting a campaign of repression against his political opponents for many years.	22.3.2021'

COUNCIL IMPLEMENTING REGULATION (EU) 2021/2152

of 6 December 2021

implementing Regulation (EU) No 208/2014 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Ukraine

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to Council Regulation (EU) No 208/2014 of 5 March 2014 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Ukraine [1], and in particular Article 14(1) thereof,

Having regard to the proposal from the High Representative of the Union for Foreign Affairs and Security Policy,

Whereas:

(1) On 5 March 2014, the Council adopted Regulation (EU) No 208/2014.

(2) On the basis of a review by the Council, the entry for one person and the information regarding their rights of defence and their right to effective judicial protection should be deleted.

(3) Annex I to Regulation (EU) No 208/2014 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Annex I to Regulation (EU) No 208/2014 is amended as set out in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the date 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, 6 December 2021.

For the Council
The President
J. CIGLER KRALJ

[1] OJ L 66, 6.3.2014, p. 1.

ANNEX

Annex I to Regulation (EU) No 208/2014 is amended as follows:

(1) In section A ('List of natural and legal persons, entities and bodies referred to in Article 2'), the entry for the following person is deleted:

'17. Oleksandr Viktorovych Klymenko (Олександр Вікторович Клименко)';

(2) In section B ('Rights of defence and right to effective judicial protection'), entry 17, also relating to Oleksandr Viktorovych Klymenko, is deleted.

COMMISSION DELEGATED REGULATION (EU) 2021/2153

of 6 August 2021

supplementing Directive (EU) 2019/2034 of the European Parliament and of the Council with regard to regulatory technical standards specifying the criteria for subjecting certain investment firms to the requirements of Regulation (EU) No 575/2013

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to 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 ([1]), and in particular the third subparagraph of Article 5(6) thereof,

Whereas:

(1) In accordance with Article 5(1) of Directive (EU) 2019/2034, competent authorities may require certain investment firms to be subject to the same prudential treatment as credit institutions that fall within the scope of Regulation (EU) No 575/2013 of the European Parliament and of the Council ([2]) and to comply with prudential supervision under Directive 2013/36/EU of the European Parliament and of the Council ([3]).

(2) For the purposes of Article 5(1)(a) of Directive (EU) 2019/2034, it should be specified that if an investment firm carries out activities exceeding at least one out of four quantitative thresholds for over-the-counter derivatives, financial instruments underwriting and/or placing of financial instruments on a firm commitment basis, granted credits or loans to investors, and debt securities outstanding, those activities are carried out on such a scale that the failure or the distress of the investment firm could lead to systemic risk.

(3) Given the systemic relevance of investment firms' activities, as referred to in Article 5 of Directive (EU) 2019/2034, and the potential significant impact of a contagion effect across the financial sector, investment firms that are clearing members as defined in Article 4(1)(3) of Regulation (EU) 2019/2033 and that offer clearing services to other financial institutions, which are not clearing members themselves, should be considered for the purposes of Article 5(1)(b) of Directive (EU) 2019/2034.

(4) This Regulation is based on the draft regulatory technical standards submitted to the Commission by the European Banking Authority after having consulted the European Securities and Markets Authority.

(5) The European Banking Authority 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 ([4]),

([1]) OJ L 314, 5.12.2019, p. 64.

([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).

([3]) Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p. 338).

([4]) 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).

HAS ADOPTED THIS REGULATION:

Article 1

Scale of activities

For the purposes of Article 5(1)(a) of Directive (EU) 2019/2034, the activities of an investment firm shall be considered to be carried out on such a scale that the failure or distress of the investment firm could lead to systemic risk where the investment firm exceeds any of the following thresholds:

(a) total gross notional value of non-centrally cleared over-the-counter derivatives of EUR 50 billion;

(b) total value of financial instruments underwriting and/or placing of financial instruments on a firm commitment basis of EUR 5 billion;

(c) total value of granted credits or loans to investors to allow them to carry out transactions of EUR 5 billion; and

(d) total value of debt securities outstanding of EUR 5 billion.

Article 2

Clearing member

Investment firms that are clearing members and that offer clearing services to other financial sector entities, which are not clearing members themselves, shall be considered for the purposes of Article 5(1)(b) of Directive (EU) 2019/2034.

Article 3

Entry into force

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, 6 August 2021.

For the Commission
The President
Ursula VON DER LEYEN

COMMISSION DELEGATED REGULATION (EU) 2021/2154

of 13 August 2021

supplementing Directive (EU) 2019/2034 of the European Parliament and of the Council with regard to regulatory technical standards specifying appropriate criteria to identify categories of staff whose professional activities have a material impact on the risk profile of an investment firm or of the assets that it manages

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to 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 ([1]), and in particular Article 30(4), third subparagraph, thereof,

Whereas:

(1) While investment firms falling within the scope of Regulation (EU) No 575/2013 of the European Parliament and of the Council ([2]) and of Titles VII and VIII of Directive 2013/36/EU of the European Parliament and of the Council ([3]), in accordance with Article 1(2) and (5) of Regulation (EU) 2019/2033 of the European Parliament and of the Council ([4]), are subject to Commission Delegated Regulation (EU) 2021/923 ([5]), investment firms falling within the scope of Directive (EU) 2019/2034 of the European Parliament and of the Council are required to apply specific requirements to the variable remuneration of all members of staff whose professional activities have a material impact on the risk profile of the investment firm or of the assets that it manages. It is necessary to lay down appropriate criteria to identify those staff members. Those criteria should take into account the authority and responsibilities of such staff members, the investment firm's risk profile or that of the assets it manages and performance indicators, the investment firm's internal organisation, and the nature, scope and complexity of the firm concerned. Those criteria should also enable investment firms 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 investment firm.

(2) Members of the management body have the ultimate responsibility for the investment firm, its strategy and activities, and therefore should always be considered to have a material impact on the investment firm's risk profile. This applies both to the members of the management body in its management function who take decisions and to the members of the management body in its supervisory function who oversee the decision-making process and challenge decisions made.

([1]) OJ L 314, 5.12.2019, p. 64.

([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).

([3]) 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, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176 27.6.2013, p. 338).

([4]) Regulation (EU) 2019/2033 of the European Parliament and of the Council of 27 November 2019 on the prudential requirements of investment firms and amending Regulations (EU) No 1093/2010, (EU) No 575/2013, (EU) No 600/2014 and (EU) No 806/2014 (OJ L 314, 5.12.2019, p. 1).

([5]) 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 (OJ L 203, 9.6.2021, p. 1).

(3) Some staff members are responsible for providing internal support that is crucial to the operation of an investment firm's business activities. Their activities and decisions can also have a material impact on an investment firm's risk profile or that of the assets it manages because their activities and decisions may expose the investment firm to material operational and other risks.

(4) The professional activities of staff members with managerial responsibility can have a material impact on the investment firm's risk profile or that of the assets it manages because they can make strategic or other fundamental decisions that have an impact on the investment firm's business activities or on the control functions applied. Such control functions include, typically, risk management, compliance and internal audit. The risks taken by the business units and the way those business units are managed are the most important factors for an investment firm's risk profile or that of the assets it manages. Certain business activities create higher risks than others and therefore the nature of the business activities should be taken into account.

(5) Appropriate qualitative criteria should ensure that staff members are identified as having a material impact where they are responsible for groups of staff whose activities could have a material impact on the investment firm's risk profile or of the assets that it manages. This includes situations where the activities of individual staff members under their management do not individually have a material impact on the investment firm's risk profile but the overall scale of their activities could have such an impact.

(6) The total remuneration of staff members depends typically on the contribution that those staff members make to the successful achievement of the investment firm'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 investment firm. Where a staff member is awarded a total remuneration which exceeds a certain threshold, it is reasonable to presume that such remuneration is linked to that staff member's contribution to the investment firm's business objectives and is therefore related to the impact of the staff member's professional activities on the risk profile of the investment firm or of the assets that it manages. It is therefore appropriate to apply quantitative criteria related to the total remuneration of a staff member, both in absolute and relative terms, to other members of staff within the same investment firm to determine whether the professional activities of such staff member could have a material impact on the investment firm's risk profile or that of the assets it manages.

(7) Clear and appropriate thresholds should be established to identify staff members whose professional activities have a material impact on the investment firm's risk profile or of the assets that it manages. Investment firms 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 quantitative 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 quantitative 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 possible. Where such timely 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 investment firm.

(8) A quantitative threshold of EUR 500 000 should be set for the identification of staff members whose professional activities have a material impact on the risk profile of the investment firm or of the assets that it manages. Remuneration above that quantitative threshold or amounting to one of the highest remunerations within the investment firm thus establishes a strong presumption that the activities of staff members receiving such remuneration have a material impact on the investment's risk profile or that of the assets it manages, 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 investment firm's risk profile or that of the assets it manages.

(9) However, such presumptions based on quantitative criteria should not apply where investment firms establish on the basis of additional objective criteria that such staff members do not in fact have a material impact on the investment firm's risk profile or of the assets that it manages, taking into account all risks to which the investment firm is or may be exposed. To ensure an effective and consistent application of those objective criteria, competent authorities should approve the exclusion of the highest earning staff members identified or those staff members with a remuneration awarded of more than EUR 750 000. For staff members who 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 ensure the consistent application of those criteria.

(10) Being in the same remuneration bracket as senior management or risk takers may also be an indicator that the staff member's professional activities have a material impact on the investment firm's risk profile or that of the assets it manages. For that purpose, the remuneration paid to staff in control functions, support functions and members of the management body in its supervisory function should not be taken into account. In the application of this quantitative criterion, the fact that payment levels differ across jurisdictions should be also taken into account. Investment firms should be allowed to demonstrate that staff members who fall within the remuneration bracket, but do not meet any of the qualitative or other quantitative criteria, do not have a material impact on the investment firm's risk profile or that of the assets it manages, taking into account all risks to which the investment firm is or may be exposed.

(11) In order for competent authorities and auditors to be able to review the assessments carried out by investment firms to identify staff members whose professional activities have a material impact on the risk profile of the investment firm or of the assets that it manages, it is critical that investment firms keep records of the assessments made and their results, including of staff members who have been identified under criteria based on their total remuneration but whose professional activities are assessed as not having a material impact on the investment firm's risk profile or of the assets that it manages.

(12) This Regulation is based on the draft regulatory technical standards submitted to the Commission by the EBA after having consulted the European Securities and Markets Authority.

(13) The EBA has conducted open public consultations on the draft regulatory technical standards on which this Regulation is based and 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 ([6]),

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 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;

(2) 'control function' means a function that is independent from the business unit it controls and that is responsible for providing an objective assessment of the investment firm'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) 'business unit' means a business unit as defined in Article 142(1), point (3), of Regulation (EU) No 575/2013.

([6]) 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).

