

Official Journal of the European Union

L 134



English edition

Legislation

Volume 62

22 May 2019

Contents

II *Non-legislative acts*

REGULATIONS

- ★ **Commission Delegated Regulation (EU) 2019/819 of 1 February 2019 supplementing Regulation (EU) No 346/2013 of the European Parliament and of the Council with regard to conflicts of interest, social impact measurement and information to investors in the area of European social entrepreneurship funds ⁽¹⁾ 1**
- ★ **Commission Delegated Regulation (EU) 2019/820 of 4 February 2019 supplementing Regulation (EU) No 345/2013 of the European Parliament and of the Council with regard to conflicts of interest in the area of European venture capital funds ⁽¹⁾ 8**
- ★ **Commission Delegated Regulation (EU) 2019/821 of 12 March 2019 amending Regulation (EU) 2016/1076 of the European Parliament and of the Council in order to include the Independent State of Samoa in Annex I 12**
- ★ **Commission Implementing Regulation (EU) 2019/822 of 17 May 2019 concerning the classification of certain goods in the Combined Nomenclature 13**
- ★ **Commission Implementing Regulation (EU) 2019/823 of 17 May 2019 concerning the classification of certain goods in the Combined Nomenclature 16**

DECISIONS

- ★ **Council Decision (EU) 2019/824 of 14 May 2019 on the position to be taken on behalf of the European Union in the Extended Commission of the Convention for the Conservation of Southern Bluefin Tuna (CCSBT), and repealing the Decision of 12 June 2014 on the position to be adopted, on behalf of the Union, in the CCSBT 19**

⁽¹⁾ Text with EEA relevance.

EN

Acts whose titles are printed in light type are those relating to day-to-day management of agricultural matters, and are generally valid for a limited period.

The titles of all other acts are printed in bold type and preceded by an asterisk.

II

(Non-legislative acts)

REGULATIONS

COMMISSION DELEGATED REGULATION (EU) 2019/819

of 1 February 2019

supplementing Regulation (EU) No 346/2013 of the European Parliament and of the Council with regard to conflicts of interest, social impact measurement and information to investors in the area of European social entrepreneurship funds

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 346/2013 of the European Parliament and of the Council of 17 April 2013 on European social entrepreneurship funds ⁽¹⁾, and in particular Article 9(5), Article 10(2) and Article 14(4) thereof,

Whereas:

- (1) Managers of qualifying social entrepreneurship funds should adopt procedures and measures to ensure that persons engaged in such business activities carry out those activities in the best interests of the qualifying social entrepreneurship funds and their investors. To achieve a harmonised level of investor protection in the Union, and to enable those managers to adopt and follow a consistent and effective practice to prevent, monitor and manage conflicts of interest, a minimum set of steps should be listed in their conflicts of interest policy. To avoid unnecessary administrative burdens while ensuring an appropriate level of investor protection, the conflicts of interest policies should be adapted to the nature, scale and complexity of the managers' businesses.
- (2) The procedures and measures set out in the conflicts of interest policies may be insufficient to protect the interests of the qualifying social entrepreneurship fund or its investors, in which case managers of qualifying social entrepreneurship funds should take necessary additional steps to protect those interests. Those steps should include informing the senior management or other competent internal body of the qualifying social entrepreneurship fund, and taking the necessary decisions or actions to act in the best interest of the qualifying social entrepreneurship fund or its investors.
- (3) Managers of qualifying social entrepreneurship funds may be active in the management of companies in which the qualifying social entrepreneurship funds invest. To prevent conflicts of interest and to ensure that those managers' voting rights are exercised for the benefit of both the qualifying social entrepreneurship fund concerned and its investors, it is necessary to specify detailed requirements in relation to the exercise of those voting rights. To ensure a sufficient standard of investor protection, managers of qualifying social entrepreneurship funds should develop adequate and effective strategies in that respect and provide upon request a summary of those strategies and the actions they have taken.
- (4) To secure the effectiveness of the disclosure of conflicts of interest, the information provided should be regularly updated. Given the inherent risks of using a website as a tool to disclose conflicts of interest, it is necessary to lay down criteria for the publication of that information.

⁽¹⁾ OJ L 115, 25.4.2013, p. 18.

- (5) To ensure a consistent approach as regards procedures used by managers of qualifying social entrepreneurship funds to measure the achievement of positive social impact by the qualifying portfolio undertakings, specific elements should be incorporated in those procedures. The resources used by the qualifying portfolio undertakings as well as the products and services made available by those undertakings are key indicators of positive social impact, which should therefore form an integral part of those procedures. To distinguish social enterprises from undertakings that achieve social objectives only incidentally, an evaluation of the outcomes generated by the qualifying portfolio undertakings should also form part of those procedures.
- (6) It should be ensured that the pre-contractual information provided to investors contains sufficient details about the qualifying social entrepreneurship fund. The description of the investment strategy and objectives of the qualifying social entrepreneurship fund should therefore contain descriptions of the social sectors, the geographical areas and the legal forms of the qualifying portfolio undertakings in which the qualifying social entrepreneurship fund intends to invest, as well as information on the distribution of those undertakings' profits.
- (7) Investors should be provided with the information necessary to assess the underlying methodologies used by the manager of the qualifying social entrepreneurship fund to measure social impact. The pre-contractual information should therefore specify whether the manager of the qualifying social entrepreneurship relied upon internal methodologies, or used generally accepted methodologies. Pre-contractual information should also contain a description of the main features of the methodologies, including the screening criteria, the relevant indicators and an explanation of how the manager of the qualifying social entrepreneurship fund ensures compliance with those methodologies.
- (8) Investors should be able to verify whether the manager of the qualifying social entrepreneurship fund follows the investment policy when selecting non-qualifying assets. The pre-contractual information should therefore include information about the types of non-qualifying assets in which the qualifying social entrepreneurship fund invests, investment techniques, relevant restrictions, and the sector of activity and the geographical area in which those investments are made.
- (9) In the interest of transparency, investors should be provided with the information necessary to assess the nature and extent of the business support services and the other support activities the manager of a qualifying social entrepreneurship fund is providing or arranging through third parties. Pre-contractual information on business support services and the other support activities should therefore describe the types of the services and activities it provides.
- (10) To enable managers of qualifying social entrepreneurship funds to adapt to the new requirements, the date of application of this Regulation should be deferred by six months,

