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Legislation

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II

(Non-legislative acts)

REGULATIONS

COMMISSION IMPLEMENTING REGULATION (EU) 2017/2093

of 15 November 2017

terminating the investigation concerning possible circumvention of the anti-dumping measures imposed by Council Implementing Regulation (EU) No 1331/2011 on imports of certain seamless pipes and tubes of stainless steel originating in the People's Republic of China by imports consigned from India, whether declared as originating in India or not, and terminating the registration of such imports imposed by Commission Implementing Regulation (EU) 2017/272

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union ⁽¹⁾ ('the basic Regulation'), and in particular Article 13(3) thereof,

Whereas:

1. PROCEDURE

1.1. Existing measures

- (1) By Implementing Regulation (EU) No 1331/2011 ⁽²⁾ ('the original Regulation'), the Council imposed a definitive anti-dumping duty of 71,9 % on imports of certain seamless pipes and tubes of stainless steel ('SSSPT') originating in the People's Republic of China ('the PRC') for all other companies than the ones mentioned in Article 1(2) and Annex I to that Regulation.
- (2) These measures will be referred to as 'the measures in force' and the investigation that led to the measures imposed by the original Regulation will be referred to as 'the original investigation'.

1.2. Initiation following a request

- (3) On 3 January 2017 the Defence Committee of the seamless stainless steel tubes industry of the European Union ('the applicant') submitted a request for an anti-circumvention investigation to the European Commission, indicating that the anti-dumping measures on imports of certain seamless pipes and tubes of stainless steel originating in the PRC were being circumvented via India.
- (4) The request provided *prima facie* evidence that, following the imposition of the measures in force, a significant change in the pattern of trade involving exports from the PRC and India to the Union occurred, which seemed to be caused by the imposition of the measures in force. There was allegedly insufficient due cause or justification other than the imposition of the measures in force for such a change.
- (5) Furthermore, the evidence pointed to the fact that the remedial effects of the measures in force were being undermined both in terms of quantity and price. The evidence showed that the increased imports from India were made at prices below the non-injurious price established in the original investigation.

⁽¹⁾ OJ L 176, 30.6.2016, p. 21.

⁽²⁾ OJ L 336, 20.12.2011, p. 6.

- (6) Finally, there was evidence that SSSPT consigned from India were dumped in relation to the normal value established for the like product during the original investigation.
- (7) Having determined, after having informed the Member States, that sufficient *prima facie* evidence existed for the initiation of an investigation under Article 13 of the basic Regulation, the European Commission ('the Commission') initiated an investigation by Commission Implementing Regulation (EU) 2017/272 ⁽¹⁾ ('the initiating Regulation').
- (8) Following Articles 13(3) and 14(5) of the basic Regulation, the initiating Regulation also directed customs authorities in the Union to register imports of SSSPT consigned from India.

1.3. Investigation

- (9) The Commission advised the authorities of the PRC and India, the exporting producers and traders in those countries, the importers in the Union known to be concerned and the Union industry of the initiation of the investigation. Questionnaires were sent to the producers/exporters in the PRC and India known to the Commission or which made themselves known within the deadlines specified in recital 15 of the initiating Regulation. Questionnaires were also sent to importers in the Union.
- (10) Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set in the initiating Regulation. Several hearings with the applicant took place, including one hearing with the Hearing Officer in trade proceedings.
- (11) Twenty nine companies from India, one company from the PRC, nine unrelated importers, two related importers, one agent and five Union industry producers made themselves known.
- (12) Twenty one Indian companies submitted a questionnaire reply and requested an exemption from the possible extended measures, in accordance with Article 13(4) of the basic Regulation.
- (13) The Commission individually examined all exemption requests. Verification visits were carried out at fourteen companies which were either significant exporters to the Union or which based on an initial analysis of their reply fulfilled the conditions under Article 13(2) of the basic Regulation to be eligible for a potential exemption.
- (14) Four unrelated importers in the Union and one Chinese exporting producer unrelated to any of the Indian producers provided questionnaire replies.
- (15) Verification visits were carried out at the premises of the following companies in India:
 - Arvind Pipes & Fittings Industries Private Limited,
 - ASR Mettech Private Limited,
 - Chandan Steel Limited,
 - Heavy Metal and Tubes Limited,
 - Krystal Steel Manufacturing Private Limited,
 - Maxim Tubes Company Private Limited,
 - MBM Tubes Private Limited,
 - Patels Airflow Limited,
 - Ratnamani Metals & Tubes Limited,
 - Remi Edelstahl Tubulars Limited,
 - Sandvik Asia Private Limited,

⁽¹⁾ OJ L 40, 17.2.2017, p. 64.

- Suraj Limited,
- Tubacex Prakash India Private Limited,
- Universal Stainless.

1.4. Investigation period

- (16) The investigation period covered the period from 1 April 2009 to 30 September 2016 ('the investigation period'). For the period of 1 October 2015 to 30 September 2016 ('the reporting period') more detailed data were collected in order to examine the possible undermining of the remedial effect of the measures in force and existence of dumping.

2. RESULTS OF THE INVESTIGATION

2.1. General considerations

- (17) In accordance with Article 13(1) of the basic Regulation, the assessment of the existence of circumvention was made by analysing successively whether:
- there was a change in the pattern of trade between third countries (India and the PRC) and the Union,
 - this change stemmed from a practice, process or work for which there was insufficient due cause or economic justification other than the imposition of the duty,
 - there was evidence of injury or that the remedial effects of the duty were being undermined in terms of the prices and/or quantities of the like product, and
 - there was evidence of dumping in relation to the normal values previously established for the like product, if necessary in accordance with the provisions of Article 2 of the basic Regulation.

2.2. Product concerned and the like product

- (18) The product concerned by the possible circumvention is 'SSSPT: certain seamless pipes and tubes of stainless steel (excluding such pipes and tubes with attached fittings suitable for conducting gases or liquids for use in civil aircraft) originating in the People's Republic of China ('the product concerned'). It is currently falling within CN codes ex 7304 11 00, ex 7304 22 00, ex 7304 24 00, ex 7304 41 00, ex 7304 49 10, ex 7304 49 93, ex 7304 49 95, ex 7304 49 99 and ex 7304 90 00. This is the product to which the measures that are currently in force apply.
- (19) The product under investigation is the same as the 'product concerned' defined in the previous recital, but consigned from India, whether declared as originating in India or not, currently falling within the same CN codes as the product concerned.
- (20) The investigation showed that SSSPT exported to the Union from the PRC and SSSPT consigned from India to the Union have the same basic physical and technical characteristics and have the same uses, and are therefore to be considered as like products within the meaning of Article 1(4) of the basic Regulation.

2.3. Level of cooperation

- (21) There was a very high level of cooperation from Indian exporting producers. The 21 cooperating producers accounted for 92 % of total SSSPT imports from India to the Union in the reporting period.
- (22) The fourteen verified companies represented 91 % of the total exports of the cooperating companies and 84 % of the total imports of SSSPT from India into the Union.
- (23) Article 18(1) of the basic Regulation was applied to one cooperating Indian exporting producer to the extent that it did not provide the information necessary to meaningfully assess the activities of its related companies. Thus, best facts available were used to supplement the data provided by this company so that the Commission had the reliable data needed for assessing its imports and exports to the Union.

- (24) In the PRC there was a low level of cooperation by producers/exporters, with only one exporting producer submitting a questionnaire reply. Therefore findings in respect of SSSPT exports from the PRC to the Union, and from the PRC to India, had to be made on the basis of Eurostat data and Chinese trade statistics.

2.4. Nature of the alleged circumvention practice, process or work

- (25) The alleged circumvention practice as described in the request goes back to the production process. There are two major production stages of the SSSPT: hot forming and cold forming.
- (26) There are two common ways of achieving the first, hot formed stage: either using a hot extrusion process or a hot piercing process.
- (27) The resulting hot formed tube is an intermediary product, which requires further processing before its final use, with the exception of some hot formed tubes manufactured using the hot extrusion process.
- (28) The applicant claimed that the SSSPT exported by the PRC to India were already cold formed tubes. This assertion was supported by the Chinese export statistics and by the assumption that producers in the PRC use a hot piercing process after which the tubes must be immediately and mandatorily cold processed.
- (29) Whilst indeed the Chinese export statistics showed that almost all exported SSSPT were declared as cold formed, upon the import into India only 2 % were declared as cold formed.
- (30) The discrepancy can be explained by the VAT refund scheme applied by the PRC, where the cold formed SSSPT benefit from a 13 % VAT refund compared to a 9 % refund for the hot formed tubes.
- (31) The verifications confirmed that the Indian producers had almost exclusively purchased hot formed tubes and carried out the cold forming in India.
- (32) The investigation also confirmed that hot formed tubes can be easily transported before undergoing cold forming.
- (33) The investigation further showed that the cold forming performed in India substantially transforms the product and irreversibly alters its essential characteristics. During the process the product changes its dimensions and its physical, mechanical and metallurgical properties.

2.5. Change in the pattern of trade

- (34) Table 1 shows the development of SSSPT imports from the PRC and India into the Union and the development of Indian imports from the PRC in the investigation period:

Table 1

Imports of SSSPT in the investigation period (metric tonnes)

	Calendar year							Reporting Period
	2009	2010	2011	2012	2013	2014	2015	
Union imports from the PRC	17 094	20 841	15 279	4 181	2 437	1 804	1 951	2 317
Union imports from India	5 173	6 401	7 601	11 572	13 531	17 230	18 911	19 845
Chinese exports to India	23 555	35 454	37 824	41 505	40 146	49 039	43 364	44 129

Source: Eurostat (Comext), Chinese trade statistics

- (35) The imports of the product concerned from the PRC to the Union substantially decreased over the investigation period, showing a steep decrease after the imposition of measures in force in 2011.
- (36) This decrease in the imports from the PRC following the imposition of the measures was steadily absorbed by the increase of imports from India in the subsequent years.
- (37) These changes in trade flows constitute a change in the pattern of trade between the above mentioned countries and the Union. The development of Indian imports from the PRC increased at a stable pace over the investigation period, showing the bulk of the increase already before the imposition of the measures.
- (38) The data above shows that after the initiation of the original investigation in 2010, and the imposition of the measures in force in December 2011, imports of SSSPT from India have to a large extent replaced the imports of the product concerned from the PRC to the Union.

2.6. Insufficient due cause or economic justification other than the imposition of the anti-dumping duty

- (39) The Commission examined whether, as alleged, the above change in the pattern of trade stems from a practice, process or work for which there is insufficient due cause or economic justification other than the imposition of the duty.

2.6.1. Analysis of imports from the PRC to India

- (40) The following table shows the imports of the Indian cooperating companies from the PRC, compared with their total sales and exports to the Union. The Commission notes that those data concern companies accounting for the vast majority of the Indian SSSPT exports to the Union as explained in recital 21 above.
- (41) The Commission therefore considered this data to be sufficiently representative of the relevant Indian industry as far as the exports to the Union are concerned.

Table 2

Indian imports from the PRC (cooperating companies) vs total Indian sales (metric tonnes)

	Indian financial year							Reporting Period
	2009	2010	2011	2012	2013	2014	2015	
Total Indian sales (A)	19 367	27 431	32 684	32 547	36 881	42 217	36 245	39 061
Indian imports from the PRC (B)	7 852	15 146	14 284	17 465	18 246	21 914	17 313	19 640
Ratio Indian imports from the PRC/Total Indian sales (C = B/A)	41 %	55 %	44 %	54 %	49 %	52 %	48 %	50 %
Indian exports to the Union (D)	4 252	6 631	9 697	12 759	14 715	19 090	16 825	18 581

Source: Questionnaire replies of the cooperating companies

- (42) The increase of Indian imports from the PRC was significantly lower than the increase of Union imports from India. Between the year of initiation of the original investigation in 2010 and the reporting period, the cooperating Indian exporting producers increased their imports from the PRC from 15,1 to 19,6 thousand tons (+ 29 %) and their exports to the Union from 6,6 to 18,6 thousand tons (+ 180 %).