Article 2

Application of criteria

1. Where this Regulation is applied on an individual basis in accordance with Article 25 of Directive (EU) 2019/2034, compliance with the criteria set out in Articles 3 and 4 of this Regulation shall be assessed against the investment firm's individual risk profile.

2. Where this Regulation is applied on a consolidated basis in accordance with Article 25 of Directive (EU) 2019/2034, compliance with the criteria set out in Articles 3 and 4 of this Regulation shall be assessed against the risk profile of the investment firm on a consolidated basis.

3. Where Article 4(1), point (a), is applied on an individual basis, the remuneration awarded by the investment firm shall be considered.

4. Where Article 4(1), point (a), is applied on a consolidated basis, the consolidating investment firm shall consider the remuneration awarded by any entity that falls within the scope of consolidation.

5. Article 4(1), point (b), shall only apply on an individual basis.

6. Article 4(1), point (c), shall apply on an individual and consolidated basis.

Article 3

Qualitative criteria

Staff members shall be deemed to have a material impact on an investment firm's risk profile or that of the assets it manages where one or more of the following qualitative criteria are met:

(a) the staff member is a member of the management body in its management function;

(b) the staff member is a member of the management body in its supervisory function;

(c) the staff member is a member of the senior management;

(d) in investment firms with a total balance sheet equal to or more than EUR 100 million, staff members with managerial responsibility for business units that are providing at least one of the services that require authorisation listed under points (2) to (7) of Annex I, Section A, to Directive 2014/65/EU of the European Parliament and of the Council ([7]);

(e) the staff member has managerial responsibilities for the activities of a control function;

(f) the staff member has managerial responsibilities for the prevention of money laundering and terrorist financing;

(g) the staff member is responsible for managing a material risk as referred to in Article 28(3) of Directive (EU) 2019/2034 within the investment firm or is a voting member of a committee responsible for managing a material risk to which the investment firm is exposed;

(h) in an investment firm that is authorised for providing at least one of the services listed under points (2) to (7) of Annex I, Section A to Directive 2014/65/EU, the staff member is responsible for managing one of the following activities:

  (i) economic analysis;

  (ii) information technology;

  (iii) information security;

  (iv) outsourcing arrangements of critical or important functions as referred to in Article 30(1) of Commission Delegated Regulation (EU) 2017/565 ([8]).

([7]) Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (OJ L 173, 12.6.2014, p. 349).

([8]) 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).

(i) the staff member meets either of the following criteria with regard to decisions for 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 which has authority to take such decisions.

Article 4

Quantitative criteria

1. Subject to paragraphs 2 to 5, a staff member shall be deemed to have a material impact on an investment firm's risk profile or that of the assets it manages where any one of the following quantitative criteria is met:

(a) the staff member has been awarded a total remuneration which is equal to or greater than EUR 500 000 in or for the preceding financial year;

(b) where the investment firm has over 1 000 staff members, the staff member is within the 0,3 % of staff, rounded to the next higher integral figure, who has, within the investment firm, been awarded the highest total remuneration in or for the preceding financial year;

(c) the staff member was in or for the preceding financial year awarded total remuneration that is equal to or greater than the lowest total remuneration awarded in that financial year to a member of staff who meets one or more of the criteria set out in Article 3, points (a), (c), (d), (h) or (i).

2. The criteria laid down in paragraph 1 shall not apply where the investment firm determines that the staff member, or the category of staff to which the staff member belongs, has no material impact on the risk profile of the investment firm or of the assets it manages.

3. The condition of paragraph 2 of this Article shall be assessed on the basis of objective criteria which take into account all relevant risk and performance indicators used by the investment firm to identify, manage and monitor risks in accordance with Article 28 of Directive (EU) 2019/2034 and on the basis of the duties and authorities of the staff member or categories of staff and their impact on the investment firm's risk profile or that of the assets it manages, when compared with the impact of the professional activities of staff members identified in accordance with Article 3 of this Regulation.

4. The application of paragraph 2 by an investment firm, in respect of a staff member referred to in paragraph 1, point (b), or a staff member who was awarded a total remuneration of EUR 750 000 or more in or for the preceding financial year, shall be subject to the prior approval of the competent authority responsible for the prudential supervision of that investment firm.

The competent authority shall only give its prior approval where the investment firm can demonstrate that the condition set out in paragraph 2 is satisfied, having regard to the assessment criteria set out in paragraph 3.

5. Where the staff member was awarded 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 4 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 investment firm and assessed by the competent authority. Exceptional circumstances shall be situations that are unusual, very infrequent or far beyond what is usual. The exceptional circumstances shall relate to the staff member concerned.

Article 5

Calculation of the total remuneration awarded

1. All amounts of the variable and fixed remuneration shall be calculated gross and on a full-time equivalent basis.

2. Investment firms' remuneration policies shall set out the reference year for the variable remuneration taken 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 6

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, 13 August 2021.

For the Commission
The President
Ursula VON DER LEYEN

COMMISSION DELEGATED REGULATION (EU) 2021/2155

of 13 August 2021

supplementing Directive (EU) 2019/2034 of the European Parliament and of the Council with regard to regulatory technical standards specifying the classes of instruments that adequately reflect the credit quality of the investment firm as a going concern and possible alternative arrangements that are appropriate to be used for the purposes of variable remuneration

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to 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 ([1]), and in particular Article 32(8), third subparagraph, thereof,

Whereas:

(1) Variable remuneration awarded in instruments should promote sound and effective risk management and should not encourage risk-taking that exceeds the level of risk appetite of the investment firm. Therefore, classes of instruments which can be used for the purposes of variable remuneration should align the interests of staff with the longer-term interests of the investment firm, its shareholders, creditors, clients and other stakeholders by providing incentives for staff to act in the longer-term interest of the investment firm.

(2) In order to ensure that there is a strong link to the credit quality of an investment firm as a going concern, instruments used for the purposes of variable remuneration should contain appropriate trigger events for write-down or conversion which reduce the value of the instruments in situations where the credit quality of the investment firm as a going concern has deteriorated. The trigger events used for remuneration purposes should not change the level of subordination of the instruments and therefore should not lead to a disqualification of Additional Tier 1 or Tier 2 instruments as own funds instruments.

(3) While the conditions which apply to Additional Tier 1 and Tier 2 instruments are specified in Article 9 of Regulation (EU) 2019/2033 of the European Parliament and of the Council ([2]) in conjunction with Part Two, Title 1, Chapters 3 and 4 of Regulation (EU) No 575/2013 of the European Parliament and of the Council ([3]), the Other Instruments referred to in Article 32(1), point (j)(iii), of Directive (EU) 2019/2034 ('Other Instruments') which can be fully converted to Common Equity Tier 1 instruments or written down, are not subject to specific conditions pursuant to those Regulations as they are not classified as own funds instruments for prudential purposes. Specific requirements should therefore be set for different classes of instruments to ensure that they are appropriate to be used for the purposes of variable remuneration, taking account of the different nature of the instruments. The use of instruments for the purposes of variable remuneration should not in itself prevent instruments from qualifying as own funds of an investment firm as long as the conditions laid down in Regulation (EU) 2019/2033 are met. Nor should such use in itself be understood as providing an incentive to redeem the instrument, as after deferral and retention periods staff members are, in general, able to receive liquid funds by other means than redemption.

([1]) OJ L 314, 5.12.2019, p. 64.

([2]) Regulation (EU) 2019/2033 of the European Parliament and of the Council of 27 November 2019 on the prudential requirements of investment firms and amending Regulations (EU) No 1093/2010, (EU) No 575/2013, (EU) No 600/2014 and (EU) No 806/2014 (OJ L 314, 5.12.2019, p. 1).

([3]) 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).

(4) Other Instruments are not limited to the financial instruments specified in Section C of Annex I to Directive 2014/65/EU of the European Parliament and of the Council ([4]). To reduce the administrative burden for the creation of such instruments, those instruments should also allow for the use of other contractual arrangements between staff members and investment firms. To ensure that those Other Instruments reflect the credit quality of an investment firm as a going concern, appropriate requirements should ensure that such instruments are written down or converted before an investment firm fails to meet its own funds requirements.

(5) When instruments used for the purposes of variable remuneration are called, redeemed, repurchased or converted, in general such transactions should not increase the value of the remuneration awarded by paying out amounts that are higher than the value of the instrument or by converting into instruments which have a higher value than the instrument initially awarded. The replacement of instruments at the same value should ensure that remuneration is not paid through vehicles or methods that facilitate non-compliance with Directive (EU) 2019/2034 or Regulation (EU) 2019/2033.

(6) When awarding variable remuneration and when instruments used for variable remuneration are redeemed, called, repurchased or converted, those transactions should be based on values that have been established in accordance with the applicable accounting standard at the point of time of the transaction, thus ensuring that the correct amount of variable remuneration is awarded and not unduly altered when the instrument is redeemed, called, repurchased or converted.

(7) Article 54 of Regulation (EU) No 575/2013 sets out the write-down and conversion mechanisms for Additional Tier 1 instruments. Additionally, Article 32(1), point (j)(iii), of Directive (EU) 2019/2034 requires that Other Instruments can be fully converted into Common Equity Tier 1 instruments or written down. As the economic outcome of a conversion or write-down of Other Instruments is the same as for Additional Tier 1 instruments, write-down or conversion mechanisms for Other Instruments should take into account the mechanisms that apply to Additional Tier 1 instruments, with adaptations to take account of the fact that Other Instruments do not qualify as own fund instruments from a prudential perspective. Tier 2 instruments are not subject to regulatory requirements regarding write-down and conversion under Regulation (EU) No 575/2013. To ensure that the value of all such instruments, when used for variable remuneration, is reduced when the credit quality of the investment firm deteriorates, the situations in which a write-down or conversion of the instrument is necessary should be specified. The write-down, write-up and conversion mechanisms for Tier 2 and Other Instruments should be specified to ensure consistent application.

(8) Distributions arising from instruments can take various forms. They can be variable or fixed and can be paid periodically or at the final maturity of an instrument. To promote sound and effective risk management, no distributions should be paid to staff during deferral periods. Staff members should only receive the distributions in respect of periods which follow the vesting of the instrument, after which staff becomes its legal owner. Therefore, only instruments with distributions which are paid periodically to the owner of the instrument are appropriate for use as variable remuneration. Zero coupon bonds or instruments which retain earnings should not be part of remuneration which must consist of any of the instruments referred to inArticle 32(1), point (j), of Directive (EU) 2019/2034. This is because staff would benefit during the deferral period from increasing values, which can be understood as equivalent to receiving distributions.