HAS ADOPTED THIS REGULATION:

Article 1

Types of conflict of interest

For the purposes of Article 9(2) of Regulation (EU) No 346/2013, the types of conflict of interest shall be situations where a manager of a qualifying social entrepreneurship fund, a person who effectively conducts the business of that manager, an employee, or any person who directly or indirectly controls or is controlled by that manager, by another qualifying social entrepreneurship fund or a collective investment undertaking, including an undertaking for collective investment in transferable securities (UCITS), managed by the same manager, or the investor therein:

- (a) is likely to make a financial gain, or avoid a financial loss, at the expense of the qualifying social entrepreneurship fund or its investors;
- (b) has an interest in the outcome of a service or an activity provided to the qualifying social entrepreneurship fund or to its investors which is distinct from the interest of the qualifying social entrepreneurship fund or its investors;
- (c) has an interest in the outcome of a transaction carried out on behalf of the qualifying social entrepreneurship fund or its investors which is distinct from the interest of the qualifying social entrepreneurship fund or its investors;

- (d) has a financial or other incentive to favour:
 - (i) the interest of an investor, a group of investors or another collective investment undertaking, including a UCITS, over the interest of the qualifying social entrepreneurship fund or its investors;
 - (ii) the interest of one investor in the qualifying social entrepreneurship fund over the interest of another investor or group of investors in that fund;
- (e) carries out the same activities for the qualifying social entrepreneurship fund, another collective investment undertaking, including a UCITS, or an investor;
- (f) pays or is paid any fee or commission, or provides or is provided with any non-monetary benefits, other than those laid down in Article 24(1) of Commission Delegated Regulation (EU) No 231/2013 ⁽²⁾;
- (g) influences and has a personal interest in influencing the development of a qualifying portfolio undertaking to the disadvantage of the qualifying social entrepreneurship fund or its investors or at the expense of the achievement of the objectives of the qualifying social entrepreneurship fund.

Article 2

Conflicts of interest policy

1. A manager of a qualifying social entrepreneurship fund shall establish, implement and maintain a written conflicts of interest policy that is appropriate to the size and organisational structure of that manager given the nature, scale and complexity of its business.
2. The conflicts of interest policy referred to in paragraph 1 shall identify, in line with Article 1, the circumstances that may give rise to a conflict of interest and shall specify the measures to be adopted and the procedures to be followed on an ongoing basis.

Article 3

Procedures and measures to prevent, manage and monitor conflicts of interest

The measures to be adopted and procedures to be followed referred to in Article 2(2) shall include at least the following steps:

- (a) the prohibition of the exchange of information between the persons or entities referred to in Article 1, where such an exchange of information could lead to or facilitate a conflict of interest;
- (b) the separation of the supervision of persons or entities referred to in Article 1 whose interests may conflict;
- (c) the removal of the connection between or dependence on the remuneration of the persons or entities referred to in Article 1 principally engaged in one activity, and the remuneration of, or revenues generated by, persons or entities principally engaged in another activity, where a conflict of interest may arise in relation to those activities;
- (d) the prevention of persons or entities referred to in Article 1 from exercising inappropriate influence over the management of the qualifying social entrepreneurship fund;
- (e) the prevention or control of the involvement of persons or entities referred to in Article 1 in any activity that may lead to a conflict of interest.

⁽²⁾ Commission Delegated Regulation (EU) No 231/2013 of 19 December 2012 supplementing Directive 2011/61/EU of the European Parliament and of the Council with regard to exemptions, general operating conditions, depositaries, leverage, transparency and supervision (OJ L 83, 22.3.2013, p. 1).

*Article 4***Managing the consequences of conflicts of interest**

Where the measures and procedures set out in the conflicts of interest policy pursuant to Article 2(2) and Article 3 are insufficient to prevent, with reasonable confidence, the risks of damage to the interests of the qualifying social entrepreneurship fund or its investors, managers of a qualifying social entrepreneur fund shall take the following steps:

- (a) promptly inform their senior management or other competent internal body, or the senior management or other competent internal body of the qualifying social entrepreneurship fund, of the risk of damage to the interests of that fund or its investors;
- (b) take any decision or action to ensure that they act in the best interest of the qualifying social entrepreneurship fund or its investors.

*Article 5***Strategies for the exercise of voting rights to prevent conflicts of interest**

1. Managers of qualifying social entrepreneurship funds shall develop in writing adequate and effective strategies for determining when and how to exercise voting rights held in the qualifying social entrepreneurship fund portfolio for the benefit of both the qualifying social entrepreneurship fund concerned and its investors.

2. The strategies referred to in paragraph 1 shall determine the measures to be adopted and procedures to be followed and shall include at least the following steps:

- (a) monitoring of relevant corporate actions;
- (b) ensuring that the exercise of voting rights is in accordance with the investment objectives and policy of the qualifying social entrepreneurship fund;
- (c) prevention and management of any conflicts of interest arising from the exercise of those voting rights.

3. Managers of qualifying social entrepreneurship funds shall upon request, provide investors with a summary description of the strategies referred to in paragraphs 1 and 2 and the details of the actions taken pursuant to those strategies.

*Article 6***Disclosure of conflicts of interest**

1. Managers of qualifying social entrepreneurship funds shall provide the information referred to in Article 9(4) of Regulation (EU) No 346/2013 in a durable medium as referred to in point (m) of Article 2(1) of Directive 2009/65/EC of the European Parliament and of the Council ⁽³⁾ and keep that information up to date.

