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⁽¹⁾ Text with EEA relevance.

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⁽¹⁾ Text with EEA relevance.

I

(Legislative acts)

REGULATIONS

REGULATION (EU) 2019/2160 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 27 November 2019
amending Regulation (EU) No 575/2013 as regards exposures in the form of covered bonds

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission,

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

Having regard to the opinion of the European Central Bank ⁽¹⁾,

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

Acting in accordance with the ordinary legislative procedure ⁽³⁾,

Whereas:

- (1) Article 129 of Regulation (EU) No 575/2013 of the European Parliament and of the Council ⁽⁴⁾ grants preferential treatment to covered bonds under certain conditions. Directive (EU) 2019/2162 of the European Parliament and of the Council ⁽⁵⁾ specifies the core elements of covered bonds and provides for a common definition of covered bonds.
- (2) On 20 December 2013, the Commission requested the European Supervisory Authority (European Banking Authority) ('EBA'), established by Regulation (EU) No 1093/2010 of the European Parliament and of the Council ⁽⁶⁾, to provide an opinion on the appropriateness of the risk weights for covered bonds set out in Article 129 of Regulation (EU) No 575/2013. According to EBA's opinion of 1 July 2014, the preferential risk weight treatment provided for in Regulation (EU) No 575/2013 constitutes, in principle, appropriate prudential treatment. However, EBA recommended that further consideration be given to complementing the eligibility requirements for the preferential risk weight treatment to cover, at a minimum, the areas of liquidity risk mitigation and overcollateralisation, the role of competent authorities, and the further development of existing requirements on disclosure to investors.

⁽¹⁾ OJ C 382, 23.10.2018, p. 2.

⁽²⁾ OJ C 367, 10.10.2018, p. 56.

⁽³⁾ Position of the European Parliament of 18 April 2019 (not yet published in the Official Journal) and decision of the Council of 8 November 2019.

⁽⁴⁾ 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).

⁽⁵⁾ Directive (EU) 2019/2162 of the European Parliament and of the Council of 27 November 2019 on the issue of covered bonds and covered bond public supervision and amending Directives 2009/65/EC and 2014/59/EU (see page 29 of this Official Journal).

⁽⁶⁾ Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p. 12).

- (3) In the light of EBA's opinion, it is appropriate to adopt additional requirements for covered bonds, thereby strengthening the quality of covered bonds eligible for favourable capital treatment under Regulation (EU) No 575/2013.
- (4) Competent authorities may partially waive the application of the requirement for exposures to credit institutions within the cover pool to qualify for credit quality step 1 and allow exposures of up to a maximum of 10 % of the nominal amount of outstanding covered bonds of the issuing institution to qualify for credit quality step 2 instead. However, such a partial waiver applies only after prior consultation of EBA and only where significant potential concentration problems resulting from the application of the credit quality step 1 requirement in the Member States concerned can be documented. As the requirements for exposures to qualify for credit quality step 1 as made available by external credit assessment institutions have become increasingly difficult to comply with in most Member States, both within and outside the euro area, the application of such a partial waiver was considered to be necessary by those Member States which host the largest covered bonds markets. To simplify the use of exposures to credit institutions as collateral for covered bonds, and in order to address potential concentration problems, it is necessary to amend Regulation (EU) No 575/2013 by establishing a rule allowing exposures to credit institutions up to a maximum of 10 % of the nominal amount of outstanding covered bonds of the issuing institution to qualify for credit quality step 2 instead of credit quality step 1 without a requirement to consult EBA. It is necessary to allow the use of credit quality step 3 for short-term deposits and derivatives in specific Member States where compliance with the requirement for credit quality step 1 or 2 would be too difficult. Competent authorities designated pursuant to Directive (EU) 2019/2162 should be able, after consulting EBA, to allow the use of credit quality step 3 for derivative contracts in order to address potential concentration problems.
- (5) Loans secured by senior units issued by French *Fonds Communs de Titrisation* or issued by equivalent entities that securitise residential property or commercial immovable property exposures are eligible assets which can be used as collateral for covered bonds, up to a maximum of 10 % of the nominal amount of the outstanding issue of covered bonds (the '10 % threshold'). However, Article 496 of Regulation (EU) No 575/2013 allows competent authorities to waive the 10 % threshold. Furthermore, Article 503(4) of that Regulation requires the Commission to review the appropriateness of the derogation that allows competent authorities to waive the 10 % threshold. On 22 December 2013, the Commission requested EBA to provide an opinion in that regard. In its opinion, EBA stated that the use of senior units issued by French *Fonds Communs de Titrisation* or issued by equivalent entities that securitise residential property or commercial immovable property exposures as collateral would raise prudential concerns due to the double layered structure of a covered bond programme backed by securitisation units and would thereby lead to insufficient transparency regarding the credit quality of the cover pool. Consequently, EBA recommended that the derogation from the 10 % threshold for senior units currently provided for in Article 496 of that Regulation be removed after 31 December 2017.
- (6) Only a limited number of national covered bond frameworks allow the inclusion in the cover pool of residential or commercial mortgage-backed securities. The use of such structures is decreasing and is considered to add unnecessary complexity to covered bond programmes. It is thus appropriate to eliminate the use of such structures as eligible assets altogether.
- (7) Covered bonds issued within intragroup pooled covered bond structures which comply with Regulation (EU) No 575/2013 have also been used as eligible collateral. Intragroup pooled covered bond structures do not pose additional risks from a prudential perspective because they do not raise the same complexity issues as the use of loans secured by senior units issued by French *Fonds Communs de Titrisation* or issued by equivalent entities that securitise residential property or commercial immovable property exposures. According to EBA's opinion, collateralisation of covered bonds by intragroup pooled covered bond structures should be allowed without limits related to the amount of outstanding covered bonds of the issuing credit institution. The requirement to apply the limit of 15 % or 10 % in relation to exposures to credit institutions in intragroup pooled covered bond structures should therefore be removed. Those intragroup pooled covered bond structures are regulated by Directive (EU) 2019/2162.

- (8) The valuation principles for immovable property collateralising covered bonds apply to covered bonds in order for those bonds to meet the requirements for preferential treatment. The eligibility requirements for assets that serve as collateral for covered bonds relate to the general quality features that ensure the robustness of the cover pool and should therefore be laid down in Directive (EU) 2019/2162. Accordingly, the provisions on the valuation methodology should be laid down in that Directive and the regulatory technical standards on the assessment of the mortgage lending value should not apply in respect of those eligibility criteria for covered bonds.
- (9) Loan-to-value limits (LTV limits) are a necessary part of ensuring the credit quality of the covered bonds. Article 129 (1) of Regulation (EU) No 575/2013 establishes LTV limits for mortgages and maritime liens on ships but does not specify how those limits are to be applied. This could lead to uncertainty. LTV limits should apply as soft coverage limits. This means that while there are no limits to the size of an underlying loan, such a loan can act as collateral only within the LTV limits for the assets. LTV limits determine the percentage portion of the loan that contributes to the coverage requirement for liabilities. It is therefore appropriate to specify that LTV limits determine the portion of the loan contributing to the coverage of the covered bond.
- (10) To ensure greater clarity, LTV limits should apply throughout the entire maturity of the loan. The actual LTV limits should not change but should remain at 80 % of the value of residential property for residential loans, at 60 % of the value of commercial immovable property for commercial loans with the possibility of an increase to 70 % of that value, and at 60 % of the value of ships. Commercial immovable property should be understood in line with the general understanding of that type of property being 'non-residential' immovable property, including when held by not-for-profit organisations.
- (11) In order to further enhance the quality of the covered bonds that receive preferential treatment, such preferential treatment should be subject to a minimum level of overcollateralisation, meaning a level of collateral exceeding the coverage requirements referred to in Directive (EU) 2019/2162. Such a requirement would mitigate the most relevant risks arising in the case of the issuer's insolvency or resolution. A Member State's decision to apply a higher minimum level of overcollateralisation to covered bonds issued by credit institutions located in its territory should not prevent credit institutions from investing in other covered bonds with a lower minimum level of overcollateralisation that comply with this Regulation and from benefitting from its provisions.
- (12) Credit institutions investing in covered bonds are required to be provided with certain information regarding those covered bonds on at least a semi-annual basis. Transparency requirements are an indispensable part of covered bonds ensuring a uniform disclosure level and allowing investors to perform the necessary risk assessment, enhancing comparability, transparency and market stability. It is therefore appropriate to ensure that transparency requirements apply to all covered bonds by laying down those requirements in Directive (EU) 2019/2162. Accordingly, such requirements should be removed from Regulation (EU) No 575/2013.
- (13) Covered bonds are long-term funding instruments, and are therefore issued with a scheduled maturity of several years. It is therefore necessary to ensure that covered bonds issued before 31 December 2007 or before 8 July 2022 are not affected by this Regulation. In order to achieve that objective, covered bonds issued before 31 December 2007 should remain exempt from the requirements of Regulation (EU) No 575/2013 with respect to eligible assets, overcollateralisation and substitution assets. In addition, other covered bonds that comply with Regulation (EU) No 575/2013 and are issued before 8 July 2022 should be exempt from the requirements on overcollateralisation and substitution assets and should continue to be eligible for the preferential treatment set out in that Regulation until their maturity.
- (14) This Regulation should be applied in conjunction with the provisions of national law transposing Directive (EU) 2019/2162. In order to ensure the consistent application of the new framework establishing the structural features of the issue of covered bonds and the amended requirements for preferential treatment, the application of this Regulation should be deferred to coincide with the date from which Member States are to apply the provisions of national law transposing that Directive.
- (15) Regulation (EU) No 575/2013 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Amendments to Regulation (EU) No 575/2013

Regulation (EU) No 575/2013 is amended as follows:

(1) Article 129 is amended as follows:

(a) paragraph 1 is amended as follows:

(i) the first subparagraph is amended as follows:

— the introductory part is replaced by the following:

‘To be eligible for the preferential treatment set out in paragraphs 4 and 5 of this Article, covered bonds as defined in point (1) of Article 3 of Directive (EU) 2019/2162 of the European Parliament and of the Council (*) shall meet the requirements set out in paragraphs 3, 3a and 3b of this Article and shall be collateralised by any of the following eligible assets:

(*) Directive (EU) 2019/2162 of the European Parliament and of the Council of 27 November 2019 on the issue of covered bonds and covered bond public supervision and amending Directives 2009/65/EC and 2014/59/EU (OJ L 328, 18.12.2019, p. 29).’,

— point (c) is replaced by the following:

‘(c) exposures to credit institutions that qualify for credit quality step 1 or credit quality step 2, or exposures to credit institutions that qualify for credit quality step 3 where those exposures are in the form of:

- (i) short-term deposits with an original maturity not exceeding 100 days, where used to meet the cover pool liquidity buffer requirement of Article 16 of Directive (EU) 2019/2162; or
- (ii) derivative contracts that meet the requirements of Article 11(1) of that Directive, where permitted by the competent authorities;’,

— point (d) is replaced by the following:

‘(d) loans secured by residential property up to the lesser of the principal amount of the liens that are combined with any prior liens and 80 % of the value of the pledged properties;’,

— point (f) is replaced by the following:

‘(f) loans secured by commercial immovable property up to the lesser of the principal amount of the liens that are combined with any prior liens and 60 % of the value of the pledged properties. Loans secured by commercial immovable property are eligible where the loan-to-value ratio of 60 % is exceeded up to a maximum level of 70 % if the value of the total assets pledged as collateral for the covered bonds exceed the nominal amount outstanding on the covered bond by at least 10 %, and the bondholders’ claim meets the legal certainty requirements set out in Chapter 4. The bondholders’ claim shall take priority over all other claims on the collateral;’,

(ii) the second subparagraph is replaced by the following:

‘For the purposes of paragraph 1a, exposures caused by the transmission and management of the payments of the obligors of loans secured by pledged properties of debt securities or by the transmission and management of liquidation proceeds in respect of such loans shall not be comprised in calculating the limits referred to in that paragraph.’;

(iii) the third subparagraph is deleted;

(b) the following paragraphs are inserted:

‘1a. For the purposes of point (c) of the first subparagraph of paragraph 1, the following shall apply:

- (a) for exposures to credit institutions that qualify for credit quality step 1, the exposure shall not exceed 15 % of the nominal amount of outstanding covered bonds of the issuing credit institution;
- (b) for exposures to credit institutions that qualify for credit quality step 2, the exposure shall not exceed 10 % of the nominal amount of outstanding covered bonds of the issuing credit institution;
- (c) for exposures to credit institutions that qualify for credit quality step 3 that take the form of short-term deposits, as referred to in point (c)(i) of the first subparagraph of paragraph 1 of this Article, or the form of derivative contracts, as referred to in point (c)(ii) of the first subparagraph of paragraph 1 of this Article, the total exposure shall not exceed 8 % of the nominal amount of outstanding covered bonds of the issuing credit institution; the competent authorities designated pursuant to Article 18(2) of Directive (EU) 2019/2162 may, after consulting EBA, allow exposures to credit institutions that qualify for credit quality step 3 in the form of derivative contracts, provided that significant potential concentration problems in the Member States concerned due to the application of credit quality step 1 and 2 requirements referred to in this paragraph can be documented;
- (d) the total exposure to credit institutions that qualify for credit quality step 1, 2 or 3 shall not exceed 15 % of the nominal amount of outstanding covered bonds of the issuing credit institution and the total exposure to credit institutions that qualify for credit quality step 2 or 3 shall not exceed 10 % of the nominal amount of outstanding covered bonds of the issuing credit institution.

1b. Paragraph 1a of this Article shall not apply to the use of covered bonds as eligible collateral as permitted pursuant to Article 8 of Directive (EU) 2019/2162.

1c. For the purposes of point (d) of the first subparagraph of paragraph 1, the limit of 80 % shall apply on a loan-by-loan basis, shall determine the portion of the loan contributing to the coverage of liabilities attached to the covered bond, and shall apply throughout the entire maturity of the loan.

1d. For the purposes of points (f) and (g) of the first subparagraph of paragraph 1, the limits of 60 % or 70 % shall apply on a loan-by-loan basis, shall determine the portion of the loan contributing to the coverage of liabilities attached to the covered bond, and shall apply throughout the entire maturity of the loan.’;

(c) paragraph 3 is replaced by the following:

‘3. For immovable property and ships collateralising covered bonds that comply with this Regulation, the requirements set out in Article 208 shall be met. The monitoring of property values in accordance with point (a) of Article 208(3) shall be carried out frequently and at least annually for all immovable property and ships.’;

(d) the following paragraphs are inserted:

‘3a. In addition to being collateralised by the eligible assets listed in paragraph 1 of this Article, covered bonds shall be subject to a minimum level of 5 % of overcollateralisation as defined in point (14) of Article 3 of Directive (EU) 2019/2162.

For the purposes of the first subparagraph of this paragraph, the total nominal amount of all cover assets as defined in point (4) of Article 3 of that Directive shall be at least of the same value as the total nominal amount of outstanding covered bonds (‘nominal principle’), and shall consist of eligible assets as set out in paragraph 1 of this Article.

Member States may set a lower minimum level of overcollateralisation for covered bonds or authorise their competent authorities to set such a level, provided that:

- (a) either the calculation of overcollateralisation is based on a formal approach where the underlying risk of the assets is taken into account, or the valuation of the assets is subject to the mortgage lending value; and
- (b) the minimum level of overcollateralisation is not lower than 2 %, based on the nominal principle referred to in Article 15(6) and (7) of Directive (EU) 2019/2162.

The assets contributing to a minimum level of overcollateralisation shall not be subject to the limits on exposure size set out in paragraph 1a and shall not count towards those limits.

3b. Eligible assets listed in paragraph 1 of this Article may be included in the cover pool as substitution assets as defined in point (13) of Article 3 of Directive (EU) 2019/2162, subject to the limits on credit quality and exposure size set out in paragraphs 1 and 1a of this Article.’;

- (e) paragraphs 6 and 7 are replaced by the following:
- ‘6. Covered bonds issued before 31 December 2007 shall not be subject to the requirements laid down in paragraphs 1, 1a, 3, 3a and 3b. They shall be eligible for preferential treatment under paragraphs 4 and 5 until their maturity.
7. Covered bonds issued before 8 July 2022 that comply with the requirements laid down in this Regulation as applicable at the date of their issue shall not be subject to the requirements laid down in paragraphs 3a and 3b. They shall be eligible for preferential treatment under paragraphs 4 and 5 until their maturity.’;
- (2) in point (a) of Article 416(2), point (ii) is replaced by the following:
- ‘(ii) they are covered bonds as defined in point (1) Article 3 of Directive (EU) 2019/2162 other than those referred to in point (i) of this point.’;
- (3) in Article 425, paragraph 1 is replaced by the following:
- ‘1. Institutions shall report their liquidity inflows. Liquidity inflows shall be capped at 75 % of liquidity outflows. Institutions may exempt liquidity inflows from deposits placed with other institutions that qualify for the treatment set out in Article 113(6) or (7) of this Regulation from that cap.
- Institutions may exempt liquidity inflows from monies due from borrowers and bond investors where those inflows are related to mortgage lending funded by bonds eligible for the treatment set out in Article 129(4), (5) or (6) of this Regulation or by covered bonds as defined in point (1) of Article 3 of Directive (EU) 2019/2162 from that cap. Institutions may exempt inflows from promotional loans that the institutions have passed through. Subject to the prior approval of the competent authority responsible for supervision on an individual basis, the institution may fully or partially exempt inflows where the liquidity provider is a parent or subsidiary institution of the institution, a parent or subsidiary investment firm of the institution or another subsidiary of the same parent institution or parent investment firm or is related to the institution as set out in Article 22(7) of Directive 2013/34/EU.’;
- (4) in point (b) of Article 427(1), point (x) is replaced by the following:
- ‘(x) liabilities resulting from securities issued that qualify for the treatment set out in Article 129(4) or (5) of this Regulation or from covered bonds as defined in point (1) of Article 3 of Directive (EU) 2019/2162.’;
- (5) in point (h) of Article 428(1), point (iii) is replaced by the following:
- ‘(iii) match funded (pass-through) via bonds eligible for the treatment set out in Article 129(4) or (5) of this Regulation or via covered bonds as defined in point (1) of Article 3 of Directive (EU) 2019/2162.’;
- (6) Article 496 is deleted;
- (7) in point 6 of Annex III, point (c) is replaced by the following:
- ‘(c) they are covered bonds as defined in point (1) of Article 3 of Directive (EU) 2019/2162 other than those referred to in point (b) of this point.’.

Article 2

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 8 July 2022.

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

Done at Strasbourg, 27 November 2019.

For the European Parliament
The President
D. M. SASSOLI

For the Council
The President
T. TUPPURAINEN

DIRECTIVES

DIRECTIVE (EU) 2019/2161 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 27 November 2019

amending Council Directive 93/13/EEC and Directives 98/6/EC, 2005/29/EC and 2011/83/EU of the European Parliament and of the Council as regards the better enforcement and modernisation of Union consumer protection rules

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission,

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

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

Acting in accordance with the ordinary legislative procedure ⁽²⁾,

Whereas:

- (1) Article 169(1), and point (a) of Article 169(2), of the Treaty on the Functioning of the European Union (TFEU) provide that the Union is to contribute to the attainment of a high level of consumer protection through measures adopted pursuant to Article 114 TFEU. Article 38 of the Charter of Fundamental Rights of the European Union ('the Charter') provides that Union policies are to ensure a high level of consumer protection.
- (2) Consumer protection law should be applied effectively throughout the Union. Yet, the comprehensive Fitness Check of consumer and marketing law carried out by the Commission in 2016 and 2017 in the framework of the Regulatory Fitness and Performance (REFIT) programme concluded that the effectiveness of Union consumer protection law is compromised by a lack of awareness among both traders and consumers and that existing means of redress could be taken advantage of more often.
- (3) The Union has already taken a number of measures to improve awareness among consumers, traders and legal practitioners about consumer rights and to improve enforcement of consumer rights and consumer redress. However, there are remaining gaps in national law regarding truly effective and proportionate penalties to deter and sanction intra-Union infringements, insufficient individual remedies for consumers harmed by breaches of national legislation transposing Directive 2005/29/EC of the European Parliament and of the Council ⁽³⁾ and shortcomings with regard to the injunction procedure under Directive 2009/22/EC of the European Parliament and of the Council ⁽⁴⁾. Revision of the injunction procedure should be addressed by a separate instrument amending and replacing Directive 2009/22/EC.

⁽¹⁾ OJ C 440, 6.12.2018, p. 66.

⁽²⁾ Position of the European Parliament of 17 April 2019 (not yet published in the Official Journal) and decision of the Council of 8 November 2019.

⁽³⁾ Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council (OJ L 149, 11.6.2005, p. 22).

⁽⁴⁾ Directive 2009/22/EC of the European Parliament and of the Council of 23 April 2009 on injunctions for the protection of consumers' interests (OJ L 110, 1.5.2009, p. 30).

- (4) Directives 98/6/EC ⁽⁵⁾, 2005/29/EC and 2011/83/EU ⁽⁶⁾ of the European Parliament and of the Council include requirements for Member States to provide for effective, proportionate and dissuasive penalties to address infringements of national provisions transposing those Directives. Furthermore, Article 21 of Regulation (EU) 2017/2394 of the European Parliament and of the Council ⁽⁷⁾ requires Member States to take enforcement measures, including imposition of penalties, in an effective, efficient and coordinated manner to bring about the cessation or prohibition of widespread infringements or widespread infringements with a Union dimension.
- (5) Current national rules on penalties differ significantly across the Union. In particular, not all Member States ensure that effective, proportionate and dissuasive fines can be imposed on traders responsible for widespread infringements or widespread infringements with a Union dimension. Therefore, the existing rules on penalties of Directives 98/6/EC, 2005/29/EC and 2011/83/EU should be improved and, at the same time, new rules on penalties in Council Directive 93/13/EEC ⁽⁸⁾ should be introduced.
- (6) It should remain a matter for the Member States to choose the types of penalty to be imposed and to lay down in their national law the relevant procedures for the imposition of penalties in the event of infringements of Directives 93/13/EEC, 98/6/EC, 2005/29/EC and 2011/83/EU as amended by this Directive.
- (7) To facilitate more consistent application of penalties, in particular in the case of intra-Union infringements, widespread infringements and widespread infringements with a Union dimension as defined in Regulation (EU) 2017/2394, common non-exhaustive and indicative criteria for the application of penalties should be included in Directives 93/13/EEC, 98/6/EC, 2005/29/EC and 2011/83/EU. These criteria should include, for example, the nature, gravity, scale and duration of the infringement, and any redress provided by the trader to consumers for the harm caused. Repeated infringement by the same perpetrator shows a propensity to commit such infringements and is therefore a significant indication of the gravity of the conduct and, accordingly, of the need to increase the level of the penalty to achieve effective deterrence. The financial benefits gained, or losses avoided, due to the infringement should be taken into account, if the relevant data are available. Other aggravating or mitigating factors applicable to the circumstances of the case can also be taken into account.
- (8) Those common non-exhaustive and indicative criteria for the application of penalties might not be relevant in deciding on penalties regarding every infringement, in particular regarding non-serious infringements. Member States should also take account of other general principles of law applicable to the imposition of penalties, such as the principle of *non bis in idem*.
- (9) In accordance with Article 21 of Regulation (EU) 2017/2394, Member States' competent authorities concerned by the coordinated action are to take within their jurisdiction all necessary enforcement measures against the trader responsible for the widespread infringement or the widespread infringement with a Union dimension to bring about the cessation or prohibition of that infringement. Where appropriate, they are to impose penalties, such as fines or periodic penalty payments, on the trader responsible for the widespread infringement or the widespread infringement with a Union dimension. Enforcement measures are to be taken in an effective, efficient and coordinated manner to bring about the cessation or prohibition of the widespread infringement or the widespread infringement with a Union dimension. The competent authorities concerned by the coordinated action are to seek to take enforcement measures simultaneously in the Member States concerned by that infringement.
- (10) To ensure that Member States' authorities can impose effective, proportionate and dissuasive penalties in relation to widespread infringements and to widespread infringements with a Union dimension that are subject to coordinated investigation and enforcement measures in accordance with Regulation (EU) 2017/2394, fines should be introduced as an element of penalties for such infringements. In order to ensure that the fines have a deterrent effect, Member

⁽⁵⁾ Directive 98/6/EC of the European Parliament and of the Council of 16 February 1998 on consumer protection in the indication of the prices of products offered to consumers (OJ L 80, 18.3.1998, p. 27).

⁽⁶⁾ Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council (OJ L 304, 22.11.2011, p. 64).

⁽⁷⁾ Regulation (EU) 2017/2394 of the European Parliament and of the Council of 12 December 2017 on cooperation between national authorities responsible for the enforcement of consumer protection laws and repealing Regulation (EC) No 2006/2004 (OJ L 345, 27.12.2017, p. 1).

⁽⁸⁾ Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts (OJ L 95, 21.4.1993, p. 29).

States should set in their national law the maximum fine for such infringements at a level that is at least 4 % of the trader's annual turnover in the Member State or Member States concerned. In certain cases, a trader can also be a group of companies.

- (11) As laid down in Articles 9 and 10 of Regulation (EU) 2017/2394, when imposing penalties due regard should be given, as appropriate, to the nature, gravity and duration of the infringement in question. The imposition of penalties should be proportionate and should comply with Union and national law, including with applicable procedural safeguards and with the principles of the Charter. Finally, the penalties imposed should be appropriate to the nature and the overall actual or potential harm of the infringement of Union laws that protect consumers' interests. The power to impose penalties is to be exercised either directly by competent authorities under their own authority, or, where appropriate, by recourse to other competent authorities or other public authorities, or by instructing designated bodies, if applicable, or by application to courts competent to grant the necessary decision, including, where appropriate, by appeal, if the application to grant the necessary decision is not successful.
- (12) Where, as a result of the coordinated action under Regulation (EU) 2017/2394, a single competent authority within the meaning of that Regulation imposes a fine on the trader responsible for the widespread infringement or the widespread infringement with a Union dimension, it should be able to impose a fine of at least 4 % of the trader's annual turnover in all Member States concerned by the coordinated enforcement action.
- (13) Member States should not be prevented from maintaining or introducing in their national law higher maximum turnover-based fines for widespread infringements and widespread infringements with a Union dimension. It should also be possible for Member States to base such fines on the trader's worldwide turnover, or to extend the rules on fines to other infringements not covered by provisions of this Directive related to Article 21 of Regulation (EU) 2017/2394. The requirement to set the fine at a level of not less than 4 % of the trader's annual turnover should not apply to any additional Member State rules on periodic penalty payments, such as daily fines, for non-compliance with any decision, order, interim measure, trader's commitment or other measure with the aim of bringing to an end the infringement.
- (14) Rules on penalties should be included in Directive 93/13/EEC with a view to strengthening its deterrent effect. Member States are free to decide on the administrative or judicial procedure for the application of penalties for infringements of that Directive. In particular, administrative authorities or national courts could impose penalties when establishing the unfair character of contractual terms, including on the basis of legal proceedings initiated by an administrative authority. The penalties could also be imposed by administrative authorities or national courts when the seller or supplier uses contractual terms which are expressly defined as unfair in all circumstances in national law as well as when the seller or supplier uses contractual terms which have been found to be unfair by a final binding decision. Member States could decide that administrative authorities also have the right to establish the unfair character of contractual terms. Administrative authorities or national courts could also impose a penalty through the same decision by which unfairness of contractual terms is established. Member States could lay down the appropriate coordination mechanisms for actions at national level regarding individual redress and penalties.
- (15) When allocating revenues from fines, Member States should consider enhancing the protection of the general interest of consumers as well as other protected public interests.
- (16) Member States should ensure that remedies are available for consumers harmed by unfair commercial practices in order to eliminate all the effects of those unfair practices. A clear framework for individual remedies would facilitate private enforcement. The consumer should have access to compensation for damage and, where relevant, a price reduction or termination of the contract, in a proportionate and effective manner. Member States should not be prevented from maintaining or introducing rights to other remedies such as repair or replacement for consumers harmed by unfair commercial practices in order to ensure full removal of the effects of such practices. Member States should not be prevented from determining conditions for the application and effects of remedies for consumers. When applying the remedies, the gravity and nature of the unfair commercial practice, damage suffered by the consumer and other relevant circumstances, such as the trader's misconduct or the infringement of the contract, could be taken into account, where appropriate.

