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I

(Legislative acts)

REGULATIONS

REGULATION (EU) 2018/841 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**of 30 May 2018****on the inclusion of greenhouse gas emissions and removals from land use, land use change and forestry in the 2030 climate and energy framework, and amending Regulation (EU) No 525/2013 and Decision No 529/2013/EU****(Text with EEA relevance)**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 192(1) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,Having regard to the opinion of the Committee of the Regions ⁽²⁾,Acting in accordance with the ordinary legislative procedure ⁽³⁾,

Whereas:

- (1) The European Council in its conclusions of 23-24 October 2014 on the 2030 climate and energy policy framework endorsed a binding target of at least a 40 % domestic reduction in economy-wide greenhouse gas emissions by 2030 compared to 1990, and that target was reaffirmed in the European Council's conclusions of 17-18 March 2016.
- (2) The European Council conclusions of 23-24 October 2014 stated that the emissions reduction target of at least 40 % should be delivered collectively by the Union in the most cost-effective manner possible, with the reductions in the European Union emissions trading system ('EU ETS') laid down in Directive 2003/87/EC of the European Parliament and of the Council ⁽⁴⁾ and in non-ETS sectors amounting to 43 % and 30 %, respectively, by 2030 compared to 2005, with efforts distributed on the basis of relative GDP per capita.

⁽¹⁾ OJ C 75, 10.3.2017, p. 103.

⁽²⁾ OJ C 272, 17.8.2017, p. 36.

⁽³⁾ Position of the European Parliament of 17 April 2018 (not yet published in the Official Journal) and decision of the Council of 14 May 2018.

⁽⁴⁾ Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC (OJ L 275, 25.10.2003, p. 32).

- (3) This Regulation forms part of the implementation of the Union's commitments under the Paris Agreement ⁽¹⁾ adopted under the United Nations Framework Convention on Climate Change ('UNFCCC'). The Paris Agreement was concluded on behalf of the Union on 5 October 2016 by Council Decision (EU) 2016/1841 ⁽²⁾. The commitment of the Union to economy-wide emission reductions was set out in the Intended Nationally Determined Contribution submitted in view of the Paris Agreement by the Union and its Member States to the Secretariat of the UNFCCC on 6 March 2015. The Paris Agreement entered into force on 4 November 2016. The Union should continue to decrease its greenhouse gas emissions and enhance removals in line with the Paris Agreement.
- (4) The Paris Agreement, inter alia, sets out a long-term goal in line with the objective to keep the global temperature increase well below 2 °C above pre-industrial levels and to pursue efforts to keep it to 1,5 °C above pre-industrial levels. Forests, agricultural land and wetlands will play a central role in achieving this goal. In the Paris Agreement, the Parties also recognise the fundamental priority of safeguarding food security and ending hunger, in the context of sustainable development and efforts to eradicate poverty, and the particular vulnerabilities of food production systems to the adverse impacts of climate change, thereby fostering climate resilience and low greenhouse gas emissions development, in a manner that does not threaten food production. In order to achieve the objectives of the Paris Agreement, the Parties should increase their collective efforts. The Parties should prepare, communicate and maintain successive nationally determined contributions. The Paris Agreement replaces the approach taken under the 1997 Kyoto Protocol, which will not be continued beyond 2020. The Paris Agreement also calls for a balance between anthropogenic emissions by sources and removals by sinks of greenhouse gases in the second half of this century, and invites Parties to take action to conserve and enhance, as appropriate, sinks and reservoirs of greenhouse gases, including forests.
- (5) The land use, land use change and forestry ('LULUCF') sector has the potential to provide long-term climate benefits, and thereby to contribute to the achievement of the Union's greenhouse gas emissions reduction target, as well as to the long-term climate goals of the Paris Agreement. The LULUCF sector also provides bio-materials that can substitute fossil- or carbon-intensive materials and therefore plays an important role in the transition to a low greenhouse-gas-emitting economy. As removals through LULUCF are reversible, they should be treated as a separate pillar in the Union climate policy framework.
- (6) The European Council conclusions of 23-24 October 2014 stated that the multiple objectives of the agriculture and land use sector, with their lower mitigation potential as well as the need to ensure coherence between the Union food security and climate change objectives, should be acknowledged. The European Council invited the Commission to examine what the best means of encouraging the sustainable intensification of food production are, while optimising the sector's contribution to greenhouse gas mitigation and sequestration, including through afforestation, and to establish policy on how to include LULUCF in the 2030 greenhouse gas mitigation framework as soon as technical conditions allow and in any case before 2020.
- (7) Sustainable management practices in the LULUCF sector can contribute to climate change mitigation in several ways, in particular by reducing emissions, and maintaining and enhancing sinks and carbon stocks. In order for measures aiming in particular at increasing carbon sequestration to be effective, the long-term stability and adaptability of carbon pools is essential. In addition, sustainable management practices can maintain the productivity, regeneration capacity and vitality of the LULUCF sector and thereby promote economic and social development, while reducing the carbon and ecological footprint of that sector.
- (8) The development of sustainable and innovative practices and technologies, including agro-ecology and agro-forestry, can enhance the role of the LULUCF sector in relation to climate mitigation and adaptation, as well as strengthen the productivity and resilience of that sector. As the LULUCF sector is characterised by long timeframes for returns, long-term strategies are important to enhance research funding for the development of, and investments in, sustainable and innovative practices and technologies. Investments in preventive actions, such as sustainable management practices, can reduce the risks associated with natural disturbances.

⁽¹⁾ OJ L 282, 19.10.2016, p. 4.

⁽²⁾ Council Decision (EU) 2016/1841 of 5 October 2016 on the conclusion, on behalf of the European Union, of the Paris Agreement adopted under the United Nations Framework Convention on Climate Change (OJ L 282, 19.10.2016, p. 1).

- (9) In its conclusions of 22-23 June 2017, the European Council reaffirmed the commitment of the Union and its Member States to the 2030 Agenda for Sustainable Development, which aims, inter alia, to ensure that the management of forests is sustainable.
- (10) Action to reduce deforestation and forest degradation and to promote sustainable forest management in developing countries is important. In this context, in its conclusions of 21 October 2009 and 14 October 2010, the Council recalled the Union's objectives of reducing gross tropical deforestation by at least 50 % by 2020 compared to current levels and to halt global forest cover loss by 2030 at the latest.
- (11) Decision No 529/2013/EU of the European Parliament and of the Council ⁽¹⁾ sets out accounting rules applicable to emissions and removals from the LULUCF sector and thereby has contributed to the development of policies that have led towards the inclusion of the LULUCF sector in the Union's emission reduction commitment. This Regulation should build on the existing accounting rules, updating and improving them for the period from 2021 to 2030. It should lay down the obligations of Member States in implementing those accounting rules, and should also require the Member States to ensure that the overall LULUCF sector does not generate net emissions and contributes to the aim of enhancing sinks in the long-term. It should not lay down any accounting or reporting obligations for private parties, including farmers and foresters.
- (12) The LULUCF sector, including agricultural land, has a direct and significant impact on biodiversity and ecosystems services. For this reason, an important objective of policies affecting this sector is to ensure that there is coherence with the Union's biodiversity strategy objectives. Actions should be taken to implement and support activities in this sector relating to both mitigation and adaptation. Coherence between the Common Agricultural Policy and this Regulation should also be ensured. All sectors need to deliver their fair share as regards the reduction of greenhouse gas emissions.
- (13) Wetlands are effective ecosystems for storing carbon. Therefore, protecting and restoring wetlands could reduce greenhouse gas emissions in the LULUCF sector. The Intergovernmental Panel on Climate Change ('IPCC') Refinement to the 2006 IPCC Guidelines for National Greenhouse Gas Inventories relating to wetlands should be taken into account in this context.
- (14) To ensure the contribution of the LULUCF sector to the achievement of the Union's emission reduction target of at least 40 % and to the long-term goal of the Paris Agreement, a robust accounting system is needed. In order to obtain accurate accounts of emissions and removals in accordance with the 2006 IPCC Guidelines for National Greenhouse Gas Inventories ('IPCC Guidelines'), the annually reported values under Regulation (EU) No 525/2013 of the European Parliament and of the Council ⁽²⁾ for land use categories and the conversion between land use categories should be utilised, thereby streamlining the approaches used under the UNFCCC and the Kyoto Protocol. Land that is converted to another land use category should be considered to be in the process of transitioning to that category for the default value of 20 years referred to in the IPCC Guidelines. Member States should only be able to derogate from that default value for afforested land and only in limited circumstances justified under the IPCC Guidelines. Changes in the IPCC Guidelines as adopted by the Conference of the Parties to the UNFCCC or the Conference of the Parties serving as the Meeting of the Parties to the Paris Agreement should be reflected, as appropriate, in the reporting requirements under this Regulation.
- (15) The internationally agreed IPCC Guidelines state that emissions from the combustion of biomass can be accounted for as zero in the energy sector on condition that such emissions are accounted for in the LULUCF sector. In the Union, emissions from biomass combustion are currently accounted for as zero pursuant to Article 38 of Commission Regulation (EU) No 601/2012 ⁽³⁾ and the provisions set out in Regulation (EU) No 525/2013, therefore consistency with the IPCC Guidelines would only be ensured if such emissions were reflected accurately in this Regulation.

⁽¹⁾ Decision No 529/2013/EU of the European Parliament and of the Council of 21 May 2013 on accounting rules on greenhouse gas emissions and removals resulting from activities relating to land use, land-use change and forestry and on information concerning actions relating to those activities (OJ L 165, 18.6.2013, p. 80).

⁽²⁾ Regulation (EU) No 525/2013 of the European Parliament and of the Council of 21 May 2013 on a mechanism for monitoring and reporting greenhouse gas emissions and for reporting other information at national and Union level relevant to climate change and repealing Decision No 280/2004/EC (OJ L 165, 18.6.2013, p. 13).

⁽³⁾ Commission Regulation (EU) No 601/2012 of 21 June 2012 on the monitoring and reporting of greenhouse gas emissions pursuant to Directive 2003/87/EC of the European Parliament and of the Council (OJ L 181, 12.7.2012, p. 30).

- (16) Emissions and removals from forest land depend on a number of natural circumstances, dynamic age-related forest characteristics, as well as on past and present management practices that differ substantially between the Member States. The use of a base year would not make it possible to reflect those factors and resulting cyclical impacts on, or the interannual variation of, emissions and removals. The relevant accounting rules should instead provide for the use of reference levels to exclude the effects of natural and country-specific characteristics. Forest reference levels should take account of any unbalanced age structure of forests and should not unduly constrain future forest management intensity, so that long-term carbon sinks can be maintained or strengthened. Given the particular historical situation of Croatia, its forest reference level could also take into account the occupation of its territory, and wartime and post-war circumstances that had an impact on forest management during the reference period. The relevant accounting rules take account of the principles of sustainable forest management as adopted in the Ministerial Conferences on the Protection of Forests in Europe ('Forest Europe').
- (17) Member States should submit to the Commission national forestry accounting plans, including forest reference levels. In the absence of the international review under the UNFCCC or the Kyoto Protocol, a review procedure should be established to ensure transparency and improve the quality of accounting in the category of managed forest land.
- (18) When the Commission assesses the national forestry accounting plans, including the forest reference levels proposed therein, it should build on the good practice and experience of the expert reviews under the UNFCCC, including as regards participation of experts from the Member States. The Commission should ensure that experts from the Member States are involved in the technical assessment of whether the proposed forest reference levels have been determined in accordance with the criteria and requirements set out in this Regulation. The results of the technical assessment should be forwarded to the Standing Forestry Committee established by Council Decision 89/367/EEC ⁽¹⁾ for information. The Commission should also consult stakeholders and civil society. The national forestry accounting plans should be made public in accordance with the relevant legislation.
- (19) The increased sustainable use of harvested wood products can substantially limit emissions by the substitution effect and enhance removals of greenhouse gases from the atmosphere. The accounting rules should ensure that Member States accurately and transparently reflect in their LULUCF accounts changes in the carbon pool of harvested wood products when such changes take place, in order to recognise and incentivise the enhanced use of harvested wood products with long life-cycles. The Commission should provide guidance on issues related to the methodology concerning the accounting for harvested wood products.
- (20) Natural disturbances, such as wildfires, insect and disease infestations, extreme weather events and geological disturbances, that are beyond the control of, and not materially influenced by, a Member State, can result in greenhouse gas emissions of a temporary nature in the LULUCF sector, or cause the reversal of previous removals. As such reversal can also be the result of management decisions, such as decisions to harvest or plant trees, this Regulation should ensure that human-induced reversals of removals are always accurately reflected in LULUCF accounts. Moreover, this Regulation should provide Member States with a limited possibility to exclude emissions resulting from disturbances that are beyond their control from their LULUCF accounts. However, the manner in which Member States apply those provisions should not lead to undue under-accounting.
- (21) Depending on national preferences, Member States should be able to choose adequate national policies for achieving their commitments in the LULUCF sector, including the possibility of balancing emissions from one land category with removals from another land category. They should also be able to cumulate net removals over the period from 2021 to 2030. Transfers to other Member States should continue to be available as an additional option, and Member States should be able to use annual emissions allocations established pursuant to Regulation (EU) 2018/842 of the European Parliament and of the Council ⁽²⁾ for compliance under this Regulation. The use of flexibilities set out in this Regulation will not compromise the overall ambition level of the Union's greenhouse gas reduction targets.

⁽¹⁾ Council Decision 89/367/EEC of 29 May 1989 setting up a Standing Forestry Committee (OJ L 165, 15.6.1989, p. 14).

⁽²⁾ Regulation (EU) 2018/842 of the European Parliament and of the Council of 30 May 2018 on binding annual greenhouse gas emission reductions by Member States from 2021 to 2030 contributing to climate action to meet commitments under the Paris Agreement and amending Regulation (EU) No 525/2013 (see page 26 of this Official Journal).

- (22) Forests managed in a sustainable way normally are sinks, contributing to climate mitigation. In the reference period from 2000 to 2009, the reported average removals by sinks from forest land were 372 million tonnes of CO₂ equivalent per year for the Union as a whole. Member States should ensure that sinks and reservoirs, including forests, are conserved and enhanced, as appropriate, with a view to achieving the purpose of the Paris Agreement and meeting the ambitious greenhouse gas emissions reduction targets of the Union by 2050.
- (23) Removals from managed forest land should be accounted against a forward-looking forest reference level. The projected future removals by sinks should be based on an extrapolation of forest management practices and intensity from a reference period. A decrease in a sink relative to the reference level should be accounted for as emissions. Specific national circumstances and practices, such as lower harvest intensity than usual or ageing forests during the reference period, should be taken into account.
- (24) Member States should be granted some flexibility to temporarily increase their harvest intensity in accordance with sustainable forest management practices that are consistent with the objective set out in the Paris Agreement, provided that within the Union total emissions do not exceed total removals in the LULUCF sector. Under such flexibility, all Member States should be granted a basic amount of compensation calculated on the basis of a factor expressed as a percentage of their reported sink in the period from 2000 to 2009 to compensate for the emissions from managed forest land they have accounted for. It should be ensured that Member States can only be compensated up to the level at which their forests are no longer sinks.
- (25) Member States with very high forest coverage compared to the Union average, and in particular smaller Member States with very high forest coverage, are more dependent than other Member States on managed forest land to balance emissions in other land accounting categories and would therefore be affected to a higher degree and would have a limited potential to increase their forest coverage. The compensation factor should, therefore, be increased on the basis of forest coverage and land area so that Member States with a very small land area and very high forest coverage compared to the Union average are granted the highest compensation factor for the reference period.
- (26) In its conclusions of 9 March 2012, the Council acknowledged the particularities of richly forested countries. Those particularities especially concern the limited possibilities of balancing emissions with removals. Given that it is the most richly forested Member State and taking into account its particular geographical characteristics, Finland faces particular difficulties in this respect. Therefore, Finland should be granted limited additional compensation.
- (27) To monitor the progress of Member States towards meeting their commitments under this Regulation and to ensure that information on emissions and removals is transparent, accurate, consistent, complete and comparable, Member States should provide the Commission with the relevant greenhouse gas inventory data in accordance with Regulation (EU) No 525/2013, and compliance checks under this Regulation should take those data into account. If a Member State intends to apply the managed forest land flexibility set out in this Regulation, it should include in the compliance report the amount of compensation that it intends to use.
- (28) The European Environment Agency should assist the Commission, where appropriate in accordance with the Agency's annual work programme, with the system of annual reporting of greenhouse gas emissions and removals, the assessment of information on policies and measures and national projections, the evaluation of planned additional policies and measures, and the compliance checks carried out by the Commission under this Regulation.
- (29) In order to provide for the appropriate accounting of transactions under this Regulation, including the use of flexibilities and tracking compliance, as well as to promote enhanced use of wood products with long life-cycles, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of technical adaptation of definitions, including the minimum values for the definition of forests, lists of greenhouse gases and carbon pools, laying down the forest reference levels of Member States for the periods from 2021 to 2025 and from 2026 to 2030, respectively, the addition of new categories of harvested wood products, the revision of methodology and information requirements regarding natural disturbances to reflect changes in the IPCC Guidelines, and the accounting of transactions through the Union Registry. The necessary provisions related to accounting of transactions should be contained in a single instrument combining the accounting provisions pursuant to Regulation (EU) No 525/2013, Regulation (EU) 2018/842, this Regulation and Directive 2003/87/EC. It is of particular importance that the Commission carry

out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making ⁽¹⁾. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts have systematic access to meetings of Commission expert groups dealing with the preparation of delegated acts.

- (30) As part of its regular reporting under Regulation (EU) No 525/2013, the Commission should also assess the outcome of the 2018 Facilitative Dialogue under the UNFCCC ('Talanoa dialogue'). This Regulation should be reviewed in 2024 and every five years thereafter in order to assess its overall functioning. The review should be informed by the results of the Talanoa dialogue and the Global Stocktake under the Paris Agreement. The framework for the period after 2030 should be in line with the long-term objectives and the commitments made under the Paris Agreement.
- (31) In order to ensure that there is efficient, transparent and cost-effective reporting and verification of greenhouse gas emissions and removals, and reporting of any other information necessary to assess compliance with Member States' commitments, reporting requirements should be included in Regulation (EU) No 525/2013.
- (32) To facilitate data collection and methodology improvement, land use should be inventoried and reported using geographical tracking of each land area, corresponding to national and Union data collection systems. The best use should be made of existing Union and Member State programmes and surveys including the Land Use/Cover Area frame Survey ('LUCAS'), the European Earth observation programme Copernicus and the European satellite navigation system Galileo for data collection. Data management, including sharing of data for reporting, reuse and dissemination, should conform to the requirements provided for in Directive 2007/2/EC of the European Parliament and of the Council ⁽²⁾.
- (33) Regulation (EU) No 525/2013 should be amended accordingly.
- (34) Decision No 529/2013/EU should continue to apply to the accounting and reporting obligations for the accounting period from 1 January 2013 to 31 December 2020. For the accounting periods from 1 January 2021, this Regulation should apply.
- (35) Decision No 529/2013/EU should be amended accordingly.
- (36) Since the objectives of this Regulation, in particular to set out the commitments of Member States for the LULUCF sector that contribute to achieving the objectives of the Paris Agreement and meeting the greenhouse gas emission reduction target of the Union for the period from 2021 to 2030, cannot be sufficiently achieved by the Member States but can rather, by reason of its scale and effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives,

HAVE ADOPTED THIS REGULATION:

Article 1

Subject matter

This Regulation sets out the commitments of Member States for the land use, land use change and forestry ('LULUCF') sector that contribute to achieving the objectives of the Paris Agreement and meeting the greenhouse gas emission reduction target of the Union for the period from 2021 to 2030. This Regulation also lays down the rules for the accounting of emissions and removals from LULUCF and for checking the compliance of Member States with those commitments.

⁽¹⁾ OJ L 123, 12.5.2016, p. 1.

⁽²⁾ Directive 2007/2/EC of the European Parliament and of the Council of 14 March 2007 establishing an Infrastructure for Spatial Information in the European Community (INSPIRE) (OJ L 108, 25.4.2007, p. 1).

*Article 2***Scope**

1. This Regulation applies to emissions and removals of the greenhouse gases listed in Section A of Annex I thereto, reported pursuant to Article 7 of Regulation (EU) No 525/2013 and that occur in any of the following land accounting categories on the territories of Member States:

(a) During the periods from 2021 to 2025 and from 2026 to 2030:

(i) 'afforested land': land use reported as cropland, grassland, wetlands, settlements or other land, converted to forest land;

(ii) 'deforested land': land use reported as forest land converted to cropland, grassland, wetlands, settlements or other land;

(iii) 'managed cropland': land use reported as:

- cropland remaining cropland,
- grassland, wetland, settlement or other land, converted to cropland, or
- cropland converted to wetland, settlement or other land;

(iv) 'managed grassland': land use reported as:

- grassland remaining grassland,
- cropland, wetland, settlement or other land, converted to grassland, or
- grassland converted to wetland, settlement or other land;

(v) 'managed forest land': land use reported as forest land remaining forest land.

(b) As of 2026: 'managed wetland': land use reported as:

- wetland remaining wetland,
- settlement or other land, converted to wetland, or
- wetland converted to settlement or other land.

2. During the period from 2021 to 2025, a Member State may include in the scope of its commitment pursuant to Article 4 of this Regulation emissions and removals of the greenhouse gases listed in Section A of Annex I to this Regulation, reported pursuant to Article 7 of Regulation (EU) No 525/2013, and that occur in the land accounting category of managed wetland on its territory. This Regulation also applies to such emissions and removals included by a Member State.

3. Where a Member State intends, pursuant to paragraph 2, to include managed wetland in the scope of its commitment, it shall notify the Commission thereof by 31 December 2020.

4. If necessary in light of experience gained with the application of the IPCC Refinement to the IPCC Guidelines, the Commission may make a proposal to postpone the mandatory accounting for managed wetland for an additional period of five years.

*Article 3***Definitions**

1. For the purposes of this Regulation, the following definitions apply:

- (1) 'sink' means any process, activity or mechanism that removes a greenhouse gas, an aerosol, or a precursor to a greenhouse gas from the atmosphere;

- (2) 'source' means any process, activity or mechanism that releases a greenhouse gas, an aerosol or a precursor to a greenhouse gas into the atmosphere;
- (3) 'carbon pool' means the whole or part of a biogeochemical feature or system within the territory of a Member State and within which carbon, any precursor to a greenhouse gas containing carbon, or any greenhouse gas containing carbon is stored;
- (4) 'carbon stock' means the mass of carbon stored in a carbon pool;
- (5) 'harvested wood product' means any product of wood harvesting that has left a site where wood is harvested;
- (6) 'forest' means an area of land defined by the minimum values for area size, tree crown cover or an equivalent stocking level, and potential tree height at maturity at the place of growth of the trees as specified for each Member State in Annex II. It includes areas with trees, including groups of growing, young, natural trees, or plantations that have yet to reach the minimum values for tree crown cover or an equivalent stocking level or minimum tree height as specified in Annex II, including any area that normally forms part of the forest area but on which there are temporarily no trees as a result of human intervention, such as harvesting, or as a result of natural causes, but which area can be expected to revert to forest;
- (7) 'forest reference level' means an estimate, expressed in tonnes of CO₂ equivalent per year, of the average annual net emissions or removals resulting from managed forest land within the territory of a Member State in the periods from 2021 to 2025 and from 2026 to 2030, based on the criteria set out in this Regulation;
- (8) 'half-life value' means the number of years it takes for the quantity of carbon stored in a category of harvested wood products to decrease to one half of its initial value;
- (9) 'natural disturbances' mean any non-anthropogenic events or circumstances that cause significant emissions in forests and the occurrence of which is beyond the control of the relevant Member State, and the effects of which the Member State is objectively unable to significantly limit, even after their occurrence, on emissions;
- (10) 'instantaneous oxidation' means an accounting method that assumes that the release into the atmosphere of the entire quantity of carbon stored in harvested wood products occurs at the time of harvest.

2. The Commission is empowered to adopt delegated acts in accordance with Article 16, to amend or delete the definitions contained in paragraph 1 of this Article, or add new definitions thereto, in order to adapt that paragraph to scientific developments or technical progress and to ensure consistency between those definitions and any changes to relevant definitions in the IPCC Guidelines as adopted by the Conference of the Parties to the UNFCCC or the Conference of the Parties serving as the Meeting of the Parties to the Paris Agreement.

Article 4

Commitments

For the periods from 2021 to 2025 and from 2026 to 2030, taking into account the flexibilities provided for in Articles 12 and 13, each Member State shall ensure that emissions do not exceed removals, calculated as the sum of total emissions and total removals on its territory in all of the land accounting categories referred to in Article 2 combined, as accounted in accordance with this Regulation.

Article 5

General accounting rules

1. Each Member State shall prepare and maintain accounts that accurately reflect the emissions and removals resulting from the land accounting categories referred to in Article 2. Member States shall ensure that their accounts and other data provided under this Regulation are accurate, complete, consistent, comparable and transparent. Member States shall denote emissions by a positive sign (+) and removals by a negative sign (-).

2. Member States shall prevent any double counting of emissions or removals, in particular by ensuring that emissions and removals are not accounted for under more than one land accounting category.
3. Where land use is converted, Member States shall, 20 years after the date of that conversion, change the categorisation of forest land, cropland, grassland, wetland, settlements and other land from such land converted to another type of land to such land remaining the same type of land.
4. Member States shall include in their accounts for each land accounting category any change in the carbon stock of the carbon pools listed in Section B of Annex I. Member States may choose not to include in their accounts changes in carbon stocks of carbon pools provided that the carbon pool is not a source. However, that option not to include changes in carbon stocks in the accounts shall not apply in relation to the carbon pools of above-ground biomass, dead wood and harvested wood products, in the land accounting category of managed forest land.
5. Member States shall maintain a complete and accurate record of all data used in preparing their accounts.
6. The Commission is empowered to adopt delegated acts in accordance with Article 16 to amend Annex I in order to reflect changes in the IPCC Guidelines as adopted by the Conference of the Parties to the UNFCCC or the Conference of the Parties serving as the Meeting of the Parties to the Paris Agreement.

Article 6

Accounting for afforested land and deforested land

1. Member States shall account for emissions and removals resulting from afforested land and deforested land, as being the total emissions and total removals for each of the years in the periods from 2021 to 2025 and from 2026 to 2030.
2. By way of derogation from Article 5(3), where land use is converted from cropland, grassland, wetland, settlements or other land to forest land, a Member State may change the categorisation of such land from land converted to forest land to forest land remaining forest land, 30 years after the date of that conversion, if duly justified based on the IPCC Guidelines.
3. When calculating emissions and removals resulting from afforested land and deforested land, each Member State shall determine the forest area using the parameters specified in Annex II.

Article 7

Accounting for managed cropland, managed grassland and managed wetland

1. Each Member State shall account for emissions and removals resulting from managed cropland calculated as emissions and removals in the periods from 2021 to 2025 and from 2026 to 2030 minus the value obtained by multiplying by five the Member State's average annual emissions and removals resulting from managed cropland in its base period from 2005 to 2009.
2. Each Member State shall account for emissions and removals resulting from managed grassland calculated as emissions and removals in the periods from 2021 to 2025 and from 2026 to 2030 minus the value obtained by multiplying by five the Member State's average annual emissions and removals resulting from managed grassland in its base period from 2005 to 2009.
3. During the period from 2021 to 2025, each Member State that, pursuant to Article 2(2), includes managed wetland in the scope of its commitments, and all Member States during the period from 2026 to 2030, shall account for emissions and removals resulting from managed wetland, calculated as emissions and removals in the respective periods minus the value obtained by multiplying by five the Member State's average annual emissions and removals resulting from managed wetland in its base period from 2005 to 2009.

4. During the period from 2021 to 2025, Member States that, pursuant to Article 2(2), have chosen not to include managed wetland in the scope of their commitments shall nevertheless report to the Commission on the emissions and removals from land use reported as:

- (a) wetland remaining wetland;
- (b) settlement or other land, converted to wetland; or
- (c) wetland converted to settlement or other land.

Article 8

Accounting for managed forest land

1. Each Member State shall account for emissions and removals resulting from managed forest land, calculated as emissions and removals in the periods from 2021 to 2025 and from 2026 to 2030 minus the value obtained by multiplying by five the forest reference level of the Member State concerned.

2. Where the result of the calculation referred to in paragraph 1 of this Article is negative in relation to a Member State's forest reference level, the Member State concerned shall include in its managed forest land accounts total net removals of no more than the equivalent of 3,5 % of the emissions of that Member State in its base year or period as specified in Annex III, multiplied by five. Net removals resulting from the carbon pools of dead wood and harvested wood products, except the category of paper as referred to in point (a) of Article 9(1), in the land accounting category of managed forest land shall not be subject to this limitation.

3. Member States shall submit to the Commission their national forestry accounting plans, including a proposed forest reference level, by 31 December 2018 for the period from 2021 to 2025 and by 30 June 2023 for the period from 2026 to 2030. The national forestry accounting plan shall contain all the elements listed in Section B of Annex IV and shall be made public, including via the internet.

