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⁽¹⁾ Text with EEA relevance.

I

(Legislative acts)

REGULATIONS

COUNCIL REGULATION (EU) 2018/1909

of 4 December 2018

amending Regulation (EU) No 904/2010 as regards the exchange of information for the purpose of monitoring the correct application of call-off stock arrangements

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 113 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 Parliament ⁽¹⁾,

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

Acting in accordance with a special legislative procedure,

Whereas:

- (1) In order to ensure that the simplification introduced in Council Directive 2006/112/EC ⁽³⁾ as regards call-off stock arrangements can be monitored properly, it is necessary for the relevant competent authorities of the Member States to have automated access to the data collected from taxable persons as regards such transactions.
- (2) Taking into account that the provisions included in this Regulation result from the amendments introduced by Council Directive (EU) 2018/1910 ⁽⁴⁾, this Regulation should apply from the date of the application of those amendments.
- (3) Council Regulation (EU) No 904/2010 ⁽⁵⁾ should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Article 21(2) of Regulation (EU) No 904/2010 is amended as follows:

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

‘(c) the VAT identification numbers of the persons who carried out the supplies of goods and services referred to in point (b) and the VAT identification numbers of the persons who submitted information in accordance with Article 262(2) of Directive 2006/112/EC about the persons holding a VAT identification number referred to in point (a);’.

⁽¹⁾ Opinion of 3 July 2018 (not yet published in the Official Journal).

⁽²⁾ OJ C 283, 10.8.2018, p. 35.

⁽³⁾ Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ L 347, 11.12.2006, p. 1).

⁽⁴⁾ Council Directive (EU) 2018/1910 of 4 December 2018 amending Directive 2006/112/EC as regards the harmonisation and simplification of certain rules in the value added tax system for the taxation of trade between Member States (see page 3 of this Official Journal).

⁽⁵⁾ Council Regulation (EU) No 904/2010 of 7 October 2010 on administrative cooperation and combating fraud in the field of value added tax (OJ L 268, 12.10.2010, p.1).

(2) in point (e), the introductory wording is replaced by the following:

‘(e) the total value of the supplies of goods and services referred to in point (b) from each person referred to in point (c) to each person holding a VAT identification number issued by another Member State and, for each person who submitted information in accordance with Article 262(2) of Directive 2006/112/EC, his VAT identification number and the information he submitted about each person holding a VAT identification number issued by another Member State, under the following conditions:’.

Article 2

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

It shall apply from 1 January 2020.

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

Done at Brussels, 4 December 2018.

For the Council
The President
H. LÖGER

DIRECTIVES

COUNCIL DIRECTIVE (EU) 2018/1910

of 4 December 2018

amending Directive 2006/112/EC as regards the harmonisation and simplification of certain rules in the value added tax system for the taxation of trade between Member States

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 113 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 Parliament ⁽¹⁾,

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

Acting in accordance with a special legislative procedure,

Whereas:

- (1) In 1967, when the Council adopted the common system of value added tax (VAT) by means of First Council Directive 67/227/EEC ⁽³⁾ and Second Council Directive 67/228/EEC ⁽⁴⁾, the commitment was made to establish a definitive VAT system operating within the European Community in the same way as it would within a single Member State. Since the political and technical conditions were not ripe for such a system when the fiscal frontiers between Member States were abolished by the end of 1992, transitional VAT arrangements were adopted. Council Directive 2006/112/EC ⁽⁵⁾ provides that those transitional arrangements have to be replaced by definitive arrangements.
- (2) In accordance with its communication of 7 April 2016 on an action plan on VAT, the Commission put forward a proposal setting out the elements for a definitive VAT system for cross-border business-to-business (B2B) trade between Member States that would be based on the principle of taxation of cross-border supplies of goods in the Member State of destination.
- (3) The Council, in its conclusions of 8 November 2016, invited the Commission to make certain improvements to the Union VAT rules for cross-border transactions with regard to the role of the VAT identification number in the context of the exemption for intra-Community supplies, call-off stock arrangements, chain transactions and the proof of transport for the purposes of the exemption for intra-Community transactions.
- (4) In light of the request made by the Council and that it will take several years for the definitive VAT system for intra-Community trade to be implemented, these specific measures, intended to harmonise and simplify certain arrangements for businesses, are appropriate.
- (5) Call-off stock refers to the situation where, at the time of the transport of goods to another Member State, the supplier already knows the identity of the person acquiring the goods, to whom these goods will be supplied at a later stage and after they have arrived in the Member State of destination. This currently gives rise to a deemed supply (in the Member State of departure of the goods) and a deemed intra-Community acquisition (in the Member State of arrival of the goods), followed by a 'domestic' supply in the Member State of arrival, and requires the supplier to be identified for VAT purposes in that Member State. To avoid this, such transactions, where they take place between two taxable persons should be, under certain conditions, considered to give rise to one exempt supply in the Member State of departure and one intra-Community acquisition in the Member State of arrival.

⁽¹⁾ Opinion of 3 October 2018.

⁽²⁾ Opinion of 14 March 2018.

⁽³⁾ First Council Directive 67/227/EEC of 11 April 1967 on the harmonisation of legislation of Member States concerning turnover taxes (OJ 71, 14.4.1967, p. 1301).

⁽⁴⁾ Second Council Directive 67/228/EEC of 11 April 1967 on the harmonisation of legislation of Member States concerning turnover taxes — Structure and procedures for application of the common system of value added tax (OJ 71, 14.4.1967, p. 1303).

⁽⁵⁾ Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ L 347, 11.12.2006, p. 1).

- (6) Chain transactions refer to successive supplies of goods which are subject to a single intra-Community transport. The intra-Community movement of the goods should only be ascribed to one of the supplies, and only that supply should benefit from the VAT exemption provided for the intra-Community supplies. The other supplies in the chain should be taxed and could require the VAT identification of the supplier in the Member State of supply. In order to avoid different approaches amongst Member States, which may lead to double taxation or non-taxation, and in order to enhance legal certainty for operators, a common rule should be established that, provided certain conditions are met, the transport of the goods should be attributed to one supply within the chain of transactions.
- (7) As regards the VAT identification number in relation to the exemption for the supply of goods in the intra-Community trade, it is proposed that the inclusion of the VAT identification number of the person acquiring the goods in the VAT Information Exchange System (VIES), assigned by a Member State other than that in which the transport of the goods begins, become, in addition to the condition of transport of the goods outside the Member State of supply, a substantive condition for the application of exemption rather than a formal requirement. Furthermore, the VIES listing is essential for informing the Member State of arrival of the presence of goods in its territory and is therefore a key element in the fight against fraud in the Union. For that reason, Member States should ensure that, where the supplier does not comply with his VIES listing obligations, the exemption should not apply except where the supplier is acting in good faith, that is to say, where he can duly justify before the competent tax authorities any of his shortcomings relating to the recapitulative statement, which could also include at that time the provision by the supplier of the correct information as required under Article 264 of Directive 2006/112/EC.
- (8) Since the objective of this Directive, namely the improved operation of VAT arrangements in the context of cross-border B2B trade, cannot be sufficiently achieved by the Member States, but can rather, by reason of its scale and effect, 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.
- (9) 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.
- (10) Directive 2006/112/EC should therefore be amended accordingly,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directive 2006/112/EC is amended as follows:

- (1) the following Article is inserted:

‘Article 17a

1. The transfer by a taxable person of goods forming part of his business assets to another Member State under call-off stock arrangements shall not be treated as a supply of goods for consideration.
2. For the purposes of this Article, call-off stock arrangements shall be deemed to exist where the following conditions are met:
 - (a) goods are dispatched or transported by a taxable person, or by a third party on his behalf, to another Member State with a view to those goods being supplied there, at a later stage and after arrival, to another taxable person who is entitled to take ownership of those goods in accordance with an existing agreement between both taxable persons;
 - (b) the taxable person dispatching or transporting the goods has not established his business nor has a fixed establishment in the Member State to which the goods are dispatched or transported;

⁽¹⁾ OJ C 369, 17.12.2011, p. 14.

- (c) the taxable person to whom the goods are intended to be supplied is identified for VAT purposes in the Member State to which the goods are dispatched or transported and both his identity and the VAT identification number assigned to him by that Member State are known to the taxable person referred to in point (b) at the time when the dispatch or transport begins;
- (d) the taxable person dispatching or transporting the goods records the transfer of the goods in the register provided for in Article 243(3) and includes the identity of the taxable person acquiring the goods and the VAT identification number assigned to him by the Member State to which the goods are dispatched or transported in the recapitulative statement provided for in Article 262(2).

3. Where the conditions laid down in paragraph 2 are met, the following rules shall apply at the time of the transfer of the right to dispose of the goods as owner to the taxable person referred to in point (c) of paragraph 2, provided that the transfer occurs within the deadline referred to in paragraph 4:

- (a) a supply of goods in accordance with Article 138(1) shall be deemed to be made by the taxable person that dispatched or transported the goods either by himself or by a third party on his behalf in the Member State from which the goods were dispatched or transported;
- (b) an intra-Community acquisition of goods shall be deemed to be made by the taxable person to whom those goods are supplied in the Member State to which the goods were dispatched or transported.