(9) Very high distributions can reduce the long-term incentive for prudent risk-taking as they effectively increase the variable part of the remuneration. In particular, distributions should not be paid out at intervals of longer than one year, as this would lead to distributions effectively accumulating during deferral periods and being paid out once the variable remuneration vests. Accumulation of distributions would circumvent the principle laid down in Article 32(3) of Directive (EU) 2019/2034 that remuneration payable under deferral arrangements vests no faster than on a *pro rata* basis. Article 32(2), point (b), of Directive (EU) 2019/2034 requires that variable remuneration is not to be paid through financial vehicles or methods that facilitate the non-compliance with that Directive or Regulation (EU) 2019/2033. Therefore, distributions made after the instrument has vested should not exceed market rates for such instruments issued by other investment firms or institutions of comparable credit quality. This should be ensured by requiring instruments used for variable remuneration, or the instruments to which they are linked, to be issued mainly to other investors, or by requiring such instruments to be subject to a cap on distributions.

([4]) Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (OJ L 173, 12.6.2014, p. 349).

(10) Deferral and retention requirements which apply to awards of variable remuneration pursuant to Article 32(1), point (l), and Article 32(3) of Directive (EU) 2019/2034 have to be met at all relevant times, including when instruments used for variable remuneration are called, redeemed, repurchased or converted. In such situations, instruments should therefore be replaced with Additional Tier 1, Tier 2 and Other Instruments which reflect the credit quality of the investment firm as a going concern, have features equivalent to those of the instrument initially awarded, and are of the same value, taking into account any amounts which have been written down. Where instruments other than Additional Tier 1 instruments have a fixed maturity date, minimum requirements should be set for the remaining maturity of such instruments when they are awarded in order to ensure that they are consistent with requirements regarding the deferral and retention periods for variable remuneration.

(11) Directive (EU) 2019/2034 does not limit the classes of instruments that can be used for variable remuneration to a specific class of financial instruments. It should therefore be possible to use synthetic instruments or contracts between staff members and investment firms which are linked to Additional Tier 1 instruments and Tier 2 instruments which can be fully converted or written down. This allows for the introduction of specific conditions in the terms of such instruments which apply only to instruments awarded to staff, without the need to impose such conditions on other investors.

(12) In a group context, issuances may be managed centrally within a parent undertaking, including situations where the parent undertaking is subject to Directive 2013/36/EU of the European Parliament and of the Council ([5]) or Directive 2019/2034. Investment firms within a group may not always themselves issue instruments which are appropriate to be used for the purpose of variable remuneration. Regulation (EU) 2019/2033 in conjunction with Regulation (EU) No 575/2013 enables Additional Tier 1 and Tier 2 instruments issued through an entity within the scope of consolidation to form part of an investment firm's own funds subject to certain conditions. Therefore, it should also be possible to use such instruments for the purpose of variable remuneration, provided that there is a clear link between the credit quality of the investment firm using those instruments for the purpose of variable remuneration and the credit quality of the issuer of the instrument. Such a link can usually be assumed to be the case between a parent undertaking and a subsidiary. Instruments other than Additional Tier 1 instruments and Tier 2 instruments that are not issued directly by an investment firm should also be capable of being used for variable remuneration, subject to equivalent conditions. Instruments that are linked to reference instruments issued by parent undertakings in third countries and that are otherwise equivalent to Additional Tier 1 instruments or Tier 2 instruments should be eligible to be used for the purposes of variable remuneration where the trigger event refers to the investment firm using such a synthetic instrument.

(13) Article 32(1), point (k), of Directive (EU) 2019/2034, enables investment firms that do not issue any of the instruments referred to in Article 32(1), point (j), of that Directive, to use alternative arrangements, provided that the competent authority approves such use and provided that such arrangements fulfil the same objectives as the instruments referred to in Article 32(1), point (j), of that Directive. To fulfil the same objectives, such alternative arrangements should thus ensure that the variable remuneration awarded is subject to implicit risk adjustments. The value of such alternative arrangements should thus decrease whenever there is an adverse effect on the performance of the investment firm concerned or the assets it manages. Furthermore, where the investment firm is subject to the requirement to defer variable remuneration under Article 32(1), point (l), of Directive (EU) 2019/2034, the alternative arrangements should also be consistent with the requirement to defer variable remuneration, and with the application of *malus* or clawback arrangements and retention periods to variable remuneration paid in instruments.

(14) This Regulation is based on the draft regulatory technical standards submitted to the Commission by the European Banking Authority after having consulted the European Securities and Markets Authority.

(15) The European Banking Authority 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 ([6]),

([5]) 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, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176 27.6.2013, p. 338).

([6]) 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).

HAS ADOPTED THIS REGULATION:

Article 1

Classes of instruments that adequately reflect the credit quality of an investment firm as a going concern and are appropriate to be used for the purposes of variable remuneration

1. The following shall be the classes of instruments that satisfy the conditions laid down in Article 32(1), point (j)(iii), of Directive (EU) 2019/2034:

(a) classes of Additional Tier 1 instruments where those classes fulfil the conditions referred to in paragraph 2 of this Article and Article 2, and comply with Article 5(9) and Article 5(13), point (c);

(b) classes of Tier 2 instruments where those classes fulfil the conditions referred to in paragraph 2 of this Article and Article 3, and comply with Article 5;

(c) classes of instruments which can be fully converted to Common Equity Tier 1 instruments or written down and which are neither Additional Tier 1 instruments nor Tier 2 instruments ('Other Instruments') in the cases referred to in Article 4 where those classes fulfil the conditions referred to in paragraph 2 of this Article and comply with Article 5.

2. The classes of instruments referred to in paragraph 1 shall fulfil the following conditions:

(a) instruments shall not be secured or subject to a guarantee that enhances the seniority of the claims of the holder;

(b) where the provisions governing an instrument allow its conversion, that instrument shall only be used for the purposes of awarding variable remuneration where the rate or range of conversion is set at a level that ensures that the value of the instrument into which the instrument initially awarded is converted is not higher than the value of the instrument initially awarded at the time it was awarded as variable remuneration;

(c) the provisions governing convertible instruments which are used for the sole purpose of variable remuneration shall ensure that the value of the instrument into which the instrument initially awarded is converted is not higher than the value, at the time of that conversion, of the instrument initially awarded;

(d) the provisions governing the instrument shall provide that any distributions are paid on at least an annual basis and are paid to the holder of the instrument;

(e) instruments shall be priced at their value at the time the instrument is awarded, in accordance with the applicable accounting standard;

(f) the provisions governing the instruments issued for the sole purpose of variable remuneration shall require a valuation to be carried out in accordance with the applicable accounting standard in the event that the instrument is redeemed, called, repurchased or converted.

For the purposes of point (e), the valuation shall be subject to independent review.

Article 2

Conditions for classes of Additional Tier 1 instruments

Classes of Additional Tier 1 instruments shall comply with the following conditions:

(a) the provisions governing the instrument shall specify a trigger event for the purpose of Article 9(2), point (e)(iii), of Regulation (EU) 2019/2033;

(b) the trigger event referred to in point (a) occurs when the Common Equity Tier 1 capital ratio of the investment firm issuing the instrument falls below either of the following:

  (i) 7 % of the product of 12,5 multiplied by the own funds requirements calculated in accordance with Article 11(1) of Regulation (EU) 2019/2033;

  (ii) a level higher than the one specified in point (i), where determined by the investment firm or institution issuing the instrument and specified in the provisions governing the instrument;

(c) one of the following requirements is met:

(i) the instruments are issued for the sole purpose of being awarded as variable remuneration and the provisions governing the instrument ensure that any distributions are paid at a rate which is consistent with market rates for similar instruments issued either by the investment firm or by investment firms or institutions of comparable credit quality and which in any case is, at the time the remuneration is awarded, no higher than 8 percentage points above the annual average rate of change for the Union as published by the Commission (Eurostat) in its Harmonised Indices of Consumer Prices published pursuant to Article 11 of Council Regulation (EC) No 2494/95 ([7]);

(ii) at the time of the award of the instruments as variable remuneration, at least 60 % of the instruments in issuance were issued other than as an award of variable remuneration and are not held by one of the following or by any undertaking that has close links with one of the following:

the investment firm or its subsidiaries;

— the parent undertaking of the investment firm or its subsidiaries;

— the parent financial holding company of the investment firm or its subsidiaries;

— the mixed activity holding company of the investment firm or its subsidiaries;

— the mixed financial holding company of the investment firm and its subsidiaries.

For the purposes of point (i), where the instruments are awarded to staff members who perform the predominant part of their professional activities outside of the Union and instruments are denominated in a currency issued by a third country, investment firms may use a similar independently-calculated index of consumer prices produced in respect of that third country.

Article 3

Conditions for classes of Tier 2 instruments

Classes of Tier 2 instruments shall comply with the following conditions:

(a) at the time of the award of the instruments as variable remuneration, the remaining period before maturity of the instruments shall be equal to or exceed the sum of the deferral periods and retention periods that apply to variable remuneration in respect of the award of those instruments;

(b) the provisions governing the instrument provide that, upon the occurrence of a trigger event, the principal amount of the instruments shall be written down on a permanent or temporary basis or the instrument shall be converted to Common Equity Tier 1 instruments;

(c) the trigger event referred to in point (b) occurs where the Common Equity Tier 1 capital ratio of the investment firm issuing the instrument falls below either of the following:

(i) 7 % of the product of 12,5 multiplied by the own funds requirements calculated in accordance with Article 11(1) of Regulation (EU) 2019/2033;

(ii) a level higher than the one specified in point (i), where determined by the investment firm or institution issuing the instrument and specified in the provisions governing the instrument;

(d) one of the requirements laid down in Article 2, point (c) is met.

([7]) Council Regulation (EC) No 2494/95 of 23 October 1995 concerning harmonized indices of consumer prices (OJ L 257, 27.10.1995, p. 1).

Article 4

Conditions for classes of Other Instruments

1. Under the conditions laid down in Article 1(1), point (c) of this Regulation, Other Instruments satisfy the conditions laid down in Article 32(1), point (j)(iii), of Directive (EU) 2019/2034 in each of the following cases:

(a) the Other Instruments fulfil the conditions laid down in paragraph 2 of this Article;

(b) the Other Instruments are linked to an Additional Tier 1 instrument or Tier 2 instrument and fulfil the conditions laid down in paragraph 3 of this Article;

(c) the Other Instruments are linked to an instrument which would be an Additional Tier 1 instrument or Tier 2 instrument but for the fact that it is issued by a parent undertaking of the investment firm which is outside the scope of consolidation pursuant to Part One, Title II, Chapter 2, of Regulation (EU) No 575/2013 and the Other Instruments fulfil the conditions laid down in paragraph 4.