4. Member States shall determine their forest reference level based on the criteria set out in Section A of Annex IV. For Croatia, its forest reference level may also take into account, in addition to the criteria set out in Section A of Annex IV, the occupation of its territory, and wartime and post-war circumstances that had an impact on forest management during the reference period.

5. The forest reference level shall be based on the continuation of sustainable forest management practice, as documented in the period from 2000 to 2009 with regard to dynamic age-related forest characteristics in national forests, using the best available data.

Forest reference levels as determined in accordance with the first subparagraph shall take account of the future impact of dynamic age-related forest characteristics in order not to unduly constrain forest management intensity as a core element of sustainable forest management practice, with the aim of maintaining or strengthening long-term carbon sinks.

Member States shall demonstrate consistency between the methods and data used to determine the proposed forest reference level in the national forestry accounting plan and those used in the reporting for managed forest land.

6. The Commission, in consultation with experts appointed by the Member States, shall undertake a technical assessment of the national forestry accounting plans submitted by Member States in accordance with paragraph 3 of this Article with a view to assessing the extent to which the proposed forest reference levels have been determined in accordance with the principles and requirements set out in paragraphs 4 and 5 of this Article and in Article 5(1). In addition, the Commission shall consult stakeholders and civil society. The Commission shall publish a summary of the work carried out, including the views expressed by the experts appointed by the Member States, and the conclusions thereof.

The Commission shall, where necessary, issue technical recommendations to the Member States reflecting the conclusions of the technical assessment to facilitate the technical revision of the proposed forest reference levels. The Commission shall publish those technical recommendations.

7. Where necessary based on the technical assessments and on, where applicable, the technical recommendations, Member States shall communicate their revised proposed forest reference levels to the Commission by 31 December 2019 for the period from 2021 to 2025 and by 30 June 2024 for the period from 2026 to 2030. The Commission shall publish the proposed forest reference levels communicated to it by Member States.

8. Based on the proposed forest reference levels submitted by Member States, on the technical assessment carried out pursuant to paragraph 6 of this Article and, where applicable, on the revised proposed forest reference level submitted under paragraph 7 of this Article, the Commission shall adopt delegated acts in accordance with Article 16 amending Annex IV with a view to laying down the forest reference levels to be applied by the Member States for the periods from 2021 to 2025 and from 2026 to 2030.

9. If a Member State does not submit its forest reference level to the Commission by the dates specified in paragraph 3 of this Article and, where applicable, paragraph 7 of this Article, the Commission shall adopt delegated acts in accordance with Article 16 amending Annex IV with a view to laying down the forest reference level to be applied by that Member State for the period from 2021 to 2025 or from 2026 to 2030, based on any technical assessment carried out pursuant to paragraph 6 of this Article.

10. The delegated acts referred to in paragraphs 8 and 9 shall be adopted by 31 October 2020 for the period from 2021 to 2025 and by 30 April 2025 for the period from 2026 to 2030.

11. In order to ensure consistency as referred to in paragraph 5 of this Article, Member States shall, where necessary, submit to the Commission technical corrections not requiring amendments to the delegated acts adopted pursuant to paragraph 8 or 9 of this Article by the dates referred to in Article 14(1).

Article 9

Accounting for harvested wood products

1. In the accounts provided pursuant to Articles 6(1) and 8(1) relating to harvested wood products, Member States shall reflect emissions and removals resulting from changes in the carbon pool of harvested wood products falling within the following categories using the first order decay function, the methodologies and the default half-life values specified in Annex V:

(a) paper;

(b) wood panels;

(c) sawn wood.

2. The Commission shall adopt delegated acts in accordance with Article 16 in order to amend paragraph 1 of this Article and Annex V by adding new categories of harvested wood products that have a carbon sequestration effect, based on IPCC Guidelines as adopted by the Conference of the Parties to the UNFCCC or the Conference of the Parties serving as the Meeting of the Parties to the Paris Agreement, and ensuring environmental integrity.

3. Member States may specify the wood-based material products, including bark, which fall within the existing and new categories referred to in paragraphs 1 and 2, respectively, based on IPCC Guidelines as adopted by the Conference of the Parties to the UNFCCC or the Conference of the Parties serving as the Meeting of the Parties to the Paris Agreement, provided that the available data are transparent and verifiable.

Article 10

Accounting for natural disturbances

1. At the end of each of the periods from 2021 to 2025 and from 2026 to 2030, Member States may exclude from their accounts for afforested land and managed forest land greenhouse gas emissions, resulting from natural disturbances, that exceed the average emissions caused by natural disturbances in the period from 2001 to 2020, excluding statistical outliers ('background level'). That background level shall be calculated in accordance with this Article and Annex VI.

2. Where a Member State applies paragraph 1, it shall:
 - (a) submit to the Commission information on the background level for the land accounting categories referred to in paragraph 1 and on the data and methodologies used in accordance with Annex VI; and
 - (b) exclude from accounting until 2030 all subsequent removals on the land affected by natural disturbances.
3. The Commission is empowered to adopt delegated acts in accordance with Article 16 to amend Annex VI in order to revise the methodology and information requirements in that Annex to reflect changes in the IPCC Guidelines as adopted by the Conference of the Parties to the UNFCCC or the Conference of the Parties serving as the Meeting of the Parties to the Paris Agreement.

Article 11

Flexibilities

1. A Member State may use:
 - (a) the general flexibilities set out in Article 12; and
 - (b) in order to comply with the commitment in Article 4, the managed forest land flexibility set out in Article 13.
2. If a Member State is not in compliance with the monitoring requirements laid down in point (da) of Article 7(1) of Regulation (EU) No 525/2013, the Central Administrator designated under Article 20 of Directive 2003/87/EC (‘the Central Administrator’) shall temporarily prohibit that Member State from transferring or banking pursuant to Article 12(2) and (3) of this Regulation or using the managed forest land flexibility pursuant to Article 13 of this Regulation.

Article 12

General flexibilities

1. Where total emissions exceed total removals in a Member State, and that Member State has chosen to use its flexibility, and has requested to delete annual emission allocations under Regulation (EU) 2018/842, the quantity of deleted emission allocations shall be taken into account with respect to the Member State’s compliance with its commitment pursuant to Article 4 of this Regulation.
2. To the extent that total removals exceed total emissions in a Member State and after subtraction of any quantity taken into account under Article 7 of Regulation (EU) 2018/842, that Member State may transfer the remaining quantity of removals to another Member State. The quantity transferred shall be taken into account when assessing the recipient Member State’s compliance with its commitment pursuant to Article 4 of this Regulation.
3. To the extent that total removals exceed total emissions in a Member State in the period from 2021 to 2025, and after subtraction of any quantity taken into account under Article 7 of Regulation (EU) 2018/842 or transferred to another Member State pursuant to paragraph 2 of this Article, that Member State may bank the remaining quantity of removals to the period from 2026 to 2030.
4. In order to avoid double counting, the quantity of net removals taken into account under Article 7 of Regulation (EU) 2018/842 shall be subtracted from that Member State’s quantity available for transfer to another Member State or for banking pursuant to paragraphs 2 and 3 of this Article.

Article 13

Managed forest land flexibility

1. Where total emissions exceed total removals in the land accounting categories referred to in Article 2, accounted for in accordance with this Regulation, in a Member State, that Member State may use the managed forest land flexibility set out in this Article in order to comply with Article 4.

2. Where the result of the calculation referred to in Article 8(1) is a positive figure, the Member State concerned shall be entitled to compensate those emissions provided that:

- (a) the Member State, in its strategy submitted in accordance with Article 4 of Regulation (EU) No 525/2013, has included ongoing or planned specific measures to ensure the conservation or enhancement, as appropriate, of forest sinks and reservoirs; and
- (b) within the Union, total emissions do not exceed total removals in the land accounting categories referred to in Article 2 of this Regulation for the period for which the Member State intends to use the compensation. When assessing whether, within the Union, total emissions exceed total removals, the Commission shall ensure that double counting is avoided by Member States, in particular in the exercise of the flexibilities set out in this Regulation and Regulation (EU) 2018/842

3. As regards the amount of compensation, the Member State concerned may only compensate:

- (a) sinks accounted for as emissions against its forest reference level; and
- (b) up to the maximum amount of compensation for that Member State set out in Annex VII for the period from 2021 to 2030.

4. Finland may compensate up to 10 million tonnes of CO₂ equivalent emissions provided that it satisfies the conditions listed in points (a) and (b) of paragraph 2.

Article 14

Compliance check

1. By 15 March 2027 for the period from 2021 to 2025, and by 15 March 2032 for the period from 2026 to 2030, Member States shall submit to the Commission a compliance report containing the balance of total emissions and total removals for the relevant period on each of the land accounting categories specified in Article 2, using the accounting rules laid down in this Regulation.

Such report shall also contain, where applicable, details on the intention to use the flexibilities referred to in Article 11 and related amounts or on the use of such flexibilities and related amounts.

2. The Commission shall carry out a comprehensive review of the compliance reports, provided under paragraph 1 of this Article, for the purpose of assessing compliance with Article 4.

3. The Commission shall prepare a report in 2027, for the period from 2021 to 2025, and in 2032, for the period from 2026 to 2030, on the Union's total emissions and total removals of greenhouse gases for each of the land accounting categories referred to in Article 2 calculated as the total reported emissions and total reported removals for the period minus the value obtained by multiplying by five the Union's average annual reported emissions and removals in the period from 2000 to 2009.

4. The European Environment Agency shall assist the Commission in the implementation of the monitoring and compliance framework provided for in this Article, in accordance with its annual work programme.

Article 15

Registry

1. The Commission shall adopt delegated acts in accordance with Article 16 of this Regulation to supplement this Regulation in order to lay down the rules for the recording of the quantity of emissions and removals for each land accounting category in each Member State and to ensure that the accounting carried out in relation to the exercise of the flexibilities pursuant to Articles 12 and 13 of this Regulation through the Union Registry established pursuant to Article 10 of Regulation (EU) No 525/2013 is accurate.

2. The Central Administrator shall conduct an automated check on each transaction under this Regulation and, where necessary, block transactions to ensure that there are no irregularities.

3. The information referred to in paragraphs 1 and 2 shall be accessible to the public.

Article 16

Exercise of delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Articles 3(2), 5(6), 8(8) and (9), 9(2), 10(3) and 15(1) shall be conferred on the Commission for a period of five years from 9 July 2018. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

3. The delegation of powers referred to in Articles 3(2), 5(6), 8(8) and (9), 9(2), 10(3) and 15(1) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. Before the adoption of a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6. A delegated act adopted pursuant to Articles 3(2), 5(6), 8(8) and (9), 9(2), 10(3) and 15(1) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and to the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 17

Review

1. This Regulation shall be kept under review taking into account, inter alia, international developments and efforts undertaken to achieve the long-term objectives of the Paris Agreement.

On the basis of the findings of the report prepared pursuant to Article 14(3) and the results of the assessment carried out pursuant to point (b) of Article 13(2), the Commission shall, where appropriate, make proposals to ensure that the integrity of the Union's overall 2030 greenhouse gas emission reduction target and its contribution to the goals of the Paris Agreement are respected.

2. The Commission shall submit a report to the European Parliament and to the Council, within six months of each global stocktake agreed under Article 14 of the Paris Agreement, on the operation of this Regulation, including, where relevant, an assessment of the impacts of the flexibilities referred to in Article 11, as well as on the contribution of this Regulation to the Union's overall 2030 greenhouse gas emission reduction target and its contribution to the goals of the Paris Agreement, in particular with regard to the need for additional Union policies and measures, including a post-2030 framework, in view of the necessary increase in greenhouse gas emissions reductions and removals in the Union, and shall make proposals if appropriate.

Article 18

Amendments to Regulation (EU) No 525/2013

Regulation (EU) No 525/2013 is amended as follows:

(1) In Article 7, paragraph 1 is amended as follows:

(a) the following point is inserted:

‘(da) as of 2023, their emissions and removals covered by Article 2 of Regulation (EU) 2018/841 of the European Parliament and of the Council (*) in accordance with the methodologies specified in Annex IIIa to this Regulation;

(*) Regulation (EU) 2018/841 of the European Parliament and of the Council of 30 May 2018 on the inclusion of greenhouse gas emissions and removals from land use, land use change and forestry in the 2030 climate and energy framework and amending Regulation (EU) No 525/2013 and Decision No 529/2013/EU (OJ L 156, 19.6.2018, p. 1).’;

(b) the following subparagraph is added:

‘A Member State may request to be granted a derogation by the Commission from point (da) of the first subparagraph to apply a different methodology from that specified in Annex IIIa where the methodology improvement required cannot be achieved in time for the improvement to be taken into account in the greenhouse gas inventories for the period from 2021 to 2030, or where the cost of the methodology improvement would be disproportionately high compared to the benefits of applying such methodology to improve accounting for emissions and removals due to the low significance of the emissions and removals from the carbon pools concerned. Member States wishing to benefit from this derogation shall submit a reasoned request to the Commission by 31 December 2020, indicating by which time the methodology improvement could be implemented, the alternative methodology proposed or both, and an assessment of the potential impacts on the accuracy of accounting. The Commission may request additional information to be submitted within a specific, reasonable time period. Where the Commission considers that the request is justified, it shall grant the derogation. If the Commission rejects the request, it shall give reasons for its decision.’.

(2) In point (c) of Article 13(1), the following point is added:

‘(viii) as of 2023, information on national policies and measures implemented to meet their obligations under Regulation (EU) 2018/841 and information on additional national policies and measures planned with a view to limiting greenhouse gas emissions or enhancing sinks beyond their commitments under that Regulation;’.

(3) In Article 14(1), the following point is inserted:

‘(ba) as of 2023, total greenhouse gas projections and separate estimates for the projected greenhouse gas emissions and removals covered by Regulation (EU) 2018/841’.

(4) The following Annex is inserted:

‘ANNEX IIIA

Methodologies for monitoring and reporting referred to in point (da) of Article 7(1)

Approach 3: Geographically-explicit land-use conversion data in accordance with the 2006 IPCC Guidelines for National Greenhouse Gas Inventories.

Tier 1 methodology in accordance with the 2006 IPCC Guidelines for National Greenhouse Gas Inventories.

For emissions and removals for a carbon pool that accounts for at least 25-30 % of emissions or removals in a source or sink category which is prioritised within a Member State's national inventory system because its estimate has a significant influence on a country's total inventory of greenhouse gases in terms of the absolute level of emissions and removals, the trend in emissions and removals, or the uncertainty in emissions and removals in the land-use categories, at least Tier 2 methodology in accordance with the 2006 IPCC Guidelines for National Greenhouse Gas Inventories.

Member States are encouraged to apply Tier 3 methodology, in accordance with the 2006 IPCC Guidelines for National Greenhouse Gas Inventories.’.

Article 19

Amendment to Decision No 529/2013/EU

Decision No 529/2013/EU is amended as follows:

- (1) in Article 3(2), the first subparagraph is deleted;
- (2) in Article 6, paragraph 4 is deleted.

Article 20

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 Strasbourg, 30 May 2018.

For the European Parliament
The President
A. TAJANI

For the Council
The President
L. PAVLOVA

ANNEX I

GREENHOUSE GASES AND CARBON POOLS

A. Greenhouse gases as referred to in Article 2:

- (a) carbon dioxide (CO₂);
- (b) methane (CH₄);
- (c) nitrous oxide (N₂O).

Those greenhouse gases shall be expressed in terms of tonnes of CO₂ equivalent and determined pursuant to Regulation (EU) No 525/2013.

B. Carbon pools as referred to in Article 5(4):

- (a) above-ground biomass;
 - (b) below-ground biomass;
 - (c) litter;
 - (d) dead wood;
 - (e) soil organic carbon;
 - (f) harvested wood products in the land accounting categories of afforested land and managed forest land.
-

ANNEX II

MINIMUM VALUES FOR AREA SIZE, TREE CROWN COVER AND TREE HEIGHT PARAMETERS

| Member State | Area (ha) | Tree crown cover (%) | Tree height (m) |
|----------------|-----------|----------------------|-----------------|
| Belgium | 0,5 | 20 | 5 |
| Bulgaria | 0,1 | 10 | 5 |
| Czech Republic | 0,05 | 30 | 2 |
| Denmark | 0,5 | 10 | 5 |
| Germany | 0,1 | 10 | 5 |
| Estonia | 0,5 | 30 | 2 |
| Ireland | 0,1 | 20 | 5 |
| Greece | 0,3 | 25 | 2 |
| Spain | 1,0 | 20 | 3 |
| France | 0,5 | 10 | 5 |
| Croatia | 0,1 | 10 | 2 |
| Italy | 0,5 | 10 | 5 |
| Cyprus | 0,3 | 10 | 5 |
| Latvia | 0,1 | 20 | 5 |
| Lithuania | 0,1 | 30 | 5 |
| Luxembourg | 0,5 | 10 | 5 |
| Hungary | 0,5 | 30 | 5 |
| Malta | 1,0 | 30 | 5 |
| Netherlands | 0,5 | 20 | 5 |
| Austria | 0,05 | 30 | 2 |
| Poland | 0,1 | 10 | 2 |
| Portugal | 1,0 | 10 | 5 |
| Romania | 0,25 | 10 | 5 |
| Slovenia | 0,25 | 30 | 2 |
| Slovakia | 0,3 | 20 | 5 |
| Finland | 0,5 | 10 | 5 |
| Sweden | 0,5 | 10 | 5 |
| United Kingdom | 0,1 | 20 | 2 |

ANNEX III

BASE YEAR OR PERIOD FOR THE PURPOSE OF CALCULATING THE CAP PURSUANT TO ARTICLE 8(2)

| Member State | Base Year/Period |
|----------------|------------------|
| Belgium | 1990 |
| Bulgaria | 1988 |
| Czech Republic | 1990 |
| Denmark | 1990 |
| Germany | 1990 |
| Estonia | 1990 |
| Ireland | 1990 |
| Greece | 1990 |
| Spain | 1990 |
| France | 1990 |
| Croatia | 1990 |
| Italy | 1990 |
| Cyprus | 1990 |
| Latvia | 1990 |
| Lithuania | 1990 |
| Luxembourg | 1990 |
| Hungary | 1985-87 |
| Malta | 1990 |
| Netherlands | 1990 |
| Austria | 1990 |
| Poland | 1988 |
| Portugal | 1990 |
| Romania | 1989 |
| Slovenia | 1986 |
| Slovakia | 1990 |
| Finland | 1990 |
| Sweden | 1990 |
| United Kingdom | 1990 |

ANNEX IV

NATIONAL FORESTRY ACCOUNTING PLAN CONTAINING A MEMBER STATE'S FOREST REFERENCE LEVEL

A. Criteria and guidance for determining forest reference level

A Member State's forest reference level shall be determined in accordance with the following criteria:

- (a) the reference level shall be consistent with the goal of achieving a balance between anthropogenic emissions by sources and removals by sinks of greenhouse gases in the second half of this century, including enhancing the potential removals by ageing forest stocks that may otherwise show progressively declining sinks;
- (b) the reference level shall ensure that the mere presence of carbon stocks is excluded from accounting;
- (c) the reference level should ensure a robust and credible accounting system that ensures that emissions and removals resulting from biomass use are properly accounted for;
- (d) the reference level shall include the carbon pool of harvested wood products, thereby providing a comparison between assuming instantaneous oxidation and applying the first-order decay function and half-life values;
- (e) a constant ratio between solid and energy use of forest biomass as documented in the period from 2000 to 2009 shall be assumed;
- (f) the reference level should be consistent with the objective of contributing to the conservation of biodiversity and the sustainable use of natural resources, as set out in the EU forest strategy, Member States' national forest policies, and the EU biodiversity strategy;
- (g) the reference level shall be consistent with the national projections of anthropogenic greenhouse gas emissions by sources and removals by sinks reported under Regulation (EU) No 525/2013;
- (h) the reference level shall be consistent with greenhouse gas inventories and relevant historical data and shall be based on transparent, complete, consistent, comparable and accurate information. In particular, the model used to construct the reference level shall be able to reproduce historical data from the National Greenhouse Gas Inventory.

B. Elements of the national forestry accounting plan

The national forestry accounting plan submitted pursuant to Article 8 shall contain the following elements:

- (a) a general description of the determination of the forest reference level and a description of how the criteria in this Regulation were taken into account;
- (b) identification of the carbon pools and greenhouse gases which have been included in the forest reference level, reasons for omitting a carbon pool from the forest reference level determination, and demonstration of the consistency between the carbon pools included in the forest reference level;
- (c) a description of approaches, methods and models, including quantitative information, used in the determination of the forest reference level, consistent with the most recently submitted national inventory report, and a description of documentary information on sustainable forest management practices and intensity as well as of adopted national policies;
- (d) information on how harvesting rates are expected to develop under different policy scenarios;

- (e) a description of how each of the following elements were considered in the determination of the forest reference level:
- (i) the area under forest management;
 - (ii) emissions and removals from forests and harvested wood products as shown in greenhouse gas inventories and relevant historical data;
 - (iii) forest characteristics, including dynamic age-related forest characteristics, increments, rotation length and other information on forest management activities under 'business as usual';
 - (iv) historical and future harvesting rates disaggregated between energy and non-energy uses.
-

ANNEX V

FIRST ORDER DECAY FUNCTION, METHODOLOGIES AND DEFAULT HALF-LIFE VALUES FOR HARVESTED WOOD PRODUCTS

Methodological issues

- If it is not possible to differentiate between harvested wood products in the land accounting categories of afforested land and managed forest land, a Member State may choose to account for harvested wood products assuming that all emissions and removals occurred on managed forest land.
- Harvested wood products in solid waste disposal sites and harvested wood products that were harvested for energy purposes shall be accounted for on the basis of instantaneous oxidation.
- Imported harvested wood products, irrespective of their origin, shall not be accounted for by the importing Member State ('production approach').
- For exported harvested wood products, country-specific data refer to country-specific half-life values and harvested wood products usage in the importing country.
- Country-specific half-life values for harvested wood products placed on the market in the Union should not deviate from those used by the importing Member State.
- Member States may, for information purposes only, provide in their submission data on the share of wood used for energy purposes that was imported from outside the Union, and the countries of origin for such wood.

Member States may use country-specific methodologies and half-life values instead of the methodologies and default half-life values specified in this Annex, provided that such methodologies and values are determined on the basis of transparent and verifiable data and that the methodologies used are at least as detailed and accurate as those specified in this Annex.

Default half-life values:

Half-life value means the number of years it takes for the quantity of carbon stored in a harvested wood products category to decrease to one half of its initial value.

Default half-life values shall be as follows:

- (a) 2 years for paper;
- (b) 25 years for wood panels;
- (c) 35 years for sawn wood.

Member States may specify the wood-based material products, including bark, which fall within the categories referred to in points (a), (b) and (c) above, based on IPCC Guidelines as adopted by the Conference of the Parties to the UNFCCC or the Conference of the Parties serving as the Meeting of the Parties to the Paris Agreement, provided that the available data are transparent and verifiable. Member States may also use country-specific sub-categories of any of those categories.

ANNEX VI

CALCULATION OF BACKGROUND LEVELS FOR NATURAL DISTURBANCES

1. For the calculation of the background level, the following information shall be provided:
 - (a) historical levels of emissions caused by natural disturbances;
 - (b) the type(s) of natural disturbance included in the estimation;
 - (c) total annual emissions estimations for those natural disturbance types for the period from 2001 to 2020, listed by land accounting categories;
 - (d) a demonstration of the time series consistency in all relevant parameters, including minimum area, emission estimation methodologies, coverages of carbon pools and gases.
2. The background level is calculated as the average of the 2001-2020 time series excluding all years for which abnormal levels of emissions were recorded, i.e. excluding all statistical outliers. The identification of statistical outliers shall be undertaken as follows:
 - (a) calculate the arithmetic average value and the standard deviation of the full time series 2001-2020;
 - (b) exclude from the time series all years for which the annual emissions are outside twice the standard deviation around the average;
 - (c) calculate again the arithmetic average value and the standard deviation of the time series 2001-2020 minus the years excluded in point (b);
 - (d) repeat points (b) and (c) until no outliers can be identified.
3. After calculating the background level pursuant to point 2 of this Annex, if emissions in a particular year in the periods from 2021 to 2025 and from 2026 to 2030 exceed the background level plus a margin, the amount of emissions exceeding the background level may be excluded in accordance with Article 10. The margin shall be equal to a probability level of 95 %.
4. The following emissions shall not be excluded:
 - (a) emissions resulting from harvesting and salvage logging activities that took place on land following the occurrence of natural disturbances;
 - (b) emissions resulting from prescribed burning that took place on land in any year of the period from 2021 to 2025 or from 2026 to 2030;
 - (c) emissions on lands that were subject to deforestation following the occurrence of natural disturbances.
5. Information requirements pursuant to Article 10(2) include the following:
 - (a) identification of all land areas affected by natural disturbances in that particular year, including their geographical location, the period and types of natural disturbances;
 - (b) evidence that no deforestation has occurred during the rest of the period from 2021 to 2025 or from 2026 to 2030 on lands that were affected by natural disturbances and in respect of which emissions were excluded from accounting;

- (c) a description of verifiable methods and criteria to be used to identify deforestation on those lands in the subsequent years of the period from 2021 to 2025 or from 2026 to 2030;
 - (d) where feasible, a description of measures the Member State undertook to prevent or limit the impact of those natural disturbances;
 - (e) where feasible, a description of measures the Member State undertook to rehabilitate the lands affected by those natural disturbances.
-

ANNEX VII

MAXIMUM AMOUNT OF COMPENSATION AVAILABLE UNDER THE MANAGED FOREST LAND FLEXIBILITY REFERRED TO IN POINT (B) OF ARTICLE 13(3)

| Member State | Reported average removals by sinks from forest land for the period from 2000 to 2009 in million tonnes of CO ₂ equivalent per year | Compensation limit expressed in million tonnes of CO ₂ equivalent for the period from 2021 to 2030 |
|----------------|---|---|
| Belgium | – 3,61 | – 2,2 |
| Bulgaria | – 9,31 | – 5,6 |
| Czech Republic | – 5,14 | – 3,1 |
| Denmark | – 0,56 | – 0,1 |
| Germany | – 45,94 | – 27,6 |
| Estonia | – 3,07 | – 9,8 |
| Ireland | – 0,85 | – 0,2 |
| Greece | – 1,75 | – 1,0 |
| Spain | – 26,51 | – 15,9 |
| France | – 51,23 | – 61,5 |
| Croatia | – 8,04 | – 9,6 |
| Italy | – 24,17 | – 14,5 |
| Cyprus | – 0,15 | – 0,03 |
| Latvia | – 8,01 | – 25,6 |
| Lithuania | – 5,71 | – 3,4 |
| Luxembourg | – 0,49 | – 0,3 |
| Hungary | – 1,58 | – 0,9 |
| Malta | 0,00 | 0,0 |
| Netherlands | – 1,72 | – 0,3 |
| Austria | – 5,34 | – 17,1 |
| Poland | – 37,50 | – 22,5 |
| Portugal | – 5,13 | – 6,2 |
| Romania | – 22,34 | – 13,4 |
| Slovenia | – 5,38 | – 17,2 |
| Slovakia | – 5,42 | – 6,5 |
| Finland | – 36,79 | – 44,1 |
| Sweden | – 39,55 | – 47,5 |
| United Kingdom | – 16,37 | – 3,3 |

REGULATION (EU) 2018/842 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**of 30 May 2018****on binding annual greenhouse gas emission reductions by Member States from 2021 to 2030 contributing to climate action to meet commitments under the Paris Agreement and amending Regulation (EU) No 525/2013****(Text with EEA relevance)**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 192(1) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

Having regard to the opinion of the Committee of the Regions ⁽²⁾,

Acting in accordance with the ordinary legislative procedure ⁽³⁾,

Whereas:

- (1) The European Council in its conclusions of 23-24 October 2014 on the 2030 climate and energy policy framework endorsed a binding target of at least a 40 % domestic reduction in economy-wide greenhouse gas emissions by 2030 compared to 1990 and that target was reaffirmed in the European Council conclusions of 17-18 March 2016.
- (2) The European Council conclusions of 23-24 October 2014 stated that the emissions reduction target of at least 40 % should be delivered collectively by the Union in the most cost-effective manner possible, with the reductions in the European Union emissions trading system ('EU ETS') laid down in Directive 2003/87/EC of the European Parliament and of the Council ⁽⁴⁾ and non-ETS sectors amounting to 43 % and 30 %, respectively, by 2030 compared to 2005. All sectors of the economy should contribute to achieving these greenhouse gas emission reductions, and all Member States should participate in this effort, balancing considerations of fairness and solidarity. The methodology to set the national reduction targets for the non-ETS sectors, with all the elements applied in Decision No 406/2009/EC of the European Parliament and of the Council ⁽⁵⁾, should be continued until 2030 with efforts distributed on the basis of relative Gross Domestic Product (GDP) per capita. All Member States should contribute to the overall Union reduction in 2030 with the targets spanning from 0 % to – 40 % compared to 2005. National targets within the group of Member States with a GDP per capita above the Union average should be adjusted relatively to reflect cost-effectiveness in a fair and balanced manner. Achieving these greenhouse gas emission reductions should boost efficiency and innovation in the Union economy and should, in particular, promote improvements, notably in buildings, agriculture, waste management and transport, in so far as they fall under the scope of this Regulation.