- (43) The investigation showed that the evolution of imports from the PRC was more closely correlated with the evolution of total sales than with the evolution of Indian exports to the Union.
- (44) When Indian exports to the Union start to be a key sales driver, they logically correlate with the increase of Chinese imports. Yet the same would have occurred if sales had developed on the domestic or other export market.
- (45) Despite the fact that the share of exports to the Union on total sales increased from 25 % in 2009-10 to 51 % in the reporting period, the ratio of Chinese imports on the total Indian sales remained stable around 50 %.
- (46) This clearly shows the Indian producers were consistently using a combination of input material from the PRC and from other sources and the imposition of the original duties did not have any significant impact on this.

2.6.2. *Business model analysis*

- (47) The business model of the companies accounting for the vast majority of exports to the Union has not changed since the imposition of the duties. They started the practice in question before the initiation of the original investigation against the PRC in September 2010.
- (48) A due economic justification for this practice existed during the investigation period, shown by the fact that these companies were profitable before the initiation of the original investigation and remained profitable until and including the reporting period.
- (49) It is important to note that the capability to produce the cold formed tubes requires significant investment in fixed assets, being depreciated over several years. The majority of the companies were equipped by the necessary fixed assets already before the initiation of the original investigation.

2.6.3. *Effect of the measures in force on Chinese exports on Indian exports to the Union*

- (50) The average price of Indian SSSPT imported to the Union before the initiation of the original investigation was 10 % below the price of the SSSPT imported from the PRC. After the imposition of a duty following the original investigation, the Indian imports remained the cheapest source of imports on the Union market. The Commission notes that due to the possibly different structure of the product mix the average prices are not directly comparable. They however give a good indication of the price levels.
- (51) After the imposition of the measures and the significant price increase of the Chinese imports, the Union demand naturally opened the opportunity for other exporting countries, which the Indian products at competitive prices were well placed to exploit.
- (52) Even when the share of exports to the Union increased over the investigation period, the Union market was already an important export destination for Indian producers before the initiation of the original investigation.
- (53) Therefore, it was concluded that there were reasonable economic grounds, other than the imposition of duties on imports of SSSPT originating in the PRC, for the change in the pattern of trade referred to in chapter 2.3.3 above.

3. DISCLOSURE

- (54) All interested parties were informed of the essential facts and considerations leading to the above conclusions and were invited to comment. The applicant submitted additional information in its comments to final disclosure.
- (55) The applicant questioned the Commission's decision not to verify the sole cooperating Chinese producer. The Commission did not verify the data provided by the cooperating Chinese producer as its exports to India represented a negligible share of the Chinese exports to India and would not have brought any added value to the investigation. Consequently, this claim was rejected.
- (56) The applicant alleged that the Commission dismissed the fact that the majority of Chinese exports to the USA are declared as cold formed. The Commission confirmed that the Chinese exports to the USA were not in the scope of its investigation and did not see any relevance of the Chinese exports to the USA to the current case. The Commission thus dismissed this claim.

- (57) The applicant further claimed that the production equipment used by some Indian producers only allows them to produce the product under investigation starting from cold formed tubes. The verification of the production facilities of the Indian exporting producers showed that they are capable of producing the SSSPT they exported to the Union from hot formed tubes. Consequently, this claim was rejected.
- (58) The applicant also questioned the Commission's conclusion concerning the unchanged business model of the exporting producers accounting for the vast majority of exports to the Union. The Commission rejected this claim as all verified companies exporting to the Union in the reporting period (except one producer which sold an insignificant quantity to the Union) started the practice in question, that is importing hot formed tubes from the PRC and producing and selling SSSPT domestically and for export, before the initiation of the original investigation.
- (59) The applicant also stated that the Commission based its findings on the classification of imports from the PRC to India as reported by Indian import data, rather than considering the classification reported in the Chinese export statistics. As set out above, the Chinese statistics shows export of cold formed tubes, whereas the Indian statistics shows import of hot formed tubes. The applicant further argued that if the Commission was to base its conclusions on the Indian import statistics, then the Commission should have found circumvention of the measures in force, as 45 % of the like products imported from the PRC into India in 2015 were declared as line pipes. According to the applicant, no processing that could take place in India would change the origin of these pipes from Chinese origin. Finally, the applicant noted that no further research was undertaken nor conclusion reached with regard to the accuracy of the data in the Indian import statistics.
- (60) Due to the contradicting data provided by both the Chinese export and Indian import statistics, the Commission did not base its findings on this statistical data. In fact, given the very high degree of cooperation, the Commission's conclusions were based on the verified information provided by the cooperating Indian producers. The investigation focused on the actual company-specific data, confirming the nature of the semi-finished products that enter the Indian mills, the degree of their processing in those mills and the economic justification for such activity.
- (61) As regards the customs legislation regarding rules of origin, the Commission noted that an anti-circumvention investigation takes into account but does not rely exclusively on customs legislation to determine whether circumvention of the measures in force is taking place or not. Furthermore, the applicant refers only to imports of line pipe from the PRC into India. Indeed, the export volume of line pipes from India to the Union is almost 90 % lower than the imports of line pipe from the PRC to India alleged by the applicant. However, the investigation found no evidence that these limited exports of line pipe from India to the Union were circumvented within the meaning of Article 13(1) of the basic Regulation. Consequently, these claims were rejected.
- (62) The applicant suggested that the Commission's conclusion that the Indian producers have almost exclusively bought hot formed tubes was reached exclusively on the basis of their purchase orders. The Commission rejected this claim, as it reached its conclusions on the basis of all information at its disposal, not merely on the basis of the purchase orders. During the verification in India the Commission examined the semi-finished input material as well as the production process and the finished product of each verified Indian producer. Consequently, this claim was rejected.
- (63) The applicant further suggested that the Commission found no proof that the Chinese producers did not deliver hot pierced pipes that were subject to a first cold forming step in the PRC, and the applicant maintains that the subsequent process in India would then be insufficient to confer origin. As there was almost complete non-cooperation of the Chinese exporting producers, the Commission made its findings regarding the stage of completion of the semi-finished products purchased from the PRC by the Indian producers on the basis of the verified information of the Indian producers. The Commission found no evidence that those have been already cold processed in the PRC. Furthermore, the nature of the verified Indian production process (including cold forming capability) and the willingness of the Chinese producers to supply the hot formed semi-finished tubes to India, contradicts the applicant's allegation.
- (64) In addition, even if the applicant's claim that some semi-finished tubes delivered to India had undergone a limited level of cold processing in the PRC was substantiated, such processing would have had a limited effect on the work carried out in India. Indeed, as pointed out above, the Commission established that all verified exporting producers in India carried out a substantial transformation in India, and established an economic justification for this activity. Therefore, the Commission rejected those claims.

- (65) In addition, the applicant provided a report regarding one Indian producer stating that certain pipes imported by this producer from the PRC as hot formed must have been further cold formed, as they cannot be produced in a hot rolled process via a cross roll piercing mill. The report is based on a detailed report of imports from the PRC by this single Indian producer.
- (66) The Commission observed that the claim is limited to tubes obtained from the hot piercing process. However, both the hot piercing and hot extrusion process are used by Chinese producers. In addition, the investigation established that the Indian exporting producers import both extruded and pierced tubes. Therefore, this claim does not address the possibility that the tubes imported by this particular Indian mill were hot extruded. In addition, the import statistics for this particular producer were submitted to the Commission only after the final disclosure and could therefore not be verified. This claim was therefore rejected.
- (67) The applicant provided an email confirmation from two selected exporting producers in the PRC, who declined to deliver hot pierced tubes and were only ready to offer cold formed pipes.
- (68) Firstly, taking into account the significant number of exporting producers in the PRC (in the original investigation 31 groups of exporting producers cooperated), no conclusions can be drawn from the information provided by two of them. Secondly, the Commission noted that this does not address the issue of the Indian exporting producers being able to produce the product they export to the Union, but merely discloses the sales policy of those two Chinese exporting producers. The Commission therefore rejected this claim.
- (69) The applicant claimed that there is no piercing mill in India capable of producing hot pierced tubes with a diameter over 4 inches and noted that this was not analysed by the Commission.
- (70) The Commission noted that the SSSPT exported by the Indian exporting producers to the Union can be produced from hot formed pipes originating in both India and the PRC. The equipment available to the Indian exporting producers allows them to cold process Chinese hot formed pipes with a diameter above 4 inches. Therefore this claim was rejected.
- (71) The applicant put into question the Commission's conclusion concerning the substantial transformation in recital 33 above, where the Commission described that the cold forming causes irreversible alterations of the product's essential characteristics and claimed that the cost of transformation is not substantial.
- (72) The Commission first noted that the applicant did not contest that during the cold forming process the product changes its dimensions and its physical, mechanical and metallurgical properties. In its assessment, the Commission noted that the finding of non-circumvention under Article 13(1) of the basic Regulation was based in this case on the existence of a sufficient due cause and economic justification for the processing activities carried out in India. Therefore, it was not necessary to make a quantitative assessment of the costs of transformation. Consequently, this claim was rejected.
- (73) The applicant pointed out that the Commission did not consider that the bulk of the Union imports from India prior to the imposition of the measures against the PRC were made by a subsidiary of one Union producer and proposed that the Commission adapt Table 1 by deducting those imports, which would result in a steeper increase of the imports from India after the imposition of the measures. The applicant also claimed that if the Commission would exclude those exports, then the Union could not be considered an important export market for Indian exporting producers before the initiation of the original investigation.
- (74) Even if the exports to the Union of the aforementioned subsidiary of the Union producer in India, which were relatively stable over the investigation period were excluded, this would not change the assessment of the increase of Indian exports to the Union. Indeed, the Indian exports to the Union remained significant, resulting in the change in the pattern of trade explained in recitals 36 and 37 above. As regards the attractiveness of the Union market, the Commission refers to the analysis that took place during the original investigation.
- (75) The applicant further claimed that contrary to the Commission's finding that the bulk of the increase of Indian imports from the PRC happened before the imposition of the measures, the increase of Indian imports from the PRC coincided with the opening of the investigation.

- (76) The original investigation was initiated on 30 September 2010. Since SSSPT are typically made to order and not sold from stock, and taking into account the time to ship goods from the PRC to India by ocean freight, it is unlikely that the increase in the Chinese exports to India in 2009 and 2010 occurred after the date of initiation. In any case, this does not change the Commission's conclusion that the increase of Indian imports from China occurred well before the imposition of the measures nor its conclusion drawn in recitals 37 and 38 that there is a change in the pattern of trade, where the Commission is in agreement with the applicant.
- (77) The applicant also argued that the ratio of Indian exports to the Union versus Indian imports from the PRC increased during the investigation period. Referring to the information in Table 2 above, indeed this ratio (D/B) increased from 54 % to 95 %. However, contrary to the allegation of the applicant, this does not show a change in the business model of the Indian producers, but only shows the increasing importance of the Union market for the Indian producers.
- (78) To establish whether the business model of the Indian producers has changed, it was necessary to analyse their operations as a whole, rather than limiting the analysis to their sales to the Union. To analyse this, the Commission used the comparison of Indian imports from the PRC on the total Indian sales of the cooperating Indian companies. Therefore, the Commission rejected this claim.
- (79) The applicant also claimed that cold drawing is not a process requiring significant investments in fixed assets and asked the Commission whether it has checked the capacity utilization before the start of the investigation period up to the reporting period.
- (80) The Commission indeed verified the capacity utilisation of the cooperating Indian exporting producers, finding that the production capacity generally exceeded the actual production output throughout the investigation period. This supports the finding that the majority of the companies were equipped by the necessary fixed assets already before the initiation of the original investigation, as stated in recital 49 above. Furthermore, the Commission found that all verified exporting producers that exported to the Union in the reporting period were equipped by and were using pilger mills. Therefore, the Commission rejected the claim and maintained its finding concerning the requirement of significant investments stated in recital 49 above.
- (81) In its comments concerning the findings set out in recital 50, the applicant compared the Eurostat data and discovered that the average Indian price of imports from India was higher than the price of exports from the PRC up to the year 2014.
- (82) In recital 50 the Commission made a comparison of average prices in 2009 based on the statistics published in Tables 4 and 17 of Commission Regulation (EU) No 627/2011 ⁽¹⁾, which showed a lower price for India. In any case, the applicant does not dispute that the Indian imports became the cheapest source of imports on the Union market after the imposition of the anti-dumping duty against the PRC. Consequently, this claim was also rejected.