2. The conditions referred to in paragraph 1, point (a), are the following:

(a) the Other Instruments shall be issued directly or through an investment firm, institution or financial institution included in the consolidation scope pursuant to Part One, Title II, Chapter 2, of Regulation (EU) No 575/2013 or Article 7 of Regulation (EU) 2019/2033, provided that a change to the credit quality of the issuer of the instrument can reasonably be expected to lead to a similar change to the credit quality of the investment firm using the Other Instruments for the purpose of variable remuneration;

(b) the provisions governing the Other Instruments do not give the holder the right to accelerate the scheduled payment of distributions or principal other than in the case of the insolvency or liquidation of the institution or investment firm issuing that instrument;

(c) at the time of the award of the Other Instruments as variable remuneration the remaining period before maturity of the Other Instruments is equal to or exceeds the sum of the deferral periods and retention periods that apply in respect of the award of those instruments;

(d) the provisions governing the instrument provide that, upon the occurrence of a trigger event, the principal amount of the instruments shall be written down on a permanent or temporary basis or the instrument shall be converted to Common Equity Tier 1 instruments;

(e) the trigger event referred to in point (d) occurs when the Common Equity Tier 1 capital ratio of the institution or investment firm issuing the instrument falls below either of the following:

  (i) in case of an investment firm issuing the instruments, 7 % of the product of 12,5 multiplied by the own funds requirements calculated in accordance with Article 11(1) of Regulation (EU) 2019/2033;

  (ii) in case of an institution issuing the instruments, 7 % of the Common Equity Tier 1 capital ratio of the institution issuing the instrument;

  (iii) a level higher than specified in points (i) or (ii), where determined by the investment firm or institution issuing the instrument and specified in the provisions governing the instrument;

(f) one of the requirements in Article 2, point (c), is met.

3. The conditions referred to in paragraph 1, point (b), are the following:

(a) the Other Instruments fulfil the conditions of paragraph 2, points (a) to (e);

(b) the Other Instruments are linked to an Additional Tier 1 or Tier 2 instrument issued through an entity within the scope of consolidation pursuant to Part One, Title II, Chapter 2, of Regulation (EU) No 575/2013 or Article 7 of Regulation (EU) 2019/2033 (the 'reference instrument');

(c) the reference instrument fulfils the conditions of paragraph 2, points (c) and (f), at the time that the instrument is awarded as variable remuneration;

(d) the value of an Other Instrument is linked to the reference instrument such that it is at no time more than the value of the reference instrument;

(e) the value of any distributions paid after the Other Instrument has vested is linked to the reference instrument such that distributions paid are at no time more than the value of any distributions paid under the reference instrument;

(f) the provisions governing the Other Instruments provide that if the reference instrument is called, converted, repurchased or redeemed within the deferral or retention period the Other Instruments shall be linked to an equivalent reference instrument which fulfils the conditions in this Article such that the total value of the Other Instruments does not increase.

4. The conditions referred to in paragraph 1, point (c), are the following:

(a) the competent authorities have determined for the purpose of Article 55 of Directive (EU) 2019/2034 or Article 127 of Directive 2013/36/EU that the investment firm or institution that issues the instrument to which the Other Instruments are linked is subject to consolidated supervision by a third-country supervisory authority which is equivalent to that governed by the principles set out in Directive (EU) 2019/2034 in the case that the issuer is an investment firm located in a third country or Directive 2013/36/EU in the case that the issuer is an institution located in a third country and the requirements of Part One, Title II, Chapter 2 of Regulation (EU) No 575/2013;

(b) the Other Instruments fulfil the conditions referred to in paragraph 3, point (a) and points (c) to (f).

Article 5

Write-down, write-up and conversion procedures

1. For the purpose of Article 3, point (b), and Article 4(2), point (d), the provisions governing Tier 2 instruments and Other Instruments shall comply with the procedures and timing laid down in paragraphs 2 to 14 of this Article for calculating the Common Equity Tier 1 capital ratio and the amounts to be written down, written up or converted. The provisions governing Additional Tier 1 instruments shall comply with the procedures laid down in paragraph 9 and paragraph 13, point (c) of this Article in respect of amounts to be written down, written up or converted.

2. Where the provisions governing Tier 2 and Other Instruments require the instruments to be converted into Common Equity Tier 1 instruments upon the occurrence of a trigger event, those provisions shall specify either of the following:

(a) the rate of that conversion and a limit on the permitted amount of conversion;

(b) a range within which the instruments will convert into Common Equity Tier 1 instruments.

3. Where the provisions governing the instruments provide that their principal amount shall be written down upon the occurrence of a trigger event, the write-down shall permanently or temporarily reduce all the following:

(a) the claim of the holder of the instrument in the insolvency or liquidation of the institution or investment firm issuing the instrument;

(b) the amount to be paid in the event of the call or redemption of the instrument;

(c) the distributions made on the instrument.

4. Any distributions payable after a write-down shall be based on the reduced amount of the principal.

5. Write-down or conversion of the instruments shall, under the applicable accounting framework, generate items that qualify as Common Equity Tier 1 items.

6. Where the investment firm or institution issuing the instrument has established that the Common Equity Tier 1 ratio has fallen below the level that activates conversion or write-down of the instrument, the management body or any other relevant body of the investment firm or institution issuing the instrument shall be required to determine without delay that a trigger event has occurred and there shall be an irrevocable obligation to write-down or convert the instrument.

7. The aggregate amount of instruments that are required to be written down or converted upon the occurrence of a trigger event shall be no less than the lower of the following:

(a) the amount required to fully restore the Common Equity Tier 1 ratio of the investment firm or institution issuing the instrument to the percentage set as the trigger event in the provisions governing the instrument;

(b) the full principal amount of the instrument.

8. Where a trigger event occurs:

(a) the investment firm shall inform the staff members who have been awarded the instruments as variable remuneration and the persons who continue to hold such instruments;

(b) the investment firm or institution issuing the instrument shall write down the principal amount of the instruments, or convert the instruments into Common Equity Tier 1 instruments as soon as possible and within a maximum period of one month in accordance with the requirements laid down in this Article.

9. Where Additional Tier 1 instruments, Tier 2 instruments and Other Instruments include an identical trigger level, the principal amount shall be written down or converted on a pro rata basis to all holders of such instruments which are used for the purposes of variable remuneration.

10. The amount of the instrument to be written-down or converted shall be subject to independent review. That review shall be completed as soon as possible and shall not create impediments to write-down or convert the instrument.

11. An investment firm or institution issuing instruments that convert to Common Equity Tier 1 on the occurrence of a trigger event shall be required to ensure that its authorised share capital is at all times sufficient to convert all such convertible instruments into shares if a trigger event occurs. The investment firm or institution shall be required to maintain at all times the necessary prior authorisation to issue the Common Equity Tier 1 instruments into which such instruments would convert upon the occurrence of a trigger event.

12. An investment firm or institution issuing instruments that convert to Common Equity Tier 1 on the occurrence of a trigger event shall be required to ensure that there are no procedural impediments to that conversion by virtue of its incorporation or statutes or contractual arrangements.

13. In order for the write-down of an instrument to be considered temporary, all of the following conditions shall be met:

(a) write-ups shall be based on profits after the issuer of the instrument has taken a formal decision confirming the final profits;

(b) any write-up of the instrument or payment of coupons on the reduced amount of the principal shall be operated at the full discretion of the investment firm or institution issuing the instrument subject to the conditions set out in points (c), (d) and (e) and the investment firm or institution shall not be obliged to operate or accelerate a write-up under specific circumstances;

(c) a write-up shall be operated on a pro rata basis among Additional Tier 1 instruments, Tier 2 instruments and Other Instruments used for the purpose of variable remuneration that have been subject to a write-down;

(d) the maximum amount to be attributed to the sum of the write-up of Tier 2 and Other Instruments together with the payment of coupons on the reduced amount of the principal shall be equal to the profit of the investment firm or institution issuing the instrument multiplied by the amount obtained by dividing the amount determined in point (i) by the amount determined in point (ii):

   (i) the sum of the nominal amount of all Tier 2 instruments and Other Instruments of the investment firm before write-down that have been subject to a write-down;

   (ii) the sum of own funds and of the nominal amount of Other Instruments used for the purpose of variable remuneration of the investment firm;

(e) the sum of any write-up amounts and payments of coupons on the reduced amount of the principal shall be treated as a payment that results in a reduction of Common Equity Tier 1 and shall be:

   (i) consistent with the maintenance of a sound capital base of an investment firm,

   (ii) where applicable, consistent with its timely exit from extraordinary public financial support, and

   (iii) where applicable, limited to a portion of net revenue when the investment firm benefits from extraordinary public financial support.

14. For the purposes of paragraph 13, point (d), the calculation shall be made at the moment when the write-up is operated.

Article 6

Alternative arrangements

Alternative arrangements that may be used by investment firms for the pay-out of variable remuneration under Article 32(1), point (k), of Directive (EU) 2019/2034, subject to the approval of the competent authority, shall comply with all of the following conditions:

(a) the alternative arrangement contributes to the alignment of the variable remuneration with the long-term interests of the investment firm, its creditors and clients;

(b) the alternative arrangement is subject to a retention policy designed to align the incentives of the individual with the longer-term interests of the investment firm, its creditors and clients, the retention period shall be at least six months;

(c) the amount received under an alternative arrangement and the applicable conditions are well documented and transparent to the staff member receiving variable remuneration under such an arrangement;

(d) for amounts received under deferral and retention arrangements the alternative arrangement ensures that staff cannot access, transfer or redeem the deferred part of variable remuneration during such periods;

(e) the alternative arrangement does not provide for the increase of the value of the variable remuneration received during deferral periods by interest payments or other similar arrangements other than by arrangements that fulfil the conditions laid down in point (f);

(f) where the alternative arrangement allows for predetermined changes of the value received as variable remuneration during deferral and retention periods, based on the performance of the investment firm or the managed assets, the following conditions shall be met:

  (i) the change of the value is based on predefined performance indicators that are based on the credit quality of the investment firm or the performance of the managed assets;

  (ii) where deferral and retention have to be applied, value changes should be calculated at least annually and at the end of the retention period;

  (iii) the rate of possible positive and negative value changes should equally be based on the level of positive or negative credit quality changes or performance measured;

  (iv) where the value change under point (i) is based on the performance of assets managed, the percentage of value change is limited to the percentage of value change of the managed assets;

  (v) where the value change under point (i) is based on the credit quality of the investment firm, the percentage of value change is limited to the percentage of the annual total gross revenue in relation to the investment firms total own funds;

(g) the alternative arrangement does not hinder the application of Article 32(1), point (m), of Directive (EU) 2019/2034.

Article 7

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, 13 August 2021.