- (17) The Fitness Check of consumer and marketing law and the parallel evaluation of Directive 2011/83/EU also identified a number of areas where the existing Union consumer protection rules should be modernised. In view of the continuous development of digital tools, adjustment of Union consumer protection law is necessary.
- (18) Higher ranking or any prominent placement of commercial offers within online search results by the providers of online search functionality has an important impact on consumers.
- (19) Ranking refers to the relative prominence of the offers of traders or the relevance given to search results as presented, organised or communicated by providers of online search functionality, including resulting from the use of algorithmic sequencing, rating or review mechanisms, visual highlights, or other saliency tools, or combinations thereof.
- (20) In this regard, Annex I to Directive 2005/29/EC should be amended in order to make it clear that practices where a trader provides information to a consumer in the form of search results in response to the consumer's online search query without clearly disclosing any paid advertising or payment specifically for achieving higher ranking of products within the search results should be prohibited. When a trader has directly or indirectly paid the provider of the online search functionality for a higher ranking of a product within the search results, the provider of the online search functionality should inform consumers of that fact in a concise, easily accessible and intelligible form. Indirect payment could be in the form of the acceptance by a trader of additional obligations towards the provider of the online search functionality of any kind which have higher ranking as its specific effect. The indirect payment could consist of increased commission per transaction as well as different compensation schemes that specifically lead to higher ranking. Payments for general services, such as listing fees or membership subscriptions, which address a broad range of functionalities offered by the provider of the online search functionality to the trader, should not be considered to be a payment for specifically achieving higher ranking of products, provided that such payments are not dedicated to achieving higher ranking. Online search functionality can be provided by different types of online trader, including intermediaries, such as online marketplaces, search engines and comparison websites.
- (21) Transparency requirements with regard to the main parameters determining ranking are also regulated by Regulation (EU) 2019/1150 of the European Parliament and of the Council ⁽⁹⁾. The transparency requirements under that Regulation cover a broad range of online intermediaries, including online marketplaces, but they only apply between traders and online intermediaries. Similar transparency requirements should therefore be introduced in Directive 2005/29/EC to ensure adequate transparency towards the consumers, except in the case of providers of online search engines, which are already required by that Regulation to set out the main parameters which individually or collectively are most significant in determining ranking and the relative importance of those main parameters, by providing an easily and publicly available description, drafted in plain and intelligible language on the online search engines of those providers.
- (22) Traders enabling consumers to search for goods and services, such as travel, accommodation and leisure activities, offered by different traders or by consumers should inform consumers about the default main parameters determining the ranking of offers presented to the consumer as a result of the search query and their relative importance as opposed to other parameters. That information should be succinct and made easily, prominently and directly available. Parameters determining the ranking mean any general criteria, processes, specific signals incorporated into algorithms or other adjustment or demotion mechanisms used in connection with the ranking.
- (23) The information requirement regarding the main parameters determining the ranking is without prejudice to Directive (EU) 2016/943 of the European Parliament and of the Council ⁽¹⁰⁾. Traders should not be required to disclose the detailed functioning of their ranking mechanisms, including algorithms. Traders should provide a general description of the main parameters determining the ranking that explains the default main parameters used by the trader and their relative importance as opposed to other parameters, but that description does not have to be presented in a customised manner for each individual search query.

⁽⁹⁾ Regulation (EU) 2019/1150 of the European Parliament and of the Council of 20 June 2019 on promoting fairness and transparency for business users of online intermediation services (OJ L 186, 11.7.2019, p. 57).

⁽¹⁰⁾ Directive (EU) 2016/943 of the European Parliament and of the Council of 8 June 2016 on the protection of undisclosed know-how and business information (trade secrets) against their unlawful acquisition, use and disclosure (OJ L 157, 15.6.2016, p. 1).

- (24) When products are offered to consumers in online marketplaces, both the provider of the online marketplace and the third-party supplier are involved in the provision of the pre-contractual information required by Directive 2011/83/EU. As a result, consumers using the online marketplace may not clearly understand who their contractual partners are and how their rights and obligations are affected.
- (25) Online marketplaces should be defined for the purposes of Directives 2005/29/EC and 2011/83/EU in a similar manner as in Regulation (EU) No 524/2013 of the European Parliament and of the Council ⁽¹¹⁾ and Directive (EU) 2016/1148 of the European Parliament and of the Council ⁽¹²⁾. However, the definition of 'online marketplace' should be updated and rendered more technologically neutral in order to cover new technologies. It is therefore appropriate to refer, instead of to a 'website', to software, including a website, part of a website or an application, operated by or on behalf of the trader, in accordance with the notion of an 'online interface' as provided by Regulation (EU) 2017/2394 and Regulation (EU) 2018/302 of the European Parliament and of the Council ⁽¹³⁾.
- (26) Specific information requirements for online marketplaces should therefore be provided in Directives 2005/29/EC and 2011/83/EU to inform consumers using online marketplaces about the main parameters determining the ranking of offers, and whether they enter into a contract with a trader or a non-trader, such as another consumer.
- (27) Providers of online marketplaces should inform consumers whether the third party offering goods, services or digital content is a trader or non-trader, based on the declaration made to them by the third party. When the third party offering the goods, services or digital content declares its status to be that of a non-trader, providers of online marketplaces should provide a short statement to the effect that the consumer rights stemming from Union consumer protection law do not apply to the contract concluded. Furthermore, consumers should be informed of how obligations related to the contract are shared between third parties offering the goods, services or digital content and providers of online marketplaces. The information should be provided in a clear and comprehensible manner and not merely in the standard terms and conditions or similar contractual documents. The information requirements for providers of online marketplaces should be proportionate. Those requirements need to strike a balance between a high level of consumer protection and the competitiveness of providers of online marketplaces. Providers of online marketplaces should not be required to list specific consumer rights when informing consumers about their non-applicability. This is without prejudice to the consumer information requirements provided for in Directive 2011/83/EU, and in particular in Article 6(1) thereof. The information to be provided about the responsibility for ensuring consumer rights depends on the contractual arrangements between the providers of online marketplaces and the relevant third-party traders. The provider of the online marketplace could indicate that a third-party trader is solely responsible for ensuring consumer rights, or describe its own specific responsibilities where that provider assumes responsibility for certain aspects of the contract, for example, delivery or the exercise of the right of withdrawal.
- (28) In accordance with Article 15(1) of Directive 2000/31/EC of the European Parliament and of the Council ⁽¹⁴⁾, providers of online marketplaces should not be required to verify the legal status of third-party suppliers. Instead, providers of online marketplaces should require third-party suppliers on the online marketplace to indicate their status as traders or non-traders for the purposes of consumer protection law and to provide this information to the provider of online marketplace.
- (29) Taking into account the rapid technological developments concerning online marketplaces and the need to ensure a high level of consumer protection, Member States should be able to adopt or maintain specific additional measures for that purpose. Such provisions should be proportionate, non-discriminatory and without prejudice to Directive 2000/31/EC.

⁽¹¹⁾ Regulation (EU) No 524/2013 of the European Parliament and of the Council of 21 May 2013 on online dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC (Regulation on consumer ODR) (OJ L 165, 18.6.2013, p. 1).

⁽¹²⁾ Directive (EU) 2016/1148 of the European Parliament and of the Council of 6 July 2016 concerning measures for a high common level of security of network and information systems across the Union (OJ L 194, 19.7.2016, p. 1).

⁽¹³⁾ Regulation (EU) 2018/302 of the European Parliament and of the Council of 28 February 2018 on addressing unjustified geo-blocking and other forms of discrimination based on customers' nationality, place of residence or place of establishment within the internal market and amending Regulations (EC) No 2006/2004 and (EU) No 2017/2394 and Directive 2009/22/EC (OJ L 60 I, 2.3.2018, p. 1).

⁽¹⁴⁾ Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market ('Directive on electronic commerce') (OJ L 178, 17.7.2000, p. 1).

- (30) The definitions of digital content and digital services in Directive 2011/83/EU should be aligned to those in Directive (EU) 2019/770 of the European Parliament and of the Council ⁽¹⁵⁾. Digital content covered by Directive (EU) 2019/770 covers a single act of supply, a series of individual acts of supply, or continuous supply over a period of time. The element of continuous supply should not necessarily require a long-term supply. Cases such as web-streaming of video clips should be considered continuous supply over a period of time, regardless of the actual duration of the audiovisual file. It may therefore be difficult to distinguish between certain types of digital content and digital services, since both can involve continuous supply by the trader over the duration of the contract. Examples of digital services are video and audio sharing services and other file hosting, word processing or games offered in the cloud, cloud storage, webmail, social media and cloud applications. The continuous involvement of the service provider justifies the application of the rules on the right of withdrawal provided for in Directive 2011/83/EU that effectively allow the consumer to test the service and decide, during the 14-day period from the conclusion of the contract, whether to keep it or not. Many contracts for the supply of digital content which is not supplied on a tangible medium are characterised by a single act of supply to the consumer of a specific piece or pieces of digital content, such as specific music or video files. Contracts for the supply of digital content which is not supplied on a tangible medium remain subject to the exception from the right of withdrawal set out in point (m) of the first paragraph of Article 16 of Directive 2011/83/EU, which provides that the consumer loses the right of withdrawal when the performance of the contract is started, such as download or streaming of the content, subject to the consumer's prior express consent to begin the performance during the right of withdrawal period and acknowledgement that he has thereby lost his right of withdrawal. Where there is doubt as to whether the contract is a service contract or a contract for the supply of digital content which is not supplied on a tangible medium, the rules on right of withdrawal for services should apply.
- (31) Digital content and digital services are often supplied online under contracts under which the consumer does not pay a price but provides personal data to the trader. Directive 2011/83/EU already applies to contracts for the supply of digital content which is not supplied on a tangible medium (i.e. supply of online digital content) regardless of whether the consumer pays a price in money or provides personal data. However, that Directive only applies to service contracts, including contracts for digital services, under which the consumer pays or undertakes to pay a price. Consequently, that Directive does not apply to contracts for digital services under which the consumer provides personal data to the trader without paying a price. Given their similarities and the interchangeability of paid digital services and digital services provided in exchange for personal data, they should be subject to the same rules under that Directive.
- (32) Consistency should be ensured between the scope of application of Directive 2011/83/EU and Directive (EU) 2019/770, which applies to contracts for the supply of digital content or digital services under which the consumer provides or undertakes to provide personal data to the trader.
- (33) Therefore, the scope of Directive 2011/83/EU should be extended to cover also contracts under which the trader supplies or undertakes to supply a digital service to the consumer, and the consumer provides or undertakes to provide personal data. Similar to contracts for the supply of digital content which is not supplied on a tangible medium, that Directive should apply whenever the consumer provides or undertakes to provide personal data to the trader, except where the personal data provided by the consumer are exclusively processed by the trader for the purpose of supplying the digital content or digital service, and the trader does not process those data for any other purpose. Any processing of personal data should comply with Regulation (EU) 2016/679 of the European Parliament and of the Council ⁽¹⁶⁾.
- (34) In order to ensure full alignment with Directive (EU) 2019/770, where digital content and digital services are not supplied in exchange for a price, Directive 2011/83/EU should also not apply to situations where the trader collects personal data for the sole purpose of meeting legal requirements to which the trader is subject. Such situations can include, for instance, cases where the registration of the consumer is required by applicable laws for security and identification purposes.

⁽¹⁵⁾ Directive (EU) 2019/770 of the European Parliament and of the Council of 20 May 2019 on certain aspects concerning contracts for the supply of digital content and digital services (OJ L 136, 22.5.2019, p. 1).

⁽¹⁶⁾ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

- (35) Directive 2011/83/EU should also not apply to situations where the trader only collects metadata, such as information concerning the consumer's device or browsing history, except where this situation is considered to be a contract under national law. It should also not apply to situations where the consumer, without having concluded a contract with the trader, is exposed to advertisements exclusively in order to gain access to digital content or a digital service. However, Member States should remain free to extend the application of that Directive to such situations, or to otherwise regulate such situations, which are excluded from the scope of that Directive.
- (36) The notion of functionality should be understood to refer to the ways in which digital content or a digital service can be used. For instance, the absence or presence of any technical restrictions such as protection via Digital Rights Management or region coding could have an impact on the ability of the digital content or digital service to perform all its functions having regard to its purpose. The notion of interoperability relates to whether and to what extent digital content or a digital service is able to function with hardware or software that is different from those with which digital content or digital services of the same type are normally used. Successful functioning could include, for instance, the ability of the digital content or digital service to exchange information with such other software or hardware and to use the information exchanged. The notion of compatibility is defined in Directive (EU) 2019/770.
- (37) Article 7(3) and Article 8(8) of Directive 2011/83/EU require traders, for off-premises and distance contracts respectively, to obtain the consumer's prior express consent to begin performance before the expiry of the right of withdrawal period. Point (a) of Article 14(4) of that Directive provides for a contractual sanction when this requirement is not fulfilled by the trader, namely that the consumer does not have to pay for the services provided. The requirement to obtain the consumer's prior express consent is accordingly only relevant for services, including digital services, which are provided against the payment of the price. It is therefore necessary to amend Article 7(3) and Article 8(8) to the effect that the requirement for traders to obtain the consumer's prior express consent only applies to service contracts that place the consumer under an obligation to pay.
- (38) Point (m) of the first paragraph of Article 16 of Directive 2011/83/EU provides for an exception to the right of withdrawal in respect of digital content which is not supplied on a tangible medium if the consumer has given prior express consent to begin the performance before the expiry of the right of withdrawal period and acknowledged that he thereby loses his right of withdrawal. Point (b) of Article 14(4) of that Directive provides for a contractual sanction when this requirement is not fulfilled by the trader, namely, the consumer does not have to pay for the digital content consumed. The requirement to obtain the consumer's prior express consent and acknowledgment is accordingly only relevant for digital content which is provided against the payment of the price. It is therefore necessary to amend point (m) of the first paragraph of Article 16 to the effect that the requirement for traders to obtain the consumer's prior express consent and acknowledgment only applies to contracts that place the consumer under an obligation to pay.
- (39) Article 7(4) of Directive 2005/29/EC sets out information requirements for the invitation to purchase a product at a specific price. Those information requirements apply already at the advertising stage, whilst Directive 2011/83/EU imposes the same and other, more detailed information requirements at the later pre-contractual stage (i.e. just before the consumer enters into a contract). Consequently, traders may be required to provide the same information at the advertising stage (e.g. an online advertisement on a media website) and at the pre-contractual stage (e.g. on the pages of their online web-shops).
- (40) The information requirements under Article 7(4) of Directive 2005/29/EC include informing the consumer about the trader's complaint handling policy. The Fitness Check of consumer and marketing law findings show that that information is most relevant at the pre-contractual stage, which is regulated by Directive 2011/83/EU. The requirement to provide that information in invitations to purchase at the advertising stage under Directive 2005/29/EC should therefore be deleted.
- (41) Point (h) of Article 6(1) of Directive 2011/83/EU requires traders to provide consumers with pre-contractual information about the right of withdrawal, including the model withdrawal form set out in Annex I(B) to that Directive. Article 8(4) of that Directive provides for simpler pre-contractual information requirements if the contract is concluded through a means of distance communication which allows limited space or time to display the information, such as over the telephone, via voice operated shopping assistants or by SMS. The mandatory pre-contractual information to be provided on or through that particular means of distance communication includes information regarding the right of withdrawal as referred to in point (h) of Article 6(1). Accordingly, it also includes the provision of the model withdrawal form set out in Annex I(B). However, the provision of the withdrawal form is

impossible when the contract is concluded by means such as telephone or voice operated shopping assistant and it may not be technically feasible in a user-friendly way on other means of distance communication covered by Article 8(4). It is therefore appropriate to exclude the provision of the model withdrawal form from the information that traders have to provide in any case on or through the particular means of distance communication used for the conclusion of the contract under Article 8(4).

- (42) Point (a) of the first paragraph of Article 16 of Directive 2011/83/EU provides for an exception from the right of withdrawal regarding service contracts that have been fully performed if the performance has begun with the consumer's prior express consent and acknowledgement that he will lose his right of withdrawal once the contract has been fully performed by the trader. In contrast, Article 7(3) and Article 8(8) of that Directive, which deal with the trader's obligations in situations where the performance of the contract has begun before the expiry of the right of withdrawal period, only require traders to obtain the consumer's prior express consent but not acknowledgment that the right of withdrawal will be lost when the performance is completed. To ensure consistency between those provisions, it is necessary to add an obligation in Article 7(3) and Article 8(8) for the trader also to obtain the acknowledgement from the consumer that the right of withdrawal will be lost when the performance is completed, if the contract places the consumer under an obligation to pay. In addition, the wording of point (a) of the first paragraph of Article 16 should be amended to take into account the changes to Article 7(3) and Article 8(8) whereby the requirement for traders to obtain the consumer's prior express consent and acknowledgment only applies to service contracts that place the consumer under an obligation to pay. However, Member States should be given the option not to apply the requirement to obtain the consumer's acknowledgment that the right of withdrawal will be lost when the performance is completed to service contracts where the consumer has specifically requested a visit from the trader for the purpose of carrying out repairs. Point (c) of the first paragraph of Article 16 of that Directive provides for an exception to the right of withdrawal in respect of contracts regarding the supply of goods made to the consumer's specifications or clearly personalised. That exception covers, for example, the manufacturing and installation of customised furniture at the consumer's home when provided under a single sales contract.
- (43) The exception from the right of withdrawal provided in point (b) of the first paragraph of Article 16 of Directive 2011/83/EU, should also be considered to apply to contracts for individual deliveries of non-network energy, because its price is dependent on fluctuations in the commodity markets or energy markets which cannot be controlled by the trader and which may occur within the withdrawal period.
- (44) Article 14(4) of Directive 2011/83/EU stipulates the conditions under which, in the event of exercising the right of withdrawal, the consumer does not bear the cost for the performance of services, supply of public utilities and supply of digital content which is not supplied on a tangible medium. When any of those conditions is met, the consumer does not have to pay the price of the service, public utilities or digital content received before the exercise of the right of withdrawal. As regards digital content, one of those non-cumulative conditions, namely under point (b)(iii) of Article 14(4), is a failure to provide the confirmation of the contract, which includes confirmation of the consumer's prior express consent to begin the performance of the contract before the expiry of the right of withdrawal period and acknowledgement that the right of withdrawal is lost as a result. However, that condition is not included among the conditions for the loss of the right of withdrawal in point (m) of the first paragraph of Article 16 of that Directive, creating uncertainty as regards the possibility for consumers to invoke point (b)(iii) of Article 14(4) when the other two conditions provided for in point (b) of Article 14(4) are met and, as a result, the right of withdrawal is lost in accordance with point (m) of the first paragraph of Article 16. The condition provided for in point (b)(iii) of Article 14(4) should therefore be added to point (m) of the first paragraph of Article 16 to enable the consumer to exercise the right of withdrawal when that condition is not met and accordingly claim the rights provided for in Article 14(4).
- (45) Traders may personalise the price of their offers for specific consumers or specific categories of consumer based on automated decision-making and profiling of consumer behaviour allowing traders to assess the consumer's purchasing power. Consumers should therefore be clearly informed when the price presented to them is personalised on the basis of automated decision-making, so that they can take into account the potential risks in their purchasing decision. Consequently, a specific information requirement should be added to Directive 2011/83/EU to inform the consumer when the price is personalised, on the basis of automated decision-making. This information requirement should not apply to techniques such as 'dynamic' or 'real-time' pricing that involve

changing the price in a highly flexible and quick manner in response to market demands when those techniques do not involve personalisation based on automated decision-making. This information requirement is without prejudice to Regulation (EU) 2016/679, which provides, *inter alia*, for the right of the individual not to be subjected to automated individual decision-making, including profiling.

- (46) Considering technological developments, it is necessary to remove the reference to fax number from the list of the means of communication in point (c) of Article 6(1) of Directive 2011/83/EU since fax is rarely used now and largely obsolete.
- (47) Consumers increasingly rely on consumer reviews and endorsements when they make purchasing decisions. Therefore, when traders provide access to consumer reviews of products, they should inform consumers whether processes or procedures are in place to ensure that the published reviews originate from consumers who have actually used or purchased the products. If such processes or procedures are in place, traders should provide information on how the checks are made and provide clear information to consumers on how reviews are processed, for example, if all reviews, either positive or negative, are posted or whether those reviews have been sponsored or influenced by a contractual relationship with a trader. Moreover, it should therefore be considered to be an unfair commercial practice to mislead consumers by stating that reviews of a product were submitted by consumers who actually used or purchased that product when no reasonable and proportionate steps were taken to ensure that they originate from such consumers. Such steps could include technical means to verify the reliability of the person posting a review, for example by requesting information to verify that the consumer has actually used or purchased the product.
- (48) The provisions of this Directive addressing consumer reviews and endorsements are without prejudice to the common and legitimate advertising practice of making exaggerated statements or statements which are not meant to be taken literally.
- (49) Traders should also be prohibited from submitting fake consumer reviews and endorsements, such as 'likes' on social media, or commissioning others to do so in order to promote their products, as well as from manipulating consumer reviews and endorsements, such as publishing only positive reviews and deleting the negative ones. Such practice could also occur through the extrapolation of social endorsements, where a user's positive interaction with certain online content is linked or transferred to different but related content, creating the appearance that that user also takes a positive stance towards the related content.
- (50) Traders should be prohibited from reselling to consumers tickets to cultural and sports events that they have acquired by using software such as 'bots' enabling them to buy tickets in excess of the technical limits imposed by the primary ticket seller or to bypass any other technical means put in place by the primary seller to ensure accessibility of tickets for all individuals. That prohibition is without prejudice to any other national measures that Member States can take to protect the legitimate interests of consumers and to secure cultural policy and broad access of all individuals to cultural and sports events, such as regulating the resale price of the tickets.
- (51) Article 16 of the Charter guarantees the freedom to conduct a business in accordance with Union law and national laws and practices. However, marketing across Member States of goods as being identical when, in reality, they have a significantly different composition or characteristics may mislead consumers and cause them to take a transactional decision that they would not have taken otherwise.
- (52) Such a practice can therefore be regarded as contrary to Directive 2005/29/EC based on a case-by-case assessment of relevant elements. In order to facilitate the application of existing Union law by Member States' consumer and food authorities, guidance on the application of current Union rules to situations of dual quality of food was provided in the Commission Notice of 29 September 2017 'on the application of EU food and consumer protection law to issues of Dual Quality of products – The specific case of food'. In this context, the Commission's Joint Research Centre presented, on 25 April 2018, a 'Framework for selecting and testing of food products to assess quality related characteristics: EU harmonised testing methodology'.
- (53) However, in the absence of an explicit provision, the enforcement experience has shown that it might be unclear to consumers, traders and national competent authorities which commercial practices could be contrary to Directive 2005/29/EC. Therefore, that Directive should be amended to ensure legal certainty for both traders and enforcement authorities by addressing explicitly the marketing of a good as being identical to a good marketed in

other Member States, where that good has significantly different composition or characteristics. Competent authorities should assess and address on a case- by-case basis such practices in accordance with Directive 2005/29/EC, as amended by this Directive. In undertaking its assessment the competent authority should take into account whether such differentiation is easily identifiable by consumers, a trader's right to adapt goods of the same brand for different geographical markets due to legitimate and objective factors, such as national law, availability or seasonality of raw materials or voluntary strategies to improve access to healthy and nutritious food as well as the traders' right to offer goods of the same brand in packages of different weight or volume in different geographical markets. The competent authorities should assess whether such differentiation is easily identifiable by consumers by looking at the availability and adequacy of information. It is important that consumers are informed about the differentiation of goods due to legitimate and objective factors. Traders should be free to provide such information in different ways that allow consumers to access the necessary information. Alternatives to providing information on the label of goods should generally be preferred by traders. The relevant Union sectorial rules and rules on free movement of goods should be respected.

- (54) While off-premises sales constitute a legitimate and well-established sales channel, like sales at a trader's business premises and distance-selling, some particularly aggressive or misleading marketing or selling practices in the context of visits to a consumer's home or excursions as referred to in point (8) of Article 2 of Directive 2011/83/EU can put consumers under pressure to make purchases of goods or services that they would not otherwise buy or purchases at excessive prices, often involving immediate payment. Such practices often target elderly or other vulnerable consumers. Some Member States consider those practices undesirable and deem it necessary to restrict certain forms and aspects of off-premises sales within the meaning of Directive 2011/83/EU, such as aggressive and misleading marketing or selling of a product in the context of unsolicited visits to a consumer's home or excursions. Where such restrictions are adopted on grounds other than consumer protection, such as public interest or the respect for consumers' private life protected by Article 7 of the Charter, they fall outside the scope of Directive 2005/29/EC.
- (55) In accordance with the principle of subsidiarity and in order to facilitate enforcement, it should be clarified that Directive 2005/29/EC is without prejudice to Member States' freedom to adopt national provisions to further protect the legitimate interests of consumers against unfair commercial practices in the context of unsolicited visits at their homes by a trader in order to offer or sell products or excursions organised by a trader with the aim or effect of promoting or selling products to consumers where such provisions are justified on grounds of consumer protection. Any such provisions should be proportionate and non-discriminatory and should not prohibit those sales channels as such. National provisions adopted by Member States could, for example, define time of the day when visits to consumers' homes without their express request are not allowed or prohibit such visits when the consumer has visibly indicated that such visits are not acceptable or prescribe the payment procedure. Furthermore, such provisions could lay down more protective rules in the areas harmonised by Directive 2011/83/EU. Directive 2011/83/EU should therefore be amended to allow Member States to adopt national measures to provide a longer period for the right of withdrawal and to derogate from specific exceptions from the right of withdrawal. Member States should be required to notify any national provisions adopted in this regard to the Commission so that the Commission can make this information available to all interested parties and monitor the proportionate nature and legality of those measures.
- (56) As regards aggressive and misleading practices in the context of events organised at places other than trader's premises, Directive 2005/29/EC is without prejudice to any conditions of establishment or of authorisation regimes that Member States can impose on traders. Furthermore, that Directive is without prejudice to national contract law, and in particular to the rules on validity, formation or effect of a contract. Aggressive and misleading practices in the context of events organised at places other than trader's premises can be prohibited on the basis of a case-by-case assessment under Articles 5 to 9 of that Directive. In addition, Annex I to that Directive contains a general prohibition of practices where the trader creates the impression that the trader is not acting for purposes relating to the trader's profession, and practices that create the impression that the consumer cannot leave the premises until a contract is formed. The Commission should assess whether the current rules provide an adequate level of consumer protection and adequate tools for Member States to effectively address such practices.

- (57) This Directive should not affect aspects of national contract law that are not regulated by it. Therefore, this Directive should be without prejudice to national contract law regulating for instance the conclusion or the validity of a contract in cases such as lack of consent or unauthorised commercial activity.
- (58) In order to ensure that citizens have access to up-to-date information on their consumer rights and on out-of-court dispute resolution, the online entry point to be developed by the Commission should, as far as possible, be user-friendly, mobile-responsive, easily accessible and usable by all, including persons with disabilities ('design for all').
- (59) In accordance with the Joint Political Declaration of 28 September 2011 of Member States and the Commission on explanatory documents ⁽¹⁷⁾, Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of such documents to be justified.
- (60) Since the objectives of this Directive, namely better enforcement and modernisation of consumer protection law, cannot be sufficiently achieved by the Member States but can rather, by reason of the Union-wide character of the problem, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Amendment to Directive 93/13/EEC

In Directive 93/13/EEC, the following article is inserted:

'Article 8b

1. Member States shall lay down the rules on penalties applicable to infringements of national provisions adopted pursuant to this Directive and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive.
2. Member States may restrict such penalties to situations where the contractual terms are expressly defined as unfair in all circumstances in national law or where a seller or supplier continues to use contractual terms that have been found to be unfair in a final decision taken in accordance with Article 7(2).
3. Member States shall ensure that the following non-exhaustive and indicative criteria are taken into account for the imposition of penalties, where appropriate:
 - (a) the nature, gravity, scale and duration of the infringement;
 - (b) any action taken by the seller or supplier to mitigate or remedy the damage suffered by consumers;
 - (c) any previous infringements by the seller or supplier;
 - (d) the financial benefits gained or losses avoided by the seller or supplier due to the infringement, if the relevant data are available;
 - (e) penalties imposed on the seller or supplier for the same infringement in other Member States in cross-border cases where information about such penalties is available through the mechanism established by Regulation (EU) 2017/2394 of the European Parliament and of the Council (*);
 - (f) any other aggravating or mitigating factors applicable to the circumstances of the case.

⁽¹⁷⁾ OJ C 369, 17.12.2011, p. 14.

4. Without prejudice to paragraph 2 of this Article, Member States shall ensure that, when penalties are to be imposed in accordance with Article 21 of Regulation (EU) 2017/2394, they include the possibility either to impose fines through administrative procedures or to initiate legal proceedings for the imposition of fines, or both, the maximum amount of such fines being at least 4 % of the seller's or supplier's annual turnover in the Member State or Member States concerned.
5. For cases where a fine is to be imposed in accordance with paragraph 4, but information on the seller's or supplier's annual turnover is not available, Member States shall introduce the possibility to impose fines, the maximum amount of which shall be at least EUR 2 million.
6. Member States shall, by 28 November 2021, notify the Commission of the rules and measures referred to in paragraph 1 and shall notify it, without delay, of any subsequent amendment affecting them.

(*) Regulation (EU) 2017/2394 of the European Parliament and of the Council of 12 December 2017 on cooperation between national authorities responsible for the enforcement of consumer protection laws and repealing Regulation (EC) No 2006/2004 (OJ L 345, 27.12.2017, p. 1).'