4. If, within 12 months after the arrival of the goods in the Member State to which they were dispatched or transported, the goods have not been supplied to the taxable person for whom they were intended, referred to in point (c) of paragraph 2 and paragraph 6, and none of the circumstances laid down in paragraph 7 have occurred, a transfer within the meaning of Article 17 shall be deemed to take place on the day following the expiry of the 12-month period.

5. No transfer within the meaning of Article 17 shall be deemed to take place where the following conditions are met:

- (a) the right to dispose of the goods has not been transferred, and those goods are returned to the Member State from which they were dispatched or transported within the time limit referred to in paragraph 4; and
- (b) the taxable person who dispatched or transported the goods records their return in the register provided for in Article 243(3).

6. Where, within the period referred to in paragraph 4, the taxable person referred to in point (c) of paragraph 2 is substituted by another taxable person, no transfer within the meaning of Article 17 shall be deemed to take place at the time of the substitution, provided that:

- (a) all other applicable conditions in paragraph 2 are met; and
- (b) the substitution is recorded by the taxable person referred to in point (b) of paragraph 2 in the register provided for in Article 243(3).

7. Where, within the time limit referred to in paragraph 4, any of the conditions set out in paragraphs 2 and 6 ceases to be fulfilled, a transfer of goods according to Article 17 shall be deemed to take place at the time that the relevant condition is no longer fulfilled.

If the goods are supplied to a person other than the taxable person referred to in point (c) of paragraph 2 or in paragraph 6, it shall be deemed that the conditions set out in paragraphs 2 and 6 cease to be fulfilled immediately before such supply.

If the goods are dispatched or transported to a country other than the Member State from which they were initially moved, it shall be deemed that the conditions set out in paragraphs 2 and 6 cease to be fulfilled immediately before such dispatch or transport starts.

In the event of the destruction, loss or theft of the goods, it shall be deemed that the conditions set out in paragraphs 2 and 6 cease to be fulfilled on the date that the goods were actually removed or destroyed, or, if it is impossible to determine that date, the date on which the goods were found to be destroyed or missing.;

- (2) in Section 2 of Chapter 1 of Title V, the following Article is inserted:

'Article 36a

1. Where the same goods are supplied successively and those goods are dispatched or transported from one Member State to another Member State directly from the first supplier to the last customer in the chain, the dispatch or transport shall be ascribed only to the supply made to the intermediary operator.

2. By way of derogation from paragraph 1, the dispatch or transport shall be ascribed only to the supply of goods by the intermediary operator where the intermediary operator has communicated to his supplier the VAT identification number issued to him by the Member State from which the goods are dispatched or transported.

3. For the purposes of this Article, 'intermediary operator' means a supplier within the chain other than the first supplier in the chain who dispatches or transports the goods either himself or through a third party acting on his behalf.

4. This Article shall not apply to the situations covered by Article 14a.;

(3) Article 138 is amended as follows:

(a) paragraph 1 is replaced by the following:

'1. Member States shall exempt the supply of goods dispatched or transported to a destination outside their respective territory but within the Community, by or on behalf of the vendor or the person acquiring the goods, where the following conditions are met:

- (a) the goods are supplied to another taxable person, or to a non-taxable legal person acting as such in a Member State other than that in which dispatch or transport of the goods begins;
- (b) the taxable person or non-taxable legal person for whom the supply is made is identified for VAT purposes in a Member State other than that in which the dispatch or transport of the goods begins and has indicated this VAT identification number to the supplier.;

(b) the following paragraph is inserted:

'1a. The exemption provided for in paragraph 1 shall not apply where the supplier has not complied with the obligation provided for in Articles 262 and 263 to submit a recapitulative statement or the recapitulative statement submitted by him does not set out the correct information concerning this supply as required under Article 264, unless the supplier can duly justify his shortcoming to the satisfaction of the competent authorities.;

(4) in Article 243, the following paragraph is added:

'3. Every taxable person who transfers goods under the call-off stock arrangements referred to in Article 17a shall keep a register that permits the tax authorities to verify the correct application of that Article.

Every taxable person to whom goods are supplied under the call-off stock arrangements referred to in Article 17a shall keep a register of those goods.;

(5) Article 262 is replaced by the following:

Article 262

1. Every taxable person identified for VAT purposes shall submit a recapitulative statement of the following:

- (a) the acquirers identified for VAT purposes to whom he has supplied goods in accordance with the conditions specified in Article 138(1) and point (c) of Article 138(2);
- (b) the persons identified for VAT purposes to whom he has supplied goods which were supplied to him by way of intra-Community acquisition of goods referred to in Article 42;
- (c) the taxable persons, and the non-taxable legal persons identified for VAT purposes, to whom he has supplied services other than services that are exempted from VAT in the Member State where the transaction is taxable and for which the recipient is liable to pay the tax pursuant to Article 196.

2. In addition to the information referred to in paragraph 1, every taxable person shall submit information about the VAT identification number of the taxable persons for whom goods, dispatched or transported under call-off stock arrangements in accordance with the conditions set out in Article 17a, are intended and about any change in the submitted information.;

(6) Articles 403 and 404 are deleted.

Article 2

1. Member States shall adopt and publish, by 31 December 2019, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.

They shall apply those provisions from 1 January 2020.

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

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 3

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

Article 4

This Directive is addressed to the Member States.

Done at Brussels, 4 December 2018.

For the Council
The President
H. LÖGER

II

(Non-legislative acts)

REGULATIONS

COUNCIL REGULATION (EU) 2018/1911

of 26 November 2018

amending Regulation (EU) 2015/1588 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to certain categories of horizontal State aid

(Text with EEA relevance)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 109 thereof,

Having regard to the proposal from the European Commission,

Having regard to the opinion of the European Parliament ⁽¹⁾,

Whereas:

- (1) Council Regulation (EU) 2015/1588 ⁽²⁾ empowers the Commission to declare by means of regulations that certain specified categories of aid are compatible with the internal market and are exempted from the notification requirement of Article 108(3) of the Treaty.
- (2) Centrally-managed EU funds, meaning funds under direct or indirect Union management (to the exclusion of funds under shared management with Member States), increasingly support activities in the common EU interest through financial instruments or budgetary guarantees, and thereby provide a particularly valuable contribution to growth and cohesion. The Commission should be enabled to declare that, under certain conditions, aid granted by Member States, where such aid is channelled through or supported by such centrally-managed financial instruments or budgetary guarantees, is compatible with the internal market and is not subject to the notification requirement. In the Commission's experience, such aid does not give rise to any significant distortions of competition, as it is aligned with the conditions applicable to the relevant financial instruments or budgetary guarantees, as implemented by Union bodies, and clear compatibility conditions can be defined.
- (3) The promotion of European Territorial Cooperation is an important priority of EU cohesion policy. The Commission should be enabled to declare that, under certain conditions, aid for European Territorial Cooperation projects is compatible with the internal market and not subject to the notification requirement. In the Commission's experience, such aid only has limited effects on competition and trade between Member States and clear compatibility conditions can be defined.
- (4) Therefore, the scope of Regulation (EU) 2015/1588 should be extended to include such categories of aid.
- (5) Regulation (EU) 2015/1588 should therefore be amended accordingly,

⁽¹⁾ Opinion of 14 November 2018 (not yet published in the Official Journal).

⁽²⁾ Council Regulation (EU) 2015/1588 of 13 July 2015 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to certain categories of horizontal State aid (OJ L 248, 24.9.2015, p. 1).

HAS ADOPTED THIS REGULATION:

Article 1

In point (a) of Article 1(1) of Regulation (EU) 2015/1588, the following subpoints are added:

- '(xv) financing channelled through or supported by EU centrally-managed financial instruments or budgetary guarantees, where the aid consists in the form of additional funding provided through State resources;
- (xvi) projects supported by EU European Territorial Cooperation programmes;'

Article 2

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

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

Done at Brussels, 26 November 2018.

For the Council
The President
J. BOGNER-STRAUSS

COUNCIL IMPLEMENTING REGULATION (EU) 2018/1912**of 4 December 2018****amending Implementing Regulation (EU) No 282/2011 as regards certain exemptions for intra-Community transactions**

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax ⁽¹⁾, and in particular Article 397 thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) In its communication of 7 April 2016 on an action plan on VAT, the Commission announced its intention to put forward a proposal for a definitive value added tax (VAT) system in relation to cross-border business-to-business trade between Member States. The Council, in its conclusions of 8 November 2016, invited the Commission to propose in the meantime certain improvements to the Union VAT rules for cross-border transactions, inter alia, for the purposes of exemptions in respect of intra-Community transactions.
- (2) Directive 2006/112/EC sets out a number of conditions for the exemption of supplies of goods from VAT in the context of certain intra-Community transactions. One of those conditions is that the goods have to be dispatched or transported from one Member State to another.
- (3) However, the divergent approach amongst Member States in the application of those exemptions for cross-border transactions has created difficulties and legal uncertainty for businesses. This is contrary to the objective of enhancing intra-Community trade and to the abolition of the fiscal borders. It is therefore important to specify and harmonise the conditions under which the exemptions can apply.
- (4) As cross-border VAT fraud is primarily linked to the exemption for intra-Community supplies, it is necessary to specify certain circumstances in which goods should be considered as having been dispatched or transported from the territory of the Member State of supply.
- (5) In order to provide a practical solution for businesses and also to provide assurance for tax administrations, two rebuttable presumptions should be introduced in Council Implementing Regulation (EU) No 282/2011 ⁽²⁾.
- (6) The call-off stock simplification arrangements should be accompanied by appropriate recording obligations in order to ensure their correct application.
- (7) Implementing Regulation (EU) No 282/2011 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Implementing Regulation (EU) No 282/2011 is amended as follows:

- (1) in Chapter VIII, the following Section is inserted:

‘Section 2A

Exemptions for intra-Community transactions

(Articles 138 to 142 of Directive 2006/112/EC)

Article 45a

1. For the purpose of applying the exemptions laid down in Article 138 of Directive 2006/112/EC, it shall be presumed that goods have been dispatched or transported from a Member State to a destination outside its territory but within the Community in either of the following cases:

- (a) the vendor indicates that the goods have been dispatched or transported by him or by a third party on his behalf, and either the vendor is in possession of at least two items of non-contradictory evidence referred to

⁽¹⁾ OJ L 347, 11.12.2006, p. 1.