2. Managers of qualifying social entrepreneurship funds may provide the information referred to in paragraph 1 by means of a website, without addressing that information personally to the investor, provided that all of the following conditions are satisfied:

- (a) the investors have been notified of the address of the website and of the place on the website where the information can be accessed;
- (b) the investors have consented to the provision of that information by means of a website;
- (c) the information is continuously accessible on the website for such period of time as the investors may reasonably need to access it.

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

*Article 7***Procedures to measure positive social impact**

1. Managers of qualifying social entrepreneurship funds shall ensure that the procedures referred to in Article 10(1) of Regulation (EU) No 346/2013 contain at least the following:

- (a) an evaluation of resources used by the qualifying portfolio undertakings;
- (b) an evaluation of products and services made available by the qualifying portfolio undertakings;
- (c) an evaluation of outcomes attributable to the activities of the qualifying portfolio undertakings.

For the purposes of point (c) of the first subparagraph, outcomes which would have happened anyway and outcomes attributable to third parties shall not be attributable to the activities of the qualifying portfolio undertakings.

2. Evidence supporting the evaluations referred to in paragraph 1 shall be subject to audit in accordance with Article 13(3) of Regulation (EU) No 346/2013.

*Article 8***Description of the investment strategy and objectives**

1. The information referred to in point (i) of Article 14(1)(c) of Regulation (EU) No 346/2013 shall contain at least the following:

- (a) the social sector or sectors in which the qualifying portfolio undertakings are active;
- (b) the geographical area in which the qualifying portfolio undertakings are active;
- (c) the legal forms of the qualifying portfolio undertakings;
- (d) a detailed description of the distribution of the qualifying portfolio undertakings' profits.

2. The information referred to in points (ii) and (iii) of Article 14(1)(c) of Regulation (EU) No 346/2013 shall contain information about at least the investment profile of the other qualifying social entrepreneurship fund and the information supplied by the qualifying social entrepreneurship fund in accordance with paragraph 1 of this Article.

3. The information referred to in point (iv) of Article 14(1)(c) of Regulation (EU) No 346/2013 shall contain information about at least the types of assets in which the qualifying social entrepreneurship fund invests.

4. The information referred to in point (v) of Article 14(1)(c) of Regulation (EU) No 346/2013 shall contain information on, at least, whether the techniques include equity instruments, quasi-equity instruments, securitised or unsecuritised debt instruments, secured or unsecured loans or any other type of participation in qualifying portfolio undertakings.

5. The information referred to in point (vi) of Article 14(1)(c) of Regulation (EU) No 346/2013 shall contain information on, at least, whether the investment strategy of the qualifying social entrepreneurship fund contains any investment restrictions in terms of sectors, activities, geographical areas, investment percentages or limits, or any other restrictions.

*Article 9***Information on positive social impact**

1. The information referred to in Article 14(1)(d) of Regulation (EU) No 346/2013 shall specify targeted products and services to be provided by the qualifying portfolio undertakings in which the qualifying social entrepreneurship fund invests.

2. Where the information referred to in Article 14(1)(d) of Regulation (EU) No 346/2013 contains information on projections of positive social impacts, it shall describe the assumptions on the basis of which those projections are calculated.

3. Where the information referred to in Article 14(1)(d) of Regulation (EU) No 346/2013 contains information on past performance in terms of positive social impact, it shall contain a copy of the most recent annual report, or a summary of the relevant information contained in the annual report referred to in Article 13(2) of Regulation (EU) No 346/2013.

Article 10

Information on methodologies used to measure social impact

The information referred to in Article 14(1)(e) of Regulation (EU) No 346/2013 shall contain at least the following:

- (a) a declaration as to whether social impacts are measured on the basis of internal methodologies or other generally accepted methodologies;
- (b) a description of the main features of the methodologies including the screening criteria and the relevant indicators used to measure social impacts.

Article 11

Description of non-qualifying assets

The information referred to in Article 14(1)(f) of Regulation (EU) No 346/2013 shall contain at least a description of all of the following:

- (a) investment techniques and applicable investment restrictions;
- (b) the sector or sectors of activity of the non-qualifying portfolio undertakings;
- (c) the geographical area in which the non-qualifying portfolio undertakings are active;
- (d) the criteria to be used in selecting the types of assets.

Article 12

Information about support services

The information referred to in Article 14(1)(l) of Regulation (EU) No 346/2013 shall contain at least:

- (a) a description of the types of business support services and other support activities;
- (b) information about whether the business support services and other support activities are provided by third parties.

Article 13

Entry into force and application

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

It shall apply from 11 December 2019.

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

Done at Brussels, 1 February 2019.

For the Commission

The President

Jean-Claude JUNKER

COMMISSION DELEGATED REGULATION (EU) 2019/820
of 4 February 2019
supplementing Regulation (EU) No 345/2013 of the European Parliament and of the Council with
regard to conflicts of interest in the area of European venture capital funds
(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 345/2013 of the European Parliament and of the Council of 17 April 2013 on European venture capital funds ⁽¹⁾, and in particular Article 9(5) thereof,

Whereas:

