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⁽¹⁾ Text with EEA relevance

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⁽¹⁾ Text with EEA relevance

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I

(Legislative acts)

DIRECTIVES

DIRECTIVE (EU) 2015/2203 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**of 25 November 2015****on the approximation of the laws of the Member States relating to caseins and caseinates intended for human consumption and repealing Council Directive 83/417/EEC**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission,

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

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

Whereas:

- (1) Council Directive 83/417/EEC ⁽³⁾ provides for the approximation of the laws of the Member States relating to certain lactoproteins (caseins and caseinates) intended for human consumption. Since the entry into force of that Directive, several changes have taken place, in particular the development of a comprehensive legal framework in the area of food law and the adoption of an international standard for edible casein products by the Codex Alimentarius Commission ('Codex standard for edible casein products'), which need to be taken into account.
- (2) Directive 83/417/EEC confers powers on the Commission in order to implement some of its provisions. As a consequence of the entry into force of the Lisbon Treaty, those powers need to be aligned to Article 290 of the Treaty on the Functioning of the European Union ('TFEU').
- (3) For the sake of clarity, Directive 83/417/EEC should therefore be repealed and replaced with a new Directive.
- (4) Regulation (EC) No 178/2002 of the European Parliament and of the Council ⁽⁴⁾ contains general, horizontal and uniform Union rules concerning the adoption of emergency measures for food and feed. The related provisions of Directive 83/417/EEC are therefore no longer necessary.
- (5) Regulation (EC) No 882/2004 of the European Parliament and of the Council ⁽⁵⁾ contains general, horizontal and uniform Union rules concerning the methods of sampling and analysis of foodstuffs. The related provisions of Directive 83/417/EEC are therefore no longer necessary.

⁽¹⁾ OJ C 424, 26.11.2014, p. 72.

⁽²⁾ Position of the European Parliament of 7 October 2015 (not yet published in the Official Journal) and decision of the Council of 10 November 2015.

⁽³⁾ Council Directive 83/417/EEC of 25 July 1983 on the approximation of the laws of the Member States relating to certain lactoproteins (caseins and caseinates) intended for human consumption (OJ L 237, 26.8.1983, p. 25).

⁽⁴⁾ Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety (OJ L 31, 1.2.2002, p. 1).

⁽⁵⁾ Regulation (EC) No 882/2004 of the European Parliament and of the Council of 29 April 2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules (OJ L 165, 30.4.2004, p. 1).

- (6) Under Regulation (EU) No 1169/2011 of the European Parliament and of the Council ⁽¹⁾, sufficient information is to be provided in business to business relations in order to ensure the presence and accuracy of food information for the final consumer. Since the products covered by this Directive are meant to be sold from business to business, for the preparation of food products, it is appropriate to maintain and adapt the specific rules already included in Directive 83/417/EEC to the current legal framework and simplify them. Such specific rules should provide for the information to be provided for the products covered by this Directive, in business to business relations, in order, on the one hand, to make available to food business operators the information they need for the labelling of the final products, for example when it comes to allergens, and, on the other hand, to avoid those products being confused with similar products not meant or not suitable for human consumption.
- (7) Regulation (EC) No 1333/2008 of the European Parliament and of the Council ⁽²⁾ lays down a definition of food additives and processing aids referred to as technological adjuvants in Directive 83/417/EEC. Consequently, this Directive should use the terms 'food additives' and 'processing aids' instead of 'technological adjuvants'. Such use of terminology would also be in line with the Codex standard for edible casein products.
- (8) Other terms and references used in the Annexes to Directive 83/417/EEC should be adapted to take into account those used in Regulation (EC) No 1332/2008 of the European Parliament and of the Council ⁽³⁾ and Regulation (EC) No 1333/2008.
- (9) Annex I to Directive 83/417/EEC fixes the maximum moisture content for edible caseins at 10 % and the maximum milk fat content for edible acid casein at 2,25 %. Taking into consideration that the Codex standard for edible casein products fixes those parameters at 12 % and 2 % respectively, the corresponding parameters should be set in line with that standard so as to avoid trade distortions.
- (10) In order to promptly adapt or update the technical elements contained in the Annexes to this Directive so as to take account of developments in relevant international standards or technical progress, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of the standards applicable to edible caseins and edible caseinates laid down in Annexes I and II. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.
- (11) Since the objectives of this Directive, namely to facilitate, through approximation of the laws of the Member States, the free movement of caseins and caseinates intended for human consumption while providing a high level of protection of health, and to bring existing provisions into line with general Union legislation on food and with international standards, cannot be sufficiently achieved by the Member States but can rather, by reason of their scale and effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Scope

This Directive applies to caseins and caseinates which are intended for human consumption and mixtures thereof.

⁽¹⁾ Regulation (EU) No 1169/2011 of the European Parliament and of the Council of 25 October 2011 on the provision of food information to consumers, amending Regulations (EC) No 1924/2006 and (EC) No 1925/2006 of the European Parliament and of the Council, and repealing Commission Directive 87/250/EEC, Council Directive 90/496/EEC, Commission Directive 1999/10/EC, Directive 2000/13/EC of the European Parliament and of the Council, Commission Directives 2002/67/EC and 2008/5/EC and Commission Regulation (EC) No 608/2004 (OJ L 304, 22.11.2011, p. 18).

⁽²⁾ Regulation (EC) No 1333/2008 of the European Parliament and of the Council of 16 December 2008 on food additives (OJ L 354, 31.12.2008, p. 16).

⁽³⁾ Regulation (EC) No 1332/2008 of the European Parliament and of the Council of 16 December 2008 on food enzymes and amending Council Directive 83/417/EEC, Council Regulation (EC) No 1493/1999, Directive 2000/13/EC, Council Directive 2001/112/EC and Regulation (EC) No 258/97 (OJ L 354, 31.12.2008, p. 7).

*Article 2***Definitions**

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

- (a) 'edible acid casein' means a milk product obtained by separating, washing and drying the acid-precipitated coagulum of skimmed milk and/or of other products obtained from milk;
- (b) 'edible rennet casein' means a milk product obtained by separating, washing and drying the coagulum of skimmed milk and/or of other products obtained from milk; the coagulum is obtained through the reaction of rennet or other coagulating enzymes;
- (c) 'edible caseinate' means a milk product obtained by action of edible casein or edible casein curd coagulum with neutralizing agents, followed by drying.

*Article 3***Obligations of Member States**

Member States shall take all the necessary steps to ensure that:

- (a) the milk products defined in Article 2 are marketed, under the names specified therein, only if they comply with the rules laid down in this Directive and the standards set out in Annexes I and II; and
- (b) caseins and caseinates which do not comply with the standards set out in points (b) and (c) of Section I of Annex I, points (b) and (c) of Section II of Annex I or points (b) and (c) of Annex II, are not used for the preparation of food, and, where lawfully marketed for other purposes, are named and labelled in such a way that the purchaser is not misled as to their nature, quality or intended use.

*Article 4***Labelling**

1. The following particulars shall be marked on the packages, containers or labels of the milk products defined in Article 2 in easily visible, clearly legible and indelible characters:

- (a) the name of the milk product as laid down in points (a), (b) and (c) of Article 2 with, in the case of edible caseinates, an indication of the cation or cations as listed in point (d) of Annex II;
- (b) in the case of products marketed as mixtures:
 - (i) the words 'mixture of ...' followed by the names of the different products of which the mixture is composed, in decreasing order of weight,
 - (ii) an indication of the cation or cations, as listed in point (d) of Annex II, in the case of edible caseinates,
 - (iii) the protein content in the case of mixtures containing edible caseinates;
- (c) the net quantity of the products, expressed in kilograms or grams;
- (d) the name or business name and the address of the food business operator under whose name or business name the product is marketed or, if that food business operator is not established in the Union, the importer into the Union market;
- (e) in the case of products imported from third countries, the name of the country of origin;
- (f) the lot identification of the products or the date of production.

By way of derogation from the first subparagraph, the particulars referred to in point (iii) of point (b) and in points (c), (d) and (e) of the first subparagraph may be marked only in an accompanying document.

2. A Member State shall prohibit the marketing of milk products defined in points (a), (b) and (c) of Article 2 in its territory if the particulars referred to in the first subparagraph of paragraph 1 of this Article are not marked in a language easily understood by the purchasers of that Member State where those products are marketed, unless such information is provided by the food business operator by other means. Those particulars may be marked in several languages.

3. Where the minimum milk protein content set out in point (a)2 of Section I of Annex I, point (a)2 of Section II of Annex I, and point (a)2 of Annex II is exceeded in the milk products defined in Article 2, this fact may, without prejudice to other provisions of Union law, be adequately marked on the packages, containers or labels of the products.

Article 5

Delegation of power

The Commission shall be empowered to adopt delegated acts in accordance with Article 6 to amend the standards set out in Annexes I and II in order to take account of developments in relevant international standards and of technical progress.

Article 6

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article. It is of particular importance that the Commission follow its usual practice and carry out consultations with experts, including Member States' experts, before adopting the delegated acts referred to in Article 5.

2. The power to adopt delegated acts referred to in Article 5 shall be conferred on the Commission for a period of five years from 21 December 2015. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

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

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

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

Article 7

Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 22 December 2016. They shall immediately inform the Commission thereof.

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

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

*Article 8***Repeal**

Directive 83/417/EEC is repealed with effect from 22 December 2016.

References to the repealed Directive shall be construed as references to this Directive and shall be read in accordance with the correlation table in Annex III.

*Article 9***Entry into force**

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

*Article 10***Addresses**

This Directive is addressed to the Member States.

Done at Strasbourg, 25 November 2015.

For the European Parliament
The President
M. SCHULZ

For the Council
The President
N. SCHMIT

ANNEX I

EDIBLE CASEINS

I. STANDARDS APPLICABLE TO EDIBLE ACID CASEINS

(a) Essential factors of composition

1. Maximum moisture content	12 % by weight
2. Minimum milk protein content calculated on the dried extract	90 % by weight
of which minimum casein content	95 % by weight
3. Maximum milk fat content	2 % by weight
4. Maximum titratable acidity, expressed in ml of decinormal sodium hydroxide solution per g	0,27
5. Maximum ash content (P_2O_5 included)	2,5 % by weight
6. Maximum anhydrous lactose content	1 % by weight
7. Maximum sediment content (burnt particles)	22,5 mg in 25 g

(b) Contaminants

Maximum lead content	0,75 mg/kg
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(c) Impurities

Extraneous matter (such as wood or metal particles, hairs or insect fragments)	nil in 25 g
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(d) Processing aids, bacterial cultures and authorised ingredients

1. acids:

- lactic acid
- hydrochloric acid
- sulphuric acid
- citric acid
- acetic acid
- orthophosphoric acid

2. bacterial cultures producing lactic acid

3. Whey

(e) Organoleptic characteristics

1. *Odour*: No foreign odours.
2. *Appearance*: Colour ranging from white to creamy white; the product must not contain any lumps that would not break up under slight pressure.

II. STANDARDS APPLICABLE TO EDIBLE RENNET CASEINS

(a) Essential factors of composition

1. Maximum moisture content	12 % by weight
2. Minimum milk protein content calculated on the dried extract	84 % by weight
of which minimum casein content	95 % by weight
3. Maximum milk fat content	2 % by weight
4. Minimum ash content (P_2O_5 included)	7,5 % by weight
5. Maximum anhydrous lactose content	1 % by weight
6. Maximum sediment content (burnt particles)	15 mg in 25 g

(b) Contaminants

Maximum lead content	0,75 mg/kg
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(c) Impurities

Extraneous matter (such as wood or metal particles, hairs or insect fragments)	nil in 25 g
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(d) Processing aids

- rennet meeting the requirements of Regulation (EC) No 1332/2008;
- other milk-coagulating enzymes meeting the requirements of Regulation (EC) No 1332/2008.

(e) Organoleptic characteristics

1. *Odour*: No foreign odours.
 2. *Appearance*: Colour ranging from white to creamy white; the product must not contain any lumps that would not break up under slight pressure.
-

ANNEX II

EDIBLE CASEINATES

STANDARDS APPLICABLE TO EDIBLE CASEINATES

(a) Essential factors of composition

1. Maximum moisture content	8 % by weight
2. Minimum milk protein content calculated on the dried extract	88 % by weight
of which minimum casein content	95 % by weight
3. Maximum milk fat content	2 % by weight
4. Maximum anhydrous lactose content	1 % by weight
5. pH value	6,0 to 8,0
6. Maximum sediment content (burnt particles)	22,5 mg in 25 g

(b) Contaminants

Maximum lead content	0,75 mg/kg
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(c) Impurities

Extraneous matter (such as wood or metal particles, hairs or insect fragments)	nil in 25 g
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(d) Food additives

(optional neutralizing and buffering agents)

hydroxydes	} of	sodium
carbonates		potassium
phosphates		calcium
citrates		ammonium
		magnesium

(e) Characteristics

1. *Odour*: Very slight foreign flavours and odours.
2. *Appearance*: Colour ranging from white to creamy white; the product must not contain any lumps that would not break up under slight pressure.
3. *Solubility*: Almost entirely soluble in distilled water, except for calcium caseinate.

ANNEX III

CORRELATION TABLE

Council Directive 83/417/EEC	This Directive
Article 1	Articles 1 and 2
Article 2	Article 3
Article 3	Article 3
Article 4(1)	Article 4(1) first subparagraph
Article 4(2), first subparagraph	Article 4(2)
Article 4(2), second subparagraph	Article 4(1) second subparagraph
Article 5	—
Article 6(1)	—
Article 6(2)	—
Article 7	—
Article 8	—
Article 9	—
Article 10	—
Article 11	—
—	Article 5
—	Article 6
Article 12	Article 7
—	Article 8
—	Article 9
Article 13	Article 10
Annex I, section I	Article 2, points (a) and (b)
Annex I, section II	Annex I, section I
Annex I, section III	Annex I, section II
Annex II, section I	Article 2, point (c)
Annex II, section II	Annex II
—	Annex III

II

(Non-legislative acts)

REGULATIONS

COUNCIL IMPLEMENTING REGULATION (EU) 2015/2204**of 30 November 2015****implementing Regulation (EU) No 267/2012 concerning restrictive measures against Iran**

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to Council Regulation (EU) No 267/2012 of 23 March 2012 concerning restrictive measures against Iran and repealing Regulation (EU) No 961/2010 ⁽¹⁾, and in particular Article 46(2) thereof,

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

Whereas:

- (1) On 23 March 2012, the Council adopted Regulation (EU) No 267/2012 concerning restrictive measures against Iran.
- (2) By its judgment of 18 September 2015 in Case T-121/13, the General Court of the European Union annulled the Council's decision to include Oil Industry Pension Fund Investment Company (OPIC) on the list of persons and entities subject to restrictive measures set out in Annex IX to Regulation (EU) No 267/2012.
- (3) OPIC should be included again on the list of persons and entities subject to restrictive measures, on the basis of a new statement of reasons.
- (4) Regulation (EU) No 267/2012 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Annex IX to Regulation (EU) No 267/2012 is amended as set out in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on 1 December 2015.

⁽¹⁾ OJ L 88, 24.3.2012, p. 1.

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

Done at Brussels, 30 November 2015.

For the Council

The President

J. ASSELBORN

ANNEX

The entity listed below is inserted in the list set out in Part I of Annex IX to Regulation (EU) No 267/2012:

I. Persons and entities involved in nuclear or ballistic missile activities and persons and entities providing support to the Government of Iran

B. Entities

	Name	Identifying information	Reasons	Date of listing
'159.	Oil industry Pension Fund Investment Company (OPIC)	No 234, Taleghani St, Tehran, Iran	OPIC provides significant support to the Government of Iran by providing financial resources and financing services for oil and gas development projects to a variety of entities linked to the Government of Iran, including subsidiaries of state owned companies (NIOC). Also, OPIC has owned IOEC (Iranian Offshore Engineering Construction Co.) which is EU designated for providing logistical support to the Government of Iran. The oil and gas sector constitutes a significant source of funding for the Government of Iran, and there is a potential connection between Iran's oil revenue derived from its energy sector and the funding of Iran's proliferation sensitive activities. The Managing Director of OPIC is Naser Maleki, who is a United Nations designated individual on the grounds of being Head of the Shahid Hemat Industrial Group (SHIG) and also a MODAFL (Iranian Ministry of Defence and Armed Forces Logistics) official overseeing the work on the Shahab 3 ballistic missile programme (Iran's long range ballistic missile currently in service). SHIG is a United Nations designated entity on the grounds that it is a subordinate entity of Aerospace Industries Organisation (AIO, which is an EU-designated entity) and involved in Iran's ballistic missile programme. Accordingly, OPIC is directly associated with Iran's proliferation-sensitive nuclear activities or the development of nuclear weapons delivery systems.	1.12.2015'

COMMISSION DELEGATED REGULATION (EU) 2015/2205**of 6 August 2015****supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on the clearing obligation****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories ⁽¹⁾, and in particular Article 5(2) thereof,

Whereas:

- (1) The European Securities and Markets Authority (ESMA) has been notified of the classes of interest rate over-the-counter (OTC) derivatives that certain central counterparties (CCPs) have been authorised to clear. For each of those classes ESMA has assessed the criteria that are essential for subjecting them to the clearing obligation, including the level of standardisation, the volume and liquidity, and the availability of pricing information. With the overarching objective of reducing systemic risk, ESMA has determined the classes of interest rate OTC derivatives that should be subject to the clearing obligation in accordance with the procedure set out in Regulation (EU) No 648/2012.
- (2) Interest rate OTC derivative contracts can have a constant notional amount, a variable notional amount or a conditional notional amount. Contracts with a constant notional amount have a notional amount which does not vary over the life of the contract. Contracts with a variable notional amount have a notional amount that varies over the life of the contract in a predictable way. Contracts with a conditional notional amount have a notional amount which varies over the life of the contract in an unpredictable way. Conditional notional amounts add complexity to the pricing and risk management associated with interest rate OTC derivative contracts and thus to the ability of CCPs to clear them. This feature should be taken into account when defining the classes of interest rate OTC derivatives to be subject to the clearing obligation.
- (3) In determining which classes of OTC derivative contracts should be subject to the clearing obligation, the specific nature of OTC derivative contracts which are concluded with covered bond issuers or with cover pools for covered bonds should be taken into account. In this respect, the classes of interest rate OTC derivatives subject to the clearing obligation under this Regulation should not encompass contracts concluded with covered bond issuers or cover pools for covered bonds, provided they meet certain conditions.
- (4) Different counterparties need different periods of time for putting in place the necessary arrangements to clear the interest rate OTC derivatives subject to the clearing obligation. In order to ensure an orderly and timely implementation of that obligation, counterparties should be classified into categories in which sufficiently similar counterparties become subject to the clearing obligation from the same date.
- (5) A first category should include both financial and non-financial counterparties which, on the date of entry into force of this Regulation, are clearing members of at least one of the relevant CCPs and for at least one of the classes of interest rate OTC derivatives subject to the clearing obligation, as those counterparties already have experience with voluntary clearing and have already established the connections with those CCPs to clear at least one of those classes. Non-financial counterparties that are clearing members should also be included in this first

⁽¹⁾ OJ L 201, 27.7.2012, p. 1.

category as their experience and preparation towards central clearing is comparable with that of financial counterparties included in it.