⁽²⁾ Council Implementing Regulation (EU) No 282/2011 of 15 March 2011 laying down implementing measures for Directive 2006/112/EC on the common system of value added tax (OJ L 77, 23.3.2011, p. 1).

in point (a) of paragraph 3 which were issued by two different parties that are independent of each other, of the vendor and of the acquirer, or the vendor is in possession of any single item referred to in point (a) of paragraph 3 together with any single item of non-contradictory evidence referred to in point (b) of paragraph 3 confirming the dispatch or transport which were issued by two different parties that are independent of each other, of the vendor and of the acquirer;

(b) the vendor is in possession of the following:

- (i) a written statement from the acquirer, stating that the goods have been dispatched or transported by the acquirer, or by a third party on behalf of the acquirer, and identifying the Member State of destination of the goods; that written statement shall state: the date of issue; the name and address of the acquirer; the quantity and nature of the goods; the date and place of the arrival of the goods; in the case of the supply of means of transport, the identification number of the means of transport; and the identification of the individual accepting the goods on behalf of the acquirer; and
- (ii) at least two items of non-contradictory evidence referred to in point (a) of paragraph 3 that were issued by two different parties that are independent of each other, of the vendor and of the acquirer, or any single item referred to in point (a) of paragraph 3 together with any single item of non-contradictory evidence referred to in point (b) of paragraph 3 confirming the dispatch or transport which were issued by two different parties that are independent of each other, of the vendor and of the acquirer.

The acquirer shall furnish the vendor with the written statement referred to in point (b)(i) by the tenth day of the month following the supply.

2. A tax authority may rebut a presumption that has been made under paragraph 1.

3. For the purposes of paragraph 1, the following shall be accepted as evidence of dispatch or transport:

- (a) documents relating to the dispatch or transport of the goods, such as a signed CMR document or note, a bill of lading, an airfreight invoice or an invoice from the carrier of the goods;
- (b) the following documents:
 - (i) an insurance policy with regard to the dispatch or transport of the goods, or bank documents proving payment for the dispatch or transport of the goods;
 - (ii) official documents issued by a public authority, such as a notary, confirming the arrival of the goods in the Member State of destination;
 - (iii) a receipt issued by a warehouse keeper in the Member State of destination, confirming the storage of the goods in that Member State.;

(2) in Chapter X, the following Section is inserted:

‘Section 1A

General obligations

(Articles 242 to 243 of Directive 2006/112/EC)

Article 54a

1. The register referred to in Article 243(3) of Directive 2006/112/EC that is to be kept by every taxable person who transfers goods under call-off stock arrangements shall contain the following information:

- (a) the Member State from which the goods were dispatched or transported, and the date of dispatch or transport of the goods;
- (b) the VAT identification number of the taxable person for whom the goods are intended, issued by the Member State to which the goods are dispatched or transported;
- (c) the Member State to which the goods are dispatched or transported, the VAT identification number of the warehouse keeper, the address of the warehouse at which the goods are stored upon arrival, and the date of arrival of the goods in the warehouse;
- (d) the value, description and quantity of the goods that arrived in the warehouse;
- (e) the VAT identification number of the taxable person substituting for the person referred to in point (b) of this paragraph under the conditions referred to in Article 17a(6) of Directive 2006/112/EC;
- (f) the taxable amount, description and quantity of the goods supplied and the date on which the supply of the goods referred to in point (a) of Article 17a(3) of Directive 2006/112/EC is made and the VAT identification number of the buyer;

- (g) the taxable amount, description and quantity of the goods, and the date of occurrence of any of the conditions and the respective ground in accordance with Article 17a(7) of Directive 2006/112/EC;
- (h) the value, description and quantity of the returned goods and the date of the return of the goods referred to in Article 17a(5) of Directive 2006/112/EC.
2. The register referred to in Article 243(3) of Directive 2006/112/EC that is to be kept by every taxable person to whom goods are supplied under call-off stock arrangements shall contain the following information:
- (a) the VAT identification number of the taxable person who transfers goods under call-off stock arrangements;
- (b) the description and quantity of the goods intended for him;
- (c) the date on which the goods intended for him arrive in the warehouse;
- (d) the taxable amount, description and quantity of the goods supplied to him and the date on which the intra-Community acquisition of the goods referred to in point (b) of Article 17a(3) of Directive 2006/112/EC is made;
- (e) the description and quantity of the goods, and the date on which the goods are removed from the warehouse by order of the taxable person referred to in point (a);
- (f) the description and quantity of the goods destroyed or missing and the date of destruction, loss or theft of the goods that previously arrived in the warehouse or the date on which the goods were found to be destroyed or missing.

Where the goods are dispatched or transported under call-off stock arrangements to a warehouse keeper different from the taxable person for whom the goods are intended to be supplied, the register of that taxable person does not need to contain the information referred to in points (c), (e) and (f) of the first subparagraph.

Article 2

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

It shall apply from 1 January 2020.

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

Done at Brussels, 4 December 2018.

For the Council
The President
H. LÖGER

COMMISSION IMPLEMENTING REGULATION (EU) 2018/1913**of 6 December 2018****renewing the approval of the active substance tribenuron in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending the Annex to Commission Implementing Regulation (EU) No 540/2011****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

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

Whereas:

- (1) Commission Directive 2005/54/EC ⁽²⁾ included tribenuron as an active substance in Annex I to Council Directive 91/414/EEC ⁽³⁾.
- (2) Active substances included in Annex I to Directive 91/414/EEC are deemed to have been approved under Regulation (EC) No 1107/2009 and are listed in Part A of the Annex to Commission Implementing Regulation (EU) No 540/2011 ⁽⁴⁾.
- (3) The approval of the active substance tribenuron, as set out in Part A of the Annex to Implementing Regulation (EU) No 540/2011, expires on 31 October 2019.
- (4) An application for the renewal of the approval of tribenuron was submitted in accordance with Article 1 of Commission Implementing Regulation (EU) No 844/2012 ⁽⁵⁾ within the time period provided for in that Article.
- (5) The applicant submitted the supplementary dossiers required in accordance with Article 6 of Implementing Regulation (EU) No 844/2012. The application was found to be complete by the rapporteur Member State.
- (6) The rapporteur Member State prepared a renewal assessment report in consultation with the co-rapporteur Member State and submitted it to the European Food Safety Authority ('the Authority') and the Commission on 23 June 2016.
- (7) The Authority communicated the renewal assessment report to the applicant and to the Member States for comments and forwarded the comments received to the Commission. The Authority also made the supplementary summary dossiers available to the public.
- (8) On 29 June 2017 the Authority communicated to the Commission its conclusion ⁽⁶⁾ on whether tribenuron can be expected to meet the approval criteria provided for in Article 4 of Regulation (EC) No 1107/2009. The Commission presented the draft renewal report for tribenuron to the Standing Committee on Plants, Animals, Food and Feed on 12 December 2017.
- (9) The Commission invited the applicant to submit its comments on the conclusion of the Authority and, in accordance with the third paragraph of Article 14(1) of Implementing Regulation (EU) No 844/2012, on the draft renewal report. The applicant submitted its comments, which have been carefully examined.

⁽¹⁾ OJ L 309, 24.11.2009, p. 1.

⁽²⁾ Commission Directive 2005/54/EC of 19 September 2005 amending Council Directive 91/414/EEC to include tribenuron as active substance (OJ L 244, 20.9.2005, p. 21).

⁽³⁾ Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market (OJ L 230, 19.8.1991, p. 1).

⁽⁴⁾ Commission Implementing Regulation (EU) No 540/2011 of 25 May 2011 implementing Regulation (EC) No 1107/2009 of the European Parliament and of the Council as regards the list of approved active substances (OJ L 153, 11.6.2011, p. 1).

⁽⁵⁾ Commission Implementing Regulation (EU) No 844/2012 of 18 September 2012 setting out the provisions necessary for the implementation of the renewal procedure for active substances, as provided for in Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market (OJ L 252, 19.9.2012, p. 26).