- (1) To ensure effective control and management of conflicts of interest in the area of European venture capital funds, it is important to specify the situations where conflicting interests are likely to occur.
- (2) In the context of qualifying venture capital funds, the types of conflict of interest differ depending on the role, interests and incentives of the persons involved. To facilitate the identification of conflicts of interest in that context, it is necessary to establish a list of situations deemed to give rise to conflicts of interest. That list should be sufficiently broad to cover any type of conflict of interest that may arise in the area of European venture capital funds. Therefore, the types of conflict of interest should include situations where there is a prospect of financial gain or avoidance of financial loss, or where incentives are provided in a way that favours particular interests at the expense of the interests of the qualifying venture capital fund or investors therein.
- (3) Managers of qualifying venture capital funds should adopt procedures and measures to ensure that persons engaged in such business activities carry out those activities in the best interests of the qualifying venture capital funds and their investors. To achieve a harmonised level of investor protection in the Union, and to enable those managers to adopt and follow a consistent and effective practice to prevent, monitor and manage conflicts of interest, a minimum set of steps should be listed in their conflicts of interest policy. To avoid unnecessary administrative burdens while ensuring an appropriate level of investor protection, the conflicts of interest policies should be adapted to the nature, scale and complexity of the managers' businesses.
- (4) The procedures and measures set out in the conflicts of interest policies may be insufficient to protect the interests of the qualifying venture capital fund or its investors, in which case managers of qualifying venture capital funds should take the necessary additional steps to protect those interests. Those steps should include informing the senior management or other competent internal body of the qualifying venture capital fund, and taking the necessary decisions or actions to act in the best interest of the qualifying venture capital or its investors.
- (5) Managers of qualifying venture capital funds may be active in the management of companies in which the qualifying venture capital funds invest. To prevent conflicts of interest and to ensure that those managers' voting rights are exercised for the benefit of both the qualifying venture capital fund concerned and its investors, it is necessary to specify detailed requirements in relation to the exercise of those voting rights. To ensure a sufficient standard of investor protection, managers of qualifying venture capital funds should develop adequate and effective strategies in that respect and provide upon request a summary of those strategies and the actions they have taken.

⁽¹⁾ Regulation (EU) No 345/2013 of the European Parliament and of the Council of 17 April 2013 on European venture capital funds (OJ L 115, 25.4.2013, p. 1).

- (6) To secure the effectiveness of the disclosure of conflicts of interest, the information provided should be regularly updated. Given the inherent risks of using a website as a tool to disclose conflicts of interest, it is necessary to lay down criteria for the publication of that information on a website.
- (7) To enable managers of qualifying venture capital funds to adapt to the new requirements, the date of application of this Regulation should be deferred by six months,

HAS ADOPTED THIS REGULATION:

Article 1

Types of conflict of interest

For the purposes of Article 9(2) of Regulation (EU) No 345/2013, the types of conflict of interest shall be situations where a manager of a qualifying venture capital fund, a person who effectively conducts the business of that manager, an employee, or any person who directly or indirectly controls or is controlled by that manager by another qualifying venture capital fund or a collective investment undertaking, including an undertaking for collective investment in transferable securities (UCITS), managed by the same manager, or the investor therein,

- (a) is likely to make a financial gain, or avoid a financial loss, at the expense of the qualifying venture capital fund or its investors;
- (b) has an interest in the outcome of a service or an activity provided to the qualifying venture capital fund or to its investors which is distinct from the interest of the qualifying venture capital fund or its investors;
- (c) has an interest in the outcome of a transaction carried out on behalf of the qualifying venture capital fund or its investors which is distinct from the interest of the qualifying venture capital fund or its investors;
- (d) has a financial or other incentive to favour:
 - the interest of an investor, a group of investors or another collective investment undertaking, including a UCITS, over the interest of the qualifying venture capital fund or its investors;
 - the interest of one investor in the qualifying venture capital fund over the interest of another investor or group of investors in that fund;
- (e) carries out the same activities for the qualifying venture capital fund, another collective investment undertaking, including a UCITS, or an investor;
- (f) pays or is paid any fee or commission, or provides or is provided with any non-monetary benefits, other than those laid down in Article 24(1) of Commission Delegated Regulation (EU) No 231/2013 ⁽²⁾;
- (g) influences and has a personal interest in influencing the development of a qualifying portfolio undertaking to the disadvantage of the qualifying venture capital fund or its investors or at the expense of the achievement of the objectives of the qualifying venture capital fund.

Article 2

Conflicts of interest policy

1. A manager of a qualifying venture capital fund shall establish, implement and maintain a written conflicts of interest policy that is appropriate to the size and organisational structure of that manager given the nature, scale and complexity of its business.
2. The conflicts of interest policy referred to in paragraph 1 shall identify, in line with Article 1, the circumstances that may give rise to a conflict of interest and shall specify the measures to be adopted and the procedures to be followed on an ongoing basis.

⁽²⁾ Commission Delegated Regulation (EU) No 231/2013 of 19 December 2012 supplementing Directive 2011/61/EU of the European Parliament and of the Council with regard to exemptions, general operating conditions, depositaries, leverage, transparency and supervision (OJ L 83, 22.3.2013, p. 1).

*Article 3***Procedures and measures to prevent, manage and monitor conflicts of interest**

The measures to be adopted and procedures to be followed referred to in Article 2(2) shall include at least the following steps:

- (a) the prohibition of the exchange of information between the persons or entities referred to in Article 1, where such an exchange of information could lead to or facilitate a conflict of interest;
- (b) the separation of the supervision of persons or entities referred to in Article 1 whose interests may conflict;
- (c) the removal of the connection between or dependence on the remuneration of the persons or entities referred to in Article 1 principally engaged in one activity, and the remuneration of, or revenues generated by, persons or entities principally engaged in another activity, where a conflict of interest may arise in relation to those activities;
- (d) the prevention of persons or entities referred to in Article 1 from exercising inappropriate influence over the management of the qualifying venture capital fund;
- (e) the prevention or control of the involvement of persons or entities referred to in Article 1 in any activity that may lead to a conflict of interest.

*Article 4***Managing the consequences of conflicts of interest**

Where the measures and procedures set out in the conflicts of interest policy pursuant to Article 2(2) and Article 3 are insufficient to prevent, with reasonable confidence, the risks of damage to the interests of the qualifying venture capital fund or its investors, managers of a qualifying venture capital fund shall take the following steps:

- (a) promptly inform their senior management or other competent internal body, or the senior management or other competent internal body of the qualifying venture capital fund, of the risk of damage to the interests of that fund or its investors;
- (b) take any decision or action to ensure that they act in the best interest of the qualifying venture capital fund or its investors.