4. TERMINATION OF THE INVESTIGATION

- (83) In view of the above findings, the current anti-circumvention investigation should be terminated.
- (84) The investigation showed that the cold processing represents a substantial transformation of the product and that there is due cause and economic justification other than the avoidance of the duty for any change in the pattern of trade between the PRC, India and the Union.
- (85) The conditions laid down in Article 13(1) to consider that circumvention is taking place are therefore not fulfilled and the measures in force on imports of the product concerned originating in the PRC should not be extended to imports of the same product consigned via India, whether declared as originating in India or not.
- (86) The registration of the imports of the product under investigation consigned from India, whether declared as originating in India or not, as introduced by Implementing Regulation (EU) 2017/272 should be discontinued.
- (87) The Committee established by Article 15(1) of Regulation (EU) 2016/1036 did not deliver an opinion,

⁽¹⁾ OJ L 169, 29.6.2011, p. 1.

HAS ADOPTED THIS REGULATION:

Article 1

The investigation initiated by Implementing Regulation (EU) 2017/272 concerning the possible circumvention of anti-dumping measures imposed by Council Implementing Regulation (EU) No 1331/2011 on imports of certain seamless pipes and tubes of stainless steel, currently falling within CN codes ex 7304 11 00, ex 7304 22 00, ex 7304 24 00, ex 7304 41 00, ex 7304 49 10, ex 7304 49 93, ex 7304 49 95, ex 7304 49 99 and ex 7304 90 00 (TARIC codes: 7304 11 00 11, 7304 11 00 19, 7304 22 00 21, 7304 22 00 29, 7304 24 00 21, 7304 24 00 29, 7304 41 00 91, 7304 49 10 91, 7304 49 93 91, 7304 49 95 91, 7304 49 99 91 and 7304 90 00 91) originating in the People's Republic of China by imports consigned from India, whether declared as originating in India or not, and making such imports subject to registration is terminated.

Article 2

Customs authorities are directed to discontinue the registration of imports established in accordance with Article 2 of Implementing Regulation (EU) 2017/272.

Article 3

Implementing Regulation (EU) 2017/272 is repealed.

Article 4

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

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

Done at Brussels, 15 November 2017.

For the Commission
The President
Jean-Claude JUNCKER

REGULATION (EU) 2017/2094 OF THE EUROPEAN CENTRAL BANK**of 3 November 2017****amending Regulation (EU) No 795/2014 on oversight requirements for systemically important payment systems (ECB/2017/32)**

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 127(2) thereof,

Having regard to the Statute of the European System of Central Banks and of the European Central Bank, and in particular Article 3.1, Article 22 and the first indent of Article 34.1 thereof,

Whereas:

- (1) The Committee on Payment and Settlement Systems (CPSS) of the Bank for International Settlements and the Technical Committee of the International Organization of Securities Commissions (IOSCO) published the Principles for financial market infrastructures in April 2012 ⁽¹⁾. The Committee on Payments and Market Infrastructures (CPMI), the successor of the CPSS, and IOSCO subsequently published guidance on these principles. The European Central Bank (ECB) has decided to implement the CPMI-IOSCO principles and subsequent guidance insofar as they apply to systemically important payment systems (SIPS) by means of Regulation (EU) No 795/2014 of the European Central Bank (ECB/2014/28) ⁽²⁾.
- (2) The Governing Council has reviewed the general application of Regulation (EU) No 795/2014 (ECB/2014/28), pursuant to Article 24 thereof. That review took account of the findings of the first comprehensive assessment of SIPS. The assessment found that certain matters required improvement or clarification and, in a few cases, a need for more substantial amendments seeking to ensure the application of the highest oversight standards.
- (3) For the purposes of this Regulation, payment institutions and e-money institutions that have access to SIPS via direct participants, pursuant to Article 35(2) of Directive (EU) 2015/2366 of the European Parliament and of the Council ⁽³⁾, should be treated as indirect participants.
- (4) To ensure effective risk mitigation, it is important to maintain a clear separation between operational, risk management and internal audit functions, including through mandating the carrying out of these functions by different persons. Furthermore, for non-Eurosystem SIPS operators, it should be ensured, subject to national law, that there is an independent member on their Board to enhance its effectiveness. As the Eurosystem has public policy objectives and responsibilities and an institutional set-up defined in the Treaty and the Statute of the European System of Central Banks and of the European Central Bank, Eurosystem SIPS operators should be granted an exemption from this requirement.
- (5) Furthermore, the Governing Council identified a need to provide further clarity on the responsibilities of a SIPS operator's Board which include the approval of decisions that have a significant impact on the risk profile of a SIPS or SIPS operator and of the key risk documents governing the operation of the SIPS.
- (6) The Governing Council generally agreed that there is a need to substantially improve the mitigation of liquidity risk generated in deferred net settlement (DNS) systems through ensuring effective liquidity risk mitigation for all cycles from the moment a transfer order has been included in the calculation of net settlement positions and the position is visible to the participant.
- (7) To allow for the smooth functioning of a SIPS, participants need to have adequate tools to effectively manage their liquidity. The SIPS operator has to monitor and facilitate the smooth flow of liquidity at a system level, taking into account the liquidity exposure of each participant.

⁽¹⁾ Available on the Bank for International Settlements' website at www.bis.org.

⁽²⁾ Regulation (EU) No 795/2014 of the European Central Bank of 3 July 2014 on oversight requirements for systemically important payment systems (ECB/2014/28) (OJ L 217, 23.7.2014, p. 16).

⁽³⁾ Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC (OJ L 337, 23.12.2015, p. 35).

- (8) A SIPS operator settling one-sided payments in euro has to ensure that final settlement takes place in central bank money. Because this requirement also applies where a SIPS offering settlement in central bank money is in an emergency situation, SIPS operators settling payments for other SIPS should endeavour to allow final settlement even in such a situation.
- (9) To ensure that SIPS funds are protected against possible business losses, the assets held by a SIPS operator to cover general business risk should be segregated from the assets held for daily business operations. In addition, a distinction should be drawn between a SIPS recovery and orderly wind-down plan, on the one hand, and a SIPS capital plan, on the other. While the latter needs to reflect the possibility of raising capital, the former should ensure that, within the normal course of business, funds available for the recovery and orderly wind-down plan do not fall below the amount required to implement them.
- (10) Ensuring effective operational risk management is a continuous process which requires that operational policies and procedures are periodically, and whenever necessary, tested and reviewed, especially following significant changes to the system. This is particularly true for the management of cyber risks which has grown in importance since the publication of Regulation (EU) No 795/2014 (ECB/2014/28). This Regulation sets out specific requirements that are important in order to mitigate cyber risks.
- (11) In order for a competent authority to exercise its oversight powers effectively, these powers should be complemented with two additional tools. First, the competent authority should have the power to require a SIPS operator to appoint an independent expert to perform an investigation or independent review of the SIPS's operation. In addition, it should be able to impose requirements concerning the type of expert to be appointed, the content and scope of the report to be produced, the treatment of the report, including disclosure and publication, and timing for the production of the report. Second, in line with Responsibility B of the abovementioned Principles for financial market infrastructures, a competent authority should be able to conduct on-site inspections or delegate this task.
- (12) While corrective measures may only be imposed for infringements of Regulation (EU) No 795/2014 (ECB/2014/28), there could be situations that merit initiating the procedure for the imposition of such measures on the grounds of suspected non-compliance, giving a SIPS operator the opportunity to be heard and to provide explanations before an infringement is established. The procedure for the imposition of corrective measures should be set out in a decision. Moreover, a competent authority other than the ECB should notify the ECB of its intention to impose corrective measures without undue delay.
- (13) In view of the findings of the Governing Council's review and to implement the CPMI-IOSCO guidance insofar as they apply to SIPS, Regulation (EU) No 795/2014 (ECB/2014/28) should be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Amendments

Regulation (EU) No 795/2014 (ECB/2014/28) is amended as follows:

1. Article 1 is amended as follows:

(a) in paragraph 3, point (ii) is replaced by the following:

‘(ii) the total euro-denominated payments processed represent at least one of the following:

- 15 % of the total volume of euro-denominated payments in the Union,
- 5 % of the total volume of euro-denominated cross-border payments in the Union,
- a market share of 75 % of the total volume of euro-denominated payments at the level of a Member State whose currency is the euro;’

(b) in paragraph 3, the following subparagraph is added:

‘An identification exercise shall be performed on an annual basis.’;

- (c) the following paragraph 3a is inserted:

‘3a. A decision adopted under paragraph 2 shall remain in force until it has been repealed. Verification reviews of payment systems that have been identified as SIPS shall be carried out on an annual basis in order to verify that they continue to meet the criteria on the basis of which such identification was made.’;

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

‘4. SIPS operators shall cooperate, on a continuous basis, with the competent authority, and ensure compliance of the SIPS they operate with the requirements set out in Articles 3 to 21, including in terms of the overall effectiveness of their rules, procedures, processes and frameworks. SIPS operators shall further cooperate with the competent authority to facilitate the broader objective of promoting the smooth operation of payment systems at systemic level.’;

2. Article 2 is amended as follows:

- (a) point (14) is replaced by the following:

‘(14) “deferred net settlement system” (DNS system) means a system in relation to which settlement in central bank money takes place on a net basis at the end of a predefined settlement cycle, e.g. at the end of, or during, a business day’;

- (b) point (18) is replaced by the following:

‘(18) “direct participant” means a legal entity that has a contractual relationship with a SIPS operator, is bound by the relevant SIPS’s rules, is allowed to send transfer orders to that system and is capable of receiving transfer orders from it’;

- (c) the following point (18a) is inserted:

‘(18a) “indirect participant” means a legal entity that does not have direct access to a SIPS’s services and is typically not directly bound by the relevant SIPS’s rules, and whose transfer orders are cleared, settled and recorded by the SIPS through a direct participant. An indirect participant has a contractual relationship with a direct participant. The relevant legal entities are limited to:

- (i) credit institutions as defined in point (1) of Article 4(1) of Regulation (EU) No 575/2013 of the European Parliament and of the Council (*),
- (ii) investment firms as defined in point (1) of Article 4(1) of Directive 2004/39/EC of the European Parliament and of the Council (**),
- (iii) any undertaking whose head office is outside the Union and whose functions correspond to those of a Union credit institution or investment firm, as defined in points (i) and (ii),
- (iv) public authorities and publicly guaranteed undertakings, and central counterparties, settlement agents, clearing houses and system operators as defined in Article 2(c), (d), (e) and (p) of Directive 98/26/EC,
- (v) payment institutions and e-money institutions as defined in point (4) of Article 4 of Directive (EU) 2015/2366 of the European Parliament and of the Council (***) and point (1) of Article 2 of Directive 2009/110/EC of the European Parliament and of the Council (****);

(*) 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).

(**) 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).