⁽⁶⁾ EFSA (European Food Safety Authority), 2017. Conclusion on the peer review of the pesticide risk assessment of the active substance tribenuron. *EFSA Journal* 2017;15(7):4912 [39 pp]. doi: 10.2903/j.efsa.2017.4912.

- (10) It has been established with respect to one or more representative uses of at least one plant protection product containing tribenuron that the approval criteria provided for in Article 4 of Regulation (EC) No 1107/2009 are satisfied. It is therefore appropriate to renew the approval of tribenuron.
- (11) The risk assessment for the renewal of the approval of tribenuron is based on a limited number of representative uses, which, however, do not restrict the uses for which plant protection products containing tribenuron may be authorised. It is therefore appropriate to remove the restriction for use only as a herbicide.
- (12) Implementing Regulation (EU) No 540/2011 should therefore be amended accordingly.
- (13) Commission Implementing Regulation (EU) 2018/1262 ⁽¹⁾ extended the expiry date of tribenuron to 31 October 2019 in order to allow the renewal process to be completed before the expiry of the approval of that substance. Given that a decision on renewal has been taken ahead of this extended expiry date, this Regulation shall apply from 1 February 2019.
- (14) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

HAS ADOPTED THIS REGULATION:

Article 1

Renewal of the approval of active substance

The approval of the active substance tribenuron is renewed as set out in Annex I.

Article 2

Amendments to Implementing Regulation (EU) No 540/2011

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

Article 3

Entry into force and date of application

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

It shall apply from 1 February 2019.

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

Done at Brussels, 6 December 2018.

For the Commission
The President
Jean-Claude JUNCKER

⁽¹⁾ Commission Implementing Regulation (EU) 2018/1262 of 20 September 2018 amending Implementing Regulation (EU) No 540/2011 as regards the extension of the approval periods of the active substances 1-methylcyclopropene, beta-cyfluthrin, chlorothalonil, chlorotoluron, clomazone, cypermethrin, daminozide, deltamethrin, dimethenamid-p, diuron, fludioxonil, flufenacet, flurtamone, fosthiazate, indoxacarb, MCPA, MCPB, prosulfocarb, thiophanate-methyl and tribenuron (OJ L 238, 21.9.2018, p. 62).

ANNEX I

Common Name, Identification Numbers	IUPAC Name	Purity ⁽¹⁾	Date of approval	Expiration of approval	Specific provisions
Tribenuron (parent) CAS No 106040-48-6 CIPAC No 546	2-[[[4-methoxy-6-methyl-1,3,5-triazin-2-yl)-methylcarbamoyl]sulfamoyl]benzoic acid	≥ 960 g/kg (expressed as tribenuron-methyl)	1 February 2019	30 January 2034	<p>For the implementation of the uniform principles, as referred to in Article 29(6) of Regulation (EC) No 1107/2009, the conclusions of the renewal report on tribenuron, and in particular Appendices I and II thereof, shall be taken into account.</p> <p>In this overall assessment Member States shall pay particular attention to:</p> <ul style="list-style-type: none"> — the protection of consumers, in particular to residues on animal products, — the protection of groundwater, — the protection of aquatic organisms and of non-target terrestrial plants. <p>Conditions of use shall include risk mitigation measures, where appropriate.</p>

⁽¹⁾ Further details on identity and specification of active substance are provided in the renewal report.

ANNEX II

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

- (1) in Part A, entry 106 on tribenuron is deleted;
- (2) in Part B, the following entry is added:

Number	Common Name, Identification Numbers	IUPAC Name	Purity ⁽¹⁾	Date of approval	Expiration of approval	Specific provisions
'128	Tribenuron (parent) CAS No 106040-48-6 CIPAC No 546	2-[[[4-methoxy-6-methyl-1,3,5-triazin-2-yl)-methylcarbamoyl] sulfamoyl]benzoic acid	≥ 960 g/kg (expressed as tribenuron-methyl)	1 February 2019	30 January 2034	<p>For the implementation of the uniform principles, as referred to in Article 29(6) of Regulation (EC) No 1107/2009, the conclusions of the renewal report on tribenuron, and in particular Appendices I and II thereof, shall be taken into account.</p> <p>In this overall assessment Member States shall pay particular attention to:</p> <ul style="list-style-type: none"> — the protection of consumers, in particular to residues on animal products, — the protection of groundwater, — the protection of aquatic organisms and of non-target terrestrial plants. <p>Conditions of use shall include risk mitigation measures, where appropriate.'</p>

⁽¹⁾ Further details on identity and specification of active substance are provided in the renewal report.

COMMISSION IMPLEMENTING REGULATION (EU) 2018/1914**of 6 December 2018****concerning the non-renewal of approval of the active substance quinoxifen, in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending Commission Implementing Regulation (EU) No 540/2011****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC ⁽¹⁾, and in particular Article 20(1) and Article 78(2) thereof,

Whereas:

- (1) Commission Directive 2004/60/EC ⁽²⁾ included quinoxifen as an active substance in Annex I to Council Directive 91/414/EEC ⁽³⁾.
- (2) Active substances included in Annex I to Directive 91/414/EEC are deemed to have been approved under Regulation (EC) No 1107/2009 and are listed in Part A of the Annex to Commission Implementing Regulation (EU) No 540/2011 ⁽⁴⁾.
- (3) The approval of the active substance quinoxifen, as set out in Part A of the Annex to Implementing Regulation (EU) No 540/2011, expires on 30 April 2019.
- (4) An application for the renewal of the approval of quinoxifen was submitted in accordance with Article 1 of Commission Implementing Regulation (EU) No 844/2012 ⁽⁵⁾ within the time period provided for in that Article.
- (5) The applicant submitted the supplementary dossiers required in accordance with Article 6 of Regulation (EU) No 844/2012. The application was found to be complete by the rapporteur Member State.
- (6) The rapporteur Member State prepared a renewal assessment report in consultation with the co-rapporteur Member State and submitted it to the European Food Safety Authority ('the Authority') and the Commission on 5 December 2016.
- (7) In accordance with Article 11(4) of Implementing Regulation (EU) No 844/2012, that assessment was limited to a targeted assessment. The assessment did not go beyond the identity, methods of analysis, environmental fate and behavior and ecotoxicology information that related to the potential persistent bioaccumulative and toxic (PBT) properties, very persistent and very bioaccumulative (vPvB) properties and persistent organic pollutant (POP) properties of quinoxifen, since the approval criteria set out in point 3.7.2 and 3.7.3 of Annex II to Regulation (EC) No 1107/2009 are not satisfied.
- (8) The Authority communicated the renewal assessment report to the applicant and to the Member States for comments and forwarded the comments received to the Commission. The Authority also made the supplementary summary dossier available to the public.

⁽¹⁾ OJ L 309, 24.11.2009, p. 1.

⁽²⁾ Commission Directive 2004/60/EC of 23 April 2004 amending Council Directive 91/414/EEC to include quinoxifen as active substance (OJ L 120, 24.4.2004, p. 39).

⁽³⁾ Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market (OJ L 230, 19.8.1991, p. 1).

⁽⁴⁾ Commission Implementing Regulation (EU) No 540/2011 of 25 May 2011 implementing Regulation (EC) No 1107/2009 of the European Parliament and of the Council as regards the list of approved active substances (OJ L 153, 11.6.2011, p. 1).

⁽⁵⁾ Commission Implementing Regulation (EU) No 844/2012 of 18 September 2012 setting out the provisions necessary for the implementation of the renewal procedure for active substances, as provided for in Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market (OJ L 252, 19.9.2012, p. 26).

- (9) On 24 November 2017 the Authority communicated to the Commission its conclusion ⁽¹⁾ on whether quinoxifen can be expected to meet the approval criteria provided for in Article 4 of Regulation (EC) No 1107/2009. The conclusion is limited to a hazard targeted assessment (focussed on the elements referred to in point 3.7 of Annex II to Regulation (EC) No 1107/2009) and does not cover all the approval criteria. The Authority concluded that quinoxifen is a PBT substance as well as a vPvB substance.
- (10) The Commission invited the applicant to submit its comments on the conclusion of the Authority and, in accordance with the third subparagraph of Article 14(1) of Implementing Regulation (EU) No 844/2012, on the renewal report. The applicant submitted its comments, which have been carefully examined.
- (11) However, despite the arguments put forward by the applicant, the concerns related to the substance could not be eliminated.
- (12) Based on the concerns identified, it has not been established with respect to one or more representative uses of at least one plant protection product containing quinoxifen that the approval criteria provided for in Article 4 of Regulation (EC) No 1107/2009 are satisfied. It is therefore appropriate not to renew the approval of quinoxifen in accordance with Article 20(1)(b) of that Regulation.
- (13) Member States should be provided with sufficient time to withdraw authorisations for plant protection products containing quinoxifen.
- (14) For plant protection products containing quinoxifen, where Member States grant any grace period in accordance with Article 46 of Regulation (EC) No 1107/2009, that period should, at the latest, expire on 27 March 2020.
- (15) Commission Implementing Regulation (EU) 2018/524 ⁽²⁾ extended the expiry date of quinoxifen to 30 April 2019 in order to allow the renewal process to be completed before the expiry of the approval of that substance. Given that a decision has been taken ahead of this extended expiry date, this Regulation should apply as soon as possible.
- (16) This Regulation does not prevent the submission of a further application for the approval of quinoxifen pursuant to Article 7 of Regulation (EC) No 1107/2009.
- (17) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

HAS ADOPTED THIS REGULATION:

Article 1

Non-renewal of approval of active substance

The approval of the active substance quinoxifen is not renewed.