*Article 5***Strategies for the exercise of voting rights to prevent conflicts of interest**

1. Managers of qualifying venture capital funds shall develop in writing adequate and effective strategies for determining when and how to exercise voting rights held in the qualifying venture capital fund portfolio for the benefit of both the qualifying venture capital fund concerned and its investors.

2. The strategies referred to in paragraph 1 shall determine the measures to be adopted and procedures to be followed and shall include at least the following steps:

- (a) monitoring of relevant corporate actions;
- (b) ensuring that the exercise of voting rights is in accordance with the investment objectives and policy of the qualifying venture capital fund;
- (c) prevention and management of any conflicts of interest arising from the exercise of those voting rights.

3. Managers of qualifying venture capital funds shall upon request, provide investors with a summary description of the strategies referred to in paragraphs 1 and 2 and the details of the actions taken pursuant to those strategies.

*Article 6***Disclosure of conflicts of interest**

1. Managers of qualifying venture capital funds shall provide the information referred to in Article 9(4) of Regulation (EU) No 345/2013 in a durable medium as referred to in point (m) of Article 2(1) of Directive 2009/65/EC of the European Parliament and of the Council ⁽³⁾ and keep that information up to date.
2. Managers of qualifying venture capital funds may provide the information referred to in paragraph 1 by means of a website, without addressing that information personally to the investor, provided that all of the following conditions are satisfied:
 - (a) the investors have been notified of the address of the website and of the place on the website where the information can be accessed;
 - (b) the investors have consented to the provision of that information by means of a website;
 - (c) the information is continuously accessible on the website for such period of time as the investors may reasonably need to access it.

*Article 7***Entry into force and application**

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

It shall apply from 11 December 2019.

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

Done at Brussels, 4 February 2019.

For the Commission
The President
Jean-Claude JUNKER

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

COMMISSION DELEGATED REGULATION (EU) 2019/821**of 12 March 2019****amending Regulation (EU) 2016/1076 of the European Parliament and of the Council in order to include the Independent State of Samoa in Annex I**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2016/1076 of the European Parliament and of the Council of 8 June 2016 applying the arrangements for products originating in certain states which are part of the African, Caribbean and Pacific (ACP) Group of States provided for in agreements establishing, or leading to the establishment of, Economic Partnership Agreements ⁽¹⁾, and in particular Article 2(2) thereof,

Whereas:

- (1) Annex I to Regulation (EU) 2016/1076 lists the countries to which the market access arrangements provided for by that Regulation apply.
- (2) On 6 December 2018, the Council approved, on behalf of the Union, the accession of Samoa to the interim Economic Partnership Agreement between the Union and the Pacific States. Following Samoa's deposition of its Act of Accession, the interim Economic Partnership Agreement is provisionally applied between the Union and Samoa from 31 December 2018.
- (3) Therefore the Independent State of Samoa should be included in Annex I,

HAS ADOPTED THIS REGULATION:

Article 1

In Annex I to Regulation (EU) 2016/1076 the following is inserted after the words 'SAINT VINCENT AND THE GRENADINES':

'THE INDEPENDENT STATE OF SAMOA'.

Article 2

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

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

Done at Brussels, 12 March 2019.

For the Commission

The President

Jean-Claude JUNKER

⁽¹⁾ OJ L 185, 8.7.2016, p. 1.

COMMISSION IMPLEMENTING REGULATION (EU) 2019/822
of 17 May 2019
concerning the classification of certain goods in the Combined Nomenclature

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code ⁽¹⁾, and in particular Article 57(4) and Article 58(2) thereof,

Whereas:

- (1) In order to ensure uniform application of the Combined Nomenclature annexed to Council Regulation (EEC) No 2658/87 ⁽²⁾, it is necessary to adopt measures concerning the classification of the goods referred to in the Annex to this Regulation.
- (2) Regulation (EEC) No 2658/87 has laid down the general rules for the interpretation of the Combined Nomenclature. Those rules apply also to any other nomenclature which is wholly or partly based on it or which adds any additional subdivision to it and which is established by specific provisions of the Union, with a view to the application of tariff and other measures relating to trade in goods.
- (3) Pursuant to those general rules, the goods described in column (1) of the table set out in the Annex should be classified under the CN code indicated in column (2), by virtue of the reasons set out in column (3) of that table.
- (4) It is appropriate to provide that binding tariff information issued in respect of the goods concerned by this Regulation which does not conform to this Regulation may, for a certain period, continue to be invoked by the holder in accordance with Article 34(9) of Regulation (EU) No 952/2013. That period should be set at three months.
- (5) The measures provided for in this Regulation are in accordance with the opinion of the Customs Code Committee,

HAS ADOPTED THIS REGULATION:

Article 1

The goods described in column (1) of the table set out in the Annex shall be classified within the Combined Nomenclature under the CN code indicated in column (2) of that table.

Article 2

Binding tariff information which does not conform to this Regulation may continue to be invoked in accordance with Article 34(9) of Regulation (EU) No 952/2013 for a period of three months from the date of entry into force of this Regulation.

Article 3

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

⁽¹⁾ OJ L 269, 10.10.2013, p. 1.

⁽²⁾ Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 256, 7.9.1987, p. 1).

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

Done at Brussels, 17 May 2019.