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

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

(d) the following points (40) to (44) are added:

- ‘(40) “independent director” means a non-executive member of the Board who has no business, family or other relationship that raises a conflict of interests regarding the SIPS or SIPS operator, their controlling shareholders, their management or their participants, and who has had no such relationship during the two years preceding their membership of the Board;
- (41) “affiliate” means a company that controls, or is controlled by, or is under control with, the participant. Control of a company is defined as (a) ownership, control or holding of 20 % or more of a class of voting securities of the company; or (b) consolidation of the company for financial reporting purposes;
- (42) “emergency situation” means an event, occurrence or circumstance that has the capacity to lead to the loss of or disruption to a SIPS’s operations, services, or functions, including interfering with or preventing final settlement;
- (43) “financial obligations” means legal obligations arising, within the SIPS, between participants or between participants and the SIPS operator, as a consequence of transfer orders being entered into that SIPS;
- (44) “corrective measure” means a specific measure or action, regardless of its form, duration or gravity, that is imposed on a SIPS operator by a competent authority to remedy, or avoid a repetition of, non-compliance with the requirements of Articles 3 to 21.’;

3. Article 4 is amended as follows:

(a) paragraph 2 is replaced by the following:

‘2. A SIPS operator shall have effective and documented governance arrangements that provide clear and direct lines of responsibility and accountability. These arrangements shall be made available to the competent authority, owners and participants. The SIPS operator shall make abridged versions thereof available to the public.’;

(b) paragraph 5 is replaced by the following:

‘5. The Board’s composition shall ensure integrity and, except for Eurosystem SIPS, an appropriate mix of technical skills, knowledge and experience both of SIPS and of the financial market in general, allowing the Board to fulfil its roles and responsibilities. The composition shall also take into account the allocation of competences in accordance with national law. Except for Eurosystem SIPS, and if permitted by national law, the Board shall include non-executive board members, including at least one independent director.’;

(c) the second subparagraph of paragraph 7 is replaced by the following:

‘The Board shall ensure that there are three clear and effective lines of defence (operations, risk management and internal audit), which are separate from each other and have sufficient authority, independence, resources and access to the Board.’;

(d) the following paragraph 7a is inserted:

‘7a. The Board’s approval shall be required for decisions that have a significant impact on the SIPS’s risk profile and for the key risk documents governing the SIPS’s operations. As a minimum, the Board shall approve and annually review the comprehensive risk management framework referred to in Article 5(1), the operational risk framework and the associated business continuity plan referred to in Articles 15(1) and 15(5) respectively, the recovery and orderly wind-down plan and the capital plan referred to in Articles 5(4) and 13(6) respectively, the frameworks on credit and liquidity risk referred to in Articles 6(1) and 8(1) respectively, the collateral framework that governs the management of risks referred to in Article 7, the SIPS’s investment strategy referred to in Article 14(4), and the cyber resilience framework referred to in Article 15(4a).’;

4. in Article 5, paragraph 4 is replaced by the following:

‘4. A SIPS operator shall define the SIPS’s critical operations and services. The SIPS operator shall identify specific scenarios that may prevent it from being able to provide these critical operations and services as a going concern and shall assess the effectiveness of all options for recovery and, with the exception of Eurosystem SIPS, an orderly wind-down. It shall review the SIPS’s critical operations and services at least annually. Based on this

assessment, a SIPS operator shall prepare a viable plan for the SIPS's recovery and, except for Eurosystem SIPS, an orderly wind-down. The recovery and orderly wind-down plan shall contain, inter alia, a substantive summary of the key recovery and orderly wind-down strategies, a restatement of the SIPS's critical operations and services, and a description of the measures needed to implement the key strategies. A SIPS operator shall, where applicable, provide the relevant authorities with the information needed for the purposes of resolution planning.';

5. Article 6 is replaced by the following:

'Article 6

Credit risk

1. A SIPS operator shall establish a robust framework to measure, monitor and manage its credit exposures to its participants and credit exposures among participants arising from the SIPS payment, clearing and settlement processes.

2. A SIPS operator shall identify all sources of credit risk. The measurement and monitoring of credit exposures shall take place throughout the day, using timely information and appropriate risk management tools.

2a. A SIPS operator operating a DNS system shall ensure that

(a) financial obligations are established no later than the moment at which a transfer order is included in the calculation of the net settlement positions accessible to each participant; and

(b) sufficient resources are held to cover the resulting credit exposures in accordance with paragraphs 3 and 4 at the latest at the moment referred to in point (a).

3. A SIPS operator, including one operating a DNS system with a settlement guarantee, that in the course of SIPS operations incurs credit exposure vis-à-vis its participants, shall cover its credit exposure to each participant using collateral, guarantee funds, equity (after deduction of the amount dedicated to cover general business risk) or other equivalent financial resources.

4. A SIPS operator, including one operating a DNS system with no settlement guarantee, but in which participants face credit exposures arising from the SIPS payment, clearing and settlement processes, shall have in place rules or contractual arrangements with these participants. The rules or contractual arrangements shall ensure that the participants provide sufficient resources, as referred to in paragraph 3, to cover credit exposures resulting from the SIPS payment, clearing and settlement processes in relation to the two participants which, together with their affiliates, have the largest aggregate credit exposure.

5. A SIPS operator shall establish rules and procedures to address losses directly resulting from defaults by one or more participants on their obligations to the SIPS. These rules and procedures shall address the allocation of potentially uncovered losses, including the repayment of any funds a SIPS operator may borrow from liquidity providers. They shall include the SIPS operator's rules and procedures concerning the replenishment of any financial resources used by the SIPS during a stress event, to the level laid down in paragraphs 3 and 4.';

6. Article 8 is replaced by the following:

'Article 8

Liquidity risk

1. A SIPS operator shall establish a comprehensive framework to manage liquidity risks posed by the SIPS's participants, settlement banks, *nostro* agents, custodian banks, liquidity providers and other relevant entities. The SIPS operator shall provide the participants with adequate tools to effectively manage their liquidity and shall monitor and facilitate the smooth flow of liquidity in the system.

2. A SIPS operator shall put in place operational and analytical tools which enable it to identify, measure and monitor settlement and funding flows, including the use of intraday liquidity, on an ongoing and timely basis.

- 2a. A SIPS operator operating a DNS system shall ensure that
- (a) financial obligations are established no later than the moment at which a transfer order is included in the calculation of the net settlement positions accessible to each participant; and
 - (b) sufficient liquid resources are held in accordance with paragraphs 3 to 6 at the latest at the moment referred to in point (a).
3. A SIPS operator shall hold, or ensure that participants hold, sufficient liquid resources at all times as from the moment financial obligations are established, in all currencies in which it operates, to effect same-day settlement of financial obligations in a wide range of potential stress scenarios. Where appropriate, this shall include intraday or multiday settlement. The stress scenarios shall include: (a) the default, under extreme but plausible market conditions, of the participant which, together with its affiliates, has the largest aggregate financial obligation; and (b) other scenarios in accordance with paragraph 11.
4. A SIPS operator settling one-sided payments in euro shall hold, or ensure that participants hold, sufficient liquid resources, in accordance with paragraph 3, to effect timely settlement of financial obligations in the event of a default of the participant which, together with its affiliates, has the largest aggregate financial obligation as determined by paragraph 3(a), in any of the following ways:
- (a) in cash with the Eurosystem; or
 - (b) in eligible collateral as defined in the collateral framework of the Eurosystem laid down in Guideline (EU) 2015/510 of the European Central Bank (ECB/2014/60) (*) and Guideline ECB/2014/31 of the European Central Bank (**) provided that the SIPS operator can demonstrate that such collateral is readily available and convertible into cash on a same-day basis using prearranged and highly reliable funding arrangements, including in stressed market conditions.
5. A SIPS operator settling one-sided payments in euro shall hold, or ensure that participants hold, additional liquid resources, in accordance with paragraph 3(b), in the ways referred to in paragraph 4 or with a creditworthy commercial bank in one or more of the following instruments:
- (a) committed lines of credit;
 - (b) committed foreign exchange swaps;
 - (c) committed repos;
 - (d) assets meeting the requirements of Article 7(1), which are held by a custodian;
 - (e) investments.
- All of these instruments must allow cash to be available within a timeframe that allows the completion of same-day settlement. In particular, the SIPS operator must be able to demonstrate that non-cash instruments are readily available and convertible into cash on a same-day basis using prearranged and highly reliable funding arrangements, including in stressed market conditions.
- The SIPS operator shall be prepared to demonstrate to the competent authority, based on an adequate internal assessment, that the commercial bank is creditworthy.
6. A SIPS operator settling two-sided payments, or one-sided payments in currencies other than euro, shall hold, or ensure that participants hold, sufficient liquid resources, in accordance with paragraph 3, in the ways referred to in paragraph 5.
7. Where a SIPS operator supplements the resources referred to in paragraph 3 with other assets, these assets shall be likely to be marketable or acceptable as collateral (for, e.g., lines of credit, swaps, or repos) on an ad hoc basis following a default, even if this cannot be reliably prearranged or guaranteed under extreme but plausible market conditions. Where a participant supplements the resources referred to in paragraph 3 with other assets, the SIPS operator shall ensure that these other assets meet the requirements set out in the first sentence of this paragraph. Assets shall be presumed to be likely to be marketable or acceptable as collateral if the SIPS operator has taken into account the rules and practices of the relevant central bank on the eligibility of collateral.
8. A SIPS operator shall not assume that emergency central bank credit will be available.

9. A SIPS operator shall carry out due diligence to verify that each provider of the SIPS's liquid resources, as referred to in paragraph 3: (a) has sufficient and up-to-date information to understand and to manage the liquidity risks associated with the provision of cash or assets; and (b) has the capacity to provide cash or assets as required. The SIPS operator shall review its compliance with the due diligence obligation at least annually. Only entities with access to credit from the central bank of issue shall be accepted as liquidity providers. The SIPS operator shall regularly test the SIPS's procedures for accessing its liquid resources.

10. A SIPS operator with access to central bank accounts, payment services or securities services shall use these services, where practicable.

11. A SIPS operator shall, through rigorous stress testing, determine the amount and regularly test the sufficiency of its liquid resources to satisfy the requirements under paragraphs 3 and 4. In conducting stress testing, the SIPS operator shall consider a wide range of relevant scenarios, including one or more participant defaults on the same day and on two or more subsequent days.

When such scenarios are considered, the design and operation of the SIPS shall be taken into account and all entities that might pose material liquidity risks to the SIPS shall be examined, including settlement banks, *nostro* agents, custodian banks, liquidity providers and linked FMIs. Where appropriate, the scenarios shall cover a multiday period.

12. A SIPS operator shall document its reasons for holding, and shall have appropriate governance arrangements relating to, the cash and other assets maintained by it or by participants. It shall establish clear procedures for reporting the results of its stress tests to the Board and shall use these results to evaluate the adequacy of and make adjustments to its liquidity risk-management framework.

13. A SIPS operator shall establish clear rules and procedures enabling the SIPS to effect same-day and, where appropriate, timely intraday and multiday settlement of financial obligations following the default of one or more of its participants. These rules and procedures shall:

- (a) address unforeseen and potentially uncovered liquidity shortfalls;
- (b) aim to avoid the unwinding, revocation or delay of same-day settlement of financial obligations;
- (c) indicate how to replenish the cash and other assets used by the SIPS during a stress event, to the extent required pursuant to paragraphs 3 to 5.

(*) Guideline (EU) 2015/510 of the European Central Bank of 19 December 2014 on the implementation of the Eurosystem monetary policy framework (ECB/2014/60) (OJ L 91, 2.4.2015, p. 3).

(**) Guideline ECB/2014/31 of the European Central Bank of 9 July 2014 on additional temporary measures relating to Eurosystem refinancing operations and eligibility of collateral and amending Guideline ECB/2007/9 (OJ L 240, 13.8.2014, p. 28).;

7. in Article 10, paragraph 1 is replaced by the following:

'1. A SIPS operator settling one-sided payments in euro shall ensure that final settlement takes place in central bank money. A SIPS operator settling payments for other SIPS shall endeavour to enable such other SIPS to settle even in emergency situations.';

8. Article 13 is replaced by the following:

'Article 13

General business risk

1. A SIPS operator shall establish robust management and control systems to identify, monitor and manage general business risks, including losses resulting from poor execution of business strategy, negative cash flows, or unexpected and excessively large operating expenses.

2. A SIPS operator shall maintain a viable recovery and, except for Eurosystem SIPS, orderly wind-down plan as required under Article 5(4).