Article 2

Amendments to Directive 98/6/EC

Directive 98/6/EC is amended as follows:

- (1) the following article is inserted:

'Article 6a

1. Any announcement of a price reduction shall indicate the prior price applied by the trader for a determined period of time prior to the application of the price reduction.
2. The prior price means the lowest price applied by the trader during a period of time not shorter than 30 days prior to the application of the price reduction.
3. Member States may provide for different rules for goods which are liable to deteriorate or expire rapidly.
4. Where the product has been on the market for less than 30 days, Member States may also provide for a shorter period of time than the period specified in paragraph 2.
5. Member States may provide that, when the price reduction is progressively increased, the prior price is the price without the price reduction before the first application of the price reduction.';

- (2) Article 8 is replaced by the following:

'Article 8

1. Member States shall lay down the rules on penalties applicable to infringements of national provisions adopted pursuant to this Directive and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive.
2. Member States shall ensure that the following non-exhaustive and indicative criteria are taken into account for the imposition of penalties, where appropriate:
 - (a) the nature, gravity, scale and duration of the infringement;
 - (b) any action taken by the trader to mitigate or remedy the damage suffered by consumers;
 - (c) any previous infringements by the trader;
 - (d) the financial benefits gained or losses avoided by the trader due to the infringement, if the relevant data are available;
 - (e) penalties imposed on the trader for the same infringement in other Member States in cross-border cases where information about such penalties is available through the mechanism established by Regulation (EU) 2017/2394 of the European Parliament and of the Council (*);
 - (f) any other aggravating or mitigating factors applicable to the circumstances of the case.

3. Member States shall, by 28 November 2021, notify the Commission of the rules and measures referred to in paragraph 1 and shall notify it, without delay, of any subsequent amendment affecting them.

(*) Regulation (EU) 2017/2394 of the European Parliament and of the Council of 12 December 2017 on cooperation between national authorities responsible for the enforcement of consumer protection laws and repealing Regulation (EC) No 2006/2004 (OJ L 345, 27.12.2017, p. 1).'

Article 3

Amendments to Directive 2005/29/EC

Directive 2005/29/EC is amended as follows:

(1) in Article 2, the first paragraph is amended as follows:

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

'(c) 'product' means any good or service including immovable property, digital service and digital content, as well as rights and obligations;';

(b) the following points are added:

'(m) 'ranking' means the relative prominence given to products, as presented, organised or communicated by the trader, irrespective of the technological means used for such presentation, organisation or communication;

(n) 'online marketplace' means a service using software, including a website, part of a website or an application, operated by or on behalf of a trader which allows consumers to conclude distance contracts with other traders or consumers.';

(2) in Article 3, paragraphs 5 and 6 are replaced by the following:

'5. This Directive does not prevent Member States from adopting provisions to protect the legitimate interests of consumers with regard to aggressive or misleading marketing or selling practices in the context of unsolicited visits by a trader to a consumer's home or excursions organised by a trader with the aim or effect of promoting or selling products to consumers. Such provisions shall be proportionate, non-discriminatory and justified on grounds of consumer protection.

6. Member States shall notify the Commission without delay of any national provisions adopted on the basis of paragraph 5 as well as of any subsequent changes. The Commission shall make this information easily accessible to consumers and traders on a dedicated website.';

(3) in Article 6(2), the following point is added:

'(c) any marketing of a good, in one Member State, as being identical to a good marketed in other Member States, while that good has significantly different composition or characteristics, unless justified by legitimate and objective factors.';

(4) Article 7 is amended as follows:

(a) paragraph 4 is amended as follows:

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

'(d) the arrangements for payment, delivery and performance, if they depart from the requirements of professional diligence;';

(ii) the following point is added:

'(f) for products offered on online marketplaces, whether the third party offering the products is a trader or not, on the basis of the declaration of that third party to the provider of the online marketplace.';

(b) the following paragraph is inserted:

'4a. When providing consumers with the possibility to search for products offered by different traders or by consumers on the basis of a query in the form of a keyword, phrase or other input, irrespective of where transactions are ultimately concluded, general information, made available in a specific section of the online interface that is directly and easily accessible from the page where the query results are presented, on the main

parameters determining the ranking of products presented to the consumer as a result of the search query and the relative importance of those parameters, as opposed to other parameters, shall be regarded as material. This paragraph does not apply to providers of online search engines as defined in point (6) of Article 2 of Regulation (EU) 2019/1150 of the European Parliament and of the Council (*).

(*) Regulation (EU) 2019/1150 of the European Parliament and of the Council of 20 June 2019 on promoting fairness and transparency for business users of online intermediation services (OJ L 186, 11.7.2019, p. 57).;

(c) the following paragraph is added:

‘6. Where a trader provides access to consumer reviews of products, information about whether and how the trader ensures that the published reviews originate from consumers who have actually used or purchased the product shall be regarded as material.’;

(5) the following article is inserted:

‘Article 11a

Redress

1. Consumers harmed by unfair commercial practices, shall have access to proportionate and effective remedies, including compensation for damage suffered by the consumer and, where relevant, a price reduction or the termination of the contract. Member States may determine the conditions for the application and effects of those remedies. Member States may take into account, where appropriate, the gravity and nature of the unfair commercial practice, the damage suffered by the consumer and other relevant circumstances.

2. Those remedies shall be without prejudice to the application of other remedies available to consumers under Union or national law.’;

(6) Article 13 is replaced by the following:

‘Article 13

Penalties

1. Member States shall lay down the rules on penalties applicable to infringements of national provisions adopted pursuant to this Directive and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive.

2. Member States shall ensure that the following non-exhaustive and indicative criteria are taken into account for the imposition of penalties, where appropriate:

- (a) the nature, gravity, scale and duration of the infringement;
- (b) any action taken by the trader to mitigate or remedy the damage suffered by consumers;
- (c) any previous infringements by the trader;
- (d) the financial benefits gained or losses avoided by the trader due to the infringement, if the relevant data are available;
- (e) penalties imposed on the trader for the same infringement in other Member States in cross-border cases where information about such penalties is available through the mechanism established by Regulation (EU) 2017/2394 of the European Parliament and of the Council (*);
- (f) any other aggravating or mitigating factors applicable to the circumstances of the case.

3. Member States shall ensure that when penalties are to be imposed in accordance with Article 21 of Regulation (EU) 2017/2394, they include the possibility either to impose fines through administrative procedures or to initiate legal proceedings for the imposition of fines, or both, the maximum amount of such fines being at least 4 % of the trader’s annual turnover in the Member State or Member States concerned. Without prejudice to that Regulation, Member States may, for national constitutional reasons, restrict the imposition of fines to:

- (a) infringements of Articles 6, 7, 8, 9 and of Annex I to this Directive; and

(b) a trader's continued use of a commercial practice that has been found to be unfair by the competent national authority or court, when that commercial practice is not an infringement referred to in point (a).

4. For cases where a fine is to be imposed in accordance with paragraph 3, but information on the trader's annual turnover is not available, Member States shall introduce the possibility to impose fines, the maximum amount of which shall be at least EUR 2 million.

5. Member States shall, by 28 November 2021, notify the Commission of the rules and measures referred to in paragraph 1 and shall notify it, without delay, of any subsequent amendment affecting them.

(*) Regulation (EU) 2017/2394 of the European Parliament and of the Council of 12 December 2017 on cooperation between national authorities responsible for the enforcement of consumer protection laws and repealing Regulation (EC) No 2006/2004 (OJ L 345, 27.12.2017, p. 1).;

(7) Annex I is amended as follows:

(a) the following point is inserted:

'11a. Providing search results in response to a consumer's online search query without clearly disclosing any paid advertisement or payment specifically for achieving higher ranking of products within the search results.';

(b) the following points are inserted:

'23a. Reselling events tickets to consumers if the trader acquired them by using automated means to circumvent any limit imposed on the number of tickets that a person can buy or any other rules applicable to the purchase of tickets.

23b. Stating that reviews of a product are submitted by consumers who have actually used or purchased the product without taking reasonable and proportionate steps to check that they originate from such consumers.

23c. Submitting or commissioning another legal or natural person to submit false consumer reviews or endorsements, or misrepresenting consumer reviews or social endorsements, in order to promote products.'.

Article 4

Amendments to Directive 2011/83/EU

Directive 2011/83/EU is amended as follows:

(1) in Article 2, the first paragraph is amended as follows:

(a) point 3 is replaced by the following:

'(3) 'goods' means goods as defined in point (5) of Article 2 of Directive (EU) 2019/771 of the European Parliament and of the Council (*);

(*) Directive (EU) 2019/771 of the European Parliament and of the Council of 20 May 2019 on certain aspects concerning contracts for the sale of goods, amending Regulation (EU) 2017/2394 and Directive 2009/22/EC, and repealing Directive 1999/44/EC (OJ L 136, 22.5.2019, p. 28).;

(b) the following point is inserted:

'(4a) 'personal data' means personal data as defined in point (1) of Article 4 of Regulation (EU) 2016/679 of the European Parliament and of the Council (*);

(*) Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).;

(c) points (5) and (6) are replaced by the following:

‘(5) ‘sales contract’ means any contract under which the trader transfers or undertakes to transfer ownership of goods to the consumer, including any contract having as its object both goods and services;

(6) ‘service contract’ means any contract other than a sales contract under which the trader supplies or undertakes to supply a service, including a digital service, to the consumer;’;

(d) point (11) is replaced by the following:

‘(11) ‘digital content’ means digital content as defined in point (1) of Article 2 of Directive (EU) 2019/770 of the European Parliament and of the Council (*);

(*) Directive (EU) 2019/770 of the European Parliament and of the Council of 20 May 2019 on certain aspects concerning contracts for the supply of digital content and digital services (OJ L 136, 22.5.2019, p. 1).’;

(e) the following points are added:

‘(16) ‘digital service’ means a digital service as defined in point (2) of Article 2 of Directive (EU) 2019/770;

(17) ‘online marketplace’ means a service using software, including a website, part of a website or an application, operated by or on behalf of a trader which allows consumers to conclude distance contracts with other traders or consumers;

(18) ‘provider of an online marketplace’ means any trader which provides an online marketplace to consumers;

(19) ‘compatibility’ means compatibility as defined in point (10) of Article 2 of Directive (EU) 2019/770;

(20) ‘functionality’ means functionality as defined in point (11) of Article 2 of Directive (EU) 2019/770;

(21) ‘interoperability’ means interoperability as defined in point (12) of Article 2 of Directive (EU) 2019/770.’;

(2) Article 3 is amended as follows:

(a) paragraph 1 is replaced by the following:

‘1. This Directive shall apply, under the conditions and to the extent set out in its provisions, to any contract concluded between a trader and a consumer where the consumer pays or undertakes to pay the price. It shall apply to contracts for the supply of water, gas, electricity or district heating, including by public providers, to the extent that these commodities are provided on a contractual basis.’;

(b) the following paragraph is inserted:

‘1a. This Directive shall also apply where the trader supplies or undertakes to supply digital content which is not supplied on a tangible medium or a digital service to the consumer and the consumer provides or undertakes to provide personal data to the trader, except where the personal data provided by the consumer are exclusively processed by the trader for the purpose of supplying the digital content which is not supplied on a tangible medium or digital service in accordance with this Directive or for allowing the trader to comply with legal requirements to which the trader is subject, and the trader does not process those data for any other purpose.’;

(c) paragraph 3 is amended as follows:

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

‘(k) for passenger transport services, with the exception of Article 8(2) and Articles 19, 21 and 22.’;

(ii) the following point is added:

‘(n) for any goods sold by way of execution or otherwise by authority of law.’;

(3) in Article 5, paragraph 1 is amended as follows:

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

‘(e) in addition to a reminder of the existence of the legal guarantee of conformity for goods, digital content and digital services, the existence and the conditions of after-sales services and commercial guarantees, where applicable.’;

(b) points (g) and (h) are replaced by the following:

‘(g) where applicable, the functionality, including applicable technical protection measures, of goods with digital elements, digital content and digital services;

(h) where applicable, any relevant compatibility and interoperability of goods with digital elements, digital content and digital services that the trader is aware of or can reasonably be expected to have been aware of.’;

(4) Article 6 is amended as follows:

(a) paragraph 1 is amended as follows:

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

‘(c) the geographical address at which the trader is established as well as the trader’s telephone number and email address; in addition, where the trader provides other means of online communication which guarantee that the consumer can keep any written correspondence, including the date and time of such correspondence, with the trader on a durable medium, the information shall also include details of those other means; all those means of communication provided by the trader shall enable the consumer to contact the trader quickly and communicate with him efficiently; where applicable, the trader shall also provide the geographical address and identity of the trader on whose behalf he is acting.’;

(ii) the following point is inserted:

‘(ea) where applicable, that the price was personalised on the basis of automated decision-making.’;

(iii) point (l) is replaced by the following:

‘(l) a reminder of the existence of a legal guarantee of conformity for goods, digital content and digital services.’;

(iv) points (r) and (s) are replaced by the following:

‘(r) where applicable, the functionality, including applicable technical protection measures, of goods with digital elements, digital content and digital services;

(s) where applicable, any relevant compatibility and interoperability of goods with digital elements, digital content and digital services that the trader is aware of or can reasonably be expected to have been aware of.’;

(b) paragraph 4 is replaced by the following:

‘4. The information referred to in points (h), (i) and (j) of paragraph 1 of this Article may be provided by means of the model instructions on withdrawal set out in Annex I(A). The trader shall have fulfilled the information requirements laid down in points (h), (i) and (j) of paragraph 1 of this Article if the trader has supplied these instructions to the consumer, correctly filled in. The references to the withdrawal period of 14 days in the model instructions on withdrawal set out in Annex I(A) shall be replaced by references to a withdrawal period of 30 days in cases where Member States have adopted rules in accordance with Article 9(1a).’;

- (5) the following article is inserted:

'Article 6a

Additional specific information requirements for contracts concluded on online marketplaces

1. Before a consumer is bound by a distance contract, or any corresponding offer, on an online marketplace, the provider of the online marketplace shall, without prejudice to Directive 2005/29/EC, provide the consumer with the following information in a clear and comprehensible manner and in a way appropriate to the means of distance communication:

- (a) general information, made available in a specific section of the online interface that is directly and easily accessible from the page where the offers are presented, on the main parameters determining ranking, as defined in point (m) of Article 2(1) of Directive 2005/29/EC, of offers presented to the consumer as a result of the search query and the relative importance of those parameters as opposed to other parameters;
- (b) whether the third party offering the goods, services or digital content is a trader or not, on the basis of the declaration of that third party to the provider of the online marketplace;
- (c) where the third party offering the goods, services or digital content is not a trader, that the consumer rights stemming from Union consumer protection law do not apply to the contract;
- (d) where applicable, how the obligations related to the contract are shared between the third party offering the goods, services or digital content and the provider of the online marketplace, such information being without prejudice to any responsibility that the provider of the online marketplace or the third-party trader has in relation to the contract under other Union or national law.

2. Without prejudice to Directive 2000/31/EC, this Article does not prevent Member States from imposing additional information requirements for providers of online marketplaces. Such provisions shall be proportionate, non-discriminatory and justified on grounds of consumer protection.;

- (6) in Article 7, paragraph 3 is replaced by the following:

'3. Where a consumer wants the performance of services, or the supply of water, gas or electricity, where they are not put up for sale in a limited volume or set quantity, or of district heating to begin during the withdrawal period provided for in Article 9(2), and the contract places the consumer under an obligation to pay, the trader shall require that the consumer make such an express request on a durable medium and request the consumer to acknowledge that, once the contract has been fully performed by the trader, the consumer will no longer have the right of withdrawal.;

- (7) Article 8 is amended as follows:

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

'4. If the contract is concluded through a means of distance communication which allows limited space or time to display the information, the trader shall provide, on or through that particular means prior to the conclusion of such a contract, at least the pre-contractual information regarding the main characteristics of the goods or services, the identity of the trader, the total price, the right of withdrawal, the duration of the contract and, if the contract is of indeterminate duration, the conditions for terminating the contract, as referred to, respectively, in points (a), (b), (e), (h) and (o) of Article 6(1) except the model withdrawal form set out in Annex I (B) referred to in point (h). The other information referred to in Article 6(1), including the model withdrawal form, shall be provided by the trader to the consumer in an appropriate way in accordance with paragraph 1 of this Article.;

- (b) paragraph 8 is replaced by the following:

'8. Where a consumer wants the performance of services, or the supply of water, gas or electricity, where they are not put up for sale in a limited volume or set quantity, or of district heating, to begin during the withdrawal period provided for in Article 9(2), and the contract places the consumer under an obligation to pay, the trader shall require that the consumer make an express request and request the consumer to acknowledge that, once the contract has been fully performed by the trader, the consumer will no longer have the right of withdrawal.;

(8) Article 9 is amended as follows

(a) the following paragraph is inserted:

‘1a. Member States may adopt rules in accordance with which the withdrawal period of 14 days referred to in paragraph 1 is extended to 30 days for contracts concluded in the context of unsolicited visits by a trader to a consumer’s home or excursions organised by a trader with the aim or effect of promoting or selling products to consumers for the purpose of protecting legitimate interests of consumers with regard to aggressive or misleading marketing or selling practices. Such rules shall be proportionate, non-discriminatory and justified on grounds of consumer protection.’;

(b) in paragraph 2, the introductory part is replaced by the following:

‘2. Without prejudice to Article 10, the withdrawal period referred to in paragraph 1 of this Article shall expire after 14 days or, in cases where Member States have adopted rules in accordance with paragraph 1a of this Article, 30 days from.’;

(9) in Article 10, paragraph 2 is replaced by the following:

‘2. If the trader has provided the consumer with the information provided for in paragraph 1 of this Article within 12 months from the day referred to in Article 9(2), the withdrawal period shall expire 14 days or, in cases where Member States have adopted rules in accordance with Article 9(1a), 30 days after the day upon which the consumer receives that information.’;

(10) in Article 13, the following paragraphs are added:

‘4. In respect of personal data of the consumer, the trader shall comply with the obligations applicable under Regulation (EU) 2016/679.

5. The trader shall refrain from using any content, other than personal data, which was provided or created by the consumer when using the digital content or digital service supplied by the trader, except where such content:

- (a) has no utility outside the context of the digital content or digital service supplied by the trader;
- (b) only relates to the consumer’s activity when using the digital content or digital service supplied by the trader;
- (c) has been aggregated with other data by the trader and cannot be disaggregated or only with disproportionate efforts; or
- (d) has been generated jointly by the consumer and others, and other consumers are able to continue to make use of the content.

6. Except in the situations referred to in point (a), (b) or (c) of paragraph 5, the trader shall, at the request of the consumer, make available to the consumer any content, other than personal data, which was provided or created by the consumer when using the digital content or digital service supplied by the trader.

7. The consumer shall be entitled to retrieve that digital content free of charge, without hindrance from the trader, within a reasonable time and in a commonly used and machine-readable format.

8. In the event of withdrawal from the contract, the trader may prevent any further use of the digital content or digital service by the consumer, in particular by making the digital content or digital service inaccessible to the consumer or disabling the user account of the consumer, without prejudice to paragraph 6.’;

(11) Article 14 is amended as follows:

(a) the following paragraph is inserted:

‘2a. In the event of withdrawal from the contract, the consumer shall refrain from using the digital content or digital service and from making it available to third parties.’;

(b) in paragraph 4, point (b)(i) is replaced by the following:

‘(i) the consumer has not given prior express consent to the beginning of the performance before the end of the 14-day or 30-day period referred to in Article 9;’

(12) Article 16 is amended as follows:

(a) the first paragraph is amended as follows:

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

‘(a) service contracts after the service has been fully performed but, if the contract places the consumer under an obligation to pay, only if the performance has begun with the consumer’s prior express consent and acknowledgement that he will lose his right of withdrawal once the contract has been fully performed by the trader;’

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

‘(m) contracts for the supply of digital content which is not supplied on a tangible medium if the performance has begun and, if the contract places the consumer under an obligation to pay, where:

(i) the consumer has provided prior express consent to begin the performance during the right of withdrawal period;

(ii) the consumer has provided acknowledgement that he thereby loses his right of withdrawal; and

(iii) the trader has provided confirmation in accordance with Article 7(2) or Article 8(7).’;

(b) the following paragraphs are added:

‘Member States may derogate from the exceptions from the right of withdrawal set out in points (a), (b), (c) and (e) of the first paragraph for contracts concluded in the context of unsolicited visits by a trader to a consumer’s home or excursions organised by a trader with the aim or effect of promoting or selling products to consumers for the purpose of protecting the legitimate interests of consumers with regard to aggressive or misleading marketing or selling practices. Such provisions shall be proportionate, non-discriminatory and justified on grounds of consumer protection.

In the case of service contracts which place the consumer under an obligation to pay where the consumer has specifically requested a visit from the trader for the purpose of carrying out repairs, Member States may provide that the consumer loses the right of withdrawal after the service has been fully performed provided that the performance has begun with the consumer’s prior express consent.’;

(13) Article 24 is replaced by the following:

‘Article 24

Penalties

1. Member States shall lay down the rules on penalties applicable to infringements of national provisions adopted pursuant to this Directive and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive.

2. Member States shall ensure that the following non-exhaustive and indicative criteria are taken into account for the imposition of penalties, where appropriate:

(a) the nature, gravity, scale and duration of the infringement;

(b) any action taken by the trader to mitigate or remedy the damage suffered by consumers;

(c) any previous infringements by the trader;

(d) the financial benefits gained or losses avoided by the trader due to the infringement, if the relevant data are available;

(e) penalties imposed on the trader for the same infringement in other Member States in cross-border cases where information about such penalties is available through the mechanism established by Regulation (EU) 2017/2394 of the European Parliament and of the Council (*);

(f) any other aggravating or mitigating factors applicable to the circumstances of the case.

3. Member States shall ensure that when penalties are to be imposed in accordance with Article 21 of Regulation (EU) 2017/2394, they include the possibility either to impose fines through administrative procedures or to initiate legal proceedings for the imposition of fines, or both, the maximum amount of such fines being at least 4 % of the trader's annual turnover in the Member State or Member States concerned.

4. For cases where a fine is to be imposed in accordance with paragraph 3, but information on the trader's annual turnover is not available, Member States shall introduce the possibility to impose fines, the maximum amount of which shall be at least EUR 2 million.

5. Member States shall, by 28 November 2021, notify the Commission of the rules and measures referred to in paragraph 1 and shall notify it, without delay, of any subsequent amendment affecting them.

(*) Regulation (EU) 2017/2394 of the European Parliament and of the Council of 12 December 2017 on cooperation between national authorities responsible for the enforcement of consumer protection laws and repealing Regulation (EC) No 2006/2004 (OJ L 345, 27.12.2017, p. 1).;

(14) in Article 29, paragraph 1 is replaced by the following:

'1. Where a Member State makes use of any of the regulatory choices referred to in Article 3(4), Article 6(7), Article 6(8), Article 7(4), Article 8(6), Article 9(1a), Article 9(3) and the second and third paragraphs of Article 16, it shall inform the Commission thereof by 28 November 2021, as well as of any subsequent changes.;

(15) Annex I is amended as follows:

(a) part A is amended as follows:

(i) the third paragraph under 'Right of withdrawal' is replaced by the following:

'To exercise the right of withdrawal, you must inform us [2] of your decision to withdraw from this contract by an unequivocal statement (e.g. a letter sent by post or email). You may use the attached model withdrawal form, but it is not obligatory. [3]';

(ii) point 2 under 'Instructions for completion' is replaced by the following:

'[2.] Insert your name, geographical address, telephone number and email address.;

(b) in part B, the first indent is replaced by the following:

'To [here the trader's name, geographical address and email address are to be inserted by the trader].';

Article 5

Information on consumer rights

The Commission shall ensure that citizens seeking information on their consumer rights or on out-of-court dispute resolution benefit from an online entry point, through the single digital gateway established by Regulation (EU) 2018/1724 of the European Parliament and of the Council ⁽¹⁸⁾, enabling them to:

- (a) access up-to-date information about their Union consumer rights in a clear, understandable and easily accessible manner; and
- (b) submit a complaint through the online dispute resolution platform established under Regulation (EU) No 524/2013 and to the competent centre of the European Consumer Centres Network, depending on the parties involved.

⁽¹⁸⁾ Regulation (EU) 2018/1724 of the European Parliament and of the Council of 2 October 2018 establishing a single digital gateway to provide access to information, to procedures and to assistance and problem-solving services and amending Regulation (EU) No 1024/2012 (OJ L 295, 21.11.2018, p. 1).

*Article 6***Reporting by the Commission and review**

By 28 May 2024, the Commission shall submit a report on the application of this Directive to the European Parliament and to the Council. That report shall include in particular an assessment of the provisions of this Directive regarding:

- (a) events organised at places other than the trader's business premises; and
- (b) cases of goods marketed as identical but having significantly different composition or characteristics, including whether those cases should be subject to more stringent requirements, including prohibition in Annex I to Directive 2005/29/EC and whether more detailed provisions on information about the differentiation of goods are necessary.

That report shall be accompanied, where necessary, by a legislative proposal.

*Article 7***Transposition**

1. By 28 November 2021, Member States shall adopt and publish the measures necessary to comply with this Directive. They shall immediately inform the Commission thereof.

They shall apply those measures from 28 May 2022.

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

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

*Article 8***Entry into force**

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

*Article 9***Addressees**

This Directive is addressed to the Member States.

Done at Strasbourg, 27 November 2019.

For the European Parliament
The President
D. M. SASSOLI

For the Council
The President
T. TUPPURAINEN

DIRECTIVE (EU) 2019/2162 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 27 November 2019
on the issue of covered bonds and covered bond public supervision and amending Directives
2009/65/EC and 2014/59/EU
(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission,

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

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

Acting in accordance with the ordinary legislative procedure ⁽²⁾,

Whereas:

- (1) Article 52(4) of Directive 2009/65/EC of the European Parliament and of the Council ⁽³⁾ provides for very general requirements relating to the structural elements of covered bonds. Those requirements are limited to the need for covered bonds to be issued by a credit institution which has its registered office in a Member State, and to be subject to special public supervision and to a dual recourse mechanism. National covered bond frameworks address those issues while regulating them in much greater detail. Those national frameworks also contain other structural provisions, in particular rules regarding the composition of the cover pool, eligibility criteria for assets, the possibility of pooling assets, transparency and reporting obligations, and rules on liquidity risk mitigation. Member State approaches to regulation also differ in substance. In several Member States, there is no dedicated national framework for covered bonds. As a consequence, the key structural elements with which covered bonds issued in the Union are to comply are not yet set out in Union law.
- (2) Article 129 of Regulation (EU) No 575/2013 of the European Parliament and of the Council ⁽⁴⁾ adds further conditions to those referred to in Article 52(4) of Directive 2009/65/EC for obtaining preferential treatment as regards capital requirements which allow credit institutions investing in covered bonds to hold less capital than when investing in other assets. While those additional requirements increase the level of harmonisation of covered bonds within the Union, they serve the specific purpose of establishing the conditions to be satisfied in order for covered bond investors to receive such preferential treatment, and are not applicable outside the framework of Regulation (EU) No 575/2013.
- (3) Other Union legal acts, such as Commission Delegated Regulations (EU) 2015/35 ⁽⁵⁾ and (EU) 2015/61 ⁽⁶⁾ and Directive 2014/59/EU of the European Parliament and of the Council ⁽⁷⁾, also refer to the definition set out in Directive 2009/65/EC as a reference for identifying the covered bonds that benefit from the preferential treatment for covered bond investors under those acts. However, the wording of those acts differs according to their purpose and subject matter, and thus the term ‘covered bond’ is not used consistently.

⁽¹⁾ OJ C 367, 10.10.2018, p. 56.

⁽²⁾ Position of the European Parliament of 18 April 2019 (not yet published in the Official Journal) and decision of the Council of 8 November 2019.

⁽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).

⁽⁴⁾ 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).

⁽⁵⁾ Commission Delegated Regulation (EU) 2015/35 of 10 October 2014 supplementing Directive 2009/138/EC of the European Parliament and of the Council on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) (OJ L 12, 17.1.2015, p. 1).

⁽⁶⁾ Commission Delegated Regulation (EU) 2015/61 of 10 October 2014 to supplement Regulation (EU) No 575/2013 of the European Parliament and the Council with regard to liquidity coverage requirement for Credit Institutions (OJ L 11, 17.1.2015, p. 1).

⁽⁷⁾ Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council (OJ L 173, 12.6.2014, p. 190).