- (6) A second and third category should comprise financial counterparties not included in the first category, grouped according to their levels of legal and operational capacity regarding OTC derivatives. The level of activity in OTC derivatives should serve as a basis to differentiate the degree of legal and operational capacity of financial counterparties, and a quantitative threshold should therefore be defined for division between the second and third categories on the basis of the aggregate month-end average notional amount of non-centrally cleared derivatives. That threshold should be set out at an appropriate level to differentiate smaller market participants, while still capturing a significant level of risk under the second category. The threshold should also be aligned with the threshold agreed at international level related to margin requirements for non-centrally cleared derivatives in order to enhance regulatory convergence and limit the compliance costs for counterparties. As in those international standards, whereas the threshold applies generally at group level given the potential shared risks within the group, for investment funds the threshold should be applied separately to each fund since the liabilities of a fund are not usually affected by the liabilities of other funds or their investment manager. Thus, the threshold should be applied separately to each fund as long as, in the event of fund insolvency or bankruptcy, each investment fund constitutes a completely segregated and ring-fenced pool of assets that is not collateralised, guaranteed or supported by other investment funds or the investment manager itself.
- (7) Certain alternative investment funds ('AIFs') are not captured by the definition of financial counterparties under Regulation (EU) No 648/2012 although they have a degree of operational capacity regarding OTC derivative contracts similar to that of AIFs captured by that definition. Therefore AIFs classified as non-financial counterparties should be included in the same categories of counterparties as AIFs classified as financial counterparties.
- (8) A fourth category should include non-financial counterparties not included in the other categories, given their more limited experience and operational capacity with OTC derivatives and central clearing than the other categories of counterparties.
- (9) The date on which the clearing obligation takes effect for counterparties in the first category should take into account the fact that they may not have the necessary pre-existing connections with CCPs for all the classes subject to the clearing obligation. In addition, counterparties in this category constitute the access point to clearing for counterparties that are not clearing members, client clearing and indirect client clearing being expected to increase substantially as a consequence of the entry into force of the clearing obligation. Finally, this first category of counterparties account for a significant portion of the volume of interest rate OTC derivatives already cleared, and the volume of transactions to be cleared will significantly increase after the date on which the clearing obligation set out in this Regulation will take effect. Therefore, a reasonable timeframe for counterparties in the first category to prepare for clearing additional classes, to deal with the increase of client clearing and indirect client clearing and to adapt to increasing volumes of transactions to be cleared should be set at six months.
- (10) The date on which the clearing obligation takes effect for counterparties in the second and third categories should take into account the fact that most of them will get access to a CCP by becoming a client or an indirect client of a clearing member. This process may require between 12 and 18 months depending on the legal and operational capacity of counterparties and their level of preparation regarding the establishment of the arrangements with clearing members that are necessary for clearing the contracts.
- (11) The date on which the clearing obligation takes effect for counterparties in the fourth category should take into account their legal and operational capacity, and their more limited experience with OTC derivatives and central clearing than other categories of counterparties.
- (12) For OTC derivative contracts concluded between a counterparty established in a third country and another counterparty established in the Union belonging to the same group and which are included in the same consolidation on a full basis and are subject to an appropriate centralised risk evaluation, measurement and control procedures, a deferred date of application of the clearing obligation should be provided. The deferred application

should ensure that those contracts are not subject to the clearing obligation for a limited period of time in the absence of implementing acts pursuant to Article 13(2) of Regulation (EU) No 648/2012 covering the OTC derivative contracts set out in the Annex to this Regulation and regarding the jurisdiction where the non-Union counterparty is established. Competent authorities should be able to verify in advance that the counterparties concluding those contracts belong to the same group and fulfil the other conditions of intragroup transactions pursuant to Regulation (EU) No 648/2012.

- (13) Unlike OTC derivatives whose counterparties are non-financial counterparties, where counterparties to OTC derivative contracts are financial counterparties, Regulation (EU) No 648/2012 requires the application of the clearing obligation to contracts concluded after the notification to ESMA that follows the authorisation of a CCP to clear a certain class of OTC derivatives, but before the date on which the clearing obligation takes effect, provided the remaining maturity of such contracts at the date on which the obligation takes effect justifies it. The application of the clearing obligation to those contracts should pursue the objective of ensuring the uniform and coherent application of Regulation (EU) No 648/2012. It should serve to seek financial stability and the reduction of systemic risk, as well as ensuring a level playing field for market participants when a class of OTC derivative contracts is declared subject to the clearing obligation. The minimum remaining maturity should therefore be set at a level that ensures the achievement of those objectives.
- (14) Before regulatory technical standards adopted pursuant to Article 5(2) of Regulation (EU) No 648/2012 enter into force, counterparties cannot foresee whether the OTC derivative contracts they conclude would be subject to the clearing obligation on the date that obligation takes effect. This uncertainty has a significant impact on the capacity of market participants to accurately price the OTC derivative contracts they enter into since centrally cleared contracts are subject to a different collateral regime than non-centrally cleared contracts. Imposing forward-clearing to OTC derivative contracts concluded before the entry into force of this Regulation, irrespective of their remaining maturity on the date on which the clearing obligation takes effect, could limit counterparties' ability to hedge their market risks adequately and either impact the functioning of the market and financial stability, or prevent them from exercising their usual activities by hedging them by other appropriate means.
- (15) Moreover, OTC derivative contracts concluded after this Regulation enters into force and before the clearing obligation takes effect should not be subject to the clearing obligation until counterparties to those contracts can determine the category they are comprised in, whether they are subject to the clearing obligation for a particular contract, including their intragroup transactions, and before they can implement the necessary arrangements to conclude those contracts taking into account the clearing obligation. Therefore, in order to preserve the orderly functioning and the stability of the market, as well as a level playing field between counterparties, it is appropriate to consider that those contracts should not be subject to the clearing obligation, irrespective of their remaining maturities.
- (16) OTC derivative contracts concluded after the notification to ESMA that follows the authorisation of a CCP to clear a certain class of OTC derivatives, but before the date on which the clearing obligation takes effect should not be subject to the clearing obligation when they are not significantly relevant for systemic risk, or when subjecting those contracts to the clearing obligation could otherwise jeopardise the uniform and coherent application of Regulation (EU) No 648/2012. Counterparty credit risk associated to interest rate OTC derivative contracts with longer maturities remains in the market for a longer period than that associated to interest rate OTC derivatives with low remaining maturities. Imposing the clearing obligation on contracts with short remaining maturities would imply a burden on counterparties disproportionate to the level of risk mitigated. In addition, interest rate OTC derivatives with low remaining maturities represent a relatively small portion of the total market and thus a relatively small portion of the total systemic risk associated to this market. The minimum remaining maturities should therefore be set at a level ensuring that contracts with remaining maturities of no more than a few months are not subject to the clearing obligation.
- (17) Counterparties in the third category bear a relatively limited share of overall systemic risk and have a lower degree of legal and operational capacity regarding OTC derivatives than counterparties in the first and second categories. Essential elements of the OTC derivative contracts, including the pricing of interest rate OTC derivatives subject to the clearing obligation and concluded before that obligation takes effect, will have to be adapted within short timeframes in order to incorporate the clearing that will only take place several months

after the contract is concluded. This process of forward-clearing involves important adaptations to the pricing model and amendments to the documentation of those OTC derivatives contracts. Counterparties in the third category have a very limited ability to incorporate forward-clearing in their OTC derivative contracts. Thus, imposing the clearing of OTC derivative contracts concluded before the clearing obligation takes effect for those counterparties could limit their ability to hedge their risks adequately and either impact the functioning and the stability of the market or prevent them from exercising their usual activities if they cannot continue to hedge. Therefore, OTC derivative contracts concluded by counterparties in the third category before the date on which the clearing obligation takes effect should not be subject to the clearing obligation.

- (18) In addition, OTC derivative contracts concluded between counterparties belonging to the same group can be exempted from clearing, provided certain conditions are met, in order to avoid limiting the efficiency of intragroup-risk management processes and therefore, undermine the achievement of the overarching goal of Regulation (EU) No 648/2012. Therefore, intragroup transactions which fulfil certain conditions and which are concluded before the date on which the clearing obligation takes effect for those transactions should not be subject to the clearing obligation.
- (19) This Regulation is based on draft regulatory technical standards submitted by ESMA to the Commission.
- (20) The Commission informed ESMA of its intention to endorse with amendments the draft regulatory technical standards proposed by ESMA, in accordance with the procedure set out in the fifth and sixth subparagraphs of Article 10(1) of Regulation (EU) No 1095/2010 of the European Parliament and of the Council ⁽¹⁾. ESMA adopted a formal opinion as to those amendments which it submitted to the Commission.
- (21) ESMA has conducted open public consultations on the draft regulatory technical standards on which this Regulation is based, analysed the potential related costs and benefits, requested the opinion of the Security and Markets Stakeholder Group established by Article 37 of Regulation (EU) No 1095/2010, and consulted the European Systemic Risk Board,

HAS ADOPTED THIS REGULATION:

Article 1

Classes of OTC derivatives subject to the clearing obligation

1. The classes of over-the-counter (OTC) derivatives set out in the Annex shall be subject to the clearing obligation.
2. The classes of OTC derivatives set out in the Annex shall not include contracts concluded with covered bond issuers or with cover pools for covered bonds, provided those contracts satisfy all of the following conditions:
 - (a) they are used only to hedge the interest rate or currency mismatches of the cover pool in relation with the covered bond;
 - (b) they are registered or recorded in the cover pool of the covered bond in accordance with national covered bond legislation;
 - (c) they are not terminated in case of resolution or insolvency of the covered bond issuer or the cover pool;

⁽¹⁾ Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84).

- (d) the counterparty to the OTC derivative concluded with covered bond issuers or with cover pools for covered bonds ranks at least *pari passu* with the covered bond holders except where the counterparty to the OTC derivative concluded with covered bond issuers or with cover pools for covered bonds is the defaulting or the affected party, or waives the *pari passu* rank;
- (e) the covered bond meets the requirements of Article 129 of Regulation (EU) No 575/2013 of the European Parliament and of the Council ⁽¹⁾ and is subject to a regulatory collateralisation requirement of at least 102 %.

Article 2

1. For the purposes of Articles 3 and 4, the counterparties subject to the clearing obligation shall be divided in the following categories:

- (a) Category 1, comprising counterparties which, on the date of entry into force of this Regulation, are clearing members, within the meaning of Article 2(14) of Regulation (EU) No 648/2012, for at least one of the classes of OTC derivatives set out in the Annex to this Regulation, of at least one of the CCPs authorised or recognised before that date to clear at least one of those classes;
- (b) Category 2, comprising counterparties not belonging to Category 1 which belong to a group whose aggregate month-end average of outstanding gross notional amount of non-centrally cleared derivatives for January, February and March 2016 is above EUR 8 billion and which are any of the following:
 - (i) financial counterparties;
 - (ii) alternative investment funds as defined in Article 4(1)(a) of Directive 2011/61/EU of the European Parliament and of the Council ⁽²⁾ that are non-financial counterparties;
- (c) Category 3, comprising counterparties not belonging to Category 1 or Category 2 which are any of the following:
 - (i) financial counterparties;
 - (ii) alternative investment funds as defined in Article 4(1)(a) of Directive 2011/61/EU that are non-financial counterparties;
- (d) Category 4, comprising non-financial counterparties that do not belong to Category 1, Category 2 or Category 3.

2. For the purposes of calculating the group aggregate month-end average of outstanding gross notional amount referred to in point (b) of paragraph 1, all of the group's non-centrally cleared derivatives, including foreign exchange forwards, swaps and currency swaps, shall be included.

3. Where counterparties are alternative investment funds as defined in Article 4(1)(a) of Directive 2011/61/EU or undertakings for collective investment in transferable securities as defined in Article 1(2) of Directive 2009/65/EC of the European Parliament and of the Council ⁽³⁾, the EUR 8 billion threshold referred to in point (b) of paragraph 1 of this Article shall apply individually at fund level.

Article 3

Dates from which the clearing obligation takes effect

1. In respect of contracts pertaining to a class of OTC derivatives set out in the Annex, the clearing obligation shall take effect on:

- (a) 21 June 2016 for counterparties in Category 1;
- (b) 21 December 2016 for counterparties in Category 2;

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

⁽²⁾ Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010 (OJ L 174, 1.7.2011, p. 1).

⁽³⁾ Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (OJ L 302, 17.11.2009, p. 32).

- (c) 21 June 2017 for counterparties in Category 3;
- (d) 21 December 2018 for counterparties in Category 4.

Where a contract is concluded between two counterparties included in different categories of counterparties, the date from which the clearing obligation takes effect for that contract shall be the later date.

2. By way of derogation from points (a), (b) and (c) of paragraph 1, in respect of contracts pertaining to a class of OTC derivatives set out in the Annex and concluded between counterparties other than counterparties in Category 4 which are part of the same group and where one counterparty is established in a third country and the other counterparty is established in the Union, the clearing obligation shall take effect on:

- (a) 21 December 2018 in case no equivalence decision has been adopted pursuant to Article 13(2) of Regulation (EU) No 648/2012 for the purposes of Article 4 of that Regulation covering the OTC derivative contracts referred to the Annex to this Regulation in respect of the relevant third country; or
- (b) the later of the following dates in case an equivalence decision has been adopted pursuant to Article 13(2) of Regulation (EU) No 648/2012 for the purposes of Article 4 of that Regulation covering the OTC derivative contracts referred to in the Annex to this Regulation in respect of the relevant third country:
 - (i) 60 days after the date of entry into force of the decision adopted pursuant to Article 13(2) of Regulation (EU) No 648/2012 for the purposes of Article 4 of that Regulation covering the OTC derivative contracts referred to in the Annex to this Regulation in respect of the relevant third country;
 - (ii) the date when the clearing obligation takes effect pursuant to paragraph 1.

This derogation shall only apply where the counterparties fulfil the following conditions:

- (a) the counterparty established in a third country is either a financial counterparty or a non-financial counterparty;
- (b) the counterparty established in the Union is:
 - (i) a financial counterparty, a non-financial counterparty, a financial holding company, a financial institution or an ancillary services undertaking subject to appropriate prudential requirements and the counterparty referred to in point (a) is a financial counterparty; or
 - (ii) either a financial counterparty or a non-financial counterparty and the counterparty referred to in point (a) is a non-financial counterparty;
- (c) both counterparties are included in the same consolidation on a full basis in accordance to Article 3(3) of Regulation (EU) No 648/2012;
- (d) both counterparties are subject to appropriate centralised risk evaluation, measurement and control procedures;
- (e) the counterparty established in the Union has notified its competent authority in writing that the conditions laid down in points (a), (b), (c) and (d) are met and, within 30 calendar days after receipt of the notification, the competent authority has confirmed that those conditions are met.

Article 4

Minimum remaining maturity

1. For financial counterparties in Category 1, the minimum remaining maturity referred to in point (ii) of Article 4(1)(b) of Regulation (EU) No 648/2012, at the date the clearing obligation takes effect, shall be:
 - (a) 50 years for contracts entered into or novated before 21 February 2016 that belong to the classes in Table 1 or Table 2 set out in the Annex;
 - (b) 3 years for contracts entered into or novated before 21 February 2016 that belong to the classes of Table 3 or Table 4 of the Annex;
 - (c) 6 months for contracts entered into or novated on or after 21 February 2016 that belong to the classes of Table 1 to Table 4 of the Annex.

2. For financial counterparties in Category 2, the minimum remaining maturity referred to in point (ii) of Article 4(1)(b) of Regulation (EU) No 648/2012, at the date the clearing obligation takes effect, shall be:

- (a) 50 years for contracts entered into or novated before 21 May 2016 that belong to the classes in Table 1 or Table 2 set out in the Annex;
- (b) 3 years for contracts entered into or novated before 21 May 2016 that belong to the classes of Table 3 or Table 4 of the Annex;
- (c) 6 months for contracts entered into or novated on or after 21 May 2016 that belong to the classes of Table 1 to Table 4 of the Annex.

3. For financial counterparties in Category 3 and for transactions referred to in Article 3(2) of this Regulation concluded between financial counterparties, the minimum remaining maturity referred to in point (ii) of Article 4(1)(b) of Regulation (EU) No 648/2012, at the date the clearing obligation takes effect, shall be:

- (a) 50 years for contracts that belong to the classes of Table 1 or Table 2 of the Annex;
- (b) 3 years for contracts that belong to the classes of Table 3 or Table 4 of the Annex.