3. A SIPS operator shall determine, based on its general business risk profile and the time required to achieve a recovery and/or orderly wind-down of its critical operations and services, the amount of assets required to implement the plan referred to in paragraph 2. This amount shall be no less than that represented by six months of current operating expenses.
 4. To cover the amount referred to in paragraph 3, a SIPS operator shall hold liquid net assets funded by equity, e.g. common stock, disclosed reserves or other retained earnings, to enable it to continue operations and services as a going concern. These assets shall be in addition to resources held to cover participant default or other risks covered under Articles 6 and 8. Equity held under international risk-based capital standards may be included to avoid duplicate capital requirements.
 5. Assets as referred to in paragraph 4 held to cover general business risk shall be of sufficient liquidity and quality to be available in a timely manner, and shall be segregated from the SIPS operator's assets used for daily operations. The SIPS operator shall be able to realise assets held to cover general business risk with little, if any, adverse price effect, to enable it to continue operations and services as a going concern if it incurs general business losses.
 6. A SIPS operator shall establish a viable capital plan for raising additional equity if its equity falls close to or below the amount referred to in paragraph 3.
 7. Paragraphs 3 to 6 shall not apply to Eurosystem SIPS.;
9. Article 15 is amended as follows:
- (a) the following paragraph 1a is inserted:

'1a. A SIPS operator shall review, audit, and test systems, operational policies, procedures and controls periodically and after significant changes.;
 - (b) the following paragraph 4a is inserted:

'4a. A SIPS operator shall establish an effective cyber resilience framework with appropriate governance measures in place to manage cyber risk. The SIPS operator shall identify its critical operations and supporting assets, and have appropriate measures in place to protect them from, detect, respond to and recover from cyber attacks. These measures shall be regularly tested. The SIPS operator shall ensure it has a sound level of situational awareness of cyber threats. The SIPS operator shall ensure that there is a process of continuous learning and evolving to enable it to adapt its cyber resilience framework to the dynamic nature of cyber risks, in a timely manner, whenever needed.;

10. Article 16 is replaced by the following:

'Article 16

Access and participation criteria

1. A SIPS operator shall establish and publicly disclose non-discriminatory access and participation criteria to the SIPS's services for direct and, where relevant, indirect participants and for other FMIs. It shall review the criteria at least annually.
2. The access and participation criteria referred to in paragraph 1 shall be justified in terms of the safety and efficiency of the SIPS and the markets it serves, and be tailored to and commensurate with the SIPS's specific risks. In compliance with the principle of proportionality, a SIPS operator shall set requirements that restrict access to the minimum possible extent. If a SIPS operator denies access to an applying entity, it shall give reasons in writing, based on a comprehensive risk analysis.
3. A SIPS operator shall monitor participants' compliance with the SIPS's access and participation criteria on an ongoing basis. It shall establish non-discriminatory procedures to facilitate the suspension and orderly termination of a participant's right of participation where the participant fails to comply with the criteria and shall publicly disclose relevant key aspects of such procedures. It shall review the procedures at least annually.;

11. in Article 17, paragraphs 1 and 2 are replaced by the following:

‘1. For the purpose of risk management, a SIPS operator shall ensure that the SIPS’s rules, procedures and contractual arrangements allow it to gather information about indirect participation in order to identify, monitor and manage any material risks to the SIPS arising from participation. This information shall, as a minimum, cover the following:

- (a) the activity that direct participants conduct on their own behalf and on behalf of indirect participants in proportion to the activity at system level;
- (b) the number of indirect participants that settle via individual direct participants;
- (c) the volumes and values of payments in the SIPS originating from each indirect participant;
- (d) the volumes and values of payments referred to in point (c) in proportion to those of the direct participant through which the indirect participant accesses the SIPS.

2. A SIPS operator shall identify material dependencies between direct and indirect participants that might affect the SIPS, taking into account the information referred to in paragraph 1.’;

12. Article 21 is replaced by the following:

‘Article 21

Powers of a competent authority

1. A competent authority shall have the power to:

- (a) obtain, at any time, from a SIPS operator all of the information and documents necessary to assess compliance with the requirements under this Regulation or to promote the smooth operation of payment systems at systemic level. The SIPS operator shall report the relevant information to the competent authority without undue delay;
- (b) require a SIPS operator to appoint an independent expert to perform an investigation or independent review on the operation of the SIPS. The competent authority may impose requirements concerning the type of expert to be appointed, the content and scope of the report to be produced, the treatment of the report, including disclosure and publication of certain elements, and timing for the production of the report. A SIPS operator shall inform the competent authority how the imposed requirements have been satisfied;
- (c) conduct on-site inspections or delegate the carrying out of on-site inspections. Where the proper conduct and efficiency of an inspection so requires, the competent authority may carry it out without prior announcement.

2. The ECB shall adopt a decision on the procedure and conditions for exercising the powers referred to in paragraph 1.’;

13. the following Articles 21a and 21b are inserted:

‘Article 21a

Organisation of oversight activities

A competent authority may carry out continuous and/or ad hoc oversight activities to assess the compliance by a SIPS operator with the requirements set out in Articles 3 to 21 or to promote the smooth operation of payment systems at systemic level.

Article 21b

Confidentiality

Information shared by a SIPS operator with a competent authority on a confidential basis may be shared within the European System of Central Banks (ESCB). Such information shall be treated as confidential by the members of the ESCB, in accordance with the duty of professional secrecy laid down in Article 37.1 of the Statute of the ESCB.’;

14. Article 22 is replaced by the following:

'Article 22

Corrective measures

1. Where a SIPS operator has not complied with this Regulation or where there are reasonable grounds for suspecting that a SIPS operator has not complied with this Regulation, the competent authority shall:
 - (a) give written notice to the SIPS operator of the nature of the non-compliance or suspected non-compliance; and
 - (b) give the SIPS operator the opportunity to be heard and to provide explanations.
2. Taking into account the information provided by the SIPS operator, the competent authority may impose corrective measures on the SIPS operator to remedy the non-compliance and/or avoid repeating it.
3. The competent authority may impose corrective measures immediately if it finds that the non-compliance is serious enough to require immediate action. It shall provide reasons for its decision.
4. A competent authority other than the ECB shall inform the ECB of its intention to impose corrective measures on a SIPS operator without undue delay.
5. Corrective measures may be imposed independently of or in parallel to sanctions imposed under Council Regulation (EC) No 2532/98 (*).
6. The ECB shall adopt a decision on the procedure to be followed if corrective measures are imposed.

(*) Council Regulation (EC) No 2532/98 of 23 November 1998 concerning the powers of the European Central Bank to impose sanctions (OJ L 318, 27.11.1998, p. 4).;

15. Article 23 is replaced by the following:

'Article 23

Sanctions

In the case of an infringement of this Regulation, the ECB may impose sanctions. Such sanctions shall be in accordance with Regulation (EC) No 2532/98 and Regulation (EC) No 2157/99 of the European Central Bank (ECB/1999/4) (*). The ECB shall adopt a decision on the methodology for the calculation of the amount of the sanctions.

(*) Regulation (EC) No 2157/99 of the European Central Bank of 23 September 1999 on the powers of the European Central Bank to impose sanctions (ECB/1999/4) (OJ L 264, 12.10.1999, p. 21).;

16. Article 24 is replaced by the following:

'Article 24

Review

The Governing Council shall review the general application of this Regulation by no later than two years following the date on which it enters into force, and thereafter every three years, and assess whether it needs to be amended.'

Article 2

Final provisions

1. This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.
2. SIPS operators who were notified of the decision of the Governing Council pursuant to Article 1(2) of Regulation (EU) No 795/2014 (ECB/2014/28) before this Regulation enters into force shall have one year from the date of entry into force to comply with the requirements laid down in this Regulation, except for the requirements laid down in points (5) and (6) of Article 1 in respect of which they shall have 18 months.
3. SIPS operators who are notified of the decision of the Governing Council pursuant to Article 1(2) of Regulation (EU) No 795/2014 (ECB/2014/28) after this Regulation enters into force shall have one year from the date of notification to comply with the requirements laid down in this Regulation, except for the requirements laid down in points (5) and (6) of Article 1 in respect of which they shall have 18 months.

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

Done at Frankfurt am Main, 3 November 2017.

For the Governing Council of the ECB

The President of the ECB

Mario DRAGHI

REGULATION (EU) 2017/2095 OF THE EUROPEAN CENTRAL BANK**of 3 November 2017****amending Regulation (EC) No 2157/1999 on the powers of the European Central Bank to impose sanctions (ECB/2017/34)**

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 132(3) thereof,

Having regard to the Statute of the European System of Central Banks and of the European Central Bank, and in particular Articles 34.3 and 19.1 thereof,

Having regard to Council Regulation (EC) No 2532/98 of 23 November 1998 concerning the powers of the European Central Bank to impose sanctions ⁽¹⁾, and in particular Article 6(2) thereof,

Whereas:

- (1) The European Central Bank (ECB) has applied Regulation (EC) No 2157/1999 of the European Central Bank (ECB/1999/4) ⁽²⁾ to impose sanctions in its various fields of competence, including in particular the implementation of the monetary policy of the Union, the operation of payment systems and the collection of statistical information.
- (2) Regulation (EU) No 795/2014 of the European Central Bank (ECB/2014/28) ⁽³⁾ entitles the ECB to impose sanctions on operators of systemically important payment systems (SIPS) in the case of an infringement of that Regulation.
- (3) In the area of the oversight of SIPS, the experience gained in conducting the first comprehensive assessment under Regulation (EU) No 795/2014 (ECB/2014/28) has demonstrated that certain amendments need to be made to Regulation (EC) No 2157/1999 (ECB/1999/4) to ensure that sanctions can be effectively imposed for oversight infringements.
- (4) In particular, clarification of the definition of a competent national central bank is required to ensure consistency with the definition of a competent authority in Regulation (EU) No 795/2014 (ECB/2014/28). In addition, clarification of the composition of the internal independent investigating unit is required to ensure it can independently perform its investigative functions in the field of payment systems oversight.
- (5) Therefore, Regulation (EC) No 2157/1999 (ECB/1999/4) should be amended accordingly,

HAS ADOPTED THIS REGULATION:

*Article 1***Amendments**

Regulation (EC) No 2157/1999 (ECB/1999/4) is amended as follows:

1. Article 1 is replaced by the following:

*'Article 1***Definitions**

For the purposes of this Regulation, the term 'competent national central bank' means the national central bank of the Member State in whose jurisdiction the alleged infringement has occurred or, for infringements in the field of oversight of systemically important payment systems, it means the Eurosystem central bank that has been identified as a competent authority within the meaning of Article 2(5) of Regulation (EU) No 795/2014 of the European Central Bank (ECB/2014/28) (*). Other terms used have the same meaning as defined in Article 1 of Regulation (EC) No 2532/98.

(*) Regulation (EU) No 795/2014 of the European Central Bank of 3 July 2014 on oversight requirements for systemically important payment systems (ECB/2014/28) (OJ L 217, 23.7.2014, p. 16).;

⁽¹⁾ OJ L 318, 27.11.1998, p. 4.

⁽²⁾ Regulation (EC) No 2157/1999 of the European Central Bank of 23 September 1999 on the powers of the European Central Bank to impose sanctions (ECB/1999/4) (OJ L 264, 12.10.1999, p. 21).

⁽³⁾ Regulation (EU) No 795/2014 of the European Central Bank of 3 July 2014 on oversight requirements for systemically important payment systems (ECB/2014/28) (OJ L 217, 23.7.2014, p. 16).

2. in Article 1b, paragraph 1 is replaced by the following:

‘1. For the purposes of deciding whether to initiate an infringement procedure pursuant to Article 2 and exercise the powers laid down in Article 3, the ECB shall establish an internal independent investigating unit (hereinafter ‘investigating unit’) composed of investigating officers who shall perform their investigative functions independently from the Executive Board and the Governing Council, and shall not take part in the deliberations of the Executive Board and Governing Council. The investigating unit shall comprise investigating officers with a range of relevant knowledge, skills and experience.’;

3. in Article 1b, the following paragraph 1a is inserted:

‘1a. For the investigation of infringements of Regulation (EU) No 795/2014 (ECB/2014/28), the ECB may appoint as investigating officers: (i) members of staff of the ECB or of a national central bank of a Member State, as long as the appointment is accepted by the relevant national central bank; or (ii) external experts acting on the basis of an appropriate mandate. The ECB may not appoint as investigating officers members of the Market Infrastructure and Payments Committee or members of staff of the ECB or of a national central bank of a Member State who have been directly involved in the activities of the assessment group that carried out the initial oversight assessment identifying an infringement or grounds for suspecting an infringement.’;

4. in Article 8, the following paragraph 3 is added:

‘3. In carrying out the review, the Governing Council may:

- (a) confirm the decision of the Executive Board;
- (b) amend the decision of the Executive Board by modifying the amount of the sanction to be imposed and/or the grounds giving rise to an infringement;
- (c) set aside the decision of the Executive Board.’;

5. in Article 10, the following paragraph 4 is added:

‘4. This Article shall not apply to sanctions for infringements of ECB regulations and decisions in the field of oversight of systemically important payment systems.’.

Article 2

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 the Member States in accordance with the Treaties.

