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⁽¹⁾ Text with EEA relevance

II

(Non-legislative acts)

INTERNATIONAL AGREEMENTS

Information on the date of entry into force of the Protocol to the Euro Mediterranean Agreement establishing an association between the European Community and its Member States, of the one part, and the Republic of Tunisia, of the other part, on a Framework Agreement between the European Union and the Republic of Tunisia on the general principles for the participation of the Republic of Tunisia in Union programs

On 26 October 2015 and 11 January 2016 respectively, the European Union and the Government of the Republic of Tunisia notified each other of the completion of the procedures necessary for entry into force of the above protocol ⁽¹⁾.

The protocol, signed in Brussels on 17 March 2015, will accordingly enter into force on 1 February 2016, in accordance with Article 10.2 thereof.

⁽¹⁾ OJ L 96, 11.4.2015, p. 3.

REGULATIONS

COMMISSION DELEGATED REGULATION (EU) 2016/98

of 16 October 2015

supplementing Directive 2013/36/EU of the European Parliament and of the Council with regard to regulatory technical standards for specifying the general conditions for the functioning of colleges of supervisors

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Directive 2013/36/EU of 26 June 2013 of the European Parliament and of the Council on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC ⁽¹⁾, and in particular to Article 51(4) and Article 116(4) thereof,

Whereas:

- (1) The performance of the mapping of a group of institutions, which would identify the group entities in the Union or a third country and which would describe for each group entity its nature, location, the authorities involved in its supervision, the applicable prudential exemptions, its importance for the group and importance for the country in which it is authorised or established as well the criteria for determining that importance, is considered as a vital element for the identification of college members and potential observers. In this context, information on the importance of a branch for the group and importance of that branch for the Member State in which it is established is essential in order to determine the participation of the competent authorities of that Member State in college activities. Information on the nature of the group entities, whether institutions, branches or other financial sector entities, as well as on their country of authorisation or establishment, whether a Member State or a third country, is also important for identifying college members and potential observers.
- (2) Information on the importance of a group entity for the group and its importance for the Member State in which it is authorised or established is essential for determining the level of engagement of the competent authority of that Member State in the activities of the college, and, in particular, for carrying out the supervisory review and evaluation process.
- (3) The written coordination and cooperation arrangements referred to in Article 115 of Directive 2013/36/EU should cover all areas of college work to strengthen the efficiency of supervisory colleges. The written arrangements should also cover arrangements between some college members involved in specific college activities such as those performed through specific substructures of the college. The written arrangements should also include operational aspects of college work as these aspects are essential for facilitating the functioning of the college both in going concern and during emergency situations. As it is essential to ensure cooperation within the college before and for the purpose of providing input for group resolution issues, the written arrangements should provide for the processes of coordinating the relevant input as well as the responsibilities and role of the consolidating supervisor in communicating that input through the group-level resolution authority as defined in Article 2(1)(44) of Directive 2014/59/EU of the European Parliament and of the Council ⁽²⁾ to the resolution college. The written arrangements should be comprehensive, coherent and

⁽¹⁾ OJ L 176, 27.6.2013, p. 338.

⁽²⁾ Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council (OJ L 173, 12.6.2014, p. 190).

exhaustive and should provide an adequate and appropriate basis to the competent authorities in order for them to discharge their relevant duties and tasks within, rather than outside the college.

- (4) Colleges are a key tool for exchanging information, anticipating and dealing with emergency situations, and enabling the consolidating supervisor to conduct effective supervision on a consolidated basis. To ensure consistency and enable the EBA to perform its tasks as provided for in Regulation (EU) No 1093/2010 of the European Parliament and of the Council ⁽¹⁾ and in Article 116 of Directive 2013/36/EU, it is appropriate for the EBA to participate in all colleges as a member.
- (5) In order to perform all college activities, the consolidating supervisor and the other members of the college should have an overview of the activities carried out by all group entities, including by those carrying out financial activities without being qualified as institutions and by those operating outside the Union. Interaction between the consolidating supervisor, college members, third-country supervisory authorities, public authorities or bodies which are responsible for or involved in the supervision of a group entity, including authorities responsible for the prudential supervision of the group's financial sector entities or competent authorities responsible for the supervision of markets in financial instruments, the prevention of the use of the financial system for the purpose of money laundering and terrorist financing, or consumer protection, should be promoted by allowing these third-country supervisory authorities and public authorities or bodies to participate in college work as observers, as appropriate.
- (6) College members should discuss and agree on the scope and level of involvement of observers, if any, in the college. The framework of participation of observers in the college should be clearly stated in the written coordination and cooperation arrangements and should be communicated to the observers.
- (7) Members of the college of supervisors should work together, coordinating their supervisory actions to the maximum extent possible and cooperating closely in order to better perform their duties, to avoid duplication of tasks, including duplication of information requests addressed to the supervised entities of the group. In this context, agreements on entrustment of tasks and delegation of responsibilities should be considered on a regular basis by the members of the college, and at least when college members develop their college supervisory examination programme.
- (8) The consolidating supervisor should have access to all information necessary for the performance of its tasks and responsibilities and should act as the coordinator for the collection and dissemination of information received from any college member or observer or from any entity of the group, or any input received from the resolution college, in particular from the relevant group-level resolution authority. The same applies also for the members of the college. In particular, where the consolidating supervisor determines the relevance of particular information for another member of the college, including the competent authority in a host Member State where a significant branch is established, it should refrain from unjustifiably excluding members of the college from receiving information.
- (9) Members of the college participating in the performance of the tasks referred to in Article 113 of Directive 2013/36/EU should be encouraged to exchange information on the assessment of the main elements of the supervisory review and evaluation process as referred to in Article 97 of that Directive, recognising at the same time that the supervisory review and evaluation process may be performed differently across Member States depending on the transposition of those Union rules into the national legislation taking also into account the guidelines issued by the EBA under Article 107(3) of Directive 2013/36/EU.
- (10) To facilitate cooperation between competent authorities and to coordinate any decisions intended to address issues of compliance by an institution with the requirements regarding approaches that need permission by competent authorities before being used for the calculation of own fund requirements (use of internal models for credit risk, market risk, counterparty risk and operational risk), the conditions of cooperation between the consolidating supervisor and the relevant competent authorities for exchanging information on the performance of those internal approaches, and for discussing and reaching agreement on measures to address inefficiencies identified should be specified.

⁽¹⁾ Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p. 1).

- (11) To facilitate the identification of early warning signs, potential risks and vulnerabilities for the group and its entities and for the system in which they operate, college members are expected to exchange quantitative information, for the group and its entities, in a consistent and comparable way. This information should cover main areas of the information collected by the competent authorities in accordance with Commission Implementing Regulation (EU) No 680/2014 ⁽¹⁾ specifying the uniform formats, frequencies, dates of reporting, definitions and the IT solutions to be applied by the institutions for supervisory reporting purposes, and should be exchanged while the competent authorities are in the process of developing the group risk assessment report and reaching the joint decisions on capital and liquidity pursuant to Article 113 of Directive 2013/36/EU. Each college should decide on the exact set of information to be exchanged for these purposes.
- (12) To develop the college supervisory examination programme, college members shall take into account the group risk assessment report and the outcome of the capital and liquidity joint decision so as to better identify the priorities of common work. Thus, the development of the college supervisory examination programme should start once the group risk assessment and joint decision process have been concluded, while for its finalisation the competent authorities should consider the tasks they have committed to perform at national level, the resources allocated to those tasks and the respective timelines for their performance.
- (13) Members of the college should coordinate their activities in preparation for and during emergency situations such as adverse developments which may seriously jeopardise the orderly function and the integrity of the financial markets or the stability of the whole or part of the financial system of the Union, or other situations that affect or might explicitly affect the financial and economic situation of a banking group or any of its subsidiaries. Therefore, the planning and coordination of the competent authorities' activities in preparation for and during emergency situations should include, but not be limited to the activities referred to in the relevant provisions of Directive 2014/59/EU; in particular activities aiming at coordinating the group recovery planning and at providing coordinated input to resolution authorities, where needed, should be seen as examples of activities in preparation for and during emergency situations.
- (14) When dealing with an emergency situation, college members, under the coordination of the consolidating supervisor, should aim to develop a coordinated supervisory assessment of the situation, agree on a coordinated supervisory response and monitor the implementation of their response to ensure that the emergency situation is properly assessed and addressed. They should also ensure that any external communication is done in a coordinated way and covers elements which are agreed *ex-ante* between the members of the college.
- (15) The provisions in this Regulation are closely linked to one another, since they deal with the general conditions of the functioning of the colleges of supervisors. To ensure coherence between those provisions, which should enter into force at the same time, and to facilitate a comprehensive view and compact access to them by persons subject to those obligations it is desirable to include all the regulatory technical standards required by Article 51(4) and 116(4) of Directive 2013/36/EU in a single Regulation.
- (16) As the vast majority of supervisory colleges across the EU are formed in accordance with Article 116 of Directive 2013/36/EU it appears more appropriate to first specify the conditions regarding colleges under Article 116 of Directive 2013/36/EU before specifying those regarding colleges under Article 51 of Directive 2013/36/EU, the former appearing more as a general case, the latter as a special case.
- (17) This Regulation is based on the draft regulatory technical standards submitted by the European supervisory authority (European Banking Authority) (EBA) to the Commission.
- (18) The EBA has conducted open public consultations on the draft regulatory technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the opinion of the Banking Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1093/2010,

⁽¹⁾ Commission Implementing Regulation (EU) No 680/2014 of 16 April 2014 laying down implementing technical standards with regard to supervisory reporting of institutions according to Regulation (EU) No 575/2013 of the European Parliament and of the Council (OJ L 91, 28.6.2014, p. 1).

HAS ADOPTED THIS REGULATION:

CHAPTER 1

GENERAL PROVISIONS

Article 1

Subject matter

This Regulation specifies the general conditions of functioning of the college of supervisors ('college') formed in accordance with Article 116 and Article 51(3) of Directive 2013/36/EU.

CHAPTER 2

CONDITIONS REGARDING THE FUNCTIONING OF COLLEGES FORMED IN ACCORDANCE WITH ARTICLE 116 OF DIRECTIVE 2013/36/EU

SECTION 1

Establishment and functioning of colleges

Article 2

Establishment of the mapping of a group of institutions

1. For the purpose of identifying the members and potential observers of the supervisory college, the consolidating supervisor shall establish the mapping of a group of institutions in accordance with Article 2 of Commission Implementing Regulation (EU) 2016/99 ⁽¹⁾.
2. The mapping of a group of institutions shall result in the identification of the following group entities:
 - (a) institutions authorised and branches established in a Member State;
 - (b) financial sector entities authorised in a Member State;
 - (c) institutions authorised and branches established in a third country.
3. The following information shall be reflected in the mapping for each institution authorised and branch established in a Member State:
 - (a) the Member State where the institution is authorised or the branch established;
 - (b) the competent authority responsible for the supervision of the institution or the competent authority of the host Member State where the branch is established as well as other financial sector authorities of that Member State, such as competent authorities responsible for the supervision of markets in financial instruments, the prevention of the use of the financial system for the purpose of money laundering and terrorist financing, or consumer protection;
 - (c) for an institution, including for a subsidiary of an EU parent undertaking established in the same Member State as well as for the EU parent undertaking itself, information as to whether the institution is subject to prudential supervision on an individual basis or whether it has been granted a waiver from the application of requirements set out in Parts Two to Eight of Regulation (EU) No 575/2013 of the European Parliament and of the Council ⁽²⁾ on an individual basis pursuant to Articles 7, 8, or 10 of that Regulation;

⁽¹⁾ Commission Implementing Regulation (EU) 2016/99 of 16 October 2015 laying down implementing technical standards with regard to determining the operational functioning of the colleges of supervisors according to Directive 2013/36/EU of the European Parliament and of the Council (see page 21 of this Official Journal).

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

- (d) for an institution, information relating to the importance of the institution for the Member State where it is authorised and the relevant criteria used by the competent authorities to determine this importance as well as information on the importance of that institution for the group, provided that the total amount of assets and off-balance sheet items of that institution exceeds 1 % of the group's total assets and off balance sheet items on consolidated basis;
 - (e) for a branch, information relating to the importance of the branch for the Member State where it is established, in particular whether this branch has been designated or is proposed to be designated as significant in accordance with Article 51 of Directive 2013/36/EU, as well as information on the importance of that branch for the group, provided that the total amount of assets and off-balance sheet items of that branch exceeds 1 % of the group's total assets and off balance sheet items on consolidated basis.
4. The following information shall be reflected in the mapping for each financial sector entity, institution or branch referred to in points (b) and (c) of paragraph 2:
- (a) the Member State where the financial sector entity is authorised or the third country where the institution is authorised or the branch is established;
 - (b) the authority responsible for or involved in the supervision of that financial sector entity, institution or branch;
 - (c) information on the importance of the financial sector entity, of the institution or of the branch for the group, provided that the total amount of assets and off-balance sheet items of that financial sector entity, institution or branch exceeds 1 % of the group's total assets and off balance sheet items on consolidated basis.

Article 3

Designation of the members and observers of a college

1. The consolidating supervisor shall invite the following authorities to become members of the college:
- (a) the competent authorities responsible for the supervision of institutions which are subsidiaries of an EU parent institution or of an EU parent financial holding company or of an EU parent mixed financial holding company and the competent authorities of host Member States where significant branches as referred to in Article 51 of Directive 2013/36/EU are established;
 - (b) the ESCB central banks of Member States that are involved in accordance with their national law in the prudential supervision of the legal entities referred to in point a, but which are not competent authorities;
 - (c) the EBA.
2. The consolidating supervisor may invite the competent authorities of host Member States where non-significant branches are established to participate in the college as observers in accordance with the process determined in Article 3(1)(b) of Implementing Regulation (EU) 2016/99.
3. The consolidating supervisor may invite the supervisory authorities of third countries where institutions are authorised or branches are established to participate in the college as observers in accordance with the process determined in Article 3(1)(c) of Implementing Regulation (EU) 2016/99.
4. The consolidating supervisor may invite the following authorities to participate in the college as observers in accordance with the process determined in Article 3(1)(d) of Implementing Regulation (EU) 2016/99:
- (a) the ESCB central banks which are not empowered by national law to supervise an institution authorised or a branch established in a Member State;

- (b) the public authorities or bodies in a Member State, which are responsible for or involved in the supervision of a group entity, including authorities responsible for the prudential supervision of the group's financial sector entities or competent authorities responsible for the supervision of markets in financial instruments, the prevention of the use of the financial system for the purpose of money laundering and terrorist financing, or consumer protection.
5. The consolidating supervisor and the members of the college shall specify the arrangements covering the participation of the observers in the college in the written coordination and cooperation arrangements referred to in Article 5(c). The consolidating supervisor shall notify these arrangements to the observers.

Article 4

Communication of the setting up and composition of a college

The consolidating supervisor shall communicate to the EU parent undertaking of the group the establishment of a college and the identity of its members and observers, as well as any changes in that composition.

Article 5

Establishment of the written coordination and cooperation arrangements

The written coordination and cooperation arrangements referred to in Article 115 of Directive 2013/36/EU shall include at least the following:

- (a) information on the overall structure of the group covering all group entities;
- (b) identification of the members and observers of the college;
- (c) a description of the terms covering the participation of observers in the college as referred to in Article 3(5) of this Regulation, including their involvement in the various dialogues and processes of the college and their rights and obligations with regard to exchanging information;
- (d) a description of the arrangements for exchanging information including their scope, frequency and channels of communication;
- (e) a description of the arrangements for the treatment of confidential information;
- (f) a description of the arrangements on entrustment of tasks and on delegation of responsibilities, where relevant;
- (g) a description of any substructures of the college;
- (h) a description of the framework for the planning and coordination of supervisory activities in going concern situations;
- (i) a description of the framework for the planning and coordination of supervisory activities in preparation for and during emergency situations, including contingency planning, communication tools and procedures;
- (j) a description of the communication policy of the consolidating supervisor and the members of the college with the EU parent undertaking and with the group entities;
- (k) agreed procedures and deadlines to be followed for the circulation of the meeting documents;
- (l) any other agreement between the college members, including agreed indicators for identifying the early warning signs, potential risks and vulnerabilities;
- (m) a description of the framework for providing coordinated input to the resolution college, in particular for providing coordinated input without restriction for the purposes of the consultation process referred to in Articles 12, 13, 16, 18, 91 and 92 of Directive 2014/59/EU;

- (n) a description of the role of the consolidating supervisor in particular with regard to coordinating the provision of the input referred to in point (m) through the group-level resolution authority to the relevant resolution college;
- (o) provisions covering arrangements where a member or an observer terminates its participation in the college.

Article 6

Participation in college meetings and activities

1. When deciding which authorities shall participate in a college meeting or activity in accordance with Article 116(7) of Directive 2013/36/EU, the consolidating supervisor shall take into account the following:
 - (a) the topics to be discussed and the objective of the meeting or activity, in particular with regard to their relevance for each group entity;
 - (b) the importance of the group entity for the Member State where the group entity is authorised or established, and its importance for the group.
2. The consolidating supervisor and the members of the college shall ensure that the most appropriate representatives participate in the college meetings or activities, based on the topics discussed and objectives pursued. Those representatives shall have the power to commit their authorities as members of the college, to the maximum extent possible, for the decisions planned to be taken during the meetings or activities.
3. The consolidating supervisor may invite representatives of group entities to participate in a college meeting or activity, based on the topics and objectives of the college meeting or activity.

Article 7

Entrustment of tasks and delegation of responsibilities

1. When developing the college supervisory examination programme pursuant to Article 16, and updating it where necessary, the consolidating supervisor and the members of the college shall consider the possibility of agreements on voluntary entrustment of tasks and delegation of responsibilities pursuant to Article 116(1)(b) of Directive 2013/36/EU, especially if such entrustment or delegation is expected to lead to more efficient and effective supervision, in particular by removing unnecessary duplication of supervisory requirements, including those in relation to information requests.
2. The conclusion of an agreement on entrustment of tasks or delegation of responsibilities shall be notified by the consolidating supervisor to the EU parent undertaking, and by the competent authority, which delegates its powers, to the institution concerned.

Article 8

Exchange of information between college members and a group of institutions

1. The consolidating supervisor shall be responsible for communicating to and requesting information from the EU parent undertaking. The members of the college shall be responsible for communicating to and requesting information from the institutions and branches under their supervisory remit.
2. When, exceptionally, a member of the college intends to communicate to or request information from the EU parent undertaking, it shall inform in advance the consolidating supervisor.

3. When, exceptionally, the consolidating supervisor intends to communicate to or request information from an institution or a branch outside its supervisory remit, it shall inform in advance the member of the college responsible for supervising this institution or branch.

SECTION 2

Planning and coordination of supervisory activities in going concern situations

Article 9

General conditions with regard to exchange of information between the consolidating supervisor and college members

1. The consolidating supervisor and the members of the college shall exchange all information necessary to facilitate the exercise of the tasks referred to in Articles 112 and 113 of Directive 2013/36/EU, subject to the confidentiality requirements laid down in Section II of Chapter 1 in Title VII of that Directive, and where applicable, Articles 54 and 58 of Directive 2004/39/EC of the European Parliament and of the Council ⁽¹⁾.
2. The consolidating supervisor and the members of the college shall also exchange all information necessary to facilitate the exercise of the tasks referred to in Article 8 of Directive 2014/59/EU.
3. The consolidating supervisor and the members of the college shall exchange the information referred to in paragraphs 1 and 2, whether received from a group entity, a competent or supervisory authority or any other source, and in accordance with Article 7 of the Implementing Regulation (EU) 2016/99. That information shall be sufficiently adequate, accurate and timely.

Article 10

Information exchange for performing group risk assessments and reaching joint decisions

1. For the purposes of joint decisions on institution-specific prudential requirements as referred to in Article 113 of Directive 2013/36/EU, the consolidating supervisor and the relevant members of the college referred to in paragraph 1 of that Article shall exchange all information necessary, at both individual and consolidated level, to reach a joint decision.
2. In particular, the consolidating supervisor and the relevant members of the college referred to in paragraph 1 shall exchange information on the outcomes of the supervisory review and evaluation process performed in accordance to Article 97 of Directive 2013/36/EU. This information shall provide the outcome of the assessment, at least, of the following elements:
 - (a) business model analysis, including the assessment of the viability of current business model and sustainability of institution's forward-looking business strategy;
 - (b) internal governance arrangements and institution-wide controls;
 - (c) individual risks to institution's capital, covering the following elements:
 - (i) inherent individual risks;
 - (ii) risk management and controls;
 - (d) capital adequacy assessment, including proposed required own funds pursuant to Article 104(1)(a) of Directive 2013/36/EU;

⁽¹⁾ Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments amending Council Directives 85/611/EEC and 93/6/EEC and Directive 2000/12/EC of the European Parliament and of the Council and repealing Council Directive 93/22/EEC (OJ L 145, 30.4.2004, p. 1).

- (e) risks to institution's liquidity and funding, covering the following elements:
 - (i) liquidity risk and funding risk;
 - (ii) liquidity and funding risk management;
- (f) liquidity adequacy assessment, including proposed quantitative and qualitative liquidity measures pursuant to Article 105 of Directive 2013/36/EU;
- (g) other supervisory measures or early intervention measures taken or planned to be taken in order to address the inefficiencies identified as a result of the supervisory review and evaluation process;
- (h) results of the supervisory stress tests performed pursuant to Article 100 of Directive 2013/36/EU;
- (i) findings from on-site inspections and off-site monitoring that are relevant for the assessment of the risk profile of the group or any of its entities.