Article 2

Amendments to Implementing Regulation (EU) No 540/2011

In Part A of the Annex to Implementing Regulation (EU) No 540/2011, row 82, on quinoxifen, is deleted.

Article 3

Transitional measures

Member States shall withdraw authorisations for plant protection products containing quinoxifen as active substance by 27 June 2019 at the latest.

⁽¹⁾ EFSA (European Food Safety Authority), 2018. Peer review of the targeted hazard assessment of the pesticide active substance quinoxifen. EFSA Journal 2018;16(1):5085 [11 pp.]. DOI: 10.2903/j.efsa.2018.5085.

⁽²⁾ Commission Implementing Regulation (EU) 2018/524 of 28 March 2018 amending Implementing Regulation (EU) No 540/2011 as regards the extension of the approval periods of the active substances *Bacillus subtilis* (Cohn 1872) Strain QST 713, identical with strain AQ 713, clodinafop, clopyralid, cyprodinil, dichlorprop-P, fosetyl, mepanipyrim, metconazole, metrafenone, pirimicarb, *Pseudomonas chlororaphis* strain: MA 342, pyrimethanil, quinoxifen, rimsulfuron, spinosad, thiacloprid, thiamethoxam, thiram, tolclofos-methyl, triclopyr, trinexapac, triticonazole and ziram (OJ L 88, 4.4.2018, p. 4).

*Article 4***Grace Period**

Any grace period granted by Member States in accordance with Article 46 of Regulation (EC) No 1107/2009 shall be as short as possible and shall expire by 27 March 2020 at the latest.

*Article 5***Entry into force**

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

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

Done at Brussels, 6 December 2018.

For the Commission
The President
Jean-Claude JUNCKER

COMMISSION IMPLEMENTING REGULATION (EU) 2018/1915**of 6 December 2018****approving the active substance *Metschnikowia fructicola* strain NRRL Y-27328 in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending the Annex to Commission Implementing Regulation (EU) No 540/2011****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

Having regard to Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC ⁽¹⁾, and in particular Article 13(2) thereof,

Whereas:

- (1) In accordance with Article 7(1) of Regulation (EC) No 1107/2009 Koppert B.V. submitted to France on 30 September 2014 an application for the approval of the active substance *Metschnikowia fructicola* strain NRRL Y-27328.
- (2) In accordance with Article 9(3) of that Regulation, France, as rapporteur Member State, notified the applicant, the other Member States, the Commission and the European Food Safety Authority ('the Authority') on 3 June 2015 of the admissibility of the application.
- (3) On 17 October 2016, the rapporteur Member State submitted a draft assessment report to the Commission with a copy to the Authority, assessing whether that active substance can be expected to meet the approval criteria provided for in Article 4 of Regulation (EC) No 1107/2009.
- (4) The Authority complied with Article 12(1) of Regulation (EC) No 1107/2009. In accordance with Article 12(3) of that Regulation, it requested on 20 March 2017 that the applicant supply additional information to the Member States, the Commission and the Authority. The assessment of the additional information by the rapporteur Member State was submitted to the Authority in the format of an updated draft assessment report on 12 September 2017.
- (5) On 24 November 2017 the Authority communicated to the applicant, the Member States and the Commission its conclusion ⁽²⁾ on whether the active substance *Metschnikowia fructicola* strain NRRL Y-27328 can be expected to meet the approval criteria provided for in Article 4 of Regulation (EC) No 1107/2009. The Authority made its conclusion available to the public.
- (6) On 20 July 2018, the Commission presented to the Standing Committee on Plants, Animals, Food and Feed the review report for *Metschnikowia fructicola* strain NRRL Y-27328 and a draft Regulation providing that *Metschnikowia fructicola* strain NRRL Y-27328 is approved.
- (7) It has been established with respect to one or more representative uses of at least one plant protection product containing the active substance, and in particular the uses which were examined and detailed in the review report, that the approval criteria provided for in Article 4 of Regulation (EC) No 1107/2009 are satisfied.
- (8) It is therefore appropriate to approve *Metschnikowia fructicola* strain NRRL Y-27328.
- (9) In accordance with Article 13(2) of Regulation (EC) No 1107/2009 in conjunction with Article 6 thereof and in the light of current scientific and technical knowledge, it is, however, necessary to include certain conditions.

⁽¹⁾ OJ L 309, 24.11.2009, p. 1.

⁽²⁾ EFSA (European Food Safety Authority), 2018. Conclusion on the peer review of the pesticide risk assessment of the active substance *Metschnikowia fructicola* NRRL Y-27328 EFSA Journal 2017;15(12):5084, 19 pp. doi:10.2903/j.efsa.2017.5084.

- (10) In accordance with Article 13(4) of Regulation (EC) No 1107/2009, the Annex to Commission Implementing Regulation (EU) No 540/2011 ⁽¹⁾ should be amended accordingly.
- (11) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

HAS ADOPTED THIS REGULATION:

Article 1

Approval of active substance

The active substance *Metschnikowia fructicola* strain NRRL Y-27328, as specified in Annex I, is approved subject to the conditions laid down in that Annex.

Article 2

Amendments to Implementing Regulation (EU) No 540/2011

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

Article 3

Entry into force

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

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

Done at Brussels, 6 December 2018.

For the Commission
The President
Jean-Claude JUNCKER

⁽¹⁾ Commission Implementing Regulation (EU) No 540/2011 of 25 May 2011 implementing Regulation (EC) No 1107/2009 of the European Parliament and of the Council as regards the list of approved active substances (OJ L 153, 11.6.2011, p. 1).

ANNEX I

Common Name, Identification Numbers	IUPAC Name	Purity ⁽¹⁾	Date of approval	Expiration of approval	Specific provisions
<p><i>Metschnikowia fructicola</i> strain NRRL Y-27328</p> <p>Accession number in the Agriculture Research Service Culture Collection at the National center for agricultural utilisation research in Peoria, Illinois USA</p>	Not applicable	<p>Minimum concentration:</p> <p>1×10^{10} CFU/g</p>	27 December 2018	27 December 2028	<p>For the implementation of the uniform principles as referred to in Article 29(6) of Regulation (EC) No 1107/2009, the conclusions of the review report on <i>Metschnikowia fructicola</i> strain NRRL Y-27328, and in particular Appendices I and II thereof, shall be taken into account.</p> <p>In this overall assessment Member States shall pay particular attention to:</p> <ul style="list-style-type: none"> — the protection of operators and workers, taking into account that <i>Metschnikowia fructicola</i> strain NRRL Y-27328 is to be considered as a potential sensitizer. <p>Strict maintenance of environmental conditions and quality control analysis during the manufacturing process shall be ensured by the producer.</p> <p>Conditions of use shall include risk mitigation measures, where appropriate.</p>

⁽¹⁾ Further details on identity and specification of active substance are provided in the review report.

ANNEX II

In Part B of the Annex to Implementing Regulation (EU) No 540/2011, the following entry is added:

No	Common Name, Identification Numbers	IUPAC Name	Purity ⁽¹⁾	Date of approval	Expiration of approval	Specific provisions
'129	<i>Metschnikowia fructicola</i> strain NRRL Y-27328 Accession number in the Agriculture Research Service Culture Collection at the National center for agricultural utilisation research in Peoria, Illinois USA	Not applicable	Minimum concentration: 1×10^{10} CFU/g	27 December 2018	27 December 2028	<p>For the implementation of the uniform principles as referred to in Article 29(6) of Regulation (EC) No 1107/2009, the conclusions of the review report on <i>Metschnikowia fructicola</i> strain NRRL Y-27328, and in particular Appendices I and II thereof, shall be taken into account.</p> <p>In this overall assessment Member States shall pay particular attention to:</p> <ul style="list-style-type: none"> — the protection of operators and workers, taking into account that <i>Metschnikowia fructicola</i> strain NRRL Y-27328 is to be considered as a potential sensitizer. <p>Strict maintenance of environmental conditions and quality control analysis during the manufacturing process shall be ensured by the producer.</p> <p>Conditions of use shall include risk mitigation measures, where appropriate.'</p>

⁽¹⁾ Further details on identity and specification of active substance are provided in the review report.