4. Where a contract is concluded between two financial counterparties belonging to different categories or between two financial counterparties involved in transactions referred to in Article 3(2), the minimum remaining maturity to be taken into account for the purposes of this Article shall be the longer remaining maturity applicable.

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 August 2015.

For the Commission
The President
Jean-Claude JUNKER

ANNEX

Interest rate OTC derivatives classes subject to the clearing obligation

Table 1

Basis swaps classes

id	Type	Reference Index	Settlement Currency	Maturity	Settlement Currency Type	Optionality	Notional Type
A.1.1	Basis	Euribor	EUR	28D-50Y	Single currency	No	Constant or variable
A.1.2	Basis	LIBOR	GBP	28D-50Y	Single currency	No	Constant or variable
A.1.3	Basis	LIBOR	JPY	28D-30Y	Single currency	No	Constant or variable
A.1.4	Basis	LIBOR	USD	28D-50Y	Single currency	No	Constant or variable

Table 2

Fixed-to-float interest rate swaps classes

id	Type	Reference Index	Settlement Currency	Maturity	Settlement Currency Type	Optionality	Notional Type
A.2.1	Fixed-to-float	Euribor	EUR	28D-50Y	Single currency	No	Constant or variable
A.2.2	Fixed-to-float	LIBOR	GBP	28D-50Y	Single currency	No	Constant or variable
A.2.3	Fixed-to-float	LIBOR	JPY	28D-30Y	Single currency	No	Constant or variable
A.2.4	Fixed-to-float	LIBOR	USD	28D-50Y	Single currency	No	Constant or variable

Table 3

Forward rate agreement classes

id	Type	Reference Index	Settlement Currency	Maturity	Settlement Currency Type	Optionality	Notional Type
A.3.1	FRA	Euribor	EUR	3D-3Y	Single currency	No	Constant or variable
A.3.2	FRA	LIBOR	GBP	3D-3Y	Single currency	No	Constant or variable
A.3.3	FRA	LIBOR	USD	3D-3Y	Single currency	No	Constant or variable

Table 4

Overnight index swaps classes

id	Type	Reference Index	Settlement Currency	Maturity	Settlement Currency Type	Optionality	Notional Type
A.4.1	OIS	EONIA	EUR	7D-3Y	Single currency	No	Constant or variable
A.4.2	OIS	FedFunds	USD	7D-3Y	Single currency	No	Constant or variable
A.4.3	OIS	SONIA	GBP	7D-3Y	Single currency	No	Constant or variable

COMMISSION IMPLEMENTING REGULATION (EU) 2015/2206
of 30 November 2015
amending Regulation (EC) No 1238/95 as regards the fees payable to the Community Plant Variety Office

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 2100/94 of 27 July 1994 on Community Plant Variety Rights ⁽¹⁾ ('the Basic Regulation'), and in particular Article 113 thereof,

After consulting the Administrative Council of the Community Plant Variety Office,

Whereas:

- (1) Article 3(2) of Commission Regulation (EC) No 1238/95 ⁽²⁾ provides that the President of the Community Plant Variety Office (the Office) may allow alternative forms of payment of fees and surcharges, including by the delivery or remittance of certified cheques. However, it is considered too burdensome to holders to require certified cheques as a means of payment. Moreover, it is necessary to ensure payments via electronic means.
- (2) Article 5(1) of Regulation (EC) No 1238/95 requires a person making a payment of fees or surcharges to indicate his name and the purpose of such payment. Taking into account that a payment may arrive to the Office for which it may be impossible to establish the identity of the person making the payment and to refund to this person, it would be appropriate that this money is retained by the Office as other revenue.
- (3) Article 7 of Regulation (EC) No 1238/95 sets out provisions concerning the level of the application fee payable to the Office for the processing of applications for grant of a Community plant variety right. In order to provide an effective, efficient and expeditious examination of applications, it is important to encourage the filing of applications by electronic means via web form. For this reason, it would be appropriate to reduce the fee paid for processing of the application in case of filing and submission of an application by electronic means.
- (4) The wording in Article 7(2) of Regulation (EC) No 1238/95 with regard to designation and entrustments of sub-offices and national agencies needs to be aligned with the Basic Regulation.
- (5) Article 7(7) of Regulation (EC) No 1238/95 regulates the refund of application fees for the applications which are not valid under Article 50 of the Basic Regulation. Based on the experience gained by the Office concerning the cost linked with the processing of applications for grant of Community plant variety rights which are not valid, it is appropriate to reduce the amount of the application fee retained by the Office.
- (6) Article 8 of Regulation (EC) No 1238/95 concerns fees for the technical examination of a variety. In case of an examination report on the result of a technical examination which has already been carried out by an entrusted Examination Office prior to the date of application for Community Plant Variety Right referred to in Article 8(5), it is appropriate to specify that the fee should be determined by the President of the Office after consultation of the Administrative Council of the Office.
- (7) Article 12(1)(c) of Regulation (EC) No 1238/95 provides that the President of the Office is to fix the fees in respect of the Official Gazette of the Office. The periodical publication of the Official Gazette of the Office is only published in electronic version and no longer in print and it reflects the content of the databases of the Office. Such a publication does not require any additional particular and thus a specific fee should be abolished.

⁽¹⁾ OJ L 227, 1.9.1994, p. 1.

⁽²⁾ Commission Regulation (EC) No 1238/95 of 31 May 1995 establishing implementing rules for the application of Council Regulation (EC) No 2100/94 as regards the fees payable to the Community Plant Variety Office (OJ L 121, 1.6.1995, p. 31).

- (8) Article 13 of Regulation (EC) No 1238/95 concerns surcharges. Experience has shown that additional work of the Office, referred to in Article 13(1) and (2)(b), on variety denominations, due to their initial non-compliance to requirements laid down or on amendments in the event of prior conflicting right of a third party, is habitual and does not require increased resources. Therefore, any surcharges for that additional work are not justified.
- (9) Article 13(2)(a) provides that the Office may levy a surcharge to the annual fee if the holder has failed to pay the annual fee. In such cases the Office may initiate a procedure for cancellation of the protection. Experience has shown that the Office does not levy a surcharge for the failure to pay the annual fee and therefore this provision should be deleted.
- (10) Articles 93(3) and 94 of Commission Regulation (EC) No 1239/95 ⁽¹⁾ have not been taken over by Commission Regulation (EC) No 874/2009 ⁽²⁾. Therefore, paragraphs (3) and (4) of Article 14 of Regulation (EC) No 1238/95 which refer to those provisions should be deleted.
- (11) Regulation (EC) No 1238/95 should therefore be amended accordingly.
- (12) It would be appropriate that the proposed amendments apply as from 1 January 2016, to align with the beginning of the new financial year for the budget of the Office.
- (13) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Community Plant Variety Rights,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1238/95 is amended as follows:

(a) In Article 3, paragraph 2 is amended as follows:

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

‘(a) delivery or remittance of cheques which are made payable in euros to the Office’;

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

‘(d) payment via electronic means, either by payment card or direct debit.’

(b) In Article 5, the following paragraph 3 is added:

‘3. If after enquiry with the bank concerned, the identity of the person making the payment cannot be confirmed and the amount cannot be refunded to any particular person, the amount shall be considered as other revenues within the deadlines outlined in the internal financial provisions of the Office referred to in Article 112 of the Basic Regulation and adopted by the Administrative Council of the Office.’

(c) Article 7 is amended as follows:

(i) Paragraphs 1 and 2 are replaced by the following:

‘1. The applicant for a Community Plant Variety Right (the applicant) shall pay a fee of EUR 450 for the processing of an application filed and submitted via a web form by electronic means, made through the Office’s online application system.

⁽¹⁾ Commission Regulation (EC) No 1239/95 of 31 May 1995 establishing implementing rules for the application of Council Regulation (EC) No 2100/94 as regards proceedings before the Community Plant Variety Office (OJ L 121, 1.6.1995, p. 37).

⁽²⁾ Commission Regulation (EC) No 874/2009 of 17 September 2009 establishing implementing rules for the application of Council Regulation (EC) No 2100/94 as regards proceedings before the Community Plant Variety Office (OJ L 251, 24.9.2009, p. 3).

The applicant shall pay a fee of EUR 650 for the processing of an application submitted by means other than through the Office's online application system.

2. The applicant shall take the necessary steps for payment of the application fee, in accordance with Article 3 of this Regulation, prior to or on the date on which the application is filed, directly at the Office or at one of the sub-offices established or national agencies entrusted pursuant to Article 30(4) of the Basic Regulation.'.

(ii) Paragraph 7 is replaced by the following:

'7. Where the application fee is received but the application is not valid under Article 50 of the basic Regulation, the Office shall retain EUR 150 of the application fee and refund the remainder when notifying the applicant of the deficiencies found in the application.'.

(d) In Article 8(5), the following sentence is added:

'The amount of that fee shall be determined by the President of the Office after consultation of the Administrative Council and shall be published in the Official Gazette of the Office.'.

(e) In Article 12(1), point (c) is deleted.

(f) Article 13 is deleted.

(g) In Article 14, paragraphs 3 and 4 are deleted.

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 2016.

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

Done at Brussels, 30 November 2015.

For the Commission

The President

Jean-Claude JUNCKER

COMMISSION IMPLEMENTING REGULATION (EU) 2015/2207**of 30 November 2015****establishing the standard import values for determining the entry price of certain fruit and vegetables**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 ⁽¹⁾,

Having regard to Commission Implementing Regulation (EU) No 543/2011 of 7 June 2011 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 in respect of the fruit and vegetables and processed fruit and vegetables sectors ⁽²⁾, and in particular Article 136(1) thereof,

Whereas:

- (1) Implementing Regulation (EU) No 543/2011 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission fixes the standard values for imports from third countries, in respect of the products and periods stipulated in Annex XVI, Part A thereto.
- (2) The standard import value is calculated each working day, in accordance with Article 136(1) of Implementing Regulation (EU) No 543/2011, taking into account variable daily data. Therefore this Regulation should enter into force on the day of its publication in the *Official Journal of the European Union*,

HAS ADOPTED THIS REGULATION:

Article 1

The standard import values referred to in Article 136 of Implementing Regulation (EU) No 543/2011 are fixed in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the day 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, 30 November 2015.

*For the Commission,
On behalf of the President,
Jerzy PLEWA
Director-General for Agriculture and Rural Development*

⁽¹⁾ OJ L 347, 20.12.2013, p. 671.

⁽²⁾ OJ L 157, 15.6.2011, p. 1.

ANNEX

Standard import values for determining the entry price of certain fruit and vegetables

(EUR/100 kg)		
CN code	Third country code ⁽¹⁾	Standard import value
0702 00 00	AL	53,3
	MA	77,9
	ZZ	65,6
0707 00 05	AL	48,7
	MA	93,1
	TR	148,3
	ZZ	96,7
0709 93 10	AL	80,9
	MA	66,5
	TR	157,4
	ZZ	101,6
0805 20 10	CL	96,2
	MA	77,9
	PE	78,3
	ZZ	84,1
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	TR	80,9
	ZZ	80,9
0805 50 10	AR	61,0
	TR	106,6
	ZZ	83,8
0808 10 80	CA	159,0
	CL	85,8
	MK	32,8
	US	115,5
	ZA	152,4
	ZZ	109,1
0808 30 90	BA	88,2
	CN	63,9
	TR	128,6
	ZZ	93,6

⁽¹⁾ Nomenclature of countries laid down by Commission Regulation (EU) No 1106/2012 of 27 November 2012 implementing Regulation (EC) No 471/2009 of the European Parliament and of the Council on Community statistics relating to external trade with non-member countries, as regards the update of the nomenclature of countries and territories (OJ L 328, 28.11.2012, p. 7). Code 'ZZ' stands for 'of other origin'.

DECISIONS

DECISION (EU) 2015/2208 OF THE EUROPEAN PARLIAMENT

of 27 October 2015

on discharge in respect of the implementation of the budget of the ARTEMIS Joint Undertaking for the financial year 2013

THE EUROPEAN PARLIAMENT,

- having regard to the final annual accounts of the ARTEMIS Joint Undertaking for the financial year 2013,
- having regard to the Court of Auditors' report on the annual accounts of the ARTEMIS Joint Undertaking for the financial year 2013, together with the Joint Undertaking's replies ⁽¹⁾,
- having regard to the statement of assurance ⁽²⁾ as to the reliability of the accounts and the legality and regularity of the underlying transactions provided by the Court of Auditors for the financial year 2013, pursuant to Article 287 of the Treaty on the Functioning of the European Union,
- having regard to the Council's recommendation of 17 February 2015 on discharge to be given to the Joint Undertaking in respect of the implementation of the budget for the financial year 2013 (05306/2015 — C8-0049/2015),
- having regard to its decision of 29 April 2015 ⁽³⁾ postponing the discharge decision for the financial year 2013, and the replies from the Executive Director of the ECSEL Joint Undertaking (formerly the ARTEMIS Joint Undertaking),
- having regard to Article 319 of the Treaty on the Functioning of the European Union,
- having regard to Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities ⁽⁴⁾,
- having regard to Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 ⁽⁵⁾, and in particular Article 209 thereof,
- having regard to Council Regulation (EC) No 74/2008 of 20 December 2007 on the establishment of the 'ARTEMIS Joint Undertaking' to implement a Joint Technology Initiative in Embedded Computing Systems ⁽⁶⁾,
- having regard to Council Regulation (EU) No 561/2014 of 6 May 2014 establishing the ECSEL Joint Undertaking ⁽⁷⁾, and in particular Article 1(2) and Article 12 thereof,
- having regard to Commission Regulation (EC, Euratom) No 2343/2002 of 19 November 2002 on the framework Financial Regulation for the bodies referred to in Article 185 of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities ⁽⁸⁾,
- having regard to Commission Delegated Regulation (EU) No 110/2014 of 30 September 2013 on the model financial regulation for public-private partnership bodies referred to in Article 209 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council ⁽⁹⁾,

⁽¹⁾ OJ C 452, 16.12.2014, p. 8.

⁽²⁾ OJ C 452, 16.12.2014, p. 9.

⁽³⁾ OJ L 255, 30.9.2015, p. 416.

⁽⁴⁾ OJ L 248, 16.9.2002, p. 1.

⁽⁵⁾ OJ L 298, 26.10.2012, p. 1.

⁽⁶⁾ OJ L 30, 4.2.2008, p. 52.

⁽⁷⁾ OJ L 169, 7.6.2014, p. 152.

⁽⁸⁾ OJ L 357, 31.12.2002, p. 72.

⁽⁹⁾ OJ L 38, 7.2.2014, p. 2.

- having regard to Rule 94 of and Annex V to its Rules of Procedure,
 - having regard to the second report of the Committee on Budgetary Control (A8-0283/2015),
1. Grants the Executive Director of the ECSEL Joint Undertaking discharge in respect of the implementation of the ARTEMIS Joint Undertaking's budget for the financial year 2013;
 2. Sets out its observations in the resolution below;
 3. Instructs its President to forward this decision and the resolution forming an integral part of it to the Executive Director of the ECSEL Joint Undertaking, the Council, the Commission and the Court of Auditors, and to arrange for their publication in the *Official Journal of the European Union* (L series).