Article 11

Information exchange with regard to the ongoing review of the permission to use internal approaches and non-material extensions or changes in internal models

1. For the purposes of ensuring coherence and coordination with regard to the ongoing review of the permission to use internal approaches as referred to in Article 101 of Directive 2013/36/EU, the consolidating supervisor and the relevant members of the college, who supervise institutions that have been granted permission to use internal approaches in accordance with Articles 143(1), Article 151(4) or (9), Article 283, Article 312(2), or Article 363 of Regulation (EU) No 575/2013, shall exchange all information on the outcome of this ongoing review and all other relevant information.
2. Where the consolidating supervisor or any relevant member of the college referred to in paragraph 1 has identified that an institution authorised in a Member State, including the EU parent undertaking, no longer meets all requirements for applying an internal approach or has identified weaknesses in accordance with Article 101 of Directive 2013/36/EU, they shall immediately exchange the following information, as applicable, for the purposes of facilitating the reach of common agreement as referred to in Article 8 of Implementing Regulation (EU) 2016/99:
 - (a) assessment of the effect of the weaknesses identified and issues of non-compliance and their materiality;
 - (b) assessment of the plan to restore compliance and to address the weaknesses identified as presented by the EU parent institution or any institution authorised in a Member State, including information on the timeline for its implementation;
 - (c) information on the intention of the consolidating supervisor or of any relevant member of the college to revoke the permission or restrict the use of the model to compliant areas or those where compliance can be achieved within an appropriate timeline, or those areas that are not affected by the weaknesses identified;
 - (d) information on any proposed additional own funds requirements pursuant to Article 104(2)(d) of Directive 2013/36/EU as a supervisory measure to address the issues of non-compliance or weaknesses identified.
3. The consolidating supervisor and the relevant members of the college referred to in paragraph 1 shall also exchange information regarding extensions or changes in these internal models which are not material model extensions or changes, as referred to in Article 13 of Commission Implementing Regulation (EU) 2016/100 ⁽¹⁾.
4. Information referred to in paragraphs 1 and 2 shall be discussed and taken into account while developing the group risk assessment and reaching a joint decision in accordance with Article 113(1)(a) of Directive 2013/36/EU.

⁽¹⁾ Commission Implementing Regulation (EU) 2016/100 of 16 October 2015 laying down implementing technical standards specifying the joint decision process with regard to the application for certain prudential permissions pursuant to Regulation (EU) No 575/2013 of the European Parliament and of the Council (see page 45 of this Official Journal).

*Article 12***Information exchange on early warning signs, potential risks and vulnerabilities**

1. The consolidating supervisor and the members of the college participating in the development of a group risk assessment report referred to in Article 113(2)(a) of Directive 2013/36/EU or a group liquidity risk assessment report referred to in Article 113(2)(b) of that Directive for the purposes of reaching joint decisions on institution-specific prudential requirements in accordance with that Article shall exchange quantitative information aiming to identify early warning signs, potential risks and vulnerabilities and to inform the group risk assessment report and group liquidity risk assessment report.

2. The information referred to in paragraph 1 shall be developed based on the information collected by the competent authorities in accordance with Implementing Regulation (EU) No 680/2014, in order to ensure consistency and comparability on the data used. This information shall cover at least all group entities authorised or established in a Member State, and at least the following areas:

- (a) capital;
- (b) liquidity;
- (c) asset quality;
- (d) funding;
- (e) profitability;
- (f) concentration risk.

3. The consolidating supervisor and the members of the college referred to in paragraph 1 shall also consider exchanging information on the macroeconomic environment in which the group of institutions and its group entities operate.

*Article 13***Information exchange with regard to non-compliance and sanctions**

1. The members of the college shall communicate to the consolidating supervisor information regarding any situations in respect of which the members of the college have determined that an institution or a branch under their supervisory remit has not complied with national or Union law or with requirements, in relation to the prudential supervision or market conduct supervision of institutions, including the requirements laid down in Regulation (EU) No 575/2013 and Directive 2013/36/EU and any of the administrative penalties imposed or other administrative measures applied in accordance with Articles 64 to 67 of Directive 2013/36/EU when this information affects or is likely to affect the risk profile of the group or any of its group entities. The members of the college shall discuss with the consolidating supervisor the possible impact of these issues of non-compliance and sanctions for the group entities or for the group as a whole.

2. The consolidating supervisor shall decide to communicate information specified in paragraph 1 to the members of the college for whom this information is deemed relevant in accordance with Article 7 of Implementing Regulation (EU) 2016/99.

*Article 14***Information exchange for the assessment of the group recovery plan**

1. The consolidating supervisor and the members of the college shall exchange all information necessary for those who participate in the process of joint decision on the elements referred to in Article 8(2) of Directive 2014/59/EU.

2. For the purposes of paragraph 1, the consolidating supervisor shall provide the group recovery plan to the members of the college following the procedure specified in Article 7 of Implementing Regulation (EU) 2016/99.

3. The consolidating supervisor shall ensure that all members of the college are appropriately informed of the outcome of the process referred to in paragraph 1.

4. The consolidating supervisor shall inform the group-level resolution authority about the timeline followed for the review and assessment of the group recovery plan and indicate a date for the group-level resolution authority to provide its recommendations, if any, in accordance to Article 6(4) of Directive 2014/59/EU.

Article 15

Information exchange with regard to group financial support agreements

The consolidating supervisor shall ensure that all members of the college are appropriately informed of the main terms of authorisations of group financial support agreements that have been granted in accordance with the joint decision process referred to in Article 20 of Directive 2014/59/EU.

Article 16

Establishment and update of the college supervisory examination programme

1. For the purposes of establishing the college supervisory examination programme in accordance with Article 116(1)(c) of Directive 2013/36/EU, the consolidating supervisor and the members of the college shall identify the supervisory activities to be undertaken.

2. The college supervisory examination programme shall contain at least the following:

- (a) the areas of joint work identified as a result of the group risk assessment and group liquidity risk assessment and joint decisions on institution-specific prudential requirements pursuant to Article 113 of Directive 2013/36/EU or as a result of any other college activities undertaken, including efforts to contribute to efficient supervision and to remove unnecessary duplication of tasks in accordance with Article 116(1)(d) of that Directive;
- (b) the respective supervisory examination programmes of the consolidating supervisor and the members of the college for the parent undertaking and for all institutions authorised and branches established in a Member State;
- (c) the areas of focus of the college work and its planned supervisory activities, including planned onsite inspections pursuant to Article 99(1)(c) of Directive 2013/36/EU;
- (d) the members of the college responsible for undertaking the planned supervisory activities;
- (e) the expected timelines, both in terms of timing and duration, for each of the planned supervisory activities.

3. The establishment and update of the college supervisory examination programme shall be performed pursuant to Article 11 of Implementing Regulation (EU) 2016/99.

SECTION 3

Planning and coordination of supervisory activities in preparation for and during emergency situations

Article 17

Establishment of a college framework for emergency situations

1. The consolidating supervisor and the members of the college shall establish a college framework in anticipation of possible emergency situations in accordance with Article 112(1)(c) of Directive 2013/36/EU (hereinafter 'college framework for emergency situations'), taking into account the specificities and structure of the group of institutions.

2. The college framework for emergency situations shall include at least the following:

- (a) the college-specific procedures that shall apply where an emergency situation as referred to in Article 114(1) of Directive 2013/36/EU arises;

- (b) the minimum set of information that shall be exchanged where an emergency situation as referred to in Article 114(1) of Directive 2013/36/EU arises.
3. The minimum set of information referred to in point (b) of paragraph 2 shall include the following:
- (a) an outline of the situation that has occurred, including the underlying cause of the emergency situation, and the expected impact of the emergency situation on the group entities and the group as a whole, on the market liquidity and on the stability of the financial system;
 - (b) an explanation of the measures and actions that have been taken or are planned to be taken, by the consolidation supervisor or any of the members of the college or by the group entities themselves;
 - (c) the latest available quantitative information regarding liquidity and capital position of the group entities affected or likely to be affected by the emergency situation on an individual and consolidated basis.

Article 18

General conditions with regard to exchange of information during an emergency situation

1. The consolidating supervisor and the members of the college shall exchange all information necessary to facilitate the exercise of the tasks referred to in Article 114(1) of Directive 2013/36/EU, subject to the confidentiality requirements laid down in Section II of Chapter 1 of Title VII of that Directive, and where applicable, Articles 54 and 58 of Directive 2004/39/EC.
2. Upon being alerted of an emergency situation by any member or observer of the college or having identified an emergency situation, the consolidating supervisor shall communicate the information referred to in Article 17(2)(b), following the procedures referred to in Article 17(2)(a), to the members of the college who supervise group entities that are affected or likely to be affected by the emergency situation, and the EBA.
3. Depending on the nature, severity, potential systemic impact or other impact, and likelihood of contagion of the emergency situation, the members of the college who supervise group entities that are affected or likely to be affected by the emergency situation and the consolidating supervisor may decide to exchange additional information.
4. The consolidating supervisor shall consider whether the information referred to in paragraphs 2 and 3 is relevant for the performance of the tasks of the resolution college. In this case, the consolidating supervisor shall communicate this information to the group-level resolution authority as defined in point 44 of Article 2(1) of Directive 2014/59/EU.
5. The information referred to in paragraphs 2 and 3, where applicable, shall be updated immediately when new information is available.
6. When the exchange of information or communication referred to in this Article is made orally, the concerned competent authorities shall follow up it with written communication in a timely manner.

Article 19

Coordination of the supervisory assessment of an emergency situation

1. Where an emergency situation occurs, the consolidating supervisor shall coordinate the assessment of the emergency situation (hereinafter 'coordinated supervisory assessment') in cooperation with the members of the college who supervise group entities that are affected or likely to be affected by that emergency situation.
2. The coordinated supervisory assessment of the emergency situation, performed in accordance with Article 14 of Implementing Regulation (EU) 2016/99, shall cover at least the following elements:
 - (a) the nature and severity of the emergency situation;

- (b) the impact or potential impact of the emergency situation on the group and on any of its affected or likely to be affected group entities;
 - (c) the risk of cross-border contagion.
3. When assessing point (c) of paragraph 2, the consolidating supervisor shall consider the potential systemic consequences in any of the Members States where entities of the group are authorised or where significant branches are established.

Article 20

Coordination of the supervisory response to an emergency situation

1. Where an emergency situation occurs, the consolidating supervisor shall coordinate the development of a supervisory response to the emergency situation (hereinafter 'coordinated supervisory response' in cooperation with the members of the college who supervise group entities that are affected or likely to be affected by that emergency situation.
2. The coordinated supervisory assessment referred to in Article 19 shall form the basis of the coordinated supervisory response, which shall define the supervisory actions needed, their scope, and the timetable for their implementation.
3. The coordinated supervisory response shall be developed by the consolidating supervisor and the members of the college who supervise group entities that are affected or likely to be affected by the emergency situation.

Article 21

Monitoring of the implementation of the coordinated supervisory response to an emergency situation

1. The consolidating supervisor and the members of the college who supervise group entities that are affected or likely to be affected by the emergency situation shall monitor and exchange information on the implementation of the coordinated supervisory response referred to in Article 20.
2. The information to be exchanged shall include at least an update on the implementation of the agreed actions within the foreseen timeline, as referred to in Article 20(2), and the need to update or adjust these actions.

Article 22

Coordination of external communication in an emergency situation

1. Within the framework of applicable Union and national law, the consolidating supervisor and the members of the college who supervise group entities that are affected or likely to be affected by the emergency situation shall coordinate to the extent possible their external communications.
2. For the purpose of coordinating external communication, the consolidating supervisor and the members of the college shall agree on the following elements:
 - (a) the allocation of responsibilities for coordinating external communication at the different stages of the emergency situation;
 - (b) the level of information to be disclosed taking into account the need to maintain market confidence and any other additional disclosure obligations where financial instruments issued by group entities affected or likely to be affected by the emergency situation are publicly traded in one or more regulated markets in the Union;
 - (c) the coordination of public statements, including those made by only one member of the college, in particular where these are likely to have consequences for group entities supervised by other members of the college;

- (d) the allocation of responsibilities and appropriate timing for contacting group entities;
- (e) the allocation of responsibilities and actions to be taken for communicating externally the coordinated actions taken to address the emergency situation;
- (f) a description of possible coordination with another group or college that may be involved in dealing with an emergency situation affecting the group, such as a crisis management group or a resolution college.

CHAPTER 3

CONDITIONS REGARDING THE FUNCTIONING OF COLLEGES FORMED IN ACCORDANCE WITH ARTICLE 51(3) OF DIRECTIVE 2013/36/EU

SECTION 1

Establishment and functioning of colleges

Article 23

Designation of the members and observers of a college

1. Following the performance of the mapping of the institution with branches in other Member States pursuant to Article 2 of Implementing Regulation (EU) 2016/99, the competent authorities of the home Member State shall invite the following authorities to become members of the college:

- (a) the competent authorities of the host Member States where significant branches are established;
- (b) the ESCB central banks of Member States that are involved in accordance with their national law in the prudential supervision of the significant branches referred to in point a, but which are not competent authorities;
- (c) the EBA.

2. The competent authorities of the home Member State may invite the competent authorities of host Member States where non-significant branches are established to participate in the college as observers in accordance with the process determined in Article 3(1)(b) of Implementing Regulation (EU) 2016/99.

3. The competent authorities of the home Member State may invite the supervisory authorities of third countries where branches of the relevant institution are established to participate in the college as observers in accordance with the process determined in Article 3(1)(c) of Implementing Regulation (EU) 2016/99.

4. The competent authorities of the home Member State may invite the following authorities to participate in the college as observers in accordance with the process determined in Article 3(1)(d) of Implementing Regulation (EU) 2016/99:

- (a) the ESCB central banks which are not empowered by national law to supervise the institution or its branches established in a Member State;
- (b) the public authorities or bodies in a Member State which are responsible for or involved in the supervision of the institution or its branches, including competent authorities responsible for the supervision of markets in financial instruments, the prevention of the use of the financial system for the purpose of money laundering and terrorist financing, or consumer protection.

5. The competent authorities of the home Member State and the members of the college shall specify the arrangements covering the participation of the observers in the college in the written arrangements referred to in Article 51(3) of Directive 2013/36/EU. The competent authorities of the home Member State shall notify these arrangements to the observers.

*Article 24***Communication of the setting up and composition of a college**

The competent authorities of the home Member State shall communicate to the institution the establishment of a college and the identity of its members and observers, as well as any changes in that composition.

*Article 25***Establishment of the written coordination and cooperation arrangements**

The establishment and functioning of colleges for significant branches formed in accordance with Article 51(3) of Directive 2013/36/EU shall be based on written coordination and cooperation arrangements to be determined in accordance with Article 5 of this Regulation.

*Article 26***Participation in college meetings and activities**

1. When deciding which authorities shall participate in a college meeting or activity in accordance with Article 51(3) of Directive 2013/36/EU, the competent authorities of the home Member State shall take into account the following:

- (a) the topics to be discussed and the objective of the meeting or activity, in particular with regards to their relevance for each branch;
- (b) the importance of the branch in the Member State where it is established and its importance for the institution.

2. The competent authorities of the home Member State and the members of the college shall ensure that the most appropriate representatives participate in the college meetings or activities, based on the topics discussed and objectives pursued. Those representatives shall have the power to commit their authorities as members of the college, to the maximum extent possible, for the decisions planned to be taken during the meetings or activities.

3. The competent authorities of the home Member State may invite representatives of the institution to participate in a college meeting or activity, based on the topics and objectives of the college meeting or activity.

*Article 27***Conditions for communication**

1. The communication with the institution and its branches shall be organised according to the supervisory responsibilities given to the competent authorities of the home Member State and the members of the college by Chapter 4 of Title V and Title VII of Directive 2013/36/EU.

2. The college meetings and activities shall be organised in accordance with Article 18 of Implementing Regulation (EU) 2016/99.

*SECTION 2****Planning and coordination of supervisory activities in going concern situations****Article 28***General conditions with regard to exchange of information between the competent authorities of the home Member State and college members**

1. The competent authorities of the home Member State and the members of the college shall exchange all information necessary to facilitate the cooperation under Article 50 and Article 51(2) of Directive 2013/36/EU.

2. The competent authorities of the home Member State and the members of the college shall also exchange all information necessary to facilitate the cooperation referred to in Articles 6, 7 and 8 of Directive 2014/59/EU.

3. The competent authorities of the home Member State and the members of the college shall exchange the information referred to in paragraphs 1 and 2, whether received from the institution, a competent or supervisory authority or any other source. This information shall be sufficiently adequate, accurate and timely.

Article 29

Information exchange for the outcome of the supervisory review and evaluation process

The information to be communicated by the competent authorities of the home Member State to the members of the college shall cover the information referred to in Article 4, Article 5, Articles 7 to 13 and Article 17 of Commission Delegated Regulation (EU) No 524/2014 ⁽¹⁾ as a result of the supervisory review and evaluation process performed in accordance with Article 97 of Directive 2013/36/EU.

Article 30

Information exchange for the assessment of the recovery plan

1. The competent authorities of the home Member State shall consult the competent authorities of the host Member States where significant branches are established on the recovery plan in so far as is relevant to that branch, in accordance with Article 6(2) of Directive 2014/59/EU.

2. For the purposes of paragraph 1, the competent authorities of the home Member State shall provide the recovery plan of the institution to the competent authorities of the host Member States where significant branches are established in accordance with Article 19 of Implementing Regulation (EU) 2016/99.

3. The competent authorities of the home Member State shall ensure that all members of the college are appropriately informed of the outcome of the process referred to in paragraph 1.

Article 31

Establishment and update of the college supervisory examination programme

1. For the purposes of establishing the college supervisory examination programme referred to in Article 99 of Directive 2013/36/EU, the competent authorities of the home Member State and the members of the college shall identify the supervisory activities to be undertaken.

2. The college supervisory examination programme shall contain at least the following:

- (a) the areas of joint work identified as a result of the supervisory review and evaluation process pursuant to Article 97 of Directive 2013/36/EU or as a result of any other college activities undertaken;
- (b) the areas of focus of the college work and its planned supervisory activities, including planned on-the-spot checks and inspections of the significant branches pursuant to Article 52(3) of Directive 2013/36/EU;
- (c) the members of the college responsible for undertaking the planned supervisory activities;
- (d) the expected timelines, both in terms of timing and duration, for each of the planned supervisory activities.

⁽¹⁾ Commission Delegated Regulation (EU) No 524/2014 of 12 March 2014 supplementing Directive 2013/36/EU of the European Parliament and of the Council with regard to regulatory technical standards specifying the information that competent authorities of home and host Member States supply to one another (OJ L 148, 20.5.2014, p. 6).

3. When developing the college supervisory examination programme, and updating it where necessary, the competent authorities of the home Member State and the members of the college shall consider the possibility of agreements on voluntary entrustment of tasks and delegation of responsibilities, especially if such entrustment or delegation is expected to lead to more efficient and effective supervision, in particular by removing unnecessary duplication of supervisory requirements, including those in relation to information requests.
4. The conclusion of an agreement on entrustment of tasks or delegation of responsibilities shall be notified by the competent authorities of the home Member State to the institution concerned, and by the competent authority, which delegates its powers, to the branch concerned.
5. The establishment and update of the college supervisory examination programme shall be performed pursuant to Article 20 of Implementing Regulation (EU) 2016/99.

SECTION 3

Planning and coordination of supervisory activities in preparation for and during emergency situations and final provisions

Article 32

Establishment of a college framework for emergency situations

1. The competent authorities of the home Member State and the members of the college shall establish a college framework in anticipation of possible emergency situations in accordance with Article 112(1)(c) of Directive 2013/36/EU (hereinafter ‘college framework for emergency situations’).
2. The college framework for emergency situations shall include at least the following:
 - (a) the college-specific procedures that shall apply where an emergency situation as referred to in Article 114(1) of Directive 2013/36/EU arises;
 - (b) the minimum set of information that shall be exchanged where an emergency situation as referred to in Article 114(1) of Directive 2013/36/EU arises.
3. The minimum set of information referred to in point (b) of paragraph 2 shall include the following:
 - (a) an outline of the situation that has occurred, including the underlying cause of the emergency situation, and the expected impact of the emergency situation on the institution, on the market liquidity and on the stability of the financial system;
 - (b) an explanation of the measures and actions that have been taken or are planned to be taken, by the competent authorities of the home Member State or any of the members of the college or by the institution itself;
 - (c) the latest available quantitative information regarding liquidity and capital position of the institution.

Article 33

General conditions with regard to exchange of information during an emergency situation

1. The competent authorities of the home Member State and the members of the college shall exchange all information necessary to facilitate the exercise of the tasks referred to in Article 114(1) of Directive 2013/36/EU, subject to the confidentiality requirements laid down in Section II of Chapter 1 of Title VII of that Directive, and where applicable, Articles 54 and 58 of Directive 2004/39/EC.
2. Upon being alerted of an emergency situation by any member or observer of the college or having identified an emergency situation, the competent authorities of the home Member State shall communicate the information referred to in Article 32(2)(b), following the procedures referred to in Article 32(2)(a), to the members of the college who supervise branches that are affected or likely to be affected by the emergency situation, and the EBA.

3. Depending on the nature, severity, potential systemic impact or other impact, and likelihood of contagion of the emergency situation, the members of the college who supervise branches that are affected or likely to be affected by the emergency situation and the competent authorities of the home Member State may decide to exchange additional information.
4. The competent authorities of the home Member State shall consider whether the information referred to in paragraphs 2 and 3 is relevant for the performance of the tasks of the resolution college. In this case, the competent authorities of the home Member State shall communicate this information to the resolution authority as referred to in Article 3 of Directive 2014/59/EU.
5. The information referred to in paragraphs 2 and 3, where applicable, shall be updated immediately when new information is available.
6. When the exchange of information or communication referred to in this Article is made orally, the concerned competent authorities shall follow up it with written communication in a timely manner.

Article 34

Coordination of the supervisory assessment of an emergency situation

1. Where an emergency situation occurs, the competent authorities of the home Member State shall coordinate the assessment of the emergency situation (hereinafter 'coordinated supervisory assessment') in cooperation with the members of the college pursuant to Article 112(3) of Directive 2013/36/EU.
2. The coordinated supervisory assessment of the emergency situation, prepared by the competent authorities of the home Member State, shall cover at least the following elements:
 - (a) the nature and severity of the emergency situation;
 - (b) the impact or potential impact of the emergency situation on the institution and on any of its affected or likely to be affected branches;
 - (c) the risk of cross-border contagion.
3. When assessing point (c) of paragraph 2, the competent authorities of the home Member State shall consider the potential systemic consequences in any of the Members States where significant branches are established.

Article 35

Coordination of the supervisory response to an emergency situation

1. Where an emergency situation occurs, the competent authorities of the home Member State shall coordinate the development of a supervisory response to the emergency situation (hereinafter 'coordinated supervisory response' in cooperation with the members of the college pursuant to Article 112(3) of Directive 2013/36/EU.
2. The coordinated supervisory assessment referred to in Article 34 shall form the basis of the coordinated supervisory response, which shall define the supervisory actions needed, their scope, and the timetable for their implementation.

Article 36

Monitoring of the implementation of the coordinated supervisory response to an emergency situation

1. The competent authorities of the home Member State and the members of the college who supervise branches that are affected or likely to be affected by the emergency situation shall monitor and exchange information on the implementation of the coordinated supervisory response referred to in Article 35.