*For the Commission,
On behalf of the President,
Stephen QUEST
Director-General
Directorate-General for Taxation and Customs Union*

ANNEX

Description of the goods	Classification (CN-code)	Reasons
(1)	(2)	(3)
An article (so-called 'screw pile') of circular cross section, approximately 55 cm long with an external diameter of 6 cm, made of hot dip galvanised sheets of steel. One end of the pile is conical and threaded, the other end has a U-shaped element with holes to take screws. The article is designed to be twisted into the ground or other underlying material, and then to permanently secure wooden posts of structures (once they are put into position they remain in that position) by fitting them into the U-shaped element and holding them in place by screws. Screw piles are used in timber construction, solar power systems, garden and event structures, fencing systems, boards and banners, etc. See image ⁽¹⁾	7308 90 59	Classification is determined by general rules 1 and 6 for the interpretation of the Combined Nomenclature, Note 3 to Section XV and by the wording of CN codes 7308, 7308 90 and 7308 90 59. The article has the objective characteristics of 'parts of structures' of heading 7308. It is specially designed for assembling the structural elements; once the structure is put in position it remains in that position. It has holes into which screws are inserted, at the time of assembly, to fix the structural elements (see also the Harmonised System Explanatory Notes (HSEN) to heading 7308, paragraph 1). Classification under heading 7326 as other articles of iron or steel is excluded as articles for use in construction fall under heading 7308 (see also the HSEN to heading 7326, point (1)). Consequently, the article is to be classified under CN code 7308 90 59 as parts of structures of steel.

⁽¹⁾ The image is purely for information.



COMMISSION IMPLEMENTING REGULATION (EU) 2019/823
of 17 May 2019
concerning the classification of certain goods in the Combined Nomenclature

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code ⁽¹⁾, and in particular Article 57(4) and Article 58(2) thereof,

Whereas:

- (1) In order to ensure uniform application of the Combined Nomenclature annexed to Council Regulation (EEC) No 2658/87 ⁽²⁾, it is necessary to adopt measures concerning the classification of the goods referred to in the Annex to this Regulation.
- (2) Regulation (EEC) No 2658/87 has laid down the general rules for the interpretation of the Combined Nomenclature. Those rules apply also to any other nomenclature which is wholly or partly based on it or which adds any additional subdivision to it and which is established by specific provisions of the Union, with a view to the application of tariff and other measures relating to trade in goods.
- (3) Pursuant to those general rules, the goods described in column (1) of the table set out in the Annex should be classified under the CN code indicated in column (2), by virtue of the reasons set out in column (3) of that table.
- (4) It is appropriate to provide that binding tariff information issued in respect of the goods concerned by this Regulation which does not conform to this Regulation may, for a certain period, continue to be invoked by the holder in accordance with Article 34(9) of Regulation (EU) No 952/2013. That period should be set at three months.
- (5) The measures provided for in this Regulation are in accordance with the opinion of the Customs Code Committee,

HAS ADOPTED THIS REGULATION:

Article 1

The goods described in column (1) of the table set out in the Annex shall be classified within the Combined Nomenclature under the CN code indicated in column (2) of that table.

Article 2

Binding tariff information which does not conform to this Regulation may continue to be invoked in accordance with Article 34(9) of Regulation (EU) No 952/2013 for a period of three months from the date of entry into force of this Regulation.

Article 3

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

⁽¹⁾ OJ L 269, 10.10.2013, p. 1.

⁽²⁾ Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 256, 7.9.1987, p. 1).

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

Done at Brussels, 17 May 2019.

*For the Commission,
On behalf of the President,
Stephen QUEST
Director-General
Directorate-General for Taxation and Customs Union*

ANNEX

Description of the goods	Classification (CN-code)	Reasons
(1)	(2)	(3)
A made up article of human hair consisting of a strand of dressed human hair bonded at the root ends. The bonded root end of the strand is, without any further processing, ready to be combined with a person's own hair by applying heat. See image (*).	6704 20 00	Classification is determined by general rules 1 and 6 for the interpretation of the Combined Nomenclature and by the wording of CN codes 6704 and 6704 20 00. Due to the bonding at the root ends, the article is considered further processed than specified in heading 6703. Consequently, classification under heading 6703 as human hair, dressed, thinned, bleached or otherwise worked, is excluded. Because of the bonding at the root ends and the fact that the article, without any further processing, is ready to be combined with the person's own hair, it is to be considered a made up article of postiche, which is covered by heading 6704 (see also the Harmonised System Explanatory Notes to heading 6704, paragraph (1), first subparagraph). The article is therefore to be classified under CN code 6704 20 00 as switches and the like, of human hair.

(*) The image is purely for information.



DECISIONS

COUNCIL DECISION (EU) 2019/824

of 14 May 2019

on the position to be taken on behalf of the European Union in the Extended Commission of the Convention for the Conservation of Southern Bluefin Tuna (CCSBT), and repealing the Decision of 12 June 2014 on the position to be adopted, on behalf of the Union, in the CCSBT

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43, in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) By Council Decision (EU) 2015/2437 ⁽¹⁾, the Union concluded the Convention for the Conservation of Southern Bluefin Tuna ⁽²⁾ ('CSBT Convention'), which established the Commission for the Conservation of the Southern Bluefin Tuna (CCSBT).
- (2) The CCSBT is responsible for the management and conservation of the fishery resources in the area of distribution of Southern Bluefin tuna. As the CSBT Convention is restricted to States, the CCSBT has established the 'Extended Commission of the CCSBT' that includes fishing entities and the Union in addition to the CCSBT Members. Within the CCSBT, the Extended Commission of the CCSBT prepares the decisions that the CCSBT formally endorses. The CCSBT adopts conservation and management measures for the conservation, management and optimum utilisation of Southern Bluefin tuna. Such measures may become binding upon the Union.
- (3) Regulation (EU) No 1380/2013 of the European Parliament and of the Council ⁽³⁾ provides that the Union is to ensure that fishing and aquaculture activities are environmentally sustainable in the long term and are managed in a way that is consistent with the objectives of achieving economic, social and employment benefits, and of contributing to the availability of food supplies. It also provides that the Union is to apply the precautionary approach to fisheries management, and is to aim to ensure that exploitation of marine biological resources restores and maintains population of harvested species above levels which can produce the maximum sustainable yield. It further provides that the Union is to take management and conservation measures based on best the available scientific advice, to support the development of scientific knowledge and advice, to gradually eliminate discards and to promote fishing methods that contribute to more selective fishing and the avoidance and reduction, as far as possible, of unwanted catches, to fishing with low impact on marine ecosystem and fishery resources. Furthermore, Regulation (EU) No 1380/2013 specifically provides that those objectives and principles are to be applied by the Union in the conduct of its external fisheries relations.
- (4) As stated in the Joint communication by the High Representative of the Union for Foreign Affairs and Security Policy and the European Commission 'International ocean governance: an agenda for the future of oceans', and the Council conclusions on that Joint communication, the promotion of measures to support and enhance the effectiveness of regional fisheries management organisations (RFMOs) and, where relevant, improve their governance is central to the Union's action in these fora.