The President
Martin SCHULZ

The Secretary-General
Klaus WELLE

RESOLUTION OF THE EUROPEAN PARLIAMENT**of 27 October 2015****with observations forming an integral part of the decision on discharge in respect of the implementation of the budget of the ARTEMIS Joint Undertaking for the financial year 2013**

THE EUROPEAN PARLIAMENT,

- having regard to its decision on discharge in respect of the implementation of the budget of the ARTEMIS Joint Undertaking for the financial year 2013,
 - having regard to Rule 94 of and Annex V to its Rules of Procedure,
 - having regard to the second report of the Committee on Budgetary Control (A8-0283/2015),
- A. whereas the ARTEMIS Joint Undertaking ('the Joint Undertaking') was set up in December 2007 for a period of 10 years to define and implement a 'Research Agenda' for the development of key technologies for embedded computing systems across different application areas in order to strengthen Union competitiveness and sustainability and to allow for the emergence of new markets and societal applications;
- B. whereas the Joint Undertaking started to work autonomously in October 2009;
- C. whereas financial contributions from ARTEMIS Member States should amount in total to 1,8 times the Union's financial contribution and the in-kind contribution of research and development organisations participating in projects over the duration of the Joint Undertaking shall be equal to or greater than the contribution of public authorities;
- D. whereas the Joint Undertaking and the ENIAC Joint Undertaking were merged to create the Electronic Components and Systems for European leadership Joint Technology Initiative (ECSEL JTI) which has started its activity in June 2014 and will run for 10 years;

Budgetary and Financial Management

1. Recalls that the Court of Auditors ('the Court') stated that the 2013 annual accounts of the Joint Undertaking present fairly, in all material respects, its financial position as of 31 December 2013 and the results of its operations and its cash flows for the year-end, in accordance with the provisions of its Financial Rules;
2. Acknowledges from the Joint Undertaking that the practical arrangements for *ex post* audits concerning the administrative agreements signed with the national funding authorities ('NFAs') have been put in place; takes note that the practical arrangements include the introduction of a specific reporting form, reinforced by the assessment of the national assurance systems by the Joint Undertaking and visits to the NFAs by the Court;
3. Recalls that the *ex post* strategy adopted by the Joint Undertaking states that it must assess at least once a year whether the information sent by the NFAs provide sufficient assurance as to the regularity and legality of the executed transactions;
4. Acknowledges from the Joint Undertaking that the 23 NFAs that shared information on their audit strategies represent 95 % of the total grants awarded; welcomes the fact that in order to complement the information obtained by the Joint Undertaking, the Court acquires additional information directly from the NFAs in order to express an opinion on the legality and regularity of the transactions underlying the accounts;

5. Acknowledges from the Joint Undertaking that it made progress in implementing the action plan aimed at remedying the deficiencies identified by the Court in its qualified opinion; notes that the assurances provided by the national systems were positively assessed for countries representing 54 % of the total grants, while the assessments for further countries are in an advanced phase of execution which will bring the assessed grant coverage to 84 %; calls on the Joint Undertaking to continue the assessment in order to reach 100 % coverage of the total grants;
6. Takes note that a workshop on assurance was organised, bringing together the representatives of the Court, the Commission and the Commission's Internal Audit Service, as well as representatives of NFAs active in the Joint Undertaking; notes that this workshop highlighted requirements of European programmes and enabled the exchange of information and best practices with the NFAs;
7. Notes that the Joint Undertaking developed a new methodology for residual error rate estimation, similar to the one used by the Commission services in charge of co-managed funding; acknowledges that the first evaluation of the residual error rate based on the 157 audited transactions was 0,73 %, while a recent update based on 331 transactions resulted in an error rate of 0,66 %, below the materiality threshold of 2 %;
8. Recalls that the utilisation rate of payment appropriations after the end of year budget amendment was 69 %; acknowledges from the Joint Undertaking that the delay in issuing payment certificates by the NFAs is one of the main reasons for the low utilisation rate as the payments are executed without delay as soon as the national certificates are received; acknowledges moreover that the slower payment pace did not affect the technical execution of the projects;
9. Ascertains from the Joint Undertaking that the contributions committed by Member States were at the level of 1,8 times the Union commitments; acknowledges that the commitments by Member States had to be reduced below the 1,8 threshold when awarding the grants in order to comply with the limitations imposed by the State aid rules; takes note that the resulting contributions to the Joint Undertaking by the Union were EUR 181 454 844, whereas the Member States contributions were EUR 341 842 261, resulting in a level of 1,88;
10. Takes note that the Commission will carry out an evaluation to assess the ARTEMIS activity up to the date of the ECSEL JTI creation, as provided for in Council Regulation (EC) No 74/2008 setting up the ARTEMIS Joint Undertaking, to be considered for the discharge for the financial year 2014;

Internal control systems

11. Takes note from the Joint Undertaking that further to the requirements of Article 6(2) of its establishing Regulation, the Internal Audit Capability (IAC) established in the ENIAC Joint Undertaking (ENIAC JU) is now established as the Joint Undertaking's IAC due to the merger of the two Joint Undertakings;
12. Acknowledges from the Joint Undertaking that its Disaster Recovery Plan for the Joint Undertaking's common IT infrastructure is approved;

Prevention and management of conflicts of interests and transparency

13. Notes that due to the merger with the ENIAC JU, the Comprehensive policy for the prevention and management of conflicts of interests of the ENIAC JU is also applicable to the Joint Undertaking; notes, furthermore, that the procedures for managing situations of conflicts of interests, as well as the mechanism proceedings in the event of a violation of the rules, are part of the adopted policy;
14. Acknowledges from the Joint Undertaking that the CVs and the declarations of interests of its Executive Director and managers as required by the Staff Regulations and the implementing rules were collected and posted on the Joint Undertaking's web site; notes that a comprehensive database including all identified information related to conflicts of interests as well as the measures taken, has been established and is regularly maintained;

Monitoring and reporting of research results

15. Recalls that the Seventh Framework Programme (FP7) Decision ⁽¹⁾ establishes a monitoring and reporting system related to the protection, dissemination and transfer of research results; acknowledges from the Joint Undertaking that 211,5 publications and 16,6 patents per EUR 10 000 000 of Union grants shows a high productivity of its research results and that it is compliant with all requests expressed so far by the FP7 coordinators.
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⁽¹⁾ Article 7 of Decision No 1982/2006/EC of the European Parliament and the Council of 18 December 2006 concerning the Seventh Framework Programme of the European Community for research, technological development and demonstration activities (2007-2013) (OJ L 412, 30.12.2006, p. 1).

DECISION (EU) 2015/2209 OF THE EUROPEAN PARLIAMENT
of 27 October 2015
on the closure of the accounts of the ARTEMIS Joint Undertaking for the financial year 2013

THE EUROPEAN PARLIAMENT,

- having regard to the final annual accounts of the ECSEL Joint Undertaking (formerly the ARTEMIS Joint Undertaking) for the financial year 2013,
- having regard to the Court of Auditors' report on the annual accounts of the ARTEMIS Joint Undertaking for the financial year 2013, together with the Joint Undertaking's replies ⁽¹⁾,
- having regard to the statement of assurance ⁽²⁾ as to the reliability of the accounts and the legality and regularity of the underlying transactions provided by the Court of Auditors for the financial year 2013, pursuant to Article 287 of the Treaty on the Functioning of the European Union,
- having regard to the Council's recommendation of 17 February 2015 on discharge to be given to the Joint Undertaking in respect of the implementation of the budget for the financial year 2013 (05306/2015 — C8-0049/2015),
- having regard to its decision of 29 April 2015 ⁽³⁾ postponing the discharge decision for the financial year 2013, and the replies from the Executive Director of the ECSEL Joint Undertaking (formerly the ARTEMIS Joint Undertaking),
- having regard to Article 319 of the Treaty on the Functioning of the European Union,
- having regard to Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities ⁽⁴⁾,
- having regard to Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 ⁽⁵⁾, and in particular Article 209 thereof,
- having regard to Council Regulation (EC) No 74/2008 of 20 December 2007 on the establishment of the 'ARTEMIS Joint Undertaking' to implement a Joint Technology Initiative in Embedded Computing Systems ⁽⁶⁾,
- having regard to Council Regulation (EU) No 561/2014 of 6 May 2014 establishing the ECSEL Joint Undertaking ⁽⁷⁾, and in particular Article 1(2) and Article 12 thereof,
- having regard to Commission Regulation (EC, Euratom) No 2343/2002 of 19 November 2002 on the framework Financial Regulation for the bodies referred to in Article 185 of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities ⁽⁸⁾,
- having regard to Commission Delegated Regulation (EU) No 110/2014 of 30 September 2013 on the model financial regulation for public-private partnership bodies referred to in Article 209 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council ⁽⁹⁾,
- having regard to Rule 94 of and Annex V to its Rules of Procedure,
- having regard to the second report of the Committee on Budgetary Control (A8-0283/2015),

⁽¹⁾ OJ C 452, 16.12.2014, p. 8.

⁽²⁾ OJ C 452, 16.12.2014, p. 9.

⁽³⁾ OJ L 255, 30.9.2015, p. 416.

⁽⁴⁾ OJ L 248, 16.9.2002, p. 1.

⁽⁵⁾ OJ L 298, 26.10.2012, p. 1.

⁽⁶⁾ OJ L 30, 4.2.2008, p. 52.

⁽⁷⁾ OJ L 169, 7.6.2014, p. 152.

⁽⁸⁾ OJ L 357, 31.12.2002, p. 72.

⁽⁹⁾ OJ L 38, 7.2.2014, p. 2.

1. Approves the closure of the accounts of the ARTEMIS Joint Undertaking for the financial year 2013;
2. Instructs its President to forward this Decision to the Executive Director of the ECSEL Joint Undertaking, the Council, the Commission and the Court of Auditors, and to arrange for its publication in the *Official Journal of the European Union* (L series).

The President
Martin SCHULZ

The Secretary-General
Klaus WELLE

DECISION (EU) 2015/2210 OF THE EUROPEAN PARLIAMENT**of 27 October 2015****on discharge in respect of the implementation of the budget of the European Institute of Innovation and Technology for the financial year 2013**

THE EUROPEAN PARLIAMENT,

- having regard to the final annual accounts of the European Institute of Innovation and Technology for the financial year 2013,
 - having regard to the Court of Auditors' report on the annual accounts of the European Institute of Innovation and Technology for the financial year 2013, together with the Institute's replies ⁽¹⁾,
 - having regard to the statement of assurance ⁽²⁾ as to the reliability of the accounts and the legality and regularity of the underlying transactions provided by the Court of Auditors for the financial year 2013, pursuant to Article 287 of the Treaty on the Functioning of the European Union,
 - having regard to the Council's recommendation of 17 February 2015 on discharge to be given to the European Institute of Innovation and Technology in respect of the implementation of the budget for the financial year 2013 (05304/2015 — C8-0054/2015),
 - having regard to its decision of 29 April 2015 ⁽³⁾ postponing the discharge decision for the financial year 2013, and the replies from the Director of the European Institute of Innovation and Technology,
 - having regard to Article 319 of the Treaty on the Functioning of the European Union,
 - having regard to Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities ⁽⁴⁾,
 - having regard to Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 ⁽⁵⁾, and in particular Article 208 thereof,
 - having regard to Regulation (EC) No 294/2008 of the European Parliament and of the Council of 11 March 2008 establishing the European Institute of Innovation and Technology ⁽⁶⁾, and in particular Article 21 thereof,
 - having regard to Commission Regulation (EC, Euratom) No 2343/2002 of 19 November 2002 on the framework Financial Regulation for the bodies referred to in Article 185 of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities ⁽⁷⁾,
 - having regard to Commission Delegated Regulation (EU) No 1271/2013 of 30 September 2013 on the framework financial regulation for the bodies referred to in Article 208 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council ⁽⁸⁾, and in particular Article 108 thereof,
 - having regard to Rule 94 of and Annex V to its Rules of Procedure,
 - having regard to the second report of the Committee on Budgetary Control (A8-0282/2015),
1. Grants the Director of the European Institute of Innovation and Technology discharge in respect of the implementation of the Institute's budget for the financial year 2013;
 2. Sets out its observations in the resolution below;

⁽¹⁾ OJ C 442, 10.12.2014, p. 184.⁽²⁾ See footnote 1.⁽³⁾ OJ L 255, 30.9.2015, p. 409.⁽⁴⁾ OJ L 248, 16.9.2002, p. 1.⁽⁵⁾ OJ L 298, 26.10.2012, p. 1.⁽⁶⁾ OJ L 97, 9.4.2008, p. 1.⁽⁷⁾ OJ L 357, 31.12.2002, p. 72.⁽⁸⁾ OJ L 328, 7.12.2013, p. 42.

3. Instructs its President to forward this Decision, and the resolution forming an integral part of it, to the Director of the European Institute of Innovation and Technology, the Council, the Commission and the Court of Auditors, and to arrange for their publication in the *Official Journal of the European Union* (L series).

The President
Martin SCHULZ

The Secretary-General
Klaus WELLE

RESOLUTION OF THE EUROPEAN PARLIAMENT**of 27 October 2015****with observations forming an integral part of the decision on discharge for implementation of the budget for the European Institute of Innovation and Technology for the financial year 2013**

THE EUROPEAN PARLIAMENT,

- having regard to its decision on discharge in respect of the implementation of the budget of the European Institute of Innovation and Technology for the financial year 2013,
- having regard to Rule 94 of and Annex V to its Rules of Procedure,
- having regard to the second report of the Committee on Budgetary Control (A8-0282/2015),

Comments on the legality and regularity of transactions

1. Recalls that the Court of Auditors ('the Court'), in its report on the annual accounts of the European Institute of Innovation and Technology ('the Institute') for the financial year 2013, found for the second consecutive year no reasonable assurance on the legality and regularity of the grant transactions; notes that in the Court's view the quality of the certificates was compromised as they were issued by independent audit firms contracted by the grant beneficiaries, covering about 87 % of the grant expenditure; recalls furthermore that in order to address the shortcomings related to the quality of the audit certificates, the Institute improved the instructions provided to certifying auditors and communicated the updated instructions to the 'Knowledge and Innovation Communities' (KICs), the recipients of the Institute's grants, in June 2013;
2. Notes from the Institute that the improved instructions resulted in an improvement of the quality of the audit certificates received in respect to 2013 grant transactions for which the final payments were made in 2014;
3. Acknowledges that, starting with the 2014 grant agreements, the Institute uses the same audit certificate methodology as all other programmes under the Horizon 2020 framework programme; notes that the use of a more detailed and consistent certification methodology has further increased the assurance obtained in the course of *ex ante* verifications;
4. Recalls that the Institute introduced complementary *ex post* verifications for grant transactions as a second layer of assurance on the legality and regularity of grant transactions; acknowledges that the Institute carried out 'on the spot' audits covering around 40 % of the grants paid under the 2013 Grant Agreements; notes that these audits resulted in the recovery of EUR 263 239, out of the total audited amount of EUR 29 163 272; acknowledges that the detected error rate in the audited sample is 0,90 % and the residual error rate is 0,69 %, which is below the materiality threshold of 2 %; notes that the Court has not raised any comments or findings in relation to *ex ante* or *ex post* verifications in its preliminary observations for the financial year 2014;
5. Acknowledges from the Institute that it improved its procurement procedures since 2013 and took a proactive approach after the detection of errors by the Court; notes in particular that the Institute cancelled the two framework contracts concluded in 2010 and 2012 where the use of the negotiated procedure was found as being irregular; notes furthermore that the Institute revised its internal procedures, circuits and templates in order to fully comply with the respective public procurement rules, with special attention given to the sound planning and estimation of needs; acknowledges that the Institute recruited an additional procurement officer in 2015 and that it carried out a series of trainings on procurement for its staff;
6. Acknowledges that further to the consultancy assignment performed by the Institute's Internal Audit Capability (IAC), the Institute implemented the following actions:
 - developing a *vade mecum* on procurement which includes checklists for different procurement procedures and specific contracts under framework contracts,
 - requiring the procurement function to verify all requests for service before requesting an offer, which provides an additional layer of control,
 - ensuring that staff members are sufficiently trained through targeted training sessions,

- clarifying the respective role of procurement, operational and contract management function as well as introducing improved checklists and routing slips,
 - documenting the procurement procedures within one single and practically usable repository which is proportionate to the size of the Institute.
7. Notes from the Institute that no procurement errors were detected in respect of the year 2014; notes furthermore that as the residual error rate in grant expenditure is 0,69 %, the combined error rate for administrative and operational expenditure is around 0,5 % of the total payments made in 2014; looks forward to the Court's report on the Institute's annual accounts for the year 2014 in order to confirm these findings;
 8. Ascertains that the Institute obtained the audit certificates on the costs of KIC complementary activities incurred in the period 2010-2014; notes that the Institute carried out a review of the portfolio of KIC complementary activities to ensure that only the activities with a clear link to the KIC added value activities funded by the Institute are accepted;
 9. Acknowledges that the Institute's funding provided to the KICs in the period 2010-2014 has not exceeded the 25 % ceiling as set out in the Framework Partnership Agreements between the KICs and the Institute;

Budget and financial management

10. Notes that the Institute improved the planning and monitoring procedures related to the budget implementation; takes note that these procedures now include a more rigorous assessment of all activities proposed with a budget impact over EUR 50 000, as well as the introduction of additional planning documents which ensure that the needs of human and financial resources are well identified and available to implement all planned activities; notes, furthermore, that the link between planned activities and resource allocation has been strengthened by linking the Annual Work Programme with the annual budget;
11. Notes that the Institute has, together with the KICs, significantly improved the absorption capacity of the first-wave KICs for the 2010-2014 period, with an average annual growth rate of the Institute's absorbed grants at 85 %; notes furthermore that the Institute's Governing Board selected and designated two partnerships to become the second-wave KICs, which will further increase the absorption capacity from the year 2015 and increase the Institute's budget execution rate;
12. Recalls that the low budget implementation rate for Title I (staff expenditure) is mainly related to the high turnover of staff and the outstanding adoption of the regulations on salary adjustments; takes note that the analysis of staff exit interviews identified the lack of a clear career perspective, a difficult work environment and an unattractive salary package related to the correction coefficient for Hungary as the main reasons for the high staff turnover;
13. Acknowledges the actions taken by the Institute in order to mitigate the high staff turnover; notes in particular the improvements in vacancy management, the establishment of an appraisal and re-classification system, providing a better career perspective and strengthening the middle management level; welcomes the decrease in the staff turnover rate from 20-25 % in the period of 2012-2013 to 12 % in 2014; takes note that the four remaining vacant posts are to be gradually filled during 2015;

Internal audit

14. Acknowledges that the Commission's Internal Audit Service (IAS) issued a follow-up audit report in June 2014 regarding the status of the implementation of the action plan resulting from the 'Limited Review on Grant Management — Preparation of Annual Grant Agreements'; takes note that the IAS closed two recommendations out of the original six and that one further recommendation was downgraded from 'Critical' to 'Very Important';
15. Acknowledges that the IAS carried out a fact-finding visit in the Institute in December 2014 in order to review the progress made in the implementation of open recommendations; acknowledges furthermore that the visit resulted in the IAS acknowledging further improvements made in the annual grant allocation process and that all detailed actions presented to the IAS during the visit, whether completed, ongoing or planned, are adequately addressing the risks highlighted in the IAS' limited review;

16. Notes that out of the 25 actions resulting from the action plan, 18 have been implemented and that the implementation of the remaining seven actions is ongoing; notes, moreover, that three out of those seven actions are to be implemented before the end of 2015, after the amended Framework Partnership Agreement between the Institute and the KICs has been signed; takes note from the Institute that the implementation of the remaining actions is progressing as planned;
 17. Notes that the IAC carried out seven audit and consultancy engagements in 2014 and acknowledges the Institute's actions taken on the IAC's recommendations.
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DECISION (EU) 2015/2211 OF THE EUROPEAN PARLIAMENT**of 27 October 2015****on the closure of the accounts of the European Institute of Innovation and Technology for the financial year 2013**

THE EUROPEAN PARLIAMENT,

- having regard to the final annual accounts of the European Institute of Innovation and Technology for the financial year 2013,
- having regard to the Court of Auditors' report on the annual accounts of the European Institute of Innovation and Technology for the financial year 2013, together with the Institute's replies ⁽¹⁾,
- having regard to the statement of assurance ⁽²⁾ as to the reliability of the accounts and the legality and regularity of the underlying transactions provided by the Court of Auditors for the financial year 2013, pursuant to Article 287 of the Treaty on the Functioning of the European Union,
- having regard to the Council's recommendation of 17 February 2015 on discharge to be given to the European Institute of Innovation and Technology in respect of the implementation of the budget for the financial year 2013 (05304/2015 — C8-0054/2015),
- having regard to its decision of 29 April 2015 ⁽³⁾ postponing the discharge decision for the financial year 2013, and the replies from the Director of the European Institute of Innovation and Technology,
- having regard to Article 319 of the Treaty on the Functioning of the European Union,
- having regard to Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities ⁽⁴⁾,
- having regard to Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 ⁽⁵⁾, and in particular Article 208 thereof,
- having regard to Regulation (EC) No 294/2008 of the European Parliament and of the Council of 11 March 2008 establishing the European Institute of Innovation and Technology ⁽⁶⁾, and in particular Article 21 thereof,
- having regard to Commission Regulation (EC, Euratom) No 2343/2002 of 19 November 2002 on the framework Financial Regulation for the bodies referred to in Article 185 of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities ⁽⁷⁾,
- having regard to Commission Delegated Regulation (EU) No 1271/2013 of 30 September 2013 on the framework financial regulation for the bodies referred to in Article 208 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council ⁽⁸⁾, and in particular Article 108 thereof,
- having regard to Rule 94 of and Annex V to its Rules of Procedure,
- having regard to the second report of the Committee on Budgetary Control (A8-0282/2015),

⁽¹⁾ OJ C 442, 10.12.2014, p. 184.⁽²⁾ See footnote 1.⁽³⁾ OJ L 255, 30.9.2015, p. 409.⁽⁴⁾ OJ L 248, 16.9.2002, p. 1.⁽⁵⁾ OJ L 298, 26.10.2012, p. 1.⁽⁶⁾ OJ L 97, 9.4.2008, p. 1.⁽⁷⁾ OJ L 357, 31.12.2002, p. 72.⁽⁸⁾ OJ L 328, 7.12.2013, p. 42.