⁽¹⁾ OJ C 75, 10.3.2017, p. 103.

⁽²⁾ OJ C 272, 17.8.2017, p. 36.

⁽³⁾ Position of the European Parliament of 17 April 2018 (not yet published in the Official Journal) and decision of the Council of 14 May 2018.

⁽⁴⁾ Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC (OJ L 275, 25.10.2003, p. 32).

⁽⁵⁾ Decision No 406/2009/EC of the European Parliament and of the Council of 23 April 2009 on the effort of Member States to reduce their greenhouse gas emissions to meet the Community's greenhouse gas emission reduction commitments up to 2020 (OJ L 140, 5.6.2009, p. 136).

- (3) This Regulation forms part of the implementation of the Union's contributions under the Paris Agreement ⁽¹⁾ adopted under the United Nations Framework Convention on Climate Change ('UNFCCC'). The Paris Agreement was concluded on behalf of the Union on 5 October 2016 by Council Decision (EU) 2016/1841 ⁽²⁾. The commitment of the Union to economy-wide greenhouse gas emission reductions was set out in the intended nationally determined contribution submitted in view of the Paris Agreement by the Union and its Member States to the Secretariat of the UNFCCC on 6 March 2015. The Paris Agreement entered into force on 4 November 2016 and replaces the approach taken under the 1997 Kyoto Protocol which will not be continued beyond 2020.
- (4) The Paris Agreement, inter alia, sets out a long-term goal in line with the objective to keep the global temperature increase well below 2 °C above pre-industrial levels and to pursue efforts to keep it to 1,5 °C above pre-industrial levels. It also stresses the importance to adapt to the adverse impacts of climate change and to make finance flows consistent with a pathway towards low greenhouse gas emissions and climate-resilient development. The Paris Agreement also calls for a balance between anthropogenic emissions by sources and removals by sinks of greenhouse gases in the second half of this century, and invites Parties to take action to conserve and enhance, as appropriate, sinks and reservoirs of greenhouse gases, including forests.
- (5) In its conclusions of 29-30 October 2009, the European Council supported a Union objective, in the context of necessary reductions according to the Intergovernmental Panel on Climate Change (IPCC) by developed countries as a group, to reduce greenhouse gas emissions by 80-95 % by 2050 compared to 1990 levels.
- (6) The nationally determined contributions of the Parties to the Paris Agreement are to reflect their highest possible ambition and represent a progression over time. In addition, Parties to the Paris Agreement should strive to formulate and communicate long-term low greenhouse gas emission development strategies, mindful of the objectives of the Paris Agreement. The Council conclusions of 13 October 2017 recognise the importance of the long-term goals and the five-year review cycles in the implementation of the Paris Agreement and highlight the importance of long-term low greenhouse gas emission development strategies as a policy tool for developing reliable pathways and the long-term policy changes needed to achieve the goals of the Paris Agreement.
- (7) The transition to clean energy requires changes in investment behaviour and incentives across the entire policy spectrum. It is a key Union priority to establish a resilient Energy Union to provide secure, sustainable, competitive and affordable energy to its citizens. Achieving that requires continuation of ambitious climate action with this Regulation and progress on the other aspects of the Energy Union as set out in the Commission communication of 25 February 2015 entitled 'A Framework Strategy for a Resilient Energy Union with a Forward-Looking Climate Change Policy'.
- (8) A range of Union measures enhance Member States' ability to meet their climate commitments and are crucial to achieving necessary greenhouse gas emission reductions in the sectors covered by this Regulation. Those measures include legislation on fluorinated greenhouse gases, CO₂-reductions from road vehicles, energy performance of buildings, renewables, energy efficiency and circular economy, as well as Union funding instruments for climate-related investments.
- (9) The conclusions of the European Council of 19-20 March 2015 noted that the Union is committed to building an Energy Union with a forward-looking climate policy on the basis of the Commission's framework strategy, whose five dimensions are closely interrelated and mutually reinforcing. Moderation of energy demand is one of the five dimensions of that Energy Union strategy. Improving energy efficiency can deliver significant reductions in greenhouse gas emissions. It can also benefit the environment and health, improve energy security, cut energy costs for households and companies, help alleviate energy poverty and lead to increased jobs and economy-wide economic activity. Measures which contribute to an increased uptake of energy-saving technologies in buildings, industry and transport could be a cost-effective way of helping Member States achieve their targets under this Regulation.

⁽¹⁾ Paris Agreement (OJ L 282, 19.10.2016, p. 4).

⁽²⁾ Council Decision (EU) 2016/1841 of 5 October 2016 on the conclusion, on behalf of the European Union, of the Paris Agreement adopted under the United Nations Framework Convention on Climate Change (OJ L 282, 19.10.2016, p. 1).

- (10) The deployment and development of sustainable and innovative practices and technologies can enhance the role of the agricultural sector in relation to climate mitigation and adaptation, in particular by reducing greenhouse gas emissions and by maintaining and enhancing sinks and carbon stocks. To reduce the carbon and ecological footprint of the agricultural sector, whilst maintaining its productivity, regeneration capacity and vitality, it is important to enhance action on climate mitigation and adaptation as well as research funding for the development of and investments in sustainable and innovative practices and technologies.
- (11) The agricultural sector has direct and significant impact on biodiversity and ecosystems. For that reason, it is important to ensure the coherence between the objective of this Regulation and other Union policies and objectives, such as the common agricultural policy and objectives related to the biodiversity strategy, the forestry strategy and circular economy strategy.
- (12) The transport sector represents almost a quarter of the Union's greenhouse gas emissions. It is therefore important to reduce greenhouse gas emissions and risks related to fossil fuel dependency in the transport sector through a comprehensive approach for the promotion of greenhouse gas emission reductions and energy efficiency in transport, for electric transportation, for a shift of transport modes, where more sustainable, and for sustainable renewable energy sources in transport also after 2020. The shift towards low-emission mobility as part of the broader shift to a safe and sustainable low-carbon economy can be facilitated through the introduction of enabling conditions and strong incentives, as well as long-term strategies that can enhance investments.
- (13) The impact of Union and national policies and measures implementing this Regulation should be assessed in line with the monitoring and reporting obligations under Regulation (EU) No 525/2013 of the European Parliament and of the Council ⁽¹⁾.
- (14) Without prejudice to the powers of the budgetary authority, the mainstreaming methodology implemented during the 2014-2020 Multiannual Financial Framework should, where appropriate, be continued and improved with a view to responding to the challenges and investment needs related to climate action as of 2021 onwards. Union funding should be coherent with the objectives of the Union's 2030 climate and energy policy framework and the long-term objectives expressed in the Paris Agreement, so as to ensure the effectiveness of public spending. The Commission should prepare a report on the impact of Union funding granted from the Union budget or otherwise pursuant to Union law on the greenhouse gas emissions in the sectors covered by this Regulation or Directive 2003/87/EC.
- (15) This Regulation should cover greenhouse gas emissions from the IPCC categories of energy, industrial processes and product use, agriculture and waste as determined pursuant to Regulation (EU) No 525/2013 excluding greenhouse gas emissions from the activities listed in Annex I to Directive 2003/87/EC.
- (16) Data currently reported in the national greenhouse gas inventories and the national and Union registries are not sufficient to determine, at Member State level, the CO₂ civil aviation emissions at national level that are not covered by Directive 2003/87/EC. In adopting reporting obligations, the Union should not impose upon Member States or small and medium-sized enterprises (SMEs) burdens that are disproportionate to the objectives pursued. CO₂ emissions from flights that are not covered by Directive 2003/87/EC represent only a very minor part of the total greenhouse gas emissions, and establishing a reporting system for these emissions would be unduly burdensome in the light of existing requirements for the wider sector pursuant to Directive 2003/87/EC. Therefore, CO₂ emissions from IPCC source category '1.A.3.A civil aviation' should be treated as being equal to zero for the purposes of this Regulation.
- (17) The greenhouse gas emissions reduction of each Member State for 2030 should be determined in relation to the level of its 2005 reviewed greenhouse gas emissions covered by this Regulation, excluding verified greenhouse gas emissions from installations that operated in 2005 and which were only included in the EU ETS after 2005. Annual emission allocations from 2021 to 2030 should be determined on the basis of data submitted by the Member States and reviewed by the Commission.

⁽¹⁾ Regulation (EU) No 525/2013 of the European Parliament and of the Council of 21 May 2013 on a mechanism for monitoring and reporting greenhouse gas emissions and for reporting other information at national and Union level relevant to climate change and repealing Decision No 280/2004/EC (OJ L 165, 18.6.2013, p. 13).

- (18) The approach of annually binding national limits taken in Decision No 406/2009/EC should be continued from 2021 to 2030. The rules for setting out the annual emission allocations for each Member State as laid down in this Regulation should follow the same methodology as for Member States with negative limits under that Decision, but with the start of the trajectory calculation at five-twelfths of the distance from 2019 to 2020 or in 2020 on the average of the greenhouse gas emissions during 2016 to 2018 and the end of the trajectory being the 2030 limit for each Member State. To ensure appropriate contributions to the Union's greenhouse gas emission reduction target for the period from 2021 to 2030, the start date of the trajectory should be determined for each Member State on the basis of which of those dates results in a lower allocation. An adjustment to the annual emission allocation in 2021 should be provided for Member States with both a positive limit under Decision No 406/2009/EC and increasing annual emission allocations between 2017 and 2020 determined pursuant to Commission Decision 2013/162/EU ⁽¹⁾ and Commission Implementing Decision 2013/634/EU ⁽²⁾, to reflect the capacity for increased greenhouse gas emissions in those years.

An additional adjustment should be provided for certain Member States in recognition of their exceptional situation of having both a positive limit under Decision No 406/2009/EC and either the lowest greenhouse gas emissions per capita under that Decision or the lowest share of greenhouse gas emissions from sectors not covered by that Decision compared to their total greenhouse gas emissions. That additional adjustment should only cover part of the greenhouse gas emission reductions needed in the period from 2021 to 2029 in order to maintain incentives for additional greenhouse gas emission reductions and in order to not impact the 2030 target achievement, taking into account the use of other adjustments and flexibilities set out in this Regulation.

- (19) In order to ensure uniform conditions for the implementation of the provisions of this Regulation concerning the setting out of the annual emission allocations for Member States, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council ⁽³⁾.
- (20) In its conclusions of 23-24 October 2014, the European Council stated that the availability and use of existing flexibility instruments within the non-ETS sectors should be significantly enhanced in order to ensure cost-effectiveness of the collective Union effort and convergence of greenhouse gas emissions per capita by 2030. As a means to enhance the overall cost-effectiveness of total reductions, Member States should be able to bank and borrow part of their annual emission allocations. They should also be able to transfer part of their annual emission allocation to other Member States. The transparency of such transfers should be ensured, and they ought to be carried out in a manner that is mutually convenient, including by means of auctioning, by the use of market intermediaries acting on an agency basis, or by way of bilateral arrangements. Any such transfer could be the result of a greenhouse gas mitigation project or programme carried out in the selling Member State and financed by the receiving Member State. In addition, Member States should be able to encourage the establishment of public-private partnerships for projects under Article 24a(1) of Directive 2003/87/EC.
- (21) A one-off flexibility should be created in order to facilitate the achievement of targets for Member States with national reduction targets significantly above both the Union average and their cost-effective reduction potential as well as for Member States that did not allocate any EU ETS allowances for free to industrial installations in 2013. To preserve the aim of the Market Stability Reserve established by Decision (EU) 2015/1814 of the European Parliament and the Council ⁽⁴⁾ to tackle structural supply-demand imbalances in the EU ETS, the EU ETS allowances taken into account for the one-off flexibility should be considered as EU ETS allowances in circulation when determining the total number of EU ETS allowances in circulation in a given year. In its first review under that Decision, the Commission should consider whether to maintain such accounting as EU ETS allowances in circulation.

⁽¹⁾ Commission Decision 2013/162/EU of 26 March 2013 on determining Member States' annual emission allocations for the period from 2013 to 2020 pursuant to Decision No 406/2009/EC of the European Parliament and of the Council (OJ L 90, 28.3.2013, p. 106).

⁽²⁾ Commission Implementing Decision 2013/634/EU of 31 October 2013 on the adjustments to Member States' annual emission allocations for the period from 2013 to 2020 pursuant to Decision No 406/2009/EC of the European Parliament and of the Council (OJ L 292, 1.11.2013, p. 19).

⁽³⁾ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

⁽⁴⁾ Decision (EU) 2015/1814 of the European Parliament and of the Council of 6 October 2015 concerning the establishment and operation of a market stability reserve for the Union greenhouse gas emission trading scheme and amending Directive 2003/87/EC (OJ L 264, 9.10.2015, p. 1).

- (22) Regulation (EU) 2018/841 of the European Parliament and of the Council⁽¹⁾ lays down accounting rules on greenhouse gas emissions and removals relating to land use, land-use change and forestry ('LULUCF'). Activities that fall under the scope of that Regulation should not be covered by this Regulation. However, while the environmental outcome under this Regulation in terms of the levels of greenhouse gas emission reductions that are made is affected by taking into account a quantity up to the sum of total net removals and total net emissions from afforested land, deforested land, managed cropland, managed grassland and, under certain conditions, managed forest land as well as, where made mandatory under Regulation (EU) 2018/841, managed wetland, as defined in that Regulation, a LULUCF flexibility for a maximum quantity of 280 million tonnes of CO₂ equivalent of those removals divided among Member States should be included in this Regulation as an additional possibility for Member States to meet their commitments when needed. That total amount and its division among Member States should acknowledge the lower mitigation potential of the agriculture and land use sector and an appropriate contribution of that sector to greenhouse gas mitigation and sequestration. In addition, voluntary deletions of annual emission allocations under this Regulation should allow for such amounts to be taken into account when assessing Member States' compliance with requirements under Regulation (EU) 2018/841.
- (23) On 30 November 2016, the Commission presented a proposal for a Regulation of the European Parliament and of the Council on the Governance of the Energy Union ('governance proposal'), which requires Member States to draw up integrated national energy and climate plans in the context of strategic energy and climate policy planning for all five key dimensions of the Energy Union. According to the governance proposal, the national plans covering the period from 2021 to 2030 are to play a key role in Member States' planning of their compliance with this Regulation and Regulation (EU) 2018/841. To that end, Member States are to set out the policies and measures to meet the obligations under this Regulation and Regulation (EU) 2018/841, with an outlook to the long-term goal to achieve a balance between greenhouse gas emissions and removals in accordance with the Paris Agreement. Those plans are also to set out an assessment of the impacts of the planned policies and measures to meet the objectives. According to the governance proposal, the Commission should be able to indicate in its recommendations on the draft national plans the appropriateness of the level of ambition and of the subsequent implementation of policies and measures. The possible use of the LULUCF flexibility to comply with this Regulation should be taken into account when compiling those plans.
- (24) The European Environment Agency aims to support sustainable development and to help achieve significant and measurable improvement in the environment by providing timely, targeted, relevant and reliable information to policy-makers, public institutions and the public. The European Environment Agency should assist the Commission, as appropriate in accordance with the Agency's annual work programme.
- (25) Any adjustments in the coverage as set out in Articles 11, 24, 24a and 27 of Directive 2003/87/EC should be matched by a corresponding adjustment in the maximum quantity of greenhouse gas emissions covered by this Regulation. Consequently, where Member States include additional greenhouse gas emissions from installations that were previously covered by Directive 2003/87/EC into their commitments under this Regulation, those Member States should implement additional policies and measures in the sectors covered by this Regulation in order to reduce those greenhouse gas emissions.
- (26) In recognition of previous efforts made since 2013 by those Member States which had a GDP per capita below the Union average in 2013, it is appropriate to establish a limited special purpose safety reserve corresponding to up to 105 million tonnes CO₂ equivalent, while maintaining the environmental integrity of this Regulation as well as incentives for Member States' actions beyond the minimum contributions under this Regulation. The safety reserve should benefit Member States whose GDP per capita was below Union average in 2013, whose greenhouse gas emissions remain below their annual emission allocations from 2013 to 2020 and which have problems with achieving their 2030 greenhouse gas emission target despite using other flexibilities provided for in this Regulation. A safety reserve of that size would cover a significant part of the projected collective deficit of eligible Member States in the period from 2021 to 2030, without additional policies, while maintaining incentives for additional

⁽¹⁾ Regulation (EU) 2018/841 of the European Parliament and of the Council of 30 May 2018 on the inclusion of greenhouse gas emissions and removals from land use, land use change and forestry in the 2030 climate and energy framework, and amending Regulation (EU) No 525/2013 and Decision No 529/2013/EU (see page 1 of this Official Journal).

action. The safety reserve should be available to those Member States in 2032, under certain conditions and provided that its use does not undermine the achievement of the greenhouse gas emission reduction target of the Union of 30 % for the year 2030 in the sectors covered by this Regulation.

- (27) In order to reflect developments in the framework of Regulation (EU) 2018/841 as well as to ensure the accurate accounting under this Regulation, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of allowing the use of the land accounting categories of managed forest land and managed wetland under the LULUCF flexibility and in respect of the accounting of transactions under this Regulation, including the use of flexibilities, the application of compliance checks and the accurate functioning of the safety reserve, through the registry established pursuant to Article 10 of Regulation (EU) No 525/2013 ('Union Registry'). Information regarding accounting under this Regulation should be accessible to the public. The necessary provisions for accounting of transactions should be contained in a single instrument combining the accounting provisions pursuant to Regulation (EU) No 525/2013, Regulation (EU) 2018/841, this Regulation and Directive 2003/87/EC. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making⁽¹⁾. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.
- (28) This Regulation should be reviewed as of 2024 and every five years thereafter in order to assess its overall functioning, in particular with regard to the need for increased stringency of Union policies and measures. The review should take into account, inter alia, evolving national circumstances and be informed by the results of the 2018 Facilitative Dialogue under the UNFCCC ('Talanoa dialogue') and the global stocktake under the Paris Agreement. As part of the review, the balance between supply and demand for annual emission allocations should also be considered to ensure the adequacy of the obligations laid down by this Regulation. In addition, as part of its regular reporting under Regulation (EU) No 525/2013, the Commission should, by 31 October 2019, assess the outcome of the Talanoa dialogue. The review for the period after 2030 should be in line with the long-term objectives and the commitments made under the Paris Agreement and, to this end, it should reflect a progression over time.
- (29) In order to ensure efficient, transparent and cost-effective reporting and verification of greenhouse gas emissions and of other information necessary to assess progress with Member State's annual emission allocations, the requirements for annual reporting and evaluation under this Regulation should be integrated with the relevant Articles under Regulation (EU) No 525/2013. That Regulation should also ensure that the progress of Member States in reducing greenhouse gas emissions continues to be evaluated annually, taking into account progress in Union policies and measures and information from Member States. Every two years, the evaluation should include the projected progress of the Union towards meeting its reduction targets and of Member States towards fulfilling their obligations. However, the application of deductions should only be considered at five-year intervals, so that the potential contribution from afforested land, deforested land, managed cropland and managed grassland taking place pursuant to Regulation (EU) 2018/841 can be considered. That is without prejudice to the duty of the Commission to ensure compliance with the obligations of Member States resulting from this Regulation or to the power of the Commission to initiate infringement proceedings for this purpose.
- (30) Regulation (EU) No 525/2013 should be amended accordingly.
- (31) Since the objectives of this Regulation, in particular to lay down obligations on Member States with respect to their minimum contributions for the period from 2021 to 2030 to fulfilling the Union's target of reducing its greenhouse gas emissions and to contribute to achieving the objectives of the Paris Agreement, cannot be sufficiently achieved by the Member States but can rather, by reason of its scale and effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.

⁽¹⁾ OJ L 123, 12.5.2016, p. 1.

(32) This Regulation is without prejudice to more stringent national objectives,

HAVE ADOPTED THIS REGULATION:

Article 1

Subject matter

This Regulation lays down obligations on Member States with respect to their minimum contributions for the period from 2021 to 2030 to fulfilling the Union's target of reducing its greenhouse gas emissions by 30 % below 2005 levels in 2030 in the sectors covered by Article 2 of this Regulation and contributes to achieving the objectives of the Paris Agreement. This Regulation also lays down rules on determining annual emission allocations and for the evaluation of Member States' progress towards meeting their minimum contributions.

Article 2

Scope

1. This Regulation applies to the greenhouse gas emissions from IPCC source categories of energy, industrial processes and product use, agriculture and waste as determined pursuant to Regulation (EU) No 525/2013, excluding greenhouse gas emissions from the activities listed in Annex I to Directive 2003/87/EC.
2. Without prejudice to Article 7 and Article 9(2) of this Regulation, this Regulation does not apply to greenhouse gas emissions and removals covered by Regulation (EU) 2018/841.
3. For the purposes of this Regulation, CO₂ emissions from IPCC source category '1.A.3.A civil aviation' shall be treated as zero.

Article 3

Definitions

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

- (1) 'Greenhouse gas emissions' means emissions in terms of tonnes of CO₂ equivalent of carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), nitrogen trifluoride (NF₃) and sulphur hexafluoride (SF₆) determined pursuant to Regulation (EU) No 525/2013 and falling within the scope of this Regulation;
- (2) 'Annual emission allocations' means the maximum allowed greenhouse gas emissions for each year between 2021 and 2030 determined pursuant to Article 4(3) and Article 10;
- (3) 'EU ETS allowance' means an 'allowance' as defined in point (a) of Article 3 of Directive 2003/87/EC.

Article 4

Annual emission levels for the period from 2021 to 2030

1. Each Member State shall, in 2030, limit its greenhouse gas emissions at least by the percentage set for that Member State in Annex I in relation to its greenhouse gas emissions in 2005, determined pursuant to paragraph 3 of this Article.
2. Subject to the flexibilities provided for in Articles 5, 6 and 7 of this Regulation, to the adjustment pursuant to Article 10(2) of this Regulation and taking into account any deduction resulting from the application of Article 7 of Decision No 406/2009/EC, each Member State shall ensure that its greenhouse gas emissions in each year between 2021 and 2029 do not exceed the limit defined by a linear trajectory, starting on the average of its greenhouse gas emissions during 2016, 2017 and 2018 determined pursuant to paragraph 3 of this Article and ending in 2030 on the limit set for that Member State in Annex I to this Regulation. The linear trajectory of a Member State shall start either at five-twelfths of the distance from 2019 to 2020 or in 2020, whichever results in a lower allocation for that Member State.
3. The Commission shall adopt implementing acts setting out the annual emission allocations for the years from 2021 to 2030 in terms of tonnes of CO₂ equivalent as specified in paragraphs 1 and 2 of this Article. For the purposes of those implementing acts, the Commission shall carry out a comprehensive review of the most recent national inventory data for the years 2005 and 2016 to 2018 submitted by Member States pursuant to Article 7 of Regulation (EU) No 525/2013.

Those implementing acts shall indicate the value for the 2005 greenhouse gas emissions of each Member State used to determine the annual emission allocations specified in paragraphs 1 and 2.

4. Those implementing acts shall also specify, based on the percentages notified by Member States under Article 6(3), the total quantities that may be taken into account for a Member State's compliance under Article 9 between 2021 and 2030. If the sum of all Member States' total quantities were to exceed the collective total of 100 million, the total quantities for each Member State shall be reduced on a pro rata basis so that the collective total is not exceeded.

5. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 14.

Article 5

Flexibilities by means of borrowing, banking and transfer

1. In respect of the years 2021 to 2025, a Member State may borrow a quantity of up to 10 % from its annual emission allocation for the following year.

2. In respect of the years 2026 to 2029, a Member State may borrow a quantity of up to 5 % from its annual emission allocation for the following year.

3. A Member State whose greenhouse gas emissions for a given year are below its annual emission allocation for that year, taking into account the use of flexibilities pursuant to this Article and Article 6, may:

(a) in respect of the year 2021, bank that excess part of its annual emission allocation to subsequent years until 2030; and

(b) in respect of the years 2022 to 2029, bank the excess part of its annual emission allocation up to a level of 30 % of its annual emission allocations up to that year to subsequent years until 2030.

4. A Member State may transfer up to 5 % of its annual emission allocation for a given year to other Member States in respect of the years 2021 to 2025, and up to 10 % in respect of the years 2026 to 2030. The receiving Member State may use that quantity for compliance under Article 9 for the given year or for subsequent years until 2030.

5. A Member State whose reviewed greenhouse gas emissions for a given year are below its annual emission allocation for that year, taking into account the use of flexibilities pursuant to paragraphs 1 to 4 of this Article and Article 6, may transfer that excess part of its annual emission allocation to other Member States. The receiving Member State may use that quantity for compliance under Article 9 for that year or for subsequent years until 2030.

6. Member States may use revenues generated by transfers of annual emission allocations pursuant to paragraphs 4 and 5 to tackle climate change in the Union or in third countries. Member States shall inform the Commission of any actions taken pursuant to this paragraph.

7. Any transfer of annual emission allocations pursuant to paragraphs 4 and 5 may be the result of a greenhouse gas mitigation project or programme carried out in the selling Member State and remunerated by the receiving Member State, provided that double counting is avoided and traceability is ensured.

8. Member States may use credits from projects issued pursuant to Article 24a(1) of Directive 2003/87/EC for compliance under Article 9 of this Regulation without any quantitative limit, provided that double counting is avoided.

Article 6

Flexibility for certain Member States following reduction of EU ETS allowances

1. The Member States listed in Annex II to this Regulation may have a limited cancellation of up to a maximum of 100 million EU ETS allowances collectively taken into account for their compliance under this Regulation. Such cancellation shall be made from the auctioning volumes of the Member State concerned pursuant to Article 10 of Directive 2003/87/EC.

2. The EU ETS allowances taken into account under paragraph 1 of this Article shall be considered as EU ETS allowances in circulation for the purposes of Article 1(4) of Decision (EU) 2015/1814.

In its first review pursuant to Article 3 of that Decision, the Commission shall consider whether to maintain the accounting set out in the first subparagraph of this paragraph.

3. The Member States listed in Annex II shall notify the Commission by 31 December 2019 of any intention to make use of the limited cancellation of EU ETS allowances referred to in paragraph 1 of this Article, up to the percentage listed in Annex II for each year of the period from 2021 to 2030 for each Member State concerned, for its compliance under Article 9.

The Member States listed in Annex II may decide to revise the notified percentage downwards once in 2024 and once in 2027. In such case, the Member State concerned shall notify the Commission thereof by 31 December 2024 or by 31 December 2027, respectively.

4. At a Member State's request, the Central Administrator designated pursuant to Article 20(1) of Directive 2003/87/EC ('the Central Administrator') shall take into account an amount up to the total quantity determined pursuant to Article 4(4) of this Regulation for that Member States' compliance under Article 9 of this Regulation. One-tenth of the total quantity of EU ETS allowances determined pursuant to Article 4(4) of this Regulation shall be cancelled pursuant to Article 12(4) of Directive 2003/87/EC for each year from 2021 to 2030 for that Member State.

5. Where a Member State, in accordance with paragraph 3 of this Article, has notified the Commission of its decision to revise the previously notified percentage downwards, a correspondingly lower quantity of EU ETS allowances shall be cancelled for that Member State in respect of each year from 2026 to 2030 or from 2028 to 2030, respectively.

Article 7

Additional use of up to 280 million net removals from LULUCF

1. To the extent that a Member State's greenhouse gas emissions exceed its annual emission allocations for a given year, including any annual emission allocations banked pursuant to Article 5(3) of this Regulation, a quantity up to the sum of total net removals and total net emissions from the combined land accounting categories of afforested land, deforested land, managed cropland, managed grassland and, subject to the delegated acts adopted pursuant to paragraph 2 of this Article, managed forest land and managed wetland, as referred to in points (a) and (b) of Article 2(1) of Regulation (EU) 2018/841, may be taken into account for its compliance under Article 9 of this Regulation for that year, provided that:

- (a) the cumulative quantity taken into account for that Member State for all the years of the period from 2021 to 2030 does not exceed the maximum amount of total net removals set out in Annex III to this Regulation for that Member State;
- (b) such quantity is in excess of that Member State's requirements under Article 4 of Regulation (EU) 2018/841;
- (c) the Member State has not acquired more net removals under Regulation (EU) 2018/841 from other Member States than it has transferred;
- (d) the Member State has complied with Regulation (EU) 2018/841; and
- (e) the Member State has submitted a description of the intended use of the flexibility available under this paragraph pursuant to the second subparagraph of Article 7(1) of Regulation (EU) No 525/2013.

2. The Commission shall adopt delegated acts in accordance with Article 13 of this Regulation to amend the title of Annex III thereto in respect of the land accounting categories in order to:

- (a) reflect the contribution of the land accounting category managed forest land while respecting the maximum amount of total net removals for each Member State referred to in Annex III to this Regulation, when delegated acts laying down forest reference levels are adopted pursuant to Article 8(8) or (9) of Regulation (EU) 2018/841; and
- (b) reflect the contribution of the land accounting category managed wetland while respecting the maximum amount of total net removals for each Member State referred to in Annex III to this Regulation, when all Member States are required to account for this category under Regulation (EU) 2018/841.