Done at Frankfurt am Main, 3 November 2017.

For the Governing Council of the ECB

The President of the ECB

Mario DRAGHI

DIRECTIVES

COMMISSION DIRECTIVE (EU) 2017/2096

of 15 November 2017

amending Annex II to Directive 2000/53/EC of the European Parliament and of the Council on end-of life vehicles

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Directive 2000/53/EC of the European Parliament and of the Council of 18 September 2000 on end-of life vehicles ⁽¹⁾, and in particular Article 4(2)(b),

Whereas:

- (1) Article 4(2)(a) of Directive 2000/53/EC prohibits the use of lead, mercury, cadmium and hexavalent chromium in materials and components of vehicles put on the market after 1 July 2003.
- (2) Annex II to Directive 2000/53/EC lists vehicle materials and components exempt from the prohibition set out in Article 4(2)(a) thereof. That Annex is to be amended on a regular basis according to technical and scientific progress and exemptions 2(c), 3 and 5 regarding the use of lead are to be reviewed.
- (3) An assessment of technical and scientific progress has demonstrated that the use of lead remains unavoidable for the materials and components covered by exemption 2(c). However, current information suggests that lead substitutes may become available for those material and components in the near future. For some materials and components, lead substitutes are expected to become available sooner than for others, and therefore it is appropriate to split exemption 2(c) into two sub-entries with different review dates according to the progress in the development of such substitutes.
- (4) The assessment of technical and scientific progress has also demonstrated that the use of lead remains unavoidable for the materials and components covered by exemption 3. Possible substitutes exist but have to be developed further. A new review date for that exemption should therefore be set, taking into account the progress in the development of substitutes.
- (5) Finally, the assessment of technical and scientific progress has demonstrated that for some materials and components covered by exemption 5, lead alternatives already exist but are not usable in all vehicles covered by the exemption. For the other materials and components covered by exemption 5, the use of lead is still unavoidable. Consequently, that exemption should be split into two sub-entries. For the materials and components for which alternatives exist, an expiry date for the exemption should be set which allows necessary time to ensure that the use of lead is avoidable in all vehicles concerned. For the exemption covering materials and components for which the use of lead is still unavoidable, a new review date should be set, taking into account the progress in the development of substitutes.
- (6) The measures provided for in this Directive are in accordance with the opinion of the committee established by Article 39 of Directive 2008/98/EC of the European Parliament and of the Council ⁽²⁾,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Annex II to Directive 2000/53/EC is replaced by the text set out in the Annex to this Directive.

⁽¹⁾ OJ L 269, 21.10.2000, p. 34.

⁽²⁾ OJ L 312, 22.11.2008, p. 3.

Article 2

1. Member States shall adopt and publish by 6 June 2018 the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.

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

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

Article 3

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

Article 4

This Directive is addressed to the Member States.

Done at Brussels, 15 November 2017.

For the Commission

The President

Jean-Claude JUNCKER

ANNEX

'ANNEX II

Materials and components exempt from Article 4(2)(a)

A maximum concentration value up to 0,1 % by weight in homogeneous material for lead, hexavalent chromium and mercury and up to 0,01 % by weight in homogeneous material for cadmium shall be tolerated.

Spare parts put on the market after 1 July 2003 which are used for vehicles put on the market before 1 July 2003, except for wheel balance weights, carbon brushes for electric motors and brake linings, shall be exempted from the provisions of Article 4(2)(a) of Directive 2000/53/EC.

Materials and components	Scope and expiry date of the exemption	To be labelled or made identifiable in accordance with Article 4(2)(b)(iv)
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Lead as an alloying element

1(a). Steel for machining purposes and batch hot dip galvanised steel components containing up to 0,35 % lead by weight		
1(b). Continuously galvanised steel sheet containing up to 0,35 % lead by weight	Vehicles type-approved before 1 January 2016 and spare parts for these vehicles	
2(a). Aluminium for machining purposes with a lead content up to 2 % by weight	As spare parts for vehicles put on the market before 1 July 2005	
2(b). Aluminium with a lead content up to 1,5 % by weight	As spare parts for vehicles put on the market before 1 July 2008	
2(c)(i). Aluminium alloys for machining purposes with a lead content up to 0,4 % by weight	(¹)	
2(c)(ii). Aluminium alloys not included in entry 2(c)(i) with a lead content up to 0,4 % by weight (^{1a})	(²)	
3. Copper alloys containing up to 4 % lead by weight	(¹)	
4(a). Bearing shells and bushes	As spare parts for vehicles put on the market before 1 July 2008	
4(b). Bearing shells and bushes in engines, transmissions and air conditioning compressors	As spare parts for vehicles put on the market before 1 July 2011	

Lead and lead compounds in components

5(a). Lead in batteries in high-voltage systems (^{2a}) that are used only for propulsion in M1 and N1 vehicles	Vehicles type-approved before 1 January 2019 and spare parts for these vehicles	X
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Materials and components	Scope and expiry date of the exemption	To be labelled or made identifiable in accordance with Article 4(2)(b)(iv)
5(b). Lead in batteries for battery applications not included in entry 5(a)	(1)	X
6. Vibration dampers	Vehicles type-approved before 1 January 2016 and spare parts for these vehicles	X
7(a). Vulcanising agents and stabilisers for elastomers in brake hoses, fuel hoses, air ventilation hoses, elastomer/metal parts in the chassis applications, and engine mountings	As spare parts for vehicles put on the market before 1 July 2005	
7(b). Vulcanising agents and stabilisers for elastomers in brake hoses, fuel hoses, air ventilation hoses, elastomer/metal parts in the chassis applications, and engine mountings containing up to 0,5 % lead by weight	As spare parts for vehicles put on the market before 1 July 2006	
7(c). Bonding agents for elastomers in powertrain applications containing up to 0,5 % lead by weight	As spare parts for vehicles put on the market before 1 July 2009	
8(a). Lead in solders to attach electrical and electronic components to electronic circuit boards and lead in finishes on terminations of components other than electrolyte aluminium capacitors, on component pins and on electronic circuit boards	Vehicles type-approved before 1 January 2016 and spare parts for these vehicles	X (4)
8(b). Lead in solders in electrical applications other than soldering on electronic circuit boards or on glass	Vehicles type-approved before 1 January 2011 and spare parts for these vehicles	X (4)
8(c). Lead in finishes on terminals of electrolyte aluminium capacitors	Vehicles type-approved before 1 January 2013 and spare parts for these vehicles	X (4)
8(d). Lead used in soldering on glass in mass air-flow sensors	Vehicles type-approved before 1 January 2015 and spare parts of such vehicles	X (4)
8(e). Lead in high melting temperature type solders (i.e. lead-based alloys containing 85 % by weight or more lead)	(3)	X (4)

Materials and components	Scope and expiry date of the exemption	To be labelled or made identifiable in accordance with Article 4(2)(b)(iv)
8(f)(a). Lead in compliant pin connector systems	Vehicles type-approved before 1 January 2017 and spare parts for these vehicles	X ⁽⁴⁾
8(f)(b). Lead in compliant pin connector systems other than the mating area of vehicle harness connectors	⁽³⁾	X ⁽⁴⁾
8(g). Lead in solders to complete a viable electrical connection between semiconductor die and carrier within integrated circuit flip chip packages	⁽³⁾	X ⁽⁴⁾
8(h). Lead in solder to attach heat spreaders to the heat sink in power semiconductor assemblies with a chip size of at least 1 cm ² of projection area and a nominal current density of at least 1 A/mm ² of silicon chip area	Vehicles type-approved before 1 January 2016 and after that date as spare parts for these vehicles	X ⁽⁴⁾
8(i). Lead in solders in electrical glazing applications on glass except for soldering in laminated glazing	Vehicles type-approved before 1 January 2016 and after that date as spare parts for these vehicles	X ⁽⁴⁾
8(j). Lead in solders for soldering of laminated glazing	Vehicles type-approved before 1 January 2020 and after that date as spare parts for these vehicles	X ⁽⁴⁾
9. Valve seats	As spare parts for engine types developed before 1 July 2003	
10(a). Electrical and electronic components which contain lead in a glass or ceramic, in a glass or ceramic matrix compound, in a glass-ceramic material, or in a glass-ceramic matrix compound. This exemption does not cover the use of lead in: — glass in bulbs and glaze of spark plugs, — dielectric ceramic materials of components listed under 10(b), 10(c) and 10(d).		X ⁽⁵⁾ (for components other than piezo in engines)
10(b). Lead in PZT-based dielectric ceramic materials of capacitors being part of integrated circuits or discrete semiconductors		

Materials and components	Scope and expiry date of the exemption	To be labelled or made identifiable in accordance with Article 4(2)(b)(iv)
10(c). Lead in dielectric ceramic materials of capacitors with a rated voltage of less than 125 V AC or 250 V DC	Vehicles type-approved before 1 January 2016 and spare parts for these vehicles	
10(d). Lead in the dielectric ceramic materials of capacitors compensating the temperature-related deviations of sensors in ultrasonic sonar systems	Vehicles type-approved before 1 January 2017 and after that date as spare parts for these vehicles	
11. Pyrotechnic initiators	Vehicles type-approved before 1 July 2006 and spare parts for these vehicles	
12. Lead-containing thermoelectric materials in automotive electrical applications to reduce CO ₂ emissions by recuperation of exhaust heat	Vehicles type-approved before 1 January 2019 and spare parts for these vehicles	X

Hexavalent chromium

13(a). Corrosion preventive coatings	As spare parts for vehicles put on the market before 1 July 2007	
13(b). Corrosion preventive coatings related to bolt and nut assemblies for chassis applications	As spare parts for vehicles put on the market before 1 July 2008	
14. As an anti-corrosion agent of the carbon steel cooling system in absorption refrigerators in motor caravans up to 0,75 weight — % in the cooling solution except where the use of other cooling technologies is practicable (i.e. available on the market for the application in motor caravans) and does not lead to negative environmental, health and/or consumer safety impacts		X

Mercury

15(a). Discharge lamps for headlight application	Vehicles type-approved before 1 July 2012 and spare parts for these vehicles	X
15(b). Fluorescent tubes used in instrument panel displays	Vehicles type-approved before 1 July 2012 and spare parts for these vehicles	X

Materials and components	Scope and expiry date of the exemption	To be labelled or made identifiable in accordance with Article 4(2)(b)(iv)
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Cadmium

16. Batteries for electrical vehicles	As spare parts for vehicles put on the market before 31 December 2008	
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(¹) This exemption shall be reviewed in 2021.

(^{1a}) Applies to aluminium alloys where lead is not intentionally introduced but is present due to the use of recycled aluminium.

(²) This exemption shall be reviewed in 2024.

(^{2a}) Systems that have a voltage of > 75 V DC as defined in Directive 2006/95/EC of the European Parliament and of the Council of 12 December 2006 on the harmonisation of the laws of Member States relating to electrical equipment designed for use within certain voltage limits (OJ L 374, 27.12.2006, p. 10).

(³) This exemption shall be reviewed in 2019.

(⁴) Dismantling if, in correlation with entry 10(a), an average threshold of 60 grams per vehicle is exceeded. For the application of this clause electronic devices not installed by the manufacturer on the production line shall not be taken into account.

(⁵) Dismantling if, in correlation with entries 8(a) to 8(j), an average threshold of 60 grams per vehicle is exceeded. For the application of this clause electronic devices not installed by the manufacturer on the production line shall not be taken into account.'