1. Approves the closure of the accounts of the European Institute of Innovation and Technology for the financial year 2013;
2. Instructs its President to forward this decision to the Director of the European Institute of Innovation and Technology, the Council, the Commission and the Court of Auditors, and to arrange for its publication in the *Official Journal of the European Union* (L series).

The President
Martin SCHULZ

The Secretary-General
Klaus WELLE

DECISION (EU) 2015/2212 OF THE EUROPEAN PARLIAMENT**of 27 October 2015****on discharge in respect of the implementation of the budget of the ENIAC Joint Undertaking for the financial year 2013**

THE EUROPEAN PARLIAMENT,

- having regard to the final annual accounts of the ENIAC Joint Undertaking for the financial year 2013,
- having regard to the Court of Auditors' report on the annual accounts of the ENIAC Joint Undertaking for the financial year 2013, together with the Joint Undertaking's replies ⁽¹⁾,
- having regard to the statement of assurance ⁽²⁾ as to the reliability of the accounts and the legality and regularity of the underlying transactions provided by the Court of Auditors for the financial year 2013, pursuant to Article 287 of the Treaty on the Functioning of the European Union,
- having regard to the Council's recommendation of 17 February 2015 on discharge to be given to the Joint Undertaking in respect of the implementation of the budget for the financial year 2013 (05306/2015 — C8-0049/2015),
- having regard to its decision of 29 April 2015 ⁽³⁾ postponing the discharge decision for the financial year 2013, and the replies from the Executive Director of the ECSEL Joint Undertaking (formerly the ENIAC Joint Undertaking),
- having regard to Article 319 of the Treaty on the Functioning of the European Union,
- having regard to Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities ⁽⁴⁾,
- having regard to Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 ⁽⁵⁾, and in particular Article 209 thereof,
- having regard to Council Regulation (EC) No 72/2008 of 20 December 2007 setting up the ENIAC Joint Undertaking ⁽⁶⁾,
- having regard to Council Regulation (EU) No 561/2014 of 6 May 2014 establishing the ECSEL Joint Undertaking ⁽⁷⁾, and in particular Article 1(2) and Article 12 thereof,
- having regard to Commission Regulation (EC, Euratom) No 2343/2002 of 19 November 2002 on the framework Financial Regulation for the bodies referred to in Article 185 of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities ⁽⁸⁾,
- having regard to Commission Delegated Regulation (EU) No 110/2014 of 30 September 2013 on the model financial regulation for public-private partnership bodies referred to in Article 209 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council ⁽⁹⁾,
- having regard to Rule 94 of and Annex V to its Rules of Procedure,
- having regard to the second report of the Committee on Budgetary Control (A8-0285/2015),

⁽¹⁾ OJ C 452, 16.12.2014, p. 26.⁽²⁾ OJ C 452, 16.12.2014, p. 27.⁽³⁾ OJ L 255, 30.9.2015, p. 424.⁽⁴⁾ OJ L 248, 16.9.2002, p. 1.⁽⁵⁾ OJ L 298, 26.10.2012, p. 1.⁽⁶⁾ OJ L 30, 4.2.2008, p. 21.⁽⁷⁾ OJ L 169, 7.6.2014, p. 152.⁽⁸⁾ OJ L 357, 31.12.2002, p. 72.⁽⁹⁾ OJ L 38, 7.2.2014, p. 2.

1. Grants the Executive Director of the ECSEL Joint Undertaking discharge in respect of the implementation of the ENIAC Joint Undertaking's budget for the financial year 2013;
2. Sets out its observations in the resolution below;
3. Instructs its President to forward this decision and the resolution forming an integral part of it to the Executive Director of the ECSEL Joint Undertaking, the Council, the Commission and the Court of Auditors, and to arrange for their publication in the *Official Journal of the European Union* (L series).

The President
Martin SCHULZ

The Secretary-General
Klaus WELLE

RESOLUTION OF THE EUROPEAN PARLIAMENT**of 27 October 2015****with observations forming an integral part of the decision on discharge in respect of the implementation of the budget of the ENIAC Joint Undertaking for the financial year 2013**

THE EUROPEAN PARLIAMENT,

- having regard to its decision on discharge in respect of the implementation of the budget of the ENIAC Joint Undertaking for the financial year 2013,
 - having regard to Rule 94 of and Annex V to its Rules of Procedure,
 - having regard to the second report of the Committee on Budgetary Control (A8-0285/2015),
- A. whereas the ENIAC Joint Undertaking ('the Joint Undertaking') was set up on 20 December 2007 for a period of 10 years to define and implement a 'research agenda' for the development of key competences for nanoelectronics across different application areas;
- B. whereas the Joint Undertaking was granted its financial autonomy in July 2010;
- C. whereas the founding members of the Joint Undertaking are the Union, represented by the Commission, Belgium, Germany, Estonia, Ireland, Greece, Spain, France, Italy, the Netherlands, Poland, Portugal, Sweden, the United Kingdom and the Association for European Nanoelectronics Activities (AENEAS);
- D. whereas the maximum contribution for the period of 10 years from the Union to the Joint Undertaking is EUR 450 000 000, to be paid from the budget of the Seventh Research Framework Programme;
- E. whereas AENEAS is to make a maximum contribution of EUR 30 000 000 to the Joint Undertaking's running costs and the Member States are to make in-kind contributions to the running costs and to provide financial contributions of 1,8 times the Union contribution;
- F. whereas the Joint Undertaking and the ARTEMIS Joint Undertaking were merged to create the Electronic Components and Systems for European leadership Joint Technology Initiative (ECSEL JTI) which has started its activity in June 2014 and will run for 10 years;

Budgetary and financial management

1. Recalls that the Court of Auditors ('the Court') stated that the 2013 annual accounts of the Joint Undertaking present fairly, in all material respects, its financial position as of 31 December 2013 and the results of its operations and its cash flows for the year-end, in accordance with the provisions of its Financial Rules and the accounting rules adopted by the Commission's Accounting Officer;
2. Recalls that the Court issued a qualified opinion on the legality and regularity of the transactions underlying the annual accounts, on the grounds of not being able to conclude whether or not the *ex post* audit strategy, which relies heavily on the National Funding Authorities (NFAs) auditing project cost claims, provides sufficient assurance with respect to the legality and regularity of the underlying transactions;
3. Acknowledges from the Joint Undertaking that the Court will take steps in order to obtain sufficient assurances on the audits carried out by the NFAs; acknowledges furthermore that the ECSEL JTI is making further assessments of the national assurance systems following the merger of the Joint Undertaking and ARTEMIS Joint Undertaking;

4. Notes that the Joint Undertaking established the practical arrangements for *ex post* audits concerning the administrative agreements signed with the NFAs; takes note that the practical arrangements include the introduction of a specific reporting form, reinforced by the assessment of the national assurance systems by the Joint Undertaking and visits to the NFAs by the Court;
5. Takes note that the limited review of cost claims undertaken by the Joint Undertaking in 2012 was one of the elements enhancing the assurance, which allowed the Joint Undertaking to monitor which transactions were submitted to audits prior to the introduction of a specific reporting form; notes that this sampling showed a small number of the first national audits starting in 2012 and reached a volume allowing for meaningful statistical evaluations in 2014;
6. Acknowledges from the Joint Undertaking that 23 NFAs shared information on their audit strategies, which represents 95 % of the total grants awarded; welcomes the fact that in order to complement the information obtained by the Joint Undertaking, the Court acquires additional information directly from the NFAs in order to express an opinion on the legality and regularity of the transactions underlying the accounts;
7. Acknowledges from the Joint Undertaking that it made progress in implementing the action plan aimed at remedying the deficiencies identified by the Court in its qualified opinion; notes that the assurances provided by the national systems were positively assessed for countries representing 54 % of the total grants, while the assessments for further countries are in an advanced phase of execution, which will bring the assessed grant coverage to 84 %; calls on the Joint Undertaking to continue the assessment in order to reach 100 % coverage of the total grants;
8. Takes note that a workshop on assurance was organised, bringing together the representatives of the Court, the Commission and the Commission's Internal Audit Service, as well as representatives of NFAs active in the Joint Undertaking; notes that this workshop highlighted requirements of European programmes and enabled the exchange of information and best practices with the NFAs;
9. Notes that the Joint Undertaking developed a new methodology for residual error rate estimation, similar to the one used by the Commission services in charge of co-managed funding; acknowledges that the first evaluation of the residual error rate based on the 157 audited transactions was 0,73 %, while a recent update based on 331 transactions resulted in an error rate of 0,66 %, below the materiality threshold of 2 %;
10. Ascertains from the Joint Undertaking that the Member States' contributions were under the level of 1,8 times the Union contribution as requested by the Joint Undertaking's statute in order to comply with the limitations imposed by the State aid rules; notes in particular that for the industrial participants in large pilot line projects the total public funding cannot exceed 25 % while the Joint Undertaking's statute requires allocating the same reimbursement rate to each participant;
11. Acknowledges that the lower contributions from the Members States were more than compensated by increased private sector contributions, carrying 65 % of the total costs and thus reaching a very high leverage of the Union funding;
12. Takes note that the Commission will carry out an evaluation to assess the ENIAC activity up to the date of the ECSEL JTI creation, as provided for in Council Regulation (EC) No 72/2008 setting up the ENIAC Joint Undertaking, to be considered for the discharge for the financial year 2014;

Prevention and management of conflicts of interests and transparency

13. Acknowledges from the Joint Undertaking that the CVs and the declarations of interests of its Executive Director and managers as required by the Staff Regulations and the implementing rules were collected and posted on the Joint Undertaking's web site; notes that a comprehensive database including all identified information related to conflicts of interests as well as the measures taken has been established and is regularly maintained;

Monitoring and reporting of research results

14. Recalls that the Seventh Framework Programme (FP7) Decision ⁽¹⁾ establishes a monitoring and reporting system related to the protection, dissemination and transfer of research results; acknowledges from the Joint Undertaking that 211,5 publications and 16,6 patents per EUR 10 000 000 of Union grants shows a high productivity of its research results and that it is compliant with all requests expressed so far by the FP7 coordinators.

⁽¹⁾ Article 7 of Decision No 1982/2006/EC of the European Parliament and the Council of 18 December 2006 concerning the Seventh Framework Programme of the European Community for research, technological development and demonstration activities (2007-2013) (OJ L 412, 30.12.2006, p. 1).

DECISION (EU) 2015/2213 OF THE EUROPEAN PARLIAMENT
of 27 October 2015
on the closure of the accounts of the ENIAC Joint Undertaking for the financial year 2013

THE EUROPEAN PARLIAMENT,

- having regard to the final annual accounts of the ENIAC Joint Undertaking for the financial year 2013,
- having regard to the Court of Auditors' report on the annual accounts of the ENIAC Joint Undertaking for the financial year 2013, together with the Joint Undertaking's replies ⁽¹⁾,
- having regard to the statement of assurance ⁽²⁾ as to the reliability of the accounts and the legality and regularity of the underlying transactions provided by the Court of Auditors for the financial year 2013, pursuant to Article 287 of the Treaty on the Functioning of the European Union,
- having regard to the Council's recommendation of 17 February 2015 on discharge to be given to the Joint Undertaking in respect of the implementation of the budget for the financial year 2013 (05306/2015 — C8-0049/2015),
- having regard to its decision of 29 April 2015 ⁽³⁾ postponing the discharge decision for the financial year 2013, and the replies from the Executive Director of the ECSEL Joint Undertaking (formerly the ENIAC Joint Undertaking),
- having regard to Article 319 of the Treaty on the Functioning of the European Union,
- having regard to Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities ⁽⁴⁾,
- having regard to Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 ⁽⁵⁾, and in particular Article 209 thereof,
- having regard to Council Regulation (EC) No 72/2008 of 20 December 2007 setting up the ENIAC Joint Undertaking ⁽⁶⁾,
- having regard to Council Regulation (EU) No 561/2014 of 6 May 2014 establishing the ECSEL Joint Undertaking ⁽⁷⁾, and in particular Article 1(2) and Article 12 thereof,
- having regard to Commission Regulation (EC, Euratom) No 2343/2002 of 19 November 2002 on the framework Financial Regulation for the bodies referred to in Article 185 of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities ⁽⁸⁾,
- having regard to Commission Delegated Regulation (EU) No 110/2014 of 30 September 2013 on the model financial regulation for public-private partnership bodies referred to in Article 209 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council ⁽⁹⁾,
- having regard to Rule 94 of and Annex V to its Rules of Procedure,
- having regard to the second report of the Committee on Budgetary Control (A8-0285/2015),

⁽¹⁾ OJ C 452, 16.12.2014, p. 26.

⁽²⁾ OJ C 452, 16.12.2014, p. 27.

⁽³⁾ OJ L 255, 30.9.2015, p. 424.

⁽⁴⁾ OJ L 248, 16.9.2002, p. 1.

⁽⁵⁾ OJ L 298, 26.10.2012, p. 1.

⁽⁶⁾ OJ L 30, 4.2.2008, p. 21.

⁽⁷⁾ OJ L 169, 7.6.2014, p. 152.

⁽⁸⁾ OJ L 357, 31.12.2002, p. 72.

⁽⁹⁾ OJ L 38, 7.2.2014, p. 2.

1. Approves the closure of the accounts of the ENIAC Joint Undertaking for the financial year 2013;
2. Instructs its President to forward this decision to the Executive Director of the ECSEL Joint Undertaking, the Council, the Commission and the Court of Auditors, and to arrange for its publication in the *Official Journal of the European Union* (L series).

The President
Martin SCHULZ

The Secretary-General
Klaus WELLE

DECISION (EU) 2015/2214 OF THE EUROPEAN PARLIAMENT**of 27 October 2015****on discharge in respect of the implementation of the general budget of the European Union for the financial year 2013, Section II — European Council and Council**

THE EUROPEAN PARLIAMENT,

- having regard to the general budget of the European Union for the financial year 2013 ⁽¹⁾,
 - having regard to the consolidated annual accounts of the European Union for the financial year 2013 (COM(2014) 510 — C8-0148/2014) ⁽²⁾,
 - having regard to the Court of Auditors' annual report on the implementation of the budget concerning the financial year 2013, together with the institutions' replies ⁽³⁾,
 - having regard to the statement of assurance ⁽⁴⁾ as to the reliability of the accounts and the legality and regularity of the underlying transactions provided by the Court of Auditors for the financial year 2013, pursuant to Article 287 of the Treaty on the Functioning of the European Union,
 - having regard to its decision of 29 April 2015 ⁽⁵⁾ postponing the discharge decision for the financial year 2013, and the accompanying resolution,
 - having regard to Article 314(10) and Articles 317, 318 and 319 of the Treaty on the Functioning of the European Union,
 - having regard to Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities ⁽⁶⁾,
 - having regard to Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 ⁽⁷⁾, and in particular Articles 55, 99, 164, 165 and 166 thereof,
 - having regard to Rule 94 of and Annex V to its Rules of Procedure,
 - having regard to the second report of the Committee on Budgetary Control (A8-0269/2015),
1. Refuses to grant the Secretary-General of the Council discharge in respect of the implementation of the budget of the European Council and of the Council for the financial year 2013;
 2. Sets out its observations in the resolution below;
 3. Instructs its President to forward this decision and the resolution forming an integral part of it to the European Council, the Council, the Commission, the Court of Justice of the European Union, the Court of Auditors, the European Ombudsman, the European Data Protection Supervisor and the European External Action Service, and to arrange for their publication in the *Official Journal of the European Union* (L series).