*Article 8***Corrective action**

1. If the Commission finds, in its annual assessment under Article 21 of Regulation (EU) No 525/2013 and taking into account the intended use of the flexibilities referred to in Articles 5, 6 and 7 of this Regulation, that a Member State is not making sufficient progress towards meeting its obligations under Article 4 of this Regulation, that Member State shall, within three months, submit to the Commission a corrective action plan that includes:

- (a) additional actions that the Member State shall implement in order to meet its specific obligations under Article 4 of this Regulation, through domestic policies and measures and the implementation of Union action;
- (b) a strict timetable for implementing such actions, which enables the assessment of annual progress in implementation.

2. In accordance with its annual work programme, the European Environment Agency shall assist the Commission in its work to assess any such corrective action plans.

3. The Commission may issue an opinion regarding the robustness of the corrective action plans submitted in accordance with paragraph 1 and shall in that case do so within four months of receipt of those plans. The Member State concerned shall take utmost account of the Commission's opinion and may revise its corrective action plan accordingly.

*Article 9***Compliance check**

1. In 2027 and 2032, if the reviewed greenhouse gas emissions of a Member State exceed its annual emission allocation for any specific year of the period, taking into account paragraph 2 of this Article and the flexibilities used pursuant to Articles 5, 6 and 7, the following measures shall apply:

- (a) an addition to the Member State's greenhouse gas emission figure of the following year equal to the amount in tonnes of CO₂ equivalent of the excess greenhouse gas emissions, multiplied by a factor of 1,08, in accordance with the measures adopted pursuant to Article 12; and
- (b) the Member State shall be temporarily prohibited from transferring any part of its annual emission allocation to another Member State until it is in compliance with Article 4.

The Central Administrator shall implement the prohibition referred to in point (b) of the first subparagraph in the Union Registry.

2. If the greenhouse gas emissions of a Member State in either the period from 2021 to 2025 or the period from 2026 to 2030 referred to in Article 4 of Regulation (EU) 2018/841 exceeded its removals, as determined in accordance with Article 12 of that Regulation, the Central Administrator shall deduct from that Member State's annual emission allocations an amount equal to those excess greenhouse gas emissions in tonnes of CO₂ equivalent for the relevant years.

*Article 10***Adjustments**

1. The Commission shall adjust the annual emission allocations for each Member State under Article 4 of this Regulation in order to reflect:

- (a) adjustments to the number of EU ETS allowances issued pursuant to Article 11 of Directive 2003/87/EC that resulted from a change in the coverage of sources under that Directive, in accordance with the Commission Decisions adopted pursuant to that Directive on the final approval of the national allocation plans for the period from 2008 to 2012;
- (b) adjustments to the number of EU ETS allowances or credits, respectively, issued pursuant to Articles 24 and 24a of Directive 2003/87/EC in respect of greenhouse gas emission reductions in a Member State; and
- (c) adjustments to the number of EU ETS allowances pertaining to greenhouse gas emissions from installations excluded from the EU ETS in accordance with Article 27 of Directive 2003/87/EC, for the time that they are excluded.

2. The amount contained in Annex IV shall be added to the annual emission allocation for the year 2021 for each Member State referred to in that Annex.
3. The Commission shall publish the figures resulting from such adjustments.

Article 11

Safety reserve

1. A safety reserve corresponding to a quantity of up to 105 million tonnes of CO₂ equivalent shall be established in the Union Registry, subject to the fulfilment of the Union target referred to in Article 1. The safety reserve shall be available in addition to the flexibilities provided for in Articles 5, 6 and 7.
2. A Member State may benefit from the safety reserve provided that all of the following conditions are fulfilled:
 - (a) its GDP per capita at market prices in 2013, as published by Eurostat in April 2016, was below the Union average;
 - (b) its cumulative greenhouse gas emissions for the years from 2013 to 2020 in the sectors covered by this Regulation are below its cumulative annual emission allocations for the years from 2013 to 2020; and
 - (c) its greenhouse gas emissions exceed its annual emission allocations in the period from 2026 to 2030, although it has:
 - (i) exhausted the flexibilities pursuant to Article 5(2) and (3);
 - (ii) made the maximum possible use of net removals according to Article 7, even if that quantity does not reach the level set in Annex III; and
 - (iii) made no net transfers to other Member States under Article 5.
3. A Member State, which meets the conditions set out in paragraph 2 of this Article, shall receive an additional quantity from the safety reserve up to its shortfall to be used for compliance under Article 9. That quantity shall not exceed 20 % of its overall overachievement in the period from 2013 to 2020.

If the resulting collective quantity to be received by all of the Member States which fulfil the conditions set out in paragraph 2 of this Article exceeds the limit referred to in paragraph 1 of this Article, the quantity to be received by each of those Member States shall be reduced on a pro rata basis.

4. Any amount remaining in the safety reserve after the distribution in accordance with the first subparagraph of paragraph 3 shall be distributed among the Member States referred to in that subparagraph proportionally to their remaining shortfall, but not exceeding it. For each of those Member States, that quantity may be additional to the percentage referred to in that subparagraph.
5. After the completion of the review referred to in Article 19 of Regulation (EU) No 525/2013 for the year 2020, the Commission shall, for each Member State that fulfils the conditions in points (a) and (b) of paragraph 2 of this Article, publish the amounts corresponding to 20 % of the overall overachievement in the period from 2013 to 2020 as referred to in the first subparagraph of paragraph 3 of this Article.

Article 12

Registry

1. The Commission shall adopt delegated acts in accordance with Article 13 to supplement this Regulation in order to ensure the accurate accounting under this Regulation through the Union Registry in respect of:
 - (a) annual emission allocations;
 - (b) flexibilities exercised under Articles 5, 6 and 7;
 - (c) compliance checks under Article 9;
 - (d) adjustments under Article 10; and
 - (e) the safety reserve under Article 11.

2. The Central Administrator shall conduct an automated check on each transaction in the Union Registry that results from this Regulation and shall, where necessary, block transactions to ensure that there are no irregularities.
3. The information referred to in points (a) to (e) of paragraph 1 and in paragraph 2 shall be accessible to the public.

Article 13

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Articles 7(2) and 12(1) shall be conferred on the Commission for a period of five years from 9 July 2018. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.
3. The delegation of powers referred to in Articles 7(2) and 12(1) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
6. A delegated act adopted pursuant to Articles 7(2) and 12(1) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and to the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 14

Committee procedure

1. The Commission shall be assisted by the Climate Change Committee established by Regulation (EU) No 525/2013. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Article 15

Review

1. This Regulation shall be kept under review taking into account, inter alia, evolving national circumstances, the manner in which all sectors of the economy contribute to the reduction of greenhouse gas emissions, international developments and efforts undertaken to achieve the long-term objectives of the Paris Agreement.
2. The Commission shall submit a report to the European Parliament and to the Council, within six months of each global stocktake agreed under Article 14 of the Paris Agreement, on the operation of this Regulation, including the balance between supply and demand for annual emission allocations, as well as on the contribution of this Regulation to the Union's overall 2030 greenhouse gas emission reduction target and its contribution to the goals of the Paris Agreement, in particular with regard to the need for additional Union policies and measures in view of the necessary greenhouse gas emission reductions by the Union and its Member States, including a post-2030 framework, and may make proposals if appropriate.

Those reports shall take into account the strategies prepared pursuant to Article 4 of Regulation (EU) No 525/2013 with a view to contributing to the formulation of a long-term Union strategy.

Article 16

Amendments to Regulation (EU) No 525/2013

Regulation (EU) No 525/2013 is amended as follows:

(1) in Article 7, paragraph 1 is amended as follows:

(a) the following point is inserted:

‘(aa) as of 2023, their anthropogenic emissions of greenhouse gases referred to in Article 2 of Regulation (EU) 2018/842 of the European Parliament and of the Council (*) for the year X-2, in accordance with UNFCCC reporting requirements;

(*) Regulation (EU) 2018/842 of the European Parliament and of the Council of 30 May 2018 on binding annual greenhouse gas emission reductions by Member States from 2021 to 2030 contributing to climate action to meet commitments under the Paris Agreement and amending Regulation (EU) No 525/2013 (OJ L 156, 19.6.2018, p. 26).’;

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

‘In their reports, Member States shall annually inform the Commission of any intention to use the flexibilities set out in Article 5(4) and (5) and Article 7 of Regulation (EU) 2018/842, as well as of the use of revenues in accordance with Article 5(6) of that Regulation. Within three months of receiving such information from Member States, the Commission shall make the information available to the committee referred to in Article 26 of this Regulation.’;

(2) in point (c) of Article 13(1), the following point is added:

‘(ix) as of 2023, information on national policies and measures implemented towards meeting their obligations under Regulation (EU) 2018/842 and information on planned additional national policies and measures envisaged with a view to limiting greenhouse gas emissions beyond their commitments under that Regulation.’;

(3) in Article 14(1), the following point is added:

‘(f) as of 2023, total greenhouse gas projections and separate estimates for the projected greenhouse gas emissions for the emission sources covered by Regulation (EU) 2018/842 and by Directive 2003/87/EC.’;

(4) in Article 21(1), the following point is added:

‘(c) obligations under Article 4 of Regulation (EU) 2018/842. The evaluation shall take into account progress in Union policies and measures and information from Member States. Every two years, the evaluation shall also include the projected progress of the Union towards implementing its Nationally Determined Contribution to the Paris Agreement containing the Union’s commitment to economy-wide greenhouse gas emission reductions and the projected progress of Member States towards fulfilling their obligations under that Regulation.’.

Article 17

Entry into force

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

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

Done at Strasbourg, 30 May 2018.

For the European Parliament

The President

A. TAJANI

For the Council

The President

L. PAVLOVA

ANNEX I

MEMBER STATE GREENHOUSE GAS EMISSION REDUCTIONS PURSUANT TO ARTICLE 4(1)

| | Member State greenhouse gas emission reductions in 2030 in relation to their 2005 levels determined in accordance with Article 4(3) |
|----------------|---|
| Belgium | – 35 % |
| Bulgaria | – 0 % |
| Czech Republic | – 14 % |
| Denmark | – 39 % |
| Germany | – 38 % |
| Estonia | – 13 % |
| Ireland | – 30 % |
| Greece | – 16 % |
| Spain | – 26 % |
| France | – 37 % |
| Croatia | – 7 % |
| Italy | – 33 % |
| Cyprus | – 24 % |
| Latvia | – 6 % |
| Lithuania | – 9 % |
| Luxembourg | – 40 % |
| Hungary | – 7 % |
| Malta | – 19 % |
| Netherlands | – 36 % |
| Austria | – 36 % |
| Poland | – 7 % |
| Portugal | – 17 % |
| Romania | – 2 % |
| Slovenia | – 15 % |
| Slovakia | – 12 % |
| Finland | – 39 % |
| Sweden | – 40 % |
| United Kingdom | – 37 % |

ANNEX II

MEMBER STATES THAT MAY HAVE A LIMITED CANCELLATION OF EU ETS ALLOWANCES TAKEN INTO ACCOUNT FOR COMPLIANCE PURSUANT TO ARTICLE 6

| | Maximum percentage of 2005 greenhouse gas emissions determined in accordance with Article 4(3) |
|-------------|--|
| Belgium | 2 % |
| Denmark | 2 % |
| Ireland | 4 % |
| Luxembourg | 4 % |
| Malta | 2 % |
| Netherlands | 2 % |
| Austria | 2 % |
| Finland | 2 % |
| Sweden | 2 % |

ANNEX III

TOTAL NET REMOVALS FROM AFFORESTED LAND, DEFORESTED LAND, MANAGED CROPLAND AND MANAGED GRASSLAND THAT MEMBER STATES MAY TAKE INTO ACCOUNT FOR COMPLIANCE FOR THE PERIOD 2021 TO 2030 PURSUANT TO POINT (A) OF ARTICLE 7(1)

| | Maximum amount expressed in million tonnes of CO ₂ equivalent |
|----------------|--|
| Belgium | 3,8 |
| Bulgaria | 4,1 |
| Czech Republic | 2,6 |
| Denmark | 14,6 |
| Germany | 22,3 |
| Estonia | 0,9 |
| Ireland | 26,8 |
| Greece | 6,7 |
| Spain | 29,1 |
| France | 58,2 |
| Croatia | 0,9 |
| Italy | 11,5 |
| Cyprus | 0,6 |
| Latvia | 3,1 |
| Lithuania | 6,5 |
| Luxembourg | 0,25 |
| Hungary | 2,1 |
| Malta | 0,03 |
| Netherlands | 13,4 |
| Austria | 2,5 |
| Poland | 21,7 |
| Portugal | 5,2 |
| Romania | 13,2 |
| Slovenia | 1,3 |
| Slovakia | 1,2 |
| Finland | 4,5 |
| Sweden | 4,9 |
| United Kingdom | 17,8 |
| Maximum total: | 280 |

ANNEX IV

AMOUNT OF ADJUSTMENT PURSUANT TO ARTICLE 10(2)

| | Tonnes of CO ₂ equivalent |
|----------------|--------------------------------------|
| Bulgaria | 1 602 912 |
| Czech Republic | 4 440 079 |
| Estonia | 145 944 |
| Croatia | 1 148 708 |
| Latvia | 1 698 061 |
| Lithuania | 2 165 895 |
| Hungary | 6 705 956 |
| Malta | 774 000 |
| Poland | 7 456 340 |
| Portugal | 1 655 253 |
| Romania | 10 932 743 |
| Slovenia | 178 809 |
| Slovakia | 2 160 210 |

DIRECTIVES

DIRECTIVE (EU) 2018/843 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 30 May 2018

amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, and amending Directives 2009/138/EC and 2013/36/EU

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Central Bank ⁽¹⁾,

Having regard to the opinion of the European Economic and Social Committee ⁽²⁾,

Acting in accordance with the ordinary legislative procedure ⁽³⁾,

Whereas:

- (1) Directive (EU) 2015/849 of the European Parliament and of the Council ⁽⁴⁾ constitutes the main legal instrument in the prevention of the use of the Union financial system for the purposes of money laundering and terrorist financing. That Directive, which had a transposition deadline of 26 June 2017, sets out an efficient and comprehensive legal framework for addressing the collection of money or property for terrorist purposes by requiring Member States to identify, understand and mitigate the risks related to money laundering and terrorist financing.
- (2) Recent terrorist attacks have brought to light emerging new trends, in particular regarding the way terrorist groups finance and conduct their operations. Certain modern technology services are becoming increasingly popular as alternative financial systems, whereas they remain outside the scope of Union law or benefit from exemptions from legal requirements, which might no longer be justified. In order to keep pace with evolving trends, further measures should be taken to ensure the increased transparency of financial transactions, of corporate and other legal entities, as well as of trusts and legal arrangements having a structure or functions similar to trusts ('similar legal arrangements'), with a view to improving the existing preventive framework and to more effectively countering terrorist financing. It is important to note that the measures taken should be proportionate to the risks.
- (3) The United Nations (UN), Interpol and Europol have been reporting on the increasing convergence between organised crime and terrorism. The nexus between organised crime and terrorism and the links between criminal and terrorist groups constitute an increasing security threat to the Union. Preventing the use of the financial system for the purposes of money laundering or terrorist financing is an integral part of any strategy addressing that threat.

⁽¹⁾ OJ C 459, 9.12.2016, p. 3.

⁽²⁾ OJ C 34, 2.2.2017, p. 121.

⁽³⁾ Position of the European Parliament of 19 April 2018 (not yet published in the Official Journal) and decision of the Council of 14 May 2018.

⁽⁴⁾ Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC (OJ L 141, 5.6.2015, p. 73).

- (4) While there have been significant improvements in the adoption and implementation of Financial Action Task Force (FATF) standards and the endorsement of the work of the Organisation for Economic Cooperation and Development on transparency by Member States in recent years, the need to further increase the overall transparency of the economic and financial environment of the Union is clear. The prevention of money laundering and of terrorist financing cannot be effective unless the environment is hostile to criminals seeking shelter for their finances through non-transparent structures. The integrity of the Union financial system is dependent on the transparency of corporate and other legal entities, trusts and similar legal arrangements. This Directive aims not only to detect and investigate money laundering, but also to prevent it from occurring. Enhancing transparency could be a powerful deterrent.
- (5) While the aims of Directive (EU) 2015/849 should be pursued and any amendments to it should be consistent with the Union's ongoing action in the field of countering terrorism and terrorist financing, such amendments should be made having due regard to the fundamental right to the protection of personal data, as well as the observance and application of the proportionality principle. The Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions entitled 'The European Agenda on Security' indicated the need for measures to address terrorist financing in a more effective and comprehensive manner, highlighting that the infiltration of financial markets allows for the financing of terrorism. The European Council conclusions of 17-18 December 2015 also stressed the need to take rapidly further action against terrorist financing in all domains.
- (6) The Communication from the Commission to the European Parliament and to the Council entitled 'Action Plan for strengthening the fight against terrorist financing' underscores the need to adapt to new threats and to amend Directive (EU) 2015/849 accordingly.
- (7) Union measures should also accurately reflect developments and commitments undertaken at international level. Therefore, UN Security Council Resolution (UNSCR) 2195 (2014) on Threats to international peace and security and UNSCRs 2199(2015) and 2253(2015) on Threats to international peace and security caused by terrorist acts, should be taken into account. Those UNSCRs deal with, respectively, the links between terrorism and transnational organised crime, preventing terrorist groups from gaining access to international financial institutions and expanding the sanctions framework to include Islamic State in Iraq and Levant.
- (8) Providers engaged in exchange services between virtual currencies and fiat currencies (that is to say coins and banknotes that are designated as legal tender and electronic money, of a country, accepted as a medium of exchange in the issuing country) as well as custodian wallet providers are under no Union obligation to identify suspicious activity. Therefore, terrorist groups may be able to transfer money into the Union financial system or within virtual currency networks by concealing transfers or by benefiting from a certain degree of anonymity on those platforms. It is therefore essential to extend the scope of Directive (EU) 2015/849 so as to include providers engaged in exchange services between virtual currencies and fiat currencies as well as custodian wallet providers. For the purposes of anti-money laundering and countering the financing of terrorism (AML/CFT), competent authorities should be able, through obliged entities, to monitor the use of virtual currencies. Such monitoring would provide a balanced and proportional approach, safeguarding technical advances and the high degree of transparency attained in the field of alternative finance and social entrepreneurship.
- (9) The anonymity of virtual currencies allows their potential misuse for criminal purposes. The inclusion of providers engaged in exchange services between virtual currencies and fiat currencies and custodian wallet providers will not entirely address the issue of anonymity attached to virtual currency transactions, as a large part of the virtual currency environment will remain anonymous because users can also transact without such providers. To combat the risks related to the anonymity, national Financial Intelligence Units (FIUs) should be able to obtain information allowing them to associate virtual currency addresses to the identity of the owner of virtual currency. In addition, the possibility to allow users to self-declare to designated authorities on a voluntary basis should be further assessed.

- (10) Virtual currencies should not to be confused with electronic money as defined in point (2) of Article 2 of Directive 2009/110/EC of the European Parliament and of the Council ⁽¹⁾, with the larger concept of 'funds' as defined in point (25) of Article 4 of Directive (EU) 2015/2366 of the European Parliament and of the Council ⁽²⁾, nor with monetary value stored on instruments exempted as specified in points (k) and (l) of Article 3 of Directive (EU) 2015/2366, nor with in-games currencies, that can be used exclusively within a specific game environment. Although virtual currencies can frequently be used as a means of payment, they could also be used for other purposes and find broader applications such as means of exchange, investment, store-of-value products or use in online casinos. The objective of this Directive is to cover all the potential uses of virtual currencies.
- (11) Local currencies, also known as complementary currencies, that are used in very limited networks such as a city or a region and among a small number of users should not be considered to be virtual currencies.
- (12) Business relationships or transactions involving high-risk third countries should be limited when significant weaknesses in the AML/CFT regime of the third-countries concerned are identified, unless adequate additional mitigating measures or countermeasures are applied. When dealing with such cases of high-risk and with such business relationships or transactions, Member States should require obliged entities to apply enhanced customer due diligence measures to manage and mitigate those risks. Each Member State therefore determines at national level the type of enhanced due diligence measures to be taken with regard to high-risk third countries. Those different approaches between Member States create weak spots on the management of business relationships involving high-risk third countries as identified by the Commission. It is important to improve the effectiveness of the list of high-risk third countries established by the Commission by providing for a harmonised treatment of those countries at Union level. That harmonised approach should primarily focus on enhanced customer due diligence measures, where such measures are not already required under national law. In accordance with international obligations, Member States should be allowed to require obliged entities, where applicable, to apply additional mitigating measures complementary to the enhanced customer due diligence measures, in accordance with a risk based approach and taking into account the specific circumstances of business relationships or transactions. International organisations and standard setters with competence in the field of preventing money laundering and combating terrorist financing may call for the application of appropriate countermeasures to protect the international financial system from the ongoing and substantial risks relating to money laundering and terrorist financing emanating from certain countries. In addition, Member States should require obliged entities to apply additional mitigating measures regarding high-risk third countries identified by the Commission by taking into account calls for countermeasures and recommendations, such as those expressed by the FATF, and responsibilities resulting from international agreements.
- (13) Given the evolving nature of threats and vulnerabilities relating to money laundering and the financing of terrorism, the Union should adopt an integrated approach on the compliance of national AML/CFT regimes with the requirements at Union level, by taking into consideration an effectiveness assessment of those national regimes. For the purpose of monitoring the correct transposition of the Union requirements in national AML/CFT regimes, the effective implementation of those requirements and the capacity of those regimes to achieve an effective preventive framework, the Commission should base its assessment on the national AML/CFT regimes, which should be without prejudice to assessments conducted by international organisations and standard setters with competence in the field of preventing money laundering and combating terrorist financing, such as the FATF or the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism.
- (14) General purpose prepaid cards have legitimate uses and constitute an instrument contributing to social and financial inclusion. However, anonymous prepaid cards are easy to use in financing terrorist attacks and logistics. It is therefore essential to deny terrorists this means of financing their operations, by further reducing the limits and maximum amounts under which obliged entities are allowed not to apply certain customer due diligence measures provided for by Directive (EU) 2015/849. Therefore, while having due regard to consumers' needs in

⁽¹⁾ Directive 2009/110/EC of the European Parliament and of the Council of 16 September 2009 on the taking up, pursuit and prudential supervision of the business of electronic money institutions amending Directives 2005/60/EC and 2006/48/EC and repealing Directive 2000/46/EC (OJ L 267, 10.10.2009, p. 7).

⁽²⁾ Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC (OJ L 337, 23.12.2015, p. 35).

using general purpose prepaid instruments and not preventing the use of such instruments for promoting social and financial inclusion, it is essential to lower the existing thresholds for general purpose anonymous prepaid cards and to identify the customer in the case of remote payment transactions where the transaction amount exceeds EUR 50.

- (15) While the use of anonymous prepaid cards issued in the Union is essentially limited to the Union territory only, that is not always the case with similar cards issued in third countries. It is therefore important to ensure that anonymous prepaid cards issued outside the Union can be used in the Union only where they can be considered to comply with requirements equivalent to those set out in Union law. That rule should be enacted in full compliance with Union obligations in respect of international trade, especially the provisions of the General Agreement on Trade in Services.
- (16) FIUs play an important role in identifying the financial operations of terrorist networks, especially cross-border, and in detecting their financial backers. Financial intelligence might be of fundamental importance in uncovering the facilitation of terrorist offences and the networks and schemes of terrorist organisations. Due to a lack of prescriptive international standards, FIUs maintain significant differences as regards their functions, competences and powers. Member States should endeavour to ensure a more efficient and coordinated approach to deal with financial investigations related to terrorism, including those related to the misuse of virtual currencies. The current differences should however not affect an FIU's activity, particularly its capacity to develop preventive analyses in support of all the authorities in charge of intelligence, investigative and judicial activities, and international cooperation. In the exercise of their tasks, FIUs should have access to information and be able to exchange it without impediments, including through appropriate cooperation with law enforcement authorities. In all cases of suspected criminality and, in particular, in cases involving the financing of terrorism, information should flow directly and quickly without undue delays. It is therefore essential to further enhance the effectiveness and efficiency of FIUs, by clarifying the powers of and cooperation between FIUs.
- (17) FIUs should be able to obtain from any obliged entity all the necessary information relating to their functions. Their unfettered access to information is essential to ensure that flows of money can be properly traced and illicit networks and flows detected at an early stage. The need for FIUs to obtain additional information from obliged entities based on a suspicion of money laundering or financing of terrorism might be triggered by a prior suspicious transaction report reported to the FIU, but might also be triggered through other means such as the FIU's own analysis, intelligence provided by competent authorities or information held by another FIU. FIUs should therefore in the context of their functions be able to obtain information from any obliged entity, even without a prior report being made. This does not include indiscriminate requests for information to the obliged entities in the context of the FIU's analysis, but only information requests based on sufficiently defined conditions. An FIU should also be able to obtain such information on a request made by another Union FIU and to exchange the information with the requesting FIU.
- (18) The purpose of the FIU is to collect and analyse the information which they receive with the aim of establishing links between suspicious transactions and underlying criminal activity in order to prevent and combat money laundering and terrorist financing, and to disseminate the results of its analysis as well as additional information to the competent authorities where there are grounds to suspect money laundering, associated predicate offences or financing of terrorism. An FIU should not refrain from or refuse the exchange of information to another FIU, spontaneously or upon request, for reasons such as a lack of identification of an associated predicate offence, features of criminal national laws and differences between the definitions of associated predicate offences or the absence of a reference to particular associated predicate offences. Similarly, an FIU should grant its prior consent to another FIU to forward the information to competent authorities regardless of the type of possible associated predicate offence in order to allow the dissemination function to be carried out effectively. FIUs have reported difficulties in exchanging information based on differences in national definitions of certain predicate offences, such as tax crimes, which are not harmonised by Union law. Such differences, should not hamper the mutual exchange, the dissemination to competent authorities and the use of that information as defined by this Directive. FIUs should rapidly, constructively and effectively ensure the widest range of international cooperation with third countries' FIUs in relation to money laundering, associated predicate offences and terrorist financing in accordance with the FATF Recommendations and Egmont Principles for Information Exchange between Financial Intelligence Units.

- (19) Information of a prudential nature relating to credit and financial institutions, such as information relating to the fitness and properness of directors and shareholders, to the internal control mechanisms, to governance or to compliance and risk management, is often indispensable for the adequate AML/CFT supervision of such institutions. Similarly, AML/CFT information is also important for the prudential supervision of such institutions. Therefore, the exchange of confidential information and collaboration between AML/CFT competent authorities supervising credit and financial institutions and prudential supervisors should not be hampered by legal uncertainty which might arise as a result of the absence of explicit provisions in this field. Clarification of the legal framework is even more important since prudential supervision has, in a number of cases, been entrusted to non-AML/CFT supervisors, such as the European Central Bank (ECB).
- (20) Delayed access to information by FIUs and other competent authorities on the identity of holders of bank and payment accounts and safe-deposit boxes, especially anonymous ones, hampers the detection of transfers of funds relating to terrorism. National data allowing the identification of bank and payments accounts and safe-deposit boxes belonging to one person is fragmented and therefore not accessible to FIUs and to other competent authorities in a timely manner. It is therefore essential to establish centralised automated mechanisms, such as a register or data retrieval system, in all Member States as an efficient means to get timely access to information on the identity of holders of bank and payment accounts and safe-deposit boxes, their proxy holders, and their beneficial owners. When applying the access provisions, it is appropriate for pre-existing mechanisms to be used provided that national FIUs can access the data for which they make inquiries in an immediate and unfiltered manner. Member States should consider feeding such mechanisms with other information deemed necessary and proportionate for the more effective mitigation of risks relating to money laundering and the financing of terrorism. Full confidentiality should be ensured in respect of such inquiries and requests for related information by FIUs and competent authorities other than those authorities responsible for prosecution.
- (21) In order to respect privacy and protect personal data, the minimum data necessary for the carrying out of AML/CFT investigations should be held in centralised automated mechanisms for bank and payment accounts, such as registers or data retrieval systems. It should be possible for Member States to determine which data it is useful and proportionate to gather, taking into account the systems and legal traditions in place to enable the meaningful identification of the beneficial owners. When transposing the provisions relating to those mechanisms, Member States should set out retention periods equivalent to the period for retention of the documentation and information obtained within the application of customer due diligence measures. It should be possible for Member States to extend the retention period on a general basis by law, without requiring case-by-case decisions. The additional retention period should not exceed an additional five years. That period should be without prejudice to national law setting out other data retention requirements allowing case-by-case decisions to facilitate criminal or administrative proceedings. Access to those mechanisms should be on a need-to-know basis.
- (22) Accurate identification and verification of data of natural and legal persons are essential for fighting money laundering or terrorist financing. The latest technical developments in the digitalisation of transactions and payments enable a secure remote or electronic identification. Those means of identification as set out in Regulation (EU) No 910/2014 of the European Parliament and of the Council ⁽¹⁾ should be taken into account, in particular with regard to notified electronic identification schemes and ways of ensuring cross-border legal recognition, which offer high level secure tools and provide a benchmark against which the identification methods set up at national level may be checked. In addition, other secure remote or electronic identification processes, regulated, recognised, approved or accepted at national level by the national competent authority may be taken into account. Where appropriate, the recognition of electronic documents and trust services as set out in Regulation (EU) No 910/2014 should also be taken into account in the identification process. The principle of technology neutrality should be taken into account in the application of this Directive.