DECISIONS

DECISION (EU) 2017/2097 OF THE EUROPEAN CENTRAL BANK

of 3 November 2017

on the methodology for calculating sanctions for infringements of the oversight requirements for systemically important payment systems (ECB/2017/35)

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

Having regard to the Treaty on the Functioning of the European Union, and in particular the fourth indent of Article 127(2) thereof,

Having regard to the Statute of the European System of Central Banks and of the European Central Bank, and in particular the fourth indent of Article 3.1, and Article 34 thereof,

Having regard to Council Regulation (EC) No 2532/98 of 23 November 1998 concerning the powers of the European Central Bank to impose sanctions ⁽¹⁾, and in particular Article 2 thereof,

Having regard to Regulation (EC) No 2157/1999 of the European Central Bank of 23 September 1999 on the powers of the European Central Bank to impose sanctions (ECB/1999/4) ⁽²⁾,

Having regard to Regulation (EU) No 795/2014 of the European Central Bank of 3 July 2014 on oversight requirements for systemically important payment systems (ECB/2014/28) ⁽³⁾, and in particular Article 23 thereof,

Whereas:

- (1) The Eurosystem promotes the smooth operation of payment systems by, among other things, conducting oversight. In particular, oversight of systemically important payments systems (SIPS) is conducted pursuant to the requirements of Regulation (EU) No 795/2014 (ECB/2014/28).
- (2) Article 23 of Regulation (EU) No 795/2014 (ECB/2014/28) empowers the European Central Bank (ECB) to impose sanctions for infringements of that Regulation. For the purposes of enhancing the transparency of the principles and procedures that the ECB will follow when imposing such sanctions, that Article requires the ECB to adopt a decision on the methodology for the calculation of the amount of the sanctions.
- (3) By adopting this Decision, the ECB demonstrates the manner in which it is guided by the principle of proportionality when determining an appropriate sanction,

HAS ADOPTED THIS DECISION:

Article 1

Definitions

For the purposes of this Decision:

- (1) 'SIPS operator' means a SIPS operator as defined in point (4) of Article 2 of Regulation (EU) No 795/2014 (ECB/2014/28);
- (2) 'business year' means the period of time in connection with which audited or statutory accounts of the SIPS operator are to be prepared;
- (3) 'fine' means a single amount of money that a SIPS operator is obliged to pay as a sanction;
- (4) 'infringement' means any failure by a SIPS operator to fulfil any obligation arising from Regulation (EU) No 795/2014 (ECB/2014/28);

⁽¹⁾ OJ L 318, 27.11.1998, p. 4.

⁽²⁾ OJ L 264, 12.10.1999, p. 21.

⁽³⁾ OJ L 217, 23.7.2014, p. 16.

- (5) 'periodic penalty payments' means amounts of money that, in the event of a continued infringement, a SIPS operator is obliged to pay, either as a punishment or with a view to forcing the SIPS operator concerned to comply with its obligations under Regulation (EU) No 795/2014 (ECB/2014/28). These amounts shall be calculated for each complete day of continued infringement following notification to the SIPS operator of a decision requiring the termination of the infringement in accordance with the procedure laid down in the second subparagraph of Article 3(1) of Regulation (EC) No 2532/98;
- (6) 'sanction' means a fine or periodic penalty payments imposed as a consequence of an infringement;
- (7) 'turnover' means the revenue generated by the SIPS concerned during the business year preceding that in which the infringement occurred;
- (8) 'value of payments processed' means the total daily average value of euro-denominated payments processed by the SIPS concerned during the business year preceding that in which the infringement occurred.

Article 2

General principles

1. This Decision sets out the methodology to be followed by the ECB in calculating the amount of sanctions to be imposed by the ECB on a SIPS operator for infringements of Regulation (EU) No 795/2014 (ECB/2014/28).
2. The ECB may impose either a fine or periodic penalty payments as a sanction for infringement of Regulation (EU) No 795/2014 (ECB/2014/28).
3. The ECB shall determine the amount of the sanction to be imposed based on a two-stage process, starting with the calculation of the baseline amount of the sanction, which may then be increased or reduced in the light of aggravating or mitigating circumstances of relevance to each specific case.

Article 3

Calculation of the baseline amount of a sanction

1. The ECB shall calculate the baseline amount of any sanction to be imposed on a SIPS operator by reference to the turnover and the value of payments processed by the SIPS concerned.
2. The baseline amount of the sanction shall represent 50 % of the sum of the following amounts:
 - (a) 1 % of turnover; and
 - (b) 0,0001 % of the value of payments processed.
3. For periodic penalty payments, the baseline amount shall be divided by 180 to calculate the amount payable for each complete day of continued infringement.

Article 4

Aggravating and mitigating circumstances

When calculating the amount of any sanction, the ECB shall take into consideration, where relevant, the circumstances of the specific case, as provided for in Article 2(3) of Regulation (EC) No 2532/98.

Article 5

Limits

1. Where, based on the calculation made pursuant to Article 3(2) and any increase or decrease in the baseline amount made pursuant to Article 4, the amount of any fine exceeds EUR 500 000, the amount of the fine the ECB may impose shall be capped at EUR 500 000.

2. Where, based on the calculation made pursuant to Article 3(2) and (3) and any increase or decrease in the baseline amount made pursuant to Article 4, the amount of the periodic penalty payments exceed EUR 10 000 per day of infringement, the amount of the periodic penalty payments the ECB may impose per day of infringement shall be capped at EUR 10 000. Periodic penalty payments may be imposed in respect of a maximum period of six months following the notification to the SIPS operator of the decision to impose sanctions.

Article 6

Final provisions

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 Frankfurt am Main, 3 November 2017.

The President of the ECB

Mario DRAGHI

DECISION (EU) 2017/2098 OF THE EUROPEAN CENTRAL BANK**of 3 November 2017****on procedural aspects concerning the imposition of corrective measures for non-compliance with
Regulation (EU) No 795/2014 (ECB/2017/33)**

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

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

Having regard to Regulation (EU) No 795/2014 of the European Central Bank of 3 July 2014 on oversight requirements for systemically important payment systems (ECB/2014/28) ⁽¹⁾, and in particular Article 22(6) thereof,

Whereas:

- (1) The Governing Council set out oversight requirements for systemically important payment systems (SIPS) in Regulation (EU) No 795/2014 (ECB/2014/28).
- (2) Pursuant to Article 22(2) and (3) of Regulation (EU) No 795/2014 (ECB/2014/28), competent authorities may impose corrective measures for non-compliance with oversight requirements.
- (3) However, as Regulation (EU) No 795/2014 (ECB/2014/28) does not specify detailed rules and procedures for the imposition of corrective measures, in accordance with Article 22(6) thereof, such rules and procedures should be laid down in this Decision,

HAS ADOPTED THIS DECISION:

*Article 1***Definitions**

For the purposes of this Decision:

- (1) 'competent authority' means a competent authority as defined in point (5) of Article 2 of Regulation (EU) No 795/2014 (ECB/2014/28);
- (2) 'SIPS operator' means a SIPS operator as defined in point (4) of Article 2 of Regulation (EU) No 795/2014 (ECB/2014/28);
- (3) 'corrective measure' means a corrective measure as defined in point (44) of Article 2 of Regulation (EU) No 795/2014 (ECB/2014/28);
- (4) 'non-compliance' means any infringement of Regulation (EU) No 795/2014 (ECB/2014/28);
- (5) 'suspected non-compliance' means reasonable grounds for suspecting that a SIPS operator has not fulfilled one or more of the requirements of Regulation (EU) No 795/2014 (ECB/2014/28), based on the information and documentation (including a self-assessment provided by the SIPS operator) available to the competent authority;
- (6) 'ongoing non-compliance' means any infringement of Regulation (EU) No 795/2014 (ECB/2014/28) that has been confirmed by an assessment but has not been rectified by a SIPS operator in accordance with an action plan agreed with the competent authority within a time limit specified by that authority;
- (7) 'draft assessment' means a report that has not yet been endorsed by the decision-making body of a competent authority, which provides a preliminary analysis of the SIPS' rules, procedures and operations, and of incidents, or any other matter that is considered of importance to the operation of the SIPS, and identifies a suspected non-compliance with the oversight requirements laid down in Regulation (EU) No 795/2014 (ECB/2014/28);

⁽¹⁾ OJ L 217, 23.7.2014, p. 16.

- (8) 'assessment' means, where the European Central Bank (ECB) acts as the competent authority, a report that has been endorsed by the Governing Council, or, where a national central bank (NCB) acts as the competent authority, a report that has been endorsed by the relevant decision-making body of that NCB, and which states the SIPS operator's level of compliance with the oversight requirements laid down in Regulation (EU) No 795/2014 (ECB/2014/28).

Article 2

General principles

1. Corrective measures shall be imposed on SIPS operators in accordance with Article 22 of Regulation (EU) No 795/2014 (ECB/2014/28) and the procedure laid down in this Decision.
2. Competent authorities may initiate the procedure to impose a corrective measure in the following scenarios:
 - (a) in case of non-compliance that has been confirmed by an assessment;
 - (b) in case of ongoing non-compliance, where no corrective measure has been previously imposed on the SIPS operator;
 - (c) where a draft assessment gives grounds to the competent authority to suspect non-compliance that is serious and requires immediate action.
3. The formulation of corrective measures shall be sufficiently specific to allow a SIPS operator to undertake action without undue delay to remedy or avoid a repetition of its non-compliance.

Article 3

Notice to the SIPS operator

1. In accordance with Article 22(1) of Regulation (EU) No 795/2014 (ECB/2014/28) and based on the findings of a draft assessment or an assessment, the competent authority shall give written notice to a SIPS operator which may include requesting additional information or explanations to be provided.
2. The written notice shall specify the nature of the non-compliance or suspected non-compliance, as well as the facts, information, assessments or legal grounds supporting the finding of non-compliance or suspected non-compliance. It shall state the corrective measure(s) that the competent authority considers imposing. It shall further state whether the case is considered serious and whether immediate action is required under Article 4(2).
3. For cases of ongoing non-compliance, the written notice shall also specify the lack of progress or inadequacy of the progress made by the SIPS operator with regard to the implementation of the action plan agreed with the competent authority.

Article 4

Organisation of the hearing phase

1. A SIPS operator shall be given the opportunity to be heard through commenting in writing on the facts, information, assessment or legal grounds supporting the finding of non-compliance or suspected non-compliance, and the corrective measure(s) being considered, as set out in the written notice, within a time limit specified by the competent authority of a minimum of 14 calendar days following receipt of the written notice. A SIPS operator may request an extension of the time limit and the competent authority shall have discretion to decide whether an extension is granted.

2. In relation to non-compliance that is considered serious enough to require immediate action, in accordance with Article 22(3) of Regulation (EU) No 795/2014 (ECB/2014/28), a SIPS operator shall be given the opportunity to be heard and provide explanations within a time limit, specified by the competent authority, which shall typically not exceed three business days following receipt of the written notice.
3. A SIPS operator may request the provision of explanation or documents from the competent authority concerning the non-compliance or suspected non-compliance. Competent authorities shall endeavour to provide the relevant explanations or documents to SIPS operators in a timely manner.
4. If the competent authority deems it appropriate or at the request of the SIPS operator, the SIPS operator may be given the opportunity to comment on the facts, information, assessment or legal grounds supporting the finding of non-compliance or suspected non-compliance in a meeting. The SIPS operator may be supported in the meeting by a third party, including external legal counsel.
5. The competent authority shall prepare written minutes of any meeting with a SIPS operator. After having been given sufficient time to review the minutes and include any remarks or changes deemed necessary, the SIPS operator shall sign the minutes and the competent authority shall provide the SIPS operator with a copy of them.
6. A SIPS operator shall provide comments, documentation, explanations and any other information to the competent authority in the Union language chosen by the SIPS operator, unless another language for communications is agreed in advance with the competent authority.

Article 5

Access to the file

1. SIPS operators shall be entitled, after the initiation of the procedure for the imposition of corrective measures, to have access to the competent authority's file, subject to the legitimate interest of legal and natural persons other than the SIPS operators themselves. The right of access to the file shall not extend to confidential information.
2. The SIPS operators shall forward to the competent authority, without undue delay, any request related to access to the file.
3. The file consists of all of the documents obtained, produced or assembled by the competent authority during the procedure for the imposition of corrective measures.
4. For the purpose of this Article, confidential information may include internal documents of the competent authority and correspondence between the competent authority and any persons involved in preparing the assessment.

Article 6

Imposition of corrective measures

1. In accordance with Article 22(2) and (3) of Regulation (EU) No 795/2014 (ECB/2014/28), the competent authority may impose corrective measures on a SIPS operator, after taking into account the information provided by the latter. For the avoidance of doubt, where the procedure to impose a corrective measure has been initiated on the basis of suspected non-compliance, a corrective measure shall be imposed only after the relevant decision-making body of the competent authority has endorsed the report identifying non-compliance.
2. Where the ECB acts as a competent authority, a decision to impose corrective measures shall be endorsed by the Governing Council. The decision shall specify the time limit within which the SIPS operator has to implement the corrective measures.
3. Where an NCB acts as a competent authority, a decision to impose corrective measures shall be endorsed by the NCB's decision-making body. The decision shall specify the time limit within which the SIPS operator has to implement the corrective measures. The NCB shall submit a copy of the decision to the Governing Council for information without undue delay.