The President

Martin SCHULZ

The Secretary-General

Klaus WELLE

⁽¹⁾ OJ L 66, 8.3.2013.⁽²⁾ OJ C 403, 13.11.2014, p. 1.⁽³⁾ OJ C 398, 12.11.2014, p. 1.⁽⁴⁾ OJ C 403, 13.11.2014, p. 128.⁽⁵⁾ OJ L 255, 30.9.2015, p. 21.⁽⁶⁾ OJ L 248, 16.9.2002, p. 1.⁽⁷⁾ OJ L 298, 26.10.2012, p. 1.

RESOLUTION OF THE EUROPEAN PARLIAMENT**of 27 October 2015****with observations forming an integral part of the decision on discharge in respect of the implementation of the general budget of the European Union for the financial year 2013, Section II — European Council and Council**

THE EUROPEAN PARLIAMENT,

- having regard to its decision on discharge in respect of the implementation of the general budget of the European Union for the financial year 2013, Section II — European Council and Council,
 - having regard to Rule 94 of and Annex V to its Rules of Procedure,
 - having regard to the second report of the Committee on Budgetary Control (A8-0269/2015),
- A. whereas all Union institutions ought to be transparent and fully accountable to the citizens of the Union for the funds entrusted to them as Union institutions;
- B. whereas the European Council and the Council, as Union institutions, should be subject to democratic accountability towards the citizens of the Union as far as they are beneficiaries of the general budget of the European Union;
- C. whereas Parliament is the sole directly elected body among the Union institutions and has responsibility to grant discharge in respect of the implementation of the general budget of the European Union;
1. Emphasises Parliament's role specified in the Treaty on the Functioning of the European Union (TFEU) in respect of the budget discharge;
 2. Points out that under Article 335 TFEU, '[...] the Union shall be represented by each of the institutions, by virtue of their administrative autonomy, in matters relating to their respective operation' and that, accordingly, taking into account Article 55 of Regulation (EU, Euratom) No 966/2012 (the Financial Regulation), the institutions are individually responsible for the implementation of their budgets;
 3. Emphasises the role of Parliament and of other institutions within the discharge procedure as governed by the provisions of the Financial Regulation, in particular Articles 164, 165 and 166 thereof;
 4. Notes that under Rule 94 of its Rules of Procedure, 'the provisions governing the procedure for granting discharge to the Commission in respect of the implementation of the budget shall likewise apply to the procedure for granting discharge to [...] the persons responsible for the implementation of the budgets of other institutions and bodies of the European Union such as the Council (as regards its activity as executive) [...]';
 5. Regrets that the Council did not provide any explanation on the increasing underspending and carry-overs of commitments in their 2013 budget;

Pending issues

6. Reminds the Council of Parliament's call for progress reports on building projects and a detailed breakdown of the costs incurred to date;
7. Urges the Council to provide a thorough written explanation detailing the total amount of appropriations used in the purchase of the 'Residence Palace' building, the budget items from which those appropriations were drawn, the instalments that have been paid thus far and the instalments that remain to be paid;
8. Reiterates its call on the Council to provide information on its process of administrative modernisation, in particular on the concrete implementing measures of that process and on the anticipated impact on the Council's budget;

9. Regrets the difficulties repeatedly encountered in the discharge procedures to date, which were due to a lack of cooperation from the Council; points out that Parliament refused to grant discharge to the Secretary-General of the Council in relation to the financial years 2009, 2010, 2011 and 2012 for the reasons set out in its resolutions of 10 May 2011 ⁽¹⁾, 25 October 2011 ⁽²⁾, 10 May 2012 ⁽³⁾, 23 October 2012 ⁽⁴⁾, 17 April 2013 ⁽⁵⁾, 9 October 2013 ⁽⁶⁾, 3 April 2014 ⁽⁷⁾ and 23 October 2014 ⁽⁸⁾ and postponed its decision on granting the Secretary-General of the Council discharge in relation to the financial year 2013 for the reasons set out in its resolution of 29 April 2015 ⁽⁹⁾;
10. Insists that an effective budgetary control exercise requires cooperation between Parliament and the Council as set out in its resolution of 29 April 2015; confirms that Parliament is unable to make an informed decision on granting discharge;
11. Reminds the Council of the Commission's view, expressed in its letter of 23 January 2014, that all institutions are fully part of the follow-up process after the observations made by Parliament in the discharge exercise and that all institutions should cooperate to ensure the smooth functioning of the discharge procedure;
12. Notes that the Commission stated in the abovementioned letter that it will not oversee the implementation of the budget of the other institutions and that giving a response to questions addressed to another institution would infringe the autonomy of that institution to implement its own section of the budget;
13. Regrets that the Council continues to fail to provide answers to Parliament's questions; recalls the conclusions of the Parliament workshop on Parliament's right to grant discharge to the Council held on 27 September 2012, at which the legal and academic experts largely agreed on the Parliament's right to information; in this respect refers to the third subparagraph of Article 15(3) TFEU which stipulates that each institution, body, office or agency shall ensure that its proceedings are transparent;
14. Insists that the expenditure of the Council must be scrutinised in the same way as that of other institutions and that the fundamental elements of such scrutiny have been laid down in its discharge resolutions of the past years;
15. Emphasises Parliament's prerogative to grant discharge pursuant to Articles 316, 317 and 319 TFEU, in line with current interpretation and practice, namely to grant discharge to each heading of the budget individually in order to maintain transparency and democratic accountability towards Union taxpayers;
16. Takes the view that Council's failure to submit the requested documents to Parliament above all undermines the right of citizens of the Union to information and transparency and is becoming a cause for concern, reflecting as it does a certain democratic deficit within the Union institutions;
17. Believes that it is necessary to consider different possibilities to update the rules on granting discharge laid down in the TFEU;
18. Considers that satisfactory cooperation between Parliament, the European Council and the Council as a result of an open and formal dialogue procedure can be a positive sign to be sent to the citizens of the Union.

⁽¹⁾ OJ L 250, 27.9.2011, p. 25.

⁽²⁾ OJ L 313, 26.11.2011, p. 13.

⁽³⁾ OJ L 286, 17.10.2012, p. 23.

⁽⁴⁾ OJ L 350, 20.12.2012, p. 71.

⁽⁵⁾ OJ L 308, 16.11.2013, p. 22.

⁽⁶⁾ OJ L 328, 7.12.2013, p. 97.

⁽⁷⁾ OJ L 266, 5.9.2014, p. 26.

⁽⁸⁾ OJ L 334, 21.11.2014, p. 95.

⁽⁹⁾ OJ L 255, 30.9.2015, p. 22.

COUNCIL DECISION (CFSP) 2015/2215**of 30 November 2015****in support of UNSCR 2235 (2015), establishing an OPCW-UN joint investigative mechanism to identify the perpetrators of chemical attacks in the Syrian Arab Republic**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 26(2) and Article 31(1) thereof,

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

Whereas:

- (1) On 7 August 2015, the UN Security Council unanimously adopted Resolution (UNSCR) 2235 (2015), condemning any use of toxic chemicals, such as chlorine, as a chemical weapon in the Syrian Arab Republic and expressing its determination to identify those responsible for such acts. To this end, the UN Security Council established for a period of one year, with the possibility of future extension if it deems it necessary, a joint investigative mechanism (JIM) to identify, to the greatest extent feasible, individuals, entities, groups or governments who were perpetrators, organisers, sponsors or otherwise involved in the use of chemicals, including chlorine or any other toxic chemical, as weapons in the Syrian Arab Republic, in cases where the fact-finding mission (FFM) of the Organisation for the Prohibition of Chemical Weapons (OPCW) determines or has determined that a specific incident in the Syrian Arab Republic involved or likely involved the use of chemicals, including chlorine or any other toxic chemical, as weapons.
- (2) On 10 September 2015, the UN Security Council authorised the recommendations, including elements of terms of reference regarding the OPCW-UN JIM established by UNSCR 2235 (2015), submitted by the UN Secretary-General in his letters to the President of the UN Security Council dated 27 August 2015 and 9 September 2015.
- (3) The EU Strategy against Proliferation of Weapons of Mass Destruction ('the Strategy') underlines the crucial role of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction (CWC) and of the OPCW in creating a world free of chemical weapons.
- (4) The Union is actively implementing the Strategy and is giving effect to the measures listed in Chapter III thereof, in particular by releasing financial resources to support specific projects conducted by multilateral institutions, such as the OPCW. Accordingly, on 9 December 2013, the Council adopted Decision 2013/726/CFSP ⁽¹⁾ in support of the activities of OPCW in the framework of UNSCR 2118 (2013), the OPCW Executive Council Decision of 27 September 2013 on the destruction of Syrian chemical weapons and subsequent and related resolutions and decisions. Furthermore, on 17 February 2015, the Council adopted Decision (CFSP) 2015/259 ⁽²⁾ in support of activities of the OPCW in the framework of the implementation of the Strategy.
- (5) On 23 September 2015, the OPCW Director-General addressed a letter to the High Representative of the Union for Foreign Affairs and Security Policy ('the High Representative') seeking a financial contribution from the Union to a trust fund for OPCW missions in the Syrian Arab Republic, including activities related to the OPCW FFM in support of the JIM in its analysis of allegations of the use of chemicals, including chlorine or any other toxic chemical, as weapons.
- (6) On 24 September 2015, the Head of the OPCW-UN JIM addressed a letter to the High Representative seeking financial support for the JIM through a trust fund.
- (7) Following the accession of the Syrian Arab Republic to the CWC, effective from 14 October 2013, the OPCW is responsible for verifying the Syrian Arab Republic's compliance with the CWC and the terms of any relevant OPCW Executive Council Decisions and for reporting, in coordination with the UN Secretary-General, as needed, to the UN Security Council on non-compliance with UNSCR 2118 (2013).

⁽¹⁾ Council Decision 2013/726/CFSP of 9 December 2013 in support of the UNSCR 2118 (2013) and OPCW Executive Council EC-M-33/Dec 1, in the framework of the implementation of the EU Strategy against Proliferation of Weapons of Mass Destruction (OJ L 329, 10.12.2013, p. 41).

⁽²⁾ Council Decision (CFSP) 2015/259 of 17 February 2015 in support of activities of the Organisation for the Prohibition of Chemical Weapons (OPCW) in the framework of the implementation of the EU Strategy against Proliferation of Weapons of Mass Destruction (OJ L 43, 18.2.2015, p. 14).

- (8) The technical implementation of this Decision should be entrusted to the OPCW and the UN Office for Disarmament Affairs (UNODA) as the implementing office of the JIM trust fund. The projects supported by the Union can only be financed through voluntary contributions to the respective OPCW and JIM trust funds. Such contributions to be provided by the Union will be instrumental in enabling the OPCW and the JIM to fulfil the tasks set out in UNSCR 2235 (2015).
- (9) The supervision of the proper implementation of the Union's financial contribution should be entrusted to the Commission,

HAS ADOPTED THIS DECISION:

Article 1

1. In order to implement certain elements of the Strategy, the Union shall support the OPCW and the JIM by contributing to costs associated with their activities under UNSCR 2235 (2015), with the following overall objective: identification to the greatest extent feasible of individuals, entities, groups or governments who were perpetrators, organisers, sponsors or otherwise involved in the use of chemicals, including chlorine or any other toxic chemical, as weapons in the Syrian Arab Republic, where the OPCW FFM determines or has determined that a specific incident in the Syrian Arab Republic involved or likely involved the use of chemicals, including chlorine or any other toxic chemical, as weapons.

2. In order to achieve the objective referred to in paragraph 1, the Union shall support the following projects:

- (a) OPCW special missions in the Syrian Arab Republic, including activities related to the OPCW FFM in support of the JIM in its analysis of allegations of use of chemicals, including chlorine or any other toxic chemical, as weapons;
- (b) OPCW-UN JIM, including its establishment and ability to begin its full operations under UNSCR 2235 (2015).

A detailed description of these projects is set out in the Annex.

Article 2

1. The High Representative shall be responsible for the implementation of this Decision.
2. The technical implementation of the projects referred to in Article 1(2) shall be entrusted to the OPCW and UNODA as the implementing office of the JIM trust fund. They shall perform this task under the responsibility of the High Representative. For this purpose, the High Representative shall enter into the necessary arrangements with the OPCW and UNODA.

Article 3

1. The financial reference amount for the implementation of the projects referred to in Article 1(2) shall be EUR 4 586 096,00.
2. The expenditure financed by the amount set out in paragraph 1 shall be managed in accordance with the procedures and rules applicable to the Union budget.
3. The Commission shall supervise the proper management of the expenditure referred to in paragraph 1. For this purpose, it shall conclude financing agreements with the OPCW and with UNODA as the implementing office of the JIM trust fund respectively. The financing agreements shall stipulate that the OPCW and the UN are to ensure visibility of the Union's contribution, appropriate to its size.
4. The Commission shall endeavour to conclude the financing agreements referred to in paragraph 3 as soon as possible after the entry into force of this Decision. It shall inform the Council of any difficulties in that process and of the date of conclusion of those financing agreements.

Article 4

1. The High Representative shall report to the Council on the implementation of this Decision on the basis of regular reports prepared by the OPCW and the OPCW-UN JIM. Those reports shall form the basis for an evaluation by the Council.
2. The Commission shall provide the Council with information on the financial aspects of the implementation of the projects referred to in Article 1(2).

Article 5

1. This Decision shall enter into force on the date of its adoption.
2. It shall expire 18 months after the date of the conclusion of the financing agreements between the Commission and the OPCW and UNODA referred to in Article 3(3), or it shall expire on 31 May 2016 if no such financing agreements have been concluded by that date.

Done at Brussels, 30 November 2015.

For the Council
The President
É. SCHNEIDER

ANNEX

European Union support of UNSCR 2235 (2015) in the framework of the implementation of the EU Strategy against Proliferation of Weapons of Mass Destruction**1. General framework and objectives**

In April 2014, at the peak of the operation to remove and destroy Syria's chemical weapons, a number of serious allegations were made regarding the use of chlorine as a weapon against civilians. The Director-General of the Organisation for the Prohibition of Chemical Weapons (OPCW) established an OPCW fact-finding mission (FFM) to look into these allegations. His decision was supported by the OPCW Executive Council and the United Nations (UN) Secretary-General pledged his assistance.

A team comprising OPCW and UN personnel attempted in May 2014 to conduct an on-site investigation in one of the villages reportedly attacked with chlorine. While crossing a buffer zone between the areas controlled by the Syrian government and those controlled by the opposition, the team came under armed attack and had to abort the mission. The FFM nonetheless continued its work and interviewed eyewitnesses, treating physicians, first responders and victims in a safe location outside Syria. Based on this work, the FFM concluded with a high degree of confidence that chlorine, either pure or in mixture, had indeed been used as a weapon in three villages in northern Syria.

The OPCW Executive Council, in its decision EC-M-48/DEC.1 adopted on 4 February 2015, expressed serious concern regarding the findings of the FFM and reaffirmed its condemnation, in the strongest possible terms, of the use of chemical weapons by anyone in any circumstances. The OPCW Executive Council expressed further support for the continuation of the work of the FFM, in particular by studying all available information relating to allegations of the use of chemical weapons in Syria, including information provided by the Syrian Arab Republic as well as by others. This was followed by the adoption on 6 March 2015 of UN Security Council Resolution (UNSCR) 2209 (2015), in which the UN Security Council endorsed the OPCW Executive Council decision and called for those responsible for such attacks to be held accountable.

Following up on that Resolution, the UN Security Council unanimously adopted, on 7 August 2015, UNSCR 2235 (2015), condemning any use of toxic chemicals, such as chlorine, as a chemical weapon in the Syrian Arab Republic and expressing its determination to identify those responsible for such acts. In this regard, the UN Security Council recalled the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or other Gases, and of Bacteriological Methods of Warfare; the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction (CWC); and UNSCRs 1540 (2004), 2118 (2013) and 2209 (2015). The UN Security Council established for a period of one year, with the possibility of future extension if it deems it necessary, an OPCW-UN joint investigative mechanism (JIM) to identify to the greatest extent feasible individuals, entities, groups or governments who were perpetrators, organisers, sponsors or otherwise involved in the use of chemicals, including chlorine or any other toxic chemical, as weapons in the Syrian Arab Republic, where the OPCW FFM determines or has determined that a specific incident in the Syrian Arab Republic involved or likely involved the use of chemicals, including chlorine or any other toxic chemical, as weapons. That mechanism is currently being established.

For this purpose, the Union should support OPCW and the JIM in their respective tasks under UNSCR 2235 (2015) and the OPCW Executive Council decision EC-M-48/DEC.1, as well as the CWC.

2. Description of the projects**A. Project 1: OPCW FFM****1. Project purpose**

To support the implementation of the OPCW FFM's mandate, under both UNSCR 2235 (2015) and the OPCW Executive Council decision EC-M-48/DEC.1, as well as the CWC, by covering the FFM's related operational costs. Those costs include the hiring of external consultants with specific skills (e.g. interpreters and doctors), as well as OPCW equipment required by the FFM team.

2. Expected results

The FFM's ongoing work will shed light on a number of allegations of the use of toxic chemicals in the Syrian Arab Republic, and shall cooperate closely with the JIM, thereby contributing to the fulfilment of the JIM's mandate under paragraph 5 of UNSCR 2235 (2015).

3. Project description

The FFM shall continue to assess whether alleged incidents in the Syrian Arab Republic involved or likely involved the use of chemicals as weapons. The FFM's activities cover allegations of both past incidents and incidents that may occur in the future. The complexity of these activities is likely to vary considerably; hence the exact number of deployments cannot be accurately determined.