2. The information to be exchanged shall include at least an update on the implementation of the agreed actions within the foreseen timeline, as referred to in Article 35(2), and the need to update or adjust these actions.

Article 37

Coordination of external communication in an emergency situation

The competent authorities of the home Member State and the members of the college responsible for the supervision of branches affected or likely to be affected by an emergency situation shall coordinate to the extent possible their external communications, taking into account the elements specified under Article 22(2), as well as legal obligations or constraints under national law.

Article 38

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, 16 October 2015.

For the Commission

The President

Jean-Claude JUNCKER

COMMISSION IMPLEMENTING REGULATION (EU) 2016/99**of 16 October 2015****laying down implementing technical standards with regard to determining the operational functioning of the colleges of supervisors according to Directive 2013/36/EU of the European Parliament and of the Council****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC ⁽¹⁾, and in particular Articles 51(5) and 116(5) thereof,

Whereas:

- (1) The process of establishing and updating the mapping of the group entities in the Union and third countries should be led by the consolidating supervisor who should ensure that potential college members have the possibility to comment and provide their contribution to this exercise in order to ensure that all group entities are efficiently identified and the mapping reflects accurate and up-to-date information on the entities, including branches of the group. In order to facilitate the performance of the mapping exercise, to ensure that all necessary information is gathered and reflected in the mapping of the group of institutions, and to reduce compliance costs both for the consolidating supervisor or the competent authorities of the home Member State and other members of the college, the mapping should be performed by using a common template.
- (2) When the consolidating supervisor intends to invite competent authorities of host Member States where non-significant branches are established, third country supervisory authorities, and other relevant authorities to participate in the college as observers, it needs to ensure that the members of the college are informed in advance of that intention and are allowed appropriate time in order to assess, agree on or object to this proposal. For ensuring that the process is managed in an appropriate manner, the consolidating supervisor should first invite the authorities eligible for becoming members of the college, and then it should proceed with invitations to potential observers of the college.
- (3) Before accepting an invitation addressed by the consolidating supervisor to potential observers of the college, those potential observers should become aware of the terms of their participation as agreed by the consolidating supervisor and the members of the college. The consolidating supervisor should be required to include the terms of the observer participation in the written coordination and cooperation arrangements of the college.
- (4) The process of concluding and amending the written coordination and cooperation arrangements should be led by the consolidating supervisor who should ensure that college members have the possibility to comment and provide their input to the proposed arrangements, including the terms of observer participation. In order to ensure that the arrangements concluded by supervisory colleges are consistent, in terms of structure and provisions covered, while at the same time they allow for appropriate flexibility for including college-specific arrangements and agreements, they should be developed following a common template.
- (5) While organising consultation with college members on various operational aspects of college work, the consolidating supervisor should clearly communicate an appropriate deadline by when comments and views from college members are expected.
- (6) Recognising the various supervisory tasks that the consolidating supervisor and other members of the college need to perform and their complexity, the minimum expected frequency of college meetings should be set to once per year.

⁽¹⁾ OJ L 176, 27.6.2013, p. 338.

- (7) Given that supervisory colleges may be organised in different substructures, it is essential to safeguard that all college members are timely and appropriately informed about the discussions and decisions taken under specific substructures.
- (8) To safeguard the confidentiality of the information that is exchanged between the consolidating supervisor or the competent authorities of the home Member State and the members of the college, colleges of supervisors should be encouraged to use secure means of communication.
- (9) The efficient and effective operation of the supervisory colleges requires that college members exchange all information necessary to enable them to assess and take measures to protect the interests of depositors and investors in their Member States and to protect the financial stability within the Union. Therefore, if the consolidating supervisor considers that a particular piece of information is not of relevance for a member of the college, the consolidating supervisor should justify its decision having previously consulted with that member and providing it with all necessary elements to assess relevance.
- (10) When the ongoing review of the permission to use internal models reveals weaknesses in accordance with Article 101 of Directive 2013/36/EU, it is essential that the consolidating supervisor and the members of the college supervising group entities affected by these weaknesses work together in order to assess the materiality of these weaknesses and to decide on appropriate measures. Any decision on imposing capital add-ons or on revoking the approved model should be taken jointly by the consolidating supervisor and the relevant college members.
- (11) In order to facilitate the identification of early warning signs, potential risks and vulnerabilities for informing the group risk assessment report and liquidity risk assessment report, it is important that the consolidating supervisor and other college members agree in advance on a set of indicators to be exchanged at least on an annual basis. To ensure consistency and comparability, these indicators should be calculated on the basis of the supervisory data that competent authorities collect in accordance with Commission Implementing Regulation (EU) No 680/2014 ⁽¹⁾.
- (12) The process of establishing and updating a college framework for emergency situations should be led by the consolidating supervisor or by the competent authorities of the home Member State who should ensure that college members have the possibility to comment and provide their input to the proposed framework.
- (13) During an emergency situation it should be ensured that efficient and effective cooperation takes place between the consolidating supervisor and all college members responsible for the supervision of group entities affected or likely to be affected by the emergency situation and that the assessment of the emergency situation, the supervisory response to the emergency situation, and the monitoring and update of this supervisory response are performed in a coordinated manner with appropriate involvement of the consolidating supervisor and all college members responsible for the supervision of group entities affected or likely to be affected by that emergency situation. In addition, all college members need to be kept informed by the consolidated supervisor on the main elements of the decisions taken or information exchanged for dealing with the emergency situation.
- (14) The provisions in this Regulation are closely linked to one another, since they deal with the operational functioning of the colleges of supervisors. To ensure coherence between those provisions, which should enter into force at the same time, and to facilitate a comprehensive view and compact access to them by persons subject to those obligations, it is desirable to include all the implementing technical standards required by Articles 51(5) and 116(5) of Directive 2013/36/EU in a single Regulation.
- (15) As the vast majority of supervisory colleges across the EU are formed in accordance with Article 116 of Directive 2013/36/EU, it appears more appropriate to first determine the operational functioning of colleges under Article 116 of Directive 2013/36/EU before determining that of colleges under Article 51 of Directive 2013/36/EU, the former appearing more as a general case, the latter as a special case.
- (16) This Regulation is based on the draft implementing technical standards submitted by the European Supervisory Authority (European Banking Authority) (EBA) to the Commission.

⁽¹⁾ Commission Implementing Regulation (EU) No 680/2014 of 16 April 2014 laying down implementing technical standards with regard to supervisory reporting of institutions according to Regulation (EU) No 575/2013 of the European Parliament and of the Council (OJ L 191, 28.6.2014, p. 1).

- (17) EBA has conducted open public consultations on the draft implementing technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the opinion of the Banking Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council ⁽¹⁾,

HAS ADOPTED THIS REGULATION:

CHAPTER 1

GENERAL PROVISIONS

Article 1

Subject matter

This Regulation determines the operational functioning of the college of supervisors ('college') formed in accordance with Article 116 and Article 51(3) of Directive 2013/36/EU.

CHAPTER 2

OPERATIONAL FUNCTIONING OF COLLEGES FORMED IN ACCORDANCE WITH ARTICLE 116 OF DIRECTIVE 2013/36/EU

SECTION 1

Establishment and functioning of colleges

Article 2

Establishment and update of the mapping of a group of institutions

1. The consolidating supervisor shall submit the draft mapping, prepared in accordance with Article 2 of Commission Delegated Regulation (EU) 2016/98 ⁽²⁾, to the authorities eligible for becoming members of the college pursuant to Article 3(1) of Delegated Regulation (EU) 2016/98 (hereinafter 'potential members of the college'), inviting them to provide their views and indicating the appropriate deadline for the submission of these views.
2. For the purposes of finalising the mapping and without prejudice to the application of Article 51 of Directive 2013/36/EU, the consolidating supervisor shall consider any views and reservations expressed by the potential members of the college.
3. Upon finalisation, the consolidating supervisor shall communicate the mapping of the group to all potential members of the college.
4. The consolidating supervisor shall update the mapping, applying the process defined in paragraphs 1 to 3, at least on an annual basis or more frequently in case there are significant changes in the structure of the group.
5. The consolidating supervisor shall use the template in Annex I for the establishment and update of the mapping of a group of institutions.

Article 3

Establishment of a college

1. To establish a college, the consolidating supervisor shall perform the following steps:
 - (a) the consolidating supervisor shall send the invitations to the authorities referred to in Article 3(1) of Delegated Regulation (EU) 2016/98;

⁽¹⁾ Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p. 1).

⁽²⁾ Commission Delegated Regulation (EU) 2016/98 of 16 October 2015 supplementing Directive 2013/36/EU of the European Parliament and of the Council with regard to regulatory technical standards for specifying the general conditions for the functioning of colleges of supervisors (see page 2 of this Official Journal).

- (b) the consolidating supervisor shall notify to the members of the college who have accepted the invitation as referred to in paragraph 3 of this Article its intention to send an invitation to the competent authorities of non-significant branch to participate as observers in the college in accordance with Article 3(2) of Delegated Regulation (EU) 2016/98;
- (c) the consolidating supervisor shall notify to the members of the college who have accepted the invitation as referred to in paragraph 3 of this Article its intention to send an invitation to a third country supervisor authority to participate as an observer in the college in accordance with Article 3(3) of Delegated Regulation (EU) 2016/98;
- (d) the consolidating supervisor shall notify to the members of the college who have accepted the invitation as referred to in paragraph 3 of this Article its intention to send an invitation to any authority referred to in Article 3(4) of Delegated Regulation (EU) 2016/98 to participate as an observer in the college.

For the purposes of points (b), (c) and (d) of the first subparagraph, the notification shall be accompanied by the proposal of the consolidating supervisor on the terms of the observer participation in the college to be included in the written coordination and cooperation arrangements in accordance with Article 5(c) of Delegated Regulation (EU) 2016/98.

In addition, for the purposes of point (c) of the first subparagraph, the notification shall be accompanied by the opinion of the consolidating supervisor on the assessment of the equivalence of the confidentiality and professional secrecy requirements applicable to the third country supervisory authority.

The notification referred to in the second subparagraph shall set an adequate deadline within which any disagreeing college member may express in writing its fully reasoned objection to any aspect of the proposal or opinion of the consolidating supervisor.

2. Upon agreement of all college members on the proposal, which shall be inferred by the consolidating supervisor if no objection has been expressed within the deadline, the consolidating supervisor shall send the invitation to the authority referred to in point (b), (c) or (d) of paragraph 1 to become an observer of the college. The invitation shall be accompanied by the terms of the observer participation as agreed by the members of the college and included in the written coordination and cooperation arrangements.

3. Authorities receiving an invitation to become members or observers shall acquire this status upon acceptance of the invitation. The authorities receiving an invitation to become observers shall also accept the terms of observer participation as notified to them by the consolidating supervisor.

4. Authorities referred to in points (b), (c) and (d) of paragraph 1 may request to become observers of a college. The relevant request shall be addressed to the consolidating supervisor. Where the consolidating supervisor decides to invite these authorities to participate in the college as observers, it shall apply the processes referred to in points (b), (c) and (d) of paragraph 1, as applicable.

Article 4

Establishment and update of contact lists

1. The consolidating supervisor shall maintain and share full contact details, including out-of-hours contact details to be used during emergency situations in its communication with members and observers of the college using the template in Annex II. The contact list and emergency contact list shall be annexed to the written coordination and cooperation arrangements referred to in Article 5 of Delegated Regulation (EU) 2016/98.

2. The members of the college shall provide their contact details to the consolidating supervisor and shall inform the consolidating supervisor of any changes in those details without undue delay.

3. Any updated version of the contact list and emergency contact list shall be communicated by the consolidating supervisor to the members of the college.

*Article 5***Conclusion and amendment of the written coordination and cooperation arrangements**

1. The consolidating supervisor shall prepare its proposal for the conclusion of written coordination and cooperation arrangements in accordance with Article 115 of Directive 2013/36/EU and Article 5 of Delegated Regulation (EU) 2016/98.
2. The consolidating supervisor shall communicate its proposal to the members of the college inviting them to provide their views and indicating the appropriate deadline for the submission of these views.
3. For the purposes of finalising the written coordination and cooperation arrangements, the consolidating supervisor shall take into account any views and reservations expressed by the members of the college and explain, if necessary, the reason for not incorporating them.
4. Upon finalisation, the consolidating supervisor shall communicate the written coordination and cooperation arrangements to the members of the college.
5. If deemed necessary by the consolidating supervisor and members of the college, the implementation of the written coordination and cooperation arrangements shall be tested by means of simulation exercises or in any other way, as appropriate.
6. The consolidating supervisor and the members of the college shall consider the need to amend the written coordination and cooperation arrangements in case of changes in any of its elements pursuant to Article 5 of Delegated Regulation (EU) 2016/98.

The written coordination and cooperation arrangements shall be amended to reflect any changes in the membership of the college.

Elements of the written coordination and cooperation arrangements referring to the college framework in preparation for and during emergency situations shall be reviewed by the consolidating supervisor and the members of the college on a periodical basis to be determined in these arrangements.

7. The consolidating supervisor and the members of the college shall amend the written coordination and cooperation arrangements by following the process described in paragraphs 1 to 4.
8. The consolidating supervisor shall use the template in Annex II to conclude and amend the written coordination and cooperation arrangements.

*Article 6***Operational aspects of college meetings and activities**

1. Colleges shall convene at least one physical meeting per year. However, the consolidating supervisor with the consent of all members of the college, having taken into account the specificities of the group, may determine a different frequency of physical meetings.
2. The consolidating supervisor shall clearly establish the objectives of the college meetings. The consolidating supervisor shall ensure that those objectives are reflected in the agenda of the meetings and shall invite all members of the college to propose additional agenda items. The consolidating supervisor shall take into account any proposals on agenda items made by the members of the college and shall explain, if requested, the reason for not incorporating them.
3. The consolidating supervisor and the members of the college who are involved in a particular activity or meeting of the college, shall exchange documents and contributions to working documents well in advance to enable all participants in the college meeting to actively contribute to the discussions.

SECTION 2

Planning and coordination of supervisory activities in going concern situations*Article 7***General framework for the exchange of information between the consolidating supervisor, college members and observers**

1. When received from a member of the college, the consolidating supervisor shall transmit the information referred to in Article 9(3) of Delegated Regulation (EU) 2016/98:

- (a) to the other members of the college;
- (b) to the observers as the consolidating supervisor deems appropriate and in accordance with the terms of their participation in the college.

2. If the consolidating supervisor deems that any information referred to in paragraph 1 is not relevant for a particular member of the college, it shall previously consult that member and provide it with key points of the information to enable that member to determine its actual relevance.

3. When the college is organised in different substructures, the consolidated supervisor shall keep all college members fully informed, in a timely manner, on the actions taken or the measures carried out in different college substructures.

4. The consolidating supervisor and the members of the college shall agree on the means for the exchange of information and shall specify this agreement in the written coordination and cooperation arrangements referred to in Article 5 of Delegated Regulation (EU) 2016/98.

*Article 8***Ongoing review of the permission to use internal approaches**

1. Where the requirements for applying an internal approach in accordance with Article 143(1), Article 151(4) or (9), Article 283, Article 312(2), or Article 363 of Regulation (EU) No 575/2013 are no longer met by any of the institutions authorised in a Member State, including the EU parent institution, or where weaknesses have been identified in accordance with Article 101 of Directive 2013/36/EU by any relevant member of the college within the meaning of Article 11(1) of Delegated Regulation (EU) 2016/98, the consolidating supervisor and that member of the college shall work together, in full consultation, to jointly agree on the revocation of the permission to use the approach, on the imposition of capital add-ons or on the restriction of the use of the internal model as referred to in Article 11(2)(c) and (d) of that Delegated Regulation.

2. The decision on the revocation of an approved model shall be jointly taken by the consolidating supervisor and the relevant members of the college supervising entities using the approved model and affected by the inefficiencies identified under paragraph 1. The cooperation between the consolidating supervisor and those members of the college shall follow the process set by the provisions of the Commission Implementing Regulation (EU) 2016/100 ⁽¹⁾.

3. The decision resulting in the imposition of capital add-ons shall be taken through the capital joint decision process in accordance with Article 113(1)(a) of Directive 2013/36/EU.

4. The consolidating supervisor shall inform all other members of the college on the decisions taken pursuant to paragraph 1, where it considers that such information is likely to affect other activities of the college or is essential for the exercise of the tasks of other members of the college.

⁽¹⁾ Commission Implementing Regulation (EU) 2016/100 of 16 October 2015 laying down implementing technical standards specifying the joint decision process with regard to the application for certain prudential permissions pursuant to Regulation (EU) No 575/2013 of the European Parliament and of the Council (see page 45 of this Official Journal).

*Article 9***Notification of non-material extensions or changes in internal models**

1. For non-material model extensions or changes that affect any of the institutions authorised in a Member State, including the EU parent undertaking, the consolidating supervisor shall inform all relevant members of the college within the meaning of Article 11(1) of Delegated Regulation (EU) 2016/98 of those extensions or changes without delay.
2. A relevant member of the college within the meaning of Article 11(1) of Delegated Regulation (EU) 2016/98 shall inform the consolidating supervisor of any non-material extensions or changes that affect any of the institutions under the supervisory remit of that relevant member of the college.
3. Where a relevant member of the college within the meaning of Article 11(1) of Delegated Regulation (EU) 2016/98 has concerns regarding the classification of an extension or change as non-material, it shall communicate those concerns to the consolidating supervisor who shall disseminate this information to the other relevant members of the college within the meaning of Article 11(1) of Delegated Regulation (EU) 2016/98.

Where the consolidating supervisor has concerns regarding the classification of an extension or change as non-material, it shall communicate those concerns to all relevant members of the college within the meaning of Article 11(1) of Delegated Regulation (EU) 2016/98.

The consolidating supervisor and the relevant members of the college within the meaning of Article 11(1) of Delegated Regulation (EU) 2016/98 shall discuss the details of those concerns for the purposes of reaching a common view on the materiality of the extension or change.

4. Where the consolidating supervisor and the relevant members of the college within the meaning of Article 11(1) of Delegated Regulation (EU) 2016/98 consider that extensions or changes to an internal model have incorrectly been classified by the institution concerned as non-material, they shall inform that institution without delay.

*Article 10***Exchange of information on early warnings signs, potential risks and vulnerabilities**

1. The consolidating supervisor and the members of the college participating in the development of a group risk assessment report referred to in Article 113(2)(a) of Directive 2013/36/EU or a group liquidity risk assessment report referred to in Article 113(2)(b) of that Directive for the purposes of reaching joint decisions on institution-specific prudential requirements in accordance with that Article shall agree on indicators for identifying the early warning signs, potential risks and vulnerabilities referred to in Article 12 of Delegated Regulation (EU) 2016/98.

These indicators shall be computed based on the information that competent authorities collect from supervised institutions in accordance with Implementing Regulation (EU) No 680/2014.

The agreed indicators shall be set out in the written coordination and cooperation arrangements in accordance with Article 5(l) of Delegated Regulation (EU) 2016/98.

2. Each member of the college referred to in paragraph 1 shall communicate to the consolidating supervisor the values of the agreed indicators for the institutions under its supervisory remit, as relevant.
3. The consolidating supervisor shall disseminate the values referred to in paragraph 2 and the values of the agreed indicators for the EU parent undertaking and at consolidated level, to each member of the college referred to in paragraph 1.
4. The consolidating supervisor and the members of the college referred to in paragraph 1 shall exchange the values of the agreed indicators at least on an annual basis, or more frequently if agreed by these competent authorities.

*Article 11***Establishment and update of the college supervisory examination programme**

1. Once the joint decisions on institution-specific prudential requirements in accordance with Article 113 of Directive 2013/36/EU have been reached, the members of the college shall provide their contribution to the consolidating supervisor for the purposes of establishing a college supervisory examination programme referred to in Article 116(1)(c) of Directive 2013/36/EU in accordance with Article 16 of Delegated Regulation (EU) 2016/98.
2. After receiving the contributions from the members of the college, the consolidating supervisor shall prepare a draft college supervisory examination programme.
3. The consolidating supervisor shall circulate the draft college supervisory examination programme to the members of the college inviting them to provide their views on the areas of joint work and indicating the appropriate deadline for the submission of these views.
4. For the purposes of completing the college supervisory examination programme, the consolidating supervisor shall take into account any views and reservations expressed by the members of the college and explain, if necessary, the reason for not incorporating them.
5. Upon completion, the consolidating supervisor shall communicate the college supervisory examination programme to the members of the college.
6. The college supervisory examination programme shall be updated at least annually, or more frequently if deemed necessary as a result of the supervisory review and evaluation process pursuant to Article 97 of Directive 2013/36/EU, or as a result of joint decisions on institution-specific prudential requirements in accordance to Article 113 of that Directive.
7. The consolidating supervisor shall update the college supervisory examination programme by following the process defined in paragraphs 1 to 5.

*SECTION 3****Planning and coordination of supervisory activities in preparation for and during emergency situations****Article 12***Establishment and update of the college framework for emergency situations**

1. The consolidating supervisor shall prepare its proposal for establishing a college framework for emergency situations in accordance with Article 17 of Delegated Regulation (EU) 2016/98.
2. The consolidating supervisor shall submit its proposal to the members of the college, inviting them to provide their views and indicating the appropriate deadline for the submission of those views.
3. The consolidating supervisor shall take into account any views and reservations expressed by the members of the college, and explain, if necessary, the reasons for not incorporating them.
4. The consolidating supervisor shall communicate the final version of the college framework for emergency situations to the members of the college.
5. The consolidating supervisor and the members of the college shall consider, at least on an annual basis, the need to update the college framework for emergency situations.
6. The consolidating supervisor and the members of the college shall update the college framework for emergency situations by following the process set out in paragraphs 1 to 4.