*Article 7***Time limits**

The right of a competent authority to impose corrective measures in respect of non-compliance that has been confirmed in an assessment shall expire two years after the finalisation of this assessment.

*Article 8***Notification of the decision to impose corrective measures**

The competent authority shall notify a SIPS operator in writing, including electronically, of any decision to impose corrective measures within seven calendar days of taking the decision.

*Article 9***Failure to implement corrective measures**

A failure by a SIPS operator to implement corrective measures within the indicated time limit may be treated as a separate ground for the imposition of a sanction by the ECB, provided that a sanction has not already been imposed for the same infringement.

*Article 10***Entry into force**

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 Frankfurt am Main, 3 November 2017.

The President of the ECB
Mario DRAGHI

III

(Other acts)

EUROPEAN ECONOMIC AREA

EFTA SURVEILLANCE AUTHORITY DECISION

No 35/17/COL

of 9 February 2017

granting Norway a derogation regarding the Ladehammeren urban waste water treatment plant in the agglomeration of Trondheim and repealing Decision No 725/07/COL [2017/2099]

THE EFTA SURVEILLANCE AUTHORITY,

Having regard to the Act referred to at point 13 of Annex XX to the EEA Agreement,

Council Directive 91/271/EEC of 21 May 1991 concerning urban waste water treatment ⁽¹⁾

As adapted to the EEA Agreement by Protocol 1 thereto and in particular Article 8(5) thereof,

Having regard to Decision 725/07/COL of the EFTA Surveillance Authority ('the Authority') to grant a derogation in accordance with Article 8(5) of Directive 91/271/EEC to Høvringen urban waste water treatment (Document No 452420),

Whereas:

- (1) Article 8(5) of Directive 91/271/EEC provides that, in exceptional circumstances, where it can be demonstrated that more advanced treatment will not produce any environmental benefits, discharges into less sensitive areas of waste waters from agglomerations of more than 150 000 population equivalents may be subject to the treatment to the less stringent requirements set out in Article 6(2) of that Act,
- (2) In such circumstances, the EFTA States are required to submit documentation to the Authority to demonstrate that the discharges receive at least primary treatment and that they will not adversely affect the environment,
- (3) Norway has identified its coastal area from Lindesnes to the Norwegian-Russian border as a 'less sensitive area' under Article 6 of Directive 91/271/EEC,
- (4) On 19 December 2007, in Decision 725/07/COL, the Authority accepted a request from Norway under Article 8(5) of Directive 91/271/EEC to provide for less stringent waste water treatment than that prescribed in Article 4 of Directive 91/271/EEC for the Høvringen waste water treatment plant, subject to the conditions set out in that decision,
- (5) On 20 February 2010, a decision was taken by Trondheim City Council on behalf of Trondheim Municipality to apply for a derogation under Article 8(5) of Directive 91/271/EEC for the Ladehammeren waste water treatment plant and for coordinated treatment demands for both the Høvringen and Ladehammeren waste water treatment plants, defined as treatment as a reduction of the total suspended solids in the incoming waste water by at least 70 % or alternatively, a maximum suspended solid concentration of 60 mg/l combined with a reduction in biochemical oxygen demand of at least 20 %.

⁽¹⁾ OJ L 135, 30.5.1991, p. 40.

- (6) On 9 February 2012, the Authority met with representatives from the Ministry of the Environment and Trondheim municipality. At that meeting, a revision of the terms of the derogation for the Høvringen waste water treatment plant was discussed along with a request for a derogation under Article 8(5) of Directive 91/271/EEC concerning the discharges of urban waste water from the Ladehammeren waste water treatment plant in the agglomeration of Trondheim into the Trondheim's fjord.
- (7) By letter dated 25 June 2012 (Document No 638245), the Authority sent a request to Norway asking it to provide more detailed information in support of the two derogation requests to allow the applications to be considered.
- (8) On 9 November 2012 (Document No 653035) Norway replied to that request, providing various documents in support of its application.
- (9) At the request of the Authority, Norway submitted additional information in support of the application on 28 January 2014 (Document No 697161), 29 January 2014 (Document No 697372), 29 October 2014 (Document No 728105), 12 January 2015 (Document No 734689), 16 January 2015 (Document No 741891), 8 April 2016 (Document No 799935) and 9 September 2016 (Document No 818158).
- (10) The requirements for discharges from waste water treatment plants set in Directive 91/271/EEC focus on oxygen demand arising from degradation of dissolved and particulate organic matter supplied from land or by biological production.
- (11) Trondheim fjord has a large capacity to decompose organic loads, given its large water depth, large water volume and efficient water exchange with the deep ocean area outside the fjord mouth, which ensures a regular supply of oxygen-rich Atlantic water from the Norwegian Sea.
- (12) The sewage collection system in Trondheim is divided into two waste districts, Høvringen and Lade, which, between them, receive about 99 % of the city's waste water. Taking advantage of that hydrodynamic regime, the waste water outlets at both waste water treatment plants are constructed with a diffuser system for deep water release that provides safe entrapment of diluted waste water below the surface layer, preventing eutrophication processes to occur in the surface layer and in the deep water masses and sediments.
- (13) The final treated effluent from the Høvringen waste water treatment plant is released on the west side of Trondheim bay, with the final treatment effluent from the Ladehammeren waste water treatment plant released on the east side of the Trondheim bay.
- (14) The assessment carried out by the Authority demonstrates that, based on the design of the discharge pipes and on the monitoring undertaken, neither the discharge from the Høvringen nor the Ladehammeren waste water treatment plants appears to reach or impact on the biologically productive surface layer of Trondheim bay.
- (15) Moreover, the results of water quality studies undertaken have demonstrated that the final treated effluent discharge from both the Høvringen and the Ladehammeren waste water treatment plants does not have a noticeable impact on water quality within Trondheim bay. There is no evidence that the waters of Trondheim Bay are suffering with eutrophication and no evidence that the final treated effluent discharge from either of the waste water treatment plants is impacting on the soft-bottom fauna.
- (16) The technical assessment carried out by the Authority further shows that the results of bottom sediment studies that have identified heavy metal and organic pollutants do not appear to be linked to the final treated effluent discharge from either the Høvringen or Ladehammeren waste water treatment plants.
- (17) Notwithstanding this, discharges from the waste water treatment plants contain heavy metals and organic micro-pollutants dissolved in the water or associated with particles in the effluents and the application of chemical and/or biological treatment would reduce to some degree the discharges of heavy metals and organic micro-pollutants.
- (18) The Authority considers that, in line with the decision by Trondheim City Council of 20 February 2010, an appropriate treatment of the urban waste water should define treatment as a reduction of the total suspended solids in the incoming waste water by at least 70 % or alternatively, a maximum suspended solid concentration of 60 mg/l combined with a reduction in biochemical oxygen demand of at least 20 %.

- (19) The overall technical assessment commissioned by the Authority concludes that the treated effluent from both the Høvringen and the Ladehammeren waste water treatment plants did not appear to have any measurable environmental impacts. The environmental modelling and modelling simulations of the impacts of secondary treatment at both waste water treatment plants compared with primary treatment have not demonstrated that more advanced treatment will produce any tangible environmental benefits beyond this.
- (20) In its decision of 19 December 2007 granting an Article 8(5) derogation to the Høvringen urban waste water treatment plant, the Authority stipulated that the application of chemical and/or biological treatment at the Høvringen urban waste water treatment plant would reduce to some degree the discharges of heavy metals and organic micro-pollutants. One of the conditions of that decision was that the treatment of urban waste water from the plant should ensure a reduction of total suspended solids in the incoming waste water by at least 80 % before discharge and that there be a minimum percentage reduction in biochemical oxygen demand ⁽¹⁾ of 20 %.
- (21) Having analysed the results provided in respect of the Høvringen urban waste water treatment plant, the Authority found that these are insufficient to ensure compliance with the conditions attached to the 2007 derogation decision. As such, the Authority concludes that the conditions set out in its original decision of 19 December 2007 to grant a derogation have not been met. For this reason, the Authority considers that the derogation decision in respect of the Høvringen waste water treatment plant should be revoked.
- (22) In accordance with the procedure laid down in Article 18(2) of Directive 91/271/EC, and as further prescribed for in the Decisions of the Standing Committee of the EFTA States No 3/2012/SC and 4/2012/SC of 26 October 2012, the Authority submitted a draft of the present decision to the EFTA Environment Committee by letter of 8 December 2016. In accordance with the Rules of Procedure of the Committee, the draft decision was deemed to have been approved on 26 January 2017.
- (23) The College Member with special responsibility for environmental matters has been empowered ⁽²⁾, on behalf of the Authority and under its responsibility, to adopt the measures, if the draft measures to be adopted are, as in the present case, in accordance with the opinion delivered by the EFTA Environment Committee assisting the Authority.

HAS ADOPTED THIS DECISION:

1. The request by Norway under Article 8(5) of the Act referred to at point 13 of Annex XX to the EEA Agreement (*Council Directive 91/271/EEC of 21 May 1991 concerning urban waste water treatment*) to be permitted to provide, for the Ladehammeren waste water treatment plant in the agglomeration of Trondheim, less stringent waste water treatment than prescribed in Article 4 of that Act is accepted under the conditions set out in paragraphs 2 to 7 here below.
2. The urban waste water from the Ladehammeren waste water treatment plant in the agglomeration of Trondheim shall, prior to discharge in the receiving waters, be subject to the treatment set out in the Annex to this Decision no later than 31 December 2017.
3. A strategy to reduce the load of heavy metals and micro-pollutants to the sewage system and prevent further contamination of urban waste water by heavy metals and micro-pollutants shall be developed by 30 June 2017. The plan, which shall be monitored by the Norwegian competent authority shall include the obligation to:
 - carry out surveys and monitoring to identify potential sources of contamination and local polluters;
 - design action plans to terminate contamination from sources of contamination and local polluters;
 - apply countermeasures towards the polluters identified and to remove environmental pollutants at source.
4. The Authority's decision of 19 December 2007 (725/07/COL), to accept Norway's request for a derogation under Article 8(5) of Directive 91/271/EEC, is hereby revoked.
5. Acting in accordance with Article 15(3) of the Act, the Norwegian competent authority shall monitor and carry out all other relevant studies to verify that the discharge does not adversely affect the environment.

⁽¹⁾ BOD 5 at 20 °C.

⁽²⁾ Decision No 17/94/COL of 23 September 1994 (Document No 624326).

6. Every two years, commencing on 31 January 2018, the Norwegian Government shall provide the Authority with a report containing the results of the monitoring carried out during the previous period, according to the provisions of paragraphs 3 and 4 here above, in particular concerning the measures taken to prevent the contamination of the sewage collecting system by heavy metals and micro-pollutants. The report shall also include explanations of any failure to meet the requirements of this Decision.
7. Following each reporting period referred to in paragraph 6, or whenever new developments occur, the Authority shall re-evaluate the situation and shall, if necessary, submit a proposal for a new decision to the EFTA Environment Committee assisting the Authority.
8. This Decision shall be published in the EEA Section of the *Official Journal of the European Union* and in the EEA Supplement.
9. The decision shall enter into force upon notification to Norway.
10. This Decision shall be authentic in the English language.
11. This Decision is addressed to Norway.

Done at Brussels, 9 February 2017.

For the EFTA Surveillance Authority

Helga JÓNSDÓTTIR

College Member

Carsten ZATSCHLER

Director

ANNEX

Requirements for the discharge from the Ladehammeren urban waste water treatment plant in the agglomeration of Trondheim

Parameter	Option 1	Option 2	
	Minimum Percentage Reduction (*)	Minimum Percentage Reduction (*)	Maximum Effluent Concentration (mg/l)
Biochemical oxygen demand (BOD 5 at 20 °C) without nitrification	N/A	20	N/A
Total suspended solids	70	N/A	60

(*) Reduction in relation to the concentration of raw (untreated) influent.