For the Commission
The President
Ursula VON DER LEYEN

COMMISSION DELEGATED REGULATION (EU) 2021/2156

of 17 September 2021

supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council by establishing the European Union reference laboratory for Rift Valley fever

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2017/625 of the European Parliament and of the Council of 15 March 2017 on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products, amending Regulations (EC) No 999/2001, (EC) No 396/2005, (EC) No 1069/2009, (EC) No 1107/2009, (EU) No 1151/2012, (EU) No 652/2014, (EU) 2016/429 and (EU) 2016/2031 of the European Parliament and of the Council, Council Regulations (EC) No 1/2005 and (EC) No 1099/2009 and Council Directives 98/58/EC, 1999/74/EC, 2007/43/EC, 2008/119/EC and 2008/120/EC, and repealing Regulations (EC) No 854/2004 and (EC) No 882/2004 of the European Parliament and of the Council, Council Directives 89/608/EEC, 89/662/EEC, 90/425/EEC, 91/496/EEC, 96/23/EC, 96/93/EC and 97/78/EC and Council Decision 92/438/EEC (Official Controls Regulation) ([1]), and in particular Article 92(4) thereof,

Whereas:

(1) Rift Valley fever (RVF) is an emerging zoonotic vector-borne disease of wild and domestic ruminants caused by a virus and representing a potential cross-border threat. RVF is characterised by high rates of abortion and neonatal mortality in domestic ruminants. In humans, the disease mainly develops as an influenza-like illness, where a minority of patients may develop encephalitis or even severe hepatic disease with haemorrhagic manifestations. RVF is on the list of notifiable animal diseases ([2]) of the World Organisation for Animal Health (OIE).

(2) In March 2019, the European Centre for Disease Prevention and Control (ECDC) published a rapid risk assessment to address the risk of importation of RVF virus and further spread of the virus within the Union and the European Economic Area (EEA) in relation to the increase in cases reported in Mayotte ([3]). The assessment highlighted that, although the risk from these outbreaks was very low for the Union and the EEA in terms of introduction of RVF virus through the legal trade of animals and animal products, the illegal transport of fresh meat, unpasteurised milk and untreated products from infected ruminants in personal luggage could pose a risk. The ECDC concluded that if the virus was introduced into the continental part of the Union and the EEA, further vector-borne transmission among animals could not be excluded.

(3) In addition, the European Food Safety Authority (EFSA) adopted a scientific opinion on RVF on 23 January 2020 ([4]), indicating that the risk of spread of RVF into countries neighbouring the Union and the risk of possible introduction of infected vectors into the Union should not be ignored.

([1]) OJ L 95, 7.4.2017, p. 1.

([2]) OIE list of notifiable terrestrial and aquatic animal diseases (https://www.oie.int/en/what-we-do/animal-health-and-welfare/animal-diseases).

([3]) European Centre for Disease Prevention and Control. Rapid risk assessment: Rift Valley fever outbreak in Mayotte, France – 7 March 2019. Stockholm: ECDC; 2019.

([4]) EFSA Journal 2020;18(3):6041.

(4) The risk of RVF entering the Union means that the Union should establish adequate surveillance and control measures against this disease, in accordance with Regulation (EU) 2016/429 of the European Parliament and of the Council ([5]), which establishes a legislative framework for the prevention and control of listed diseases. In accordance with the Annex to Commission Implementing Regulation (EU) 2018/1882 ([6]), RVF is considered as a category A, D and E disease, for which immediate eradication measures are to be taken as soon as it is detected.

(5) The Union has in place adequate surveillance and disease control measures against RVF to ensure its immediate eradication if the disease enters into the Union. In order for these measures to continue being effective, they should also include appropriate preparedness and available resources to fight against the disease, taking also into account the zoonotic potential of the disease. In that respect, it is considered necessary to provide sufficient laboratory testing capacity, since the good quality of such testing capacity is essential to implement the surveillance and disease control measures and avoid, therefore, that the disease enters the Union.

(6) So far, the Union has not established a European Union reference laboratory for RVF. The designation of a reference laboratory is essential to be able to apply surveillance and disease control measures on a scientific basis and in a homogeneous manner throughout the Union territory.

(7) This Regulation should therefore establish a European Union reference laboratory for RVF to contribute to ensure the effectiveness of official controls and to coordinate assistance to official laboratories,

HAS ADOPTED THIS REGULATION:

Article 1

The European Union reference laboratory for Rift Valley fever is hereby established.

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, 17 September 2021.

For the Commission
The President
Ursula VON DER LEYEN

([5]) Regulation (EU) 2016/429 of the European Parliament and of the Council of 9 March 2016 on transmissible animal diseases and amending and repealing certain acts in the area of animal health ('Animal Health Law') (OJ L 84, 31.3.2016, p. 1).

([6]) Commission Implementing Regulation (EU) 2018/1882 of 3 December 2018 on the application of certain disease prevention and control rules to categories of listed diseases and establishing a list of species and groups of species posing a considerable risk for the spread of those listed diseases (OJ L 308, 4.12.2018, p. 21).

COMMISSION IMPLEMENTING REGULATION (EU) 2021/2157

of 6 December 2021

initiating a review of Implementing Regulations (EU) 2021/1266 and (EU) 2021/1267 extending, respectively, the definitive anti-dumping and countervailing duty on imports of biodiesel consigned from Canada, whether declared as originating in Canada or not, for the purposes of determining the possibility of granting an exemption from those measures to one Canadian exporting producer, repealing the anti-dumping duty with regard to imports from that exporting producer and making imports from that exporting producer subject to registration

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union ([1]) ('the basic anti-dumping Regulation') and in particular Article 13(4) and 14(5) thereof and to Regulation (EU) 2016/1037 of the European Parliament and of the Council of 8 June 2016 on protection against subsidised imports from countries not members of the European Union ([2]) ('the basic anti-subsidy Regulation') and in particular to Article 23(6) thereof,

Having regard to Commission Implementing Regulation (EU) 2021/1266 of 29 July 2021 imposing a definitive anti-dumping duty on imports of biodiesel originating in the United States of America following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 ([3]) and Commission Implementing Regulation (EU) 2021/1267 of 29 July 2021 imposing definitive countervailing duty on imports of biodiesel originating in the United States of America following an expiry review pursuant to Article 18 of Regulation (EU) 2016/1037 ([4]).

After informing the Member States,

Whereas:

1. REQUEST

(1) The European Commission ('the Commission') received a request for an exemption from the anti-dumping and countervailing measures applicable to imports of biodiesel consigned from Canada, whether declared as originating in Canada or not, as far as Verbio Diesel Canada Corporation ('the applicant') is concerned, pursuant to Article 13(4) of the basic anti-dumping Regulation and Article 23(6) of the basic anti-subsidy Regulation.

(2) The request was submitted on 7 September 2021 by the applicant, who is an exporting producer of biodiesel in Canada ('the country concerned').

2. PRODUCT UNDER REVIEW

(3) The product under review is fatty-acid mono-alkyl esters and/or paraffinic gasoil obtained from synthesis and/or hydro-treatment, of non-fossil origin, commonly known as 'biodiesel', in pure form or in a blend containing by weight more than 20 % of fatty-acid mono-alkyl esters and/or paraffinic gasoil obtained from synthesis and/or hydro- treatment, of non-fossil origin, consigned from Canada, whether declared as originating in Canada or not, currently falling under CN codes ex 1516 20 98 (TARIC code 1516 20 98 21), ex 1518 00 91 (TARIC code 1518 00 91 21), ex 1518 00 99 (TARIC code 1518 00 99 21), ex 2710 19 43 (TARIC code 2710 19 43 21), ex 2710 19 46 (TARIC code 2710 19 46 21), ex 2710 19 47 (TARIC code 2710 19 47 21), ex 2710 20 11 (TARIC code 2710 20 11 21), ex 2710 20 16 (TARIC code 2710 20 16 21), ex 3824 99 92 (TARIC code 3824 99 92 10), ex 3826 00 10 (TARIC codes 3826 00 10 20, 3826 00 10 50, 3826 00 10 89) and ex 3826 00 90 (TARIC code 3826 00 90 11).

([1]) OJ L 176, 30.6.2016, p. 21.
([2]) OJ L 176, 30.6.2016, p. 55.
([3]) OJ L 277, 2.8.2021, p. 34.
([4]) OJ L 277, 2.8.2021, p. 62.

3. EXISTING MEASURES

(4) By Regulations (EC) No 598/2009 ([5]) and (EC) No 599/2009 ([6]), the Council imposed definitive countervailing and anti-dumping duties on imports of biodiesel originating in the United States of America.

(5) These measures were extended by Council Implementing Regulations (EU) No 443/2011 ([7]) and (EU) No 444/2011 ([8]), to imports of biodiesel consigned from Canada, whether declared as originating in Canada or not.

(6) The measures currently in force are imposed by Implementing Regulation (EU) 2021/1266 following an expiry review pursuant to Article 11(2) of the basic anti-dumping Regulation and by Implementing Regulation (EU) 2021/1267 following an expiry review pursuant to Article 18(2) of the basic anti-subsidy Regulation.

4. GROUNDS FOR THE REVIEW

(7) The applicant alleged that it did not export the product under review to the Union during the investigation period used in the investigation that led to the extended measures as adopted by Implementing Regulations (EU) No 443/2011 and (EU) No 444/2011, namely the period from 1 April 2009 to 30 June 2010 ('the original IP'). According to the evidence submitted by the applicant, the applicant was only legally created in 2019, whereas the plant was built and opened after the original IP in 2012.

(8) In addition, the applicant provided evidence that it is a genuine producer and alleged that it has not circumvented the existing measures.

(9) The applicant further claimed that after the original IP, in July 2021, it exported the product under review to the Union.

5. PROCEDURE

5.1. Initiation

(10) The Commission examined the evidence available and concluded that there was sufficient evidence to justify the initiation of an investigation pursuant to Article 13(4) of the basic anti-dumping Regulation and to Article 23(6) of the basic anti-subsidy Regulation for the purpose of determining the possibility of granting the applicant an exemption from the extended measures.

(11) The Union industry known to be concerned was informed of the request for a review and was given an opportunity to comment. No comments were received.

([5]) Council Regulation (EC) No 598/2009 of 7 July 2009 imposing a definitive countervailing duty and collecting definitively the provisional duty imposed on imports of biodiesel originating in the United States of America (OJ L 179, 10.7.2009, p. 1).

([6]) Council Regulation (EC) No 599/2009 of 7 July 2009 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of biodiesel originating in the United States of America (OJ L 179, 10.7.2009, p. 26).

([7]) Council Implementing Regulation (EU) No 443/2011 of 5 May 2011 extending the definitive countervailing duty imposed by Regulation (EC) No 598/2009 on imports of biodiesel originating in the United States of America to imports of biodiesel consigned from Canada, whether declared as originating in Canada or not, and extending the definitive countervailing duty imposed by Regulation (EC) No 598/2009 to imports of biodiesel in a blend containing by weight 20 % or less of biodiesel originating in the United States of America, and terminating the investigation in respect of imports consigned from Singapore (OJ L 122, 11.5.2011, p. 1).

([8]) Council Implementing Regulation (EU) No 444/2011 of 5 May 2011 extending the definitive anti-dumping duty imposed by Regulation (EC) No 599/2009 on imports of biodiesel originating in the United States of America to imports of biodiesel consigned from Canada, whether declared as originating in Canada or not, and extending the definitive anti-dumping duty imposed by Regulation (EC) No 599/2009 to imports of biodiesel in a blend containing by weight 20 % or less of biodiesel originating in the United States of America, and terminating the investigation in respect of imports consigned from Singapore (OJ L 122, 11.5.2011, p. 12).