*Article 13***Exchange of information during an emergency situation**

1. Where the consolidating supervisor becomes aware of an emergency situation which affects or is likely to affect an institution or a branch of the group respectively authorised or established in a Member State, the consolidating supervisor shall alert EBA and the member of the college who supervises the institution or the branch affected or likely to be affected by the emergency situation, without undue delay.
2. Where a member of the college becomes aware of an emergency situation which affects or is likely to affect an institution or a branch of the group respectively authorised or established in a Member State, the member of the college shall alert the consolidating supervisor without undue delay.
3. The consolidating supervisor shall ensure that all other members of the college are adequately informed about the main elements of the following:
 - (a) the coordinated supervisory assessment of the emergency situation as referred to in Article 14;
 - (b) the coordinated supervisory response as referred to in Article 15, including the actions taken or planned to be taken, and its monitoring as referred to in Article 16;
 - (c) the early intervention measures adopted pursuant to Articles 27, 28 and 29 of Directive 2014/59/EU of the European Parliament and of the Council ⁽¹⁾, as relevant, taking into account the necessity for the coordination of these measures in accordance with Article 30 of that Directive, or the determination of the conditions for resolution pursuant to Article 32 of that Directive.
4. Where the coordinated supervisory response to an emergency situation as referred to in Article 15 is likely to be more efficient by involving the group-level resolution authority, resolution authorities of subsidiaries or resolution authorities of jurisdictions in which significant branches are located, central banks, competent ministries and deposit guarantee schemes, the consolidating supervisor shall consider the involvement of those authorities.
5. Where an emergency situation is restricted to a specific group entity, the situation shall be managed by the member of the college responsible for the supervision of that group entity concerned in liaison with the consolidating supervisor.

*Article 14***Coordination of the supervisory assessment of an emergency situation**

1. For the purposes of Article 19 of Delegated Regulation (EU) 2016/98, the consolidating supervisor shall coordinate the development of a draft coordinated supervisory assessment of the emergency situation, based on its own assessment and the assessment of the members of the college who supervise group entities that are affected or likely to be affected by the emergency situation.
2. The draft coordinated supervisory assessment of the emergency situation shall cover the affected or likely to be affected group entities. The views and assessments of the members of the college responsible for the supervision of those group entities shall be adequately taken into account by the consolidating supervisor.
3. Where the emergency situation is restricted to a specific group entity, the member of the college responsible for the supervision of that group entity shall conduct, in liaison with the consolidating supervisor, the supervisory assessment of the emergency situation.

⁽¹⁾ Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council (OJ L 173, 12.6.2014, p. 190).

*Article 15***Coordination of the supervisory response to an emergency situation**

1. For the purposes of Article 20 of Delegated Regulation (EU) 2016/98, the consolidating supervisor shall lead the development of a coordinated supervisory response to the emergency situation with regard to the group and its affected or likely to be affected group entities. The views and assessments of the members of the college responsible for the supervision of these group entities shall be adequately taken into account by the consolidating supervisor.
2. Where the emergency situation is restricted to a specific group entity, the member of the college responsible for the supervision of that group entity shall conduct, in liaison with the consolidating supervisor, the development of the coordinated supervisory response to the emergency situation.
3. The consolidating supervisor and the members of the college shall perform the tasks referred to in paragraphs 1 and 2 without undue delay.
4. The development of the coordinated supervisory assessment of an emergency situation as referred to in Article 14 and the development of the coordinated supervisory response to this emergency situation may be run in parallel.

*Article 16***Monitoring and update of the coordinated supervisory response to an emergency situation**

1. For the purposes of Article 21 of Delegated Regulation (EU) 2016/98, the consolidating supervisor shall coordinate the monitoring of the implementation of the agreed actions set out in the coordinated supervisory response referred to in Article 15.
2. The members of the college responsible for the supervision of the group entities affected or likely to be affected by the emergency situation shall inform the consolidating supervisor of the evolution of the emergency situation and the implementation of the agreed actions related to their respective group entities, as relevant.
3. Any updates on the monitoring of the coordinated supervisory response shall be provided by the consolidating supervisor to the members of the college, including EBA, and shall cover the group and the affected or likely to be affected group entities.
4. The consolidating supervisor and the members of the college responsible for the supervision of the group entities affected or likely to be affected by the emergency situation shall consider the need to update the coordinated supervisory response taking into account the information provided to each other while monitoring its implementation.
5. The requirements set out in paragraphs 1 to 4 shall apply without undue delay.

CHAPTER 3

**OPERATIONAL FUNCTIONING OF COLLEGES FORMED IN ACCORDANCE WITH ARTICLE 51(3) OF
DIRECTIVE 2013/36/EU**

SECTION 1

Establishment and functioning of colleges*Article 17***Establishment and update of the mapping of an institution, establishment of a college,
establishment and update of contact lists, and conclusion and amendment of the written
coordination and cooperation arrangements**

For colleges formed in accordance with Article 51(3) of Directive 2013/36/EU, the competent authorities of the home Member State shall establish and update the mapping of an institution, establish a college, establish and update contact lists, and conclude and amend written coordination and cooperation arrangements in accordance with Articles 2 to 5 to the extent appropriate.

*Article 18***Operational aspects of college meetings and activities**

1. The competent authorities of the home Member State shall establish regular cooperation with college members that can take the form of meetings or other activities.
2. The organisation of college meetings and activities, and their objectives shall be communicated by the competent authorities of the home Member State to the members of the college, including EBA.
3. The competent authorities of the home Member State shall clearly establish the objectives of the college meetings. The competent authorities of the home Member State shall ensure that those objectives are reflected in the agenda items of the meetings and shall invite all members of the college to propose additional agenda items. The competent authorities of the home Member State shall take into account any proposals on agenda items made by the members of the college and shall explain, if requested, the reason for not incorporating them.
4. The competent authorities of the home Member State and the members of the college, who are involved in a particular activity or meeting of the college, shall circulate documents and contributions to working documents well in advance to enable all participants in the college to actively contribute to the discussions.

*SECTION 2****Planning and coordination of supervisory activities in going concern situations****Article 19***General framework for the exchange of information between the competent authorities of the home Member State, college members and observers**

1. For the purpose of Article 28(3) of Delegated Regulation (EU) 2016/98, the members of the college shall transmit the information to the competent authorities of the home Member State.
2. The competent authorities of the home Member State shall transmit the information referred to in paragraph 1:
 - (a) to the members of the college;
 - (b) to the observers as the competent authorities of the home Member State deem appropriate and in accordance with the terms of their participation in the college.
3. If the competent authorities of the home Member State deem that any information referred to in paragraph 1 is not relevant for a particular member of the college, it shall previously consult that member and provide it with key points of the information to enable that member to determine its actual relevance.
4. When the college is organised in different substructures, the competent authorities of the home Member State shall keep all college members fully informed, in a timely manner, on the actions taken or the measures carried out in different college substructures.
5. The competent authorities of the home Member State and the members of the college shall agree on the means for the exchange of information and shall specify this agreement in the written coordination and cooperation arrangements referred to in Article 5 of Delegated Regulation (EU) 2016/98.

*Article 20***Establishment and update of the college supervisory examination programme**

1. For the purposes of establishing a college supervisory examination programme referred to in Article 99 of Directive 2013/36/EU in accordance with Article 31 of Delegated Regulation (EU) 2016/98, the members of the college shall provide their contribution to the competent authorities of the home Member State.

2. After receiving the contributions from the members of the college, the competent authorities of the home Member State shall prepare a draft college supervisory examination programme.
3. The competent authorities of the home Member State shall circulate the draft college supervisory examination programme to the members of the college inviting them to provide their views on the areas of joint work and indicating the appropriate deadline for the submission of those views.
4. For the purposes of completing the college supervisory examination programme, the competent authorities of the home Member State shall take into account any views and reservations expressed by the members of the college and explain, if necessary, the reasons for not incorporating them.
5. Upon completion, the competent authorities of the home Member State shall communicate the college supervisory examination programme to the members of the college.
6. The college supervisory examination programme shall be updated at least annually or more frequently if deemed necessary as a result of the supervisory review and evaluation process pursuant to Article 97 of Directive 2013/36/EU.
7. The competent authorities of the home Member State shall update the college supervisory examination programme by following the process defined in paragraphs 1 to 5.

SECTION 3

Planning and coordination of supervisory activities in preparation for and during emergency situations and final provisions

Article 21

Establishment and update of the college framework for emergency situations

1. For the purposes of establishing the college framework for emergency situations, the competent authorities of the home Member State shall prepare a proposal pursuant to Article 32 of Delegated Regulation (EU) 2016/98.
2. The competent authorities of the home Member State shall submit its proposal to the members of the college, inviting them to provide their views and indicating the appropriate deadline for the submission of those views.
3. The competent authorities of the home Member State shall take into account any views and reservations expressed by the members of the college, and explain, if necessary, the reasons for not incorporating them.
4. The competent authorities of the home Member State shall communicate the final version of the college framework for emergency situations to the members of the college.
5. The competent authorities of the home Member State and the members of the college shall consider, at least on an annual basis, the need to update the college framework for emergency situations.
6. The competent authorities of the home Member State and the members of the college shall update the college framework for emergency situations by following the process set out in paragraphs 1 to 4.

Article 22

Exchange of information during an emergency situation

1. Where the competent authorities of the home Member State become aware of an emergency situation which affects or is likely to affect the institution, they shall alert EBA and the members of the college without undue delay.
2. Where a member of the college becomes aware of an emergency situation which affects or is likely to affect a branch in its jurisdiction, it shall alert the competent authorities of the home Member State without undue delay.

*Article 23***Coordination of the supervisory assessment of an emergency situation**

For the purposes of Article 34 of Delegated Regulation (EU) 2016/98, the competent authorities of the home Member State shall circulate the supervisory assessment of the emergency situation to the members of the college who supervise branches affected or likely to be affected by the emergency situation.

*Article 24***Coordination and monitoring of the supervisory response to an emergency situation**

1. For the purposes of Article 35 of Delegated Regulation (EU) 2016/98, the competent authorities of the home Member State shall develop a coordinated supervisory response to an emergency situation. The views of the members of the college who supervise branches affected or likely to be affected by this emergency situation shall be adequately taken into account by the competent authorities of the home Member State.
2. The competent authorities of the home Member State shall, where relevant, coordinate the monitoring of the implementation of any actions set out in the supervisory response.
3. The members of the college shall inform the competent authorities of the home Member State about the evolution of the emergency situation and the implementation of any agreed actions related to the branches in their jurisdiction.
4. Any updates on the monitoring of the supervisory response shall be provided by the competent authorities of the home Member State to the members of the college, including EBA.
5. The development of the supervisory assessment of an emergency situation as referred to in Article 23 and the development of the supervisory response to this situation may be run in parallel.

*Article 25***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, 16 October 2015.

For the Commission
The President
Jean-Claude JUNCKER

Institutions authorised in a Member State / Financial sector entities authorised in a Member State								Is the institution / financial sector entity important for the group? (Y/N)	Is the institution / financial sector entity important for the Member State in which it is authorised? (Y/N)	Total amount of assets and off-balance sheet items of the institution / financial sector entity (in million euros)	Criteria used for determining the importance for the Member State, as applicable	Criteria used for determining the importance for the group, as applicable	Has a waiver been granted pursuant to Article 7 or Article 10 of Regulation (EU) No 575/2013 (waivers from capital requirements)? (Y/N)
Competent authority / Other authority	Member State	Institution / Financial sector entity	Legal Identifier Code, where such a code exists (pre-Legal Entity Identifiers or Global Legal Entity Identifier System)	Is the institution / financial sector entity identified as O-SII?	Immediate parent of the institution / financial sector entity	Legal Identifier Code, where such a code exists (pre-Legal Entity Identifiers or Global Legal Entity Identifier System)	Is the immediate parent identified as O-SII?						
Resolution college:	Member and observers countries:	Member and observers authorities:											
Crisis Management Group (CMG):	Member countries:	Member authorities:											

Institutions authorised and branches established in a third country						Is the institution / branch important for the group? (Y/N)	Criteria used for determining the importance, as applicable	Are the confidentiality and professional secrecy requirements applicable to the third country supervisory authority assessed as equivalent by all college members? (Y/N)	Is the third country supervisory authority an observer of the college? If yes and part of a specific college substructure, please specify.
Third country supervisory authority	Third country	Institution / branch	Legal Identifier Code of the institution, where such a code exists (pre-Legal Entity Identifiers or Global Legal Entity Identifier System)	Immediate parent of the institution	Legal Identifier Code of the immediate parent, where such a code exists (pre-Legal Entity Identifiers or Global Legal Entity Identifier System)				
Is there another non-European college structure? (Y/N) (if yes, please specify the name of the college and hosting supervisor):	Member countries:	Member authorities:							
Name of college									

ANNEX II

**Template on written coordination and cooperation arrangements of the supervisory college
established for the**

<XY> Group/<A> Institution

General provisions

A. Introduction

- *Make reference to the relevant articles of Directive 2013/36/EU relating to the establishment of colleges and the written coordination and cooperation arrangements: Article 51 (significant branches), Article 115 (coordination and cooperation arrangements) and Article 116 (colleges of supervisors). Make also reference to Delegated Regulation (EU) 2016/98 and Implementing Regulation (EU) 2016/99 and the relevant articles of Directive 2014/59/EU where specific tasks are envisaged for the competent authorities and the supervisory college.*
- *Provide a brief description of the objective of these written coordination and cooperation arrangements, describing the purpose of it, and confirm the need to agree and maintain these written coordination and cooperation arrangements.*

B. <XY> Group/<A> Institution and identification of members and observers

(a) Description and structure of the <XY> Group/<A> institution

- *Make reference to the results of the mapping exercise and any updates.*
- *The latest version of the completed mapping template can be included as an Annex.*
- *An organogram demonstrating the supervised entities and geographical presence of the group or institution can also be included here (or as an Annex, as appropriate)*

(b) Identification of the competent authorities which are members of the college

- *Make reference to the relevant articles of Delegated Regulation (EU) 2016/98 and Implementing Regulation (EU) 2016/99 for identifying members of the college and provide the results of the invitations addressed to the authorities referred to in Article 3(1) of Delegated Regulation (EU) 2016/98.*
- *Make a link to Annex A of this template (Contact list)*

(c) Identification of the authorities which participate in the college as observers

- *Make reference to the relevant articles of Delegated Regulation (EU) 2016/98 and Implementing Regulation (EU) 2016/99 for identifying possible observers of the college and provide the results of the respective invitations addressed to the authorities referred to in paragraphs 2 to 4 of Article 3 of Delegated Regulation (EU) 2016/98.*
- *Where supervisory authorities of third countries have been invited to participate in the college as observers, provide references to the assessment of the equivalence of the confidentiality and professional secrecy requirements applicable to the supervisory authorities of these third countries made by all members of the college. When an opinion of EBA on this assessment has been considered, provide details here.*
- *Provide details of the framework covering the participation of these observers in the college work, activities and meetings, as well as on the information to which they are expected to have access.*
- *Make a link to Annex A of this template (Contact list)*

C. Framework of coordinating interaction with the resolution college

- *Description of the framework agreed between the consolidating supervisor and other college members for providing coordinated input to the resolution college and for the tasks to be performed by the competent authorities in accordance with Directive 2014/59/EU.*
- *Description of the role of the consolidating supervisor, as agreed between the consolidating supervisor and the college members, in particular with regard to coordinating the provision of the supervisory college input to the relevant resolution college through the group-level resolution authority.*

D. Framework for exchanging information

- *The scope of information to be exchanged in going concern situations is expected to cover, as a minimum, the requirements coming from Directives 2013/36/EU and 2014/59/EU, and relevant articles of Delegated Regulation (EU) 2016/98. However colleges should also complete this section for any other college-specific information agreed to be exchanged.*
- *Make reference to the relevant articles of Directive 2013/36/EU, of Directive 2014/59/EU and of Delegated Regulation (EU) 2016/98 related to information to be exchanged and describe here any other college-specific information to be exchanged.*
- *In particular, it is expected that the agreement between the consolidating supervisor and other college members on the specific set of indicators to be exchanged in the process of performing the joint risk assessment and reaching joint decisions on institution-specific prudential requirements in accordance with Article 113 of Directive 2013/36/EU shall be provided here. According to the provisions of Delegated Regulation (EU) 2016/98, these indicators shall cover at least the areas of capital, liquidity, asset quality, funding, profitability, and concentration risk, and shall be provided for each group entity and the parent, and for the group at consolidated level. The college-specific agreement on the frequency of exchanging this information shall be also provided here.*
- *For regular information sharing, describe the frequency (e.g. quarterly) and the channels of communication to be used (e.g. newsletters, teleconferences, secure, college-specific website).*
- *Describe the role of the consolidating supervisor or competent authorities of the home Member State as the central hub for gathering and disseminating essential and relevant information.*
- *Describe the flexible nature of the framework and how it can adapt to the type and urgency of the information to be exchanged.*

E. Treatment of confidential information

- *Confirm that any confidential information exchanged between competent authorities is to be used only for lawful supervisory purposes of the <XY> Group/<A> Institution.*
- *Demonstrate a commitment to safeguard the confidentiality of the information exchanged and a confirmation that persons having access to, or dealing with, confidential information are bound by the obligation of professional secrecy.*

F. Governance arrangements on entrustment of tasks and delegation of responsibilities, where relevant

- *Provide a description of the tasks entrusted and responsibilities delegated and of the authorities involved in these arrangements.*
- *Provide a description of information flows between those involved authorities and the other members of the college on the results of the work and also provide a description of communication procedures between the involved authorities and the EU parent undertaking or institution, and any of its subsidiaries or significant branches.*

G. Description of the different college substructures, *where relevant*

- *When the college is organised in different substructures (e.g. core, general, region-specific college substructures), provide a description of these substructures, the criteria used for determining their membership, the members and observers of each substructure, as well as procedures for ensuring appropriate information flows between the different college substructures.*

Framework for the planning and coordination of supervisory activities in going-concern situations

H. Framework for the planning and coordination of supervisory activities in going-concern situations

- *Building on the provisions of the relevant articles of Delegated Regulation (EU) 2016/98 and Implementing Regulation (EU) 2016/99, provide a description of college-specific arrangements for developing, discussing, agreeing to and updating the college supervisory examination programme.*

I. College communication policy with the EU parent undertaking or institution, and its subsidiaries or branches

- *Provide a description of the college-specific communication policy between the competent authorities and the EU parent undertaking or institution, as well as its entities, building on the provisions of the relevant articles of Implementing Regulation (EU) 2016/99.*

J. Any other agreement concerning the functioning of the college between the consolidating supervisor or competent authorities of the home Member State, and other college members and observers

- *Provide details of the agreed procedures and timeline to be followed for the circulation of meeting documents.*
- *Provide details here of any other college-specific agreements, where relevant.*

Framework for the planning and coordination of supervisory activities in preparation for and during emergency situations

K. Introduction and identification of contact persons and contact details for emergency situations

- *Make reference to Article 112(1)(c) of Directive 2013/36/EU on the planning and coordination of supervisory activities in preparation for and during emergency situations.*
- *Make a link to Annex B of this template (Emergency Contact List).*

L. Information to be exchanged and procedures to be followed in an emergency situation

(a) Framework on information to be exchanged during an emergency situation

- *Describe the college-specific procedures to be used by the members of the college during emergency situations.*
- *Provide the minimum set of information that has been specified in advance, and that is expected to be shared by the consolidating supervisor or competent authorities of the home Member State and the other college members in case an emergency situation has been identified.*
- *Provide details for reviewing the ability of the EU Parent undertaking or institution to produce the set of information agreed by the college. Provide a description of planned reviews and frequency of simulation exercises, as appropriate.*

(b) Framework for coordination and cooperation procedures for an emergency situation

- *Make reference to the relevant article of Implementing Regulation (EU) 2016/99 relating to alerts for emergency situations and provide a description of the framework for the consolidating supervisor and the other college members to alert each other when an emergency situation arises at a subsidiary or EU parent undertaking. Provisions for alerting EBA and competent authorities of host Member States where significant branches are established should be also included.*
- *Describe the coordination with other college or group (e.g. Crisis Management Group or Resolution College) that may be involved in dealing with an emergency situation affecting the group, if applicable.*
- *Provide a reference to any agreed channels of communication to be used for exchanging information during an emergency situation (e.g. secure means, secure website).*
- *Provide a list of cases (examples of emergency situations) where alerts will be made and notified.*

(c) Framework for emergency situation management

- *Provide a description of the emergency situation management framework covering the following points based on the relevant articles of Delegated Regulation (EU) 2016/98 and Implementing Regulation (EU) 2016/99:*
 - *the coordinated supervisory assessment, including key components of the common assessment of the emergency situation;*
 - *the coordinated supervisory response, including details on the need, scope and conditions for any supervisory actions to be applied to the EU parent undertaking or institution, or the affected group entities or branches, as well as the information to be exchanged within the college, as necessary, and with the EBA;*
 - *the monitoring of the coordinated supervisory response, including any measures and arrangements agreed upon.*

(d) Framework for External Communication

- *Provide a description of the external communication framework covering:*
 - *allocation of responsibilities for coordinating public communication at the different stages of the emergency situation;*
 - *the level of information to be disclosed taking into account the possibility of exercising discretion in order to maintain market confidence and any other additional obligation when the group affected by the emergency situation is listed in one or more jurisdictions;*
 - *preparation of joint public statements even where only one competent authority has to make such a statement, if the interests of the other members of the college may be at stake;*
 - *exceptional circumstances and actions to be taken where a competent authority concerned may issue a separate statement;*
 - *responsibility for contacting the EU parent undertaking or institution and its subsidiaries or branches, as appropriate;*
 - *responsibility and actions to be taken for communicating coordinated actions to address the emergency situation.*

Final provisions

- *Provide details on the commitment of the competent authorities agreeing on and signing the written coordination and cooperation arrangements to apply these provisions until any communication concerning discontinuation of these arrangements.*
- *Competent authorities' signatures, as applicable, can be inserted in this section or as an Annex.*
- *Provide any updates on and revisions of these written coordination and cooperation arrangements to reflect relevant changes agreed by the college members.*
- *Make reference to the language of communication and if applicable, the publication of the written coordination and cooperation arrangements.*

Annex A

Contact list

- *Annexes to these written coordination and cooperation arrangements are expected to be regularly updated, given their nature.*
- *No formal consultation and approval procedures are necessary for keeping contact lists and emergency contact lists up-to-date, but competent authorities are encouraged to keep their updates flexible and make sure that the latest available version is shared with the members of the college.*

Last update:			
Authority	Name of contact and job title	Phone Number	E-mail address
Consolidating supervisor/Competent authority of home Member State	1. at operational L-level 2. in senior management	Landline Mobile Landline Mobile	
competent authority of host Member State	1. at operational level 2. in senior management	Landline Mobile Landline Mobile	
Third country supervisory authority	...	...	