- (4) Overall, the treatment of covered bonds can be considered to be harmonised regarding the conditions for investing in covered bonds. There is, however, a lack of harmonisation across the Union regarding the conditions for the issue of covered bonds and that has several consequences. First, preferential treatment is granted equally to instruments which differ in nature as well as in their level of risk and investor protection. Second, differences between national frameworks or the absence of such a framework and the lack of a commonly agreed definition of the term 'covered bond' could create obstacles to the development of a truly integrated single market for covered bonds. Third, the differences in safeguards provided by national rules could create risks to financial stability because covered bonds with different levels of investor protection can be purchased across the Union and benefit from preferential treatment under Regulation (EU) No 575/2013 and other Union legal acts.
- (5) Harmonising certain aspects of national frameworks based on certain best practices should therefore ensure the smooth and continuous development of well-functioning covered bond markets in the Union and limit potential risks and vulnerabilities to financial stability. Such principle-based harmonisation should establish a common baseline for the issue of all covered bonds in the Union. Harmonisation requires all Member States to establish covered bond frameworks, which should also facilitate the development of covered bond markets in those Member States where there is none. Such a market would provide a stable funding source for credit institutions, which would, on that basis, be better placed to provide affordable mortgages for consumers and businesses and would make alternative safe investments available to investors.
- (6) In its recommendation of 20 December 2012 on funding of credit institutions ⁽⁸⁾, the European Systemic Risk Board ('ESRB') invited national competent authorities and the European Supervisory Authority (European Banking Authority) ('EBA'), established by Regulation (EU) No 1093/2010 of the European Parliament and of the Council ⁽⁹⁾, to identify best practices regarding covered bonds and to encourage the harmonisation of national frameworks. It also recommended that EBA coordinate actions taken by national competent authorities, particularly in relation to the quality and segregation of cover pools, bankruptcy remoteness of covered bonds, the asset and liability risks affecting cover pools and disclosure of the composition of cover pools. The recommendation further called on EBA to monitor the functioning of the covered bond market by reference to best practices identified by EBA for a period of two years, in order to assess the need for legislative action and to report to the ESRB and to the Commission accordingly.
- (7) In December 2013, the Commission requested advice from EBA in accordance with Article 503(1) of Regulation (EU) No 575/2013.
- (8) In the report accompanying its opinion of 1 July 2014, responding to both the ESRB recommendation of 20 December 2012 and the Commission's request for advice of December 2013, EBA recommended greater convergence of national legal, regulatory and supervisory covered bond frameworks, so as to further support a single preferential risk weight treatment of covered bonds in the Union.
- (9) As envisaged by the ESRB, EBA monitored the functioning of the covered bond market by reference to the best practices set out in that recommendation for two years. On the basis of that monitoring, EBA delivered a second opinion and report on covered bonds to the ESRB, to the Council and to the Commission on 20 December 2016 ⁽¹⁰⁾. That report concluded that further harmonisation is necessary to ensure more consistency in terms of definitions and regulatory treatment of covered bonds in the Union. The report further concluded that harmonisation should build on existing well-functioning markets in some Member States.

⁽⁸⁾ Recommendation of the European Systemic Risk Board of 20 December 2012 on funding of credit institutions (ESRB/2012/2) (OJ C 119, 25.4.2013, p. 1).

⁽⁹⁾ Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p. 12).

⁽¹⁰⁾ EBA Report on covered bonds — Recommendations on harmonisation of covered bond frameworks in the EU (2016), EBA-Op-2016-23.

- (10) Covered bonds are traditionally issued by credit institutions. The inherent purpose of covered bonds is to provide funding for loans, and one of the core activities of credit institutions is to grant loans on a large scale. Accordingly, in order for covered bonds to benefit from preferential treatment under Union law, they are required to be issued by credit institutions.
- (11) Reserving the issue of covered bonds to credit institutions ensures that the issuer has the necessary knowledge to manage the credit risk relating to the loans in the cover pool. It further ensures that the issuer is subject to capital requirements that protect investors under the dual recourse mechanism, which grants the investor, as well as the counterparty of a derivative contract, a claim against both the covered bond issuer and the cover assets. Reserving the issue of covered bonds to credit institutions therefore ensures that covered bonds remain a safe and efficient funding tool, thereby contributing to investor protection and financial stability, which are important public policy objectives in the general interest. That is also in line with the approach of well-functioning national markets in which only credit institutions are permitted to issue covered bonds.
- (12) It is therefore appropriate that only credit institutions as defined in point (1) of Article 4(1) of Regulation (EU) No 575/2013 be permitted to issue covered bonds under Union law. Specialised mortgage credit institutions are characterised by the fact that they do not take deposits, but rather take other repayable funds from the public, and as such they fall within the definition of 'credit institution' as laid down in Regulation (EU) No 575/2013. Without prejudice to ancillary activities permitted under applicable national law, specialised mortgage credit institutions are institutions that carry out only mortgage and public sector lending, including funding loans purchased from other credit institutions. The main purpose of this Directive is to regulate the conditions under which credit institutions can issue covered bonds as a financing tool, by laying down the product requirements and establishing specific product supervision to which credit institutions are subject, in order to ensure a high level of investor protection.
- (13) The existence of a dual recourse mechanism is an essential concept and element of many existing national covered bond frameworks. It is also a core feature of covered bonds as referred to in Article 52(4) of Directive 2009/65/EC. It is therefore necessary to specify that concept so as to ensure that investors and counterparties of derivative contracts across the Union have a claim against both the covered bond issuer and the cover assets under harmonised conditions.
- (14) Bankruptcy remoteness should also be an essential feature of covered bonds to ensure that covered bond investors are repaid on the maturity of the bond. Automatic acceleration of repayment upon insolvency or resolution of the issuer may disturb the ranking of covered bond investors. It is therefore important to ensure that covered bond investors are repaid in accordance with the contractual schedule, even in the case of insolvency or resolution. Bankruptcy remoteness is accordingly directly linked to the dual recourse mechanism and should therefore also be a core feature of the covered bond framework.
- (15) Another core feature of existing national covered bond frameworks is the requirement that cover assets are of very high quality in order to ensure the robustness of the cover pool. Cover assets are characterised by specific features relating to claims for payment and the collateral assets securing such cover assets. It is therefore appropriate to set out the general quality features of eligible cover assets.
- (16) Assets listed in Article 129(1) of Regulation (EU) No 575/2013 should be eligible cover assets within a covered bond framework. Cover assets which no longer comply with the requirements set out in Article 129(1) of that Regulation should continue to be eligible cover assets under point (b) of Article 6(1) of this Directive, provided that they fulfil the requirements of this Directive. Other cover assets of a similarly high quality can also be eligible under this Directive, provided that such cover assets comply with the requirements of this Directive, including those in relation to the collateral assets securing the claim for payment. For physical collateral assets, ownership should be recorded in a public register to ensure enforceability. Where no public register exists, it should be possible for Member States to provide for an alternative form of certification of ownership and claims that is comparable to that provided by public registration of the encumbered physical asset. Where Member States make use of such alternative form of certification, they should also provide for a procedure for introducing changes to the recording of ownership

and claims. Exposures to credit institutions should be eligible cover assets under point (a) or (b) of Article 6(1) of this Directive, depending on whether they comply with the requirements of Article 129 of Regulation (EU) No 575/2013. Exposures to insurance undertakings should also be eligible cover assets under point (b) of Article 6(1) of this Directive. Loans to or guaranteed by public undertakings as defined in point (b) of Article 2 of Commission Directive 2006/111/EC ⁽¹⁾ can be eligible cover assets, provided that the public undertakings provide essential public services for the maintenance of critical societal activities.

In addition, such public undertakings should provide their services under a concession or authorisation from a public authority, be subject to public supervision and have sufficient revenue generating powers to ensure their solvability. Where Member States decide to allow assets in the form of loans to or guaranteed by public undertakings in their national framework, they should duly consider the possible impact on competition of allowing such assets. Independently of their ownership, credit institutions and insurance undertakings should not be considered to be public undertakings. Furthermore, Member States should be free to provide in their national frameworks for certain assets to be excluded from eligibility for inclusion in the cover pool. To enable covered bond investors to better assess the risk of a covered bond programme, Member States should also provide for rules on risk diversification in relation to granularity and material concentration, on the number of loans or exposures in the cover pool and on the number of counterparties. Member States should be able to decide on the appropriate level of granularity and material concentration required under their national law.

- (17) Covered bonds have specific structural features that aim to protect investors at all times. Those features include the requirement that investors in covered bonds have a claim not only against the issuer but also against assets in the cover pool. Those structural product-related requirements differ from the prudential requirements applicable to a credit institution issuing covered bonds. The former should not focus on ensuring the prudential health of the issuing institution, but should rather aim to protect investors by imposing specific requirements on the covered bond itself. In addition to the specific requirement to use high-quality cover assets, it is also appropriate to regulate the general requirements with regard to the features of the cover pool, in order to further strengthen investor protection. Those requirements should include specific rules that aim to protect the cover pool, such as rules on the segregation of the cover assets. Segregation can be achieved in different ways, such as on the balance sheet, by means of a special purpose vehicle or by other means. Nonetheless, the purpose of the segregation of cover assets is to put them legally beyond the reach of creditors other than covered bond investors.
- (18) The location of the collateral assets should also be regulated to ensure the enforcement of investors' rights. It is also important for Member States to lay down rules on the composition of the cover pool. Furthermore, coverage requirements should be specified in this Directive, without prejudice to the right of Member States to allow different means of mitigating risks such as with regard to currencies and interest rates. The calculation of the coverage and the conditions under which derivative contracts can be included in the cover pool should also be defined to ensure that cover pools are subject to common high-quality standards across the Union. The calculation of coverage should follow the nominal principle for the principal. Member States should be able to use a method of calculation other than the nominal principle, provided that the other method is more prudent, namely it does not result in a higher coverage ratio, where the cover assets are the numerator and the covered bond liabilities are the denominator. Member States should be able to require a level of overcollateralisation to covered bonds issued by credit institutions located in the Member State concerned that is higher than the coverage requirement laid down in this Directive.
- (19) A number of Member States already require that a cover pool monitor perform specific tasks regarding the quality of eligible assets and ensures compliance with national coverage requirements. It is therefore important, in order to harmonise the treatment of covered bonds across the Union, that the tasks and responsibilities of the cover pool monitor, where one is required by the national framework, are clearly defined. The existence of a cover pool monitor does not obviate the responsibilities of national competent authorities as regards covered bond public supervision, particularly as regards compliance with the requirements laid down in the provisions of national law transposing this Directive.

⁽¹⁾ Commission Directive 2006/111/EC of 16 November 2006 on the transparency of financial relations between Member States and public undertakings as well as on financial transparency within certain undertakings (OJ L 318, 17.11.2006, p. 17).

- (20) Article 129 of Regulation (EU) No 575/2013 sets out a number of conditions that covered bonds collateralised by securitisation entities are to meet. One of those conditions concerns the extent to which that type of cover asset can be used and limits the use of such structures to 10 % of the amount of the outstanding covered bonds. That condition can be waived by competent authorities in accordance with Regulation (EU) No 575/2013. The Commission's review of the appropriateness of that waiver concluded that the possibility of using securitisation instruments or covered bonds as cover assets for issuing covered bonds should be allowed only with regard to other covered bonds ('intragroup pooled covered bond structures'), and should be allowed without limit by reference to the amount of outstanding covered bonds. To guarantee an optimum level of transparency, cover pools for externally issued covered bonds should not contain internally issued covered bonds from different credit institutions within the same group. Moreover, as the use of intragroup pooled covered bond structures provides an exemption from the limits on credit institution exposures that are laid down in Article 129 of Regulation (EU) No 575/2013, internally and externally issued covered bonds should be required to qualify for credit quality step 1 at the moment of issue or, in the event of a subsequent change in credit quality step and subject to the approval of the competent authorities, credit quality step 2. Where the internally or externally issued covered bonds cease to meet that requirement, the internally issued covered bonds no longer qualify as eligible assets under Article 129 of Regulation (EU) No 575/2013 and, as a consequence, the externally issued covered bonds from the relevant cover pool do not benefit from the exemption in Article 129(1b) of that Regulation.

Where those internally issued covered bonds no longer comply with the relevant credit quality step requirement, they should, however, be eligible cover assets for the purpose of this Directive, provided that they comply with all the requirements laid down in this Directive, and the externally issued covered bonds collateralised by those internally issued covered bonds or other assets that comply with this Directive should therefore also be able to use the label 'European Covered Bond'. Member States should have the option of allowing the use of such structures. It follows that, for that option to be effectively available to credit institutions belonging to a group located in different Member States, all relevant Member States should have exercised that option and transposed the relevant provision in their law.

- (21) Small credit institutions face difficulties when issuing covered bonds as the establishment of covered bond programmes often entails high upfront costs. Liquidity is also particularly important in covered bond markets, and is largely determined by the volume of outstanding bonds. It is therefore appropriate to allow for joint funding by two or more credit institutions in order to enable the issue of covered bonds by smaller credit institutions. That would provide for the pooling of cover assets by several credit institutions as cover assets for covered bonds issued by a single credit institution and would facilitate the issue of covered bonds in those Member States where there is currently no well-developed covered bond market. The requirements for the use of joint funding agreements should ensure that cover assets that are sold or, where a Member State has allowed for that option, transferred by way of financial collateral arrangement pursuant to Directive 2002/47/EC of the European Parliament and of the Council ⁽¹²⁾ to the issuing credit institutions meet the eligibility and segregation requirements for cover assets under Union law.
- (22) The transparency of the cover pool securing the covered bond is an essential part of that type of financial instrument, as it enhances comparability and allows investors to perform the necessary risk evaluation. Union law includes rules on the drawing up, approval and distribution of the prospectus to be published when securities are offered to the public or admitted for trading on a regulated market situated or operating within a Member State. Several initiatives regarding the information to be disclosed to covered bond investors supplementary to such Union law have been developed over time by national legislators and market participants. It is, however, necessary to specify in Union law the minimum common level of information to which investors should have access prior to or at the time of purchase of covered bonds. Member States should be allowed to supplement those minimum requirements with additional provisions.

⁽¹²⁾ Directive 2002/47/EC of the European Parliament and of the Council of 6 June 2002 on financial collateral arrangements (OJ L 168, 27.6.2002, p. 43).

- (23) A core element of ensuring the protection of covered bond investors is mitigating the instrument's liquidity risk. That is crucial for ensuring the timely repayment of liabilities attached to the covered bond. Therefore, it is appropriate to introduce a cover pool liquidity buffer to address risks of liquidity shortage, such as mismatches in maturities and interest rates, payment interruptions, commingling risks, payment obligations attached to derivative contracts and other operational liabilities falling due within the covered bond programme. The credit institution may experience situations where it becomes difficult to comply with the cover pool liquidity buffer requirement, for example in times of stress where the buffer is used to cover outflows. The competent authorities designated pursuant to this Directive should monitor compliance with the cover pool liquidity buffer requirement, and, if necessary, take measures to ensure that the credit institution complies with the buffer requirement. The liquidity buffer for the cover pool differs from the general liquidity requirements imposed on credit institutions in accordance with other Union legal acts, as the former is directly related to the cover pool and seeks to mitigate liquidity risks specific to it. To minimise regulatory burdens, Member States should be able to allow an appropriate interaction with liquidity requirements established by other Union legal acts that serve purposes different from the cover pool liquidity buffer. Member States should therefore be able to decide that, until the date on which those Union legal acts are amended, the cover pool liquidity buffer requirement is applicable only if no other liquidity requirement is imposed on the credit institution under Union law during the period covered by such other requirements.

Such decisions should avoid subjecting credit institutions to an obligation to cover the same outflows with different liquid assets for the same period. The possibility for Member States to decide for the cover pool liquidity buffer not to apply should be reassessed in the context of future changes to the liquidity requirements for credit institutions under Union law, including the applicable delegated regulation adopted pursuant to Article 460 of Regulation (EU) No 575/2013. Liquidity risks could be addressed by means other than providing liquid assets, for example by issuing covered bonds subject to extendable maturity structures where the triggers address liquidity shortage or stress. In such cases, Member States should be able to allow for the calculation of the liquidity buffer to be based on the final maturity date of the covered bond, taking into consideration possible maturity extensions, where the triggers address liquidity risks. Furthermore, Member States should be able to allow the cover pool liquidity requirements not to apply to covered bonds that are subject to match funding requirements where incoming payments contractually fall due before outgoing payments and are placed in highly liquid assets in the meantime.

- (24) In a number of Member States, innovative structures for maturity profiles have been developed in order to address potential liquidity risks, including maturity mismatches. Those structures include the possibility of extending the scheduled maturity of the covered bond for a certain period of time or allowing the cash flows from the cover assets to pass directly to the covered bond investors. In order to harmonise extendable maturity structures across the Union it is important to establish the conditions under which Member States are able to allow those structures, to ensure that they are not too complex and do not expose investors to increased risks. An important element of those conditions is to ensure that the credit institution cannot extend the maturity at its discretion. The maturity should be allowed to be extended only where objective and clearly defined trigger events established under national law have occurred or are expected to occur in the near future. Such triggers should aim to prevent default, for example by addressing liquidity shortage, market failure or market disturbance. Extensions could also facilitate the orderly winding-down of credit institutions issuing covered bonds, allowing for extensions in the case of insolvency or resolution to avoid a fire sale of assets.
- (25) The existence of a special public supervision framework is an element defining covered bonds according to Article 52(4) of Directive 2009/65/EC. However, that Directive does not specify the nature and content of such supervision or the authorities that should be responsible for performing such supervision. It is therefore essential that the constitutive elements of such covered bond public supervision are harmonised and that the tasks and responsibilities of the national competent authorities performing it are clearly set out.
- (26) As covered bond public supervision is distinct from the supervision of credit institutions in the Union, Member States should be able to appoint national competent authorities to perform covered bond public supervision that are different from the competent authorities performing the general supervision of the credit institution. However, in order to ensure consistency in the application of covered bond public supervision across the Union, it is necessary to require that the competent authorities performing covered bond public supervision cooperate closely with those performing the general supervision of credit institutions as well as with the resolution authority, where applicable.

- (27) Covered bond public supervision should include granting credit institutions permission to issue covered bonds. As only credit institutions should be permitted to issue covered bonds, authorisation to act as a credit institution should be a prerequisite for being granted that permission. Whereas in Member States participating in the Single Supervisory Mechanism, the European Central Bank is tasked with the authorisation of credit institutions in accordance with point (a) of Article 4(1) of Council Regulation (EU) No 1024/2013 ⁽¹³⁾, only the authorities designated pursuant to this Directive should be competent to grant permission to issue covered bonds and exercise covered bond public supervision. Accordingly, this Directive should establish the conditions under which credit institutions authorised under Union law can obtain permission to pursue the activity of issuing covered bonds.
- (28) The scope of permission should relate to the covered bond programme. That programme should be subject to supervision under this Directive. A credit institution can have more than one covered bond programme. In that case, separate permission for each programme should be required. A covered bond programme can include one or more cover pools. Multiple cover pools or different issues (different International Securities Identification Numbers (ISINs)) under the same covered bond programme do not necessarily indicate the existence of multiple separate covered bond programmes.
- (29) Existing covered bond programmes should not be required to obtain new permission once the provisions of national law transposing this Directive become applicable. In respect of covered bonds issued under existing covered bond programmes after the date of application of the provisions of national law transposing this Directive, however, credit institutions should comply with all the requirements laid down in this Directive. Such compliance should be supervised by the competent authorities designated under this Directive as part of covered bond public supervision. Member States could give guidance under national law on how to procedurally conduct the compliance assessment after the date from which Member States are to apply the provisions of national law transposing this Directive. The competent authorities should be able to review a covered bond programme and assess the need for a change to the permission for that programme. Such a need for change could be due to substantial changes in the business model of the credit institution issuing the covered bonds, for example following a change of the national covered bond framework or decisions made by the credit institution. Such changes could be considered to be substantial where they require a reassessment of the conditions under which permission to issue covered bonds was granted.
- (30) Where a Member State provides for the appointment of a special administrator, it should be able to lay down rules on the competences and operational requirements for such special administrators. Those rules could exclude the possibility for the special administrator to collect deposits or other repayable funds from consumers and retail investors, but allow the collection of deposits or other repayable funds only from professional investors.
- (31) In order to ensure compliance with the obligations imposed on credit institutions issuing covered bonds and in order to ensure similar treatment and compliance across the Union, Member States should be required to provide for administrative penalties and other administrative measures which are effective, proportionate and dissuasive. Member States should also be able to provide for criminal penalties instead of administrative penalties. Member States that choose to provide for criminal penalties should notify the relevant criminal law provisions to the Commission.
- (32) Administrative penalties and other administrative measures provided for by Member States should satisfy certain essential requirements in relation to the addressees of those penalties or measures, the criteria to be taken into account in their application, the publication obligations of competent authorities performing covered bond public supervision, the power to impose penalties and the level of administrative pecuniary penalties that may be imposed. Before any decision imposing administrative penalties or other administrative measures is taken, the addressee should be given the opportunity to be heard. However, Member States should be able to provide for exceptions to the right to be heard in respect of administrative measures other than administrative penalties. Any such exception should be limited to cases of imminent danger in which urgent action is necessary in order to prevent significant losses to third parties such as covered bond investors or to prevent or remedy significant damage to the financial system. In such cases, the addressee should be given the opportunity to be heard after the measure has been imposed.

⁽¹³⁾ Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions (OJ L 287, 29.10.2013, p. 63).

- (33) Member States should be required to ensure that the competent authorities performing covered bond public supervision take into account all relevant circumstances in order to ensure a consistent application of administrative penalties or other administrative measures across the Union, when determining the type of administrative penalties or other administrative measures and the level of those penalties. Member States could include administrative measures in relation to the extension of maturity under extendable maturity structures. Where Member States provide for such measures, those measures could enable competent authorities to invalidate a maturity extension and could lay down conditions for such invalidation to address the situation where a credit institution extends the maturity in breach of the objective triggers laid down in national law, or in order to ensure financial stability and investor protection.
- (34) In order to detect potential breaches of the requirements for issuing and marketing covered bonds, competent authorities performing covered bond public supervision should have the necessary investigatory powers and effective mechanisms to encourage the reporting of potential or actual breaches. Those mechanisms should be without prejudice to the rights of defence of any person or entity adversely affected by the exercise of those powers and mechanisms.
- (35) Competent authorities performing covered bond public supervision should also have the power to impose administrative penalties and adopt other administrative measures in order to ensure the greatest possible scope for action following a breach and to help prevent further breaches, irrespective of whether such measures are qualified as an administrative penalty or other administrative measure under national law. Member States should be able to provide for penalties in addition to those provided for in this Directive.
- (36) Existing national laws on covered bonds are characterised by the fact that they are subject to detailed regulation at national level and supervision of covered bond issues and programmes to ensure that the rights of covered bond investors are upheld at all times. That supervision includes the ongoing monitoring of the features of the programme, the coverage requirements and the quality of the cover pool. An adequate level of investor information about the regulatory framework governing the issue of covered bonds is an essential element of investor protection. It is therefore appropriate to ensure that competent authorities publish regular information concerning the provisions of national law transposing this Directive and on the manner in which they perform their covered bond public supervision.
- (37) Covered bonds are currently marketed in the Union under national denominations and labels, some of which are well-established while others are not. It therefore seems appropriate to allow credit institutions which issue covered bonds in the Union to use a specific label, 'European Covered Bond', when selling covered bonds to both Union and third-country investors under the condition that those covered bonds comply with the requirements set out in this Directive. If such covered bonds also comply with the requirements set out in Article 129 of Regulation (EU) No 575/2013, credit institutions should be allowed to use the label 'European Covered Bond (Premium)'. That label, indicating that specific additional requirements have been met resulting in a strengthened and well-understood quality, might be attractive even in Member States with well-established national labels. The aim of the labels 'European Covered Bond' and 'European Covered Bond (Premium)' is to make it easier for investors to assess the quality of the covered bonds and hence to make them more attractive as an investment vehicle both inside and outside the Union. The use of those two labels should, however, be voluntary, and Member States should be able to maintain their own national denominations and labelling frameworks in parallel to those two labels.
- (38) In order to assess the application of this Directive, the Commission should, in close cooperation with EBA, monitor the development of covered bonds in the Union and report to the European Parliament and to the Council on the level of investor protection and the development of the covered bond markets. The report should also focus on the developments regarding the assets collateralising the issue of covered bonds. As the use of extendable maturity structures has been increasing, the Commission should also report to the European Parliament and to the Council on the functioning of covered bonds with extendable maturity structures and the risks and benefits deriving from the issue of such covered bonds.

- (39) A new class of financial instruments under the name of European Secured Notes (ESNs), covered by assets that are riskier than public exposures and mortgages and that are not eligible cover assets under this Directive, has been proposed by market participants and others as an additional instrument for banks to finance the real economy. The Commission consulted EBA on 3 October 2017 for an assessment of the extent to which ESNs could use the best practices defined by EBA for traditional covered bonds, the appropriate risk treatment of ESNs and the possible effect of ESN issues on bank balance sheet encumbrance levels. In response, EBA issued a report on 24 July 2018. In parallel to EBA's report, the Commission published a study on 12 October 2018. The Commission study and the EBA report concluded that further assessment was required on, for example, regulatory treatment. The Commission should therefore continue to assess whether a legislative framework for ESNs would be appropriate and submit a report to the European Parliament and to the Council on its findings, together with a legislative proposal, if appropriate.
- (40) There is currently no equivalence regime for the recognition by the Union of covered bonds issued by credit institutions in third countries, except in a prudential context where preferential treatment regarding liquidity is granted to some third-country bonds under certain conditions. The Commission should therefore, in close cooperation with EBA, assess the need and relevance for an equivalence regime to be introduced for third-country issuers of, and investors in, covered bonds. The Commission should, no more than two years after the date from which Member States are to apply the provisions of national law transposing this Directive, submit a report thereon to the European Parliament and to the Council, together with a legislative proposal, if appropriate.
- (41) Covered bonds are characterised by having a scheduled maturity of several years. It is therefore necessary to include transitional measures to ensure that covered bonds issued before 8 July 2022 are not affected. Covered bonds issued before that date should therefore continue to comply with the requirements laid down in Article 52(4) of Directive 2009/65/EC on an ongoing basis and should be exempt from most of the new requirements laid down in this Directive. Such covered bonds should be able to continue to be referred to as covered bonds, provided that their compliance with Article 52(4) of Directive 2009/65/EC, as applicable on the date of their issue, and with the requirements of this Directive that are applicable to them, is subject to supervision by the competent authorities designated pursuant to this Directive. Such supervision should not extend to the requirements of this Directive from which such covered bonds are exempt. In some Member States, ISINs are open for a longer period, allowing for covered bonds to be issued continuously under that code with the purpose of increasing the volume (issue size) of that covered bond (tap issues). The transitional measures should cover tap issues of covered bonds under ISINs opened before 8 July 2022 subject to a number of limitations.
- (42) As a consequence of laying down a uniform framework for covered bonds, the description of covered bonds in Article 52(4) of Directive 2009/65/EC should be amended. Directive 2014/59/EU defines covered bonds by reference to Article 52(4) of Directive 2009/65/EC. Since that definition should be amended, Directive 2014/59/EU should also be amended. Furthermore, to avoid affecting covered bonds issued in accordance with Article 52(4) of Directive 2009/65/EC before 8 July 2022, those covered bonds should continue to be referred to as covered bonds until their maturity. Directives 2009/65/EC and 2014/59/EU should therefore be amended accordingly.
- (43) In accordance with the Joint Political Declaration of 28 September 2011 of Member States and the Commission on explanatory documents ⁽¹⁴⁾, Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of such documents to be justified.
- (44) Since the objective of this Directive, namely to establish a common framework for covered bonds to ensure that the structural characteristics of covered bonds across the Union correspond to the lower risk profile justifying Union preferential treatment, cannot be sufficiently achieved by the Member States, but can rather, by reason of the need to further develop the covered bond market and support cross-border investment in the Union, be better achieved

⁽¹⁴⁾ OJ C 369, 17.12.2011, p. 14.

at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve that objective.

- (45) The European Central Bank was consulted and delivered its opinion on 22 August 2018.
- (46) The European Data Protection Supervisor was consulted in accordance with Article 28(2) of Regulation (EC) No 45/2001 of the European Parliament and of the Council ⁽¹⁵⁾ and delivered an opinion on 12 October 2018.
- (47) Credit institutions issuing covered bonds process significant amounts of personal data. Such processing should at all times comply with Regulation (EU) 2016/679 of the European Parliament and of the Council ⁽¹⁶⁾. Likewise, the processing of personal data by EBA when, as required by this Directive, it maintains a central database of administrative penalties and other administrative measures that are communicated to it by national competent authorities, should be carried out in accordance with Regulation (EU) 2018/1725 of the European Parliament and of the Council ⁽¹⁷⁾,

HAVE ADOPTED THIS DIRECTIVE:

TITLE I

SUBJECT MATTER, SCOPE AND DEFINITIONS

Article 1

Subject matter

This Directive lays down the following investor protection rules concerning:

- (1) requirements for issuing covered bonds;
- (2) the structural features of covered bonds;
- (3) covered bond public supervision;
- (4) publication requirements in relation to covered bonds.

Article 2

Scope

This Directive applies to covered bonds issued by credit institutions established in the Union.