⁽¹⁾ Council Decision (EU) 2015/2437 of 14 December 2015 on the conclusion, on behalf of the European Union, of the Agreement in the form of an Exchange of Letters between the European Union and the Commission for the Conservation of Southern Bluefin Tuna (CCSBT) concerning the membership of the Union in the Extended Commission of the Convention for the Conservation of Southern Bluefin Tuna (OJ L 336, 23.12.2015, p. 27).

⁽²⁾ Agreement in the form of an Exchange of Letters between the European Union and the Commission for the Conservation of Southern Bluefin Tuna (CCSBT) concerning the membership of the Union in the Extended Commission of the Convention for the Conservation of Southern Bluefin Tuna (OJ L 234, 8.9.2015, p. 3).

⁽³⁾ Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy, amending Council Regulations (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002 and (EC) No 639/2004 and Council Decision 2004/585/EC (OJ L 354, 28.12.2013, p. 22).

- (5) The Communication from the Commission to the European Parliament, to the Council, to the European Economic and Social Committee and to the Committee of the Regions 'European Strategy for Plastics in a Circular Economy', refers to specific measures to reduce plastics and marine pollution as well as the loss or abandonment at sea of fishing gear.
- (6) It is appropriate to establish the position to be taken on the Union's behalf in the meetings of the CCSBT for the period 2019-2023, as the CCSBT conservation and enforcement measures will be binding on the Union and capable of decisively influencing the content of Union law, namely, Council Regulations (EC) No 1005/2008 ⁽⁴⁾ and (EC) No 1224/2009 ⁽⁵⁾, and Regulation (EU) 2017/2403 of the European Parliament and of the Council ⁽⁶⁾.
- (7) Currently, the position to be taken on the Union's behalf in the meetings of the CCSBT is established by the Council Decision of 12 June 2014 on the position to be adopted, on behalf of the Union, in the CCSBT. It is appropriate to repeal that Decision and to replace it by a new Decision which would cover the period 2019-2023.
- (8) In view of the evolving nature of fishery resources in the area of distribution of Southern Bluefin tuna and the consequent need for the position of the Union to take account of new developments, including new scientific and other relevant information presented before or during the meetings of the CCSBT, procedures should be established, in line with the principle of sincere cooperation among the Union institutions enshrined in Article 13(2) of the Treaty on European Union, for the year-to-year specification of the Union's position for the period 2019-2023,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on the Union's behalf in the meetings of the Extended Commission of the Convention for the Conservation of the Southern Bluefin Tuna (CCSBT) is set out in Annex I.

Article 2

The year-to-year specification of the Union's position to be taken in the meetings of the Extended Commission of the CCSBT shall be conducted in accordance with Annex II.

Article 3

The Union's position set out in Annex I shall be assessed and, where appropriate, revised by the Council upon a proposal from the Commission, at the latest for the annual meeting of the Extended Commission of the CCSBT in 2024.

Article 4

The Council Decision of 12 June 2014 on the position to be adopted, on behalf of the European Union, in the Commission for the Conservation of Southern Bluefin Tuna (CCSBT) is hereby repealed.

⁽⁴⁾ Council Regulation (EC) No 1005/2008 of 29 September 2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing, amending Regulations (EEC) No 2847/93, (EC) No 1936/2001 and (EC) No 601/2004 and repealing Regulations (EC) No 1093/94 and (EC) No 1447/1999 (OJ L 286, 29.10.2008, p. 1).

⁽⁵⁾ Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Union control system for ensuring compliance with the rules of the common fisheries policy, amending Regulations (EC) No 847/96, (EC) No 2371/2002, (EC) No 811/2004, (EC) No 768/2005, (EC) No 2115/2005, (EC) No 2166/2005, (EC) No 388/2006, (EC) No 509/2007, (EC) No 676/2007, (EC) No 1098/2007, (EC) No 1300/2008, (EC) No 1342/2008 and repealing Regulations (EEC) No 2847/93, (EC) No 1627/94 and (EC) No 1966/2006 (OJ L 343, 22.12.2009, p. 1).

⁽⁶⁾ Regulation (EU) 2017/2403 of the European Parliament and of the Council of 12 December 2017 on the sustainable management of external fishing fleets, and repealing Council Regulation (EC) No 1006/2008 (OJ L 347, 28.12.2017, p. 81).

Article 5

This Decision shall enter into force on the date of its adoption.

Done at Brussels, 14 May 2019.