Based on the experience of deployments in 2015, the OPCW expects that in 2016 FFM operations may involve the deployment of six to 12 inspectors on six missions, the duration of each being approximately three weeks. It is likely that each mission will include the hiring of external consultants with specific skills, such as interpreters and doctors.

The following activities are planned as part of the FFM:

- (a) Interviews: the nature of alleged incidents is such that a wide variety of witnesses may need to be interviewed. These include:

- medical staff,
- first responders,
- treating physicians,
- casualties,
- other witnesses.

As such, interview teams need to have a multifaceted expertise including weapons, chemicals, medical signs and symptoms, as well as interpretation.

- (b) Medical examinations and the taking of biomedical samples.

- (c) Sample identification, collection and analysis.

- (d) Evidence-handling, including open source as well as items provided by witnesses and third parties. Complementary to the interview teams, multifaceted expertise is also particularly required in this area.

- (e) Report writing.

- (f) Training, including refresher training in order to stay up to date with modern practices:

- safe and security approaches in the field,
- interview techniques,
- evidence-handling and storage, including chain of custody,
- awareness of explosive remnants of war,
- toxic chemicals training course,
- forensic awareness,
- basic industrial chemistry and chemical profiling.

- (g) Site-assessment and scene-exploitation.

- (h) Mission-support personnel and expertise, particularly for complex missions.

B. Project 2: OPCW-UN JIM

1. Project purpose

To support the quick establishment of the JIM and its ability to begin its full operations under UNSCR 2235 (2015).

2. Expected results

The identification to the greatest extent feasible of individuals, entities, groups or governments who were perpetrators, organisers, sponsors or otherwise involved in the use of chemicals, including chlorine or any other toxic chemical, as weapons in the Syrian Arab Republic.

3. Project description

The UN Security Council approved UN Secretary-General's recommendations regarding the establishment and operation of the JIM and requested that the UN Secretary-General, in coordination with the OPCW Director-General, undertake without delay the steps, measures and arrangements necessary for the speedy establishment and full functioning of the JIM, including recruiting impartial and experienced staff with relevant skills and expertise to fully implement the responsibilities pursuant to UNSCR 2235 (2015).

The JIM shall be led by an independent, three-member panel (the 'Leadership Panel') to be supported by a core staff of professionals grouped into three components. In this regard, the JIM shall be headed by an Assistant Secretary-General with overall responsibility and two Deputies responsible for the political and investigation components, respectively.

The leadership of the JIM shall be supported by three components. A Political Office, to be based in New York, shall provide political analysis, legal advice, media relations and administrative support. An Investigation Office, to be based in The Hague, shall provide chemical and medical analysis, forensics, military ordnance analysis, investigation and information analysis. An Operations Support Office, to be based in New York, shall provide support to the political and investigation components.

The core staff of the JIM, with the exception of those in an administrative function, shall be funded from the regular budget. The Security Council has decided that material and technical needs shall be funded by voluntary contributions. For that purpose, the UN Secretary-General established a trust fund, which shall be administered in accordance with the administrative and financial regulations of the UN.

In accordance with the EU strategy against Proliferation of Weapons of Mass Destruction, which sets the objective of fostering the role of the UN Security Council and enhancing its expertise in meeting the challenges of proliferation, the Union shall support the implementation of UNSCR 2235 (2015), in particular in those areas having a high potential for visible and quick impact in the establishment of the JIM and its ability to begin its full operations.

This includes support for the following activities:

- (a) finalising the setting up of offices in both New York and The Hague for the Leadership Panel and its Political and Investigation Offices, respectively, as well as the Operations Support Office, and the purchasing of office furniture and lockable cabinets to ensure the secure storage of information and materials received and/or generated by the JIM;
- (b) developing and implementing a record-management system within a robust information security regime to be applied to all information obtained or generated by the JIM in the conduct of its work; this regime shall take into account the confidentiality and security requirements deemed necessary for the storage and use of information and materials received and/or generated by the JIM;

- (c) preparing for the possible deployment of JIM investigators to the Syrian Arab Republic if the JIM deems this to be necessary for its investigation and determines that there are reasonable grounds to believe that access to Syria, including in areas within the Syrian territory but outside of the control of the Syrian Arab Republic, is justified;
- (d) purchasing communications, security-related equipment, and office supplies, to support the JIM in the implementation of its mandate. These shall include IT equipment (a dedicated server, computers, laptops with docking stations, an additional set of computers for an intranet network not linked to the internet, commercial shredders, etc.) needed to ensure the implementation of the information security regime referred to in point (b).

Additional expertise and activities shall be funded by voluntary contributions as requirements continue to emerge. Ad hoc expert consultants shall be hired for short periods, including for the speedy development of the record-management system and the information security regime referred to in point (b), as well as the development of standard operating procedures.

3. Duration

The estimated implementation period for these projects is 12 months.

4. Implementing agencies

The OPCW will be entrusted with the technical implementation of project 1. That project shall be implemented by staff of the OPCW, experts and contractors.

The United Nations Office for Disarmament Affairs on behalf of the OPCW-UN JIM shall be entrusted with the technical implementation of project 2. That project shall be implemented by the staff of the JIM, consultants and contractors.

The UN and the OPCW will develop their activities in cooperation with relevant partners, including international organisations and agencies, to ensure effective synergies and avoid duplication.

5. Union visibility

The implementing agencies shall take all appropriate measures to publicise the fact that the action is funded by the Union. Such measures shall be implemented in accordance with the Communication and visibility manual for EU external actions published by the European Commission.

6. Reporting

The implementing agencies shall prepare:

- (a) regular reports on the implementation of the projects concerned; and
- (b) a final report not later than 3 months after the completion of the relevant activities.

7. Estimated total cost of the projects

The estimated total cost of the projects is EUR 4 586 096,00.

COUNCIL DECISION (CFSP) 2015/2216
of 30 November 2015
amending Decision 2010/413/CFSP concerning restrictive measures against Iran

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to Council Decision 2010/413/CFSP of 26 July 2010 concerning restrictive measures against Iran and repealing Common Position 2007/140/CFSP ⁽¹⁾, and in particular Article 23 thereof,

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

Whereas:

- (1) On 26 July 2010, the Council adopted Decision 2010/413/CFSP concerning restrictive measures against Iran.
- (2) By its judgment of 18 September 2015 in Case T-121/13, the General Court of the European Union annulled the Council's decision to include Oil Industry Pension Fund Investment Company (OPIC) on the list of persons and entities subject to restrictive measures set out in Annex II to Decision 2010/413/CFSP.
- (3) OPIC should be included again on the list of persons and entities subject to restrictive measures, on the basis of a new statement of reasons.
- (4) Decision 2010/413/CFSP should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Annex II to Decision 2010/413/CFSP is amended as set out in the Annex to this Decision.

Article 2

This Decision shall enter into force on 1 December 2015.

Done at Brussels, 30 November 2015.

For the Council
The President
J. ASSELBORN

⁽¹⁾ OJ L 195, 27.7.2010, p. 39.

ANNEX

The entity listed below is inserted in the list set out in Part I of Annex II to Decision 2010/413/CFSP:

I. Persons and entities involved in nuclear or ballistic missile activities and persons and entities providing support to the Government of Iran

B. Entities

	Name	Identifying information	Reasons	Date of listing
'159.	Oil industry Pension Fund Investment Company (OPIC)	No 234, Taleghani St, Tehran, Iran	OPIC provides significant support to the Government of Iran by providing financial resources and financing services for oil and gas development projects to a variety of entities linked to the Government of Iran, including subsidiaries of state-owned companies (NIOC). Also, OPIC has owned IOEC (Iranian Offshore Engineering Construction Co.) which is EU-designated for providing logistical support to the Government of Iran. The oil and gas sector constitutes a significant source of funding for the Government of Iran, and there is a potential connection between Iran's oil revenue derived from its energy sector and the funding of Iran's proliferation-sensitive activities. The Managing Director of OPIC is Naser Maleki, who is a United Nations designated individual on the grounds of being head of the Shahid Hemat Industrial Group (SHIG) and also a MODAFL (Iranian Ministry of Defence and Armed Forces Logistics) official overseeing the work on the Shahab 3 ballistic missile programme (Iran's long-range ballistic missile currently in service). SHIG is a United Nations designated entity on the grounds that it is a subordinate entity of Aerospace Industries Organisation (AIO, which is an EU-designated entity) and involved in Iran's ballistic missile programme. Accordingly, OPIC is directly associated with Iran's proliferation-sensitive nuclear activities or the development of nuclear weapons delivery systems.	1.12.2015'

COMMISSION IMPLEMENTING DECISION (EU) 2015/2217**of 27 November 2015****on measures to prevent the introduction into the Union of the foot-and-mouth disease virus from
Libya and Morocco***(notified under document C(2015) 8223)***(Text with EEA relevance)**

THE EUROPEAN COMMISSION

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

Having regard to Council Directive 91/496/EEC of 15 July 1991 laying down the principles governing the organisation of veterinary checks on animals entering the Community from third countries and amending Directives 89/662/EEC, 90/425/EEC and 90/675/EEC ⁽¹⁾, and in particular Article 18(6) thereof,

Having regard to Council Directive 97/78/EC of 18 December 1997 laying down the principles governing the organisation of veterinary checks on products entering the Community from third countries ⁽²⁾, and in particular Article 22(5) thereof,

Whereas:

- (1) Directive 91/496/EEC lays down the principles of veterinary checks on animals entering the Union from third countries. It lays down the measures which can be adopted by the Commission, if a disease liable to present a serious threat to animal or public health manifests itself or spreads in the territory of a third country.
- (2) Directive 97/78/EC lays down the principles of veterinary checks on products entering the Union from third countries. It lays down the measures which can be adopted by the Commission, if a disease liable to present a serious threat to animal or public health manifests itself or spreads in the territory of a third country.
- (3) Foot-and-mouth disease is one of the most contagious diseases of cattle, sheep, goats and pigs. The virus causing the disease has the potential for rapid spread, notably through products obtained from infected animals and contaminated inanimate objects including means of transport like livestock vehicles. The virus can also persist in a contaminated environment outside the host animal for several weeks depending on the temperature.
- (4) Following outbreaks of foot-and-mouth disease in Algeria, Libya and Tunisia in 2014, Commission Implementing Decision 2014/689/EU ⁽³⁾ provided for protection measures to avoid the introduction in the Union of that disease.
- (5) In particular, Implementing Decision 2014/689/EU established measures on the cleansing and disinfection of livestock vehicles and vessels from Algeria, Libya and Tunisia. As Morocco is a potential country of transit for the livestock vehicles returning from Algeria, Libya and Tunisia to the Union, those measures also applied to vehicles and vessels from that country. That Decision was applicable until 1 October 2015.
- (6) On 2 November 2015 Morocco notified to the World Organisation for Animal Health ('OIE') the confirmation of an outbreak of foot-and-mouth disease of serotype O in the western part of its territory.
- (7) The presence of foot-and-mouth disease in Morocco is liable to constitute a serious risk to the livestock population of the Union.
- (8) The foot-and-mouth disease situation in Libya remains uncertain and a significant number of consignments of live bovine animals is exported from EU Member States to that country.

⁽¹⁾ OJ L 268, 24.9.1991, p. 56.

⁽²⁾ OJ L 24, 30.1.1998, p. 9.

⁽³⁾ Commission Implementing Decision 2014/689/EU of 29 September 2014 on measures to prevent the introduction into the Union of the foot-and-mouth disease virus from Algeria, Libya, Morocco and Tunisia (OJ L 287, 1.10.2014, p. 27).

- (9) In addition, Libya and Morocco are potential countries of transit for the livestock vehicles returning from other African countries to the Union.
- (10) Therefore, the foot-and-mouth disease situation in Libya and Morocco requires to adopt protection measures at Union level which take into account the survival of the foot-and-mouth disease virus in the environment and potential transmission routes of that virus.
- (11) Livestock vehicles and vessels used for the transport of live animals to Libya and Morocco may be contaminated with the foot-and-mouth disease virus in those countries and therefore constitute a risk of introducing the disease upon their return to the Union.
- (12) Appropriate cleansing and disinfection of livestock vehicles and vessels is the most appropriate way to reduce the risk of rapid virus transmission over large distances.
- (13) It is therefore appropriate to ensure that all livestock vehicles and vessels which have transported live animals to destinations in Libya and Morocco are appropriately cleansed and disinfected and that such cleansing and disinfection is properly documented in a declaration to be submitted by the operator or driver to the competent authority at the point of entry into the Union.
- (14) The operator or driver should ensure that for each livestock vehicle and vessel which has transported live animals to destinations in Libya and Morocco, a cleansing and disinfection certificate is retained for a minimum period of three years.
- (15) Member States should also have the possibility to subject vehicles which transport feed from or have transported feed to infected countries, and for which a significant risk of introduction of foot-and-mouth disease into the territory of the Union cannot be excluded, to on-the-spot disinfection of the wheels or any other part of the vehicle deemed necessary to mitigate that risk.
- (16) In addition, although imports of live animals of species susceptible to foot-and-mouth disease are not authorised from any country in Africa, the importation of certain categories of equidae is authorised from Morocco in accordance with Council Directive 2009/156/EC⁽¹⁾ and equidae from that third country may transit the Union on their way to another third country in accordance with Commission Decision 2010/57/EU⁽²⁾. Therefore, Member States should have the possibility to subject livestock vehicles carrying equidae coming from that third country to on-the-spot disinfection of the wheels or any other part of the vehicle deemed necessary to mitigate the risk of introduction of foot-and-mouth disease into the Union.
- (17) The measures provided for by this Decision should apply for a period of time which allows a full evaluation of the evolution of the foot-and-mouth disease in the affected areas.
- (18) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

HAS ADOPTED THIS DECISION:

Article 1

For the purpose of this Decision, 'livestock vehicle' or 'livestock vessel' means any vehicle or vessel being used or which has been used for the transport of live terrestrial animals.

Article 2

1. Member States shall ensure that the operator or driver of a livestock vehicle or livestock vessel on arrival from Libya and Morocco provides to the competent authority of the Member State at the point of entry in the Union information showing that the livestock or loading compartment, where applicable the truck body, the loading ramp, the equipment having been in contact with animals, the wheels and the driver's cabin and protective clothes/boots used during unloading have been cleansed and disinfected after the last unloading of animals.

⁽¹⁾ Council Directive 2009/156/EC of 30 November 2009 on animal health conditions governing the movement and importation from third countries of equidae (OJ L 192, 23.7.2010, p. 1).

⁽²⁾ Commission Decision 2010/57/EU of 3 February 2010 laying down health guarantees for the transit of equidae being transported through the territories listed in Annex I to Council Directive 97/78/EC (OJ L 32, 4.2.2010, p. 9).

2. The information referred to in paragraph 1 shall be included in a declaration completed in accordance with the model set out in Annex I or in any other equivalent format which includes at least the information set out in that model.
3. The original of the declaration referred to in paragraph 2 shall be kept by the competent authority for a period of three years.

Article 3

1. The competent authority of the Member State of the point of entry into the Union shall visually check livestock vehicles coming from Libya and Morocco in order to determine whether they have been satisfactorily cleansed and disinfected.
2. The competent authority of the Member State responsible for the issuing of the animal health certificate for imports into Libya and Morocco of live animals to be loaded shall visually check livestock vessels in order to determine whether they have been satisfactorily cleansed and disinfected prior to loading the animals.
3. Where the checks referred to in paragraphs 1 and 2 show that cleansing and disinfection have been satisfactorily carried out or where the competent authorities have in addition to the measures provided for in paragraph 1 ordered, organised and carried out additional disinfection of previously cleansed livestock vehicles or vessels, the competent authority shall attest that fact by issuing a certificate in accordance with the model set out in Annex II.
4. Where the checks referred to in paragraph 1 and 2 show that cleansing and disinfection of the livestock vehicle or vessel have not been satisfactorily carried out, the competent authority shall take one of the following measures:
 - (a) subject the livestock vehicle or vessel to proper cleansing and disinfection at a place designated by the competent authority, as close as possible to the point of entry into the Member State concerned and issue the certificate referred to in paragraph 3;
 - (b) where there is no suitable facility for the cleansing and disinfection in the vicinity of the point of entry or where there is a risk that residual animal products may escape from the uncleansed livestock vehicle or vessel:
 - (i) refuse the entry into the Union of the livestock vehicle or vessel; or
 - (ii) perform a preliminary on-the-spot disinfection of the livestock vehicle or vessel not satisfactorily cleansed and disinfected pending the application of the measures provided for in point (a).
5. The original of the certificate referred to in paragraph 3 shall be kept by the operator or driver of the livestock vehicle for a period of three years. A copy of that certificate shall be kept by the competent authority for a period of three years.

Article 4

The competent authority of the Member State of the point of entry into the Union may subject any vehicle having transported feed from or having transported feed to Libya and Morocco for which a significant risk of introduction of foot-and-mouth disease into the Union cannot be excluded to on-the-spot disinfection of the wheels or any other part of the vehicle deemed necessary to mitigate that risk.

Article 5

The competent authority of the Member State of the border inspection post of entry may subject vehicles carrying equidae from Morocco to be introduced into the Union in accordance with the provisions of Directive 2009/156/EC and in case of transit in accordance with Decision 2010/57/EU, for which a significant risk of introduction of foot-and-mouth disease into the territory of the Union cannot be excluded, to on-the-spot disinfection of the wheels or any other part of the vehicle deemed necessary to mitigate that risk.

Article 6

This Decision shall apply until 31 December 2016.

Article 7

This Decision is addressed to the Member States.

Done at Brussels, 27 November 2015.