Article 3

Definitions

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

- (1) 'covered bond' means a debt obligation that is issued by a credit institution in accordance with the provisions of national law transposing the mandatory requirements of this Directive and that is secured by cover assets to which covered bond investors have direct recourse as preferred creditors;

⁽¹⁵⁾ Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).

⁽¹⁶⁾ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

⁽¹⁷⁾ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

- (2) 'covered bond programme' means the structural features of a covered bonds issue that are determined by statutory rules and by contractual terms and conditions, in accordance with the permission granted to the credit institution issuing the covered bonds;
- (3) 'cover pool' means a clearly defined set of assets securing the payment obligations attached to covered bonds that are segregated from other assets held by the credit institution issuing the covered bonds;
- (4) 'cover assets' means assets included in a cover pool;
- (5) 'collateral assets' means physical assets and assets in the form of exposures that secure cover assets;
- (6) 'segregation' means the actions performed by a credit institution issuing covered bonds to identify cover assets and put them legally beyond the reach of creditors other than covered bond investors and counterparties of derivative contracts;
- (7) 'credit institution' means a credit institution as defined in point (1) of Article 4(1) of Regulation (EU) No 575/2013;
- (8) 'specialised mortgage credit institution' means a credit institution which funds loans solely or mainly through the issue of covered bonds, which is permitted by law only to carry out mortgage and public sector lending and which is not permitted to take deposits, but which takes other repayable funds from the public;
- (9) 'automatic acceleration' means a situation in which a covered bond automatically becomes immediately due and payable upon the insolvency or resolution of the issuer and in respect of which the covered bond investors have an enforceable claim for repayment at a time earlier than the original maturity date;
- (10) 'market value' means, for the purposes of immovable property, market value as defined in point (76) of Article 4(1) of Regulation (EU) No 575/2013;
- (11) 'mortgage lending value' means, for the purposes of immovable property, the mortgage lending value as defined in point (74) of Article 4(1) of Regulation (EU) No 575/2013;
- (12) 'primary assets' means dominant cover assets that determine the nature of the cover pool;
- (13) 'substitution assets' means cover assets that contribute to the coverage requirements, other than primary assets;
- (14) 'overcollateralisation' means the entirety of the statutory, contractual or voluntary level of collateral that exceeds the coverage requirement set out in Article 15;
- (15) 'match funding requirements' means rules requiring that the cash flows between liabilities and assets falling due be matched by ensuring in contractual terms and conditions that payments from borrowers and counterparties of derivative contracts fall due before payments are made to covered bond investors and to the counterparties of derivative contracts, that the amounts received are at least equal in value to the payments to be made to covered bond investors and to counterparties of derivative contracts, and that the amounts received from borrowers and counterparties of derivative contracts are included in the cover pool in accordance with Article 16(3) until the payments become due to the covered bond investors and counterparties of derivative contracts;
- (16) 'net liquidity outflow' means all payment outflows falling due on one day, including principal and interest payments and payments under derivative contracts of the covered bond programme, net of all payment inflows falling due on the same day for claims related to the cover assets;
- (17) 'extendable maturity structure' means a mechanism which provides for the possibility of extending the scheduled maturity of covered bonds for a pre-determined period of time and in the event that a specific trigger occurs;
- (18) 'covered bond public supervision' means the supervision of covered bond programmes ensuring compliance with, and the enforcement of, the requirements applicable to the issue of covered bonds;
- (19) 'special administrator' means the person or entity appointed to administrate a covered bond programme in the event of the insolvency of a credit institution issuing covered bonds under that programme, or when such credit institution has been determined to be failing or likely to fail pursuant to Article 32(1) of Directive 2014/59/EU or, in exceptional circumstances, where the relevant competent authority determines that the proper functioning of that credit institution is seriously at risk;
- (20) 'resolution' means resolution as defined in point (1) of Article 2(1) of Directive 2014/59/EU;

- (21) 'group' means a group as defined in point (138) of Article 4(1) of Regulation (EU) No 575/2013;
- (22) 'public undertakings' means public undertakings as defined in point (b) of Article 2 of Commission Directive 2006/111/EC.

TITLE II

STRUCTURAL FEATURES OF COVERED BONDS

CHAPTER 1

Dual recourse and bankruptcy remoteness

Article 4

Dual recourse

1. Member States shall lay down rules entitling covered bond investors and counterparties of derivative contracts that comply with Article 11 to the following claims:
 - (a) a claim against the credit institution issuing the covered bonds;
 - (b) in the case of the insolvency or resolution of the credit institution issuing the covered bonds, a priority claim against the principal and any accrued and future interest on cover assets;
 - (c) in the case of the insolvency of the credit institution issuing the covered bonds and in the event that the priority claim as referred to in point (b) cannot be fully satisfied, a claim against the insolvency estate of that credit institution, which ranks *pari passu* with the claims of the credit institution's ordinary unsecured creditors determined in accordance with the national laws governing the ranking in normal insolvency proceedings.
2. The claims referred to in paragraph 1 shall be limited to the full payment obligations attached to the covered bonds.
3. For the purposes of point (c) of paragraph 1 of this Article, in the case of the insolvency of a specialised mortgage credit institution, Member States may lay down rules granting the covered bond investors and counterparties of derivative contracts that comply with Article 11 a claim that ranks senior to the claim of that specialised mortgage credit institution's ordinary unsecured creditors, determined in accordance with the national laws governing the ranking of creditors in normal insolvency proceedings, but junior to any other preferred creditors.

Article 5

Bankruptcy remoteness of covered bonds

Member States shall ensure that the payment obligations attached to covered bonds are not subject to automatic acceleration upon the insolvency or resolution of the credit institution issuing the covered bonds.

CHAPTER 2

Cover pool and coverage

Section I

Eligible assets*Article 6***Eligible cover assets**

1. Member States shall require that covered bonds are at all times secured by:
 - (a) assets that are eligible pursuant to Article 129(1) of Regulation (EU) No 575/2013, provided that the credit institution issuing the covered bonds meets the requirements of paragraphs 1a to 3 of Article 129 of that Regulation;
 - (b) high-quality cover assets that ensure that the credit institution issuing the covered bonds has a claim for payment as set out in paragraph 2 and are secured by collateral assets as set out in paragraph 3; or
 - (c) assets in the form of loans to or guaranteed by public undertakings, subject to paragraph 4 of this Article.
2. The claim for payment referred to in point (b) of paragraph 1 shall be subject to the following legal requirements:
 - (a) the asset represents a claim for payment of monies that has a minimum value that is determinable at all times, that is legally valid and enforceable, that is not subject to conditions other than the condition that the claim matures at a future date, and that is secured by a mortgage, charge, lien or other guarantee;
 - (b) the mortgage, charge, lien or other guarantee securing the claim for payment is enforceable;
 - (c) all legal requirements for establishing the mortgage, charge, lien or guarantee securing the claim for payment have been fulfilled;
 - (d) the mortgage, charge, lien or guarantee securing the claim for payment enables the credit institution issuing the covered bonds to recover the value of the claim without undue delay.

Member States shall require that credit institutions issuing covered bonds assess the enforceability of claims for payment and the ability to realise collateral assets before including them in the cover pool.

3. The collateral assets referred to in point (b) of paragraph 1 shall meet one of the following requirements:
 - (a) for physical collateral assets, there exist valuation standards that are generally accepted among experts and that are appropriate for the physical collateral asset concerned and there exists a public register that records ownership of and claims on those physical collateral assets; or
 - (b) for assets in the form of exposures, the safety and soundness of the exposure counterparty is implied by tax-raising powers or by being subject to ongoing public supervision of the counterparty's operational soundness and financial solvability.

Physical collateral assets referred to in point (a) of the first subparagraph of this paragraph shall contribute to coverage of liabilities attached to the covered bond up to the lesser of the principal amount of the liens that are combined with any prior liens and 70 % of the value of those physical collateral assets. Physical collateral assets referred to in point (a) of the first subparagraph of this paragraph which secure assets as referred to in point (a) of paragraph 1 shall not be required to comply with the limit of 70 % or with the limits of Article 129(1) of Regulation (EU) No 575/2013.

Where, for the purposes of point (a) of the first subparagraph of this paragraph, no public register for a particular physical collateral asset exists, Member States may provide for an alternative form of certification of the ownership of and claims on that physical collateral asset, insofar as that form of certification provides protection that is comparable to the protection provided by a public register in the sense that it allows interested third parties, in accordance with the law of the Member State concerned, to access information in relation to the identification of the encumbered physical collateral asset, the attribution of ownership, the documentation and attribution of encumbrances and the enforceability of security interests.

4. For the purposes of point (c) of paragraph 1, covered bonds secured by loans to or guaranteed by public undertakings as primary assets shall be subject to a minimum level of 10 % of overcollateralisation and subject to all the following conditions:

- (a) the public undertakings provide essential public services on the basis of a licence, a concession contract or other form of entrustment granted by a public authority;
- (b) the public undertakings are subject to public supervision;
- (c) the public undertakings have sufficient revenue generating powers, which are ensured by the fact of such public undertakings:
 - (i) having adequate flexibility to collect and to increase fees, charges and receivables for the service provided in order to ensure their financial soundness and solvability;
 - (ii) receiving sufficient grants on a statutory basis in order to ensure their financial soundness and solvability in exchange for providing essential public services; or
 - (iii) having entered into a profit and loss transfer agreement with a public authority.

5. Member States shall lay down rules on the methodology and process for the valuation of physical collateral assets which secure assets as referred to in points (a) and (b) of paragraph 1. Those rules shall ensure at least the following:

- (a) for each physical collateral asset, that a current valuation at or at less than market value or mortgage lending value exists at the moment of inclusion of the cover asset in the cover pool;
- (b) that the valuation is carried out by a valuer who possesses the necessary qualifications, ability and experience; and
- (c) that the valuer is independent from the credit decision process, does not take into account speculative elements in the assessment of the value of the physical collateral asset, and documents the value of the physical collateral asset in a transparent and clear manner.

6. Member States shall require that credit institutions issuing covered bonds have in place procedures to monitor that the physical collateral assets which secure assets as referred to in points (a) and (b) of paragraph 1 of this Article are adequately insured against the risk of damage and that the insurance claim is segregated in accordance with Article 12.

7. Member States shall require credit institutions issuing covered bonds to document the cover assets referred to in points (a) and (b) of paragraph 1 and the compliance of their lending policies with the provisions of national law transposing this Article.

8. Member States shall lay down rules ensuring risk diversification in the cover pool in relation to granularity and material concentration for assets not eligible under point (a) of paragraph 1.

Article 7

Collateral assets located outside the Union

1. Subject to paragraph 2, Member States may allow credit institutions issuing covered bonds to include assets in the cover pool that are secured by collateral assets located outside the Union.

2. Where Member States allow for the inclusion of assets as referred to in paragraph 1, they shall ensure investor protection by requiring that credit institutions verify that those collateral assets meet all the requirements set out in Article 6. Member States shall ensure that those collateral assets offer a level of security similar to that of collateral assets located in the Union and shall ensure that the realisation of those collateral assets is legally enforceable in a way which is equivalent in effect to the realisation of collateral assets located in the Union.

*Article 8***Intragroup pooled covered bond structures**

Member States may lay down rules regarding the use of intragroup pooled covered bond structures under which covered bonds issued by a credit institution that belongs to a group ('internally issued covered bonds') are used as cover assets for the external issue of covered bonds by another credit institution that belongs to the same group ('externally issued covered bonds'). Those rules shall include at least the following requirements:

- (a) the internally issued covered bonds are sold to the credit institution issuing the externally issued covered bonds;
- (b) the internally issued covered bonds are used as cover assets in the cover pool for the externally issued covered bonds and are recorded on the balance sheet of the credit institution issuing the externally issued covered bonds;
- (c) the cover pool for the externally issued covered bonds contains only internally issued covered bonds issued by a single credit institution within the group;
- (d) the credit institution issuing the externally issued covered bonds intends to sell them to covered bond investors outside the group;
- (e) both the internally and externally issued covered bonds qualify for credit quality step 1 as referred to in Part Three, Title II, Chapter 2 of Regulation (EU) No 575/2013 at the time of issue and are secured by eligible cover assets as referred to in Article 6 of this Directive;
- (f) in the case of cross-border intragroup pooled covered bond structures, the cover assets of the internally issued covered bonds comply with the eligibility and coverage requirements of the externally issued covered bonds.

For the purposes of point (e) of the first subparagraph of this Article, competent authorities designated pursuant to Article 18(2) may allow covered bonds that qualify for credit quality step 2 following a change that results in a lower credit quality step of the covered bonds to continue to be part of an intragroup pooled covered bond structure, provided that those competent authorities conclude that the change in credit quality step is not due to a breach of the requirements for permission as set out in the provisions of national law transposing Article 19(2). Competent authorities designated pursuant to Article 18(2) shall subsequently notify EBA of any decision pursuant to this subparagraph.

*Article 9***Joint funding**

1. Member States shall allow eligible cover assets that were originated by a credit institution and have been purchased by a credit institution issuing covered bonds to be used as cover assets for the issue of covered bonds.

Member States shall regulate such purchases in order to ensure that the requirements set out in Articles 6 and 12 are met.

2. Without prejudice to the requirement set out in the second subparagraph of paragraph 1 of this Article, Member States may allow transfers by way of financial collateral arrangement pursuant to Directive 2002/47/EC.

3. Without prejudice to the requirement set out in the second subparagraph of paragraph 1, Member States may also allow assets that were originated by an undertaking that is not a credit institution to be used as cover assets. Where Member States exercise that option, they shall require that the credit institution issuing the covered bonds either assess the credit-granting standards of the undertaking which originated the cover assets, or itself perform a thorough assessment of the borrower's creditworthiness.

*Article 10***Composition of the cover pool**

Member States shall ensure investor protection by laying down rules on the composition of cover pools. Those rules shall, where relevant, set the conditions for the inclusion by credit institutions issuing covered bonds of primary assets that have differing characteristics in terms of structural features, lifetime or risk profile in the cover pool.

*Article 11***Derivative contracts in the cover pool**

1. Member States shall ensure investor protection by allowing derivative contracts to be included in the cover pool only where at least the following requirements are met:
 - (a) the derivative contracts are included in the cover pool exclusively for risk hedging purposes, their volume is adjusted in the case of a reduction in the hedged risk and they are removed when the hedged risk ceases to exist;
 - (b) the derivative contracts are sufficiently documented;
 - (c) the derivative contracts are segregated in accordance with Article 12;
 - (d) the derivative contracts cannot be terminated upon the insolvency or resolution of the credit institution that issued the covered bonds;
 - (e) the derivative contracts comply with the rules laid down in accordance with paragraph 2.
2. For the purposes of ensuring compliance with the requirements listed in paragraph 1, Member States shall lay down rules for derivative contracts in the cover pool. Those rules shall specify:
 - (a) the eligibility criteria for the hedging counterparties;
 - (b) the necessary documentation to be provided in relation to derivative contracts.

*Article 12***Segregation of cover assets**

1. Member States shall lay down rules regulating the segregation of cover assets. Those rules shall include at least the following requirements:
 - (a) all cover assets are identifiable by the credit institution issuing the covered bonds at all times;
 - (b) all cover assets are subject to legally binding and enforceable segregation by the credit institution issuing the covered bonds;
 - (c) all cover assets are protected from any third party claims and no cover asset forms part of the insolvency estate of the credit institution issuing the covered bonds until the priority claim referred to in point (b) of Article 4(1) has been satisfied.

For the purposes of the first subparagraph, the cover assets shall include any collateral received in connection with derivative contract positions.

2. The segregation of cover assets referred to in paragraph 1 shall also apply in the case of insolvency or resolution of the credit institution issuing covered bonds.

*Article 13***Cover pool monitor**

1. Member States may require that credit institutions issuing covered bonds appoint a cover pool monitor to perform ongoing monitoring of the cover pool with regard to the requirements set out in Articles 6 to 12 and Articles 14 to 17.

2. Where Member States exercise the option provided for in paragraph 1, they shall lay down rules at least on the following aspects:

- (a) the appointment and dismissal of the cover pool monitor;
- (b) any eligibility criteria for the cover pool monitor;
- (c) the role and duties of the cover pool monitor, including in the case of the insolvency or resolution of the credit institution issuing the covered bonds;
- (d) the obligation to report to the competent authorities designated pursuant to Article 18(2);
- (e) the right of access to information necessary for the performance of the cover pool monitor's duties.

3. Where Member States exercise the option provided for in paragraph 1, the cover pool monitor shall be separate and independent from the credit institution issuing the covered bonds and from that credit institution's auditor.

Member States may, however, allow a cover pool monitor that is not separate from the credit institution ('internal cover pool monitor') where:

- (a) the internal cover pool monitor is independent from the credit decision process of the credit institution issuing the covered bonds;
- (b) without prejudice to point (a) of paragraph 2, Member States ensure that the internal cover pool monitor cannot be removed from that function as cover pool monitor without the prior approval of the management body in its supervisory function of the credit institution issuing the covered bonds; and
- (c) where necessary, the internal cover pool monitor has direct access to the management body in its supervisory function.

4. Where Member States exercise the option provided for in paragraph 1, they shall notify EBA.

Article 14

Investor information

1. Member States shall ensure that credit institutions issuing covered bonds provide information on their covered bond programmes that is sufficiently detailed to allow investors to assess the profile and risks of that programme and to carry out their due diligence.

2. For the purposes of paragraph 1, Member States shall ensure that the information is provided to investors at least on a quarterly basis and includes the following minimum portfolio information:

- (a) the value of the cover pool and outstanding covered bonds;
- (b) a list of the International Securities Identification Numbers (ISINs) for all covered bond issues under that programme, to which an ISIN has been attributed;
- (c) the geographical distribution and type of cover assets, their loan size and valuation method;
- (d) details in relation to market risk, including interest rate risk and currency risk, and credit and liquidity risks;
- (e) the maturity structure of cover assets and covered bonds, including an overview of the maturity extension triggers if applicable;
- (f) the levels of required and available coverage, and the levels of statutory, contractual and voluntary overcollateralisation;
- (g) the percentage of loans where a default is considered to have occurred pursuant to Article 178 of Regulation (EU) No 575/2013 and in any case where the loans are more than 90 days past due.

Member States shall ensure that for externally issued covered bonds under intragroup pooled covered bond structures as referred to in Article 8, the information referred to in the first subparagraph of this paragraph, or a link thereto, is provided to investors in respect of all internally issued covered bonds of the group. Member States shall ensure that that information is provided to investors on at least an aggregated basis.

3. Member States shall ensure investor protection by requiring credit institutions issuing covered bonds to publish on their website the information made available to investors in accordance with paragraphs 1 and 2. Member States shall not require those credit institutions to publish that information on paper.

Section II

Coverage and liquidity requirements

Article 15

Coverage requirements

1. Member States shall ensure investor protection by requiring covered bond programmes to comply at all times with at least the coverage requirements laid down in paragraphs 2 to 8.

2. All liabilities of the covered bonds shall be covered by claims for payment attached to the cover assets.

3. The liabilities referred to in paragraph 2 shall include:

- (a) the obligations for the payment of the principal amount of outstanding covered bonds;
- (b) the obligations for the payment of any interest on outstanding covered bonds;
- (c) the payment obligations attached to derivative contracts held in accordance with Article 11; and
- (d) the expected costs related to maintenance and administration for the winding-down of the covered bond programme.

For the purposes of point (d) of the first subparagraph, Member States may allow a lump sum calculation.

4. The following cover assets shall be considered to contribute to the coverage requirement:

- (a) primary assets;
- (b) substitution assets;
- (c) liquid assets held in accordance with Article 16; and
- (d) claims for payment attached to derivative contracts held in accordance with Article 11.

Uncollateralised claims where a default is considered to have occurred pursuant to Article 178 of Regulation (EU) No 575/2013 do not contribute to coverage.

5. For the purposes of point (c) of the first subparagraph of paragraph 3 and point (d) of the first subparagraph of paragraph 4, Member States shall lay down rules on the valuation of derivative contracts.

6. The calculation of the required coverage shall ensure that the aggregate principal amount of all cover assets is equal to or exceeds the aggregate principal amount of outstanding covered bonds ('nominal principle').

Member States may allow for other principles of calculation, provided that they do not result in a higher ratio of coverage than that calculated under the nominal principle.

Member States shall lay down rules on the calculation of any interest payable in respect of outstanding covered bonds and interest receivable in respect of cover assets, which shall reflect sound prudential principles in accordance with applicable accounting standards.

7. By way of derogation from the first subparagraph of paragraph 6, Member States may, in a manner which reflects sound prudential principles and in accordance with applicable accounting standards, allow for future interest receivable on the cover asset net of future interest payable on the corresponding covered bond to be taken into consideration in order to balance any shortfall in coverage of the principal payment obligation attached to the covered bond where there is a close correspondence as defined in the applicable delegated regulation adopted pursuant to Article 33(4) of Regulation (EU) No 575/2013, subject to the following conditions:

- (a) payments received during the lifetime of the cover asset and necessary for coverage of the payment obligation attached to the corresponding covered bond are segregated in accordance with Article 12 or are included in the cover pool in the form of cover assets referred to in Article 6 until the payments become due; and
- (b) prepayment of the cover asset is only possible by way of exercising the delivery option, as defined in the applicable delegated regulation adopted pursuant to Article 33(4) of Regulation (EU) No 575/2013 or, in the case of covered bonds callable at par by the credit institution issuing the covered bonds, by way of the cover asset's borrower paying at least the called covered bond's par amount.

8. Member States shall ensure that the calculation of cover assets and liabilities is based on the same methodology. Member States may allow for different calculation methodologies for the calculation of cover assets on the one hand and liabilities on the other, provided that the use of such different methodologies does not result in a higher ratio of coverage than that calculated using the same methodology for the calculation of both cover assets and liabilities.

Article 16

Requirement for a cover pool liquidity buffer

1. Member States shall ensure investor protection by requiring that the cover pool includes at all times a liquidity buffer composed of liquid assets available to cover the net liquidity outflow of the covered bond programme.
2. The cover pool liquidity buffer shall cover the maximum cumulative net liquidity outflow over the next 180 days.
3. Member States shall ensure that the cover pool liquidity buffer referred to in paragraph 1 of this Article consists of the following types of assets, segregated in accordance with Article 12 of this Directive:
 - (a) assets qualifying as level 1, level 2A or level 2B assets pursuant to the applicable delegated regulation adopted pursuant to Article 460 of Regulation (EU) No 575/2013, that are valued in accordance with that delegated regulation, and are not issued by the credit institution issuing the covered bonds itself, its parent undertaking, other than a public sector entity that is not a credit institution, its subsidiary or another subsidiary of its parent undertaking or by a securitisation special purpose entity with which the credit institution has close links;
 - (b) short-term exposures to credit institutions that qualify for credit quality step 1 or 2, or short-term deposits to credit institutions that qualify for credit quality step 1, 2 or 3, in accordance with point (c) of Article 129(1) of Regulation (EU) No 575/2013.

Member States may restrict the types of liquid assets to be used for the purposes of points (a) and (b) of the first subparagraph.

Member States shall ensure that uncollateralised claims from exposures considered in default pursuant to Article 178 of Regulation (EU) No 575/2013 cannot contribute to the cover pool liquidity buffer.

4. Where credit institutions issuing covered bonds are subject to liquidity requirements set out in other Union legal acts that result in an overlap with the cover pool liquidity buffer, Member States may decide not to apply the provisions of national law transposing paragraphs 1, 2 and 3 for the period provided for in those Union legal acts. Member States may exercise that option only until the date on which an amendment to those Union legal acts to eliminate the overlap becomes applicable and shall inform the Commission and EBA where they exercise that option.

5. Member States may allow for the calculation of the principal for extendable maturity structures to be based on the final maturity date in accordance with the contractual terms and conditions of the covered bond.

6. Member States may provide that paragraph 1 does not apply to covered bonds that are subject to match funding requirements.

*Article 17***Conditions for extendable maturity structures**

1. Member States may allow for the issue of covered bonds with extendable maturity structures where investor protection is ensured by at least the following:
 - (a) the maturity can only be extended subject to objective triggers specified in national law, and not at the discretion of the credit institution issuing the covered bonds;
 - (b) the maturity extension triggers are specified in the contractual terms and conditions of the covered bond;
 - (c) the information provided to investors about the maturity structure is sufficient to enable them to determine the risk of the covered bond, and includes a detailed description of:
 - (i) the maturity extension triggers;
 - (ii) the consequences for a maturity extension of the insolvency or resolution of the credit institution issuing the covered bonds;
 - (iii) the role of the competent authorities designated pursuant to Article 18(2) and, where relevant, of the special administrator with regard to the maturity extension;
 - (d) the final maturity date of the covered bond is at all times determinable;
 - (e) in the event of the insolvency or resolution of the credit institution issuing the covered bonds, maturity extensions do not affect the ranking of covered bond investors or invert the sequencing of the covered bond programme's original maturity schedule;
 - (f) the maturity extension does not change the structural features of the covered bonds regarding dual recourse as referred to in Article 4 and bankruptcy remoteness as referred to in Article 5.
2. Member States which allow the issue of covered bonds with extendable maturity structures shall notify EBA accordingly.

TITLE III

COVERED BOND PUBLIC SUPERVISION*Article 18***Covered bond public supervision**

1. Member States shall ensure investor protection by providing that the issue of covered bonds is subject to covered bond public supervision.
2. For the purposes of the covered bond public supervision referred to in paragraph 1, Member States shall designate one or more competent authorities. They shall inform the Commission and EBA of those designated authorities and shall indicate any division of functions and duties.
3. Member States shall ensure that the competent authorities designated pursuant to paragraph 2 monitor the issue of covered bonds to assess compliance with the requirements laid down in the provisions of national law transposing this Directive.
4. Member States shall ensure that credit institutions issuing covered bonds register all their transactions in relation to the covered bond programme and have in place adequate and appropriate documentation systems and processes.
5. Member States shall further ensure that appropriate measures are in place to enable the competent authorities designated pursuant to paragraph 2 of this Article to obtain the information necessary to assess the compliance with the requirements laid down in the provisions of national law transposing this Directive, investigate possible breaches of those requirements, and impose administrative penalties and other administrative measures in accordance with the provisions of national law transposing Article 23.
6. Member States shall ensure that the competent authorities designated pursuant to paragraph 2, have the expertise, resources, operational capacity, powers and independence necessary to carry out the functions relating to covered bond public supervision.

*Article 19***Permission for covered bond programmes**

1. Member States shall ensure investor protection by requiring permission for a covered bond programme to be obtained before issuing covered bonds under that programme. Member States shall confer the power to grant such permission upon the competent authorities designated pursuant to Article 18(2).
2. Member States shall lay down the requirements for the permission referred to in paragraph 1, including at least the following:
 - (a) an adequate programme of operations setting out the issue of covered bonds;
 - (b) adequate policies, processes and methodologies aimed at investor protection for the approval, amendment, renewal and refinancing of loans included in the cover pool;
 - (c) management and staff dedicated to the covered bond programme which have adequate qualifications and knowledge regarding the issue of covered bonds and the administration of the covered bond programme;
 - (d) an administrative set-up of the cover pool and the monitoring thereof that meets the applicable requirements laid down in the provisions of national law transposing this Directive.

*Article 20***Covered bond public supervision in the event of insolvency or resolution**

1. The competent authorities designated pursuant to Article 18(2) shall cooperate with the resolution authority in the event of the resolution of a credit institution issuing covered bonds in order to ensure that the rights and interests of the covered bond investors are preserved, including at least by verifying the continuous and sound management of the covered bond programme during the period of the resolution process.
2. Member States may provide for the appointment of a special administrator to ensure that the rights and interests of the covered bond investors are preserved, including at least by verifying the continuous and sound management of the covered bond programme during the necessary period.

Where Member States exercise that option, they may require their competent authorities designated pursuant to Article 18(2) to approve the appointment and dismissal of the special administrator. Member States that exercise that option shall at least require that those competent authorities be consulted regarding the appointment and dismissal of the special administrator.

3. Where Member States provide for the appointment of a special administrator in accordance with paragraph 2, they shall adopt rules laying down the tasks and responsibilities of that special administrator at least in relation to:
 - (a) the discharge of the liabilities attached to the covered bonds;
 - (b) the management and realisation of cover assets, including their transfer together with covered bond liabilities to another credit institution issuing covered bonds;
 - (c) the legal transactions necessary for the proper administration of the cover pool, for the ongoing monitoring of the coverage of the liabilities attached to the covered bonds, for the initiation of proceedings in order to bring assets back into the cover pool and for the transferral of the remaining assets to the insolvency estate of the credit institution which issued the covered bonds after all covered bond liabilities have been discharged.

For the purposes of point (c) of the first subparagraph, Member States may allow the special administrator to operate, in the case of the insolvency of the credit institution issuing the covered bonds, under the authorisation held by that credit institution, subject to the same operational requirements.