Annex B

Emergency contact list

Last Update:				
Authority	Name of contact and job title	Phone number	Out-of-hours number	E-mail address
Consolidating supervisor/Competent authority of home Member State	3. at operational level 4. in senior management	Landline Mobile Landline Mobile		
competent authority of host Member State	3. at operational level 4. in senior management	Landline Mobile Landline Mobile		
Third country supervisory authority	...	...		
Secure e-mail address for use in emergency situations:				
Website URL for use in emergency situations:				

COMMISSION IMPLEMENTING REGULATION (EU) 2016/100**of 16 October 2015****laying down implementing technical standards specifying the joint decision process with regard to the application for certain prudential permissions pursuant to Regulation (EU) No 575/2013 of the European Parliament and of the Council****(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 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 ⁽¹⁾, and in particular Article 20(8) thereof,

Whereas:

- (1) When assessing the completeness of the application for certain prudential permissions, before deciding on whether or not to grant the permissions referred to in Article 20(1)(a) of Regulation (EU) No 575/2013, the consolidating supervisor and the relevant competent authorities should ensure timely and efficient mutual cooperation and develop a shared understanding on the receipt of a complete application or on the aspects of the application which are considered to be incomplete.
- (2) The consolidating supervisor should confirm to the applicant and the relevant competent authorities the date of receipt of the complete application to ensure clarity on the exact starting date of the 6-month period for reaching the joint decision and minimise the risks of possible disputes on this starting point.
- (3) The assessment of completeness of the application should be performed on the basis of the matters which the competent authorities are required to assess when deciding whether to grant the permission sought. The link between the assessment to be performed by the competent authorities and the information expected to be contained in the submitted applications is essential to improve the quality of the applications and ensures consistency across supervisory colleges both of the content of applications and of the assessment of completeness.
- (4) In order to ensure a consistent application of the process for reaching a joint decision, it is important that each step is well defined. A clearly outlined process facilitates timely information exchange, provides proportionate allocation and efficient management of supervisory resources, promotes mutual understanding, develops relationships of trust between supervisory authorities and promotes effective supervision.
- (5) The assessment of completeness of the application should not extend to the assessment of the application that competent authorities perform while developing their opinion on whether to grant the permission. The time allocated to each step of the joint decision process should therefore be proportionate to the complexity and scope of that step, bearing in mind that the time period for reaching a joint decision cannot be extended or suspended.
- (6) The consolidating supervisor should be in a position to assess whether and how the model for which permission is sought captures the exposures in jurisdictions outside the Union. In this context, interaction between competent authorities and third country supervisors should be promoted in order to enable competent authorities to develop a complete assessment of the performance of the model.
- (7) Timely and realistic planning for the joint decision process is essential. Every competent authority involved should provide the consolidating supervisor with its contribution in the joint decision in a timely and efficient way.

⁽¹⁾ OJ L 176, 27.6.2013, p. 1.

- (8) To ensure uniform condition of application, the steps to be followed for the performance of the assessment and the reaching of the joint decision should be established, recognising that some tasks of the process may be performed in parallel and others sequentially.
- (9) To facilitate the reaching of joint decisions, it is important that the competent authorities involved in the decision-making process engage in a dialogue with each other, in particular before finalising the joint decisions.
- (10) To ensure that an effective process is established, the consolidating supervisor should have ultimate responsibility for determining the steps to be followed for reaching a joint decision on approval of internal models.
- (11) Establishing clear provisions for the content of the joint decisions should ensure that joint decisions are fully reasoned and contribute to efficient monitoring of any terms and conditions.
- (12) In order to clarify the process to be followed once the joint decision is reached, provide transparency on the treatment of the outcome of the decision and facilitate appropriate follow-up actions where needed, standards regarding the communication of the joint decision should be established.
- (13) The timeline of the process for reaching a joint decision on applications for permissions which relate to material model extensions or changes and the division of work between the consolidating supervisor and relevant competent authorities should be proportionate to the scope of those material model extensions or changes.
- (14) The joint decision process under Article 20 of Regulation (EU) No 575/2013 includes the process to be followed where no joint decision is reached. To ensure uniform conditions of application of this aspect of the process and in particular to ensure the articulation of fully reasoned decisions and to clarify the treatment of any views and reservations expressed by relevant competent authorities, standards covering the timeline for taking decisions in the absence of a joint decision, and their communication should be established.
- (15) This Regulation is based on the draft implementing technical standards submitted by the European Supervisory Authority (European Banking Authority) (EBA) to the European Commission.
- (16) The EBA has conducted open public consultations on the draft implementing technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the opinion of the Banking Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council ⁽¹⁾,

HAS ADOPTED THIS REGULATION:

CHAPTER I

SUBJECT MATTER AND DEFINITIONS

Article 1

Subject matter

This Regulation specifies the joint decision process referred to in point (a) of Article 20(1) of Regulation (EU) No 575/2013 with regard to the applications for the permissions referred to in Article 143(1), Article 151(4) and (9), Article 283, Article 312(2), and Article 363 of that Regulation with a view to facilitating joint decisions.

⁽¹⁾ Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p. 12).

*Article 2***Definitions**

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

- (1) 'relevant competent authority' means a competent authority, other than the consolidating supervisor, which is responsible for the supervision of subsidiaries, which participate in the submission of the joint application, of an EU parent institution or an EU parent financial holding company or an EU parent mixed financial holding company in a Member State and which is required to reach a joint decision in accordance with Article 20(2) of Regulation (EU) No 575/2013 on the application referred to in point (a) of Article 20(1) of that Regulation;
- (2) 'applicant' means an EU parent institution and its subsidiaries or the subsidiaries of an EU parent financial holding company or of an EU parent mixed financial holding company, which submit an application;
- (3) 'assessment report' means a report containing the assessment of an application in accordance with Article 6.

CHAPTER II

JOINT DECISION PROCESS*Article 3***Involvement of third country supervisory authorities in the assessment process**

1. The consolidating supervisor may decide to involve third country supervisory authorities which participate in the supervisory college pursuant to Article 3(3) of Commission Delegated Regulation (EU) 2016/98 ⁽¹⁾ in the assessment of applications submitted pursuant to Article 20(1)(a) of Regulation (EU) No 575/2013 where the applicant operates in that third country and intends to apply the methodologies concerned to exposures in that third country. In that case, both the consolidating supervisor and those authorities shall reach an agreement on the scope of involvement of the third country supervisory authorities for the following purposes:
 - (a) providing the consolidating supervisor with their contribution to the assessment report prepared by the consolidating supervisor;
 - (b) adding as annexes the contributions referred to in point (a) to the assessment report prepared by the consolidating supervisor.
2. Where the consolidating supervisor decides to involve supervisory authorities of third countries, the consolidating supervisor shall not provide the assessment reports prepared by any relevant competent authority to the third country supervisory authorities without the express consent of that relevant competent authority.
3. The consolidating supervisor shall keep the relevant competent authorities fully informed on the scope, level and nature of involvement of the third country supervisory authorities in the assessment process and the extent to which the assessment report prepared by the consolidating supervisor has benefited from their contributions.

*Article 4***Assessment of the completeness of the application**

1. Upon receipt of an application for a permission referred to in Article 143(1), Article 151(4) and (9), Article 283, Article 312(2) or Article 363 of Regulation (EU) No 575/2013 submitted by the applicant, the consolidating supervisor shall forward the application to the relevant competent authorities without undue delay, and in any case within 10 days.
2. The consolidating supervisor and the relevant competent authorities shall assess the completeness of the application within 6 weeks of receipt of the application by the consolidating supervisor.

⁽¹⁾ Commission Delegated Regulation (EU) 2016/98 of 16 October 2015 supplementing Directive 2013/36/EU of the European Parliament and of the Council with regard to regulatory technical standards for specifying the general conditions for the functioning of colleges of supervisors (see page 2 of this Official Journal).

3. An application shall be deemed complete if it contains all information needed by the competent authorities in order to assess the application in accordance with the requirements set out in Regulation (EU) No 575/2013 and in particular in Articles 143, 144, 151, 283, 312 and 363 of that Regulation.
4. The relevant competent authorities shall provide their assessment of the completeness of the application to the consolidating supervisor.
5. The assessment referred to in paragraph 4 shall indicate any elements of the application that are assessed as incomplete or missing.
6. Where a relevant competent authority does not provide its assessment of the completeness of the application to the consolidating supervisor within the period specified in paragraph 2, the relevant competent authority shall be deemed to consider the application complete.
7. Where the consolidating supervisor or any of the relevant competent authorities consider that the information provided in the application is incomplete, the consolidating supervisor shall inform the applicant of the aspects of the application which are considered to be incomplete or missing and shall provide to the applicant the opportunity to submit the missing information.
8. Where an applicant provides the missing information referred to in paragraph 7, the consolidating supervisor shall forward that information to the relevant competent authorities without undue delay, and in any case within 10 days from the receipt of that information.
9. The consolidating supervisor and the relevant competent authorities shall assess the completeness of the application taking into account the additional information within 6 weeks of receipt by the consolidating supervisor of that information in accordance with the procedure set out in paragraphs 3 to 6.
10. Where a complete application has previously been assessed as incomplete, the 6-month period referred to in point (a) of Article 20(2) of Regulation (EU) No 575/2013 shall be deemed to start on the date of receipt by the consolidating supervisor of the information that completed the application.
11. Upon an application being assessed as complete, the consolidating supervisor shall inform the applicant and the relevant competent authorities of that fact together with the date of receipt of the complete application or the date of receipt of the information that completed the application.
12. In any case, the consolidating supervisor or any of the relevant competent authorities may require the applicant to provide additional information for the purposes of evaluating the application and reaching a joint decision on the application.

Article 5

Planning of the steps of the joint decision process

1. Prior to the start of the joint decision process, the consolidating supervisor and the relevant competent authorities shall agree on a timetable of steps to be followed in the joint decision process and on the division of work. In case of disagreement, the consolidating supervisor shall set the timetable after considering the views and reservations expressed by the relevant competent authorities. The timetable shall be set within 6 weeks of receipt of a complete application. Upon finalisation, the timetable shall be forwarded by the consolidating supervisor to the relevant competent authorities.
2. The timetable shall include the date of receipt of the complete application pursuant to Article 4(9) and at least the following steps:
 - (a) agreement on the timetable and the division of work between the consolidating supervisor and the relevant competent authorities;
 - (b) agreement on the scope of involvement of third country supervisory authorities pursuant to Article 3;

- (c) dialogue between the consolidating supervisor, the relevant competent authorities and the applicant on the details of the application, where this is deemed as necessary by the consolidating supervisor and the relevant competent authorities;
- (d) submission of the assessment reports from the relevant competent authorities to the consolidating supervisor pursuant to Article 6(2);
- (e) dialogue on the assessment reports between the consolidating supervisor and the relevant competent authorities pursuant to Article 7(2);
- (f) preparation and submission of the draft joint decision from the consolidating supervisor to the relevant competent authorities pursuant paragraphs 3 and 4 of Article 7;
- (g) consultation on the draft joint decision with the applicant, where required by the legislation of a Member State;
- (h) dialogue between the consolidating supervisor and the relevant competent authorities on the draft joint decision pursuant to Article 7(4);
- (i) submission of the draft joint decision from the consolidating supervisor to the relevant competent authorities for agreement and reaching of the joint decision pursuant to Article 8;
- (j) communication of the joint decision to the applicant pursuant to Article 9.

3. The timetable shall fulfil all of the following requirements:

- (a) it shall be proportionate to the scope of the application;
- (b) it shall reflect the scope and complexity of each task performed by the relevant competent authorities and the consolidating supervisor, as well as the complexity of the institutions of the group to which the joint decision is to apply;
- (c) it shall take into account, so far as possible, the other activities being undertaken by the consolidating supervisor and the relevant competent authorities under the college supervisory examination programme referred to in Article 16 of Delegated Regulation (EU) 2016/98.

4. The division of work shall reflect the following:

- (a) the scope and complexity of the application;
- (b) the materiality of the scope of the application for each institution;
- (c) the type and location of the exposures or risks to which the application relates;
- (d) the extent to which exposures or risks assumed in a particular jurisdiction contribute to the materiality of changes or extensions of the models when assessed at the consolidated level;
- (e) the ability of the consolidating supervisor and each relevant competent authority to execute the necessary tasks to perform an assessment and give a fully reasoned opinion.

For the purposes of point (c) of the first subparagraph, where the geographical location of exposures or risks is different from the location at which the exposures or risks are managed, credited or traded, the division of work shall establish separate responsibilities for the competent authorities of the Member State in which the exposures or risks are located, and for the competent authorities of the Member State in which those exposures or risks are managed, credited or traded.

5. The consolidating supervisor shall communicate to the applicant an indicative date for the dialogue referred to in point (c) of paragraph 2 and an estimated date for the communication referred to in point (i) of paragraph 2.
6. Where it becomes necessary to update the timetable or the division of work, the consolidating supervisor shall do so in consultation with the relevant competent authorities.

Article 6

Preparation of the assessment reports

1. The relevant competent authorities and the consolidating supervisor shall assess the application based on the division of work established in accordance with Article 5(1). Those assessments shall take a form of assessment reports.
2. Each relevant competent authority shall provide its assessment report to the consolidating supervisor by the date specified in the timetable pursuant to point (d) of Article 5(2).
3. Each assessment report shall include at least all of the following:
 - (a) an opinion on whether or not the permission requested should be granted, based on the requirements set out in Article 143(1), Article 151(4) and (9), Article 283, Article 312(2), or Article 363 of Regulation (EU) No 575/2013, together with the reasoning to support the opinion;
 - (b) terms and conditions, if any, to which such permission should be subject, including corresponding reasoning and a timetable for their fulfilment;
 - (c) the assessments relating to the matters which competent authorities are required to assess in accordance with the requirements set out in Regulation (EU) No 575/2013 which relate to the permissions referred to in Articles 143, 144, 151, 283, 312 or 363 of that Regulation;
 - (d) recommendations, if any, on remedying deficiencies revealed while evaluating the application and reaching a joint decision on the application.

Article 7

Preparation of the draft joint decision

1. Any assessment report referred to in Article 6 shall be communicated by the consolidating supervisor to a relevant competent authority, where that contribution is relevant to the assessment of that relevant competent authority.
2. The consolidating supervisor shall engage in dialogue, as referred to in the timetable pursuant to point (e) of Article 5(2), with the relevant competent authorities, based on the assessment reports prepared by the consolidating supervisor and the relevant competent authorities, with a view to preparing a draft joint decision.
3. The consolidating supervisor shall prepare a fully reasoned draft joint decision. The draft joint decision shall set out each of the following items:
 - (a) the names of the consolidating supervisor and relevant competent authorities involved in the draft joint decision;
 - (b) the name of the group of institutions and a list of all institutions within the group to which the draft joint decision relates and applies, together with details of the scope of application of the draft joint decision;
 - (c) the references to the applicable Union and national law relating to the preparation, finalisation and application of the draft joint decision;
 - (d) the date of the draft joint decision and of any relevant update thereto in case of material extensions or changes as referred to in Article 13;
 - (e) an opinion on granting the permission requested based on the assessment reports referred to in Article 6;
 - (f) where the opinion referred to in point (e) is to grant the permission requested, the date from which that permission is granted;

- (g) a brief description of the results of the assessments for each institution within the group;
 - (h) any recommendations on remedying any deficiencies revealed while evaluating the application and reaching a joint decision on the application;
 - (i) any terms and conditions to be met by the applicant, including corresponding reasoning, before using the permission referred to in Article 143(1), Article 151(4) and (9), Article 283, Article 312(2) or Article 363 of Regulation (EU) No 575/2013, where applicable;
 - (j) the reference date to which points (g), (h) and (i) relate;
 - (k) the timeline for fulfilling the terms and conditions referred to in point (i) or for addressing the recommendations referred to in point (h), where applicable;
 - (l) the timeline for implementing the draft joint decision into respective national permissions, where applicable.
4. The consolidating supervisor shall provide the draft joint decision to the relevant competent authorities for the purposes of the dialogue referred to in point h of Article 5(2), where appropriate.

Article 8

Reaching of the joint decision

1. The consolidating supervisor shall revise the draft joint decision, as necessary, to reflect the conclusions of the dialogue referred to in Article 7(4), and draw up a final draft joint decision.
2. The consolidating supervisor shall send the final draft joint decision to the relevant competent authorities without undue delay and by the deadline specified in the timetable pursuant to Article 5(2)(i), setting them a deadline within which they are to provide their written agreement which may be sent by electronic means.
3. The relevant competent authorities receiving the final draft joint decision and not disagreeing with it shall provide to the consolidating supervisor their written agreement within the set deadline.
4. A joint decision shall be deemed as reached only when all relevant competent authorities have provided their written agreement.
5. The joint decision shall consist of the joint decision and the written agreements attached thereto. The joint decision shall be provided to all relevant competent authorities by the consolidating supervisor.

Article 9

Communication of the joint decision

1. The consolidating supervisor shall communicate the joint decision referred to in Article 8(5) to the applicant in accordance with Article 20(2) of Regulation (EU) No 575/2013, along with information on the implementation of the joint decision into respective national permissions, where appropriate, by the deadline specified in the timetable pursuant to point j of Article 5(2).
2. The consolidating supervisor shall confirm to the relevant competent authorities that it has communicated the joint decision to the applicant.
3. The consolidating supervisor and the relevant competent authorities shall discuss, where appropriate, the joint decision with the institutions which are established in their jurisdiction and are subject to the joint decision to explain the details of the decision and its application.

CHAPTER III

DISAGREEMENTS AND DECISIONS TAKEN IN THE ABSENCE OF A JOINT DECISION*Article 10***Decision process in the absence of joint decision**

1. Where no agreement is reached within the time period referred in point a of Article 20(2) of Regulation (EU) No 575/2013, the consolidating supervisor shall at the request of any of the relevant competent authorities consult the European Banking Authority (EBA). The consolidating supervisor may consult the EBA on its own initiative
2. Where no joint decision is reached within the time period referred to in point a of Article 20(2) of Regulation (EU) No 575/2013, the decision of the consolidating supervisor referred to in the first subparagraph of Article 20(4) of that Regulation shall be evidenced in writing and shall be taken by the latest of the following dates:
 - (a) one month after the expiry of the time period referred to in point (a) of Article 20(2) of Regulation (EU) No 575/2013, where none of the competent authorities concerned has referred the matter to EBA in accordance with the fourth subparagraph of Article 20(4) of that Regulation;
 - (b) one month after the provision of any advice by the EBA pursuant to paragraph 1 of this Article where the consolidating supervisor has consulted the EBA within the time period referred to in point (a) of Article 20(2) of Regulation (EU) No 575/2013;
 - (c) one month after any decision taken by the EBA in accordance with the fourth subparagraph of Article 20(4) of Regulation (EU) No 575/2013.
3. Where EBA has been consulted pursuant to paragraph 1, the consolidating supervisor's decision referred to in paragraph 2 shall include an explanation of any deviations from the EBA's advice.

*Article 11***Drafting of the decisions taken in the absence of a joint decision**

The decision taken by the consolidating supervisor in the absence of a joint decision shall include all the items listed in Article 7(3), as appropriate.

*Article 12***Communication of the decisions taken in the absence of joint decision**

The consolidating supervisor shall communicate its decision to the applicant and to the relevant competent authorities without delay in accordance with the third subparagraph of Article 20(4) of Regulation (EU) No 575/2013.

CHAPTER IV

UPDATE OF DECISIONS IN CASE OF MATERIAL MODEL EXTENSIONS OR CHANGES AND ENTRY INTO FORCE*Article 13***Material model extensions or changes**

1. Where an application for permission relates to material model extensions or changes in accordance with Article 143(3), Article 151(4) or (9), Article 283, Article 312(2) or Article 363 of Regulation (EU) No 575/2013, the consolidating supervisor and the competent authorities responsible for the supervision of institutions that are affected by these material model extensions or changes shall work together, in full consultation, to decide whether or not to grant the permission sought in accordance with Article 20 of Regulation (EU) No 575/2013, following the process set out in Articles 3 to 9 of this Regulation.

2. The timetable of the joint decision process for granting permission on material extensions and changes shall fulfil all of the following requirements:

- (a) it shall be proportionate to the scope of the material model extensions or changes;
- (b) it shall be proportionate to the tasks and division of the work between the consolidating supervisor and the relevant competent authorities responsible for the supervision of institutions that are affected by these material model extensions or changes.

For the purposes of point (b) of the first subparagraph, where an application concerns a material model extension or change which affects institutions established in only one Member State, the timing allocated to the consolidating supervisor in all aspects of the process under Articles 3 to 9 shall be kept to a minimum.

Article 14

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, 16 October 2015.

For the Commission

The President

Jean-Claude JUNCKER

COMMISSION DELEGATED REGULATION (EU) 2016/101**of 26 October 2015****supplementing Regulation (EU) No 575/2013 of the European Parliament and of the Council with regard to regulatory technical standards for prudent valuation under Article 105(14)****(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 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 ⁽¹⁾, and in particular the third subparagraph of Article 105(14) thereof,

Whereas:

- (1) Article 105 of Regulation (EU) No 575/2013 refers to the prudent valuation standards applicable to all trading book positions. However, Article 34 of that Regulation requires institutions to apply the standards of Article 105 to all assets measured at fair value. The combination of the above articles implies that the prudent valuation requirements apply to all fair-valued positions regardless of whether they are held in the trading book or not, where the term 'positions' refers solely to financial instruments and commodities.
- (2) Where the application of prudent valuation would lead to a lower absolute carrying value for assets or a higher absolute carrying value for liabilities than recognised in accounting, an additional valuation adjustment (AVA) should be calculated as the absolute value of the difference between the two, as the prudent value should always be equal to or lower than the fair value for assets and equal to or higher than the fair value for liabilities.
- (3) For valuation positions for which a change in accounting valuation has only a partial or zero impact on Common Equity Tier 1 capital, AVAs should only be applied based on the proportion of the accounting valuation change that impacts Common Equity Tier 1 capital. These include positions subject to hedge accounting, Available-For-Sale positions to the extent their valuation changes are subject to a prudential filter and exactly matching, offsetting positions.
- (4) AVAs are determined only for the purpose of calculating adjustments to Common Equity Tier 1 capital, where necessary. AVAs do not affect the determination of the own funds requirements according to Article 92 of Regulation (EU) No 575/2013 (unless the derogation for small trading book business according to Article 94 of that Regulation applies).
- (5) In order to provide a consistent framework by which AVAs are calculated by institutions, a clear definition of the target level of certainty and the elements of valuation uncertainty that should be considered when determining a prudent value is necessary together with defined methodologies for achieving the required level of certainty based on current market conditions.
- (6) Market price uncertainty, close-out costs and model risk AVAs should be calculated on the basis of Valuation Exposures, which are based on financial instruments or portfolios of financial instruments. For those purposes, financial instruments may be combined to portfolios when, for market price uncertainty and close-out costs AVAs, the instruments are valued on the basis of the same risk factor or when, for model risk AVAs, they are valued on the basis of the same pricing model.
- (7) Given that certain AVAs that relate to valuation uncertainty are not additive, an aggregation approach that can take account of diversification benefits should be permitted within certain categories of AVAs for the elements of the AVA that do not relate to an element of expected exit cost that is not included in fair value. For the purpose of aggregating AVAs it should also be made possible to receive diversification benefits on the difference between the expected value and the prudent value so that banks with a fair value which is already more prudent than expected value do not get less diversification benefit than those that use the expected value as the fair value.