(12) In its investigation, the Commission will pay particular attention to the applicant's relationship with the companies subject to the existing measures in order to ensure that it was not established in order to be used to circumvent the measures. The Commission will also consider whether particular monitoring conditions should be imposed in case the investigation will conclude that granting the exemption is warranted.

5.2. **Repeal of the existing anti-dumping measures and registration of imports**

(13) In line with Article 11(4) of the basic anti-dumping Regulation, in cases of new exporters in the exporting country in question which have not exported the product during the period of investigation on which the measures were based, the anti-dumping duty in force should be repealed with regard to imports of the product under review which are produced and sold for export to the Union by the applicant.

(14) At the same time, such imports should be made subject to registration in accordance with Article 14(5) of the basic anti-dumping Regulation in order to ensure that, should the review result in a finding of circumvention in respect of the applicant, anti-dumping duties can be levied from the date of the registration of these imports. The amount of the applicant's possible future liabilities would be equal to the duty applicable to 'all other companies' in Article 1(2) of Implementing Regulation (EU) 2021/1266 (172,2 EUR/tonne).

5.3. **Existing anti-subsidy measures**

(15) Since the basic anti-subsidy Regulation does not provide for the repeal of the countervailing duties in cases where exporters were not individually investigated during the original investigation, these measures will remain in force. Only if the review should result in the finding that the applicant is entitled to an exemption, will the anti-subsidy measures in force be repealed with regard to the applicant.

5.4. **Review investigation period**

(16) The investigation will cover the period from 1 April 2009 to 30 September 2021 ('review investigation period').

5.5. **Investigating the applicant**

(17) In order to obtain information it deems necessary for its investigation, the Commission will send a questionnaire to the applicant. The applicant must submit the completed questionnaire within 37 days of the date of entry into force of this Regulation, unless otherwise specified, pursuant to Article 6(2) of the basic anti-dumping Regulation and Article 11(2) of the basic anti-subsidy Regulation.

5.6. **Other written submissions**

(18) Subject to the provisions of this Regulation, all interested parties are invited to make their views known, submit information and provide supporting evidence. Unless otherwise specified, this information and supporting evidence must reach the Commission within 37 days of the date of entry into force of this Regulation.

5.7. **Possibility to be heard by the Commission investigation services**

(19) All interested parties may request to be heard by the Commission investigation services. Any request to be heard must be made in writing and must specify the reasons for the request. For hearings on issues pertaining to the initiation of the investigation, the request must be submitted within 15 days of the date of entry into force of this Regulation. Thereafter, a request to be heard must be submitted within the specific deadlines set by the Commission in its communication with the parties.

5.8. **Instructions for making written submissions and sending completed questionnaires and correspondence**

(20) Information submitted to the Commission for the purpose of trade defence investigations shall be free from copyrights. Interested parties, before submitting to the Commission information and/or data that is subject to third party copyrights, must request specific permission to the copyright holder explicitly allowing the Commission a) to use the information and data for the purpose of this trade defence proceeding and b) to provide the information and/or data to interested parties to this investigation in a form that allows them to exercise their rights of defence.

(21) All written submissions, including the information requested in this Regulation, completed questionnaires and correspondence provided by interested parties for which confidential treatment is requested shall be labelled 'Sensitive'. Parties submitting information in the course of this investigation are invited to reason their request for confidential treatment.

(22) Parties providing 'Sensitive' information are required to furnish non-confidential summaries of it pursuant to Article 19(2) of the basic anti-dumping Regulation and Article 29(2) of the basic anti-subsidy Regulation, which will be labelled 'For inspection by interested parties'. Those summaries should be sufficiently detailed to permit a reasonable understanding of the substance of the information submitted in confidence.

(23) If a party providing 'Sensitive' information fails to show good cause for a confidential treatment request or does not furnish a non-confidential summary of it in the requested format and quality, the Commission may disregard such information unless it can be satisfactorily demonstrated from appropriate sources that the information is correct.

(24) Interested parties are invited to make all submissions and requests by email including scanned powers of attorney and certification sheets, with the exception of voluminous replies which should be submitted on a portable digital storage medium (CD-ROM, DVD, USB flash drive) by hand or by registered mail. By using email, interested parties express their agreement with the rules applicable to electronic submissions contained in the document 'CORRESPONDENCE WITH THE EUROPEAN COMMISSION IN TRADE DEFENCE CASES' published on the website of the Directorate-General for Trade: http://trade.ec.europa.eu/doclib/docs/2011/june/tradoc_148003.pdf

(25) The interested parties must indicate their name, address, telephone and a valid email address and they should ensure that the provided email address is a functioning official business email, which is checked on a daily basis. Once contact details are provided, the Commission will communicate with interested parties by email only, unless they explicitly request to receive all documents from the Commission by another means of communication or unless the nature of the document to be sent requires the use of a registered mail. For further rules and information concerning correspondence with the Commission including principles that apply to submissions by email, interested parties should consult the communication instructions with interested parties referred to above.

Commission address for correspondence:

European Commission
Directorate-General for Trade
Directorate G
Office: CHAR 04/039
1040 Brussels
BELGIUM

Email: TRADE-R752-BIODIESEL-EXEMPTION@ec.europa.eu

6. **POSSIBILITY TO COMMENT ON OTHER PARTIES' SUBMISSIONS**

(26) In order to guarantee the rights of defence, interested parties should have the possibility to comment on information submitted by other interested parties. When doing so, interested parties may only address issues raised in the other interested parties' submissions and may not raise new issues. Comments on the information provided by other interested parties in reaction to the disclosure of the definitive findings should be submitted within 5 days from the deadline to comment on the definitive findings, unless otherwise specified. If there is an additional final disclosure,

comments filed by other interested parties in reaction to this further disclosure should be made within 1 day from the deadline to comment on this further disclosure, unless otherwise specified. The outlined timeframe is without prejudice to the Commission's right to request additional information from interested parties in duly justified cases.

7. EXTENSION TO TIME LIMITS SPECIFIED IN THIS REGULATION

(27) Any extension to the time limits provided for in this Regulation should only be requested in exceptional circumstances and will only be granted if duly justified upon good cause being shown.

(28) In any event, any extension to the deadline to reply to questionnaires will be limited normally to 3 days, and as a rule will not exceed 7 days.

(29) Regarding time limits for the submission of other information specified in the Regulation, extensions will be limited to 3 days unless exceptional circumstances are demonstrated.

8. NON-COOPERATION

(30) In cases where any interested party refuses access to or does not provide the necessary information within the time limits, or significantly impedes the investigation, findings, affirmative or negative, may be made on the basis of facts available, in accordance with Article 18 of the basic anti-dumping Regulation and Article 28 of the basic anti-subsidy Regulation.

(31) Where it is found that any interested party has supplied false or misleading information, the information may be disregarded and use may be made of facts available.

(32) If an interested party does not cooperate or cooperates only partially and findings are therefore based on facts available in accordance with Article 18 of the basic anti-dumping Regulation and Article 28 of the basic anti-subsidy Regulation, the result may be less favourable to that party than if it had cooperated.

(33) Failure to give a computerised response will not be deemed to constitute non-cooperation, provided that the interested party shows that presenting the response as requested would result in an unreasonable extra burden or unreasonable additional cost. The interested party should immediately contact the Commission.

9. HEARING OFFICER

(34) Interested parties may request the intervention of the Hearing Officer in trade proceedings. The Hearing Officer acts as an interface between the interested parties and the Commission investigation services. The Hearing Officer reviews requests for access to the file, disputes regarding the confidentiality of documents, requests for extension of time limits and requests by third parties to be heard. The Hearing Officer may organise a hearing with an individual interested party and mediate to ensure that the interested parties' rights of defence are being fully exercised. The Hearing Officer will also provide opportunities for a hearing involving parties to take place, which would allow different views to be presented and rebuttal arguments offered.

(35) A request for a hearing with the Hearing Officer should be made in writing and should specify the reasons for the request. For hearings on issues pertaining to the initial stage of the investigation, parties are invited to submit their request within 15 days of the date of entry into force of this Regulation. Thereafter, requests to be heard by the Hearing Officer shall be submitted at the earliest possible time following the occurrence of the event justifying such intervention. The Hearing Officer will examine the reasons for requests for interventions, the nature of the issues raised and the impact of those issues on the rights of defence, having due regard to the interests of good administration and the timely completion of the investigation.

(36) For further information and contact details interested parties may consult the Hearing Officer's web pages on DG Trade's website: http://ec.europa.eu/trade/trade-policy-and-you/contacts/hearing-officer/

10. **SCHEDULE OF THE INVESTIGATION**

(37) The investigation will be concluded, pursuant to Article 11(5) of the basic anti-dumping Regulation and to Article 22(1) of the basic anti-subsidy Regulation, within nine months of the date of the entry into force of this Regulation.

11. **PROCESSING OF PERSONAL DATA**

(38) Any personal data collected in this investigation will be treated in accordance with Regulation (EU) 2018/1725 of the European Parliament and of the Council ([9]).

(39) A data protection notice that informs all individuals of the processing of personal data in the framework of Commission's trade defence activities is available on DG TRADE's website: http://ec.europa.eu/trade/policy/accessing-markets/trade-defence/

HAS ADOPTED THIS REGULATION:

Article 1

A review is hereby initiated pursuant to Article 13(4) of Regulation (EU) 2016/1036 and Article 23(6) of Regulation (EU) 2016/1037 in order to establish whether the imports of fatty-acid mono-alkyl esters and/or paraffinic gasoil obtained from synthesis and/or hydro-treatment, of non-fossil origin, commonly known as 'biodiesel', in pure form or in a blend containing by weight more than 20 % of fatty-acid mono-alkyl esters and/or paraffinic gasoil obtained from synthesis and/or hydro-treatment, of non-fossil origin, consigned from Canada, whether declared as originating in Canada or not, currently falling under CN codes ex 1516 20 98 (TARIC code 1516 20 98 21), ex 1518 00 91 (TARIC code 1518 00 91 21), ex 1518 00 99 (TARIC code 1518 00 99 21), ex 2710 19 43 (TARIC code 2710 19 43 21), ex 2710 19 46 (TARIC code 2710 19 46 21), ex 2710 19 47 (TARIC code 2710 19 47 21), ex 2710 20 11 (TARIC code 2710 20 11 21), ex 2710 20 16 (TARIC code 2710 20 16 21), ex 3824 99 92 (TARIC code 3824 99 92 10), ex 3826 00 10 (TARIC codes 3826 00 10 20, 3826 00 10 50, 3826 00 10 89) and ex 3826 00 90 (TARIC code 3826 00 90 11), produced by Verbio Diesel Canada Corporation (TARIC additional code C600), should be subject to the anti-dumping and anti-subsidy measures imposed by Implementing Regulation (EU) 2021/1266 and Implementing Regulation (EU) 2021/1267.