⁽¹⁾ Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC (OJ L 257, 28.8.2014, p. 73).

- (23) In order to identify politically exposed persons in the Union, lists should be issued by Member States indicating the specific functions which, in accordance with national laws, regulations and administrative provisions, qualify as prominent public functions. Member States should request each international organisation accredited on their territories to issue and keep up to date a list of prominent public functions at that international organisation.
- (24) The approach for the review of existing customers in the current framework is risk-based. However, given the higher risk of money laundering, terrorist financing and associated predicate offences associated with certain intermediary structures, that approach might not allow for the timely detection and assessment of risks. It is therefore important to ensure that certain clearly specified categories of existing customers are also monitored on a regular basis.
- (25) Member States are currently required to ensure that corporate and other legal entities incorporated within their territory obtain and hold adequate, accurate and current information on their beneficial ownership. The need for accurate and up-to-date information on the beneficial owner is a key factor in tracing criminals who might otherwise be able to hide their identity behind a corporate structure. The globally interconnected financial system makes it possible to hide and move funds around the world, and money launderers and terrorist financiers as well as other criminals have increasingly made use of that possibility.
- (26) The specific factor determining which Member State is responsible for the monitoring and registration of beneficial ownership information of trusts and similar legal arrangements should be clarified. Due to differences in the legal systems of Member States, certain trusts and similar legal arrangements are not monitored or registered anywhere in the Union. Beneficial ownership information of trusts and similar legal arrangements should be registered where the trustees of trusts and persons holding equivalent positions in similar legal arrangements are established or where they reside. In order to ensure the effective monitoring and registration of information on the beneficial ownership of trusts and similar legal arrangements, cooperation between Member States is also necessary. The interconnection of Member States' registries of beneficial owners of trusts and similar legal arrangements would make this information accessible, and would also ensure that the multiple registration of the same trusts and similar legal arrangements is avoided within the Union.
- (27) Rules that apply to trusts and similar legal arrangements with respect to access to information relating to their beneficial ownership should be comparable to the corresponding rules that apply to corporate and other legal entities. Due to the wide range of types of trusts that currently exists in the Union, as well as an even greater variety of similar legal arrangements, the decision on whether or not a trust or a similar legal arrangement is comparably similar to corporate and other legal entities should be taken by Member States. The aim of the national law transposing those provisions should be to prevent the use of trusts or similar legal arrangements for the purposes of money laundering, terrorist financing or associated predicate offences.
- (28) With a view to the different characteristics of trusts and similar legal arrangements, Member States should be able, under national law and in accordance with data protection rules, to determine the level of transparency with regard to trusts and similar legal arrangements that are not comparable to corporate and other legal entities. The risks of money laundering and terrorist financing involved can differ, based on the characteristics of the type of trust or similar legal arrangement and the understanding of those risks can evolve over time, for instance as a result of the national and supranational risk assessments. For that reason, it should be possible for Member States to provide for wider access to information on beneficial ownership of trusts and similar legal arrangements, if such access constitutes a necessary and proportionate measure with the legitimate aim of preventing the use of the financial system for the purposes of money laundering or terrorist financing. When determining the level of transparency of the beneficial ownership information of such trusts or similar legal arrangements, Member States should have due regard to the protection of fundamental rights of individuals, in particular the right to privacy and protection of personal data. Access to beneficial ownership information of trusts and similar legal arrangements should be granted to any person that can demonstrate a legitimate interest. Access should also be granted to any person that files a written request in relation to a trust or similar legal arrangement which holds or owns a controlling interest in any corporate or other legal entity incorporated outside the Union, through direct or indirect ownership, including through bearer shareholdings, or through control via other means. The criteria and

conditions granting access to requests for beneficial ownership information of trusts and similar legal arrangements should be sufficiently precise and in line with the aims of this Directive. It should be possible for Member States to refuse a written request where there are reasonable grounds to suspect that the written request is not in line with the objectives of this Directive.

- (29) In order to ensure legal certainty and a level playing field, it is essential to clearly set out which legal arrangements established across the Union should be considered similar to trusts by effect of their functions or structure. Therefore, each Member State should be required to identify the trusts, if recognised by national law, and similar legal arrangements that may be set up pursuant to its national legal framework or custom and which have structure or functions similar to trusts, such as enabling a separation or disconnection between the legal and the beneficial ownership of assets. Thereafter, Member States should notify to the Commission the categories, description of the characteristics, names and where applicable legal basis of those trusts and similar legal arrangements in view of their publication in the *Official Journal of the European Union* in order to enable their identification by other Member States. It should be taken into account that trusts and similar legal arrangements may have different legal characteristics throughout the Union. Where the characteristics of the trust or similar legal arrangement are comparable in structure or functions to the characteristics of corporate and other legal entities, public access to beneficial ownership information would contribute to combating the misuse of trusts and similar legal arrangements, similar to the way public access can contribute to the prevention of the misuse of corporate and other legal entities for the purposes of money laundering and terrorist financing.
- (30) Public access to beneficial ownership information allows greater scrutiny of information by civil society, including by the press or civil society organisations, and contributes to preserving trust in the integrity of business transactions and of the financial system. It can contribute to combating the misuse of corporate and other legal entities and legal arrangements for the purposes of money laundering or terrorist financing, both by helping investigations and through reputational effects, given that anyone who could enter into transactions is aware of the identity of the beneficial owners. It also facilitates the timely and efficient availability of information for financial institutions as well as authorities, including authorities of third countries, involved in combating such offences. The access to that information would also help investigations on money laundering, associated predicate offences and terrorist financing.
- (31) Confidence in financial markets from investors and the general public depends in large part on the existence of an accurate disclosure regime that provides transparency in the beneficial ownership and control structures of companies. This is particularly true for corporate governance systems that are characterised by concentrated ownership, such as the one in the Union. On the one hand, large investors with significant voting and cash-flow rights may encourage long-term growth and firm performance. On the other hand, however, controlling beneficial owners with large voting blocks may have incentives to divert corporate assets and opportunities for personal gain at the expense of minority investors. The potential increase in confidence in financial markets should be regarded as a positive side effect and not the purpose of increasing transparency, which is to create an environment less likely to be used for the purposes of money laundering and terrorist financing.
- (32) Confidence in financial markets from investors and the general public depends in large part on the existence of an accurate disclosure regime that provides transparency in the beneficial ownership and control structures of corporate and other legal entities as well as certain types of trusts and similar legal arrangements. Member States should therefore allow access to beneficial ownership information in a sufficiently coherent and coordinated way, by establishing clear rules of access by the public, so that third parties are able to ascertain, throughout the Union, who are the beneficial owners of corporate and other legal entities as well as of certain types of trusts and similar legal arrangements.
- (33) Member States should therefore allow access to beneficial ownership information on corporate and other legal entities in a sufficiently coherent and coordinated way, through the central registers in which beneficial ownership information is set out, by establishing a clear rule of public access, so that third parties are able to ascertain, throughout the Union, who are the beneficial owners of corporate and other legal entities. It is essential to also establish a coherent legal framework that ensures better access to information relating to beneficial ownership of trusts and similar legal arrangements, once they are registered within the Union. Rules that apply to trusts and similar legal arrangements with respect to access to information relating to their beneficial ownership should be comparable to the corresponding rules that apply to corporate and other legal entities.

- (34) In all cases, both with regard to corporate and other legal entities, as well as trusts and similar legal arrangements, a fair balance should be sought in particular between the general public interest in the prevention of money laundering and terrorist financing and the data subjects' fundamental rights. The set of data to be made available to the public should be limited, clearly and exhaustively defined, and should be of a general nature, so as to minimise the potential prejudice to the beneficial owners. At the same time, information made accessible to the public should not significantly differ from the data currently collected. In order to limit the interference with the right to respect for their private life in general and to protection of their personal data in particular, that information should relate essentially to the status of beneficial owners of corporate and other legal entities and of trusts and similar legal arrangements and should strictly concern the sphere of economic activity in which the beneficial owners operate. In cases where the senior managing official has been identified as the beneficial owner only *ex officio* and not through ownership interest held or control exercised by other means, this should be clearly visible in the registers. With regard to information on beneficial owners, Member States can provide for information on nationality to be included in the central register particularly for non-native beneficial owners. In order to facilitate registry procedures and as the vast majority of beneficial owners will be nationals of the state maintaining the central register, Member States may presume a beneficial owner to be of their own nationality where no entry to the contrary is made.
- (35) The enhanced public scrutiny will contribute to preventing the misuse of legal entities and legal arrangements, including tax avoidance. Therefore, it is essential that the information on beneficial ownership remains available through the national registers and through the system of interconnection of registers for a minimum of five years after the grounds for registering beneficial ownership information of the trust or similar legal arrangement have ceased to exist. However, Member States should be able to provide by law for the processing of the information on beneficial ownership, including personal data for other purposes if such processing meets an objective of public interest and constitutes a necessary and proportionate measure in a democratic society to the legitimate aim pursued.
- (36) Moreover, with the aim of ensuring a proportionate and balanced approach and to guarantee the rights to private life and personal data protection, it should be possible for Member States to provide for exemptions to the disclosure through the registers of beneficial ownership information and to access to such information, in exceptional circumstances, where that information would expose the beneficial owner to a disproportionate risk of fraud, kidnapping, blackmail, extortion, harassment, violence or intimidation. It should also be possible for Member States to require online registration in order to identify any person who requests information from the register, as well as the payment of a fee for access to the information in the register.
- (37) The interconnection of Member States' central registers holding beneficial ownership information through the European Central Platform established by Directive (EU) 2017/1132 of the European Parliament and of the Council ⁽¹⁾ necessitates the coordination of national systems having varying technical characteristics. This entails the adoption of technical measures and specifications which need to take account of differences between registers. In order to ensure uniform conditions for the implementation of this Directive, implementing powers should be conferred on the Commission to tackle such technical and operational issues. Those powers should be exercised in accordance with the examination procedure referred to in Article 5 of Regulation (EU) No 182/2011 of the European Parliament and of the Council ⁽²⁾. In any case, the involvement of Member States in the functioning of the whole system should be ensured by means of a regular dialogue between the Commission and the representatives of Member States on the issues concerning the operation of the system and on its future development.
- (38) Regulation (EU) 2016/679 of the European Parliament and of the Council ⁽³⁾ applies to the processing of personal data under this Directive. As a consequence, natural persons whose personal data are held in national registers as beneficial owners should be informed accordingly. Furthermore, only personal data that is up to date and

⁽¹⁾ Directive (EU) 2017/1132 of the European Parliament and of the Council of 14 June 2017 relating to certain aspects of company law (OJ L 169, 30.6.2017, p. 46).

⁽²⁾ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

⁽³⁾ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

corresponds to the actual beneficial owners should be made available and the beneficiaries should be informed about their rights under the current Union legal data protection framework, as set out in Regulation (EU) 2016/679 and Directive (EU) 2016/680 of the European Parliament and of the Council⁽¹⁾, and the procedures applicable for exercising those rights. In addition, to prevent the abuse of the information contained in the registers and to balance out the rights of beneficial owners, Member States might find it appropriate to consider making information relating to the requesting person along with the legal basis for their request available to the beneficial owner.

- (39) Where the reporting of discrepancies by the FIUs and competent authorities would jeopardise an on-going investigation, the FIUs or competent authorities should delay the reporting of the discrepancy until the moment at which the reasons for not reporting cease to exist. Furthermore, FIUs and competent authorities should not report any discrepancy when this would be contrary to any confidentiality provision of national law or would constitute a tipping-off offence.
- (40) This Directive is without prejudice to the protection of personal data processed by competent authorities in accordance with Directive (EU) 2016/680.
- (41) Access to information and the definition of legitimate interest should be governed by the law of the Member State where the trustee of a trust or person holding an equivalent position in a similar legal arrangement is established or resides. Where the trustee of the trust or person holding equivalent position in similar legal arrangement is not established or does not reside in any Member State, access to information and the definition of legitimate interest should be governed by the law of the Member State where the beneficial ownership information of the trust or similar legal arrangement is registered in accordance with the provisions of this Directive.
- (42) Member States should define legitimate interest, both as a general concept and as a criterion for accessing beneficial ownership information in their national law. In particular, those definitions should not restrict the concept of legitimate interest to cases of pending administrative or legal proceedings, and should enable to take into account the preventive work in the field of anti-money laundering, counter terrorist financing and associate predicate offences undertaken by non-governmental organisations and investigative journalists, where appropriate. Once the interconnection of Member States' beneficial ownership registers is in place, both national and cross-border access to each Member State's register should be granted based on the definition of legitimate interest of the Member State where the information relating to the beneficial ownership of the trust or similar legal arrangement has been registered in accordance with the provisions of this Directive, by virtue of a decision taken by the relevant authorities of that Member State. In relation to Member States' beneficial ownership registers, it should also be possible for Member States to establish appeal mechanisms against decisions which grant or deny access to beneficial ownership information. With a view to ensuring coherent and efficient registration and information exchange, Member States should ensure that their authority in charge of the register set up for the beneficial ownership information of trusts and similar legal arrangements cooperates with its counterparts in other Member States, sharing information concerning trusts and similar legal arrangements governed by the law of one Member State and administered in another Member State.
- (43) Cross-border correspondent relationships with a third-country's respondent institution are characterised by their on-going, repetitive nature. Accordingly, Member States, while requiring the adoption of enhanced due diligence measures in this particular context, should take into consideration that correspondent relationships do not include one-off transactions or the mere exchange of messaging capabilities. Moreover, recognising that not all cross-border correspondent banking services present the same level of money laundering and terrorist financing risks, the intensity of the measures laid down in this Directive can be determined by application of the principles of the risk based approach and do not prejudice the level of money laundering and terrorist financing risk presented by the respondent financial institution.
- (44) It is important to ensure that anti-money laundering and counter-terrorist financing rules are correctly implemented by obliged entities. In that context, Member States should strengthen the role of public authorities acting as competent authorities with designated responsibilities for combating money laundering or terrorist financing,

⁽¹⁾ Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA (OJ L 119, 4.5.2016, p. 89).

including the FIUs, the authorities that have the function of investigating or prosecuting money laundering, associated predicate offences and terrorist financing, tracing and seizing or freezing and confiscating criminal assets, authorities receiving reports on cross-border transportation of currency and bearer-negotiable instruments and authorities that have supervisory or monitoring responsibilities aimed at ensuring compliance by obliged entities. Member States should strengthen the role of other relevant authorities including anti-corruption authorities and tax authorities.

- (45) Member States should ensure effective and impartial supervision of all obliged entities, preferably by public authorities via a separate and independent national regulator or supervisor.
- (46) Criminals move illicit proceeds through numerous financial intermediaries to avoid detection. Therefore it is important to allow credit and financial institutions to exchange information not only between group members, but also with other credit and financial institutions, with due regard to data protection rules as set out in national law.
- (47) Competent authorities supervising obliged entities for compliance with this Directive should be able to cooperate and exchange confidential information, regardless of their respective nature or status. To this end, such competent authorities should have an adequate legal basis for exchange of confidential information, and collaboration between AML/CFT competent supervisory authorities and prudential supervisors should not be hampered unintentionally by legal uncertainty which may stem from a lack of explicit provisions in this field. The supervision of the effective implementation of group policy on AML/CFT should be done in accordance with the principles and modalities of consolidated supervision as laid down in the relevant European sectoral legislation.
- (48) The exchange of information and the provision of assistance between competent authorities of the Member States is essential for the purposes of this Directive. Consequently, Member States should not prohibit or place unreasonable or unduly restrictive conditions on this exchange of information and provision of assistance.
- (49) In accordance with the Joint Political Declaration of 28 September 2011 of Member States and the Commission on explanatory documents⁽¹⁾, Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of such documents to be justified.
- (50) Since the objective of this Directive, namely the protection of the financial system by means of prevention, detection and investigation of money laundering and terrorist financing, cannot be sufficiently achieved by the Member States, as individual measures adopted by Member States to protect their financial systems could be inconsistent with the functioning of the internal market and with the prescriptions of the rule of law and Union public policy, but can rather, by reason of the scale and effects of the action, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve that objective.
- (51) This Directive respects the fundamental rights and observes the principles recognised by the Charter of Fundamental Rights of the European Union ('the Charter'), in particular the right to respect for private and family life (Article 7 of the Charter), the right to the protection of personal data (Article 8 of the Charter) and the freedom to conduct a business (Article 16 of the Charter).
- (52) When drawing up a report evaluating the implementation of this Directive, the Commission should give due consideration to the respect of the fundamental rights and principles recognised by the Charter.
- (53) Given the need to urgently implement measures adopted with a view to strengthen the Union's regime set in place for the prevention of money laundering and financing of terrorism, and seeing the commitments undertaken by Member States to quickly proceed with the transposition of Directive (EU) 2015/849, the amendments to Directive (EU) 2015/849 should be transposed by 10 January 2020. Member States should set up beneficial ownership registers for corporate and other legal entities by 10 January 2020 and for trusts and similar legal arrangements by 10 March 2020. Central registers should be interconnected via the European Central Platform by 10 March 2021. Member States should set up centralised automated mechanisms allowing the identification of holders of bank and payment accounts and safe-deposit boxes by 10 September 2020.

⁽¹⁾ OJ C 369, 17.12.2011, p. 14.

- (54) The European Data Protection Supervisor was consulted in accordance with Article 28(2) of Regulation (EC) No 45/2001 of the European Parliament and of the Council ⁽¹⁾ and delivered an opinion on 2 February 2017 ⁽²⁾.
- (55) Directive (EU) 2015/849 should therefore be amended accordingly,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Amendments to Directive (EU) 2015/849

Directive (EU) 2015/849 is amended as follows:

(1) point (3) of Article 2(1) is amended as follows:

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

‘(a) auditors, external accountants and tax advisors, and any other person that undertakes to provide, directly or by means of other persons to which that other person is related, material aid, assistance or advice on tax matters as principal business or professional activity;’

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

‘(d) estate agents including when acting as intermediaries in the letting of immovable property, but only in relation to transactions for which the monthly rent amounts to EUR 10 000 or more;’

(c) the following points are added:

‘(g) providers engaged in exchange services between virtual currencies and fiat currencies;

(h) custodian wallet providers;

(i) persons trading or acting as intermediaries in the trade of works of art, including when this is carried out by art galleries and auction houses, where the value of the transaction or a series of linked transactions amounts to EUR 10 000 or more;

(j) persons storing, trading or acting as intermediaries in the trade of works of art when this is carried out by free ports, where the value of the transaction or a series of linked transactions amounts to EUR 10 000 or more.’;

(2) Article 3 is amended as follows:

(a) point (4) is amended as follows:

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

‘(a) terrorist offences, offences related to a terrorist group and offences related to terrorist activities as set out in Titles II and III of Directive (EU) 2017/541 (*);

(*) Directive (EU) 2017/541 of the European Parliament and of the Council of 15 March 2017 on combating terrorism and replacing Council Framework Decision 2002/475/JHA and amending Council Decision 2005/671/JHA (OJ L 88, 31.3.2017, p. 6).;

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

‘(c) the activities of criminal organisations as defined in Article 1(1) of Council Framework Decision 2008/841/JHA (*);

(*) Council Framework Decision 2008/841/JHA of 24 October 2008 on the fight against organised crime (OJ L 300, 11.11.2008, p. 42).;

⁽¹⁾ Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).

⁽²⁾ OJ C 85, 18.3.2017, p. 3.

(b) in point (6), point (b) is replaced by the following:

‘(b) in the case of trusts, all following persons:

- (i) the settlor(s);
- (ii) the trustee(s);
- (iii) the protector(s), if any;
- (iv) the beneficiaries or where the individuals benefiting from the legal arrangement or entity have yet to be determined, the class of persons in whose main interest the legal arrangement or entity is set up or operates;
- (v) any other natural person exercising ultimate control over the trust by means of direct or indirect ownership or by other means;’;

(c) point (16) is replaced by the following:

‘(16) “electronic money” means electronic money as defined in point (2) of Article 2 of Directive 2009/110/EC, but excluding monetary value as referred to in Article 1(4) and (5) of that Directive;’

(d) the following points are added:

- ‘(18) “virtual currencies” means a digital representation of value that is not issued or guaranteed by a central bank or a public authority, is not necessarily attached to a legally established currency and does not possess a legal status of currency or money, but is accepted by natural or legal persons as a means of exchange and which can be transferred, stored and traded electronically;
- (19) “custodian wallet provider” means an entity that provides services to safeguard private cryptographic keys on behalf of its customers, to hold, store and transfer virtual currencies.’;

(3) Article 6 is amended as follows:

(a) in paragraph (2), points (b) and (c) are replaced by the following:

- ‘(b) the risks associated with each relevant sector including, where available, estimates of the monetary volumes of money laundering provided by Eurostat for each of those sectors;
- (c) the most widespread means used by criminals to launder illicit proceeds, including, where available, those particularly used in transactions between Member States and third countries, independently of the identification of a third country as high-risk pursuant to Article 9(2).’;

(b) paragraph (3) is replaced by the following:

‘3. The Commission shall make the report referred to in paragraph 1 available to Member States and obliged entities in order to assist them to identify, understand, manage and mitigate the risk of money laundering and terrorist financing, and to allow other stakeholders, including national legislators, the European Parliament, the European Supervisory Authorities (ESAs), and representatives from FIUs, to better understand the risks. Reports shall be made public at the latest six months after having been made available to Member States, except for the elements of the reports which contain classified information.’;

(4) Article 7 is amended as follows:

(a) in paragraph (4), the following points are added:

- ‘(f) report the institutional structure and broad procedures of their AML/CFT regime, including, inter alia, the FIU, tax authorities and prosecutors, as well as the allocated human and financial resources to the extent that this information is available;
- (g) report on national efforts and resources (labour forces and budget) allocated to combat money laundering and terrorist financing.’;

(b) paragraph 5 is replaced by the following:

‘5. Member States shall make the results of their risk assessments, including their updates, available to the Commission, the ESAs and the other Member States. Other Member States may provide relevant additional information, where appropriate, to the Member State carrying out the risk assessment. A summary of the assessment shall be made publicly available. That summary shall not contain classified information.’;

(5) Article 9 is amended as follows:

(a) paragraph 2 is replaced by the following:

‘2. The Commission is empowered to adopt delegated acts in accordance with Article 64 in order to identify high-risk third countries, taking into account strategic deficiencies in particular in the following areas:

(a) the legal and institutional AML/CFT framework of the third country, in particular:

(i) the criminalisation of money laundering and terrorist financing;

(ii) measures relating to customer due diligence;

(iii) requirements relating to record-keeping;

(iv) requirements to report suspicious transactions;

(v) the availability of accurate and timely information of the beneficial ownership of legal persons and arrangements to competent authorities;

(b) the powers and procedures of the third country's competent authorities for the purposes of combating money laundering and terrorist financing including appropriately effective, proportionate and dissuasive sanctions, as well as the third country's practice in cooperation and exchange of information with Member States' competent authorities;

(c) the effectiveness of the third country's AML/CFT system in addressing money laundering or terrorist financing risks.’;

(b) paragraph 4 is replaced by the following:

‘4. The Commission, when drawing up the delegated acts referred to in paragraph 2, shall take into account relevant evaluations, assessments or reports drawn up by international organisations and standard setters with competence in the field of preventing money laundering and combating terrorist financing.’;

(6) in Article 10, paragraph 1 is replaced by the following:

‘1. Member States shall prohibit their credit institutions and financial institutions from keeping anonymous accounts, anonymous passbooks or anonymous safe-deposit boxes. Member States shall, in any event, require that the owners and beneficiaries of existing anonymous accounts, anonymous passbooks or anonymous safe-deposit boxes be subject to customer due diligence measures no later than 10 January 2019 and in any event before such accounts, passbooks or deposit boxes are used in any way.’;

(7) Article 12 is amended as follows:

(a) paragraph 1 is amended as follows:

(i) in the first subparagraph, points (a) and (b) are replaced by the following:

‘(a) the payment instrument is not reloadable, or has a maximum monthly payment transactions limit of EUR 150 which can be used only in that Member State;

(b) the maximum amount stored electronically does not exceed EUR 150’;

(ii) the second subparagraph is deleted;

(b) paragraph 2 is replaced by the following:

‘2. Member States shall ensure that the derogation provided for in paragraph 1 of this Article is not applicable in the case of redemption in cash or cash withdrawal of the monetary value of the electronic money where the amount redeemed exceeds EUR 50, or in the case of remote payment transactions as defined in point (6) of Article 4 of the Directive (EU) 2015/2366 of the European Parliament and of the Council (*) where the amount paid exceeds EUR 50 per transaction.

(*) Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC (OJ L 337, 23.12.2015, p. 35).;

(c) the following paragraph is added:

‘3. Member States shall ensure that credit institutions and financial institutions acting as acquirers only accept payments carried out with anonymous prepaid cards issued in third countries where such cards meet requirements equivalent to those set out in paragraphs 1 and 2.

Member States may decide not to accept on their territory payments carried out by using anonymous prepaid cards.’;

(8) Article 13(1) is amended as follows:

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

‘(a) identifying the customer and verifying the customer’s identity on the basis of documents, data or information obtained from a reliable and independent source, including, where available, electronic identification means, relevant trust services as set out in Regulation (EU) No 910/2014 of the European Parliament and of the Council (*) or any other secure, remote or electronic identification process regulated, recognised, approved or accepted by the relevant national authorities;

(*) Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC (OJ L 257, 28.8.2014, p. 73).;

(b) at the end of point (b), the following sentence is added:

‘Where the beneficial owner identified is the senior managing official as referred to in Article 3(6)(a) (ii), obliged entities shall take the necessary reasonable measures to verify the identity of the natural person who holds the position of senior managing official and shall keep records of the actions taken as well as any difficulties encountered during the verification process.’;

(9) Article 14 is amended as follows:

(a) in paragraph 1, the following sentence is added:

‘Whenever entering into a new business relationship with a corporate or other legal entity, or a trust or a legal arrangement having a structure or functions similar to trusts (“similar legal arrangement”) which are subject to the registration of beneficial ownership information pursuant to Article 30 or 31, the obliged entities shall collect proof of registration or an excerpt of the register.’;

(b) paragraph 5 is replaced by the following:

‘5. Member States shall require that obliged entities apply the customer due diligence measures not only to all new customers but also at appropriate times to existing customers on a risk-sensitive basis, or when the relevant circumstances of a customer change, or when the obliged entity has any legal duty in the course of the relevant calendar year to contact the customer for the purpose of reviewing any relevant information relating to the beneficial owner(s), or if the obliged entity has had this duty under Council Directive 2011/16/EU (*).

(*) Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC (OJ L 64, 11.3.2011, p. 1).;

(10) Article 18 is amended as follows:

(a) in paragraph 1, the first subparagraph is replaced by the following:

‘In the cases referred to in Articles 18a to 24, as well as in other cases of higher risk that are identified by Member States or obliged entities, Member States shall require obliged entities to apply enhanced customer due diligence measures to manage and mitigate those risks appropriately.’;

(b) paragraph 2 is replaced by the following:

‘2. Member States shall require obliged entities to examine, as far as reasonably possible, the background and purpose of all transactions that fulfil at least one of the following conditions:

- (i) they are complex transactions;
- (ii) they are unusually large transactions;
- (iii) they are conducted in an unusual pattern;
- (iv) they do not have an apparent economic or lawful purpose.

In particular, obliged entities shall increase the degree and nature of monitoring of the business relationship, in order to determine whether those transactions or activities appear suspicious.’;

(11) The following Article is inserted:

‘Article 18a

1. With respect to business relationships or transactions involving high-risk third countries identified pursuant to Article 9(2), Member States shall require obliged entities to apply the following enhanced customer due diligence measures:

- (a) obtaining additional information on the customer and on the beneficial owner(s);
- (b) obtaining additional information on the intended nature of the business relationship;
- (c) obtaining information on the source of funds and source of wealth of the customer and of the beneficial owner(s);
- (d) obtaining information on the reasons for the intended or performed transactions;
- (e) obtaining the approval of senior management for establishing or continuing the business relationship;
- (f) conducting enhanced monitoring of the business relationship by increasing the number and timing of controls applied, and selecting patterns of transactions that need further examination.

Member States may require obliged entities to ensure, where applicable, that the first payment be carried out through an account in the customer’s name with a credit institution subject to customer due diligence standards that are not less robust than those laid down in this Directive.

2. In addition to the measures provided in paragraph 1 and in compliance with the Union’s international obligations, Member States shall require obliged entities to apply, where applicable, one or more additional mitigating measures to persons and legal entities carrying out transactions involving high-risk third countries identified pursuant to Article 9(2). Those measures shall consist of one or more of the following:

- (a) the application of additional elements of enhanced due diligence;
- (b) the introduction of enhanced relevant reporting mechanisms or systematic reporting of financial transactions;
- (c) the limitation of business relationships or transactions with natural persons or legal entities from the third countries identified as high risk countries pursuant to Article 9(2).