⁽¹⁾ OJ L 176, 27.6.2013, p. 1.

- (8) Since institutions with small fair value portfolios will typically be subject to limited valuation uncertainty, they should be permitted to apply a simpler approach to estimate AVAs than those institutions with larger fair value portfolios. The size of fair value portfolios, for the purpose of determining whether a simpler approach can be applied, should be assessed at each level at which capital requirements are calculated.
- (9) In order for competent authorities to be able to assess those institutions have correctly applied the requirements for assessing the aggregate level of AVAs required, appropriate documentation, systems and controls should be maintained by institutions.
- (10) This Regulation is based on the draft regulatory technical standards submitted by the European Banking Authority to the Commission.
- (11) The European Banking Authority has conducted open public consultations on the draft regulatory technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the opinion of the Banking Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council ⁽¹⁾,

HAS ADOPTED THIS REGULATION:

CHAPTER I

GENERAL PROVISIONS

Article 1

Methodology for calculating Additional Valuation Adjustments (AVAs)

Institutions shall calculate the total additional valuation adjustments ('AVAs') necessary to adjust the fair values to the prudent value and shall calculate those AVAs quarterly according to the method provided in Chapter 3, unless they meet the conditions for applying the method provided in Chapter 2.

Article 2

Definitions

For the purpose of this Regulation the following definitions shall apply:

- (a) 'valuation position' means a financial instrument or commodity or portfolio of financial instruments or commodities held in both trading and non-trading books, which are measured at fair value;
- (b) 'valuation input' means a market observable or non-observable parameter or matrix of parameters that influences the fair value of a valuation position;
- (c) 'valuation exposure' means the amount of a valuation position which is sensitive to the movement in a valuation input.

Article 3

Sources of market data

1. Where institutions calculate AVAs based on market data, they shall consider the same range of market data as the data used in the independent price verification ('IPV') process referred to in Article 105(8) of Regulation (EU) No 575/2013, as relevant, subject to the adjustments described in this Article.

⁽¹⁾ Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p. 12).

2. Institutions shall consider a full range of available and reliable market data sources to determine a prudent value including each of the following, where relevant:

- (a) exchange prices in a liquid market;
- (b) trades in the exact same or very similar instrument, either from the institution's own records or, where available, trades from across the market;
- (c) tradable quotes from brokers and other market participants;
- (d) consensus service data;
- (e) indicative broker quotes;
- (f) counterparty collateral valuations.

3. For cases where an expert-based approach is applied for the purpose of Articles 9, 10 and 11, alternative methods and sources of information shall be considered, including each of the following, where relevant:

- (a) the use of proxy data based on similar instruments for which sufficient data is available;
- (b) the application of prudent shifts to valuation inputs;
- (c) the identification of natural bounds to the value of an instrument.

CHAPTER II

SIMPLIFIED APPROACH FOR THE DETERMINATION OF AVAs

Article 4

Conditions for use of the simplified approach

1. Institutions may apply the simplified approach described in this Chapter only if the sum of the absolute value of fair-valued assets and liabilities, as stated in the institution's financial statements under the applicable accounting framework, is less than EUR 15 billion.

2. Exactly matching, offsetting fair-valued assets and liabilities shall be excluded from the calculation of paragraph 1. For fair-valued assets and liabilities for which a change in accounting valuation has a partial or zero impact on Common Equity Tier 1 ('CET1') capital, their values shall only be included in proportion to the impact of the relevant valuation change on CET1 capital.

3. The threshold referred to in paragraph 1 shall apply on an individual and consolidated basis. Where the threshold is breached on a consolidated basis, the core approach shall be applied to all entities included in the consolidation.

4. Where institutions applying the simplified approach fail to meet the condition of paragraph 1 for two consecutive quarters, they shall immediately notify the relevant competent authority and shall agree on a plan to implement the approach referred to in Chapter 3 within the following two quarters.

Article 5

Determination of AVAs under the simplified approach

Institutions shall calculate AVAs under the simplified approach as 0,1 % of the sum of the absolute value of fair-valued assets and liabilities which are included within the threshold calculation laid down in Article 4.

Article 6

Determination of total AVAs calculated under the simplified approach

For institutions applying the simplified approach, the total AVAs for the purpose of Article 1 shall be the AVA resulting from the calculation of Article 5.

CHAPTER III

CORE APPROACH FOR THE DETERMINATION OF AVAs*Article 7***Overview of the core approach**

1. Institutions shall calculate AVAs under the core approach, by applying the following two-step approach:
 - (a) they shall calculate AVAs for each of the categories described in paragraphs 10 and 11 of Article 105 of Regulation (EU) No 575/2013 ('category level AVAs') according to paragraph 2 of this Article;
 - (b) they shall sum the amounts resulting from point (a) for each of the category level AVAs to provide the total AVAs for the purposes of Article 1.
2. For the purposes of point (a) of paragraph 1, institutions shall calculate category level AVAs in one of the following ways:
 - (a) according to Articles 9 to 17;
 - (b) where the application of Articles 9 to 17 is not possible for certain positions, according to a 'fall-back approach', whereby they shall identify the related financial instruments and calculate an AVA as the sum of the following:
 - (i) 100 % of the net unrealised profit on the related financial instruments;
 - (ii) 10 % of the notional value of the related financial instruments in the case of derivatives;
 - (iii) 25 % of the absolute value of the difference between the fair value and the unrealised profit, as determined in point (i), of the related financial instruments in the case of non-derivatives.

For the purposes of point (b)(i) of the first paragraph, 'unrealised profit' shall mean the change, where positive, in fair value since trade inception, determined on a first-in-first-out basis.

*Article 8***General provisions for the calculations of AVAs under the core approach**

1. For fair-valued assets and liabilities for which a change in accounting valuation has a partial or zero impact on CET1 capital, AVAs shall only be calculated based on the proportion of the accounting valuation change that impacts CET1 capital.
2. In relation to the category level AVAs described in Articles 14 to 17, institutions shall aim to achieve a level of certainty in the prudent value that is equivalent to that set out in Articles 9 to 13.
3. AVAs shall be considered to be the excess of valuation adjustments required to achieve the identified prudent value, over any adjustment applied in the institution's fair value that can be identified as addressing the same source of valuation uncertainty as the AVA. Where an adjustment applied in the institution's fair value cannot be identified as addressing a specific AVA category at the level at which the relevant AVAs are calculated, that adjustment shall not be included in the calculation of AVAs.
4. AVAs shall always be positive, including at valuation exposure level, category level, both pre and post aggregation.

*Article 9***Calculation of market price uncertainty AVA**

1. Market price uncertainty AVAs shall be calculated at valuation exposure level ('individual market price uncertainty AVAs').

2. The market price uncertainty AVA shall only be assessed to have zero value where both of the following conditions are met:

- (a) the institution has firm evidence of a tradable price for a valuation exposure or a price can be determined from reliable data based on a liquid two-way market as described in the second subparagraph of Article 338(1) of Regulation (EU) No 575/2013;
- (b) the sources of market data set out in Article 3(2) do not indicate any material valuation uncertainty.

3. Where a valuation exposure cannot be shown to have a zero AVA, when assessing the market price uncertainty AVA institutions shall use the data sources defined in Article 3. In this case the calculation of the market price uncertainty AVA shall be performed as described in paragraphs 4 and 5.

4. Institutions shall calculate AVAs on valuation exposures related to each valuation input used in the relevant valuation model.

(a) The granularity at which those AVAs shall be assessed shall be one of the following:

- (i) where decomposed, all the valuation inputs required to calculate an exit price for the valuation position;
- (ii) the price of the instrument.

(b) Each of the valuation inputs referred to in point (a)(i) shall be treated separately. Where a valuation input consists of a matrix of parameters, AVAs shall be calculated based on the valuation exposures related to each parameter within that matrix. Where a valuation input does not refer to tradable instruments, institutions shall map the valuation input and the related valuation exposure to a set of market tradable instruments. Institutions may reduce the number of parameters of the valuation input for the purpose of calculating AVAs using any appropriate methodology provided the reduced parameters satisfy all of the following requirements:

- (i) the total value of the reduced valuation exposure is the same as the total value of the original valuation exposure;
- (ii) the reduced set of parameters can be mapped to a set of market tradable instruments;
- (iii) the ratio of variance measure 2 defined below over variance measure 1 defined below, based on historical data from the most recent 100 trading days, is less than 0,1.

(c) For the purposes of this paragraph, 'variance measure 1' shall mean profit and loss variance of the valuation exposure based on the unreduced valuation input and 'variance measure 2' shall mean profit and loss variance of the valuation exposure based on the unreduced valuation input minus the valuation exposure based on the reduced valuation input. Where a reduced number of parameters is used for the purpose of calculating AVAs, the determination that the criteria set out in point (b) are met shall be subject to independent control function review of the netting methodology and internal validation on at least an annual basis.

5. Market price uncertainty AVAs shall be determined as follows:

(a) where sufficient data exists to construct a range of plausible values for a valuation input:

- (i) for a valuation input where the range of plausible values is based on exit prices, institutions shall estimate a point within the range where they are 90 % confident they could exit the valuation exposure at that price or better;
- (ii) for a valuation input where the range of plausible values is created from mid prices, institutions shall estimate a point within the range where they are 90 % confident that the mid value they could achieve in exiting the valuation exposure would be at that price or better;

(b) where insufficient data exists to construct a plausible range of values for a valuation input, institutions shall use an expert-based approach using qualitative and quantitative information available to achieve a level of certainty in the prudent value of the valuation input that is equivalent to that targeted under point (a). Institutions shall notify competent authorities of the valuation exposures for which this approach is applied, and the methodology used to determine the AVA;

- (c) institutions shall calculate the market price uncertainty AVA based on one of the following approaches:
 - (i) they shall apply the difference between the valuation input values estimated according to either point (a) or point (b), and the valuation input values used for calculating fair value to the valuation exposure of each valuation position;
 - (ii) they shall combine the valuation input values estimated according to either point (a) or point (b) and they shall revalue valuation positions based on those values. Institutions shall then take the difference between the revalued positions and fair-valued positions.
- 6. Institutions shall calculate the total category level AVA for market price uncertainty by applying to individual market price uncertainty AVAs the formulae for either Method 1 or Method 2 laid down in the Annex.

Article 10

Calculation of close-out costs AVA

1. Close-out costs AVAs shall be calculated at valuation exposure level ('individual close-out costs AVAs').
2. When an institution has calculated a market price uncertainty AVA for a valuation exposure based on an exit price, the close-out cost AVA may be assessed to have zero value.
3. Where an institution applies the derogation referred to in paragraph 5 of Article 105 of Regulation (EU) No 575/2013, the close-out costs AVA may be assessed to have zero value, on the condition that the institution provides evidence that it is 90 % confident that sufficient liquidity exists to support the exit of the related valuation exposures at mid-price.
4. Where a valuation exposure cannot be shown to have a zero close-out costs AVA, institutions shall use the data sources defined in Article 3. In this case the calculation of the close-out costs AVA shall be performed as described in paragraphs 5 and 6 of this Article.
5. Institutions shall calculate close-out costs AVAs on valuation exposures related to each valuation input used in the relevant valuation model.
 - (a) The granularity at which those close-out costs AVAs shall be assessed shall be one of the following:
 - (i) where decomposed, all valuation inputs required to calculate an exit price for the valuation position;
 - (ii) the price of the instrument.
 - (b) Each of the valuation inputs each of the valuation inputs referred to in point (a)(i) shall be treated separately. Where a valuation input consists of a matrix of parameters, institutions shall assess the close-out cost AVA based on the valuation exposures related to each parameter within that matrix. Where a valuation input does not refer to tradable instruments, institutions shall explicitly map the valuation input and the related valuation exposure to a set of market tradable instruments. Institutions may reduce the number of parameters of the valuation input for the purpose of calculating AVAs using any appropriate methodology provided the reduced parameters satisfy all of the following requirements:
 - (i) the total value of the reduced valuation exposure is the same as the total value of the original valuation exposure;
 - (ii) the reduced set of parameters can be mapped to a set of market tradable instruments;
 - (iii) the ratio of variance measure 2 over variance measure 1, based on historical data from the most recent 100 trading days, is less than 0,1.

For the purposes of this paragraph, variance measure 1 shall mean profit and loss variance of the valuation exposure based on the unreduced valuation input and variance measure 2 shall mean profit and loss variance of the valuation exposure based on the unreduced valuation input minus the valuation exposure based on the reduced valuation input.

- (c) Where a reduced number of parameters is used for the purpose of calculating AVAs, the determination that the criteria set out in point (b) are met shall be subject to independent control function review and internal validation on at least an annual basis.
6. Close-out costs AVAs shall be determined as follows:
- (a) where sufficient data exists to construct a range of plausible bid-offer spreads for a valuation input, institutions shall estimate a point within the range where they are 90 % confident that the spread they could achieve in exiting the valuation exposure would be at that price or better;
 - (b) where insufficient data exists to construct a plausible range of bid-offer spreads, institutions shall use an expert-based approach using qualitative and quantitative information available to achieve a level of certainty in the prudent value that is equivalent to that targeted where a range of plausible values is available. Institutions shall notify competent authorities of the valuation exposures for which this approach is applied, and the methodology used to determine the AVA;
 - (c) institutions shall calculate the close-out costs AVA by applying 50 % of the estimated bid-offer spread calculated in accordance with either point (a) or point (b) to the valuation exposures related to the valuation inputs defined in paragraph 5.
7. Institutions shall calculate the total category level AVA for close-out costs by applying to the individual close-out costs AVAs the formulae for either Method 1 or Method 2 laid down in the Annex.

Article 11

Calculation of model risk AVA

1. Institutions shall estimate a model risk AVA for each valuation model ('individual model risk AVA') by considering valuation model risk which arises due to the potential existence of a range of different models or model calibrations, which are used by market participants, and the lack of a firm exit price for the specific product being valued. Institutions shall not consider valuation model risk which arises due to calibrations from market derived parameters, which shall be captured according to Article 9.
2. The model risk AVA shall be calculated using one of the approaches defined in paragraphs 3 and 4.
3. Where possible, institutions shall calculate the model risk AVA by determining a range of plausible valuations produced from alternative appropriate modelling and calibration approaches. In this case, institutions shall estimate a point within the resulting range of valuations where they are 90 % confident they could exit the valuation exposure at that price or better.
4. Where institutions are unable to use the approach defined in paragraph 3, they shall apply an expert-based approach to estimate the model risk AVA.
5. The expert-based approach shall consider all of the following:
- (a) complexity of products relevant to the model;
 - (b) diversity of possible mathematical approaches and model parameters, where those model parameters are not related to market variables;
 - (c) the degree to which the market for relevant products is 'one way';
 - (d) the existence of unhedgeable risks in relevant products;
 - (e) the adequacy of the model in capturing the behaviour of the pay-off of the products in the portfolio.

Institutions shall notify competent authorities of the models for which this approach is applied, and the methodology used to determine the AVA.

6. Where institutions use the method described in paragraph 4, the prudence of the method shall be confirmed annually by comparing the following:
 - (a) the AVAs calculated using the method described in paragraph 4, if it were applied to a material sample of the valuation models for which the institution applies the method in paragraph 3; and
 - (b) the AVAs produced by the method in paragraph 3 for the same sample of valuation models.
7. Institutions shall calculate the total category level AVA for model risk by applying to individual model risk AVAs the formulae for either Method 1 or Method 2 laid down in the Annex.

Article 12

Calculation of unearned credit spreads AVA

1. Institutions shall calculate the unearned credit spreads AVA to reflect the valuation uncertainty in the adjustment necessary according to the applicable accounting framework to include the current value of expected losses due to counterparty default on derivative positions.
2. Institutions shall include the element of the AVA relating to market price uncertainty within the market price uncertainty AVA category. The element of the AVA relating to close-out cost uncertainty shall be included within the close-out costs AVA category. The element of the AVA relating to model risk shall be included within the model risk AVA category.

Article 13

Calculation of investing and funding costs AVA

1. Institutions shall calculate the investing and funding costs AVA to reflect the valuation uncertainty in the funding costs used when assessing the exit price according to the applicable accounting framework.
2. Institutions shall include the element of the AVA relating to market price uncertainty within the market price uncertainty AVA category. The element of the AVA relating to close-out cost uncertainty shall be included within the close-out costs AVA category. The element of the AVA relating to model risk shall be included within the model risk AVA category.

Article 14

Calculation of concentrated positions AVA

1. Institutions shall estimate a concentrated position AVA for concentrated valuation positions ('individual concentrated positions AVA') by applying the following three-step approach:
 - (a) they shall identify concentrated valuation positions;
 - (b) for each identified concentrated valuation position, where a market price applicable for the size of the valuation position is unavailable, they shall estimate a prudent exit period;
 - (c) where the prudent exit period exceeds 10 days, they shall estimate an AVA taking into account the volatility of the valuation input, the volatility of the bid offer spread and the impact of the hypothetical exit strategy on market prices.
2. For the purposes of point (a) of paragraph 1, the identification of concentrated valuation positions shall consider all of the following:
 - (a) the size of all valuation positions relative to the liquidity of the related market;

- (b) the institution's ability to trade in that market;
- (c) the average daily market volume and typical daily trading volume of the institution.

Institutions shall establish and document the methodology applied to determine concentrated valuation positions for which a concentrated positions AVA shall be calculated.

3. Institutions shall calculate the total category level AVA for concentrated positions AVA as the sum of individual concentrated positions AVAs.

Article 15

Calculation of future administrative costs AVA

1. Where an institution calculates market price uncertainty and close-out cost AVAs for a valuation exposure, which imply fully exiting the exposure, the institution may assess a zero AVA for future administrative costs.
2. Where a valuation exposure cannot be shown to have a zero AVA according to paragraph 1, institutions shall calculate the future administrative cost AVA ('individual future administrative costs AVA') considering the administrative costs and future hedging costs over the expected life of the valuation exposures for which a direct exit price is not applied for the close-out costs AVA, discounted using a rate which approximates the risk free rate.
3. For the purposes of paragraph 2, future administrative costs shall include all incremental staffing and fixed costs that are likely to be incurred in managing the portfolio but a reduction in these costs may be assumed as the size of the portfolio reduces.
4. Institutions shall calculate the total category level AVA for future administrative costs AVA as the sum of individual future administrative costs AVAs.

Article 16

Calculation of early termination AVA

Institutions shall estimate an early termination AVA considering the potential losses arising from non-contractual early terminations of client trades. The early termination AVA shall be calculated taking into account the percentage of client trades that have historically terminated early and the losses that arise in those cases.

Article 17

Calculation of operational risk AVA

1. Institutions shall estimate an operational risk AVA by assessing the potential losses that may be incurred as a result of operational risk related to valuation processes. This estimate shall include an assessment of valuation positions judged to be at-risk during the balance sheet substantiation process, including those due to legal disputes.
2. Where an institution applies the Advanced Measurement Approach for Operational Risk as specified in Part Three, Title III, Chapter 4 of Regulation (EU) No 575/2013, it may report a zero operational risk AVA on condition that it provides evidence that the operational risk relating to valuation processes, as determined in accordance with paragraph 1, is fully accounted for by the Advanced Measurement Approach calculation.
3. In other cases than those referred to in paragraph 2, the institution shall calculate an operational risk AVA of 10 % of the sum of the aggregated category level AVAs for market price uncertainty and close-out costs.

CHAPTER IV

DOCUMENTATION, SYSTEMS AND CONTROLS*Article 18***Documentation requirements**

1. Institutions shall document appropriately the prudent valuation methodology. This documentation shall include internal policies providing guidance on all of the following points:

- (a) the range of methodologies for quantifying AVAs for each valuation position;
- (b) the hierarchy of methodologies for each asset class, product, or valuation position;
- (c) the hierarchy of market data sources used in the AVA methodology;
- (d) the required characteristics of market data to justify a zero AVA for each asset class, product, or valuation position;
- (e) the methodology applied where an expert based approach is used to determine an AVA;
- (f) the methodology for determining whether a valuation position requires a concentrated position AVA;
- (g) the assumed exit horizon for the purpose of calculating AVAs for concentrated positions, where relevant;
- (h) the fair-valued assets and liabilities for which a change in accounting valuation has a partial or zero impact on CET1 capital according to Article 4(2) and Article 8(1).

2. Institutions shall also maintain records to allow the calculation of AVAs at valuation exposure level to be analysed, and information from the AVA calculation process shall be provided to senior management to allow an understanding of the level of valuation uncertainty on the institution's portfolio of fair-valued positions.

3. The documentation specified in paragraph 1 shall be reviewed at least annually and approved by senior management.

*Article 19***Systems and controls requirements**

1. AVAs shall be authorised initially, and monitored subsequently, by an independent control unit.

2. Institutions shall have effective controls related to the governance of all fair-valued positions, and adequate resources to implement those controls and ensure robust valuation processes even during a stressed period. These shall include all of the following:

- (a) at least an annual review of valuation model performance;
- (b) management sign-off on all significant changes to valuation policies;
- (c) a clear statement of the institution's risk appetite for exposure to positions subject to valuation uncertainty which is monitored at an aggregate institution-wide level;
- (d) independence in the valuation process between risk taking and control units;
- (e) a comprehensive internal audit process related to valuation processes and controls.