COMMISSION IMPLEMENTING REGULATION (EU) 2018/1916**of 6 December 2018****amending Implementing Regulation (EU) No 540/2011 as regards the extension of the approval period of the active substance bispyribac****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC ⁽¹⁾, and in particular the first paragraph of Article 17 thereof,

Whereas:

- (1) Part B of the Annex to Commission Implementing Regulation (EU) No 540/2011 ⁽²⁾ sets out the active substances approved under Regulation (EC) No 1107/2009.
- (2) The approval period of the active substance bispyribac will expire on 31 July 2021.
- (3) Application for the renewal of the approval of the active substance was submitted in accordance with Commission Implementing Regulation (EU) No 844/2012 ⁽³⁾. However, the approval is likely to expire for reasons beyond the control of the applicant before a decision on the renewal of the approval has been taken. It is therefore necessary to extend the approval period in accordance with Article 17 of Regulation (EC) No 1107/2009.
- (4) In view of the time and resources necessary for completing the assessment of applications for renewal of approvals of large number of active substances the approvals of which are expiring between 2019 and 2021, Commission Implementing Decision C(2016)6104 ⁽⁴⁾ established a work programme grouping together similar active substances and setting priorities on the basis of safety concerns for human and animal health or the environment as provided for in Article 18 of Regulation (EC) No 1107/2009.
- (5) As the active substance included in this Regulation does not fall in the prioritised categories of Implementing Decision C(2016)6104, the approval period should be extended by two years, taking into account the current date of expiry, the fact that in accordance with Article 6(3) of Implementing Regulation (EU) No 844/2012 the supplementary dossier for an active substance is to be submitted no later than 30 months before expiry of the approval, the need to ensure a balanced distribution of responsibilities and work among Member States acting as rapporteurs and co-rapporteurs and the available resources necessary for assessment and decision-making. It is therefore appropriate to extend the approval period of the active substance bispyribac by two years.
- (6) In view of the aim of the first paragraph of Article 17 of Regulation (EC) No 1107/2009, as regards cases where no supplementary dossier in accordance with Implementing Regulation (EU) No 844/2012 is submitted no later than 30 months before the respective expiry date laid down in the Annex to this Regulation, the Commission will set the expiry date at the same date as before this Regulation or at the earliest date thereafter.
- (7) In view of the aim of the first paragraph of Article 17 of Regulation (EC) No 1107/2009, as regards cases where the Commission will adopt a Regulation providing that the approval of an active substance referred to in the Annex to this Regulation is not renewed because the approval criteria are not satisfied, the Commission will set the expiry date at the same date as before this Regulation or at the date of the entry into force of the Regulation providing that the approval of the active substance is not renewed, whichever date is later. As regards cases where the Commission will adopt a Regulation providing for the renewal of an active substance referred to in the Annex to this Regulation, the Commission will endeavour to set, as appropriate under the circumstances, the earliest possible application date.

⁽¹⁾ OJ L 309, 24.11.2009, p. 1.

⁽²⁾ Commission Implementing Regulation (EU) No 540/2011 of 25 May 2011 implementing Regulation (EC) No 1107/2009 of the European Parliament and of the Council as regards the list of approved active substances (OJ L 153, 11.6.2011, p. 1).

⁽³⁾ Commission Implementing Regulation (EU) No 844/2012 of 18 September 2012 setting out the provisions necessary for the implementation of the renewal procedure for active substances, as provided for in Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market (OJ L 252, 19.9.2012, p. 26).

⁽⁴⁾ Commission Implementing Decision of 28 September 2016 on the establishment of a work programme for the assessment of applications for the renewal of approvals of active substances expiring in 2019, 2020 and 2021 in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council (OJ C 357, 29.9.2016, p. 9).

- (8) Implementing Regulation (EU) No 540/2011 should therefore be amended accordingly.
- (9) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

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

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

Done at Brussels, 6 December 2018.

For the Commission
The President
Jean-Claude JUNCKER

ANNEX

Part B of the Annex to Implementing Regulation (EU) No 540/2011 is amended as follows:

In the sixth column, expiration of approval, of row 1, Bispyribac, the date is replaced by '31 July 2023'.

COMMISSION IMPLEMENTING REGULATION (EU) 2018/1917**of 6 December 2018****concerning the non-renewal of approval of the active substance flurtamone, in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending Commission Implementing Regulation (EU) No 540/2011****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC ⁽¹⁾, and in particular Article 20(1) and Article 78(2) thereof,

Whereas:

- (1) Commission Directive 2003/84/EC ⁽²⁾ included flurtamone as an active substance in Annex I to Council Directive 91/414/EEC ⁽³⁾.
- (2) Active substances included in Annex I to Directive 91/414/EEC are deemed to have been approved under Regulation (EC) No 1107/2009 and are listed in Part A of the Annex to Commission Implementing Regulation (EU) No 540/2011 ⁽⁴⁾.
- (3) The approval of the active substance flurtamone, as set out in Part A of the Annex to Implementing Regulation (EU) No 540/2011, expires on 31 October 2019.
- (4) An application for the renewal of the approval of flurtamone was submitted in accordance with Article 1 of Commission Implementing Regulation (EU) No 844/2012 ⁽⁵⁾ within the time period provided for in that Article.
- (5) The applicant submitted the supplementary dossiers required in accordance with Article 6 of Implementing Regulation (EU) No 844/2012. The application was found to be complete by the rapporteur Member State.
- (6) The rapporteur Member State prepared a renewal assessment report in consultation with the co-rapporteur Member State and submitted it to the European Food Safety Authority ('the Authority') and the Commission on 29 May 2015.
- (7) The Authority communicated the renewal assessment report to the applicant and to the Member States for comments and forwarded the comments received to the Commission. The Authority also made the supplementary summary dossier available to the public.
- (8) On 10 August 2017 the Authority communicated to the Commission its conclusion ⁽⁶⁾ on whether flurtamone can be expected to meet the approval criteria provided for in Article 4 of Regulation (EC) No 1107/2009.
- (9) The Authority identified specific concerns. In particular, it concluded that it is not possible to exclude the mutagenic potential of flurtamone based on the available information and that no final health-based reference values could be set. Consequently, the Authority concluded that the consumer and non-dietary risk assessments could not be conducted. In addition, the Authority concluded that the overall consumer risk assessment for

⁽¹⁾ OJ L 309, 24.11.2009, p. 1.

⁽²⁾ Commission Directive 2003/84/EC of 25 September 2003 amending Council Directive 91/414/EEC to include flurtamone, flufenacet, iodosulfuron, dimethenamid-p, picoxystrobin, fosthiazate and silthiofam as active substances (OJ L 247, 30.9.2003, p. 20).

⁽³⁾ Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market (OJ L 230, 19.8.1991, p. 1).

⁽⁴⁾ Commission Implementing Regulation (EU) No 540/2011 of 25 May 2011 implementing Regulation (EC) No 1107/2009 of the European Parliament and of the Council as regards the list of approved active substances (OJ L 153, 11.6.2011, p. 1).

⁽⁵⁾ Commission Implementing Regulation (EU) No 844/2012 of 18 September 2012 setting out the provisions necessary for the implementation of the renewal procedure for active substances, as provided for in Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market (OJ L 252, 19.9.2012, p. 26).

⁽⁶⁾ EFSA (European Food Safety Authority), 2017. Conclusion on the updated peer review of the pesticide risk assessment of the active substance flurtamone. EFSA Journal 2017;15(8):4976, 25 pp. <https://doi.org/10.2903/j.efsa.2017.4976>.

exposure to metabolite trifluoroacetic acid, predicted to occur in groundwater in all pertinent scenarios and as a residue in plants, could not be finalised due to a number of deficiencies in the dossier. Furthermore, the Authority concluded that the assessment of endocrine disrupting properties could not be completed based on the available studies.

- (10) The Commission invited the applicant to submit its comments on the conclusion of the Authority and, in accordance with the third subparagraph of Article 14(1) of Implementing Regulation (EU) No 844/2012, on the draft renewal report. The applicant submitted its comments, which have been carefully examined.
- (11) However, despite the arguments put forward by the applicant, the concerns regarding the active substance could not be eliminated.
- (12) Consequently, it has not been established with respect to one or more representative uses of at least one plant protection product that the approval criteria provided for in Article 4 of Regulation (EC) No 1107/2009 are satisfied. It is therefore appropriate not to renew the approval of the active substance flurtamone in accordance with Article 20(1)(b) of that Regulation.
- (13) Implementing Regulation (EU) No 540/2011 should therefore be amended accordingly.
- (14) Member States should be provided with sufficient time to withdraw authorisations for plant protection products containing flurtamone.
- (15) For plant protection products containing flurtamone, where Member States grant any grace period in accordance with Article 46 of Regulation (EC) No 1107/2009, that period should, at the latest, expire on 27 March 2020.
- (16) Commission Implementing Regulation (EU) 2018/1262 ⁽¹⁾ extended the expiry date of flurtamone to 31 October 2019 in order to allow the renewal process to be completed before the expiry of the approval of that substance. However, given that a decision has been taken ahead of that extended expiry date, this Regulation should apply as soon as possible.
- (17) This Regulation does not prevent the submission of a further application for the approval of flurtamone pursuant to Article 7 of Regulation (EC) No 1107/2009.
- (18) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

HAS ADOPTED THIS REGULATION:

Article 1

Non-renewal of approval of active substance

The approval of the active substance flurtamone is not renewed.

Article 2

Amendment to Implementing Regulation (EU) No 540/2011

In Part A of the Annex to Implementing Regulation (EU) No 540/2011, row 64, on flurtamone, is deleted.

Article 3

Transitional measures

Member States shall withdraw authorisations for plant protection products containing flurtamone as active substance by 27 June 2019 at the latest.