For the Commission
Vytenis ANDRIUKAITIS
Member of the Commission

ANNEX I

Model declaration to be provided by the operator/driver of the livestock vehicle/vessel coming from Libya and Morocco

I, the operator/driver of the livestock vehicle/vessel ⁽¹⁾

declare that:

- The most recent unloading of animals and feed took place at:

Country, region, place	Date (dd.mm.yyyy)	Time (hh:mm)

- Following unloading, the livestock vehicle/vessel was subject to cleansing and disinfection. The cleansing and disinfection included the livestock or loading compartment, [the truck body,] ⁽²⁾ the loading ramp, the equipment having been in contact with animals, the wheels and the driver's cabin and protective clothes/boots used during unloading.

- The cleansing and disinfection took place:

Country, region, place	Date (dd.mm.yyyy)	Time (hh:mm)

- The disinfectant has been used at the concentrations recommended by the manufacturer ⁽³⁾:

.....

- The next loading of animals will take place at:

Country, region, place	Date (dd.mm.yy)	Time (hh:mm)

Date	Place	Signature of the operator/driver

Name of operator/driver of the livestock vehicle and its business address (in block letters)

⁽¹⁾ Insert number of registration plate/identification of the livestock vehicle/vessel.

⁽²⁾ Delete if not applicable.

⁽³⁾ Indicate the substance and its concentration.

ANNEX II

Model cleansing and disinfection certificate for livestock vehicles/vessels coming from Libya and Morocco

I, the undersigned official certify that I have checked:

1. the livestock vehicle(s)/vessel(s) with the registration plate(s)/identification ⁽¹⁾ today and by visual control found the livestock or loading compartment, [the truck body] ⁽²⁾, the loading ramp, the equipment having been in contact with animals, the wheels and the driver's cabin and protective clothes/boots used during unloading satisfactorily cleansed.
2. the information presented in the form of a declaration as set out in Annex I to Commission Implementing Decision (EU) 2015/2217 ⁽³⁾ or in another equivalent form covering the items set out in Annex I to Implementing Decision (EU) 2015/2217.

Date	Time	Place	Competent authority	Signature of the official (*)
Stamp:	Name in block letters:			

(*) The colour of the stamp and of the signature must be different from that of the printing.

⁽¹⁾ Insert number(s) of registration plate/identification of the livestock vehicle(s)/vessel(s).

⁽²⁾ Delete if not applicable.

⁽³⁾ Commission Implementing Decision (EU) 2015/2217 of 27 November 2015 on measures to prevent the introduction into the Union of the foot-and-mouth disease virus from Libya and Morocco (OJ L 314, 1.12.2015, p. 60).

DECISION (EU) 2015/2218 OF THE EUROPEAN CENTRAL BANK**of 20 November 2015****on the procedure to exclude staff members from the presumption of having a material impact on a supervised credit institution's risk profile (ECB/2015/38)**

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 127(6) and Article 132 thereof,

Having regard to Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions ⁽¹⁾, and in particular Article 4(3) thereof,

Whereas:

- (1) Within the framework established pursuant to Article 6 of Regulation (EU) No 1024/2013, the European Central Bank (ECB) is exclusively competent to carry out the tasks conferred on it by Article 4 of that Regulation relating to credit institutions established in participating Member States or branches established in participating Member States by credit institutions established in non-participating Member States.
- (2) In order to pursue the objectives of the banking union following the European Council's conclusion of 19 October 2012 that the process towards a deeper economic and monetary union should build on the Union's institutional and legal framework, a harmonised legal framework within the Single Supervisory Mechanism should be established.
- (3) Regulation (EU) No 468/2014 of the European Central Bank (ECB/2014/17) ⁽²⁾ establishes the framework for cooperation within the Single Supervisory Mechanism between the ECB and national competent authorities and with national designated authorities. In particular Part III, Title 2 sets out general provisions relating to due process for adopting ECB supervisory decisions.
- (4) The framework for prudential supervision established by Directive 2013/36/EU of the European Parliament and of the Council ⁽³⁾ requires that institutions identify all members of staff whose professional activities have a material impact on the institution's risk profile. Any criteria used for this purpose must ensure that the identification of staff whose professional activities have a material impact on the institution's risk profile reflects the level of risk of different activities within the institution.
- (5) The ECB is responsible for ensuring, within the framework of Commission Delegated Regulation (EU) No 604/2014 ⁽⁴⁾, that the entities under its direct supervision apply the rules on the identification of staff having a material impact on an institution's risk profile in a coherent manner that safeguards the soundness of any such identification. This Decision therefore provides for a procedure in relation to the application of the quantitative criteria set out in Article 4 of Delegated Regulation (EU) No 604/2014,

⁽¹⁾ OJ L 287, 29.10.2013, p. 63.

⁽²⁾ Regulation (EU) No 468/2014 of the European Central Bank of 16 April 2014 establishing the framework for cooperation within the Single Supervisory Mechanism between the European Central Bank and national competent authorities and with national designated authorities (SSM Framework Regulation) (ECB/2014/17) (OJ L 141, 14.5.2014, p. 1).

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

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

HAS ADOPTED THIS DECISION:

Article 1

Scope

This Decision lays down the procedural requirements for both the notification and the application for the prior approval that supervised credit institutions shall submit to the ECB in order to exclude staff members or categories of staff members from the presumption of being identified staff based on the quantitative criteria laid down in Article 4 of Delegated Regulation (EU) No 604/2014.

Article 2

Definitions

For the purposes of this Decision:

- (1) 'supervised credit institution' means a significant supervised entity as defined in Article 2(16) of Regulation (EU) No 468/2014 (ECB/2014/17) or significant supervised group as defined in Article 2(22) of Regulation (EU) No 468/2014 (ECB/2014/17);
- (2) 'ECB supervisory decision' has the same meaning as defined in Article 2(26) of Regulation (EU) No 468/2014 (ECB/2014/17);
- (3) 'identified staff' means all members of staff of a supervised credit institution whose professional activities have a material impact on the credit institution's risk profile in accordance with Delegated Regulation (EU) No 604/2014, on an individual, sub-consolidated or consolidated basis, as defined in paragraphs (48) and (49) of Article 4(1) of Regulation (EU) No 575/2013 of the European Parliament and of the Council ⁽¹⁾.

Article 3

General information to be provided to the ECB

1. The notification pursuant to Article 4(4) and the application for prior approval pursuant to Article 4(5) of Delegated Regulation (EU) No 604/2014 shall contain the following information for the end of the preceding financial year and for the current financial year:

- (a) the reference date;
- (b) the legal entity identifier (LEI) of the supervised credit institution;
- (c) the number of full-time equivalent employees;
- (d) the number of identified staff;
- (e) the number of identified staff based on the qualitative criteria pursuant to Article 3 of Delegated Regulation (EU) No 604/2014;
- (f) the number of identified staff based exclusively on the quantitative criteria established in Article 4 of Delegated Regulation (EU) No 604/2014, together with an indication of which of the categories specified in Article 4(1)(a), (b) or (c) of Delegated Regulation (EU) No 604/2014 each identified staff member belongs to;
- (g) the number of identified staff exclusively based on additional criteria set forth by the supervised credit institution.

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

2. The notification pursuant to Article 4(4) and the application for prior approval pursuant to Article 4(5) of Delegated Regulation (EU) No 604/2014 shall contain the following information for each staff member for whom an exclusion is requested:

- (a) the staff member's name, entity, business unit, department, job title and reporting line together with the number of full-time equivalent employees under the staff member's management;
- (b) whether the staff member belongs to any risk taking or risk control function and if so, what is the threshold in millions of euro of risk positions that the function is allowed to take;
- (c) whether the staff member is a member of any committee and if so, the name of the committee, its reporting level and its degree of authority to take risk decisions expressed as a percentage of Common Equity Tier 1 capital;
- (d) the total amount of remuneration in euros and the variable to fixed remuneration ratio awarded to the staff member in the preceding financial year;
- (e) the key performance indicators for the staff member's variable remuneration;
- (f) the quantitative criteria on the basis of which the staff member was assessed as being identified staff (Article 4(1)(a), (b) or (c) of Delegated Regulation (EU) No 604/2014);
- (g) the criteria on the basis of which the exclusion of the staff member is requested (Article 4(2)(a) or (b) of Delegated Regulation (EU) No 604/2014).

3. The notification pursuant to Article 4(4) and the application for prior approval pursuant to Article 4(5) of Delegated Regulation (EU) No 604/2014 shall contain the annual internal or external audit assessment report on the identification process of identified staff and its results, also covering the requested exclusions.

Article 4

Documentation required to substantiate that a business unit is not material

1. When filing a notification pursuant to Article 4(4) or applying for prior approval pursuant to Article 4(5) of Delegated Regulation (EU) No 604/2014, supervised credit institutions shall submit to the ECB the following documentation in order to substantiate that a staff member, or the category of staff to which the staff member belongs, only carries out professional activities in a business unit which is not a material business unit as referred to in Article 4(2)(a) of Delegated Regulation (EU) No 604/2014:

- (a) a detailed and comprehensive description of the duties and responsibilities of the relevant staff member or the category of staff to which the staff member belongs;
- (b) an organisational chart of the relevant business unit that shows the hierarchical structure and reporting lines, including the relevant staff member or category of staff to which the staff member belongs;
- (c) a detailed description of the internal capital allocation to the relevant business unit according to Article 73 of Directive 2013/36/EU for the current and the 2 preceding financial years;
- (d) an overview of the internal capital allocation to all business units in accordance with Article 73 of Directive 2013/36/EU for the current and the 2 preceding financial years;
- (e) a statement explaining why the supervised credit institution awarded the staff member, or category of staff to which the staff member belongs, a remuneration that meets the criteria stipulated in Article 4(1) of Delegated Regulation (EU) No 604/2014 even though the staff member carries out professional activities in a non-material business unit;
- (f) a reasoned statement explaining why the staff member, or category of staff to which the staff member belongs, does not meet the qualitative criteria referred to in Article 3 of Delegated Regulation (EU) No 604/2014.

2. If the definition of business units within the supervised credit institution has changed within the current and the 2 preceding financial years, the supervised credit institution shall provide the reasons for this change.

3. The ECB may require the supervised credit institution to submit further information to substantiate the application.

*Article 5***Documentation to substantiate that a staff member's professional activities have no material impact on the risk profile of a material business unit**

1. When filing a notification pursuant to Article 4(4) or applying for prior approval pursuant to Article 4(5) of Delegated Regulation (EU) No 604/2014, supervised credit institutions shall submit the following documentation to the ECB in order to substantiate that a staff member's or category of staff's professional activities have no material impact on the risk profile of a material business unit as referred to in Article 4(2)(b) of Delegated Regulation (EU) No 604/2014:

- (a) a detailed and comprehensive description of the duties and responsibilities of the relevant staff member or category of staff to which the staff member belongs;
- (b) an organisational chart of the relevant business unit that shows the hierarchical structure and reporting lines, including the relevant staff member or category of staff to which the staff member belongs;
- (c) a detailed description of the objective criteria stipulated in Article 4(3) of Delegated Regulation (EU) No 604/2014 that have been used to assess that the professional activities of the relevant staff member, or the category of staff to which the staff member belongs have no material impact on the risk profile of a material business unit, specifying how these criteria have been applied and how all relevant risk and performance indicators used for internal risk measurement purposes have been taken into account;
- (d) a statement explaining why the supervised credit institution awarded the staff member, or category of staff to which the staff member belongs, a remuneration that meets the criteria stipulated in Article 4(1) of Delegated Regulation (EU) No 604/2014 even though the staff member has no material impact on the risk profile of a material business unit;
- (e) a reasoned statement explaining why the relevant staff member, or category of staff to which the staff member belongs, does not meet the qualitative criteria referred to in Article 3 of Delegated Regulation (EU) No 604/2014.

2. The ECB may require the supervised credit institution to submit further information to substantiate the application.

*Article 6***Supplementary documentation to substantiate applications for staff members awarded a total remuneration of EUR 1 000 000 or more**

1. When applying for prior approval pursuant to Article 4(5) of Delegated Regulation (EU) No 604/2014 for a staff member who was awarded a total remuneration of EUR 1 000 000 or more in the preceding financial year, supervised credit institutions shall submit the following documentation to the ECB in order to substantiate the exceptional circumstances referred to in Article 4(5) of Delegated Regulation (EU) No 604/2014:

- (a) a detailed description of the exceptional circumstances linked to the professional activity of the relevant staff member and their impact on the risk profile of the supervised credit institution. A highly competitive situation shall not be considered an exceptional circumstance;
- (b) a detailed description of any exceptional circumstances linked to the remuneration of the relevant staff member that explains why the supervised credit institution awarded the staff member a remuneration of EUR 1 000 000 or more, even though the staff member reportedly does not have a material impact on the risk profile of the supervised credit institution.

2. The ECB may require the supervised credit institution to submit further information to substantiate the application.

*Article 7***Period for filing notifications**

1. Notifications pursuant to Article 4(4) of Delegated Regulation (EU) No 604/2014 shall be filed without delay, but at the latest within 6 months from the end of the preceding financial year. A determination by a supervised credit institution used as the basis for a notification shall be limited to the performance of the staff member during the financial year following the year in which the notification was made.
2. For staff members who were covered by a notification in the previous filing period, a new notification is not needed as long as the criterion used for the determination is still applicable.
3. In the case of a staff member who is the subject of a notification for the first time, the determination shall apply to both the performance of the staff member during the financial year in which the notification is made and to the performance of the staff member during the following financial year. This provision shall only be applicable in respect of notifications submitted after the entry into force of this Decision.

*Article 8***Period for submitting applications for prior approval**

Applications for prior approval pursuant to Article 4(5) of Delegated Regulation (EU) No 604/2014 shall be submitted without delay, but at the latest within 6 months from the end of the preceding financial year.

*Article 9***Assessment by the ECB**

1. On the basis of notifications filed pursuant to Article 4(4) and applications submitted for prior approval pursuant to Article 4(5) of Delegated Regulation (EU) No 604/2014, the ECB shall assess:
 - (a) the completeness of the documentation;
 - (b) the basis on which the supervised credit institution has determined that the staff member concerned, or the category of staff to which the staff member belongs, meets one of the conditions laid down in Article 4(2) of Delegated Regulation (EU) No 604/2014;
 - (c) whether the staff member, or the category of staff to which the staff member belongs, has no material impact on the risk profile of a material business unit through the professional activities carried out by verifying:
 - (i) whether the supervised credit institution has applied objective criteria, which take into account all relevant risk and performance indicators that it otherwise uses to identify, manage and monitor risks in accordance with Article 74 of Directive 2013/36/EU;
 - (ii) whether the supervised credit institution has compared the duties and authorities of the staff member, or category of staff to which the staff member belongs, and their impact on the supervised credit institution's risk profile with the impact of the professional activities of staff members identified by the qualitative criteria set out in Article 3 of Delegated Regulation (EU) No 604/2014;
 - (d) with regard to the applications for prior approval for staff members awarded a total remuneration of EUR 1 000 000 or more, whether exceptional circumstances apply. In such cases the ECB shall inform the European Banking Authority of the results of the initial assessment prior to taking any decision.

2. In the event of an application submitted for prior approval pursuant to Article 4(5) of Delegated Regulation (EU) No 604/2014, the ECB shall issue a decision within 3 months of receipt of the complete documentation.
3. In the event of a notification pursuant to Article 4(4) of Delegated Regulation (EU) No 604/2014, where the assessment indicates that the requirements laid down in this Decision and in Article 4(2) of Delegated Regulation (EU) No 604/2014 are not met, the ECB shall notify the supervised credit institution thereof within 3 months of receipt of the complete documentation. The supervised credit institution shall not apply Article 4(2) of Delegated Regulation (EU) No 604/2014. In the absence of a notification by the ECB according to the first sentence of this paragraph, the supervised credit institution shall be considered to be compliant with Article 4(2) of Delegated Regulation (EU) No 604/2014 and the requirements referred to therein.

Article 10

Duration of prior approval granted

1. A prior approval granted by the ECB pursuant to Article 4(5) of Delegated Regulation (EU) No 604/2014 shall be limited to the performance of the staff member during the financial year following the year in which the ECB supervisory decision containing the approval was notified to the supervised credit institution.
2. In the case of a first application for a relevant staff member, the approval shall be granted for the performance of the staff member during the financial year in which the ECB supervisory decision containing the approval was notified to the supervised credit institution and also for the performance of the staff member during the following financial year. This provision shall only be applicable in reference to the applications submitted after the entry into force of this Decision.

Article 11

Transitional provisions

1. This Decision shall apply to the filing of notifications pursuant to Article 4(4) or applications for prior approval pursuant to Article 4(5) of Delegated Regulation (EU) No 604/2014 submitted after the entry into force of this Decision.
2. Exceptionally, filing of notifications pursuant to Article 4(4) or applications for prior approval pursuant to Article 4(5) of Delegated Regulation (EU) No 604/2014 based on 2014 information shall be made by 31 December 2015.
3. The approvals granted by the ECB pursuant to Article 4(5) of Delegated Regulation (EU) No 604/2014 under these transitional provisions shall apply to the performance of the staff member during the financial years 2015 and 2016.

Article 12

Entry into force

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

Done at Frankfurt am Main, 20 November 2015.

The President of the ECB
Mario DRAGHI

CORRIGENDA**Corrigendum to Commission Regulation (EU) 2015/2075 of 18 November 2015 amending Annexes II and III to Regulation (EC) No 396/2005 of the European Parliament and of the Council as regards maximum residue levels for abamectin, desmedipham, dichlorprop-P, haloxyfop-P, oryzalin and phenmedipham in or on certain products**

(Official Journal of the European Union L 302 of 19 November 2015)

On page 17, Article 2:

for:

‘Article 2

Regulation (EC) 8 December 2015 No 396/2005 as it stood before being amended by this Regulation shall continue to apply to products which were produced by.’,

read:

‘Article 2

Regulation (EC) No 396/2005 as it stood before being amended by this Regulation shall continue to apply to products which were produced by 8 June 2016.’.