3. In addition to the measures provided in paragraph 1, Member States shall apply, where applicable, one or several of the following measures with regard to high-risk third countries identified pursuant to Article 9(2) in compliance with the Union's international obligations:

- (a) refusing the establishment of subsidiaries or branches or representative offices of obliged entities from the country concerned, or otherwise taking into account the fact that the relevant obliged entity is from a country that does not have adequate AML/CFT regimes;
- (b) prohibiting obliged entities from establishing branches or representative offices in the country concerned, or otherwise taking into account the fact that the relevant branch or representative office would be in a country that does not have adequate AML/CFT regimes;
- (c) requiring increased supervisory examination or increased external audit requirements for branches and subsidiaries of obliged entities located in the country concerned;
- (d) requiring increased external audit requirements for financial groups with respect to any of their branches and subsidiaries located in the country concerned;
- (e) requiring credit and financial institutions to review and amend, or if necessary terminate, correspondent relationships with respondent institutions in the country concerned.

4. When enacting or applying the measures set out in paragraphs 2 and 3, Member States shall take into account, as appropriate relevant evaluations, assessments or reports drawn up by international organisations and standard setters with competence in the field of preventing money laundering and combating terrorist financing, in relation to the risks posed by individual third countries.

5. Member States shall notify the Commission before enacting or applying the measures set out in paragraphs 2 and 3.;

(12) in Article 19, the introductory part is replaced by the following:

‘With respect to cross-border correspondent relationships involving the execution of payments with a third-country respondent institution, Member States shall, in addition to the customer due diligence measures laid down in Article 13, require their credit institutions and financial institutions when entering into a business relationship to:’

(13) The following Article is inserted:

‘Article 20a

1. Each Member State shall issue and keep up to date a list indicating the exact functions which, according to national laws, regulations and administrative provisions, qualify as prominent public functions for the purposes of point (9) of Article 3. Member States shall request each international organisation accredited on their territories to issue and keep up to date a list of prominent public functions at that international organisation for the purposes of point (9) of Article 3. Those lists shall be sent to the Commission and may be made public.

2. The Commission shall compile and keep up to date the list of the exact functions which qualify as prominent public functions at the level of Union institutions and bodies. That list shall also include any function which may be entrusted to representatives of third countries and of international bodies accredited at Union level.

3. The Commission shall assemble, based on the lists provided for in paragraphs 1 and 2 of this Article, a single list of all prominent public functions for the purposes of point (9) of Article 3. That single list shall be made public.

4. Functions included in the list referred to in paragraph 3 of this Article shall be dealt with in accordance with the conditions laid down in Article 41(2).;

(14) in Article 27, paragraph 2 is replaced by the following:

‘2. Member States shall ensure that obliged entities to which the customer is referred take adequate steps to ensure that the third party provides immediately, upon request, relevant copies of identification and verification data, including, where available, data obtained through electronic identification means, relevant trust services as set out in Regulation (EU) No 910/2014, or any other secure, remote or electronic, identification process regulated, recognised, approved or accepted by the relevant national authorities.’;

(15) Article 30 is amended as follows:

(a) paragraph 1 is amended as follows:

(i) the first subparagraph is replaced by the following:

‘Member States shall ensure that corporate and other legal entities incorporated within their territory are required to obtain and hold adequate, accurate and current information on their beneficial ownership, including the details of the beneficial interests held. Member States shall ensure that breaches of this Article are subject to effective, proportionate and dissuasive measures or sanctions.’;

(ii) the following subparagraph is added:

‘Member States shall require that the beneficial owners of corporate or other legal entities, including through shares, voting rights, ownership interest, bearer shareholdings or control via other means, provide those entities with all the information necessary for the corporate or other legal entity to comply with the requirements in the first subparagraph.’;

(b) paragraph 4 is replaced by the following:

‘4. Member States shall require that the information held in the central register referred to in paragraph 3 is adequate, accurate and current, and shall put in place mechanisms to this effect. Such mechanisms shall include requiring obliged entities and, if appropriate and to the extent that this requirement does not interfere unnecessarily with their functions, competent authorities to report any discrepancies they find between the beneficial ownership information available in the central registers and the beneficial ownership information available to them. In the case of reported discrepancies, Member States shall ensure that appropriate actions be taken to resolve the discrepancies in a timely manner and, if appropriate, a specific mention be included in the central register in the meantime.’;

(c) paragraph 5 is replaced by the following:

‘5. Member States shall ensure that the information on the beneficial ownership is accessible in all cases to:

- (a) competent authorities and FIUs, without any restriction;
- (b) obliged entities, within the framework of customer due diligence in accordance with Chapter II;
- (c) any member of the general public.

The persons referred to in point (c) shall be permitted to access at least the name, the month and year of birth and the country of residence and nationality of the beneficial owner as well as the nature and extent of the beneficial interest held.

Member States may, under conditions to be determined in national law, provide for access to additional information enabling the identification of the beneficial owner. That additional information shall include at least the date of birth or contact details in accordance with data protection rules.’;

(d) the following paragraph is inserted:

‘5a. Member States may choose to make the information held in their national registers referred to in paragraph 3 available on the condition of online registration and the payment of a fee, which shall not exceed the administrative costs of making the information available, including costs of maintenance and developments of the register.’;

(e) paragraph 6 is replaced by the following:

‘6. Member States shall ensure that competent authorities and FIUs have timely and unrestricted access to all information held in the central register referred to in paragraph 3 without alerting the entity concerned. Member States shall also allow timely access by obliged entities when taking customer due diligence measures in accordance with Chapter II.

Competent authorities granted access to the central register referred to in paragraph 3 shall be those public authorities with designated responsibilities for combating money laundering or terrorist financing, as well as tax authorities, supervisors of obliged entities and authorities that have the function of investigating or prosecuting money laundering, associated predicate offences and terrorist financing, tracing and seizing or freezing and confiscating criminal assets.’;

(f) paragraph 7 is replaced by the following:

‘7. Member States shall ensure that competent authorities and FIUs are able to provide the information referred to in paragraphs 1 and 3 to the competent authorities and to the FIUs of other Member States in a timely manner and free of charge.’;

(g) paragraphs 9 and 10 are replaced by the following:

‘9. In exceptional circumstances to be laid down in national law, where the access referred to in points (b) and (c) of the first subparagraph of paragraph 5 would expose the beneficial owner to disproportionate risk, risk of fraud, kidnapping, blackmail, extortion, harassment, violence or intimidation, or where the beneficial owner is a minor or otherwise legally incapable, Member States may provide for an exemption from such access to all or part of the information on the beneficial ownership on a case-by-case basis. Member States shall ensure that these exemptions are granted upon a detailed evaluation of the exceptional nature of the circumstances. Rights to an administrative review of the exemption decision and to an effective judicial remedy shall be guaranteed. A Member State that has granted exemptions shall publish annual statistical data on the number of exemptions granted and reasons stated and report the data to the Commission.

Exemptions granted pursuant to the first subparagraph of this paragraph shall not apply to credit institutions and financial institutions, or to the obliged entities referred to in point (3)(b) of Article 2(1) that are public officials.

10. Member States shall ensure that the central registers referred to in paragraph 3 of this Article are interconnected via the European Central Platform established by Article 22(1) of Directive (EU) 2017/1132 of the European Parliament and of the Council (*). The connection of the Member States’ central registers to the platform shall be set up in accordance with the technical specifications and procedures established by implementing acts adopted by the Commission in accordance with Article 24 of Directive (EU) 2017/1132 and with Article 31a of this Directive.

Member States shall ensure that the information referred to in paragraph 1 of this Article is available through the system of interconnection of registers established by Article 22(1) of Directive (EU) 2017/1132, in accordance with Member States’ national laws implementing paragraphs 5, 5a and 6 of this Article.

The information referred to in paragraph 1 shall be available through the national registers and through the system of interconnection of registers for at least five years and no more than 10 years after the corporate or other legal entity has been struck off from the register. Member States shall cooperate among themselves and with the Commission in order to implement the different types of access in accordance with this Article.

(*) Directive (EU) 2017/1132 of the European Parliament and of the Council of 14 June 2017 relating to certain aspects of company law (OJ L 169, 30.6.2017, p. 46).’;

(16) Article 31 is amended as follows:

(a) paragraph 1 is replaced by the following:

‘1. Member States shall ensure that this Article applies to trusts and other types of legal arrangements, such as, inter alia, fiducie, certain types of Treuhand or fideicomiso, where such arrangements have a structure or functions similar to trusts. Member States shall identify the characteristics to determine where legal arrangements have a structure or functions similar to trusts with regard to such legal arrangements governed under their law.

Each Member State shall require that trustees of any express trust administered in that Member State obtain and hold adequate, accurate and up-to-date information on beneficial ownership regarding the trust. That information shall include the identity of:

(a) the settlor(s);

- (b) the trustee(s);
- (c) the protector(s) (if any);
- (d) the beneficiaries or class of beneficiaries;
- (e) any other natural person exercising effective control of the trust.

Member States shall ensure that breaches of this Article are subject to effective, proportionate and dissuasive measures or sanctions.’;

- (b) paragraph 2 is replaced by the following:

‘2. Member States shall ensure that trustees or persons holding equivalent positions in similar legal arrangements as referred to in paragraph 1 of this Article, disclose their status and provide the information referred to in paragraph 1 of this Article to obliged entities in a timely manner, where, as a trustee or as person holding an equivalent position in a similar legal arrangement, they form a business relationship or carry out an occasional transaction above the thresholds set out in points (b), (c) and (d) of Article 11.’;

- (c) the following paragraph is inserted:

‘3a. Member States shall require that the beneficial ownership information of express trusts and similar legal arrangements as referred to in paragraph 1 shall be held in a central beneficial ownership register set up by the Member State where the trustee of the trust or person holding an equivalent position in a similar legal arrangement is established or resides.

Where the place of establishment or residence of the trustee of the trust or person holding an equivalent position in similar legal arrangement is outside the Union, the information referred to in paragraph 1 shall be held in a central register set up by the Member State where the trustee of the trust or person holding an equivalent position in a similar legal arrangement enters into a business relationship or acquires real estate in the name of the trust or similar legal arrangement.

Where the trustees of a trust or persons holding equivalent positions in a similar legal arrangement are established or reside in different Member States, or where the trustee of the trust or person holding an equivalent position in a similar legal arrangement enters into multiple business relationships in the name of the trust or similar legal arrangement in different Member States, a certificate of proof of registration or an excerpt of the beneficial ownership information held in a register by one Member State may be considered as sufficient to consider the registration obligation fulfilled.’;

- (d) paragraph 4 is replaced by the following:

‘4. Member States shall ensure that the information on the beneficial ownership of a trust or a similar legal arrangement is accessible in all cases to:

- (a) competent authorities and FIUs, without any restriction;
- (b) obliged entities, within the framework of customer due diligence in accordance with Chapter II;
- (c) any natural or legal person that can demonstrate a legitimate interest;
- (d) any natural or legal person that files a written request in relation to a trust or similar legal arrangement which holds or owns a controlling interest in any corporate or other legal entity other than those referred to in Article 30(1), through direct or indirect ownership, including through bearer shareholdings, or through control via other means.

The information accessible to natural or legal persons referred to in points (c) and (d) of the first subparagraph shall consist of the name, the month and year of birth and the country of residence and nationality of the beneficial owner, as well as nature and extent of beneficial interest held.

Member States may, under conditions to be determined in national law, provide for access of additional information enabling the identification of the beneficial owner. That additional information shall include at least the date of birth or contact details, in accordance with data protection rules. Member States may allow for wider access to the information held in the register in accordance with their national law.

Competent authorities granted access to the central register referred to in paragraph 3a shall be public authorities with designated responsibilities for combating money laundering or terrorist financing, as well as tax authorities, supervisors of obliged entities and authorities that have the function of investigating or prosecuting money laundering, associated predicate offences and terrorist financing, tracing, and seizing or freezing and confiscating criminal assets.;

(e) the following paragraph is inserted:

‘4a. Member States may choose to make the information held in their national registers referred to in paragraph 3a available on the condition of online registration and the payment of a fee, which shall not exceed the administrative costs of making the information available, including costs of maintenance and developments of the register.;

(f) paragraph 5 is replaced by the following:

‘5. Member States shall require that the information held in the central register referred to in paragraph 3a is adequate, accurate and current, and shall put in place mechanisms to this effect. Such mechanisms shall include requiring obliged entities and, if appropriate and to the extent that this requirement does not interfere unnecessarily with their functions, competent authorities to report any discrepancies they find between the beneficial ownership information available in the central registers and the beneficial ownership information available to them. In the case of reported discrepancies Member States shall ensure that appropriate actions be taken to resolve the discrepancies in a timely manner and, if appropriate, a specific mention be included in the central register in the meantime.;

(g) paragraph 7 is replaced by the following:

‘7. Member States shall ensure that competent authorities and FIUs are able to provide the information referred to in paragraphs 1 and 3 to the competent authorities and to the FIUs of other Member States in a timely manner and free of charge.;

(h) the following paragraph is inserted:

‘7a. In exceptional circumstances to be laid down in national law, where the access referred to in points (b), (c) and (d) of the first subparagraph of paragraph 4 would expose the beneficial owner to disproportionate risk, risk of fraud, kidnapping, blackmail, extortion, harassment, violence or intimidation, or where the beneficial owner is a minor or otherwise legally incapable, Member States may provide for an exemption from such access to all or part of the information on the beneficial ownership on a case-by-case basis. Member States shall ensure that these exemptions are granted upon a detailed evaluation of the exceptional nature of the circumstances. Rights to an administrative review of the exemption decision and to an effective judicial remedy shall be guaranteed. A Member State that has granted exemptions shall publish annual statistical data on the number of exemptions granted and reasons stated and report the data to the Commission.

Exemptions granted pursuant to the first subparagraph shall not apply to the credit institutions and financial institutions, and to obliged entities referred to in point (3)(b) of Article 2(1) that are public officials.

Where a Member State decides to establish an exemption in accordance with the first subparagraph, it shall not restrict access to information by competent authorities and FIUs.;

(i) paragraph 8 is deleted;

(j) paragraph 9 is replaced by the following:

‘9. Member States shall ensure that the central registers referred to in paragraph 3a of this Article are interconnected via the European Central Platform established by Article 22(1) of Directive (EU) 2017/1132. The connection of the Member States’ central registers to the platform shall be set up in accordance with the technical specifications and procedures established by implementing acts adopted by the Commission in accordance with Article 24 of Directive (EU) 2017/1132 and with Article 31a of this Directive.

Member States shall ensure that the information referred to in paragraph 1 of this Article is available through the system of interconnection of registers established by Article 22(2) of Directive (EU) 2017/1132, in accordance with Member States’ national laws implementing paragraphs 4 and 5 of this Article.

Member States shall take adequate measures to ensure that only the information referred to in paragraph 1 that is up to date and corresponds to the actual beneficial ownership is made available through their national registers and through the system of interconnection of registers, and the access to that information shall be in accordance with data protection rules.

The information referred to in paragraph 1 shall be available through the national registers and through the system of interconnection of registers for at least five years and no more than 10 years after the grounds for registering the beneficial ownership information as referred to in paragraph 3a have ceased to exist. Member States shall cooperate with the Commission in order to implement the different types of access in accordance with paragraphs 4 and 4a.;

(k) the following paragraph is added:

‘10. Member States shall notify to the Commission the categories, description of the characteristics, names and, where applicable, legal basis of the trusts and similar legal arrangements referred to in paragraph 1 by 10 July 2019. The Commission shall publish the consolidated list of such trusts and similar legal arrangements in the *Official Journal of the European Union* by 10 September 2019.

By 26 June 2020, the Commission shall submit a report to the European Parliament and to the Council assessing whether all trusts and similar legal arrangements as referred to in paragraph 1 governed under the law of Member States were duly identified and made subject to the obligations as set out in this Directive. Where appropriate, the Commission shall take the necessary steps to act upon the findings of that report.’;

(17) the following Article is inserted:

‘Article 31a

Implementing acts

Where necessary in addition to the implementing acts adopted by the Commission in accordance with Article 24 of Directive (EU) 2017/1132 and in accordance with the scope of Article 30 and 31 of this Directive, the Commission shall adopt by means of implementing acts technical specifications and procedures necessary to provide for the interconnection of Member States’ central registers as referred to in Article 30(10) and Article 31(9), with regard to:

- (a) the technical specification defining the set of the technical data necessary for the platform to perform its functions as well as the method of storage, use and protection of such data;
- (b) the common criteria according to which beneficial ownership information is available through the system of interconnection of registers, depending on the level of access granted by Member States;
- (c) the technical details on how the information on beneficial owners is to be made available;
- (d) the technical conditions of availability of services provided by the system of interconnection of registers;
- (e) the technical modalities how to implement the different types of access to information on beneficial ownership based on Article 30(5) and Article 31(4);
- (f) the payment modalities where access to beneficial ownership information is subject to the payment of a fee according to Article 30(5a) and Article 31(4a) taking into account available payment facilities such as remote payment transactions.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 64a(2).

In its implementing acts, the Commission shall strive to reuse proven technology and existing practices. The Commission shall ensure that the systems to be developed shall not incur costs above what is absolutely necessary in order to implement this Directive. The Commission’s implementing acts shall be characterised by transparency and the exchange of experiences and information between the Commission and the Member States.’;

(18) in Article 32 the following paragraph is added:

‘9. Without prejudice to Article 34(2), in the context of its functions, each FIU shall be able to request, obtain and use information from any obliged entity for the purpose set in paragraph 1 of this Article, even if no prior report is filed pursuant to Article 33(1)(a) or 34(1).’;

(19) the following Article is inserted:

‘Article 32a

1. Member States shall put in place centralised automated mechanisms, such as central registries or central electronic data retrieval systems, which allow the identification, in a timely manner, of any natural or legal persons holding or controlling payment accounts and bank accounts identified by IBAN, as defined by Regulation (EU) No 260/2012 of the European Parliament and of the Council (*), and safe-deposit boxes held by a credit institution within their territory. Member States shall notify the Commission of the characteristics of those national mechanisms.

2. Member States shall ensure that the information held in the centralised mechanisms referred to in paragraph 1 of this Article is directly accessible in an immediate and unfiltered manner to national FIUs. The information shall also be accessible to national competent authorities for fulfilling their obligations under this Directive. Member States shall ensure that any FIU is able to provide information held in the centralised mechanisms referred to in paragraph 1 of this Article to any other FIUs in a timely manner in accordance with Article 53.

3. The following information shall be accessible and searchable through the centralised mechanisms referred to in paragraph 1:

- for the customer-account holder and any person purporting to act on behalf of the customer: the name, complemented by either the other identification data required under the national provisions transposing point (a) of Article 13(1) or a unique identification number;
- for the beneficial owner of the customer-account holder: the name, complemented by either the other identification data required under the national provisions transposing point (b) of Article 13(1) or a unique identification number;
- for the bank or payment account: the IBAN number and the date of account opening and closing;
- for the safe-deposit box: name of the lessee complemented by either the other identification data required under the national provisions transposing Article 13(1) or a unique identification number and the duration of the lease period.

4. Member States may consider requiring other information deemed essential for FIUs and competent authorities for fulfilling their obligations under this Directive to be accessible and searchable through the centralised mechanisms.

5. By 26 June 2020, the Commission shall submit a report to the European Parliament and to the Council assessing the conditions and the technical specifications and procedures for ensuring secure and efficient inter-connection of the centralised automated mechanisms. Where appropriate, that report shall be accompanied by a legislative proposal.

(*) Regulation (EU) No 260/2012 of the European Parliament and of the Council of 14 March 2012 establishing technical and business requirements for credit transfers and direct debits in euro and amending Regulation (EC) No 924/2009 (OJ L 94, 30.3.2012, p. 22).’;

(20) the following Article is inserted:

‘Article 32b

1. Member States shall provide FIUs and competent authorities with access to information which allows the identification in a timely manner of any natural or legal persons owning real estate, including through registers or electronic data retrieval systems where such registers or systems are available.

2. By 31 December 2020, the Commission shall submit a report to the European Parliament and to the Council assessing the necessity and proportionality of harmonising the information included in the registers and assessing the need for the interconnection of those registers. Where appropriate, that report shall be accompanied by a legislative proposal.’;

(21) in Article 33(1), point (b) is replaced by the following:

‘(b) providing the FIU directly, at its request, with all necessary information.’;

(22) in Article 34, the following paragraph is added:

‘3. Self-regulatory bodies designated by Member States shall publish an annual report containing information about:

(a) measures taken under Articles 58, 59 and 60;

(b) number of reports of breaches received as referred to in Article 61, where applicable;

(c) number of reports received by the self-regulatory body as referred to in paragraph 1 and the number of reports forwarded by the self-regulatory body to the FIU where applicable;

(d) where applicable number and description of measures carried out under Article 47 and 48 to monitor compliance by obliged entities with their obligations under:

(i) Articles 10 to 24 (customer due diligence);

(ii) Articles 33, 34 and 35 (suspicious transaction reporting);

(iii) Article 40 (record-keeping); and

(iv) Articles 45 and 46 (internal controls).’;

(23) Article 38 is replaced by the following:

‘Article 38

1. Member States shall ensure that individuals, including employees and representatives of the obliged entity who report suspicions of money laundering or terrorist financing internally or to the FIU, are legally protected from being exposed to threats, retaliatory or hostile action, and in particular from adverse or discriminatory employment actions.

2. Member States shall ensure that individuals who are exposed to threats, retaliatory or hostile actions, or adverse or discriminatory employment actions for reporting suspicions of money laundering or terrorist financing internally or to the FIU are entitled to present a complaint in a safe manner to the respective competent authorities. Without prejudice to the confidentiality of information gathered by the FIU, Member States shall also ensure that such individuals have the right to an effective remedy to safeguard their rights under this paragraph.’;

(24) in Article 39, paragraph 3 is replaced by the following:

‘3. The prohibition laid down in paragraph 1 of this Article shall not prevent disclosure between the credit institutions and financial institutions from the Member States provided that they belong to the same group, or between those entities and their branches and majority owned subsidiaries established in third countries, provided that those branches and majority-owned subsidiaries fully comply with the group-wide policies and procedures, including procedures for sharing information within the group, in accordance with Article 45, and that the group-wide policies and procedures comply with the requirements set out in this Directive.’;

(25) in Article 40, paragraph 1 is amended as follows:

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

‘(a) in the case of customer due diligence, a copy of the documents and information which are necessary to comply with the customer due diligence requirements laid down in Chapter II, including, where available, information obtained through electronic identification means, relevant trust services as set out in Regulation (EU) No 910/2014 or any other secure, remote or electronic, identification process regulated, recognised, approved or accepted by the relevant national authorities, for a period of five years after the end of the business relationship with their customer or after the date of an occasional transaction.’;

(b) the following subparagraph is added:

'The retention period referred to in this paragraph, including the further retention period that shall not exceed five additional years, shall also apply in respect of the data accessible through the centralised mechanisms referred to in Article 32a.';

(26) Article 43 is replaced by the following:

'Article 43

The processing of personal data on the basis of this Directive for the purposes of the prevention of money laundering and terrorist financing as referred to in Article 1 shall be considered to be a matter of public interest under Regulation (EU) 2016/679 of the European Parliament and of the Council (*).

(*) Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).;

(27) Article 44 is replaced by the following:

'Article 44

1. Member States shall, for the purposes of contributing to the preparation of risk assessment pursuant to Article 7, ensure that they are able to review the effectiveness of their systems to combat money laundering or terrorist financing by maintaining comprehensive statistics on matters relevant to the effectiveness of such systems.

2. The statistics referred to in paragraph 1 shall include:

- (a) data measuring the size and importance of the different sectors which fall within the scope of this Directive, including the number of natural persons and entities and the economic importance of each sector;
- (b) data measuring the reporting, investigation and judicial phases of the national AML/CFT regime, including the number of suspicious transaction reports made to the FIU, the follow-up given to those reports and, on an annual basis, the number of cases investigated, the number of persons prosecuted, the number of persons convicted for money laundering or terrorist financing offences, the types of predicate offences, where such information is available, and the value in euro of property that has been frozen, seized or confiscated;
- (c) if available, data identifying the number and percentage of reports resulting in further investigation, together with the annual report to obliged entities detailing the usefulness and follow-up of the reports they presented;
- (d) data regarding the number of cross-border requests for information that were made, received, refused and partially or fully answered by the FIU, broken down by counterpart country;
- (e) human resources allocated to competent authorities responsible for AML/CFT supervision as well as human resources allocated to the FIU to fulfil the tasks specified in Article 32;
- (f) the number of on-site and off-site supervisory actions, the number of breaches identified on the basis of supervisory actions and sanctions/administrative measures applied by supervisory authorities.

3. Member States shall ensure that a consolidated review of their statistics is published on an annual basis.

4. Member States shall transmit annually to the Commission the statistics referred to in paragraph 2. The Commission shall publish an annual report summarising and explaining the statistics referred to in paragraph 2, which shall be made available on its website.';

(28) in Article 45, paragraph 4 is replaced by the following:

‘4. The Member States and the ESAs shall inform each other of instances in which the law of a third country does not permit the implementation of the policies and procedures required under paragraph 1. In such cases, coordinated actions may be taken to pursue a solution. In the assessing which third countries do not permit the implementation of the policies and procedures required under paragraph 1, Member States and the ESAs shall take into account any legal constraints that may hinder proper implementation of those policies and procedures, including secrecy, data protection and other constraints limiting the exchange of information that may be relevant for that purpose.’;

(29) in Article 47, paragraph 1 is replaced by the following:

‘1. Member States shall ensure that providers of exchange services between virtual currencies and fiat currencies, and custodian wallet providers, are registered, that currency exchange and cheque cashing offices, and trust or company service providers are licensed or registered, and that providers of gambling services are regulated.’;

(30) Article 48 is amended as follows:

(a) the following paragraph is inserted:

‘1a. In order to facilitate and promote effective cooperation, and in particular the exchange of information, Member States shall communicate to the Commission the list of competent authorities of the obliged entities listed in Article 2(1), including their contact details. Member States shall ensure that the information provided to the Commission remains updated.

The Commission shall publish a register of those authorities and their contact details on its website. The authorities in the register shall, within the scope of their powers, serve as a contact point for the counterpart competent authorities of the other Member States. Financial supervisory authorities of the Member States shall also serve as a contact point for the ESAs.

In order to ensure the adequate enforcement of this Directive, Member States shall require that all obliged entities are subject to adequate supervision, including the powers to conduct on-site and off-site supervision, and shall take appropriate and proportionate administrative measures to remedy the situation in the case of breaches.’;

(b) paragraph 2 is replaced by the following:

‘2. Member States shall ensure that the competent authorities have adequate powers, including the power to compel the production of any information that is relevant to monitoring compliance and perform checks, and have adequate financial, human and technical resources to perform their functions. Member States shall ensure that staff of those authorities are of high integrity and appropriately skilled, and maintain high professional standards, including standards of confidentiality, data protection and standards addressing conflicts of interest.’;

(c) paragraph (4) is replaced by the following:

‘4. Member States shall ensure that competent authorities of the Member State in which the obliged entity operates establishments supervise the respect by those establishments of the national provisions of that Member State transposing this Directive.

In the case of credit and financial institutions that are part of a group, Member States shall ensure that, for the purposes laid down in the first subparagraph, the competent authorities of the Member State where a parent undertaking is established cooperate with the competent authorities of the Member States where the establishments that are part of group are established.