Article 2

The anti-dumping duty imposed by Implementing Regulation (EU) 2021/1266 is hereby repealed with regard to the imports identified in Article 1 of this Regulation.

Article 3

The Customs authorities shall take the appropriate steps to register the imports identified in Article 1 of this Regulation, pursuant to Article 14(5) of Regulation (EU) 2016/1036.

Registration shall expire nine months following the date of entry into force of this Regulation.

Article 4

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

([9]) 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).

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

Done at Brussels, 6 December 2021.

For the Commission
The President
Ursula VON DER LEYEN

COMMISSION IMPLEMENTING REGULATION (EU) 2021/2158

of 6 December 2021

amending Annex I to Implementing Regulation (EU) 2021/934 laying down special control measures for classical swine fever

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2016/429 of the European Parliament and of the Council of 9 March 2016 on transmissible animal diseases and amending and repealing certain acts in the area of animal health ('Animal Health Law') ([1]), and in particular Article 71(3) thereof,

Whereas:

(1) Classical swine fever is an infectious viral disease affecting kept and wild porcine animals and can have a severe impact on the concerned animal population and the profitability of farming causing disturbance to movements of consignments of those animals and products thereof within the Union and exports to third countries.

(2) Commission Implementing Regulation (EU) 2021/934 ([2]) was adopted within the framework of Regulation (EU) 2016/429, and it lays down special disease control measures regarding classical swine fever to be applied for a limited period of time by the Member States listed in Annex I thereto in the restricted zones listed in that Annex.

(3) Taking into account the effectiveness of the surveillance and control measures undertaken in Bulgaria in accordance with Commission Delegated Regulation (EU) 2020/687 ([3]) and Implementing Regulation (EU) 2021/934, as presented by Bulgaria to the Standing Committee on Plants, Animals, Food and Feed, and in view of the favourable epidemiological situation of classical swine fever in that Member State, the whole territory of Bulgaria currently listed as a restricted zone in Annex I to Implementing Regulation (EU) 2021/934 should now be deleted from that Annex.

(4) Implementing Regulation (EU) 2021/934 should therefore be amended accordingly.

(5) In view of the improvements in the epidemiological situation of classical swine fever in Bulgaria and in order to ensure no undue restrictions concerning that disease, the amendments to be made to Implementing Regulation (EU) 2021/934 by this Regulation should take effect as soon as possible.

(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

Annex I to Implementing Regulation (EU) 2021/934 is replaced by the text set out in the Annex to this Regulation.

([1]) OJ L 84, 31.3.2016, p. 1.

([2]) Commission Implementing Regulation (EU) 2021/934 of 9 June 2021 laying down special control measures for classical swine fever (OJ L 204, 10.6.2021, p. 18).

([3]) Commission Delegated Regulation (EU) 2020/687 of 17 December 2019 supplementing Regulation (EU) 2016/429 of the European Parliament and of the Council, as regards rules for the prevention and control of certain listed diseases (OJ L 174, 3.6.2020, p. 64).

Article 2

This Regulation shall enter into force on the 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, 6 December 2021.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX

'ANNEX I

RESTRICTED ZONES

Romania

The whole territory of Romania.'

DECISIONS

DECISION (EU) 2021/2159 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 25 November 2021

on the mobilisation of the European Globalisation Adjustment Fund for Displaced Workers following an application from Spain – EGF/2021/001 ES/País Vasco metal

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to Regulation (EU) 2021/691 of the European Parliament and of the Council of 28 April 2021 on the European Globalisation Adjustment Fund for Displaced Workers (EGF) and repealing Regulation (EU) No 1309/2013 ([1]), and in particular Article 15(1) thereof,

Having regard to the Interinstitutional Agreement of 16 December 2020 between the European Parliament, the Council of the European Union and the European Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management, as well as on new own resources, including a roadmap towards the introduction of new own resources ([2]), and in particular point 9 thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) The European Globalisation Adjustment Fund for Displaced Workers (EGF) aims to demonstrate solidarity and promote decent and sustainable employment in the Union by providing support for workers made redundant and self-employed persons whose activity has ceased in the course of major restructuring events and assisting them in returning to decent and sustainable employment as soon as possible.

(2) The EGF is not to exceed a maximum annual amount of EUR 186 million (in 2018 prices), as laid down in Article 8 of Council Regulation (EU, Euratom) 2020/2093 ([3]).

(3) On 25 June 2021, Spain submitted an application to mobilise the EGF, in respect of workers' displacements in the economic sector classified under the Statistical classification of economic activities in the European Community ('NACE') ([4]) Revision 2 division 25 (Manufacture of fabricated metal products, except machinery and equipment) in the Nomenclature of Territorial Units for Statistics ('NUTS') ([5]) level 2 region of País Vasco (ES21) in Spain. It was supplemented by additional information provided in accordance with Article 8(5) of Regulation (EU) 2021/691. That application complies with the conditions for a financial contribution from the EGF as laid down in Article 13 of Regulation (EU) 2021/691.

([1]) OJ L 153, 3.5.2021, p. 48.
([2]) OJ L 433 I, 22.12.2020, p. 28.
([3]) Council Regulation (EU, Euratom) 2020/2093 of 17 December 2020 laying down the multiannual financial framework for the years 2021 to 2027 (OJ L 433 I, 22.12.2020, p. 11).
([4]) Regulation (EC) No 1893/2006 of the European Parliament and of the Council of 20 December 2006 establishing the statistical classification of economic activities NACE Revision 2 and amending Council Regulation (EEC) No 3037/90 as well as certain EC Regulations on specific statistical domains (OJ L 393, 30.12.2006, p. 1).
([5]) Commission Delegated Regulation (EU) 2019/1755 of 8 August 2019 amending the Annexes to Regulation (EC) No 1059/2003 of the European Parliament and of the Council on the establishment of a common classification of territorial units for statistics (NUTS) (OJ L 270, 24.10.2019, p. 1).

(4) The EGF should, therefore, be mobilised in order to provide a financial contribution of EUR 1 214 607 in respect of the application submitted by Spain.

(5) In order to minimise the time taken to mobilise the EGF, this decision should apply from the date of its adoption,

HAVE ADOPTED THIS DECISION:

Article 1

For the general budget of the Union for the financial year 2021, the European Globalisation Adjustment Fund for Displaced Workers shall be mobilised to provide the amount of EUR 1 214 607 in commitment and payment appropriations.

Article 2

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

It shall apply from 25 November 2021.

Done at Strasbourg, 25 November 2021.

For the European Parliament	*For the Council*
The President	*The President*
D.M. SASSOLI	A. LOGAR

COUNCIL DECISION (CFSP) 2021/2160

of 6 December 2021

amending Decision (CFSP) 2020/1999 concerning restrictive measures against serious human rights violations and abuses

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 29 thereof,

Having regard to the proposal from the High Representative of the Union for Foreign Affairs and Security Policy,

Whereas:

(1) On 7 December 2020, the Council adopted Decision (CFSP) 2020/1999 ([1]).

(2) The measures set out in Articles 2 and 3 of Decision (CFSP) 2020/1999 apply as regards the natural and legal persons, entities and bodies listed in the Annex to Decision (CFSP) 2020/1999 until 8 December 2021.

(3) On the basis of a review of the Annex to Decision (CFSP) 2020/1999, the measures set out in Articles 2 and 3 of that Decision as regards the natural and legal persons, entities and bodies listed in that Annex should be extended until 8 December 2022, except as regards one deceased person, whose entry should be removed from that Annex. The entries concerning seven persons included in that Annex should be updated.

(4) Decision (CFSP) 2020/1999 should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Decision (CFSP) 2020/1999 is amended as follows:

(1) Article 10 is replaced by the following:

'*Article 10*

This Decision shall apply until 8 December 2023 and shall be kept under constant review. The measures set out in Articles 2 and 3 shall apply as regards the natural and legal persons, entities and bodies listed in the Annex until 8 December 2022.';

(2) the Annex is amended as set out in the Annex to this Decision.

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, 6 December 2021.

For the Council
The President
J. CIGLER KRALJ

([1]) Council Decision (CFSP) 2020/1999 of 7 December 2020 concerning restrictive measures against serious human rights violations and abuses (OJ L 410I, 7.12.2020, p. 13).

ANNEX

In the Annex to Decision (CFSP) 2020/1999, the list of natural persons set out in section A ('Natural persons') is amended as follows:

(1) entry 11 (concerning Mohammed Khalifa AL-KANI (a.k.a. Mohamed Khalifa Abderrahim Shaqaqi AL-KANI, Mohammed AL-KANI, Muhammad Omar AL-KANI)) is deleted;

(2) the entries for the following seven natural persons are replaced by the following:

	Names (Transliteration into Latin script)	Names	Identifying information	Reasons for listing	Date of listing
'4.	Viktor Vasilievich (Vasilyevich) ZOLOTOV	Виктор Васильевич ЗОЛОТОВ	Position(s): Director of the Federal Service of National Guard Troops of the Russian Federation (Rosgvardia) DOB: 27.1.1954 POB: Sasovo, Russian SFSR (now Russian Federation) Nationality: Russian Gender: male	Viktor Zolotov has been the Director of the Federal Service of National Guard Troops of the Russian Federation (Rosgvardia) since 5 April 2016 and therefore Commander-in-Chief of the National Guard Troops of the Russian Federation, as well as Commander of OMON – the Special Purpose Mobile Unit integrated in Rosgvardia. In that position, he oversees all activities of Rosgvardia and OMON troops. In his capacity as Director of Rosgvardia, he is responsible for serious human rights violations in Russia, including arbitrary arrests and detentions and systematic and widespread violations of freedom of peaceful assembly and of association, in particular by violently repressing protests and demonstrations. Rosgvardia was employed to quell the pro-Navalny protests of 23 January and 21 April 2021, and many OMON and National Guard officers were reported to have used brutality and violence against protesters. Dozens of journalists were targeted with aggression by the security forces, including Meduza's correspondent Kristina Safronova, who was hit by an OMON officer, and Novaya Gazeta's journalist Yelizaveta Kirpanova, who was hit on the head with a truncheon leaving her bleeding. During the 23 January 2021 protests, security forces arbitrarily detained more than 300 minors.	2.3.2021
5.	ZHU Hailun	朱海仑 (Chinese spelling)	Position(s): Member of the 13th National People's Congress of the People's Republic of China (in session from 2018 to 2023) representing the Xinjiang Uyghur Autonomous Region (XUAR);	Former Secretary of the Political and Legal Affairs Committee of the Xinjiang Uyghur Autonomous Region (XUAR) and former Deputy Secretary of the Party Committee of the XUAR (2016 to 2019). Former Deputy Head of the Standing Committee of the 13th People's Congress of the XUAR, a regional legislative body (2019 to 5 February 2021 but still active until at least March 2021). Member of the 13th National People's Congress of the People's Republic of China	22.3.2021