3. Institutions shall ensure there are effective and consistently applied controls related to the valuation process for fair-valued positions. These controls shall be subject to regular internal audit review. The controls shall include all of the following:

- (a) a precisely defined institution-wide product inventory, ensuring that every valuation position is uniquely mapped to a product definition;
- (b) valuation methodologies, for each product in the inventory covering choice and calibration of model, fair value adjustments, AVAs, independent price verification methodologies applicable to the product, and the measurement of valuation uncertainty;

- (c) validation process ensuring that, for each product, both the risk-taking and relevant control departments approve the product-level methodologies described in point (b) and certify that they reflect the actual practice for every valuation position mapped to the product;
- (d) defined thresholds based on observed market data for determining when valuation models are no longer sufficiently robust;
- (e) a formal IPV process based on prices independent from the relevant trading desk;
- (f) a new product approval processes referencing the product inventory and involving all internal stakeholders relevant to risk measurement, risk control, financial reporting and the assignment and verification of valuations of financial instruments;
- (g) a new deal review process to ensure that pricing data from new trades are used to assess whether valuations of similar valuation exposures remain appropriately prudent.

CHAPTER V

FINAL PROVISIONS

Article 20

Entry into force

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

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

Done at Brussels, 26 October 2015.

For the Commission
The President
Jean-Claude JUNCKER

ANNEX

Formulae to be used for the purpose of aggregating AVAs under Articles 9(6), 10(7) and 11(7)*Method 1*

$$\begin{aligned}\text{APVA} &= (\text{FV} - \text{PV}) - 50 \% \cdot (\text{FV} - \text{PV}) \\ &= (50 \% \cdot (\text{FV} - \text{PV})) \\ \text{AVA} &= \Sigma \text{APVA}\end{aligned}$$

Method 2

$$\begin{aligned}\text{APVA} &= \max \{0, (\text{FV} - \text{PV}) - 50 \% \cdot (\text{EV} - \text{PV})\} \\ &= \max \{0, \text{FV} - 50 \% \cdot (\text{EV} + \text{PV})\} \\ \text{AVA} &= \Sigma \text{APVA}\end{aligned}$$

Where:

- FV = The valuation exposure level fair value after any accounting adjustment applied in the institution's fair value that can be identified as addressing the same source of valuation uncertainty as the relevant AVA,
- PV = The valuation exposure level prudent value determined in accordance with this Regulation,
- EV = The expected value at a valuation exposure level taken from a range of possible values,
- APVA = The valuation exposure level AVA after adjusting for aggregation,
- AVA = The total category level AVA after adjusting for aggregation.
-

COMMISSION IMPLEMENTING REGULATION (EU) 2016/102**of 19 January 2016****approving non-minor amendments to the specification for a name entered in the register of protected designations of origin and protected geographical indications (Eichsfelder Feldgieker/Eichsfelder Feldkieker (PGI))**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs ⁽¹⁾, and in particular Article 52(2) thereof,

Whereas:

- (1) Pursuant to the first subparagraph of Article 53(1) of Regulation (EU) No 1151/2012, the Commission has examined Germany's application for the approval of amendments to the specification for the protected geographical indication 'Eichsfelder Feldgieker'/'Eichsfelder Feldkieker', registered under Commission Regulation (EU) No 452/2013 ⁽²⁾.
- (2) Since the amendments in question are not minor within the meaning of Article 53(2) of Regulation (EU) No 1151/2012, the Commission published the amendment application in the *Official Journal of the European Union* as required by Article 50(2)(a) of that Regulation ⁽³⁾.
- (3) As no statement of opposition under Article 51 of Regulation (EU) No 1151/2012 has been received by the Commission, the amendments to the specification should be approved,

HAS ADOPTED THIS REGULATION:

Article 1

The amendments to the specification published in the *Official Journal of the European Union* regarding the name 'Eichsfelder Feldgieker'/'Eichsfelder Feldkieker' (PGI) are hereby approved.

Article 2

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

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

Done at Brussels, 19 January 2016.

For the Commission,
On behalf of the President,
Phil HOGAN
Member of the Commission

⁽¹⁾ OJ L 343, 14.12.2012, p. 1.

⁽²⁾ Commission Implementing Regulation (EU) No 452/2013 of 7 May 2013 entering a name in the register of protected designations of origin and protected geographical indications (Eichsfelder Feldgieker/Eichsfelder Feldkieker (PGI)) (OJ L 133, 17.5.2013, p. 5).

⁽³⁾ OJ C 281, 26.8.2015, p. 12.

COMMISSION REGULATION (EU) 2016/103**of 27 January 2016****amending Regulation (EC) No 2099/2002 of the European Parliament and of the Council
establishing a Committee on Safe Seas and the Prevention of Pollution from Ships (COSS)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 2099/2002 of the European Parliament and of the Council of 5 November 2002 establishing a Committee on Safe Seas and the Prevention of Pollution from Ships (COSS) and amending the Regulations on maritime safety and the prevention of pollution from ships ⁽¹⁾, and in particular Article 7 thereof,

Whereas:

- (1) Regulation (EC) No 2099/2002 has established the Committee on Safe Seas and the Prevention of Pollution from Ships (COSS).
- (2) The role of the COSS is to centralise the tasks of the committees set up under the Union legislation on maritime safety, the prevention of pollution from ships and the protection of shipboard living and working conditions.
- (3) All new Union legislation adopted in the field of maritime safety and the prevention of pollution from ships should provide for recourse to the COSS.
- (4) Since the last amendment of Regulation (EC) No 2099/2002 several new Union acts adopted in the field of maritime safety and the prevention of pollution from ships provide that the Commission should be assisted by COSS, in particular, Article 28 of Directive 2008/106/EC of the European Parliament and of the Council ⁽²⁾, Article 6 of Directive 2009/15/EC of the European Parliament and of the Council ⁽³⁾, Article 12 of Regulation (EC) No 391/2009 of the European Parliament and of the Council ⁽⁴⁾, Article 10 of Regulation (EC) No 392/2009 of the European Parliament and of the Council ⁽⁵⁾, Article 31 of Directive 2009/16/EC of the European Parliament and of the Council ⁽⁶⁾, Article 19 of Directive 2009/18/EC of the European Parliament and of the Council ⁽⁷⁾, Article 10 of Directive 2009/21/EC of the European Parliament and of the Council ⁽⁸⁾, Article 11 of Directive 2009/45/EC of the European Parliament and of the Council ⁽⁹⁾ and Article 38 of Directive 2014/90/EU of the European Parliament and of the Council ⁽¹⁰⁾.
- (5) In addition, Article 4d(2) of Council Directive 1999/32/EC ⁽¹¹⁾, Article 10 of Regulation (EU) No 530/2012 of the European Parliament and of the Council ⁽¹²⁾ and Article 19(5) and (6) of Commission Regulation (EU) No 788/2014 ⁽¹³⁾ provide recourse to the COSS.
- (6) Subsequent to the adoption of Regulation (EC) No 2099/2002, the following Union acts referred to in Article 2(2) of that Regulation have been repealed: Council Regulation (EEC) No 613/91 ⁽¹⁴⁾, Council Directive 93/75/EEC ⁽¹⁵⁾, Council Regulation (EC) No 3051/95 ⁽¹⁶⁾, Council Directive 98/18/EC ⁽¹⁷⁾, Directive 2001/25/EC of the European Parliament and of the Council ⁽¹⁸⁾, Directive 2002/6/EC of the European Parliament and of the Council ⁽¹⁹⁾ and Regulation (EC) No 417/2002 of the European Parliament and of the Council ⁽²⁰⁾.
- (7) The following Union acts referred to in Article 2(2) of Regulation (EC) No 2099/2002 have been recast: Council Directive 94/57/EC ⁽²¹⁾ which has been recast into Directive 2009/15/EC of the European Parliament and of the Council ⁽²²⁾ and Regulation (EC) No 391/2009 of the European Parliament and of the Council ⁽²³⁾, while Council Directive 95/21/EC ⁽²⁴⁾ has been recast in Directive 2009/16/EC of the European Parliament and of the Council ⁽²⁵⁾.
- (8) Regulation (EC) No 2099/2002 should therefore be amended accordingly.
- (9) The measures provided for in this Regulation are in accordance with the opinion of the Committee on Safe Seas and the Prevention of Pollution from Ships (COSS),

HAS ADOPTED THIS REGULATION:

Article 1

Article 2(2) of Regulation (EC) No 2099/2002 shall be replaced by the following:

‘2. “Community maritime legislation” shall mean the following acts:

- (a) Council Regulation (EC) No 2978/94 of 21 November 1994 on the implementation of IMO resolution A.747(18) on the application of tonnage measurement of ballast spaces in segregated ballast oil tankers ⁽¹⁾*
- (b) Council Directive 96/98/EC of 20 December 1996 on marine equipment ⁽²⁾*
- (c) Council Directive 97/70/EC of 11 December 1997 setting up a harmonised safety regime for fishing vessels of 24 metres in length and over ⁽³⁾*
- (d) Council Directive 98/41/EC of 18 June 1998 on the registration of persons sailing on board passenger ships operating to or from ports of the Member States of the Community ⁽⁴⁾*
- (e) Council Directive 1999/32/EC of 26 April 1999 relating to a reduction in the sulphur content of certain liquid fuels and amending Directive 93/12/EEC ⁽⁵⁾* for the purpose of implementation of its Article 4(d)(2)
- (f) Council Directive 1999/35/EC of 29 April 1999 on a system of mandatory surveys for the safe operation of regular ro-ro ferry and high-speed passenger craft services ⁽⁶⁾*
- (g) Directive 2000/59/EC of the European Parliament and of the Council of 27 November 2000 on port reception facilities for ship-generated waste and cargo residues ⁽⁷⁾*
- (h) Directive 2001/96/EC of the European Parliament and of the Council of 4 December 2001 establishing harmonised requirements and procedures for the safe loading and unloading of bulk carriers ⁽⁸⁾*
- (i) Directive 2002/59/EC of the European Parliament and of the Council of 27 June 2002 establishing a Community vessel traffic monitoring and information system and repealing Council Directive 93/75/EEC ⁽⁹⁾*
- (j) Regulation (EC) No 782/2003 of the European Parliament and of the Council of 14 April 2003 on the prohibition of organotin compounds on ships ⁽¹⁰⁾*
- (k) Directive 2003/25/EC of the European Parliament and of the Council of 14 April 2003 on specific stability requirements for ro-ro passenger ships ⁽¹¹⁾*
- (l) Regulation (EC) No 789/2004 of the European Parliament and of the Council of 21 April 2004 on the transfer of cargo and passenger ships between registers within the Community and repealing Council Regulation (EEC) No 613/91 ⁽¹²⁾*
- (m) Directive 2005/35/EC of the European Parliament and of the Council of 7 September 2005 on ship-source pollution and on the introduction of penalties, including criminal penalties, for pollution offences ⁽¹³⁾*
- (n) Regulation (EC) No 336/2006 of the European Parliament and of the Council of 15 February 2006 on the implementation of the International Safety Management Code within the Community and repealing Council Regulation (EC) No 3051/95 ⁽¹⁴⁾*
- (o) Directive 2008/106/EC of the European Parliament and of the Council of 19 November 2008 on the minimum level of training of seafarers ⁽¹⁵⁾*
- (p) Directive 2009/15/EC of the European Parliament and of the Council of 23 April 2009 on common rules and standards for ship inspection and survey organisations and for the relevant activities of maritime administrations ⁽¹⁶⁾*

- (q) Directive 2009/16/EC of the European Parliament and of the Council of 23 April 2009 on port State control ^{(17)*}
- (r) Directive 2009/18/EC of the European Parliament and of the Council of 23 April 2009 establishing the fundamental principles governing the investigation of accidents in the maritime transport sector and amending Council Directive 1999/35/EC and Directive 2002/59/EC of the European Parliament and of the Council ^{(18)*}
- (s) Directive 2009/21/EC of the European Parliament and of the Council of 23 April 2009 on compliance with flag State requirements ^{(19)*}
- (t) Regulation (EC) No 391/2009 of the European Parliament and of the Council of 23 April 2009 on common rules and standards for ship inspection and survey organisations ^{(20)*}
- (u) Regulation (EC) No 392/2009 of the European Parliament and of the Council of 23 April 2009 on the liability of carriers of passengers by sea in the event of accidents ^{(21)*}
- (v) Directive 2009/45/EC of the European Parliament and of the Council of 6 May 2009 on safety rules and standards for passenger ships ^{(22)*}
- (w) Regulation (EU) No 530/2012 of the European Parliament and of the Council of 13 June 2012 on the accelerated phasing-in of double-hull or equivalent design requirements for single-hull oil tankers ^{(23)*}
- (x) Commission Regulation (EU) No 788/2014 of 18 July 2014 laying down detailed rules for the imposition of fines and periodic penalty payments and the withdrawal of recognition of ship inspection and survey organisations pursuant to Articles 6 and 7 of Regulation (EC) No 391/2009 of the European Parliament and of the Council ^{(24)*}
- (y) Directive 2014/90/EU of the European Parliament and of the Council of 23 July 2014 on marine equipment and repealing Council Directive 96/98/EC ^{(25)*}.

^{(1)*} OJ L 319, 12.12.1994, p. 1.

^{(2)*} OJ L 46, 17.2.1997, p. 25.

^{(3)*} OJ L 34, 9.2.1998, p. 1.

^{(4)*} OJ L 188, 2.7.1998, p. 35.

^{(5)*} OJ L 121, 11.5.1999, p. 13.

^{(6)*} OJ L 138, 1.6.1999, p. 1.

^{(7)*} OJ L 332, 28.12.2000, p. 81.

^{(8)*} OJ L 13, 16.1.2002, p. 9.

^{(9)*} OJ L 208, 5.8.2002, p. 10.

^{(10)*} OJ L 115, 9.5.2003, p. 1.

^{(11)*} OJ L 123, 17.5.2003, p. 22.

^{(12)*} OJ L 138, 30.4.2004, p. 19.

^{(13)*} OJ L 255, 30.9.2005, p. 11.

^{(14)*} OJ L 64, 4.3.2006, p. 1.

^{(15)*} OJ L 323, 3.12.2008, p. 33.

^{(16)*} OJ L 131, 28.5.2009, p. 47.

^{(17)*} OJ L 131, 28.5.2009, p. 57.

^{(18)*} OJ L 131, 28.5.2009, p. 114.

^{(19)*} OJ L 131, 28.5.2009, p. 132.

^{(20)*} OJ L 131, 28.5.2009, p. 11.

^{(21)*} OJ L 131, 28.5.2009, p. 24.

^{(22)*} OJ L 163, 25.6.2009, p. 1.

^{(23)*} OJ L 172, 30.6.2012, p. 3.

^{(24)*} OJ L 214, 19.7.2014, p. 12.

^{(25)*} OJ L 257, 28.8.2014, p. 146.

Article 2

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

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

Done at Brussels, 27 January 2016.

For the Commission

The President

Jean-Claude JUNCKER

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- ⁽¹⁾ OJ L 324, 29.11.2002, p. 1.
- ⁽²⁾ Directive 2008/106/EC of the European Parliament and of the Council of 19 November 2008 on the minimum level of training of seafarers (OJ L 323, 3.12.2008, p. 33).
- ⁽³⁾ Directive 2009/15/EC of the European Parliament and of the Council of 23 April 2009 on common rules and standards for ship inspection and survey organisations and for the relevant activities of maritime administrations (OJ L 131, 28.5.2009, p. 47).
- ⁽⁴⁾ Regulation (EC) No 391/2009 of the European Parliament and of the Council of 23 April 2009 on common rules and standards for ship inspection and survey organisations (OJ L 131, 28.5.2009, p. 11).
- ⁽⁵⁾ Regulation (EC) No 392/2009 of the European Parliament and of the Council of 23 April 2009 on the liability of carriers of passengers by sea in the event of accidents (OJ L 131, 28.5.2009, p. 24).
- ⁽⁶⁾ Directive 2009/16/EC of the European Parliament and of the Council of 23 April 2009 on port State control (OJ L 131, 28.5.2009, p. 57).
- ⁽⁷⁾ Directive 2009/18/EC of the European Parliament and of the Council of 23 April 2009 establishing the fundamental principles governing the investigation of accidents in the maritime transport sector and amending Council Directive 1999/35/EC and Directive 2002/59/EC of the European Parliament and of the Council (OJ L 131, 28.5.2009, p. 114).
- ⁽⁸⁾ Directive 2009/21/EC of the European Parliament and of the Council of 23 April 2009 on compliance with flag State requirements (OJ L 131, 28.5.2009, p. 132).
- ⁽⁹⁾ Directive 2009/45/EC of the European Parliament and of the Council of 6 May 2009 on safety rules and standards for passenger ships (OJ L 163, 25.6.2009, p. 1).
- ⁽¹⁰⁾ Directive 2014/90/EU of the European Parliament and of the Council of 23 July 2014 on marine equipment and repealing Council Directive 96/98/EC (OJ L 257, 28.8.2014, p. 146).
- ⁽¹¹⁾ Council Directive 1999/32/EC of 26 April 1999 relating to a reduction in the sulphur content of certain liquid fuels and amending Directive 93/12/EEC (OJ L 121, 11.5.1999, p. 13).
- ⁽¹²⁾ Regulation (EU) No 530/2012 of the European Parliament and of the Council of 13 June 2012 on the accelerated phasing-in of double-hull or equivalent design requirements for single-hull oil tankers (OJ L 172, 30.6.2012, p. 3).
- ⁽¹³⁾ Commission Regulation (EU) No 788/2014 of 18 July 2014 laying down detailed rules for the imposition of fines and periodic penalty payments and the withdrawal of recognition of ship inspection and survey organisations pursuant to Articles 6 and 7 of Regulation (EC) No 391/2009 of the European Parliament and of the Council (OJ L 214, 19.7.2014, p. 12).
- ⁽¹⁴⁾ Council Regulation (EEC) No 613/91 of 4 March 1991 on the transfer of ships from one register to another within the Community (OJ L 68, 15.3.1991, p. 1).
- ⁽¹⁵⁾ Council Directive 93/75/EEC of 13 September 1993 concerning minimum requirements for vessels bound for or leaving Community ports and carrying dangerous or polluting goods (OJ L 247, 5.10.1993, p. 19).
- ⁽¹⁶⁾ Council Regulation (EC) No 3051/95 of 8 December 1995 on the safety management of roll-on/roll-off passenger ferries (ro-ro ferries) (OJ L 320, 30.12.1995, p. 14).
- ⁽¹⁷⁾ Council Directive 98/18/EC of 17 March 1998 on safety rules and standards for passenger ships (OJ L 144, 15.5.1998, p. 1).
- ⁽¹⁸⁾ Directive 2001/25/EC of the European Parliament and of the Council of 4 April 2001 on the minimum level of training of seafarers (OJ L 136, 18.5.2001, p. 17).
- ⁽¹⁹⁾ Directive 2002/6/EC of the European Parliament and of the Council of 18 February 2002 on reporting formalities for ships arriving in and/or departing from ports of the Member States of the Community (OJ L 67, 9.3.2002, p. 31).
- ⁽²⁰⁾ Regulation (EC) No 417/2002 of the European Parliament and of the Council of 18 February 2002 on the accelerated phasing-in of double hull or equivalent design requirements for single hull oil tankers and repealing Council Regulation (EC) No 2978/94 (OJ L 64, 7.3.2002, p. 1).
- ⁽²¹⁾ Council Regulation 94/57/EC of 22 November 1994 on common rules and standards for ship inspection and survey organisations and for the relevant activities of maritime administrations (OJ L 319, 12.12.1994, p. 20).
- ⁽²²⁾ Directive 2009/15/EC of the European Parliament and of the Council of 23 April 2009 on common rules and standards for ship inspection and survey organisations and for the relevant activities of maritime administrations (OJ L 131, 28.5.2009, p. 47).
- ⁽²³⁾ Regulation (EC) No 391/2009 of the European Parliament and of the Council of 23 April 2009 on common rules and standards for ship inspection and survey organisations (OJ L 131, 28.5.2009, p. 11).
- ⁽²⁴⁾ Council Directive 95/21/EC of 19 June 1995 on port State control (OJ L 157, 7.7.1995, p. 1).
- ⁽²⁵⁾ Directive 2009/16/EC of the European Parliament and of the Council of 23 April 2009 on port State control (OJ L 131, 28.5.2009, p. 57).
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COMMISSION IMPLEMENTING REGULATION (EU) 2016/104**of 27 January 2016****concerning the authorisation of a preparation of *Saccharomyces cerevisiae* MUCL 39885 as a feed additive for minor ruminant species for fattening and dairy production (holder of the authorisation Prosol SpA)****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 1831/2003 of the European Parliament and of the Council of 22 September 2003 on additives for use in animal nutrition ⁽¹⁾, and in particular Article 9(2) thereof,

Whereas:

- (1) Regulation (EC) No 1831/2003 provides for the authorisation of additives for use in animal nutrition and for the grounds and procedures for granting such authorisation.
- (2) In accordance with Article 7 of Regulation (EC) No 1831/2003 an application was submitted for the authorisation of a preparation of *Saccharomyces cerevisiae* MUCL 39885. That application was accompanied by the particulars and documents required under Article 7(3) of Regulation (EC) No 1831/2003.
- (3) That application concerns the authorisation of a preparation of *Saccharomyces cerevisiae* MUCL 39885 as a feed additive for minor ruminant species for fattening and dairy production to be classified in the additive category 'zootechnical additives'.
- (4) The additive was already authorised for use in piglets by Commission Implementing Regulation (EU) No 170/2011 ⁽²⁾, in dairy cows and horses by Commission Implementing Regulation (EU) No 1119/2010 ⁽³⁾, in sows by Commission Implementing Regulation (EU) No 896/2009 ⁽⁴⁾ and in cattle for fattening by Commission Implementing Regulation (EU) No 1059/2013 ⁽⁵⁾.
- (5) The European Food Safety Authority ('the Authority') concluded in its opinion of 9 July 2015 ⁽⁶⁾ that, under the proposed conditions of use, the preparation of *Saccharomyces cerevisiae* MUCL 39885 is presumed not to have an adverse effect on animal health, human health or the environment. The Authority considered that the conclusions on efficacy drawn in previous opinions for the major species for fattening and for dairy production can be extrapolated to minor ruminant species for fattening and dairy production. The Authority does not consider that there is a need for specific requirements of post-market monitoring. It also verified the report on the method of analysis of the feed additive in feed submitted by the Reference Laboratory set up by Regulation (EC) No 1831/2003.
- (6) The assessment of the preparation of *Saccharomyces cerevisiae* MUCL 39885 shows that the conditions for authorisation, as provided for in Article 5 of Regulation (EC) No 1831/2003, are satisfied. Accordingly, the use of that preparation should be authorised as specified in the Annex to this Regulation.
- (7) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

⁽¹⁾ OJ L 268, 18.10.2003, p. 29.