In the case of the establishments referred to in Article 45(9), supervision as referred to in the first subparagraph of this paragraph may include the taking of appropriate and proportionate measures to address serious failings that require immediate remedies. Those measures shall be temporary and be terminated when the failings identified are addressed, including with the assistance of or in cooperation with the competent authorities of the home Member State of the obliged entity, in accordance with Article 45(2).’;

(d) in paragraph (5), the following subparagraph is added:

'In the case of credit and financial institutions that are part of a group, Member States shall ensure that the competent authorities of the Member State where a parent undertaking is established supervise the effective implementation of the group-wide policies and procedures referred to in Article 45(1). For that purpose, Member States shall ensure that the competent authorities of the Member State where credit and financial institutions that are part of the group are established cooperate with the competent authorities of the Member State where the parent undertaking is established.';

(31) Article 49 is replaced by the following:

'Article 49

Member States shall ensure that policy makers, the FIUs, supervisors and other competent authorities involved in AML/CFT, as well as tax authorities and law enforcement authorities when acting within the scope of this Directive, have effective mechanisms to enable them to cooperate and coordinate domestically concerning the development and implementation of policies and activities to combat money laundering and terrorist financing, including with a view to fulfilling their obligation under Article 7.';

(32) in Section 3 of Chapter VI, the following subsection is inserted:

'Subsection IIa

Cooperation between competent authorities of the Member States

Article 50a

Member States shall not prohibit or place unreasonable or unduly restrictive conditions on the exchange of information or assistance between competent authorities for the purposes of this Directive. In particular Member States shall ensure that competent authorities do not refuse a request for assistance on the grounds that:

- (a) the request is also considered to involve tax matters;
- (b) national law requires obliged entities to maintain secrecy or confidentiality, except in those cases where the relevant information that is sought is protected by legal privilege or where legal professional secrecy applies, as described in Article 34(2);
- (c) there is an inquiry, investigation or proceeding underway in the requested Member State, unless the assistance would impede that inquiry, investigation or proceeding;
- (d) the nature or status of the requesting counterpart competent authority is different from that of requested competent authority.';

(33) Article 53 is amended as follows:

(a) in paragraph 1, the first subparagraph is replaced by the following:

'1. Member States shall ensure that FIUs exchange, spontaneously or upon request, any information that may be relevant for the processing or analysis of information by the FIU related to money laundering or terrorist financing and the natural or legal person involved, regardless of the type of associated predicate offences and even if the type of associated predicate offences is not identified at the time of the exchange.';

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

'That FIU shall obtain information in accordance with Article 33(1) and transfer the answers promptly.';

(34) in Article 54, the following subparagraph is added:

'Member States shall ensure that FIUs designate at least one contact person or point to be responsible for receiving requests for information from FIUs in other Member States.';

(35) In Article 55, paragraph 2 is replaced by the following:

'2. Member States shall ensure that the requested FIU's prior consent to disseminate the information to competent authorities is granted promptly and to the largest extent possible, regardless of the type of associated predicate offences. The requested FIU shall not refuse its consent to such dissemination unless this would fall beyond

the scope of application of its AML/CFT provisions or could lead to impairment of an investigation, or would otherwise not be in accordance with fundamental principles of national law of that Member State. Any such refusal to grant consent shall be appropriately explained. Those exceptions shall be specified in a way which prevents misuse of, and undue limitations to, the dissemination of information to competent authorities.’;

(36) Article 57 is replaced by the following:

‘Article 57

Differences between national law definitions of predicate offences as referred to in point 4 of Article 3 shall not impede the ability of FIUs to provide assistance to another FIU and shall not limit the exchange, dissemination and the use of information pursuant to Articles 53, 54 and 55.’;

(37) in Section 3 of Chapter VI, the following subsection is added:

‘Subsection IIIa

Cooperation between competent authorities supervising credit and financial institutions and other authorities bound by professional secrecy

Article 57a

1. Member States shall require that all persons working for or who have worked for competent authorities supervising credit and financial institutions for compliance with this Directive and auditors or experts acting on behalf of such competent authorities shall be bound by the obligation of professional secrecy.

Without prejudice to cases covered by criminal law, confidential information which the persons referred to in the first subparagraph receive in the course of their duties under this Directive may be disclosed only in summary or aggregate form, in such a way that individual credit and financial institutions cannot be identified.

2. Paragraph 1 shall not prevent the exchange of information between:

- (a) competent authorities supervising credit and financial institutions within a Member State in accordance with this Directive or other legislative acts relating to the supervision of credit and financial institutions;
- (b) competent authorities supervising credit and financial institutions in different Member States in accordance with this Directive or other legislative acts relating to the supervision of credit and financial institutions, including the European Central Bank (ECB) acting in accordance with Council Regulation (EU) No 1024/2013 (*). That exchange of information shall be subject to the conditions of professional secrecy indicated in paragraph 1.

By 10 January 2019, the competent authorities supervising credit and financial institutions in accordance with this Directive and the ECB, acting pursuant to Article 27(2) of Regulation (EU) No 1024/2013 and point (g) of the first subparagraph of Article 56 of Directive 2013/36/EU of the European Parliament and of the Council (**), shall conclude, with the support of the European Supervisory Authorities, an agreement on the practical modalities for exchange of information.

3. Competent authorities supervising credit and financial institutions receiving confidential information as referred to in paragraph 1, shall only use this information:

- (a) in the discharge of their duties under this Directive or under other legislative acts in the field of AML/CFT, of prudential regulation and of supervising credit and financial institutions, including sanctioning;
- (b) in an appeal against a decision of the competent authority supervising credit and financial institutions, including court proceedings;
- (c) in court proceedings initiated pursuant to special provisions provided for in Union law adopted in the field of this Directive or in the field of prudential regulation and supervision of credit and financial institutions.

4. Member States shall ensure that competent authorities supervising credit and financial institutions cooperate with each other for the purposes of this Directive to the greatest extent possible, regardless of their respective nature or status. Such cooperation also includes the ability to conduct, within the powers of the requested competent authority, inquiries on behalf of a requesting competent authority, and the subsequent exchange of the information obtained through such inquiries.

5. Member States may authorise their national competent authorities which supervise credit and financial institutions to conclude cooperation agreements providing for collaboration and exchanges of confidential information with the competent authorities of third countries that constitute counterparts of those national competent authorities. Such cooperation agreements shall be concluded on the basis of reciprocity and only if the information disclosed is subject to a guarantee of professional secrecy requirements at least equivalent to that referred to in paragraph 1. Confidential information exchanged according to those cooperation agreements shall be used for the purpose of performing the supervisory task of those authorities.

Where the information exchanged originates in another Member State, it shall only be disclosed with the explicit consent of the competent authority which shared it and, where appropriate, solely for the purposes for which that authority gave its consent.

Article 57b

1. Notwithstanding Article 57a(1) and (3) and without prejudice to Article 34(2), Member States may authorise the exchange of information between competent authorities in the same Member State or in different Member States, between the competent authorities and authorities entrusted with the supervision of financial sector entities and natural or legal persons acting in the exercise of their professional activities as referred to in point (3) of Article 2(1) and the authorities responsible by law for the supervision of financial markets in the discharge of their respective supervisory functions.

The information received shall in any event be subject to professional secrecy requirements at least equivalent to those referred to in Article 57a(1).

2. Notwithstanding Article 57a(1) and (3), Member States may, by virtue of provisions laid down in national law, authorise the disclosure of certain information to other national authorities responsible by law for the supervision of the financial markets, or with designated responsibilities in the field of combating or investigation of money laundering, the associated predicate offences or terrorist financing.

However, confidential information exchanged according to this paragraph shall only be used for the purpose of performing the legal tasks of the authorities concerned. Persons having access to such information shall be subject to professional secrecy requirements at least equivalent to those referred to in Article 57a(1).

3. Member States may authorise the disclosure of certain information relating to the supervision of credit institutions for compliance with this Directive to Parliamentary inquiry committees, courts of auditors and other entities in charge of enquiries, in their Member State, under the following conditions:

- (a) the entities have a precise mandate under national law to investigate or scrutinise the actions of authorities responsible for the supervision of those credit institutions or for laws on such supervision;
- (b) the information is strictly necessary for fulfilling the mandate referred to in point (a);
- (c) the persons with access to the information are subject to professional secrecy requirements under national law at least equivalent to those referred to in Article 57a(1);
- (d) where the information originates in another Member State, it shall not be disclosed without the express consent of the competent authorities which have disclosed it and, solely for the purposes for which those authorities gave their consent.

(*) Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions (OJ L 287, 29.10.2013, p. 63).

(**) 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).;

(38) in Article 58(2), the following subparagraph is added:

‘Member States shall further ensure that where their competent authorities identify breaches which are subject to criminal sanctions, they inform the law enforcement authorities in a timely manner.’;

(39) Article 61 is amended as follows:

(a) paragraph 1 is replaced by the following:

‘1. Member States shall ensure that competent authorities, as well as, where applicable, self-regulatory bodies, establish effective and reliable mechanisms to encourage the reporting to competent authorities, as well as, where applicable self-regulatory bodies, of potential or actual breaches of the national provisions transposing this Directive.

For that purpose, they shall provide one or more secure communication channels for persons for the reporting referred to in the first subparagraph. Such channels shall ensure that the identity of persons providing information is known only to the competent authorities, as well as, where applicable, self-regulatory bodies.’;

(b) in paragraph 3, the following subparagraphs are added:

‘Member States shall ensure that individuals, including employees and representatives of the obliged entity who report suspicions of money laundering or terrorist financing internally or to the FIU, are legally protected from being exposed to threats, retaliatory or hostile action, and in particular from adverse or discriminatory employment actions.

Member States shall ensure that individuals who are exposed to threats, hostile actions, or adverse or discriminatory employment actions for reporting suspicions of money laundering or terrorist financing internally or to the FIU are entitled to present a complaint in a safe manner to the respective competent authorities. Without prejudice to the confidentiality of information gathered by the FIU, Member States shall also ensure that such individuals have the right to effective remedy to safeguard their rights under this paragraph.’;

(40) the following Article is inserted:

‘Article 64a

1. The Commission shall be assisted by the Committee on the Prevention of Money Laundering and Terrorist Financing (the “Committee”) as referred to in Article 23 of Regulation (EU) 2015/847 of the European Parliament and of the Council (*). That committee shall be a committee within the meaning of Regulation (EU) No 182/2011 (**).

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

(*) Regulation (EU) 2015/847 of the European Parliament and of the Council of 20 May 2015 on information accompanying transfers of funds and repealing Regulation (EC) No 1781/2006 (OJ L 141, 5.6.2015, p. 1).

(**) Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission’s exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).’;

(41) Article 65 is replaced by the following:

‘Article 65

1. By 11 January 2022, and every three years thereafter, the Commission shall draw up a report on the implementation of this Directive and submit it to the European Parliament and to the Council.

That report shall include in particular:

- (a) an account of specific measures adopted and mechanisms set up at Union and Member State level to prevent and address emerging problems and new developments presenting a threat to the Union financial system;
- (b) follow-up actions undertaken at Union and Member State level on the basis of concerns brought to their attention, including complaints relating to national laws hampering the supervisory and investigative powers of competent authorities and self-regulatory bodies;

- (c) an account of the availability of relevant information for the competent authorities and FIUs of the Member States, for the prevention of the use of the financial system for the purposes of money laundering and terrorist financing;
- (d) an account of the international cooperation and information exchange between competent authorities and FIUs;
- (e) an account of necessary Commission actions to verify that Member States take action in compliance with this Directive and to assess emerging problems and new developments in the Member States;
- (f) an analysis of feasibility of specific measures and mechanisms at Union and Member State level on the possibilities to collect and access the beneficial ownership information of corporate and other legal entities incorporated outside of the Union and of the proportionality of the measures referred to in point (b) of Article 20;
- (g) an evaluation of how fundamental rights and principles recognised by the Charter of Fundamental Rights of the European Union have been respected.

The first report, to be published by 11 January 2022, shall be accompanied, if necessary, by appropriate legislative proposals, including, where appropriate, with respect to virtual currencies, empowerments to set-up and maintain a central database registering users' identities and wallet addresses accessible to FIUs, as well as self-declaration forms for the use of virtual currency users, and to improve cooperation between Asset Recovery Offices of the Member States and a risk-based application of the measures referred to in point (b) of Article 20.

2. By 1 June 2019, the Commission shall assess the framework for FIUs' cooperation with third countries and obstacles and opportunities to enhance cooperation between FIUs in the Union including the possibility of establishing a coordination and support mechanism.

3. The Commission shall, if appropriate, issue a report to the European Parliament and to Council to assess the need and proportionality of lowering the percentage for the identification of beneficial ownership of legal entities in light of any recommendation issued in this sense by international organisations and standard setters with competence in the field of preventing money laundering and combating terrorist financing as a result of a new assessment, and present a legislative proposal, if appropriate.;

(42) in Article 67, paragraph (1) is replaced by the following:

'1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 26 June 2017.

Member States shall apply Article 12(3) as of 10 July 2020.

Member States shall set up the registers referred to in Article 30 by 10 January 2020 and the registers referred to in Article 31 by 10 March 2020 and the centralised automated mechanisms referred to in Article 32a by 10 September 2020.

The Commission shall ensure the interconnection of registers referred to in Articles 30 and 31 in cooperation with the Member States by 10 March 2021.

Member States shall immediately communicate the text of the measures referred to in this paragraph to the Commission.

When Member States adopt those measures, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.;

(43) in Annex II, point (3), the introductory part is replaced by the following:

'(3) Geographical risk factors — registration, establishment, residence in:';

(44) Annex III is amended as follows:

(a) in point (1), the following point is added:

'(g) customer is a third country national who applies for residence rights or citizenship in the Member State in exchange of capital transfers, purchase of property or government bonds, or investment in corporate entities in that Member State.;

(b) point (2) is amended as follows:

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

‘(c) non-face-to-face business relationships or transactions, without certain safeguards, such as electronic identification means, relevant trust services as defined in Regulation (EU) No 910/2014 or any other secure, remote or electronic, identification process regulated, recognised, approved or accepted by the relevant national authorities;’;

(ii) the following point is added:

‘(f) transactions related to oil, arms, precious metals, tobacco products, cultural artefacts and other items of archaeological, historical, cultural and religious importance, or of rare scientific value, as well as ivory and protected species.’.

Article 2

Amendment to Directive 2009/138/EC

In Article 68(1), point (b) of Directive 2009/138/EC, the following point is added:

‘(iv) authorities responsible for supervising the obliged entities listed in points (1) and (2) of Article 2(1) of Directive (EU) 2015/849 of the European Parliament and of the Council (*) for compliance with that Directive;

(*) Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC (OJ L 141, 5.6.2015, p. 73).’.

Article 3

Amendment to Directive 2013/36/EU

In the first paragraph of Article 56 of Directive 2013/36/EU, the following point is added:

‘(g) authorities responsible for supervising the obliged entities listed in points (1) and (2) of Article 2(1) of Directive (EU) 2015/849 of the European Parliament and of the Council (*) for compliance with that Directive.

(*) Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC (OJ L 141, 5.6.2015, p. 73).’.

Article 4

Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 10 January 2020. They shall immediately communicate the text of those provisions to the Commission.

When Member States adopt those measures, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 5

Entry into force

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

*Article 6***Addressees**

This Directive is addressed to the Member States.

Done at Strasbourg, 30 May 2018.

For the European Parliament

The President

A. TAJANI

For the Council

The President

L. PAVLOVA

DIRECTIVE (EU) 2018/844 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 30 May 2018
amending Directive 2010/31/EU on the energy performance of buildings and Directive 2012/27/EU
on energy efficiency
(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 194(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

Having regard to the opinion of the Committee of the Regions ⁽²⁾,

Acting in accordance with the ordinary legislative procedure ⁽³⁾,

Whereas:

- (1) The Union is committed to developing a sustainable, competitive, secure and decarbonised energy system. The Energy Union and the Energy and Climate Policy Framework for 2030 establish ambitious Union commitments to reduce greenhouse gas emissions further by at least 40 % by 2030 as compared with 1990, to increase the proportion of renewable energy consumed, to make energy savings in accordance with Union level ambitions, and to improve Europe's energy security, competitiveness and sustainability.
- (2) To reach those objectives, the 2016 review of the Union's energy efficiency legislative acts combines a reassessment of the Union's energy efficiency target for 2030 as requested by the European Council's conclusions of 2014, a review of the core provisions of Directive 2012/27/EU of the European Parliament and of the Council ⁽⁴⁾ and Directive 2010/31/EU of the European Parliament and of the Council ⁽⁵⁾, and a reinforcement of the financing framework, including the European Structural and Investment Funds (ESIF) and the European Fund for Strategic Investments (EFSI), which will ultimately improve the financial conditions of energy efficiency investments on the market.
- (3) Directive 2010/31/EU required the Commission to carry out a review by 1 January 2017 in the light of the experience gained and progress made during the application of that Directive, and, if necessary, to make proposals.
- (4) To prepare for that review, the Commission took a series of steps to gather evidence on how Directive 2010/31/EU had been implemented in the Member States, focusing on what worked and what could be improved.
- (5) The outcome of the review and the Commission's impact assessment indicated that a series of amendments are required to strengthen the current provisions of Directive 2010/31/EU and to simplify certain aspects.
- (6) The Union is committed to developing a sustainable, competitive, secure and decarbonised energy system by 2050. To meet that goal, Member States and investors need measures that aim to reach the long-term greenhouse gas emission goal and that decarbonise the building stock, which is responsible for approximately 36 % of all CO₂ emissions in the Union, by 2050. Member States should seek a cost-efficient equilibrium between decarbonising energy supplies and reducing final energy consumption. To that end, Member States and investors need a clear

⁽¹⁾ OJ C 246, 28.7.2017, p. 48.

⁽²⁾ OJ C 342, 12.10.2017, p. 119.

⁽³⁾ Position of the European Parliament of 17 April 2018 (not yet published in the Official Journal) and decision of the Council of 14 May 2018.

⁽⁴⁾ Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC (OJ L 315, 14.11.2012, p. 1).

⁽⁵⁾ Directive 2010/31/EU of the European Parliament and of the Council of 19 May 2010 on the energy performance of buildings (OJ L 153, 18.6.2010, p. 13).

vision to guide their policies and investment decisions, which includes indicative national milestones and actions for energy efficiency to achieve the short-term (2030), mid-term (2040) and long-term (2050) objectives. With those objectives in mind and considering the Union's overall energy efficiency ambitions, it is essential that Member States specify the expected output of their long-term renovation strategies and monitor developments by setting domestic progress indicators, subject to national conditions and developments.

- (7) The 2015 Paris Agreement on climate change following the 21st Conference of the Parties to the United Nations Framework Convention on Climate Change (COP 21) boosts the Union's efforts to decarbonise its building stock. Taking into account that almost 50 % of Union's final energy consumption is used for heating and cooling, of which 80 % is used in buildings, the achievement of the Union's energy and climate goals is linked to the Union's efforts to renovate its building stock by giving priority to energy efficiency, making use of the 'energy efficiency first' principle as well as considering deployment of renewables.
- (8) The provisions on long-term renovation strategies laid down in Directive 2012/27/EU should be moved to Directive 2010/31/EU, where they fit more coherently. Member States should be able to use their long-term renovation strategies to address fire safety and risks related to intense seismic activity which affect energy efficiency renovations and the lifetime of buildings.
- (9) To achieve a highly energy efficient and decarbonised building stock and to ensure that the long-term renovation strategies deliver the necessary progress towards the transformation of existing buildings into nearly zero-energy buildings, in particular by an increase in deep renovations, Member States should provide clear guidelines and outline measurable, targeted actions as well as promote equal access to financing, including for the worst performing segments of the national building stock, for energy-poor consumers, for social housing and for households subject to split-incentive dilemmas, while taking into consideration affordability. To further support the necessary improvements in their national rental stock, Member States should consider introducing or continuing to apply requirements for a certain level of energy performance for rental properties, in accordance with the energy performance certificates.
- (10) According to the Commission's impact assessment, renovation would be needed at an average rate of 3 % annually to accomplish the Union's energy efficiency ambitions in a cost-effective manner. Considering that every 1 % increase in energy savings reduces gas imports by 2,6 %, clear ambitions for renovation of the existing building stock are of great importance. Thus, efforts to increase the energy performance of buildings would contribute actively to the Union's energy independence and, furthermore, have great potential to create jobs in the Union, in particular in small and medium-sized enterprises. In that context, Member States should take into account the need for a clear link between their long-term renovation strategies and pertinent initiatives to promote skills development and education in the construction and energy efficiency sectors.
- (11) The need to alleviate energy poverty should be taken into account, in accordance with criteria defined by the Member States. While outlining national actions that contribute to the alleviation of energy poverty in their renovation strategies, the Member States have the right to establish what they consider to be relevant actions.
- (12) In their long-term renovation strategies and in planning actions and measures, Member States could make use of concepts such as trigger points, namely opportune moments in the life cycle of a building, for example from a cost-effectiveness or disruption perspective, for carrying out energy efficiency renovations.
- (13) The 2009 World Health Organisation guidelines provide that, concerning indoor air quality, better performing buildings provide higher comfort levels and wellbeing for their occupants and improve health. Thermal bridges, inadequate insulation and unplanned air pathways can result in surface temperatures below the dew point of the air and in dampness. It is therefore essential to ensure a complete and homogeneous insulation of the building including balconies, fenestrations, roofs, walls, doors and floors, and particular attention should be paid to preventing the temperature on any inner surface of the building from dropping below the dew point temperature.

- (14) Member States should support energy performance upgrades of existing buildings that contribute to achieving a healthy indoor environment, including through the removal of asbestos and other harmful substances, preventing the illegal removal of harmful substances, and facilitating compliance with existing legislative acts such as Directives 2009/148/EC ⁽¹⁾ and (EU) 2016/2284 ⁽²⁾ of the European Parliament and of the Council.
- (15) It is important to ensure that measures to improve the energy performance of buildings do not focus only on the building envelope, but include all relevant elements and technical systems in a building, such as passive elements that participate in passive techniques aiming to reduce the energy needs for heating or cooling, the energy use for lighting and for ventilation and hence improve thermal and visual comfort.
- (16) Financial mechanisms, incentives and the mobilisation of financial institutions for energy efficiency renovations in buildings should have a central role in national long-term renovation strategies and be actively promoted by Member States. Such measures should include encouraging energy efficient mortgages for certified energy efficient building renovations, promoting investments for public authorities in an energy efficient building stock, for example by public-private partnerships or optional energy performance contracts, reducing the perceived risk of the investments, providing accessible and transparent advisory tools and assistance instruments such as one-stop-shops that provide integrated energy renovation services, as well as implementing other measures and initiatives such as those referred to in the Commission's Smart Finance for Smart Buildings Initiative.
- (17) Solutions based on nature, such as well-planned street vegetation, green roofs and walls providing insulation and shade to buildings, contribute to reducing energy demand by limiting the need for heating and cooling and improving a building's energy performance.
- (18) Research into, and the testing of, new solutions for improving the energy performance of historical buildings and sites should be encouraged, while also safeguarding and preserving cultural heritage.
- (19) For new buildings and buildings undergoing major renovations, Member States should encourage high-efficiency alternative systems, if technically, functionally and economically feasible, while also addressing the issues of healthy indoor climate conditions, fire safety and risks related to intense seismic activity, in accordance with domestic safety regulations.
- (20) To meet the objectives of energy efficiency policy for buildings, the transparency of energy performance certificates should be improved by ensuring that all necessary parameters for calculations, both for certification and minimum energy performance requirements, are set out and applied consistently. Member States should adopt adequate measures to ensure, for example, that the performance of installed, replaced or upgraded technical building systems, such as for space heating, air-conditioning or water heating, is documented in view of building certification and compliance checking.
- (21) The installation of self-regulating devices in existing buildings for the separate regulation of the temperature in each room or, where justified, in a designated heated zone of the building unit should be considered where economically feasible, for example where the cost is less than 10 % of the total costs of the replaced heat generators.
- (22) Innovation and new technology also make it possible for buildings to support the overall decarbonisation of the economy, including the transport sector. For example, buildings can be leveraged for the development of the infrastructure necessary for the smart charging of electric vehicles and also provide a basis for Member States, if they choose to, to use car batteries as a source of power.
- (23) Combined with an increased share of renewable electricity production, electric vehicles produce fewer carbon emissions resulting in better air quality. Electric vehicles constitute an important component of a clean energy transition based on energy efficiency measures, alternative fuels, renewable energy and innovative solutions for the management of energy flexibility. Building codes can be effectively used to introduce targeted requirements to

⁽¹⁾ Directive 2009/148/EC of the European Parliament and of the Council of 30 November 2009 on the protection of workers from the risks related to exposure to asbestos at work (OJ L 330, 16.12.2009, p. 28).

⁽²⁾ Directive (EU) 2016/2284 of the European Parliament and of the Council of 14 December 2016 on the reduction of national emissions of certain atmospheric pollutants, amending Directive 2003/35/EC and repealing Directive 2001/81/EC (OJ L 344, 17.12.2016, p. 1).

support the deployment of recharging infrastructure in car parks of residential and non-residential buildings. Member States should provide for measures to simplify the deployment of recharging infrastructure with a view to addressing barriers such as split incentives and administrative complications which individual owners encounter when trying to install a recharging point on their parking space.

- (24) Ducting infrastructure provides the right conditions for the rapid deployment of recharging points if and where they are needed. Member States should ensure the development of electromobility in a balanced and cost-effective way. In particular, where a major renovation related to electrical infrastructure takes place, the pertinent installation of ducting infrastructure should follow. In the implementation of the requirements for electromobility in national legislation, Member States should duly consider potential diverse conditions such as ownership of buildings and the adjacent parking lots, public parking lots operated by private entities and buildings that have both a residential and a non-residential function.
- (25) Readily available infrastructure will decrease the costs of installation of recharging points for individual owners and ensure electric vehicle users have access to recharging points. Establishing requirements for electromobility at Union level concerning the pre-equipping of parking spaces and the installation of recharging points is an effective way to promote electric vehicles in the near future while enabling further development at a reduced cost in the medium to long term.
- (26) When Member States establish their requirements for the installation of a minimum number of recharging points for non-residential buildings with more than 20 parking spaces, which are to apply from 2025, they should take into account relevant national, regional and local conditions, as well as possible diversified needs and circumstances based on area, building typology, public transport coverage and other relevant criteria, in order to ensure the proportionate and appropriate deployment of recharging points.
- (27) However, some geographical areas with specific vulnerabilities may face specific difficulties in fulfilling the requirements on electromobility. This could be the case for the outermost regions within the meaning of Article 349 of the Treaty on the Functioning of the European Union (TFEU), due to their remoteness, insularity, small size, difficult topography and climate, as well as micro isolated systems, whose electricity grid might need to evolve to cope with a further electrification of local transport. In such cases, Member States should be allowed not to apply the requirements of electromobility. Notwithstanding that derogation, the electrification of transport may be a powerful tool to address air quality or security of supply problems which those regions and systems often face.
- (28) When applying the requirements for electromobility infrastructure provided for in the amendments to Directive 2010/31/EU, as set out in this Directive, Member States should consider the need for holistic and coherent urban planning as well as the promotion of alternative, safe and sustainable modes of transport and their supporting infrastructure, for example through dedicated parking infrastructure for electric bicycles and for the vehicles of people of reduced mobility.
- (29) The agendas of the Digital Single Market and the Energy Union should be aligned and should serve common goals. The digitalisation of the energy system is quickly changing the energy landscape, from the integration of renewables to smart grids and smart-ready buildings. In order to digitalise the building sector, the Union's connectivity targets and ambitions for the deployment of high-capacity communication networks are important for smart homes and well-connected communities. Targeted incentives should be provided to promote smart-ready systems and digital solutions in the built environment. This offers new opportunities for energy savings, by providing consumers with more accurate information about their consumption patterns, and by enabling the system operator to manage the grid more effectively.
- (30) The smart readiness indicator should be used to measure the capacity of buildings to use information and communication technologies and electronic systems to adapt the operation of buildings to the needs of the occupants and the grid and to improve the energy efficiency and overall performance of buildings. The smart readiness indicator should raise awareness amongst building owners and occupants of the value behind building automation and electronic monitoring of technical building systems and should give confidence to occupants about the actual savings of those new enhanced-functionalities. Use of the scheme for rating the smart readiness of buildings should be optional for Member States.

- (31) In order to adapt Directive 2010/31/EU to technical progress, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to supplement that directive by establishing the definition of the smart readiness indicator and a methodology by which it is to be calculated. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making ⁽¹⁾. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.
- (32) In order to ensure uniform conditions for the implementation of Directive 2010/31/EU, as amended by this Directive, implementing powers regarding the modalities for implementing an optional common Union scheme for rating the smart readiness of buildings should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council ⁽²⁾.
- (33) To ensure that financial measures related to energy efficiency are applied in the best way in building renovation, they should be linked to the quality of the renovation works in light of the targeted or achieved energy savings. Those measures should therefore be linked to the performance of the equipment or material used for the renovation, to the level of certification or qualification of the installer, to an energy audit, or to the improvement achieved as a result of the renovation, which should be assessed by comparing energy performance certificates issued before and after the renovation, by using standard values or by another transparent and proportionate method.
- (34) The current independent control systems for energy performance certificates can be used for compliance checking and should be strengthened to ensure certificates are of good quality. Where the independent control system for energy performance certificates is complemented by an optional database going beyond the requirements of Directive 2010/31/EU as amended by this Directive, it can be used for compliance checking and for producing statistics on the regional or national building stocks. High-quality data on the building stock is needed and this could be partially generated by the databases that almost all Member States are currently developing and managing for energy performance certificates.
- (35) According to the Commission's impact assessment, provisions concerning the inspections of heating systems and air-conditioning systems were found to be inefficient because they did not sufficiently ensure the initial and continued performance of those technical systems. Even cheap energy efficiency technical solutions with very short payback periods, such as hydraulic balancing of the heating system and the installation or replacement of thermostatic control valves, are insufficiently considered today. The provisions on inspections should be amended to ensure a better result from inspections. Those amendments should place the focus of inspections on central heating systems and air-conditioning systems, including where those systems are combined with ventilation systems. Those amendments should exclude small heating systems such as electric heaters and wood stoves when they fall below the thresholds for inspection pursuant to Directive 2010/31/EU as amended by this Directive.
- (36) When carrying out inspections and in order to achieve the intended building energy performance improvements in practice, the aim should be to improve the actual energy performance of heating systems, air-conditioning systems and ventilation systems under real-life use conditions. The actual performance of such systems is governed by the energy used under dynamically varying typical or average operating conditions. Such conditions require at most times only a part of the nominal output capacity, and therefore inspections of heating systems, air-conditioning systems and ventilation systems should include an assessment of the relevant capabilities of the equipment to improve system performance under varying conditions, such as part load operating conditions.
- (37) Building automation and electronic monitoring of technical building systems have proven to be an effective replacement for inspections, in particular for large systems, and hold great potential to provide cost-effective and significant energy savings for both consumers and businesses. The installation of such equipment should be considered to be the most cost-effective alternative to inspections in large non-residential and multi-apartment buildings of a sufficient size that allow a payback of less than three years, as it enables action to be taken on the

⁽¹⁾ OJ L 123, 12.5.2016, p. 1.