⁽¹⁾ Commission Implementing Regulation (EU) 2018/1262 of 20 September 2018 amending Implementing Regulation (EU) No 540/2011 as regards the extension of the approval periods of the active substances 1-methylcyclopropene, beta-cyfluthrin, chlorothalonil, chlorotoluron, clomazone, cypermethrin, daminozide, deltamethrin, dimethenamid-p, diuron, fludioxonil, flufenacet, flurtamone, fosthiazate, indoxacarb, MCPA, MCPB, prosulfocarb, thiophanate-methyl and tribenuron. OJ L 238, 21.9.2018, p. 62.

*Article 4***Grace period**

Any grace period granted by Member States in accordance with Article 46 of Regulation (EC) No 1107/2009 shall be as short as possible and shall expire by 27 March 2020 at the latest.

*Article 5***Entry into force**

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

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

Done at Brussels, 6 December 2018.

For the Commission
The President
Jean-Claude JUNCKER

DECISIONS

COUNCIL IMPLEMENTING DECISION (EU) 2018/1918

of 4 December 2018

authorising the United Kingdom to apply a special measure derogating from Articles 16 and 168 of Directive 2006/112/EC on the common system of value added tax

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax ⁽¹⁾, and in particular Article 395(1) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) Council Decision 2006/659/EC ⁽²⁾ authorised the United Kingdom to apply a special simplification measure ('the measure') in order to determine on a flat-rate basis the proportion of non-deductible value added tax (VAT) relating to expenditure on fuel in business cars not exclusively used for business purposes. The system, which is optional for taxable persons, is based on the level of carbon dioxide (CO₂) emissions from the car, as there is a proportional correlation between emissions and fuel consumption and therefore with expenditure on fuel.
- (2) Decision 2006/659/EC was replaced by Council Implementing Decision (EU) 2015/2109 ⁽³⁾, which will expire on 31 December 2018.
- (3) By letter registered with the Commission on 27 April 2018, the United Kingdom requested authorisation to continue to apply the measure until 31 December 2020.
- (4) The Commission informed the other Member States of the request made by the United Kingdom in a letter dated 11 June 2018. By letter dated 12 June 2018, the Commission notified the United Kingdom that it had all the information necessary to consider the request.
- (5) As required by Article 4 of Implementing Decision (EU) 2015/2109, the United Kingdom submitted a report on the functioning of the special measure. According to the United Kingdom, the arrangement has led to a simplification, both for taxable persons and for the tax administration, of the procedure for collecting VAT in relation to expenditure on fuel for business cars.
- (6) It is therefore appropriate that the United Kingdom be authorised to apply the measure until 31 December 2020.
- (7) The derogating measure will have no adverse impact on the Union's own resources accruing from VAT,

HAS ADOPTED THIS DECISION:

Article 1

By way of derogation from Articles 16 and 168 of Directive 2006/112/EC, the United Kingdom is authorised from 1 January 2019 until 31 December 2020 to fix on a flat-rate basis the proportion of VAT relating to expenditure on fuel used for private purposes in business cars.

⁽¹⁾ OJ L 347, 11.12.2006, p. 1.

⁽²⁾ Council Decision 2006/659/EC of 25 September 2006 authorising the United Kingdom to introduce a special measure derogating from Articles 5(6) and 11(A)(1)(b) of Directive 77/388/EEC on the harmonisation of the laws of the Member States relating to turnover taxes (OJ L 272, 3.10.2006, p. 15).

⁽³⁾ Council Implementing Decision (EU) 2015/2109 of 17 November 2015 authorising the United Kingdom to apply a special measure derogating from Articles 26(1)(a), 168 and 168a of Directive 2006/112/EC on the common system of value added tax (OJ L 305, 21.11.2015, p. 49).

Article 2

The proportion of the tax referred to in Article 1 shall be expressed in fixed amounts, established on the basis of the CO₂ emission level of the type of vehicle, that reflect fuel consumption. The United Kingdom shall adjust those fixed amounts annually to reflect changes in the average cost of fuel.

Article 3

The system set up on the basis of this Decision shall be optional for taxable persons.

Article 4

This Decision is addressed to the United Kingdom of Great Britain and Northern Ireland.

Done at Brussels, 4 December 2018.

For the Council
The President
H. LÖGER

COUNCIL IMPLEMENTING DECISION (EU) 2018/1919**of 4 December 2018****amending Decision 2009/790/EC authorising the Republic of Poland to apply a measure derogating from Article 287 of Directive 2006/112/EC on the common system of value added tax**

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax ⁽¹⁾, and in particular Article 395(1) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) Point (14) of Article 287 of Directive 2006/112/EC authorises Poland to exempt from value added tax (VAT) taxable persons whose annual turnover is no higher than the equivalent in national currency of EUR 10 000 at the conversion rate on the day of its accession.
- (2) By virtue of Council Decision 2009/790/EC ⁽²⁾, Poland was authorised to exempt taxable persons whose annual turnover is no higher than the equivalent in national currency of EUR 30 000 at the conversion rate on the day of its accession from VAT, until 31 December 2012. The authorisation to apply that special measure was subsequently extended by Council Implementing Decision 2012/769/EU ⁽³⁾ until 31 December 2015 and by Council Implementing Decision (EU) 2015/1173 ⁽⁴⁾ until 31 December 2018. Council Implementing Decision (EU) 2016/2090 ⁽⁵⁾ increased the exemption threshold to the equivalent in national currency of EUR 40 000.
- (3) By letter registered with the Commission on 15 May 2018, Poland requested authorisation to continue to exempt taxable persons whose annual turnover is no higher than the equivalent in national currency of EUR 40 000 from VAT.
- (4) In accordance with the second subparagraph of Article 395(2) of Directive 2006/112/EC, the Commission transmitted the request of Poland to the other Member States by letter dated 20 July 2018, with the exception of Spain, to which the request was transmitted by letter of 23 July 2018. By letter dated 23 July 2018, the Commission notified Poland that it had all the information necessary for the appraisal of the request.
- (5) From the information provided by Poland it appears that the reasons for the derogation request remain largely unchanged. It simplifies the burden on business for a higher number of taxable persons who have a limited business activity. It also results in the reduction of the administrative burden on the tax administration by limiting the need to control small taxable persons, which is relatively costly in comparison with the amount of VAT at stake. That special measure is fully optional for taxable persons.
- (6) Given that the higher threshold has resulted in reduced VAT obligations for small businesses, whilst such businesses may still opt for the normal VAT arrangements in accordance with Article 290 of Directive 2006/112/EC, Poland should be authorised to apply the special measure for a further limited period until 31 December 2021.

⁽¹⁾ OJ L 347, 11.12.2006, p. 1.

⁽²⁾ Council Decision 2009/790/EC of 20 October 2009 authorising the Republic of Poland to apply a measure derogating from Article 287 of Directive 2006/112/EC on the common system of value added tax (OJ L 283, 30.10.2009, p. 53).

⁽³⁾ Council Implementing Decision 2012/769/EU of 4 December 2012 amending Decision 2009/790/EC authorising the Republic of Poland to apply a measure derogating from Article 287 of Directive 2006/112/EC on the common system of value added tax (OJ L 338, 12.12.2012, p. 27).

⁽⁴⁾ Council Implementing Decision (EU) 2015/1173 of 14 July 2015 amending Decision 2009/790/EC authorising the Republic of Poland to apply a measure derogating from Article 287 of Directive 2006/112/EC on the common system of value added tax (OJ L 189, 17.7.2015, p. 36).

⁽⁵⁾ Council Implementing Decision (EU) 2016/2090 of 21 November 2016 amending Decision 2009/790/EC authorising the Republic of Poland to apply a measure derogating from Article 287 of Directive 2006/112/EC on the common system of value added tax (OJ L 324, 30.11.2016, p. 7).

- (7) As Articles 281 to 294 of Directive 2006/112/EC governing the special scheme for small enterprises are subject to review, it is possible that a directive amending those Articles will be adopted and will set a date from which Member States are to apply national provisions before the period of validity of the derogation expires on 31 December 2021. In that case, this Decision should cease to apply.
- (8) The derogation has no impact on the Union's own resources accruing from VAT because Poland is to carry out a compensation calculation in accordance with Article 6 of Council Regulation (EEC, Euratom) No 1553/89 ⁽¹⁾.
- (9) Decision 2009/790/EC should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Article 2 of Decision 2009/790/EC is replaced by the following:

'Article 2

This Decision shall apply from 1 January 2010 until the earlier of the following two dates:

- (a) 31 December 2021;
- (b) the date from which Member States are to apply any national provisions that they are required to adopt in the event that a directive is adopted amending Articles 281 to 294 of Directive 2006/112/EC governing the special scheme for small enterprises.'

Article 2

This Decision shall take effect on the date of its notification.

It shall apply from 1 January 2019.

Article 3

This Decision is addressed to the Republic of Poland.

Done at Brussels, 4 December 2018.

For the Council

The President

H. LÖGER

⁽¹⁾ Council Regulation (EEC, Euratom) No 1553/89 of 29 May 1989 on the definitive uniform arrangements for the collection of own resources accruing from value added tax (OJ L 155, 7.6.1989, p. 9).