⁽²⁾ Commission Regulation (EU) No 170/2011 of 23 February 2011 concerning the authorisation of *Saccharomyces cerevisiae* MUCL 39885 as a feed additive for piglets (weaned) and amending Regulation (EC) No 1200/2005 (holder of authorisation Prosol SpA) (OJ L 49, 24.2.2011, p. 8).

⁽³⁾ Commission Regulation (EU) No 1119/2010 of 2 December 2010 concerning the authorisation of *Saccharomyces cerevisiae* MUCL 39885 as a feed additive for dairy cows and horses and amending Regulation (EC) No 1520/2007 (holder of the authorisation Prosol SpA) (OJ L 317, 3.12.2010, p. 9).

⁽⁴⁾ Commission Regulation (EC) No 896/2009 of 25 September 2009 concerning the authorisation of a new use of *Saccharomyces cerevisiae* MUCL 39885 as a feed additive for sows (holder of the authorisation Prosol SpA) (OJ L 256, 29.9.2009, p. 6).

⁽⁵⁾ Commission Implementing Regulation (EU) No 1059/2013 of 29 October 2013 concerning the authorisation of a preparation of *Saccharomyces cerevisiae* MUCL 39885 as a feed additive for cattle for fattening and amending Regulation (EC) No 492/2006 (holder of the authorisation Prosol SpA) (OJ L 289, 31.10.2013, p. 30).

⁽⁶⁾ EFSA Journal 2015; 13(7):4199.

HAS ADOPTED THIS REGULATION:

Article 1

The preparation specified in the Annex, belonging to the additive category 'zootechnical additives' and to the functional group 'gut flora stabilisers', is authorised as an additive in animal nutrition, subject to the conditions laid down in that Annex.

Article 2

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

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

Done at Brussels, 27 January 2016.

For the Commission
The President
Jean-Claude JUNKER

ANNEX

Identification number of the additive	Name of the holder of authorisation	Additive	Composition, chemical formula, description, analytical method	Species or category of animal	Maximum age	Minimum content	Maximum content	Other provisions	End of period of authorisation
						CFU/kg of complete feedingstuff with a moisture content of 12 %			
Category of zootechnical additives. Functional group: gut flora stabilisers.									
4b1710	Prosol SpA	Saccharomyces cerevisiae MUCL 39885	Additive composition Preparation of Saccharomyces cerevisiae MUCL 39885 containing a minimum of: 1 × 10 ¹⁰ CFU/g of additive Solid form Characterisation of the active substance Viable cells of Saccharomyces cerevisiae MUCL 39885 Analytical method ⁽¹⁾ Enumeration: Pour plate method using chloramphenicol glucose yeast extract agar (EN 15789:2009) Identification: Polymerase Chain Reaction (PCR) method	Minor ruminants for fattening	—	4 × 10 ⁹	—	1. In the directions for use of the additive and premixture, indicate the storage conditions and stability to pelleting. 2. For safety: glasses and gloves shall be used during handling.	17 February 2026
				Minor ruminants for dairy production		2 × 10 ⁹			

⁽¹⁾ Details of the analytical methods are available at the following address of the European Union Reference Laboratory for Feed Additives: <https://ec.europa.eu/jrc/en/eurl/feed-additives/evaluation-reports>

COMMISSION IMPLEMENTING REGULATION (EU) 2016/105**of 27 January 2016****approving biphenyl-2-ol as an existing active substance for use in biocidal products for product-types 1, 2, 4, 6 and 13****(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 528/2012 of the European Parliament and of the Council of 22 May 2012 concerning the making available on the market and use of biocidal products ⁽¹⁾, and in particular the third subparagraph of Article 89(1) thereof,

Whereas:

- (1) Commission Delegated Regulation (EU) No 1062/2014 ⁽²⁾ establishes a list of existing active substances to be evaluated for their possible approval for use in biocidal products. That list includes biphenyl-2-ol.
- (2) Biphenyl-2-ol has been evaluated for use in product-type 1, human hygiene, in product-type 2, disinfectants and algaecides not intended for direct application to humans or animals, product-type 4, food and feed area, product-type 6, preservatives for products during storage, and product-type 13, working or cutting fluid preservatives, as defined in Annex V to Regulation (EU) No 528/2012.
- (3) Spain was designated as evaluating competent authority and submitted the assessment reports together with its recommendations on 2 June 2014.
- (4) In accordance with Article 7(1)(b) of Delegated Regulation (EU) No 1062/2014, the opinions of the European Chemicals Agency were formulated on 5 February 2015 and 15 June 2015 by the Biocidal Products Committee, having regard to the conclusions of the evaluating competent authority.
- (5) According to those opinions, biocidal products used for product-types 1, 2, 4, 6, and 13 and containing biphenyl-2-ol may be expected to satisfy the requirements of Article 19(1)(b) of Regulation (EU) No 528/2012, provided that certain conditions concerning its use are complied with.
- (6) It is therefore appropriate to approve biphenyl-2-ol for use in biocidal products for product-types 1, 2, 4, 6, and 13 subject to compliance with certain specifications and conditions.
- (7) For the use in product-type 4, the evaluation did not address the incorporation of biocidal products containing biphenyl-2-ol in materials and articles intended to come into contact directly or indirectly with food within the meaning of Article 1(1) of Regulation (EC) No 1935/2004 of the European Parliament and of the Council ⁽³⁾. Such materials may require the establishment of specific limits on the migration into food, as referred to in Article 5(1)(e) of that Regulation. The approval should therefore not cover such use unless the Commission has established such limits or it has been established pursuant to that Regulation that such limits are not necessary.

⁽¹⁾ OJ L 167, 27.6.2012, p. 1.

⁽²⁾ Commission Delegated Regulation (EU) No 1062/2014 of 4 August 2014 on the work programme for the systematic examination of all existing active substances contained in biocidal products referred to in Regulation (EU) No 528/2012 of the European Parliament and of the Council (OJ L 294, 10.10.2014, p. 1).

⁽³⁾ Regulation (EC) No 1935/2004 of the European Parliament and of the Council of 27 October 2004 on materials and articles intended to come into contact with food and repealing Directives 80/590/EEC and 89/109/EEC (OJ L 338, 13.11.2004, p. 4).

- (8) A reasonable period should be allowed to elapse before an active substance is approved, in order to permit interested parties to take the preparatory measures necessary to meet the new requirements.
- (9) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Biocidal Products,

HAS ADOPTED THIS REGULATION:

Article 1

Biphenyl-2-ol is approved as an active substance for use in biocidal products for product-types 1, 2, 4, 6 and 13, subject to the specifications and conditions set out in the Annex.

Article 2

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

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

Done at Brussels, 27 January 2016.

For the Commission

The President

Jean-Claude JUNCKER

ANNEX

Common Name	IUPAC Name Identification Numbers	Minimum degree of purity of the active substance ⁽¹⁾	Date of approval	Expiry date of approval	Product type	Specific conditions
Biphenyl-2-ol	IUPAC Name: ortho-phenylphenol EC No: 201-993-5 CAS No: 90-43-7	995 g/kg	1 July 2017	30 June 2027	1	The product assessment shall pay particular attention to the exposures, the risks and the efficacy linked to any uses covered by an application for authorisation, but not addressed in the Union level risk assessment of the active substance.
					2	The product assessment shall pay particular attention to the exposures, the risks and the efficacy linked to any uses covered by an application for authorisation, but not addressed in the Union level risk assessment of the active substance. The authorisations of biocidal products are subject to the following condition: For professional users, safe operational procedures and appropriate organisational measures shall be established. Products shall be used with appropriate personal protective equipment where exposure cannot be reduced to an acceptable level by other means.
					4	The product assessment shall pay particular attention to the exposures, the risks and the efficacy linked to any uses covered by an application for authorisation, but not addressed in the Union level risk assessment of the active substance. The authorisations of biocidal products are subject to the following conditions: (1) For industrial or professional users, safe operational procedures and appropriate organisational measures shall be established. Products shall be used with appropriate personal protective equipment where exposure cannot be reduced to an acceptable level by other means. (2) In view of the risks identified for the surface water, sediment and soil compartments, biocidal products shall not be authorised for large scale disinfection, unless it can be demonstrated that risks can be reduced to an acceptable level.

Common Name	IUPAC Name Identification Numbers	Minimum degree of purity of the active substance ⁽¹⁾	Date of approval	Expiry date of approval	Product type	Specific conditions
						(3) For products that may lead to residues in food or feed, the need to set new or to amend existing maximum residue levels (MRLs) in accordance with Regulation (EC) No 470/2009 of the European Parliament and of the Council ⁽²⁾ or Regulation (EC) No 396/2005 of the European Parliament and of the Council ⁽³⁾ shall be verified, and any appropriate risk mitigation measures shall be taken to ensure that the applicable MRLs are not exceeded. (4) Products shall not be incorporated in materials and articles intended to come into contact with food within the meaning of Article 1(1) of Regulation (EC) No 1935/2004 of the European Parliament and of the Council ⁽⁴⁾, unless the Commission has established specific limits on the migration of biphenyl-2-ol into food or it has been established pursuant to that Regulation that such limits are not necessary.
					6	The product assessment shall pay particular attention to the exposures, the risks and the efficacy linked to any uses covered by an application for authorisation, but not addressed in the Union level risk assessment of the active substance. The authorisations of biocidal products are subject to the following conditions: (1) For industrial or professional users, safe operational procedures and appropriate organisational measures shall be established. Products shall be used with appropriate personal protective equipment where exposure cannot be reduced to an acceptable level by other means. (2) In view of the risks identified for the aquatic compartment, biocidal products shall not be authorised for the preservation of washing and cleaning fluids and other detergents for professional use, unless it can be demonstrated that risks can be reduced to an acceptable level.
					13	The product assessment shall pay particular attention to the exposures, the risks and the efficacy linked to any uses covered by an application for authorisation, but not addressed in the Union level risk assessment of the active substance.

Common Name	IUPAC Name Identification Numbers	Minimum degree of purity of the active substance ⁽¹⁾	Date of approval	Expiry date of approval	Product type	Specific conditions
						The authorisations of biocidal products are subject to the following condition: For industrial or professional users, safe operational procedures and appropriate organisational measures shall be established. Products shall be used with appropriate personal protective equipment where exposure cannot be reduced to an acceptable level by other means.

- ⁽¹⁾ The purity indicated in this column was the minimum degree of purity of the active substance used for the evaluation made in accordance with Article 16(2) of Directive 98/8/EC. The active substance in the product placed on the market can be of equal or different purity if it has been proven technically equivalent with the evaluated active substance.
- ⁽²⁾ Regulation (EC) No 470/2009 of the European Parliament and of the Council of 6 May 2009 laying down Community procedures for the establishment of residue limits of pharmacologically active substances in foodstuffs of animal origin, repealing Council Regulation (EEC) No 2377/90 and amending Directive 2001/82/EC of the European Parliament and of the Council and Regulation (EC) No 726/2004 of the European Parliament and of the Council (OJ L 152, 16.6.2009, p. 11).
- ⁽³⁾ Regulation (EC) No 396/2005 of the European Parliament and of the Council of 23 February 2005 on maximum residue levels of pesticides in or on food and feed of plant and animal origin and amending Council Directive 91/414/EEC (OJ L 70, 16.3.2005, p. 1).
- ⁽⁴⁾ Regulation (EC) No 1935/2004 of the European Parliament and of the Council of 27 October 2004 on materials and articles intended to come into contact with food and repealing Directives 80/590/EEC and 89/109/EEC (OJ L 338, 13.11.2004, p. 4).

COMMISSION IMPLEMENTING REGULATION (EU) 2016/106**of 27 January 2016****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, 27 January 2016.

*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	IL	236,2
	MA	71,0
	TN	116,3
	TR	102,2
	ZZ	131,4
0707 00 05	MA	86,8
	TR	161,0
	ZZ	123,9
0709 93 10	MA	50,4
	TR	146,2
	ZZ	98,3
0805 10 20	EG	50,4
	MA	62,1
	TN	49,3
	TR	65,0
	ZZ	56,7
0805 20 10	IL	147,6
	MA	83,5
	ZZ	115,6
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	IL	129,5
	JM	154,6
	MA	65,6
	TR	82,3
	ZZ	108,0
0805 50 10	TR	100,8
	ZZ	100,8
0808 10 80	CL	86,9
	US	122,2
	ZZ	104,6
0808 30 90	CN	94,8
	TR	82,0
	ZA	84,4
	ZZ	87,1

⁽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

COMMISSION IMPLEMENTING DECISION (EU) 2016/107

of 27 January 2016

not approving cybutryne as an existing active substance for use in biocidal products for product-type 21

(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 528/2012 of the European Parliament and of the Council of 22 May 2012 concerning the making available on the market and use of biocidal products ⁽¹⁾, and in particular the third subparagraph of Article 89(1) thereof,

Whereas:

- (1) Commission Delegated Regulation (EU) No 1062/2014 ⁽²⁾ establishes a list of existing active substances to be evaluated for their possible approval for use in biocidal products. That list includes cybutryne.
- (2) Cybutryne has been evaluated in accordance with Article 16(2) of Directive 98/8/EC of the European Parliament and of the Council ⁽³⁾ for use in product-type 21, antifouling products, as defined in Annex V to that Directive, which corresponds to product-type 21, as defined in Annex V to Regulation (EU) No 528/2012.
- (3) The Netherlands was designated as evaluating competent authority and submitted the assessment report, together with its recommendations, to the Commission on 7 April 2011 in accordance with paragraphs 4 and 6 of Article 14 of Commission Regulation (EC) No 1451/2007 ⁽⁴⁾.
- (4) In accordance with Article 7(1)(b) of Delegated Regulation (EU) No 1062/2014, the opinion of the European Chemicals Agency was formulated on 17 June 2015 by the Biocidal Products Committee, having regard to the conclusions of the evaluating competent authority.
- (5) According to that opinion, biocidal products used for product-type 21 and containing cybutryne may not be expected to satisfy the requirements laid down in Article 5 of Directive 98/8/EC. The scenarios evaluated in the environmental risk assessment identified unacceptable risks.
- (6) It is therefore not appropriate to approve cybutryne for use in biocidal products for product-type 21.
- (7) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Biocidal Products,

⁽¹⁾ OJ L 167, 27.6.2012, p. 1.

⁽²⁾ Commission Delegated Regulation (EU) No 1062/2014 of 4 August 2014 on the work programme for the systematic examination of all existing active substances contained in biocidal products referred to in Regulation (EU) No 528/2012 of the European Parliament and of the Council (OJ L 294, 10.10.2014, p. 1).

⁽³⁾ Directive 98/8/EC of the European Parliament and of the Council of 16 February 1998 concerning the placing of biocidal products on the market (OJ L 123, 24.4.1998, p. 1).

⁽⁴⁾ Commission Regulation (EC) No 1451/2007 of 4 December 2007 on the second phase of the 10-year work programme referred to in Article 16(2) of Directive 98/8/EC of the European Parliament and of the Council concerning the placing of biocidal products on the market (OJ L 325, 11.12.2007, p. 3).

HAS ADOPTED THIS DECISION:

Article 1

Cybutryne (EC No 248-872-3, CAS No 28159-98-0) is not approved as an active substance for use in biocidal products for product-type 21.

Article 2

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

Done at Brussels, 27 January 2016.

For the Commission
The President
Jean-Claude JUNCKER

COMMISSION IMPLEMENTING DECISION (EU) 2016/108**of 27 January 2016****not approving 2-Butanone, peroxide as an existing active substance for use in biocidal products for product-types 1 and 2****(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 528/2012 of the European Parliament and of the Council of 22 May 2012 concerning the making available on the market and use of biocidal products ⁽¹⁾, and in particular the third subparagraph of Article 89(1) thereof,

Whereas:

- (1) Commission Delegated Regulation (EU) No 1062/2014 ⁽²⁾ establishes a list of existing active substances to be evaluated for their possible approval for use in biocidal products. That list includes 2-Butanone, peroxide.
- (2) In accordance with Article 12(3) of Delegated Regulation (EU) No 1062/2014, the European Chemicals Agency has informed the Commission that all participants have discontinued their participation in the review programme for 2-Butanone, peroxide for use in biocidal products for product-types 1 and 2.
- (3) 2-Butanone, peroxide should therefore not be approved as an existing active substance for use in biocidal products for product-types 1 and 2.
- (4) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Biocidal Products,

HAS ADOPTED THIS DECISION:

Article 1

2-Butanone, peroxide (EC No 215-661-2, CAS No 1338-23-4) is not approved as an active substance for use in biocidal products for product-types 1 and 2.

*Article 2*This Decision shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Done at Brussels, 27 January 2016.

*For the Commission**The President*

Jean-Claude JUNCKER

⁽¹⁾ OJ L 167, 27.6.2012, p. 1.⁽²⁾ Commission Delegated Regulation (EU) No 1062/2014 of 4 August 2014 on the work programme for the systematic examination of all existing active substances contained in biocidal products referred to in Regulation (EU) No 528/2012 of the European Parliament and of the Council (OJ L 294, 10.10.2014, p. 1).

COMMISSION IMPLEMENTING DECISION (EU) 2016/109**of 27 January 2016****not to approve PHMB (1600; 1.8) as an existing active substance for use in biocidal products for product-types 1, 6 and 9****(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 528/2012 of the European Parliament and of the Council of 22 May 2012 concerning the making available on the market and use of biocidal products ⁽¹⁾, and in particular the third subparagraph of Article 89(1) thereof,

Whereas:

- (1) Commission Delegated Regulation (EU) No 1062/2014 ⁽²⁾ establishes a list of existing active substances to be evaluated for their possible approval for use in biocidal products. That list includes PHMB (1600; 1.8).
- (2) PHMB (1600; 1.8) has been evaluated for use in product-type 1, human hygiene, product-type 6, preservatives for products during storage, and product-type 9, fibre, leather, rubber and polymerised materials preservatives, as defined in Annex V to Regulation (EU) No 528/2012.
- (3) France was designated as evaluating competent authority and submitted the assessment reports, together with its recommendations, on 5 September 2013, 8 October 2013 and 14 February 2014, respectively.
- (4) In accordance with Article 7(1)(b) of Delegated Regulation (EU) No 1062/2014, the opinions of the European Chemicals Agency were formulated on 16 and 17 June 2015 by the Biocidal Products Committee, having regard to the conclusions of the evaluating competent authority.
- (5) According to those opinions, biocidal products used for product-types 1, 6 and 9 and containing PHMB (1600; 1.8) may not be expected to satisfy the requirements laid down in Article 19(1)(b) of Regulation (EU) No 528/2012. For these product-types, the scenarios evaluated in the human health risk assessments and the environmental risk assessments identified unacceptable risks.
- (6) It is therefore not appropriate to approve PHMB (1600; 1.8) for use in biocidal products for product-types 1, 6 and 9.
- (7) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Biocidal Products,

HAS ADOPTED THIS DECISION:

Article 1

PHMB (1600; 1.8) (EC No: n.a., CAS No 27083-27-8 and 32289-58-0) is not approved as an active substance for use in biocidal products for product-types 1, 6 and 9.

⁽¹⁾ OJ L 167, 27.6.2012, p. 1.

⁽²⁾ Commission Delegated Regulation (EU) No 1062/2014 of 4 August 2014 on the work programme for the systematic examination of all existing active substances contained in biocidal products referred to in Regulation (EU) No 528/2012 of the European Parliament and of the Council (OJ L 294, 10.10.2014, p. 1).

Article 2

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

Done at Brussels, 27 January 2016.

For the Commission
The President
Jean-Claude JUNCKER

COMMISSION IMPLEMENTING DECISION (EU) 2016/110**of 27 January 2016****not approving triclosan as an existing active substance for use in biocidal products for product-type 1****(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 528/2012 of the European Parliament and of the Council of 22 May 2012 concerning the making available on the market and use of biocidal products ⁽¹⁾, and in particular the third subparagraph of Article 89(1) thereof,

Whereas:

- (1) Commission Delegated Regulation (EU) No 1062/2014 ⁽²⁾ establishes a list of existing active substances to be evaluated for their possible approval for use in biocidal products. That list includes triclosan.
- (2) Triclosan has been evaluated in accordance with Article 16(2) of Directive 98/8/EC of the European Parliament and of the Council ⁽³⁾ for use in product-type 1, human hygiene biocidal products, as defined in Annex V to that Directive, which corresponds to product-type 1, as defined in Annex V to Regulation (EU) No 528/2012.
- (3) Denmark was designated as evaluating competent authority and submitted the assessment report together with its recommendations on 8 April 2013.
- (4) In accordance with Article 7(1)(b) of Delegated Regulation (EU) No 1062/2014, the opinion of the European Chemicals Agency was formulated on 17 June 2015 by the Biocidal Products Committee, having regard to the conclusions of the evaluating competent authority.
- (5) According to that opinion, biocidal products used for product-type 1 and containing triclosan may not be expected to satisfy the requirements laid down in Article 5 of Directive 98/8/EC. The scenarios evaluated in the environmental risk assessment identified unacceptable risks.
- (6) It is therefore not appropriate to approve triclosan for use in biocidal products for product-type 1.
- (7) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Biocidal Products,

HAS ADOPTED THIS DECISION:

Article 1

Triclosan (EC No 222-182-2, CAS No 3380-34-5) is not approved as an active substance for use in biocidal products for product-type 1.

⁽¹⁾ OJ L 167, 27.6.2012, p. 1.

⁽²⁾ Commission Delegated Regulation (EU) No 1062/2014 of 4 August 2014 on the work programme for the systematic examination of all existing active substances contained in biocidal products referred to in Regulation (EU) No 528/2012 of the European Parliament and of the Council (OJ L 294, 10.10.2014, p. 1).

⁽³⁾ Directive 98/8/EC of the European Parliament and of the Council of 16 February 1998 concerning the placing of biocidal products on the market (OJ L 123, 24.4.1998, p. 1).

Article 2

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

Done at Brussels, 27 January 2016.

For the Commission
The President
Jean-Claude JUNCKER

CORRIGENDA**Corrigendum to Directive 2009/67/EC of the European Parliament and of the Council of 13 July 2009 on the installation of lighting and light-signalling devices on two or three-wheel motor vehicles**

(Official Journal of the European Union L 222 of 25 August 2009)

On page 66, Annex V, point 6.12.1:

for: '6.12.1. Number: one Class IA (').'

read: '6.12.1. Number: two Class IA (').'