4. Member States shall ensure the coordination and exchange of information for the purposes of the insolvency or resolution process among the competent authorities designated pursuant to Article 18(2), the special administrator, where such an administrator has been appointed, and, in case of resolution, the resolution authority.

*Article 21***Reporting to the competent authorities**

1. Member States shall ensure investor protection by requiring credit institutions issuing covered bonds to report the information set out in paragraph 2 on covered bond programmes to the competent authorities designated pursuant to Article 18(2). That reporting shall be carried out on a regular basis as well as at the request of those competent authorities. Member States shall lay down rules on the frequency of that regular reporting.
2. The reporting obligations to be laid down pursuant to paragraph 1 shall require that the information to be provided includes information on at least the following:
 - (a) the eligibility of assets and cover pool requirements in accordance with Articles 6 to 11;
 - (b) the segregation of cover assets in accordance with Article 12;
 - (c) where applicable, the functioning of the cover pool monitor in accordance with Article 13;
 - (d) the coverage requirements in accordance with Article 15;
 - (e) the cover pool liquidity buffer in accordance with Article 16;
 - (f) where applicable, the conditions for extendable maturity structures in accordance with Article 17.
3. Member States shall provide for rules on the information to be provided under paragraph 2 by the credit institutions issuing covered bonds to the competent authorities designated pursuant to Article 18(2) in the event of the insolvency or resolution of a credit institution issuing covered bonds.

*Article 22***Powers of competent authorities for the purposes of covered bond public supervision**

1. Member States shall ensure investor protection by giving competent authorities designated pursuant to Article 18(2) all supervisory, investigatory and sanctioning powers that are necessary to perform the task of covered bond public supervision.
2. The powers referred to in paragraph 1 shall include at least the following:
 - (a) the power to grant or refuse permission pursuant to Article 19;
 - (b) the power to regularly review the covered bond programme in order to assess compliance with the provisions of national law transposing this Directive;
 - (c) the power to carry out on-site and off-site inspections;
 - (d) the power to impose administrative penalties and other administrative measures in accordance with the provisions of national law transposing Article 23;
 - (e) the power to adopt and implement supervisory guidelines relating to the issue of covered bonds.

*Article 23***Administrative penalties and other administrative measures**

1. Without prejudice to the right of Member States to provide for criminal penalties, Member States shall lay down rules establishing appropriate administrative penalties and other administrative measures that apply at least in the following situations:
 - (a) a credit institution has acquired a permission for a covered bond programme by means of false statements or other irregular means;
 - (b) a credit institution no longer fulfils the conditions under which permission for a covered bond programme was given;
 - (c) a credit institution issues covered bonds without obtaining the permission in accordance with the provisions of national law transposing Article 19;

- (d) a credit institution issuing covered bonds fails to meet the requirements set out in the provisions of national law transposing Article 4;
- (e) a credit institution issues covered bonds that do not comply with the requirements set out in the provisions of national law transposing Article 5;
- (f) a credit institution issues covered bonds that are not collateralised in accordance with the provisions of national law transposing Article 6;
- (g) a credit institution issues covered bonds that are collateralised by assets located outside the Union in breach of the requirements laid down in the provisions of national law transposing Article 7;
- (h) a credit institution collateralises covered bonds in an intragroup pooled covered bond structure in breach of the requirements laid down in the provisions of national law transposing Article 8;
- (i) a credit institution issuing covered bonds fails to fulfil the conditions for joint funding laid down in the provisions of national law transposing Article 9;
- (j) a credit institution issuing covered bonds fails to meet the requirements of composition of the cover pool laid down in the provisions of national law transposing Article 10;
- (k) a credit institution issuing covered bonds fails to meet the requirements regarding derivative contracts in the cover pool laid down in the provisions of national law transposing Article 11;
- (l) a credit institution issuing covered bonds fails to comply with the requirements of the segregation of cover assets in accordance with the provisions of national law transposing Article 12;
- (m) a credit institution issuing covered bonds fails to report information or provides incomplete or inaccurate information in breach of the provisions of national law transposing Article 14;
- (n) a credit institution issuing covered bonds repeatedly or persistently fails to maintain a cover pool liquidity buffer in breach of the provisions of national law transposing Article 16;
- (o) a credit institution that issues covered bonds with extendable maturity structures fails to fulfil the conditions for extendable maturity structures laid down in the provisions of national law transposing Article 17;
- (p) a credit institution issuing covered bonds fails to report information or provides incomplete or inaccurate information on its obligations in breach of the provisions of national law transposing Article 21(2).

Member States may decide not to provide for administrative penalties or other administrative measures for breaches which are subject to criminal penalties under their national law. In such cases, Member States shall communicate the relevant criminal law provisions to the Commission.

2. The penalties and measures referred to in paragraph 1 shall be effective, proportionate and dissuasive and shall include at least the following:

- (a) a withdrawal of permission for a covered bond programme;
- (b) a public statement which indicates the identity of the natural or legal person and the nature of the breach in accordance with Article 24;
- (c) an order requiring the natural or legal person to cease the conduct and to desist from a repetition of that conduct;
- (d) administrative pecuniary penalties.

3. Member States shall also ensure that the penalties and measures referred to in paragraph 1 are effectively implemented.

4. Member States shall ensure that, when determining the type of administrative penalties or other administrative measures and the amount of administrative pecuniary penalties, the competent authorities designated pursuant to Article 18(2) take into account all the following circumstances, where relevant:

- (a) the gravity and the duration of the breach;
- (b) the degree of responsibility of the natural or legal person responsible for the breach;
- (c) the financial strength of the natural or legal person responsible for the breach, including by reference to the total turnover of the legal person or the annual income of the natural person;

- (d) the importance of profits gained or losses avoided because of the breach by the natural or legal person responsible for the breach, insofar as those profits or losses can be determined;
- (e) the losses caused to third parties by the breach, insofar as those losses can be determined;
- (f) the level of cooperation by the natural or legal person responsible for the breach with the competent authorities designated pursuant to Article 18(2);
- (g) any previous breaches by the natural or legal person responsible for the breach;
- (h) any actual or potential systemic consequences of the breach.

5. Where the provisions referred to in paragraph 1 apply to legal persons, Member States shall also ensure that the competent authorities designated pursuant to Article 18(2) apply the administrative penalties and other administrative measures set out in paragraph 2 of this Article to members of the management body and to other individuals who under national law are responsible for the breach.

6. Member States shall ensure that before taking any decision imposing administrative penalties or other administrative measures as set out in paragraph 2, the competent authorities designated pursuant to Article 18(2) give the natural or legal person concerned the opportunity to be heard. Exceptions to the right to be heard may apply for the adoption of those other administrative measures where urgent action is necessary to prevent significant losses to third parties or significant damage to the financial system. In such cases, the person concerned shall be given the opportunity to be heard as soon as possible after the adoption of the administrative measure and, where necessary, that measure shall be revised.

7. Member States shall ensure that any decision imposing administrative penalties or other administrative measures as set out in paragraph 2 is properly reasoned and is subject to a right of appeal.

Article 24

Publication of administrative penalties and other administrative measures

1. Member States shall ensure that the provisions of national law transposing this Directive include rules requiring that administrative penalties and other administrative measures be published without undue delay on the official websites of the competent authorities designated pursuant to Article 18(2). The same obligations apply where a Member State decides to provide for criminal penalties pursuant to the second subparagraph of Article 23(1).

2. The rules adopted pursuant to paragraph 1 shall require at a minimum the publication of any decision which cannot or can no longer be appealed, and which is imposed for breach of the provisions of national law transposing this Directive.

3. Member States shall ensure that such a publication includes information on the type and nature of the breach and the identity of the natural or legal person on whom the penalty or measure is imposed. Subject to paragraph 4, Member States shall further ensure that such information is published without undue delay after the addressee has been informed of that penalty or measure as well as of the publication of the decision imposing that penalty or measure on the official websites of the competent authorities designated pursuant to Article 18(2).

4. Where Member States permit publication of a decision imposing penalties or other measures against which an appeal is pending, the competent authorities designated pursuant to Article 18(2) shall, without undue delay, also publish on their official websites information on the status of the appeal and the outcome thereof.

5. Member States shall ensure that the competent authorities designated pursuant to Article 18(2) publish the decision imposing penalties or measures on an anonymous basis and in accordance with national law, in any of the following circumstances:

- (a) where the penalty or measure is imposed on a natural person and the publication of personal data is found to be disproportionate;
- (b) where publication would jeopardise the stability of financial markets or an ongoing criminal investigation;
- (c) where publication would cause, insofar as it can be determined, disproportionate damage to the credit institutions or the natural persons involved.

6. Where a Member State publishes a decision imposing a penalty or measure on an anonymous basis, it may allow for the publication of the relevant data to be postponed.
7. Member States shall ensure that any final court ruling that annuls a decision imposing a penalty or measure is also published.
8. Member States shall ensure that any publication referred to in paragraphs 2 to 6 remains on the official websites of the competent authorities designated pursuant to Article 18(2) for at least five years from the date of publication. Personal data contained in the publication shall only be retained on the official website for the period which is necessary and in accordance with the applicable personal data protection rules. Such a retention period shall be determined taking into account the limitation periods provided for in the legislation of the Member States concerned but shall in no case be longer than ten years.
9. The competent authorities designated pursuant to Article 18(2) shall inform EBA of any administrative penalties and other administrative measures imposed, including, where relevant, any appeal in relation thereto and the outcome thereof. Member States shall ensure that those competent authorities receive information and details of the final judgement in relation to any criminal penalty imposed, which those competent authorities shall also submit to EBA.
10. EBA shall maintain a central database of administrative penalties and other administrative measures communicated to them. That database shall be accessible only to the competent authorities designated pursuant to Article 18(2) and shall be updated on the basis of the information provided by those competent authorities in accordance with paragraph 9 of this Article.

Article 25

Cooperation obligations

1. Member States shall ensure that the competent authorities designated pursuant to Article 18(2) cooperate closely with the competent authorities performing the general supervision of credit institutions in accordance with relevant Union law applicable to those institutions and with the resolution authority in the event of the resolution of a credit institution issuing covered bonds.
2. Member States shall further ensure that the competent authorities designated pursuant to Article 18(2) cooperate closely with each other. That cooperation shall include providing one another with any information which is relevant for the exercise of the other authorities' supervisory tasks under the provisions of national law transposing this Directive.
3. For the purposes of the second sentence of paragraph 2 of this Article, Member States shall ensure that the competent authorities designated pursuant to Article 18(2) communicate:
 - (a) all relevant information at the request of another competent authority designated pursuant to Article 18(2); and
 - (b) on their own initiative, any essential information to other competent authorities designated pursuant to Article 18(2) in other Member States.
4. Member States shall also ensure that the competent authorities designated pursuant to Article 18(2) cooperate with EBA or, where relevant, with the European Supervisory Authority (European Securities and Markets Authority), established by Regulation (EU) No 1095/2010 of the European Parliament and of the Council ⁽¹⁸⁾, for the purposes of this Directive.
5. For the purposes of this Article, information shall be regarded as essential if it could materially influence the assessment of the issue of covered bonds in another Member State.

Article 26

Disclosure requirements

1. Member States shall ensure that the following information is published by the competent authorities designated pursuant to Article 18(2) on their official websites:

⁽¹⁸⁾ Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84).

- (a) the texts of their national laws, regulations, administrative rules and general guidance adopted in relation to the issue of covered bonds;
 - (b) the list of credit institutions permitted to issue covered bonds;
 - (c) the list of covered bonds that are entitled to use the label 'European Covered Bond' and the list of covered bonds that are entitled to use the label 'European Covered Bond (Premium)'.
2. The information published in accordance with paragraph 1 shall be sufficient to enable a meaningful comparison of the approaches adopted by the different Member States' competent authorities designated pursuant to Article 18(2). That information shall be updated to take account of any changes.
3. The competent authorities designated pursuant to Article 18(2) shall notify EBA on an annual basis of the list of credit institutions referred to in point (b) of paragraph 1 and the lists of covered bonds referred to in point (c) of paragraph 1.

TITLE IV

LABELLING

Article 27

Labelling

1. Member States shall ensure that the label 'European Covered Bond' and its official translation in all official languages of the Union is used only for covered bonds which meet the requirements laid down in the provisions of national law transposing this Directive.
2. Member States shall ensure that the label 'European Covered Bond (Premium)' and its official translation in all official languages of the Union is used only for covered bonds which meet the requirements laid down in the provisions of national law transposing this Directive and which meet the requirements of Article 129 of Regulation (EU) No 575/2013, as amended by Regulation (EU) 2019/2160 of the European Parliament and of the Council ⁽¹⁹⁾.

TITLE V

AMENDMENTS TO OTHER DIRECTIVES

Article 28

Amendment to Directive 2009/65/EC

Article 52(4) of Directive 2009/65/EC is amended as follows:

- (1) the first subparagraph is replaced by the following:

'4. Member States may raise the 5 % limit laid down in the first subparagraph of paragraph 1 to a maximum of 25 % where bonds were issued before 8 July 2022 and met the requirements set out in this paragraph as applicable on the date of their issue, or where bonds fall under the definition of covered bonds in point (1) of Article 3 of Directive (EU) 2019/2162 of the European Parliament and of the Council (*).

(*) Directive (EU) 2019/2162 of the European Parliament and of the Council of 27 November 2019 on the issue of covered bonds and covered bond public supervision and amending Directives 2009/65/EC and 2014/59/EU (OJ L 328, 18.12.2019, p. 29).';

- (2) the third subparagraph is deleted.

⁽¹⁹⁾ Regulation (EU) 2019/2160 of the European Parliament and of the Council of 27 November 2019 amending Regulation (EU) No 575/2013 as regards exposures in the form of covered bonds (See page 1 of this Official Journal).

*Article 29***Amendment to Directive 2014/59/EU**

In Article 2(1) of Directive 2014/59/EU, point 96 is replaced by the following:

- (96) “covered bond” means a covered bond as defined in point (1) of Article 3 of Directive (EU) 2019/2162 of the European Parliament and of the Council (*) or, with regard to an instrument that was issued before 8 July 2022, a bond as referred to in Article 52(4) of Directive 2009/65/EC of the European Parliament and of the Council (**), as applicable on the date of its issue;

- (*) Directive (EU) 2019/2162 of the European Parliament and of the Council of 27 November 2019 on the issue of covered bonds and covered bond public supervision and amending Directives 2009/65/EC and 2014/59/EU (OJ L 328, 18.12.2019, p. 29).
- (**) 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).’.

TITLE VI

FINAL PROVISIONS*Article 30***Transitional measures**

1. Member States shall ensure that covered bonds issued before 8 July 2022 that comply with the requirements laid down in Article 52(4) of Directive 2009/65/EC, as applicable on the date of their issue, are not subject to the requirements set out in Articles 5 to 12 and Articles 15, 16, 17 and 19 of this Directive, but may continue to be referred to as covered bonds in accordance with this Directive until their maturity.

Member States shall ensure that the competent authorities designated pursuant to Article 18(2) of this Directive monitor the compliance of covered bonds issued before 8 July 2022 with the requirements laid down in Article 52(4) of Directive 2009/65/EC, as applicable on the date of their issue, as well as with the requirements of this Directive, insofar as they are applicable in accordance with the first subparagraph of this paragraph.

2. Member States may apply paragraph 1 to tap issues of covered bonds for which the opening of the ISIN is before 8 July 2022 for up to 24 months after that date, provided that those issues comply with all the following requirements:

- (a) the maturity date of the covered bond is before 8 July 2027;
- (b) the total issue size of tap issues made after 8 July 2022 does not exceed twice the total issue size of the covered bonds outstanding on that date;
- (c) the total issue size of the covered bond at maturity does not exceed EUR 6 000 000 000 or the equivalent amount in domestic currency;
- (d) the collateral assets are located in the Member State that applies paragraph 1 to tap issues of covered bonds.

*Article 31***Reviews and reports**

1. By 8 July 2024, the Commission shall, in close cooperation with EBA, submit a report to the European Parliament and to the Council, together with a legislative proposal, if appropriate, on whether and, if so, how an equivalence regime could be introduced for third-country credit institutions issuing covered bonds and for investors in those covered bonds, taking into consideration international developments in the area of covered bonds, in particular the development of legislative frameworks in third countries.

2. By 8 July 2025, the Commission shall, in close cooperation with EBA, submit a report to the European Parliament and to the Council on the implementation of this Directive with regard to the level of investor protection and on the developments regarding the issue of covered bonds in the Union. The report shall include any recommendations for further action. The report shall include information on:

- (a) developments regarding the number of permissions to issue covered bonds;
- (b) developments regarding the number of covered bonds issued in compliance with the provisions of national law transposing this Directive and with Article 129 of Regulation (EU) No 575/2013;
- (c) developments regarding the assets collateralising the issue of covered bonds;
- (d) developments regarding the level of overcollateralisation;
- (e) cross-border investments in covered bonds, including inward investment from and outward investment to third countries;
- (f) developments regarding the issue of covered bonds with extendable maturity structures;
- (g) developments regarding the risks and benefits of the use of exposures as referred to in Article 129(1) of Regulation (EU) No 575/2013;
- (h) the functioning of covered bond markets.

3. By 8 July 2024, Member States shall transmit information on the issues listed in paragraph 2 to the Commission.

4. By 8 July 2024, after commissioning and receiving a study assessing the risks and benefits arising from covered bonds with extendable maturity structures and after consulting EBA, the Commission shall adopt a report and shall submit that study and that report to the European Parliament and to the Council, together with a legislative proposal, if appropriate.

5. By 8 July 2024, the Commission shall adopt a report on the possibility of introducing a dual-recourse instrument named European Secured Notes. The Commission shall submit that report to the European Parliament and to the Council, together with a legislative proposal, if appropriate.

Article 32

Transposition

1. Member States shall adopt and publish, by 8 July 2021, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall immediately inform the Commission thereof.

They shall apply those measures at the latest from 8 July 2022.

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

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

Article 33

Entry into force

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

Article 34

Addressees

This Directive is addressed to the Member States.

Done at Strasbourg, 27 November 2019.

For the European Parliament
The President
D. M. SASSOLI

For the Council
The President
T. TUPPURAINEN

II

(Non-legislative acts)

REGULATIONS

COMMISSION IMPLEMENTING REGULATION (EU) 2019/2163

of 17 December 2019

fixing the trigger volumes for the years 2020 and 2021 for the purposes of possible application of additional import duties on certain fruit and vegetables

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 ⁽¹⁾, and in particular point (b) of the first paragraph of Article 183 thereof,

Whereas:

- (1) Article 39 of Commission Implementing Regulation (EU) 2017/892 ⁽²⁾ provides that an additional import duty as referred to in Article 182(1) of Regulation (EU) No 1308/2013 may be applied to the products and during the periods listed in Annex VII to that Implementing Regulation. That additional import duty has to apply if the quantity of any of the products put into free circulation for any of the periods of application set out in that Annex exceeds the trigger volume of imports in a year for that product. Additional import duties shall not be imposed where the imports are unlikely to disturb the Union market, or where the effects would be disproportionate to the intended objective.
- (1) In accordance with the second subparagraph of Article 182(1) of Regulation (EU) No 1308/2013, the trigger volumes of imports for the possible application of additional import duties on certain fruit and vegetables are based on import data and domestic consumption data for the previous three years. On the basis of the data notified by the Member States for the years 2016, 2017 and 2018, the trigger volumes for certain fruit and vegetables should be fixed for the years 2020 and 2021.
- (2) Taking into account that the period of application of possible additional import duties as set out in Annex VII to Implementing Regulation (EU) 2017/892 starts for a number of products on 1 January, this Regulation should apply from 1 January 2020 and therefore it should enter into force as soon as possible,

HAS ADOPTED THIS REGULATION:

Article 1

For the years 2020 and 2021, the trigger volumes referred to in point (b) of the first subparagraph of Article 182(1) of Regulation (EU) No 1308/2013 for the products listed in Annex VII to Implementing Regulation (EU) 2017/892 are set out in the Annex to this Regulation.

⁽¹⁾ OJ L 347, 20.12.2013, p. 671.

⁽²⁾ Commission Implementing Regulation (EU) 2017/892 of 13 March 2017 laying down rules for the application of Regulation (EU) No 1308/2013 of the European Parliament and of the Council with regard to the fruit and vegetables and processed fruit and vegetables sectors (OJ L 138, 25.5.2017, p. 57).

Article 2

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

It shall apply from 1 January 2020.

It shall expire on 30 June 2021.

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

Done at Brussels, 17 December 2019.

For the Commission

The President

Ursula VON DER LEYEN

ANNEX

Trigger volumes for the products and periods set out in Annex VII to Implementing Regulation (EU) 2017/892, for the possible application of additional import duties

Without prejudice to the rules on the interpretation of the Combined Nomenclature, the description of the products is deemed to be indicative only. For the purposes of this Annex, the scope of the additional import duties is determined by the scope of the CN codes as they stand at the time of adoption of this Regulation.

Order number	CN code	Description of products	Period of application		Trigger volume (tonnes)
			2020	2021	
78.0020	0702 00 00	Tomatoes	From 1 June to 30 September		54 848
78.0015			From 1 October to 31 May		578 315
78.0065	0707 00 05	Cucumbers	From 1 May to 31 October		62 171
78.0075			From 1 November to 30 April		48 583
78.0085	0709 91 00	Artichokes	From 1 November to 30 June		8 244
78.0100	0709 93 10	Courgettes	From 1 January to 31 December		94 081
78.0110	0805 10 22 0805 10 24 0805 10 28	Oranges	From 1 December to 31 May		466 660
78.0120	0805 22 00	Clementines	From 1 November to end of February		241 919
78.0130	0805 21 0805 29 00	Mandarins (including tangerines and satsumas); wilkings and similar citrus hybrids	From 1 November to end of February		96 897
78.0160	0805 50 10	Lemons	From 1 January to 31 May		351 591
78.0155			From 1 June to 31 December		621 073
78.0170	0806 10 10	Table grapes	From 16 July to 16 November		214 307
78.0175	0808 10 80	Apples	From 1 January to 31 August		595 028
78.0180			From 1 September to 31 December		115 4623
78.0220	0808 30 90	Pears	From 1 January to 30 April		141 496
78.0235			From 1 July to 31 December		106 940
78.0250	0809 10 00	Apricots	From 1 June to 31 July		7 166
78.0265	0809 29 00	Cherries other than sour	From 16 May to 15 August		104 573
78.0270	0809 30	Peaches, including nectarines	From 16 June to 30 September		3 482
78.0280	0809 40 05	Plums	From 16 June to 30 September		204 681

COMMISSION IMPLEMENTING REGULATION (EU) 2019/2164**of 17 December 2019****amending Regulation (EC) No 889/2008 laying down detailed rules for the implementation of Council Regulation (EC) No 834/2007 on organic production and labelling of organic products with regard to organic production, labelling and control****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 834/2007 of 28 June 2007 on organic production and labelling of organic products and repealing Regulation (EEC) No 2092/91 ⁽¹⁾, and in particular Article 16(1) and (3)(a) and Article 21(2) thereof,

Whereas:

- (1) In accordance with Article 16(3)(b) of Regulation (EC) No 834/2007, several Member States have submitted dossiers on certain substances to the Commission and the other Member States, in view of their authorisation and inclusion in Annexes I, II, VI and VIII to Commission Regulation (EC) No 889/2008 ⁽²⁾. Those dossiers have been examined by the Expert Group for Technical Advice on Organic Production (EGTOP) and the Commission.
- (2) In its recommendations with regard to fertilisers ⁽³⁾ EGTOP concluded, inter alia, that the substances 'biochar', 'mollusc waste and egg shells' and 'humic and fulvic acids' comply with the objectives and principles of organic production. Therefore, those substances should be included in Annex I to Regulation (EC) No 889/2008. EGTOP also recommended to clarify the definition of 'calcium carbonate' set out in that Annex.
- (3) In its recommendations with regard to plant protection products ⁽⁴⁾ EGTOP concluded, inter alia, that the substances 'maltodextrin', 'hydrogen peroxide', 'terpenes (eugenol, geraniol and thymol)', 'sodium chloride', 'cerevisane' and pyrethrins from other plants than *Chrysanthemum cinerariaefolium* comply with the objectives and principles of organic production. Therefore, those substances should be included in Annex II to Regulation (EC) No 889/2008. Moreover, EGTOP made recommendations for the structure of that Annex.
- (4) In its recommendations with regard to feed ⁽⁵⁾ EGTOP concluded, inter alia, that the substances 'guar gum' as a feed additive, 'sweet chestnut extract' as a sensory additive, and 'betaine anhydrous' for monogastric animals and only from natural or organic origin comply with the objectives and principles of organic production. Therefore, those substances should be included in Annex VI to Regulation (EC) No 889/2008. In that Annex, the reference to some silage additives is unclear and needs to be clarified to avoid confusion.

⁽¹⁾ OJ L 189, 20.7.2007, p. 1.

⁽²⁾ Commission Regulation (EC) No 889/2008 of 5 September 2008 laying down detailed rules for the implementation of Council Regulation (EC) No 834/2007 on organic production and labelling of organic products with regard to organic production, labelling and control (OJ L 250, 18.9.2008, p. 1).

⁽³⁾ Final report on fertilisers III https://ec.europa.eu/info/sites/info/files/food-farming-fisheries/farming/documents/final-report-egtop-fertilizers-iii_en.pdf

⁽⁴⁾ Final report on plant protection products IV https://ec.europa.eu/info/publications/egtop-reports-organic-production_en

⁽⁵⁾ Final report on feed III and food V https://ec.europa.eu/info/publications/egtop-reports-organic-production_en

- (5) In its recommendations with regard to food ⁽⁶⁾ EGTOP concluded, inter alia, that the substances 'glycerol' as a humectant in gel capsules and surface coating in tablets, 'bentonite' as a processing aid, 'L(+)-lactic acid, and sodium hydroxide' as a processing aid for the extraction of plant proteins and 'tara gum powder' as a thickener and 'hop extract and pine rosin extract' in sugar production comply with the objectives and principles of organic production. Therefore, those substances should be included in Annex VIII to Regulation (EC) No 889/2008. Moreover, EGTOP recommended to require, for tara gum powder, lecithins, glycerol, locust bean gum, gellan gum, arabic gum, guar gum and carnauba wax, that they be produced organically. To allow for sufficient time to adapt to that new requirement, operators should be given a three-year transition period.
- (6) In Annex VIIIa to Regulation (EC) No 889/2008, some references to the names of additives are unprecise and need to be clarified to avoid confusion.
- (7) Regulation (EC) No 889/2008 should therefore be amended accordingly.
- (8) The measures provided for in this Regulation are in accordance with the opinion of the Committee on Organic Production,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 889/2008 is amended as follows:

- (1) Annex I is replaced by the text set out in Annex I to this Regulation;
- (2) Annex II is replaced by the text set out in Annex II to this Regulation;
- (3) Annex VI is replaced by the text set out in Annex III to this Regulation;
- (4) Annex VIII is replaced by the text set out in Annex IV to this Regulation;
- (5) Annex VIIIa is replaced by the text set out in Annex V to this Regulation.

Article 2

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

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

Done at Brussels, 17 December 2019.