For the Council

The President

P. DAEA

ANNEX I

The position to be taken on the Union's behalf in the Extended Commission of the Convention for the Conservation of Southern Bluefin Tuna (CCSBT)

1. PRINCIPLES

In the framework of the CCSBT, the Union shall:

- (a) act in accordance with the objectives and principles pursued by the Union within the common fisheries policy (CFP), notably through the precautionary approach and the aims related to the maximum sustainable yield as laid down in Article 2(2) of Regulation (EU) No 1380/2013, to promote the implementation of an ecosystem-based approach to fisheries management, to avoid and reduce, as far as possible, unwanted catches, and gradually eliminate discards, and to minimise the impact of fishing activities on marine ecosystems and their habitats, as well as, through the promotion of economically viable and competitive Union fisheries, to provide a fair standard of living for those who depend on fishing activities and take account of the interests of consumers;
- (b) work towards and appropriate involvement of stakeholders in the preparation phase of CCSBT measures and ensure that measures adopted within the CCSBT are in accordance with the CSBT Convention;
- (c) ensure that measures adopted within the CCSBT are consistent with international law, and in particular with the provisions of the 1982 UN Convention on the Law of the Sea, the 1995 UN Agreement relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, the 1993 Agreement to promote compliance with international conservation and management measures by fishing vessels on the high seas, and the 2009 Food and Agriculture Organization Port State Measures Agreement;
- (d) promote positions consistent with the best practices of regional fisheries management organisations (RFMOs) in the same area;
- (e) seek consistency and synergy with the policy that the Union is pursuing as part of its bilateral fisheries relations with third countries, and ensure coherence with its other policies notably in the field of external relations, employment, environment, trade, development, research and innovation;
- (f) ensure that the Union's international commitments are respected;
- (g) be in line with the Council Conclusions of 19 March 2012 on the Commission Communication on the external dimension of the common fisheries policy ⁽¹⁾;
- (h) aim to create a level playing field for the Union fleet within the area of distribution of Southern Bluefin tuna based on the same principles and standards as those applicable under Union law, and to promote the uniform implementation of those principles and standards;
- (i) be in line with the Council conclusions ⁽²⁾ on the Joint communication by the High Representative of the Union for Foreign Affairs and Security Policy and the European Commission on *International ocean governance: an agenda for the future of oceans* ⁽³⁾ promote measures to support and enhance the effectiveness of the CCSBT and, where relevant, improve its governance and performance (in particular as regards science, compliance, transparency and decision-making) as a contribution to the sustainable management of oceans in all its dimensions;
- (j) promote coordination between RFMOs and regional sea conventions (RSCs) and cooperation with global organisations, as applicable, within their mandates, where appropriate;
- (k) promote coordination and cooperation with other tuna RFMOs on issues of common interest, notably via the reactivation of the so-called Kobe process for tuna RFMOs and its extension to all RFMOs.

2. ORIENTATIONS

The Union shall, where appropriate, endeavour to support the adoption of the following actions by the CCSBT:

- (a) conservation and management measures for fisheries resources in the area of distribution of Southern Bluefin tuna based on the best scientific advice available, including Total Allowable Catches (TACs) and quotas or effort regulation

⁽¹⁾ 7087/12 REV 1 ADD 1 COR 1.

⁽²⁾ 7348/1/17 REV 1 of 24.3.2017.

⁽³⁾ JOIN(2016) 49 final of 10.11.2016.

for living marine biological resources regulated by the CCSBT, which would bring or maintain the achievement of the maximum sustainable yield exploitation rate at the latest by 2020. Where necessary, those conservation and management measures shall include specific measures for stocks, which suffer from overfishing to keep the fishing effort in line with available fishing opportunities;

- (b) measures to prevent, deter and eliminate illegal, unreported and unregulated (IUU) fishing activities in the area of distribution of Southern Bluefin tuna, including IUU vessel listing;
 - (c) measures to reinforce fisheries' scientific data collection and promote better cooperation between the industry and scientists;
 - (d) monitoring, control and surveillance measures in the area of distribution of Southern Bluefin tuna to ensure efficiency of control and compliance with measures adopted within the CCSBT;
 - (e) measures to minimise the negative impact of fishing activities and aquaculture on marine biodiversity and marine ecosystems and their habitats, including measures to reduce marine pollution and prevent the discharge of plastics at sea and reduce the impact on marine biodiversity and ecosystems of plastics present at sea, protective measures for sensitive marine ecosystems in the area of distribution of Southern Bluefin tuna in line with the UNGA Resolutions, and measures to avoid and reduce as far as possible unwanted catches, including in particular vulnerable marine species, and to gradually eliminate discards;
 - (f) measures to manage the use of fish aggregating devices (FADs) notably to improve collection of data, to accurately quantify, track and monitor FADs use, to reduce impact on vulnerable tuna stocks, to mitigate their potential effects on target and non-target species, as well as on the ecosystem;
 - (g) measures to reduce the impact of Abandoned, Lost or Otherwise Discarded Fishing Gear (ALDFG) in the ocean and to facilitate the identification and recovery of such gear and to reduce the contribution to marine debris;
 - (h) measures aimed at the prohibition of fisheries conducted solely for the purpose of harvesting shark fins and requiring that all sharks are landed with all fins naturally attached;
 - (i) recommendations, where appropriate and to the extent permitted under the relevant constituent documents, encouraging the implementation of the Work in Fishing Convention of the International Labour Organisation (ILO);
 - (j) additional technical measures based on advice from the subsidiary bodies and working groups of the CCSBT.
-

ANNEX II

Year to year specification of the Union's position to be taken at meetings of the Extended Commission for the Conservation of Southern Bluefin tuna

Before each meeting of the CCSBT Extended Commission, when that body is called upon to adopt decisions having legal effects on the Union, the necessary steps shall be taken so that the position to be expressed on the Union's behalf takes account of the latest scientific and other relevant information transmitted to the Commission, in accordance with the principles and orientations set out in Annex I.

To this effect, and based on that information, the Commission shall transmit to the Council in sufficient time before each meeting of the CCSBT, a written document setting out the particulars of the proposed specification of the Union's position for discussion and endorsement of the details of the position to be expressed on the Union's behalf.

If in the course of a CCSBT Extended Commission meeting it is impossible to reach an agreement, including on the spot, in order for the Union's position to take account of new elements, the matter shall be referred to the Council or its preparatory bodies.