COUNCIL IMPLEMENTING DECISION (EU) 2018/1920**of 4 December 2018****amending Implementing Decision 2010/99/EU authorising the Republic of Lithuania to extend the application of a measure derogating from Article 193 of Directive 2006/112/EC on the common system of value added tax**

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax ⁽¹⁾, and in particular Article 395(1) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) On 15 May 2006 the Council, by means of Decision 2006/388/EC ⁽²⁾, authorised Lithuania to apply a measure derogating from Article 21 of Directive 77/388/EEC ⁽³⁾ to designate the taxable person to whom the supplies of goods or services are made in certain instances as the person liable to pay value added tax (VAT).
- (2) By means of Council Implementing Decision 2010/99/EU ⁽⁴⁾, Lithuania was, by way of derogation from Article 193 of Directive 2006/112/EC, authorised until 31 December 2012 to apply a special measure in order to continue to designate the taxable person to whom the following supplies of goods and services are made as the person liable for payment of VAT: supplies of goods and services by a taxable person while under an insolvency procedure or a restructuring procedure subject to judicial oversight and supplies of timber ('the special measure'). The authorisation to apply the special measure was subsequently extended by Council Implementing Decision 2012/704/EU ⁽⁵⁾ until 31 December 2015 and by Council Implementing Decision (EU) 2015/2395 ⁽⁶⁾ until 31 December 2018.
- (3) By letter registered with the Commission on 27 April 2018, Lithuania requested authorisation to continue to apply the special measure. By letter registered with the Commission on 23 July 2018, Lithuania submitted a report on the application of the special measure as required by the third paragraph of Article 2 of Implementing Decision 2010/99/EU.
- (4) In accordance with the second subparagraph of Article 395(2) of Directive 2006/112/EC, the Commission informed the other Member States of the request made by Lithuania by letters dated 16 August 2018, with the exception of Spain and Cyprus, which were informed by letters dated 17 August 2018. By letter dated 20 August 2018, the Commission notified Lithuania that it had all the information it considers necessary for appraisal of the request.
- (5) Taxable persons under insolvency procedures or restructuring procedures are often prevented from paying VAT invoiced on their supplies of goods and services by financial difficulties. Lithuania also faces problems in the timber market, because of the nature of the market and the businesses involved. The market is dominated by small local companies, often resellers and intermediaries, which the tax authorities have found difficult to control. The most common form of evasion involves the invoicing of supplies followed by the disappearance of the business without paying tax but leaving the customer in receipt of a valid invoice for tax deduction. According to

⁽¹⁾ OJ L 347, 11.12.2006, p. 1.

⁽²⁾ Council Decision 2006/388/EC of 15 May 2006 authorising the Republic of Lithuania to apply a measure derogating from Article 21 of the Sixth Directive 77/388/EEC on the harmonisation of the laws of the Member States relating to turnover taxes (OJ L 150, 3.6.2006, p. 13).

⁽³⁾ Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment (OJ L 145, 13.6.1977, p. 1).

⁽⁴⁾ Council Implementing Decision 2010/99/EU of 16 February 2010 authorising the Republic of Lithuania to extend the application of a measure derogating from Article 193 of Directive 2006/112/EC on the common system of value added tax (OJ L 45, 20.2.2010, p. 10).

⁽⁵⁾ Council Implementing Decision 2012/704/EU of 13 November 2012 amending Implementing Decision 2010/99/EU authorising the Republic of Lithuania to extend the application of a measure derogating from Article 193 of Directive 2006/112/EC on the common system of value added tax (OJ L 319, 16.11.2012, p. 7).

⁽⁶⁾ Council Implementing Decision (EU) 2015/2395 of 10 December 2015 amending Implementing Decision 2010/99/EU authorising the Republic of Lithuania to extend the application of a measure derogating from Article 193 of Directive 2006/112/EC on the common system of value added tax (OJ L 332, 18.12.2015, p. 140).

Lithuania, this situation, which has justified the application of the special measure, has not changed. The investigations and the analysis of the application of the special measure carried out by the Lithuanian tax authorities have revealed its effectiveness in preventing VAT fraud in respect of taxable persons under insolvency or restructuring procedures as well as of timber transactions.

- (6) Lithuania should therefore be authorised to apply the special measure for a further limited period until 31 December 2021.
- (7) Derogations are in general authorised for a limited period of time to allow an assessment of whether specific special measures are appropriate and effective. Derogations grant Member States time to introduce other conventional measures to tackle the problem in question until the expiry of specific special measures, thus making an extension of a derogation redundant. A derogation allowing for use to be made of the reverse charge mechanism is only authorised exceptionally for specific areas where fraud occurs and constitutes a means of last resort. Lithuania should therefore implement other conventional measures to fight and prevent the further spread of VAT fraud with regard to supplies of goods and services by taxable persons under insolvency or restructuring procedures and supplies of timber until the expiry of the special measure and consequently should no longer need to derogate from Article 193 of Directive 2006/112/EC with regard to such supplies.
- (8) The special measure will have no adverse impact on the Union's own resources accruing from VAT.
- (9) Implementing Decision 2010/99/EU should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

In Article 2 of Implementing Decision 2010/99/EU, the second paragraph is replaced by the following:

'It shall apply until 31 December 2021.'

Article 2

This Decision shall take effect on the date of its notification.

It shall apply from 1 January 2019.

Article 3

This Decision is addressed to the Republic of Lithuania.

Done at Brussels, 4 December 2018.

For the Council
The President
H. LÖGER

COUNCIL IMPLEMENTING DECISION (EU) 2018/1921**of 4 December 2018****amending Implementing Decision 2013/191/EU authorising Latvia to introduce a special measure derogating from point (a) of Article 26(1) and Articles 168 and 168a of Directive 2006/112/EC on the common system of value added tax**

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax ⁽¹⁾, and in particular Article 395(1) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) Council Implementing Decision 2013/191/EU ⁽²⁾ authorised Latvia to introduce a special measure derogating from point (a) of Article 26(1) and Articles 168 and 168a of Directive 2006/112/EC ('the special measure'). The authorisation to apply the special measure was subsequently amended and extended until 31 December 2018 by Council Implementing Decision (EU) 2015/2429 ⁽³⁾.
- (2) The special measure limits the right of deduction to 50 % of value added tax (VAT) on the purchase, leasing, intra-Community acquisition and importation of passenger cars with a maximum authorised weight not exceeding 3 500 kilograms and having not more than eight seats in addition to the driver's seat, and expenditure related to the maintenance, repair and fuel of such passenger cars.
- (3) By letter registered with the Commission on 20 June 2018, Latvia requested authorisation to continue to apply the special measure in order to restrict the right of deduction in relation to expenditure on certain passenger cars not wholly used for business purposes.
- (4) The Commission transmitted the request made by Latvia to other Member States by letter dated 7 September 2018. By letter dated 10 September 2018, the Commission notified Latvia that it had all the information necessary for the appraisal of the request.
- (5) As required by Article 6(2) of Implementing Decision (EU) 2015/2429, Latvia submitted a report including the review of the percentage set for the VAT deduction. Based on currently available information, Latvia claims that the limit of 50 % is still justifiable and remains appropriate.
- (6) The extension of the special measure should be limited in time to allow for a review of its necessity and effectiveness and of the appropriate percentage. Given the positive impact of the special measure on the administrative burden for taxpayers and tax authorities, Latvia should therefore be authorised to continue to apply the special measure for a limited period, until 31 December 2021.
- (7) If Latvia considers that a further extension of the special measure beyond 2021 is necessary, it should submit to the Commission a report that includes a review of the percentage applied, together with a request for an extension, by 31 March 2021.
- (8) The special measure will have only a negligible effect on the overall amount of tax revenue collected at the stage of final consumption and will have no adverse impact on the Union's own resources accruing from VAT.
- (9) Implementing Decision 2013/191/EU should therefore be amended accordingly,

⁽¹⁾ OJL 347, 11.12.2006, p. 1.

⁽²⁾ Council Implementing Decision 2013/191/EU of 22 April 2013 authorising Latvia to introduce a special measure derogating from point (a) of Article 26(1) and Articles 168 and 168a of Directive 2006/112/EC on the common system of value added tax (OJL 113, 25.4.2013, p. 11).

⁽³⁾ Council Implementing Decision (EU) 2015/2429 of 10 December 2015 authorising Latvia to introduce a special measure derogating from point (a) of Article 26(1) and Articles 168 and 168a of Directive 2006/112/EC on the common system of value added tax (OJL 334, 22.12.2015, p. 15).

HAS ADOPTED THIS DECISION:

Article 1

Article 6 of Implementing Decision 2013/191/EU is replaced by the following:

'Article 6

1. This Decision shall apply as from 1 January 2016 and shall expire on 31 December 2021.
2. Any request for the extension of the authorisation provided for in this Decision shall be submitted to the Commission by 31 March 2021 and shall be accompanied by a report which includes a review of the percentage set out in Article 1.'

Article 2

This Decision shall take effect on the date of its notification.

It shall apply as from 1 January 2019.

Article 3

This Decision is addressed to the Republic of Latvia.

Done at Brussels, 4 December 2018.

For the Council
The President
H. LÖGER

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