For the Commission

The President

Ursula VON DER LEYEN

⁽⁶⁾ Final report on food IV and final report on feed III and food V https://ec.europa.eu/info/publications/egtop-reports-organic-production_en

ANNEX I

‘ANNEX I

Fertilisers, soil conditioners and nutrients referred to in Article 3(1) and Article 6d(2)

Note:

A: authorised under Regulation (EEC) No 2092/91 and carried over by Article 16(3)(c) of Regulation (EC) No 834/2007

B: authorised under Regulation (EC) No 834/2007

Authorisation	Name Compound products or products containing only materials listed hereunder:	Description, compositional requirements, conditions for use
A	Farmyard manure	Product comprising a mixture of animal excrements and vegetable matter (animal bedding). Factory farming origin forbidden
A	Dried farmyard manure and dehydrated poultry manure	Factory farming origin forbidden
A	Composted animal excrements, including poultry manure and composted farmyard manure included	Factory farming origin forbidden
A	Liquid animal excrements	Use after controlled fermentation and/or appropriate dilution Factory farming origin forbidden
B	Composted or fermented mixture of household waste	Product obtained from source separated household waste, which has been submitted to composting or to anaerobic fermentation for biogas production Only vegetable and animal household waste Only when produced in a closed and monitored collection system, accepted by the Member State Maximum concentrations in mg/kg of dry matter: cadmium: 0,7; copper: 70; nickel: 25; lead: 45; zinc: 200; mercury: 0,4; chromium (total): 70; chromium (VI): not detectable
A	Peat	Use limited to horticulture (market gardening, floriculture, arboriculture, nursery)
A	Mushroom culture wastes	The initial composition of the substrate shall be limited to products of this Annex
A	Dejecta of worms (vermicompost) and insects	
A	Guano	
A	Composted or fermented mixture of vegetable matter	Product obtained from mixtures of vegetable matter, which have been submitted to composting or to anaerobic fermentation for biogas production
B	Biogas digestate containing animal by-products co-digested with material of plant or animal origin as listed in this Annex	Animal by-products (including by-products of wild animals) of category 3 and digestive tract content of category 2 (categories 2 and 3 as defined in Regulation (EC) No 1069/2009 of the European Parliament and of the Council ⁽¹⁾) must not be from factory farming origin. The Processes have to be in accordance with Commission Regulation (EU) No 142/2011. Not to be applied to edible parts of the crop

Authorisation	Name Compound products or products containing only materials listed hereunder:	Description, compositional requirements, conditions for use
B	Products or by-products of animal origin as below: Blood meal Hoof meal Horn meal Bone meal or degelatinised bone meal Fish meal Meat meal Feather, hair and “chiquette” meal Wool Fur (1) Hair Dairy products Hydrolysed proteins (2)	(1) Maximum concentration in mg/kg of dry matter of chromium (VI): not detectable (2) Not to be applied to edible parts of the crop
A	Products and by-products of plant origin for fertilisers	Examples: oilseed cake meal, cocoa husks, malt culms
B	Hydrolysed proteins of plant origin	
A	Seaweeds and seaweed products	As far as directly obtained by: (i) physical processes including dehydration, freezing and grinding (ii) extraction with water or aqueous acid and/or alkaline solution (iii) fermentation
A	Sawdust and wood chips	Wood not chemically treated after felling
A	Composted bark	Wood not chemically treated after felling
A	Wood ash	From wood not chemically treated after felling
A	Soft ground rock phosphate	Product as specified in point 7 of Annex IA.2. to Regulation (EC) No 2003/2003 of the European Parliament and of the Council (2). Cadmium content less than or equal to 90 mg/kg of P205
A	Aluminium-calcium phosphate	Product as specified in point 6 of Annex IA.2. to Regulation (EC) No 2003/2003, Cadmium content less than or equal to 90 mg/kg of P205 Use limited to basic soils (pH > 7,5)
A	Basic slag	Products as specified in point 1 of Annex IA.2. to Regulation (EC) No 2003/2003
A	Crude potassium salt or kainit	Products as specified in point 1 of Annex IA.3. to Regulation (EC) No 2003/2003
A	Potassium sulphate, possibly containing magnesium salt	Product obtained from crude potassium salt by a physical extraction process, containing possibly also magnesium salts

Authorisation	Name Compound products or products containing only materials listed hereunder:	Description, compositional requirements, conditions for use
A	Stillage and stillage extract	Ammonium stillage excluded
A	Calcium carbonate, for instance: chalk, marl, ground limestone, Breton ameliorant, (maerl), phosphate chalk	Only of natural origin
B	Mollusc waste	Only from sustainable fisheries, as defined in Article 4 (1) (7) of Regulation (EU) No 1380/2013 or organic aquaculture
B	Egg shells	Factory farming origin forbidden.
A	Magnesium and calcium carbonate	Only of natural origin e.g. magnesian chalk, ground magnesium, limestone
A	Magnesium sulphate (kieserite)	Only of natural origin
A	Calcium chloride solution	Foliar treatment of apple trees, after identification of deficit of calcium
A	Calcium sulphate (gypsum)	Products as specified in point 1 of Annex ID. to Regulation (EC) No 2003/2003 Only of natural origin
A, B	Industrial lime from sugar production	By-product of sugar production from sugar beet and sugar cane
A	Industrial lime from vacuum salt production	By-product of the vacuum salt production from brine found in mountains
A	Elemental sulphur	Products as specified in Annex ID.3 to Regulation (EC) No 2003/2003
A	Trace elements	Inorganic micronutrients listed in part E of Annex I to Regulation (EC) No 2003/2003
A	Sodium chloride	
A	Stone meal and clays	
B	Leonardite (Raw organic sediment rich in humic acids)	Only if obtained as a by-product of mining activities
B	Humic and fulvic acids	Only if obtained by inorganic salts/solutions excluding ammonium salts; or obtained from drinking water purification
B	Xylite	Only if obtained as a by-product of mining activities (e.g. by-product of brown coal mining)
B	Chitin (Polysaccharide obtained from the shell of crustaceans)	Only if obtained from sustainable fisheries, as defined in Article 4(1)(7) of Regulation (EU) No 1380/2013 or organic aquaculture
B	Organic rich sediment from fresh water bodies formed under exclusion of oxygen (e.g. sapropel)	Only organic sediments that are by-products of fresh water body management or extracted from former freshwater areas When applicable, extraction should be done in a way to cause minimal impact on the aquatic system Only sediments derived from sources free from contaminations of pesticides, persistent organic pollutants and petrol like substances Maximum concentrations in mg/kg of dry matter: cadmium: 0,7; copper: 70; nickel: 25; lead: 45; zinc: 200; mercury: 0,4; chromium (total): 70; chromium (VI): not detectable

Authorisation	Name Compound products or products containing only materials listed hereunder:	Description, compositional requirements, conditions for use
B	Biochar — pyrolysis product made from a wide variety of organic materials of plant origin and applied as a soil conditioner	Only from plant materials, untreated or treated with products included in Annex II. Maximum value of 4 mg polycyclic aromatic hydro-carbons (PAHs) per kg dry matter (DM). This value shall be reviewed every second year, taking into account the risk of accumulation due to multiple applications'

(¹) Commission Regulation (EU) No 142/2011 of 25 February 2011 implementing Regulation (EC) No 1069/ 2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption and implementing Council Directive 97/78/EC as regards certain samples and items exempt from veterinary checks at the border under that Directive (OJ L 54, 26.2.2011, p. 1).

(²) Regulation (EC) No 2003/2003 of the European Parliament and of the Council of 13 October 2003 relating to fertilisers (OJ L 304, 21.11.2003, p. 1).

ANNEX II

‘ANNEX II

Pesticides — Plant protection products referred to in Article 5(1)

All the substances listed in this Annex have to comply at least with the conditions for use as specified in the Annex to Commission Implementing Regulation (EU) No 540/2011 ⁽¹⁾. More restrictive conditions for use for organic production are specified in the second column of each table.

1. Substances of plant or animal origin

Name	Description, compositional requirement, conditions for use
<i>Allium sativum</i> (Garlic extract)	
Azadirachtin extracted from <i>Azadirachta indica</i> (Neem tree)	
Beeswax	Only as pruning agent/wound protectant
COS-OGA	
Hydrolysed proteins excluding gelatine	
Laminarin	Kelp shall be either grown organically in accordance with Article 6d or harvested in a sustainable way in accordance with Article 6c
Maltodextrin	
Pheromones	Only in traps and dispensers.
Plant oils	All uses authorised, except herbicide .
Pyrethrins	Only from plant origin
Quassia extracted from <i>Quassia amara</i>	Only as insecticide, repellent
Repellents by smell of animal or plant origin/ sheep fat	Only on non-edible parts of the crop and where crop material is not ingested by sheep or goats
<i>Salix</i> spp. Cortex (a.k.a. willow bark)	
Terpenes (eugenol, geraniol and thymol)	

2. Basic substances

Basic substances based on food (including: Lecithins, sucrose, fructose, vinegar, whey, chitosan hydrochloride ⁽¹⁾ , and <i>Equisetum arvense</i> etc.)	Only those basic substances as defined by Article 23 of Regulation (EC) No 1107/2009 ⁽²⁾ which are food as defined in Article 2 of Regulation (EC) No 178/2002 and have plant or animal origin Substances not to be used as herbicides
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⁽¹⁾ Obtained from sustainable fisheries or organic aquaculture.

⁽²⁾ Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market (OJ L 309, 24.11.2009, p. 1).

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

3. Micro-organisms or substances produced by or derived from micro-organisms

Name	Description, compositional requirement, conditions for use
Micro-organisms	Not from GMO origin
Spinosad	
Cerevisane	

4. Substances other than those mentioned in Sections 1, 2 and 3

Name	Description, compositional requirement, conditions or restrictions to use
Aluminium silicate (Kaolin)	
Calcium hydroxide	When used as fungicide, only in fruit trees, including nurseries, to control <i>Nectria galligena</i>
Carbon dioxide	
Copper compounds in the form of: copper hydroxide, copper oxychloride, copper oxide, Bordeaux mixture, and tribasic copper sulphate	
Diammonium phosphate	Only as attractant in traps
Ethylene	
Fatty acids	All uses authorised, except herbicide
Ferric phosphate (iron (III) orthophosphate)	Preparations to be surface-spread between cultivated plants
Hydrogen peroxide	
Kieselgur (diatomaceous earth)	
Lime sulphur (calcium polysulphide)	
Paraffin oil	
Potassium and sodium hydrogen carbonate (a.k.a. potassium/sodium bicarbonate)	
Pyrethroids (only deltamethrin or lambda-cyhalothrin)	Only in traps with specific attractants; only against <i>Bactrocera oleae</i> and <i>Ceratitis capitata</i> Wied
Quartz sand	
Sodium chloride	All uses authorised, except herbicide
Sulphur	

ANNEX III

ANNEX VI

Feed additives used in animal nutrition referred to in Article 22(g), Article 24(2) and Article 25m(2)

Feed additives listed in this Annex must be authorised under Regulation (EC) No 1831/2003 of the European Parliament and of the Council.

1. TECHNOLOGICAL ADDITIVES

(a) *Preservatives*

ID numbers or Functional groups		Substance	Description, conditions for use
	E 200	Sorbic acid	
	E 236	Formic acid	
	E 237	Sodium formate	
	E 260	Acetic acid	
	E 270	Lactic acid	
	E 280	Propionic acid	
	E 330	Citric acid	

(b) *Antioxidants*

ID number or Functional groups		Substance	Description, conditions for use
	1b306(i)	Tocopherol extracts from vegetable oils	
	1b306(ii)	Tocopherol-rich extracts from vegetable oils (delta rich)	

(c) *Emulsifiers, stabilisers, thickeners and gelling agents*

ID numbers or Functional groups		Substance	Description, conditions for use
	1c322	Lecithins	Only when derived from organic raw material.
			Use restricted to aquaculture animal feed.

(d) *Binders and anti-caking agents*

ID number or Functional groups		Substance	Description, conditions for use
	E 412	Guar gum	
	E 535	Sodium ferrocyanide	Maximum dose rate of 20 mg/kg NaCl calculated as ferrocyanide anion.

ID number or Functional groups		Substance	Description, conditions for use
	E 551b	Colloidal silica	
	E 551c	Kieselgur (diatomaceous earth, purified)	
	1m558i	Bentonite	
	E 559	Kaolinitic clays, free of asbestos	
	E 560	Natural mixtures of steatites and chlorite	
	E 561	Vermiculite	
	E 562	Sepiolite	
	E 566	Natrolite-Phonolite	
	1g568	Clinoptilolite of sedimentary origin	
	E 599	Perlite	

(e) *Silage additives*

ID number or Functional groups	Substance	Description, conditions for use
1k 1k236	Enzymes, micro-organisms Formic acid,	Use restricted to production of silage when weather conditions do not allow for adequate fermentation. The use of formic, propionic acid and their sodium salts in the production of silage shall only be permitted when weather conditions do not allow for adequate fermentation
1k237	Sodium formate	
1k280	Propionic acid	
1k281	Sodium propionate	

2. SENSORY ADDITIVES

ID number or Functional groups	Substance	Description, conditions for use
2b	Flavouring compounds	Only extracts from agricultural products.
	<i>Castanea sativa</i> Mill.: Chestnut extract	

3. NUTRITIONAL ADDITIVES

(a) *Vitamins, pro-vitamins and chemically well-defined substances having similar effect*

ID number or Functional groups	Substance	Description, conditions for use
3a	Vitamins and provitamins	Derived from agricultural products. If derived synthetically, only those identical to vitamins derived from agricultural products may be used for monogastric animals and aquaculture animals.

ID number or Functional groups	Substance	Description, conditions for use
		If derived synthetically, only vitamins A, D and E identical to vitamins derived from agricultural products may be used for ruminants; the use is subject to prior authorisation of the Member States based on the assessment of the possibility for organic ruminants to obtain the necessary quantities of the said vitamins through their feed rations.
3a920	Betaine anhydrous	Only for monogastric animals Only from natural origin and when available from organic origin

(b) *Compounds of trace elements*

	ID number or Functional groups	Substance	Description, conditions for use
	E1 Iron		
	3b101	Iron(II) carbonate (siderite)	
	3b103	Iron(II) sulphate monohydrate	
	3b104	Iron(II) sulphate heptahydrate	
	3b201	Potassium iodide	
	3b202	Calcium iodate, anhydrous	
	3b203	Coated granulated calcium iodate anhydrous	
	3b301	Cobalt(II) acetate tetrahydrate	
	3b302	Cobalt(II) carbonate	
	3b303	Cobalt(II) carbonate hydroxide (2:3) monohydrate	
	3b304	Coated granulated cobalt(II) carbonate hydroxide (2:3) monohydrate	
	3b305	Cobalt(II) sulphate heptahydrate	
	3b402	Copper(II) carbonate dihydroxy monohydrate	
	3b404	Copper (II) oxide	
	3b405	Copper(II) sulphate pentahydrate	
	3b409	Dicopper chloride trihydroxide (TBCC)	
	3b502	Manganese (II) oxide	
	3b503	Manganous sulfate, monohydrate	
	3b603	Zinc oxide	
	3b604	Zinc sulphate heptahydrate	

	ID number or Functional groups	Substance	Description, conditions for use
	3b605	Zinc sulphate monohydrate	
	3b609	Zinc chloride hydroxide monohydrate (TBZC)	
	3b701	Sodium molybdate dihydrate	
	3b801	Sodium selenite	
	3b810, 3b811, 3b812, 3b813 and 3b817	Selenised yeast inactivated	

4. ZOOTECHNICAL ADDITIVES

ID number or Functional groups	Substance	Description, conditions for use
4a, 4b, 4c and 4d	Enzymes and microorganism in the category of "Zootechnical additives"	

ANNEX IV

ANNEX VIII

Certain products and substances for use in production of processed organic food, yeast and yeast products referred to in Article 27(1)(a) and Article 27a(a)

SECTION A — FOOD ADDITIVES, INCLUDING CARRIERS

For the purpose of the calculation referred to in Article 23(4)(a)(ii) of Regulation (EC) No 834/2007, food additives marked with an asterisk in the column of the code number, shall be calculated as ingredients of agricultural origin

Code	Name	Preparation of foodstuffs of		Specific conditions and restrictions in addition to Regulation (EC) No 1333/2008
		plant origin	Animal origin	
E 153	Vegetable carbon		X	Ashy goat cheese Morbier cheese
E 160b*	Annatto, Bixin, Norbixin		X	Red Leicester cheese Double Gloucester cheese Cheddar Mimolette cheese
E 170	Calcium carbonate	X	X	Shall not be used for colouring or calcium enrichment of products
E 220	Sulphur dioxide	X	X(Only for mead)	In fruit wines (wine made from fruits other than grapes, including cider and perry) and mead with and without added sugar: 100 mg/l (Maximum levels available from all sources, expressed as SO ₂ in mg/l)
E 223	Sodium metabisulphite		X	Crustaceans
E 224	Potassium metabisulphite	X	X (Only for mead)	In fruit wines (wine made from fruits other than grapes, including cider and perry) and mead with and without added sugar: 100 mg/l (Maximum levels available from all sources, expressed as SO ₂ in mg/l)
E250	Sodium nitrite		X	For meat products. May only be used, if it has been demonstrated to the satisfaction of the competent authority that no technological alternative, giving the same guarantees and/or allowing to maintain the specific features of the product, is available. Not in combination with E252. Indicative ingoing amount expressed as NaNO ₂ : 80 mg/kg, maximum residual amount expressed as NaNO ₂ : 50 mg/kg
E252	Potassium nitrate		X	For meat products. May only be used, if it has been demonstrated to the satisfaction of the competent authority that no technological alternative, giving the same guarantees and/or allowing to maintain the specific features of the product, is available. Not in combination with E250. Indicative ingoing amount expressed as NaNO ₃ : 80 mg/kg, maximum residual amount expressed as NaNO ₃ : 50 mg/kg

Code	Name	Preparation of foodstuffs of		Specific conditions and restrictions in addition to Regulation (EC) No 1333/2008
		plant origin	Animal origin	
E 270	Lactic acid	X	X	
E 290	Carbon dioxide	X	X	
E 296	Malic acid	X		
E 300	Ascorbic acid	X	X	With regard to foodstuffs of animal origin: Meat products
E 301	Sodium ascorbate		X	With regard to foodstuffs of animal origin: Meat products in connection with nitrates and nitrites
E 306(*)	Tocopherol-rich extract	X	X	Anti-oxidant
E 322(*)	Lecithins	X	X	With regard to foodstuffs of animal origin: Milk products. Only when derived from organic production. Applicable as of 1 January 2022. Until that date, only when derived from organic raw material.
E 325	Sodium lactate		X	Milk-based and meat products
E 330	Citric acid	X	X	
E 331	Sodium citrates	X	X	
E 333	Calcium citrates	X		
E 334	Tartaric acid (L(+)-)	X	X(Only for mead)	With regard to foodstuffs of animal origin: Mead.
E 335	Sodium tartrates	X		
E 336	Potassium tartrates	X		
E 341 (i)	Monocalcium phosphate	X		Raising agent for self-raising flour
E 392*	Extracts of Rosemary	X	X	Only when derived from organic production
E 400	Alginic acid	X	X	With regard to foodstuffs of animal origin: milk-based products
E 401	Sodium alginate	X	X	With regard to foodstuffs of animal origin: milk-based products
E 402	Potassium alginate	X	X	With regard to foodstuffs of animal origin: milk-based products
E 406	Agar	X	X	With regard to foodstuffs of animal origin: milk-based products and meat products
E 407	Carrageenan	X	X	With regard to foodstuffs of animal origin: milk-based products
E 410*	Locust bean gum	X	X	Only when derived from organic production. Applicable as of 1 January 2022.

Code	Name	Preparation of foodstuffs of		Specific conditions and restrictions in addition to Regulation (EC) No 1333/2008
		plant origin	Animal origin	
E 412*	Guar gum	X	X	Only when derived from organic production. Applicable as of 1 January 2022.
E 414*	Arabic gum	X	X	Only when derived from organic production. Applicable as of 1 January 2022.
E 415	Xanthan gum	X	X	
E 417	Tara gum powder	X	X	Thickener Only when derived from organic production. Applicable as of 1 January 2022.
E 418	Gellan gum	X	X	High-acyl form only Only when derived from organic production. Applicable as of 1 January 2022.
E 422	Glycerol	X	X	Only from plant origin Only when derived from organic production. Applicable as of 1 January 2022. For plant extracts, flavourings, humectant in gel capsules and as a surface coating of tablets
E 440 (i)*	Pectin	X	X	With regard to foodstuffs of animal origin: milk-based products
E 464	Hydroxypropyl methyl cellulose	X	X	Encapsulation material for capsules
E 500	Sodium carbonates	X	X	
E 501	Potassium carbonates	X		
E 503	Ammonium carbonates	X		
E 504	Magnesium carbonates	X		
E 509	Calcium chloride		X	Milk coagulation
E 516	Calcium sulphate	X		Carrier
E 524	Sodium hydroxide	X		Surface treatment of "Laugengebäck" and regulation of acidity in organic flavourings
E 551	Silicon dioxide	X	X	For herbs and spices in dried powdered form, flavourings and propolis
E 553b	Talc	X	X	With regard to foodstuffs of animal origin: surface treatment of sausages
E 901	Beeswax	X		As a glazing agent for confectionary only. Beeswax from organic production
E 903	Carnauba wax	X		As a glazing agent for confectionary As a mitigating method for mandatory extreme cold treatment of fruit as a quarantine measure against harmful organisms (Commission Implementing Directive (EU) 2017/1279) ⁽¹⁾ Only when derived from organic production. Applicable as of 1 January 2022. Until that date, only when derived from organic raw material.

Code	Name	Preparation of foodstuffs of		Specific conditions and restrictions in addition to Regulation (EC) No 1333/2008
		plant origin	Animal origin	
E 938	Argon	X	X	
E 939	Helium	X	X	
E 941	Nitrogen	X	X	
E 948	Oxygen	X	X	
E 968	Erythritol	X	X	Only when derived from organic production without using ion exchange technology

(¹) Commission Implementing Directive (EU) 2017/1279 of 14 July 2017 amending Annexes I to V to Council Directive 2000/29/EC on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community (OJ L 184, 15.7.2017, p. 33).

SECTION B — PROCESSING AIDS AND OTHER PRODUCTS, WHICH MAY BE USED FOR PROCESSING OF
INGREDIENTS OF AGRICULTURAL ORIGIN FROM ORGANIC PRODUCTION

Name	Preparation of all foodstuffs of plant origin	Preparation of all foodstuffs of animal origin	Specific conditions and restrictions in addition to Regulation (EU) No 1333/2008
Water	X	X	Drinking water within the meaning of Council Directive 98/83/EC
Calcium chloride	X		Coagulation agent
Calcium carbonate	X		
Calcium hydroxide	X		
Calcium sulphate	X		Coagulation agent
Magnesium chloride (or nigari)	X		Coagulation agent
Potassium carbonate	X		With regard to foodstuffs of plant origin: drying of grapes
Sodium carbonate	X	X	
Lactic acid		X	With regard to foodstuffs of animal origin: for the regulation of the pH of the brine bath in cheese production
L(+)-lactic acid from fermentation	X		With regard to foodstuffs of plant origin: for the preparation of plant protein extracts
Citric acid	X	X	
Sodium hydroxide	X		With regard to foodstuffs of plant origin: for sugar(s) production; for oil production excluding olive oil production; for the preparation of plant protein extracts
Sulphuric acid	X	X	Gelatine production Sugar(s) production
Hop extract	X		With regard to foodstuffs of plant origin: only for antimicrobial purposes in production of sugar. When available from organic production

Name	Preparation of all foodstuffs of plant origin	Preparation of all foodstuffs of animal origin	Specific conditions and restrictions in addition to Regulation (EU) No 1333/2008
Pine rosin extract	X		With regard to foodstuffs of plant origin: only for antimicrobial purposes in production of sugar. When available from organic production
Hydrochloric acid		X	With regard to foodstuffs of animal origin: Gelatine production; for the regulation of the pH of the brine bath in the processing of Gouda-, Edam and Maasdammer cheeses, Boerenkaas, Friese and Leidse Nagelkaas
Ammonium hydroxide		X	With regard to foodstuffs of animal origin: gelatine production
Hydrogen peroxide		X	With regard to foodstuffs of animal origin: gelatine production
Carbon dioxide	X	X	
Nitrogen	X	X	
Ethanol	X	X	Solvent
Tannic acid	X		Filtration aid
Egg white albumin	X		
Casein	X		
Gelatin	X		
Isinglass	X		
Vegetable oils	X	X	Greasing, releasing or anti-foaming agent. Only when derived from organic production
Silicon dioxide gel or colloidal solution	X		
Activated carbon	X		
Talc	X		In compliance with the specific purity criteria for food additive E 553b
Bentonite	X	X	With regard to foodstuffs of animal origin: as a sticking agent for mead
Cellulose	X	X	With regard to foodstuffs of animal origin: Gelatine production
Diatomaceous earth	X	X	With regard to foodstuffs of animal origin: Gelatine production
Perlite	X	X	With regard to foodstuffs of animal origin: Gelatine production
Hazelnut shells	X		
Rice meal	X		
Beeswax	X		Releasing agent. Beeswax from organic production

Name	Preparation of all foodstuffs of plant origin	Preparation of all foodstuffs of animal origin	Specific conditions and restrictions in addition to Regulation (EU) No 1333/2008
Carnauba wax	X		Releasing agent. Only when derived from organic production. Applicable as of 1 January 2022. Until that date, only when derived from organic raw material
Acetic acid/vinegar		X	Only when derived from organic production. For fish processing only. From natural fermentation, Not to be produced by or from GMO
Thiamin hydrochloride	X	X	Only for use in processing of fruit wines, including cider and perry and mead
Diammonium phosphate	X	X	Only for use in processing of fruit wines, including cider and perry and mead
Wood fibre	X	X	The source of timber should be restricted to certified, sustainably harvested wood. Wood used must not contain toxic components (post-harvest treatment, naturally occurring toxins or toxins from micro-organisms)

SECTION C — PROCESSING AIDS FOR THE PRODUCTION OF YEAST AND YEAST PRODUCTS

Name	Primary yeast	Yeast confections/ formulations	Specific conditions
Calcium chloride	X		
Carbon dioxide	X	X	
Citric acid	X		For the regulation of the pH in yeast production
Lactic acid	X		For the regulation of the pH in yeast production
Nitrogen	X	X	
Oxygen	X	X	
Potato starch	X	X	For filtering Only when derived from organic production
Sodium carbonate	X	X	For the regulation of the pH
Vegetable oils	X	X	Greasing, releasing or anti-foaming agent Only when derived from organic production'

ANNEX V

‘ANNEX VIIIa

Products and substances authorised for use or addition in organic products of the wine sector referred to in Article 29c

Type of treatment in accordance with Annex I A to Regulation (EC) No 606/2009	Name of products or substances	Specific conditions, restrictions within the limits and conditions set out in Regulation (EC) No 1234/2007 and Regulation (EC) No 606/2009
Point 1: Use for aeration or oxygenation	— Air — Gaseous oxygen	
Point 3: Centrifuging and filtration	— Perlite — Cellulose — Diatomeaceous earth	Use only as an inert filtering agent
Point 4: Use in order to create an inert atmosphere and to handle the product shielded from the air	— Nitrogen — Carbon dioxide — Argon	
Points 5, 15 and 21: Use	— Yeasts ⁽¹⁾ , yeast cell walls	
Point 6: Use	— Di-ammonium phosphate — Thiamine hydrochloride — Yeast autolysates	
Point 7: Use	— Sulphur dioxide — Potassium bisulphite or potassium metabi-sulphite	(a) The maximum sulphur dioxide content shall not exceed 100 milligrams per litre for red wines as referred to in point 1(a) of Part A of Annex I B to Regulation (EC) No 606/ 2009 and with a residual sugar level lower than 2 grams per litre; (b) The maximum sulphur dioxide content shall not exceed 150 milligrams per litre for white and rosé wines as referred to in point 1(b) of Part A of Annex I B to Regulation (EC) No 606/2009 and with a residual sugar level lower than 2 grams per litre; (c) For all other wines, the maximum sulphur dioxide content applied in accordance with Annex I B to Regulation (EC) No 606/2009 on 1 August 2010, shall be reduced by 30 milligrams per litre.
Point 9: Use	— Charcoal for oenological use	
Point 10: Clarification	— Edible gelatine ⁽²⁾ — Plant proteins from wheat or peas ⁽²⁾ — Isinglass ⁽²⁾ — Egg white albumin ⁽²⁾ — Tannins ⁽²⁾ — Potato proteins ⁽²⁾ — Yeast protein extracts ⁽²⁾ — Casein — Chitosan derived from <i>Aspergillus niger</i> — Potassium caseinate — Silicon dioxide — Bentonite — Pectolytic enzymes	

Type of treatment in accordance with Annex I A to Regulation (EC) No 606/2009	Name of products or substances	Specific conditions, restrictions within the limits and conditions set out in Regulation (EC) No 1234/2007 and Regulation (EC) No 606/2009
Point 12: Use for acidification purposes	— Lactic acid — L(+)-Tartaric acid	
Point 13: Use for deacidification purposes	— L(+)-Tartaric acid — Calcium carbonate — Neutral potassium tartrate — Potassium bicarbonate	
Point 14: Addition	— Aleppo pine resin	
Point 17: Use	— Lactic bacteria	
Point 19: Addition	— L-Ascorbic acid	
Point 22: Use for bubbling	— Nitrogen	
Point 23: Addition	— Carbon dioxide	
Point 24: Addition for wine stabilisation purposes	— Citric acid	
Point 25: Addition	— Tannins ⁽¹⁾	
Point 27: Addition	— Meta-tartaric acid	
Point 28: Use	— Acacia gum ⁽²⁾ (= gum arabic)	
Point 30: Use	— Potassium bitartrate	
Point 31: Use	— Cupric citrate	
Point 35: Use	— Yeast mannoproteins	
Point 38: Use	— Oak chips	
Point 39: Use	— Potassium alginate	
Point 44: Use	— Chitosan derived from <i>Aspergillus niger</i>	
Point 51: Use	— Inactivated yeast	
Type of treatment in accordance with Annex III, point A(2)(b) to Regulation (EC) No 606/2009	— Calcium sulphate	Only for “vino generoso” or “vino generoso de licor”

⁽¹⁾ For the individual yeast strains: if available, derived from organic raw material.

⁽²⁾ Derived from organic raw material if available.