	Names (Transliteration into Latin script)	Names	Identifying information	Reasons for listing	Date of listing
			Member of the National People's Congress Supervisory and Judicial Affairs Committee (since 19 March 2018)	(in session from 2018 to 2023) representing the XUAR. Member of the National People's Congress Supervisory and Judicial Affairs Committee since 19 March 2018.	
			DOB: January 1958 POB: Lianshui, Jiangsu (China) Nationality: Chinese Gender: male	As Secretary of the Political and Legal Affairs Committee of the XUAR (2016 to 2019), Zhu Hailun was responsible for maintaining internal security and law enforcement in the XUAR. As such, he held a key political position in charge of overseeing and implementing a large-scale surveillance, detention and indoctrination programme targeting Uyghurs and people from other Muslim ethnic minorities. Zhu Hailun has been described as the 'architect' of this programme. He is therefore responsible for serious human rights violations in China, in particular large-scale arbitrary detentions inflicted upon Uyghurs and people from other Muslim ethnic minorities. As Deputy Head of the Standing Committee of the 13th People's Congress of the XUAR (2019 to 5 February 2021), Zhu Hailun continued to exercise a decisive influence in the XUAR where the large-scale surveillance, detention and indoctrination programme targeting Uyghurs and people from other Muslim ethnic minorities continues.	
9.	JONG Kyong-thaek (a.k.a. CHO'NG Kyo'ng-t'aek)	정경택 (Korean spelling)	Position(s): Minister of State Security of the Democratic People's Republic of Korea (DPRK) DOB: between 1.1.1961 and 31.12.1963 Nationality: Democratic People's Republic of Korea (DPRK) Gender: male	Jong Kyong-thaek is the Minister of State Security of the Democratic People's Republic of Korea (DPRK) since 2017. The Ministry of State Security of the DPRK is one of the leading institutions in charge of implementing the repressive security policies of the DPRK, with a focus on identifying and suppressing political dissent, the inflow of 'subversive' information from abroad, and any other conduct considered a serious political threat to the political system and its leadership. As Head of the Ministry of State Security, Jong Kyong-thaek is responsible for serious human rights violations in the DPRK, in particular torture and other cruel, inhuman or degrading treatment or punishment, extrajudicial, summary or arbitrary	22.3.2021

	Names (Transliteration into Latin script)	Names	Identifying information	Reasons for listing	Date of listing
				executions and killings, enforced disappearance of persons, and arbitrary arrests or detentions, as well as widespread forced labour and sexual violence against women.	
10.	RI Yong Gil (a.k.a. RI Yong Gi, RI Yo'ng-kil, YI Yo'ng-kil)	리영길 (Korean spelling)	Position(s): Minister of National Defence of the Democratic People's Republic of Korea (DPRK) DOB: 1955 Nationality: Democratic People's Republic of Korea (DPRK) Gender: male	Ri Yong Gil is the Minister of National Defence of the Democratic People's Republic of Korea (DPRK). He was the Minister of Social Security from January 2021 until June or July 2021. He was Chief of the General Staff of the Korean People's Army (KPA) between 2018 and January 2021. As Minister of National Defence, Ri Yong Gil is responsible for serious human rights violations in the DPRK, including by members of the Military Security Command and other KPA units. The Ministry of Social Security of the DPRK (formerly known as the Ministry of People's Security or Ministry of Public Security) and the Military Security Command are leading institutions in charge of implementing the repressive security policies of the DPRK, including interrogation and punishment of people 'illegally' fleeing the DPRK. In particular, the Ministry of Social Security is in charge of running prison camps and short-term labour detention centres through its Correctional Bureau, where prisoners/detainees are subject to deliberate starvation and other inhuman treatment. As former Head of the Ministry of Social Security, Ri Yong Gil is responsible for serious human rights violations in the DPRK, in particular torture and other cruel, inhuman or degrading treatment or punishment, extrajudicial, summary or arbitrary executions and killings, enforced disappearance of persons, and arbitrary arrests or detentions, as well as widespread forced labour and sexual violence against women. As former Chief of the General Staff of the KPA, Ri Yong Gil is also responsible for the widespread serious human rights violations committed by the KPA.	22.3.2021

	Names (Transliteration into Latin script)	Names	Identifying information	Reasons for listing	Date of listing
12.	Abderrahim AL-KANI (a.k.a. Abdul-Rahim AL-KANI, Abd-al-Rahim AL-KANI)	عبد الرحيم الكاني (Arabic spelling)	Position(s): member of the Kaniyat Militia DOB: 7.9.1997 Nationality: Libyan Passport number: PH3854LY ID number: 119970331820 Gender: male	Abderrahim Al-Kani is a key member of the Kaniyat Militia and brother of the Head of the Kaniyat Militia, Mohammed Khalifa Al-Khani (deceased in July 2021). The Kaniyat Militia exercised control of the Libyan town of Tarhuna between 2015 and June 2020. Abderrahim Al-Kani is in charge of internal security for the Kaniyat Militia. In that capacity, he is responsible for serious human rights abuses in Libya, in particular extrajudicial killings and enforced disappearances of persons between 2015 and June 2020 in Tarhuna. Abderrahim Al-Kani and the Kaniyat Militia fled Tarhuna in early June 2020 to eastern Libya. After that, several mass graves attributed to the Kaniyat Militia were discovered in Tarhuna.	22.3.2021
13.	Aiub Vakhaevich KATAEV (a.k.a. Ayubkhan Vakhaevich KATAEV)	Аюб Вахаевич КАТАЕВ (a.k.a. Аюбхан Вахаевич КАТАЕВ) (Russian spelling)	Position(s): Former Head of Department of the Ministry of Internal Affairs of the Russian Federation in the city of Argun in the Chechen Republic DOB: 1.12.1980 or 1.12.1984 Nationality: Russian Gender: male	Head of Department of the Ministry of Internal Affairs of the Russian Federation in the city of Argun in the Chechen Republic until 2018. In his capacity as Head of Department of the Ministry of Internal Affairs of the Russian Federation in Argun, Aiub Kataev oversaw the activities of local state security and police agencies. In this position, he personally oversaw widespread and systematic persecutions in Chechnya, which began in 2017. The repressions are directed against lesbian, gay, bisexual, transgender and intersex (LGBTI) persons, those presumed to belong to LGBTI groups, and other individuals suspected of being opponents of the Head of the Chechen Republic Ramzan Kadyrov. Aiub Kataev and forces formerly under his command are responsible for serious human rights violations in Russia, in particular torture and other cruel, inhuman or degrading treatment, as well as arbitrary arrests and detentions and extrajudicial or arbitrary executions and killings. According to numerous witnesses, Aiub Kataev personally supervised and took part in torturing detainees.	22.3.2021

	Names (Transliteration into Latin script)	Names	Identifying information	Reasons for listing	Date of listing
14.	Abuzaid (Abuzayed) Dzhandarovich VISMURADOV	Абузайд Джандарович ВИСМУРАДОВ (Russian spelling)	Position(s): Former Commander of the Special Rapid-Response Unit (SOBR) Team 'Terek', Deputy Prime Minister of the Chechen Republic, unofficial bodyguard of the Head of the Chechen Republic Ramzan Kadyrov DOB: 24.12.1975	Former Commander of the Special Rapid-Response Unit (SOBR) Team 'Terek'. Since 23 March 2020, Deputy Prime Minister of the Chechen Republic. Unofficial bodyguard of the Head of the Chechen Republic Ramzan Kadyrov. Abuzaid Vismuradov was the Commander of the SOBR detachment 'Terek' from March 2012 until March 2020. In this position, he personally oversaw widespread and systematic persecutions in Chechnya, which began in 2017. The repressions are directed against lesbian, gay, bisexual, transgender and intersex (LGBTI) persons, those presumed to belong to LGBTI groups and other individuals suspected of being opponents of the Head of the Chechen Republic Ramzan Kadyrov.	22.3.2021'
			POB: Akhmat-Yurt/Khosi-Yurt, former Checheno-Ingush Autonomous Soviet Socialist Republic (ASSR), now Chechen Republic (Russian Federation) Nationality: Russian Gender: male	Abuzaid Vismuradov and the 'Terek' unit previously under his command are responsible for serious human rights violations in Russia, in particular torture and other cruel, inhuman or degrading treatment, as well as arbitrary arrests and detentions and extrajudicial and arbitrary killings and executions. According to numerous witnesses, Abuzaid Vismuradov personally supervised and took part in torturing detainees. He is a close associate of Ramzan Kadyrov, the Head of the Chechen Republic, who has been conducting a campaign of repression against his political opponents for many years.	

COUNCIL DECISION (CFSP) 2021/2161

of 6 December 2021

amending Decision (CFSP) 2018/1788 in support of the South-Eastern and Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons (SEESAC) for the implementation of the Regional Roadmap on combating illicit arms trafficking in the Western Balkans

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty of the European Union, and in particular Articles 28(1) and 31(1) thereof,

Having regard to the proposal from the High Representative of the Union for Foreign Affairs and Security Policy,

Whereas:

(1) On 19 November 2018, the Council adopted Decision (CFSP) 2018/1788 ([1]).

(2) Decision (CFSP) 2018/1788 provides for a 36-month implementation period for the activities referred to in Article 1 thereof from the date of the conclusion of the agreement referred to in Article 3(3) thereof.

(3) The implementing partner, the United Nations Development Programme, acting on behalf of the South-Eastern and Eastern Europe Clearinghouse for the control of Small Arms and Light Weapons, requested an extension of the implementation period of Decision (CFSP) 2018/1788 until 17 October 2022, in view of the delay in the implementation of project activities under Decision (CFSP) 2018/1788 due to the impact of the COVID-19 pandemic.

(4) The continuation of the activities referred to in Article 1 of Decision (CFSP) 2018/1788 until 17 October 2022 can be performed without any consequences as regards financial resources.

(5) Article 5(2) of Decision (CFSP) 2018/1788 should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Article 5(2) of Decision (CFSP) 2018/1788 is replaced by the following:

'2. This Decision shall expire on 17 October 2022.'.

Article 2

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

Done at Brussels, 6 December 2021.

For the Council
The President
J. CIGLER KRALJ

([1]) Council Decision (CFSP) 2018/1788 of 19 November 2018 in support of the South-Eastern and Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons (SEESAC) for the implementation of the Regional Roadmap on combating illicit arms trafficking in the Western Balkans (OJ L 293, 20.11.2018, p. 11).

ISSN 1977-0677 (electronic edition)
ISSN 1725-2555 (paper edition)

Publications Office
of the European Union
L-2985 Luxembourg
LUXEMBOURG

EN