⁽²⁾ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

information provided, thereby securing energy savings over time. For small-scale installations, the documentation of the system performance by installers should support the verification of compliance with the minimum requirements laid down for all technical building systems.

- (38) The current possibility for Member States to opt for measures based on the provision of advice as an alternative to the inspection of heating systems, air-conditioning systems, systems for combined heating and ventilation and systems for combined air-conditioning and ventilation is to be retained, provided that the overall impact has, by means of submitting a report to the Commission, been documented as being equivalent to the effect of inspection prior to application of those measures.
- (39) The implementation of regular inspection schemes for heating and air-conditioning systems under Directive 2010/31/EU involved a significant administrative and financial investment by Member States and the private sector, including for the training and accreditation of experts, quality assurance and control, as well as the costs of inspections. Member States that have adopted the necessary measures to establish regular inspections, and that have implemented effective inspection schemes, may find it appropriate to continue to operate those schemes, including for smaller heating and air-conditioning systems. In such cases, there should be no obligation for Member States to notify those more stringent requirements to the Commission.
- (40) Without prejudice to the Member States' choice to apply the set of standards, related to energy performance of buildings, developed under Commission mandate M/480 to the European Committee for Standardisation (CEN), the recognition and promotion of those standards across the Member States would have a positive impact on the implementation of Directive 2010/31/EU as amended by this Directive.
- (41) Commission Recommendation (EU) 2016/1318 ⁽¹⁾ on nearly zero-energy buildings described how the implementation of Directive 2010/31/EU could simultaneously ensure the transformation of the building stock and the shift to a more sustainable energy supply, which also supports the heating and cooling strategy. To make sure appropriate implementation takes place, the general framework for the calculation of the energy performance of buildings should be updated and the improved performance of the building envelope should be encouraged with the support of the work elaborated by CEN, under Commission mandate M/480. Member States are able to choose to further supplement this by providing additional numerical indicators, for example for the entire building's overall energy use or greenhouse gas emissions.
- (42) This Directive should not prevent Member States from setting more ambitious energy performance requirements for buildings and for building elements as long as such requirements are compatible with Union law. It is consistent with the objectives of Directives 2010/31/EU and 2012/27/EU that those requirements may, in certain circumstances, limit the installation or use of products subject to other applicable Union harmonisation legislation, provided that such requirements do not constitute an unjustifiable market barrier.
- (43) Since the objective of this Directive, namely to reduce the energy needed to meet the energy demand associated with the typical use of buildings, cannot be sufficiently achieved by the Member States but can rather, by reason of the guaranteed consistency of shared objectives, understanding and political drive, be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Directive does not go beyond what is necessary to achieve that objective.
- (44) This Directive fully respects the Member States' national specificities and differences and their competences in accordance with Article 194(2) TFEU. Further, the aim of this Directive is to allow the sharing of best practices in order to facilitate the transition to a highly energy efficient building stock in the Union.
- (45) In accordance with the Joint Political Declaration of 28 September 2011 of Member States and the Commission on explanatory documents ⁽²⁾, Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of such documents to be justified.

⁽¹⁾ Commission Recommendation (EU) 2016/1318 of 29 July 2016 on guidelines for the promotion of nearly zero-energy buildings and best practices to ensure that, by 2020, all new buildings are nearly zero-energy buildings (OJ L 208, 2.8.2016, p. 46).

⁽²⁾ OJ C 369, 17.12.2011, p. 14.

(46) Directives 2010/31/EU and 2012/27/EU should therefore be amended accordingly,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Amendments to Directive 2010/31/EU

Directive 2010/31/EU is amended as follows:

(1) Article 2 is amended as follows:

(a) point 3 is replaced by the following:

‘3. “technical building system” means technical equipment for space heating, space cooling, ventilation, domestic hot water, built-in lighting, building automation and control, on-site electricity generation, or a combination thereof, including those systems using energy from renewable sources, of a building or building unit;’

(b) the following point is inserted:

‘3a. “building automation and control system” means a system comprising all products, software and engineering services that can support energy efficient, economical and safe operation of technical building systems through automatic controls and by facilitating the manual management of those technical building systems;’

(c) the following points are inserted:

‘15a. “heating system” means a combination of the components required to provide a form of indoor air treatment, by which the temperature is increased;

15b. “heat generator” means the part of a heating system that generates useful heat using one or more of the following processes:

(a) the combustion of fuels in, for example, a boiler;

(b) the Joule effect, taking place in the heating elements of an electric resistance heating system;

(c) capturing heat from ambient air, ventilation exhaust air, or a water or ground heat source using a heat pump;

15c. “energy performance contracting” means energy performance contracting as defined in point (27) of Article 2 of Directive 2012/27/EU of the European Parliament and of the Council (*);

(*) Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC (OJ L 315, 14.11.2012, p. 1).;

(d) the following point is added:

‘20. “micro isolated system” means micro isolated system as defined in point 27 of Article 2 of Directive 2009/72/EC of the European Parliament and of the Council (*).

(*) Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC (OJ L 211, 14.8.2009, p. 55).’

(2) The following Article is inserted:

Article 2a

Long-term renovation strategy

1. Each Member State shall establish a long-term renovation strategy to support the renovation of the national stock of residential and non-residential buildings, both public and private, into a highly energy efficient and decarbonised building stock by 2050, facilitating the cost-effective transformation of existing buildings into nearly zero-energy buildings. Each long-term renovation strategy shall be submitted in accordance with the applicable planning and reporting obligations and shall encompass:

- (a) an overview of the national building stock, based, as appropriate, on statistical sampling and expected share of renovated buildings in 2020;
- (b) the identification of cost-effective approaches to renovation relevant to the building type and climatic zone, considering potential relevant trigger points, where applicable, in the life-cycle of the building;
- (c) policies and actions to stimulate cost-effective deep renovation of buildings, including staged deep renovation, and to support targeted cost-effective measures and renovation for example by introducing an optional scheme for building renovation passports;
- (d) an overview of policies and actions to target the worst performing segments of the national building stock, split-incentive dilemmas and market failures, and an outline of relevant national actions that contribute to the alleviation of energy poverty;
- (e) policies and actions to target all public buildings;
- (f) an overview of national initiatives to promote smart technologies and well-connected buildings and communities, as well as skills and education in the construction and energy efficiency sectors; and
- (g) an evidence-based estimate of expected energy savings and wider benefits, such as those related to health, safety and air quality.

2. In its long-term renovation strategy, each Member State shall set out a roadmap with measures and domestically established measurable progress indicators, with a view to the long-term 2050 goal of reducing greenhouse gas emissions in the Union by 80-95 % compared to 1990, in order to ensure a highly energy efficient and decarbonised national building stock and in order to facilitate the cost-effective transformation of existing buildings into nearly zero-energy buildings. The roadmap shall include indicative milestones for 2030, 2040 and 2050, and specify how they contribute to achieving the Union's energy efficiency targets in accordance with Directive 2012/27/EU.

3. To support the mobilisation of investments into the renovation needed to achieve the goals referred to in paragraph 1, Member States shall facilitate access to appropriate mechanisms for:

- (a) the aggregation of projects, including by investment platforms or groups, and by consortia of small and medium-sized enterprises, to enable investor access as well as packaged solutions for potential clients;
- (b) the reduction of the perceived risk of energy efficiency operations for investors and the private sector;
- (c) the use of public funding to leverage additional private-sector investment or address specific market failures;
- (d) guiding investments into an energy efficient public building stock, in line with Eurostat guidance; and
- (e) accessible and transparent advisory tools, such as one-stop-shops for consumers and energy advisory services, on relevant energy efficiency renovations and financing instruments.

4. The Commission shall collect and disseminate, at least to public authorities, best practices on successful public and private financing schemes for energy efficiency renovation as well as information on schemes for the aggregation of small-scale energy efficiency renovation projects. The Commission shall identify and disseminate best practices on financial incentives to renovate from a consumer perspective taking into account cost-efficiency differences between Member States.

5. To support the development of its long-term renovation strategy, each Member State shall carry out a public consultation on its long-term renovation strategy prior to submitting it to the Commission. Each Member State shall annex a summary of the results of its public consultation to its long-term renovation strategy.

Each Member State shall establish the modalities for consultation in an inclusive way during the implementation of its long-term renovation strategy.

6. Each Member State shall annex the details of the implementation of its most recent long-term renovation strategy to its long-term renovation strategy, including on the planned policies and actions.

7. Each Member State may use its long-term renovation strategy to address fire safety and risks related to intense seismic activity affecting energy efficiency renovations and the lifetime of buildings.’.

(3) Article 6 is replaced by the following:

‘Article 6

New buildings

1. Member States shall take the necessary measures to ensure that new buildings meet the minimum energy performance requirements laid down in accordance with Article 4.

2. Member States shall ensure that, before construction of new buildings starts, the technical, environmental and economic feasibility of high-efficiency alternative systems, if available, is taken into account.’.

(4) In Article 7, the fifth paragraph is replaced by the following:

‘Member States shall encourage, in relation to buildings undergoing major renovation, high-efficiency alternative systems, in so far as this is technically, functionally and economically feasible, and shall address the issues of healthy indoor climate conditions, fire safety and risks related to intense seismic activity.’.

(5) Article 8 is replaced by the following:

‘Article 8

Technical building systems, electromobility and smart readiness indicator

1. Member States shall, for the purpose of optimising the energy use of technical building systems, set system requirements in respect of the overall energy performance, the proper installation, and the appropriate dimensioning, adjustment and control of the technical building systems which are installed in existing buildings. Member States may also apply these system requirements to new buildings.

System requirements shall be set for new, replacement and upgrading of technical building systems and shall be applied in so far as they are technically, economically and functionally feasible.

Member States shall require new buildings, where technically and economically feasible, to be equipped with self-regulating devices for the separate regulation of the temperature in each room or, where justified, in a designated heated zone of the building unit. In existing buildings, the installation of such self-regulating devices shall be required when heat generators are replaced, where technically and economically feasible.

2. With regard to new non-residential buildings and non-residential buildings undergoing major renovation, with more than ten parking spaces, Member States shall ensure the installation of at least one recharging point within the meaning of Directive 2014/94/EU of the European Parliament and of the Council (*) and ducting infrastructure, namely conduits for electric cables, for at least one in every five parking spaces to enable the installation at a later stage of recharging points for electric vehicles where:

- (a) the car park is located inside the building, and, for major renovations, renovation measures include the car park or the electrical infrastructure of the building; or
- (b) the car park is physically adjacent to the building, and, for major renovations, renovation measures include the car park or the electrical infrastructure of the car park.

The Commission shall report to the European Parliament and the Council by 1 January 2023 on the potential contribution of a Union building policy to the promotion of electromobility and shall, if appropriate, propose measures in that regard.

3. Member States shall lay down requirements for the installation of a minimum number of recharging points for all non-residential buildings with more than twenty parking spaces, by 1 January 2025.

4. Member States may decide not to lay down or apply the requirements referred to in paragraphs 2 and 3 to buildings owned and occupied by small and medium-sized enterprises as defined in Title I of the Annex to Commission Recommendation 2003/361/EC (**).

5. With regard to new residential buildings and residential buildings undergoing major renovation, with more than ten parking spaces, Member States shall ensure the installation of ducting infrastructure, namely conduits for electric cables, for every parking space to enable the installation, at a later stage, of recharging points for electric vehicles, where:

- (a) the car park is located inside the building, and, for major renovations, renovation measures include the car park or the electric infrastructure of the building; or
- (b) the car park is physically adjacent to the building, and, for major renovations, renovation measures include the car park or the electrical infrastructure of the car park.

6. Member States may decide not to apply paragraphs 2, 3 and 5 to specific categories of buildings where:

- (a) with regard to paragraphs 2 and 5, building permit applications or equivalent applications have been submitted by 10 March 2021;
- (b) the ducting infrastructure required would rely on micro isolated systems or the buildings are situated in the outermost regions within the meaning of Article 349 TFEU, if this would lead to substantial problems for the operation of the local energy system and would endanger the stability of the local grid;
- (c) the cost of the recharging and ducting installations exceeds 7 % of the total cost of the major renovation of the building;
- (d) a public building is already covered by comparable requirements according to the transposition of Directive 2014/94/EU.

7. Member States shall provide for measures in order to simplify the deployment of recharging points in new and existing residential and non-residential buildings and address possible regulatory barriers, including permitting and approval procedures, without prejudice to the property and tenancy law of the Member States.

8. Member States shall consider the need for coherent policies for buildings, soft and green mobility and urban planning.

9. Member States shall ensure that, when a technical building system is installed, replaced or upgraded, the overall energy performance of the altered part, and where relevant, of the complete altered system, is assessed. The results shall be documented and passed on to the building owner, so that they remain available and can be used for the verification of compliance with the minimum requirements laid down pursuant to paragraph 1 of this Article and the issue of energy performance certificates. Without prejudice to Article 12, Member States shall decide whether to require the issuing of a new energy performance certificate.

10. The Commission shall, by 31 December 2019, adopt a delegated act in accordance with Article 23, supplementing this Directive by establishing an optional common Union scheme for rating the smart readiness of buildings. The rating shall be based on an assessment of the capabilities of a building or building unit to adapt its operation to the needs of the occupant and the grid and to improve its energy efficiency and overall performance.

In accordance with Annex Ia, the optional common Union scheme for rating the smart readiness of buildings shall:

- (a) establish the definition of the smart readiness indicator; and
- (b) establish a methodology by which it is to be calculated.

11. The Commission shall, by 31 December 2019, and after having consulted the relevant stakeholders, adopt an implementing act detailing the technical modalities for the effective implementation of the scheme referred to in paragraph 10 of this Article, including a timeline for a non-committal test-phase at national level, and clarifying the complementary relation of the scheme to the energy performance certificates referred to in Article 11.

That implementing act shall be adopted in accordance with the examination procedure referred to in Article 26(3).

(*) Directive 2014/94/EU of the European Parliament and of the Council of 22 October 2014 on the deployment of alternative fuels infrastructure (OJ L 307, 28.10.2014, p. 1).

(**) Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5.2003, p. 36).'

(6) In Article 10, paragraph 6 is replaced by the following:

'6. Member States shall link their financial measures for energy efficiency improvements in the renovation of buildings to the targeted or achieved energy savings, as determined by one or more of the following criteria:

- (a) the energy performance of the equipment or material used for the renovation; in which case, the equipment or material used for the renovation is to be installed by an installer with the relevant level of certification or qualification;
- (b) standard values for calculation of energy savings in buildings;
- (c) the improvement achieved due to such renovation by comparing energy performance certificates issued before and after renovation;
- (d) the results of an energy audit;
- (e) the results of another relevant, transparent and proportionate method that shows the improvement in energy performance.

6a. Databases for energy performance certificates shall allow data to be gathered on the measured or calculated energy consumption of the buildings covered, including at least public buildings for which an energy performance certificate, as referred to in Article 13, has been issued in accordance with Article 12.

6b. At least aggregated anonymised data compliant with Union and national data protection requirements shall be made available on request for statistical and research purposes and to the building owner.'

(7) Articles 14 and 15 are replaced by the following:

'Article 14

Inspection of heating systems

1. Member States shall lay down the necessary measures to establish regular inspections of the accessible parts of heating systems or of systems for combined space heating and ventilation, with an effective rated output of over 70 kW, such as the heat generator, control system and circulation pump(s) used for heating buildings. The inspection shall include an assessment of the efficiency and sizing of the heat generator compared with the heating requirements of the building and, where relevant, consider the capabilities of the heating system or of the system for combined space heating and ventilation to optimise its performance under typical or average operating conditions.

Where no changes have been made to the heating system or to the system for combined space heating and ventilation or to the heating requirements of the building following an inspection carried out pursuant to this paragraph, Member States may choose not to require the assessment of the heat generator sizing to be repeated.

2. Technical building systems that are explicitly covered by an agreed energy performance criterion or a contractual arrangement specifying an agreed level of energy efficiency improvement, such as energy performance contracting, or that are operated by a utility or network operator and therefore subject to performance monitoring measures on the system side, shall be exempt from the requirements laid down in paragraph 1, provided that the overall impact of such an approach is equivalent to that resulting from paragraph 1.

3. As an alternative to paragraph 1 and provided that the overall impact is equivalent to that resulting from paragraph 1, Member States may opt to take measures to ensure the provision of advice to users concerning the replacement of heat generators, other modifications to the heating system or to the system for combined space heating and ventilation and alternative solutions to assess the efficiency and appropriate size of those systems.

Before applying the alternative measures referred to in the first subparagraph of this paragraph, each Member State shall, by means of submitting a report to the Commission, document the equivalence of the impact of those measures to the impact of the measures referred to in paragraph 1.

Such a report shall be submitted in accordance with the applicable planning and reporting obligations.

4. Member States shall lay down requirements to ensure that, where technically and economically feasible, non-residential buildings with an effective rated output for heating systems or systems for combined space heating and ventilation of over 290 kW are equipped with building automation and control systems by 2025.

The building automation and control systems shall be capable of:

- (a) continuously monitoring, logging, analysing and allowing for adjusting energy use;
- (b) benchmarking the building's energy efficiency, detecting losses in efficiency of technical building systems, and informing the person responsible for the facilities or technical building management about opportunities for energy efficiency improvement; and
- (c) allowing communication with connected technical building systems and other appliances inside the building, and being interoperable with technical building systems across different types of proprietary technologies, devices and manufacturers.

5. Member States may lay down requirements to ensure that residential buildings are equipped with:

- (a) the functionality of continuous electronic monitoring that measures systems' efficiency and informs building owners or managers when it has fallen significantly and when system servicing is necessary; and
- (b) effective control functionalities to ensure optimum generation, distribution, storage and use of energy.

6. Buildings that comply with paragraph 4 or 5 shall be exempt from the requirements laid down in paragraph 1.

Article 15

Inspection of air-conditioning systems

1. Member States shall lay down the necessary measures to establish regular inspections of the accessible parts of air-conditioning systems or of systems for combined air-conditioning and ventilation, with an effective rated output of over 70 kW. The inspection shall include an assessment of the efficiency and sizing of the air-conditioning system compared with the cooling requirements of the building and, where relevant, consider the capabilities of the air-conditioning system or of the system for combined air-conditioning and ventilation to optimise its performance under typical or average operating conditions.

Where no changes have been made to the air-conditioning system or to the system for combined air-conditioning and ventilation or to the cooling requirements of the building following an inspection carried out pursuant to this paragraph, Member States may choose not to require the assessment of the sizing of the air-conditioning system to be repeated.

Member States that maintain more stringent requirements pursuant to Article 1(3) shall be exempt from the obligation to notify them to the Commission.

2. Technical building systems that are explicitly covered by an agreed energy performance criterion or a contractual arrangement specifying an agreed level of energy efficiency improvement, such as energy performance contracting, or that are operated by a utility or network operator and therefore subject to performance monitoring measures on the system side, shall be exempt from the requirements laid down in paragraph 1, provided that the overall impact of such an approach is equivalent to that resulting from paragraph 1.

3. As an alternative to paragraph 1 and provided that the overall impact is equivalent to that resulting from paragraph 1, Member States may opt to take measures to ensure the provision of advice to users concerning the replacement of air-conditioning systems or systems for combined air-conditioning and ventilation, other modifications to the air-conditioning system or system for combined air-conditioning and ventilation and alternative solutions to assess the efficiency and appropriate size of those systems.

Before applying the alternative measures referred to in the first subparagraph of this paragraph, each Member State shall, by means of submitting a report to the Commission, document the equivalence of the impact of those measures to the impact of the measures referred to in paragraph 1.

Such a report shall be submitted in accordance with the applicable planning and reporting obligations.

4. Member States shall lay down requirements to ensure that, where technically and economically feasible, non-residential buildings with an effective rated output for systems for air-conditioning or systems for combined air-conditioning and ventilation of over 290 kW are equipped with building automation and control systems by 2025.

The building automation and control systems shall be capable of:

- (a) continuously monitoring, logging, analysing and allowing for adjusting energy use;
- (b) benchmarking the building's energy efficiency, detecting losses in efficiency of technical building systems, and informing the person responsible for the facilities or technical building management about opportunities for energy efficiency improvement; and
- (c) allowing communication with connected technical building systems and other appliances inside the building, and being interoperable with technical building systems across different types of proprietary technologies, devices and manufacturers.

5. Member States may lay down requirements to ensure that residential buildings are equipped with:

- (a) the functionality of continuous electronic monitoring that measures systems' efficiency and informs building owners or managers when it has fallen significantly and when system servicing is necessary, and
- (b) effective control functionalities to ensure optimum generation, distribution, storage and use of energy.

6. Buildings that comply with paragraph 4 or 5 shall be exempt from the requirements laid down in paragraph 1.'

(8) Article 19 is replaced by the following:

'Article 19

Review

The Commission, assisted by the Committee established by Article 26, shall review this Directive by 1 January 2026 at the latest, in the light of the experience gained and progress made during its application, and, if necessary, make proposals.

As part of that review, the Commission shall examine in what manner Member States could apply integrated district or neighbourhood approaches in Union building and energy efficiency policy, while ensuring that each building meets the minimum energy performance requirements, for example by means of overall renovation schemes applying to a number of buildings in a spatial context instead of a single building.

The Commission shall, in particular, assess the need for further improvement of energy performance certificates in accordance with Article 11.'

(9) The following Article is inserted:

'Article 19a

Feasibility study

The Commission shall, before 2020, conclude a feasibility study, clarifying the possibilities and timeline to introduce the inspection of stand-alone ventilation systems and an optional building renovation passport that is complementary to the energy performance certificates, in order to provide a long-term, step-by-step renovation roadmap for a specific building based on quality criteria, following an energy audit, and outlining relevant measures and renovations that could improve the energy performance.'

(10) In Article 20(2), the first subparagraph is replaced by the following:

‘2. Member States shall in particular provide information to the owners or tenants of buildings on energy performance certificates, including their purpose and objectives, on cost-effective measures and, where appropriate, financial instruments, to improve the energy performance of the building, and on replacing fossil fuel boilers with more sustainable alternatives. Member States shall provide the information through accessible and transparent advisory tools such as renovation advice and one-stop-shops.’.

(11) Article 23 is replaced by the following:

‘Article 23

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Articles 5, 8 and 22 shall be conferred on the Commission for a period of five years from 9 July 2018. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

3. The delegation of power referred to in Articles 5, 8 and 22 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6. A delegated act adopted pursuant to Article 5, 8 or 22 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.’.

(12) Articles 24 and 25 are deleted.

(13) Article 26 is replaced by the following:

‘Article 26

Committee procedure

1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.

3. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.’.

(14) The Annexes are amended in accordance with the Annex to this Directive.

Article 2

Amendment to Directive 2012/27/EU

Article 4 of Directive 2012/27/EU is replaced by the following:

‘Article 4

Building renovation

A first version of the Member States’ long-term strategies for mobilising investment in the renovation of the national stock of residential and commercial buildings, both public and private, shall be published by 30 April 2014 and updated every three years thereafter and submitted to the Commission as part of the National Energy Efficiency Action Plans.’.

*Article 3***Transposition**

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 10 March 2020. They shall immediately communicate the text of those measures to the Commission.

When Member States adopt those measures, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. They shall also include a statement to the effect that references in existing laws, regulations and administrative provisions transposing Directive 2010/31/EU or Directive 2012/27/EU shall be construed as references to those Directives as amended by this Directive. Member States shall determine how such reference is to be made and how that statement is to be formulated.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

*Article 4***Entry into force**

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

*Article 5***Addressees**

This Directive is addressed to the Member States.

Done at Strasbourg, 30 May 2018.

For the European Parliament

The President

A. TAJANI

For the Council

The President

L. PAVLOVA

ANNEX

The annexes to Directive 2010/31/EU are amended as follows:

(1) Annex I is amended as follows:

(a) point 1 is replaced by the following:

- ‘1. The energy performance of a building shall be determined on the basis of calculated or actual energy use and shall reflect typical energy use for space heating, space cooling, domestic hot water, ventilation, built-in lighting and other technical building systems.

The energy performance of a building shall be expressed by a numeric indicator of primary energy use in kWh/(m².y) for the purpose of both energy performance certification and compliance with minimum energy performance requirements. The methodology applied for the determination of the energy performance of a building shall be transparent and open to innovation.

Member States shall describe their national calculation methodology following the national annexes of the overarching standards, namely ISO 52000-1, 52003-1, 52010-1, 52016-1, and 52018-1, developed under mandate M/480 given to the European Committee for Standardisation (CEN). This provision shall not constitute a legal codification of those standards.’;

(b) point 2 is replaced by the following:

- ‘2. The energy needs for space heating, space cooling, domestic hot water, ventilation, lighting and other technical building systems shall be calculated in order to optimise health, indoor air quality and comfort levels defined by Member States at national or regional level.

The calculation of primary energy shall be based on primary energy factors or weighting factors per energy carrier, which may be based on national, regional or local annual, and possibly also seasonal or monthly, weighted averages or on more specific information made available for individual district system.

Primary energy factors or weighting factors shall be defined by Member States. In the application of those factors to the calculation of energy performance, Member States shall ensure that the optimal energy performance of the building envelope is pursued.

In the calculation of the primary energy factors for the purpose of calculating the energy performance of buildings, Member States may take into account renewable energy sources supplied through the energy carrier and renewable energy sources that are generated and used on-site, provided that it applies on a non-discriminatory basis.’;

(c) the following point is inserted:

- ‘2a. For the purpose of expressing the energy performance of a building, Member States may define additional numeric indicators of total, non-renewable and renewable primary energy use, and of greenhouse gas emission produced in kgCO₂eq/(m².y).’;

(d) in point 4, the introductory wording is replaced by the following:

- ‘4. The positive influence of the following aspects shall be taken into account’.

(2) The following Annex is inserted:

‘ANNEX IA

COMMON GENERAL FRAMEWORK FOR RATING THE SMART READINESS OF BUILDINGS

1. The Commission shall establish the definition of the smart readiness indicator and a methodology by which it is to be calculated, in order to assess the capabilities of a building or building unit to adapt its operation to the needs of the occupant and of the grid and to improve its energy efficiency and overall performance.

The smart readiness indicator shall cover features for enhanced energy savings, benchmarking and flexibility, enhanced functionalities and capabilities resulting from more interconnected and intelligent devices.

The methodology shall take into account features such as smart meters, building automation and control systems, self-regulating devices for the regulation of indoor air temperature, built-in home appliances, recharging points for electric vehicles, energy storage and detailed functionalities and the interoperability of those features, as well as benefits for the indoor climate condition, energy efficiency, performance levels and enabled flexibility.

2. The methodology shall rely on three key functionalities relating to the building and its technical building systems:
 - (a) the ability to maintain energy performance and operation of the building through the adaptation of energy consumption for example through use of energy from renewable sources;
 - (b) the ability to adapt its operation mode in response to the needs of the occupant while paying due attention to the availability of user-friendliness, maintaining healthy indoor climate conditions and the ability to report on energy use; and
 - (c) the flexibility of a building's overall electricity demand, including its ability to enable participation in active and passive as well as implicit and explicit demand response, in relation to the grid, for example through flexibility and load shifting capacities.
3. The methodology may further take into account:
 - (a) the interoperability between systems (smart meters, building automation and control systems, built-in home appliances, self-regulating devices for the regulation of indoor air temperature within the building and indoor air quality sensors and ventilations); and
 - (b) the positive influence of existing communication networks, in particular the existence of high-speed-ready in-building physical infrastructure, such as the voluntary 'broadband ready' label, and the existence of an access point for multi-dwelling buildings, in accordance with Article 8 of Directive 2014/61/EU of the European Parliament and of the Council (*).
4. The methodology shall not negatively affect existing national energy performance certification schemes and shall build on related initiatives at national level, while taking into account the principle of occupant ownership, data protection, privacy and security, in compliance with relevant Union data protection and privacy law as well as best available techniques for cyber security.
5. The methodology shall set out the most appropriate format of the smart readiness indicator parameter and shall be simple, transparent, and easily understandable for consumers, owners, investors and demand-response market participants.

(*) Directive 2014/61/EU of the European Parliament and of the Council of 15 May 2014 on measures to reduce the cost of deploying high-speed electronic communications networks (OJ L 155, 23.5.2014, p. 1).;

(3) Annex II is amended as follows:

- (a) in point 1, the first paragraph is replaced by the following:

'The competent authorities or bodies to which the competent authorities have delegated the responsibility for implementing the independent control system shall make a random selection of all the energy performance certificates issued annually and subject them to verification. The sample shall be of a sufficient size to ensure statistically significant compliance results.';

- (b) the following point is added:

'3. Where information is added to a database it shall be possible for national authorities to identify the originator of the addition, for monitoring and verification purposes.'

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