COMMISSION IMPLEMENTING REGULATION (EU) 2019/2165**of 17 December 2019****authorising the change of the specifications of the novel food coriander seed oil from *Coriandrum sativum* under Regulation (EU) 2015/2283 of the European Parliament and of the Council and amending Commission Implementing Regulation (EU) 2017/2470****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2015/2283 of the European Parliament and of the Council of 25 November 2015 on novel foods, amending Regulation (EU) No 1169/2011 of the European Parliament and of the Council and repealing Regulation (EC) No 258/97 of the European Parliament and of the Council and Commission Regulation (EC) No 1852/2001 ⁽¹⁾, and in particular Article 12 thereof,

Whereas:

- (1) Regulation (EU) 2015/2283 provides that only novel foods authorised and included in the Union list may be placed on the market within the Union.
- (2) Pursuant to Article 8 of Regulation (EU) 2015/2283, Commission Implementing Regulation (EU) 2017/2470 ⁽²⁾ establishing a Union list of authorised novel foods was adopted.
- (3) Pursuant to Article 12 of Regulation (EU) 2015/2283, the Commission is to decide on the authorisation and on the placing on the Union market of a novel food and on the updating of the Union list.
- (4) Commission Implementing Decision 2014/155/EU ⁽³⁾ authorised, in accordance with Regulation (EC) No 258/97 of the European Parliament and of the Council ⁽⁴⁾, the placing on the market of coriander seed oil from *Coriandrum sativum* as a novel food ingredient to be used in food supplements.
- (5) On 2 July 2019, the company Ovalie Innovation ('the applicant') made a request to the Commission to change the specifications of coriander seed oil from *Coriandrum sativum* in accordance with Article 10(1) of Regulation (EU) 2015/2283. The applicant requested to decrease the minimum level of oleic acid from the current 8,0 % to 7,0 %.
- (6) The applicant justified the request by indicating that the change is necessary in order to reflect the natural variation on the levels of oleic acid observed in the *Coriandrum sativum* plant.
- (7) The Commission considers that a safety evaluation of the current application by the European Food Safety Authority ('the Authority') in accordance with Article 10(3) of Regulation (EU) 2015/2283 is not necessary. Oleic acid is the natural main component of olive oil. It is also naturally present, at levels identical to the proposed levels for the novel food, in a number of other staple foods that have a long history of safe consumption.
- (8) The proposed change in the levels of oleic acid of coriander seed oil from *Coriandrum sativum* does not alter the conclusions of the safety assessment conducted by the Authority ⁽⁵⁾ that supported its authorisation by Implementing Decision 2014/155/EU. Therefore, it is appropriate to amend the specifications of the novel food 'coriander seed oil from *Coriandrum sativum*' to the proposed level for oleic acid.

⁽¹⁾ OJ L 327, 11.12.2015, p. 1.

⁽²⁾ Commission Implementing Regulation (EU) 2017/2470 of 20 December 2017 establishing the Union list of novel foods in accordance with Regulation (EU) 2015/2283 of the European Parliament and of the Council on novel foods (OJ L 351, 30.12.2017, p. 72).

⁽³⁾ Commission Implementing Decision 2014/155/EU of 19 March 2014 authorising the placing on the market of coriander seed oil as a novel food ingredient under Regulation (EC) No 258/97 of the European Parliament and of the Council (OJ L 85, 21.3.2014, p. 13).

⁽⁴⁾ Regulation (EC) No 258/97 of the European Parliament and of the Council of 27 January 1997 concerning novel foods and novel food ingredients (OJ L 43, 14.2.1997, p. 1).

⁽⁵⁾ EFSA Journal 2013;11(10):3422

- (9) The information provided in the application gives sufficient grounds to establish that the proposed changes to the specifications of the novel food 'coriander seed oil from *Coriandrum sativum*' comply with Article 12 of Regulation (EU) 2015/2283.
- (10) The Annex to Implementing Regulation (EU) 2017/2470 should therefore be amended accordingly.
- (11) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

HAS ADOPTED THIS REGULATION:

Article 1

The Union list of authorised novel foods, as provided for in Article 6 of Regulation (EU) 2015/2283 and included in Implementing Regulation (EU) 2017/2470, referring to the novel food coriander seed oil from *Coriandrum sativum*, is amended as specified in the Annex to this Regulation.

Article 2

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

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

Done at Brussels, 17 December 2019.

For the Commission

The President

Ursula VON DER LEYEN

ANNEX

In the Annex to Implementing Regulation (EU) 2017/2470, the entry for 'Coriander seed oil from *Coriandrum sativum*' in Table 2 (Specifications) is replaced by the following:

Authorised Novel Food	Specifications
'Coriander seed oil from <i>Coriandrum sativum</i>'	Description/Definition: Coriander seed oil is an oil containing glycerides of fatty acids that is produced from the seeds of the coriander plant <i>Coriandrum sativum</i> L. Slight yellow colour, bland taste CAS No: 8008-52-4 Composition of fatty acids: Palmitic acid (C16:0): 2-5 % Stearic acid (C18:0): < 1,5 % Petroselinic acid (cis-C18:1(n-12)): 60-75 % Oleic acid (cis-C18:1 (n-9)): 7-15 % Linoleic acid (C18:2): 12-19 % α-Linolenic acid (C18:3): < 1,0 % Trans fatty acids: $\leq$ 1,0 % Purity: Refractive index (20 °C): 1,466-1,474 Acid value: $\leq$ 2,5 mg KOH/g Peroxide value (PV): $\leq$ 5,0 meq/kg Iodine value: 88-110 units Saponification value: 179-200 mg KOH/g Unsaponifiable matter: $\leq$ 15 g/kg

DECISIONS

COMMISSION IMPLEMENTING DECISION (EU) 2019/2166

of 16 December 2019

amending Implementing Decision 2014/908/EU as regards the inclusion of Serbia and South Korea in the lists of third countries and territories whose supervisory and regulatory requirements are considered equivalent for the purposes of the treatment of exposures in accordance with Regulation (EU) No 575/2013 of the European Parliament and of the Council

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 ⁽¹⁾, and in particular Articles 107(4), 114(7), 115(4), 116(5) and 142(2) thereof,

Whereas:

- (1) Commission Implementing Decision 2014/908/EU ⁽²⁾ lays down lists of third countries and territories whose supervisory and regulatory arrangements are found equivalent to the corresponding supervisory and regulatory arrangements applied in the Union in accordance with Regulation (EU) No 575/2013.
- (2) The Commission has conducted further assessments of the supervisory and regulatory arrangements applicable to credit institutions in certain third countries and territories. Those assessments have enabled the Commission to establish whether or not those arrangements are equivalent for the purposes of determining how to treat the relevant categories of exposures referred to in Articles 107, 114, 115, 116 and 142 of Regulation (EU) No 575/2013.
- (3) The equivalence has been determined by an outcome-based analysis of the third country's regulatory and supervisory arrangements which tests their ability to achieve the same general objectives as the Union's supervisory and regulatory arrangements. The objectives refer, in particular, to the stability and integrity of both the domestic and the global financial system in its entirety; the effectiveness and adequacy of protection of depositors and other consumers of financial services; the cooperation between different actors of the financial system, including regulators and supervisors; the independence and the effectiveness of supervision; and the effective implementation and enforcement of relevant internationally agreed standards. In order to achieve the same general objectives of the Union's supervisory and regulatory arrangements, the supervisory and regulatory arrangements of the third country should comply with a series of operational, organisational and supervisory standards reflecting the essential elements of the Union's supervisory and regulatory requirements applicable to relevant categories of financial institutions.
- (4) In its assessments, the Commission has considered the evolution of the supervisory and regulatory arrangements of Serbia and South Korea since the adoption of Commission Implementing Decision (EU) 2019/536 ⁽³⁾ and taken into account available sources of information, including the assessment made by the European Banking Authority which recommended that the supervisory and regulatory frameworks applicable to credit institutions in those third countries should be considered as equivalent to the Union legal framework for the purposes of Articles 107(3), 114(7), 115(4), 116(5) and Article 142 (2) of Regulation (EU) No 575/2013. The Commission further notes that Serbia has significantly improved its framework against-money laundering and the financing of terrorism, and that work continues in this respect.

⁽¹⁾ OJ L 176, 27.6.2013, p. 1.

⁽²⁾ Commission Implementing Decision 2014/908/EU of 12 December 2014 on the equivalence of the supervisory and regulatory requirements of certain third countries and territories for the purposes of the treatment of exposures according to Regulation (EU) No 575/2013 of the European Parliament and of the Council (OJ L 359, 16.12.2014, p. 155).

⁽³⁾ Commission Implementing Decision (EU) 2019/536 of 29 March 2019 amending Implementing Decision 2014/908/EU as regards the lists of third countries and territories whose supervisory and regulatory requirements are considered equivalent for the purposes of the treatment of exposures in accordance with Regulation (EU) No 575/2013 of the European Parliament and of the Council (OJ L 92, 1.4.2019, p. 3).

- (5) The Commission has concluded that Serbia and South Korea have in place supervisory and regulatory arrangements which comply with a series of operational, organisational and supervisory standards that are at least equivalent to the essential elements of the Union's supervisory and regulatory arrangements applicable to credit institutions. Therefore, it is appropriate to consider that the supervisory and regulatory requirements applied to credit institutions in Serbia and South Korea are at least equivalent to those applied in the Union for the purposes of Articles 107(3), 114(7), 115(4), 116(5) and Article 142 (2) of Regulation (EU) No 575/2013.
- (6) Implementing Decision 2014/908/EU should therefore be amended to include Serbia and South Korea in the relevant lists of third countries and territories whose supervisory and regulatory requirements are, for the purposes of treating the exposures addressed in Articles 107, 114, 115, 116 and 142 of Regulation (EU) No 575/2013, considered equivalent to the Union's regime.
- (7) The lists of third countries and territories considered to be equivalent for the purposes of the relevant provisions of Regulation (EU) No 575/2013 are not exhaustive. The Commission, with the assistance of the European Banking Authority, will continue to monitor on a regular basis the evolution of the supervisory and regulatory arrangements of third countries and territories with a view to updating, as appropriate and at least every 5 years, the lists of third countries and territories set out in Implementing Decision 2014/908/EU taking account, in particular, of developments in supervisory and regulatory arrangements, in the Union and at global level, and in light of new available sources of relevant information.
- (8) The regular review of the prudential and supervisory requirements applicable in the third countries and territories listed in Annexes I to V to Implementing Decision 2014/908/EU should be without prejudice to the possibility for the Commission to undertake a specific review relating to an individual third country or territory at any time outside the general review, where relevant developments make it necessary for the Commission to re-assess the recognition granted by Implementing Decision 2014/908/EU. Such re-assessment could lead to the withdrawal of the recognition of equivalence.
- (9) The measures provided for in this Decision are in accordance with the opinion of the European Banking Committee,

HAS ADOPTED THIS DECISION:

Article 1

Implementing Decision 2014/908/EU is amended as follows:

- (1) Annex I is replaced by the text set out in Annex I to this Decision;
- (2) Annex IV is replaced by the text set out in Annex II to this Decision;
- (3) Annex V is replaced by the text set out in Annex III to this Decision.

Article 2

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

Done at Brussels, 16 December 2019.

For the Commission

The President

Ursula VON DER LEYEN

ANNEX I

'ANNEX I

List of third countries and territories for the purposes of article 1 (credit institutions)

- (1) Argentina
 - (2) Australia
 - (3) Brazil
 - (4) Canada
 - (5) China
 - (6) Faroe Islands
 - (7) Greenland
 - (8) Guernsey
 - (9) Hong Kong
 - (10) India
 - (11) Isle of Man
 - (12) Japan
 - (13) Jersey
 - (14) Mexico
 - (15) Monaco
 - (16) New Zealand
 - (17) Saudi Arabia
 - (18) Serbia
 - (19) Singapore
 - (20) South Africa
 - (21) South Korea
 - (22) Switzerland
 - (23) Turkey
 - (24) USA'
-

ANNEX II

"ANNEX IV

List of third countries and territories for the purposes of article 4 (credit institutions)

- (1) Argentina
 - (2) Australia
 - (3) Brazil
 - (4) Canada
 - (5) China
 - (6) Faroe Islands
 - (7) Greenland
 - (8) Guernsey
 - (9) Hong Kong
 - (10) India
 - (11) Isle of Man
 - (12) Japan
 - (13) Jersey
 - (14) Mexico
 - (15) Monaco
 - (16) New Zealand
 - (17) Saudi Arabia
 - (18) Serbia
 - (19) Singapore
 - (20) South Africa
 - (21) South Korea
 - (22) Switzerland
 - (23) Turkey
 - (24) USA"
-

ANNEX III

ANNEX V

List of third countries and territories for the purposes of article 5 (credit institutions and investment firms)

Credit institutions:

- (1) Argentina
- (2) Australia
- (3) Brazil
- (4) Canada
- (5) China
- (6) Faroe Islands
- (7) Greenland
- (8) Guernsey
- (9) Hong Kong
- (10) India
- (11) Isle of Man
- (12) Japan
- (13) Jersey
- (14) Mexico
- (15) Monaco
- (16) New Zealand
- (17) Saudi Arabia
- (18) Serbia
- (19) Singapore
- (20) South Africa
- (21) South Korea
- (22) Switzerland
- (23) Turkey
- (24) USA

Investment firms:

- (1) Australia
 - (2) Brazil
 - (3) Canada
 - (4) China
 - (5) Hong Kong
 - (6) Indonesia
 - (7) Japan (limited to Type I Financial Instruments Business Operators)
 - (8) Mexico
 - (9) South Korea
 - (10) Saudi Arabia
 - (11) Singapore
 - (12) South Africa
 - (13) USA
-

COMMISSION IMPLEMENTING DECISION (EU) 2019/2167**of 17 December 2019****approving the Network Strategy Plan for the air traffic management network functions of the single European sky for the period 2020-2029**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 551/2004 of the European Parliament and of the Council of 10 March 2004 on the organisation and use of airspace in the single European sky (the Airspace Regulation) ⁽¹⁾, and in particular Article 6(4) thereof,

Whereas:

- (1) Commission Regulation (EU) No 677/2011 ⁽²⁾ and Commission Implementing Regulation (EU) 2019/123 ⁽³⁾ provide that the Network Manager appointed in accordance with those Regulations is required to establish and keep up-to-date the Network Strategy Plan.
- (2) Regulation (EU) No 677/2011 and Implementing Regulation (EU) 2019/123 require that the Network Strategy Plan is to be adopted by the Commission after endorsement by the Network Management Board.
- (3) On 27 June 2019, the Network Management Board endorsed the Network Strategy Plan for the period from 2020 to 2029. That period is aligned with the relevant reference periods and covers the period of appointment of the Network Manager.
- (4) The Network Strategy Plan should be approved.
- (5) This decision should enter into force as a matter of urgency before the beginning of the period covered by the Network Strategy Plan.
- (6) The measures provided for in this Decision are in accordance with the opinion of the Single Sky Committee established by Article 5 of Regulation (EC) No 549/2004 of the European Parliament and of the Council ⁽⁴⁾,

HAS ADOPTED THIS DECISION:

Article 1

The Network Strategy Plan 2020-2029 as endorsed by the Network Management Board at its 25th meeting on 27 June 2019 ⁽⁵⁾ is approved.

Article 2

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

Done at Brussels, 17 December 2019.

For the Commission

The President

Ursula VON DER LEYEN

⁽¹⁾ OJ L 96, 31.3.2004, p. 20.

⁽²⁾ Commission Regulation (EU) No 677/2011 of 7 July 2011 laying down detailed rules for the implementation of air traffic management (ATM) network functions and amending Regulation (EU) No 691/2010 (OJ L 185, 15.7.2011, p. 1).

⁽³⁾ Commission Implementing Regulation (EU) 2019/123 of 24 January 2019 laying down detailed rules for the implementation of air traffic management (ATM) network functions and repealing Commission Regulation (EU) No 677/2011 (OJ L 28, 31.1.2019, p. 1).

⁽⁴⁾ Regulation (EC) No 549/2004 of the European Parliament and of the Council of 10 March 2004 laying down the framework for the creation of the single European sky (the framework Regulation), (OJ L 96, 31.3.2004, p. 1).

⁽⁵⁾ Network Strategy Plan for the air traffic management network functions of the single European sky for the period 2020-2029, published as document NMB/19/25/7 on the website of the Network Manager: <https://www.eurocontrol.int/network-manager#key-documents>

COMMISSION IMPLEMENTING DECISION (EU) 2019/2168**of 17 December 2019****on the appointment of the chairperson and the members and their alternates of the Network Management Board and of the members and their alternates of the European Aviation Crisis Coordination Cell for the air traffic management network functions for the third reference period 2020-2024**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 551/2004 of the European Parliament and of the Council of 10 March 2004 on the organisation and use of the airspace in the single European sky (the airspace Regulation) ⁽¹⁾, and in particular Article 6(4) thereof,

Whereas:

- (1) Commission Regulation (EU) No 677/2011 ⁽²⁾ and Commission Implementing Regulation (EU) 2019/123 ⁽³⁾ establish a Network Management Board to monitor and steer the execution of air traffic management network functions. They also establish a European Aviation Crisis Coordination Cell to ensure effective crisis management at network level.
- (1) To ensure their efficient functioning, the chairperson, vice-chairpersons, members of the Network Management Board and their alternates and the members of the European Aviation Crisis Coordination Cell and their alternates should be appointed for the duration of at least one reference period of the performance scheme, this is from 2020 to 2024 inclusive, as laid down in Article 7(1) of Commission Implementing Regulation (EU) 2019/317 ⁽⁴⁾.
- (2) In April 2019, the entities to be represented in the Network Management Board proposed candidate voting members and alternates for the Network Management Board. In accordance with Article 21(2)(c) of Implementing Regulation (EU) 2019/123, Member States were consulted and provided their opinion on the proposed nominations.
- (3) In October 2019, the candidate voting members proposed the candidate chairperson and two candidate vice-chairpersons for the new Board.
- (4) In November 2019, pursuant to Article 18(7) of Implementing Regulation (EU) 2019/123, Eurocontrol proposed the candidate non-voting members representing the air navigation service providers of associated countries in the new Board.
- (5) In April 2019, the organisations to be represented in the European Aviation Crisis Coordination Cell proposed their nominations for the Cell.
- (6) In accordance with those proposals, the chairperson, vice-chairpersons and members of the Network Management Board and their alternates, as well as the members of the European Aviation Crisis Coordination Cell and their alternates should now be appointed.
- (7) This decision should enter into force as a matter of urgency before the beginning of the period covered by the appointments in question.
- (8) The measures provided for in this Decision are in accordance with the opinion of the Single Sky Committee established by Article 5 of Regulation (EC) No 549/2004 of the European Parliament and of the Council ⁽⁵⁾,

⁽¹⁾ OJ L 96, 31.3.2004, p. 20.

⁽²⁾ Commission Regulation (EU) 677/2011 of 7 July 2011 laying down detailed rules for the implementation of air traffic management (ATM) network functions and amending Regulation (EU) No 691/2010 (OJ L 185, 15.7.2011, p. 1).

⁽³⁾ Commission Implementing Regulation (EU) 2019/123 of 24 January 2019 laying down detailed rules for the implementation of air traffic management (ATM) network functions and repealing Commission Regulation (EU) No 677/2011 (OJ L 28, 31.1.2019, p. 1).

⁽⁴⁾ Commission Implementing Regulation (EU) 2019/317 of 11 February 2019 laying down a performance and charging scheme in the single European sky and repealing Implementing Regulations (EU) No 390/2013 and (EU) No 391/2013 (OJ L 56, 25.2.2019, p. 1).

⁽⁵⁾ Regulation (EC) No 549/2004 of the European Parliament and of the Council of 10 March 2004 laying down the framework for the creation of the single European sky (the framework Regulation), (OJ L 96, 31.3.2004, p. 1).

HAS ADOPTED THIS DECISION:

Article 1

The persons listed in Annex I shall be appointed for the period from 1 January 2020 until 31 December 2024 as chairperson, vice-chairpersons and members of the Network Management Board and their alternates respectively.

Article 2

The persons listed in Annex II shall be appointed for the period from 1 January 2020 until 31 December 2024 as the members of the European Aviation Crisis Coordination Cell and their alternates respectively.

Article 3

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

Done at Brussels, 17 December 2019.

For the Commission

The President

Ursula VON DER LEYEN

ANNEX I

**VOTING AND NON-VOTING MEMBERS AND THEIR ALTERNATES
OF THE NETWORK MANAGEMENT BOARD**

Chairperson:	Mr Simon HOCQUARD Director-General CANSO	
1st Vice Chairperson:	Ms Sylviane LUST Director General AIRE	
2nd Vice Chairperson:	Mr Luc LAVEYNE Senior Advisor ACI Europe	
Airspace users		
	Voting members	Alternates
AIRE/ERA	Ms Sylviane LUST Director-General Airlines International Representation in Europe (AIRE)	Mr Russell DUDLEY Manager Policy and Technical European Regions Airline Association (ERA)
A4E	Mr Francis RICHARDS ATM Manager EasyJet Airline Company Limited	Mr Choorah SINGH Chief Operating Officer Laudamotion
IATA	Mr Giancarlo BUONO Regional Director Safety and Flight Operations International Air Transport Association (IATA)	Mr Rory SERGISON Assistant Director ATM Infrastructure International Air Transport Association (IATA)
EBAA/IAOPA/EAS	Ms Vanessa RULLIER-FRANCAUD Senior Manager, ATM and Special Projects European Business Aviation Association (EBAA)	Dr Michael ERB Senior Vice-President International Council of Aircraft Owner and Pilot Associations (IAOPA)
Air navigation service providers per functional airspace block		
	Voting members	Alternates
BALTIC	Mr Janusz JANISZEWSKI Acting President Polish Air Navigation Services Agency (PANSO)	Mr Nerijus MALECKAS Chief Operations Officer Lithuanian Air Navigation Services — State Enterprise ‘Oro Navigacija’
BLUEMED	Ms Despoina PAPANDREOU Head of ANSP Management & Development Division/D21 Hellenic Air Navigation Service Provider (HANSP)	Mr Maurizio PAGGETTI Chief Operations Officer Ente Nazionale Assistenza al Volo (ENAV)
DANUBE	Mr Georgi PEEV Director General Bulgarian Air Traffic Services Authority (BULATSA)	Mr Fănică CÂRNU Deputy Director General Romanian Air Traffic Services Administration (ROMATSA)
DK-SE	Ms Carin HOLTZRIN KJELLANDER Director of International Affairs LFV	Ms Lise KRONBORG Head of strategic programmes Navigation Via Air (NAVIAIR)

Air navigation service providers per functional airspace block		
	Voting members	Alternates
FABCE	Mr Kornél SZEPESSY Chief Executive Officer HUNGAROCONTROL	MS Valerie HACKL Managing Director AUSTRO CONTROL
FABEC	Mr Robert SCHICKLING Chief Operating Officer Deutsche Flugsicherung GmbH (DFS)	Mr. Maurice GEORGES Directeur des Services de la Navigation Aérienne Direction des Services de la Navigation aérienne (DSNA)
		Mr François-Xavier PRACH Chairman ANSP FABEC Group
NEFAB	Mr Üllar SALUMÄE Head of ATS Department Estonian Air Navigation Service	Mr Tormod RANGNES Director Operations AVINOR Air Navigation Service
SOUTH-WEST	Mr Enrique MAURER SOMOLINOS Director of Services of Air Navigation Spanish Air Navigation (ENAIRE)	Mr Carlos REIS Director of Operations Navegação Aérea de Portugal (NAV Portugal)
UK-IRELAND	Mr Billy HAHN Director ATM Operations & Strategy Irish Aviation Authority (IAA)	Ms Juliet KENNEDY Operations Director National Air Traffic Services UK (NATS)
Airport operators		
	Voting members	Alternates
	Mr Luc LAVEYNE Senior Advisor Airports Council International ACI Europe	Ms Isabelle BAUMELLE Chief Operating Officer & Airline Marketing Director Société Aéroports de la Côte d'Azur
	Mr Giovanni RUSSO Chief Operating Officer Aéroport International de Genève	Mr Mark C. BURGESS Head of Operational Planning, Performance & Transformation Operations Heathrow Airport Limited
Military		
	Voting members	Alternates
Military Air Navigation Service Providers	Lt. Col Raymond MARTIN Chief Air Traffic Services Officer Irish Air Corps HQ	Col. Bernhard MAYR Branch Chief German Military Aviation Authority (GE MAA) Germany
Military airspace users	Brigadier General Etienne HERFELD Directeur de la circulation aérienne militaire française (DIRCAM) Direction de la sécurité aéronautique d'Etat (DSAE)	Col. Stéphane GOURG Direction de la circulation aérienne militaire française (DIRCAM)
Chairperson of the Network Management Board		
	Non-voting member	Alternate
	Mr Simon HOCQUARD Director-General CANSO	Ms Sylviane LUST Director-General AIRE
		Mr Luc LAVEYNE Senior Advisor ACI

European Commission		
	Non-voting member	Alternate
	Mr Filip CORNELIS Director for Aviation DG MOVE European Commission	Ms Christine BERG Head of Unit Single European Sky DG MOVE European Commission
EFTA Surveillance Authority		
	Non-voting member	Alternate
	Gunnar Örn Indriðason Legal Officer, Security Inspector EFTA Surveillance Authority	<i>To be nominated</i>
Network Manager		
	Non-voting member	Alternate
	Mr Iacopo PRISSINOTTI Director Network Management Directorate Network Manager Eurocontrol	Mr Razvan BUCUROIU Head of Network & Strategy Development Directorate Network Manager Eurocontrol
Chairperson of the working group on operations (NDOP)		
	Non-voting member	Alternate
	Mr Xavier BENAVENT Director of Operations ENAI	<i>To be nominated</i>
Representatives of Air Navigation Service providers of associated countries		
	Non-voting members	Alternates
1 January 2020 – 31 December 2020	Representative of the Air Navigation Service provider of Turkey (DHMI)	<i>To be nominated</i>
	Representative of the Air Navigation Service provider of Albania (ALB-CONTROL)	<i>To be nominated</i>
1 January 2021 - 31 December 2021	<i>To be nominated</i>	<i>To be nominated</i>
	<i>To be nominated</i>	<i>To be nominated</i>
1 January 2022 - 31 December 2022	<i>To be nominated</i>	<i>To be nominated</i>
	<i>To be nominated</i>	<i>To be nominated</i>
1 January 2023 - 31 December 2023	<i>To be nominated</i>	<i>To be nominated</i>
	<i>To be nominated</i>	<i>To be nominated</i>
1 January 2024 - 31 December 2024	<i>To be nominated</i>	<i>To be nominated</i>
	<i>To be nominated</i>	<i>To be nominated</i>
Eurocontrol		
	Non-voting member	Alternate
	Mr Eamonn BRENNAN Director-General Eurocontrol	Mr Philippe MERLO Director European Civil-Military Aviation (DECMA) Eurocontrol

ANNEX II

**PERMANENT MEMBERS AND THEIR ALTERNATES OF THE EUROPEAN AVIATION
COORDINATION CRISIS CELL**

Member States		
	Member	Alternate
	Representative of the Member State that holds the Presidency of the Council of the European Union	Representative of the Member State that holds the next Presidency of the Council of the European Union
EFTA states		
	Member	Alternate
	Representative of the EFTA State that holds the Chairmanship of the Standing Committee of the EFTA States	Representative of the EFTA State that holds the next Chairmanship of the Standing Committee of the EFTA States
European Commission		
	Member	Alternate
	Mr Filip CORNELIS Director for Aviation DG MOVE European Commission	Ms Christine BERG Head of Unit Single European Sky DG MOVE European Commission
Agency		
	Member	Alternate
	Mr Denis KOEHL Senior Military Advisor EASA	Mr Augustin KLUS ATM/ANS Standards, Implementation & Oversight Senior Expert EASA
Eurocontrol		
	Member	Alternate
	Mr Donal Handley Head of the Director General Office Eurocontrol	Mr Philippe Merlo Director DECMA Directorate European Civil-Military Aviation Eurocontrol
Network Manager		
	Member	Alternate
	Mr Iacopo PRISSINOTTI Director Network Management Directorate Network Manager EUROCONTROL	Mr Kenneth Thomas EACCC Operations Manager Directorate Network Manager EUROCONTROL
Military		
	Member	Alternate
	Lieutenant-Colonel Hans-Jörg Fietz German Military Aviation Authority	Lieutenant-Colonel Gert Jan van Kralingen Dutch Military Aviation Authority

Air Navigation Service providers		
	Member	Alternate
	Ms Tanja Grobotek Director Europe Affairs CANSO	Mr Flavio Sgrò ENAV
Airport operators		
	Member	Alternate
	Mr Guillaume Auquier Regulation, Policy and Compliance Manager Groupe ADP	Mr Olivier Jankovec Director General ACI EUROPE
Airspace users		
	Member	Alternate
	Mr Carlo Verelst Manager ATM Infrastructure Europe IATA	Mr Achim Baumann Policy Director A4E

COMMISSION IMPLEMENTING DECISION (EU) 2019/2169**of 17 December 2019****amending the Annex to Implementing Decision 2014/709/EU concerning animal health control measures relating to African swine fever in certain Member States***(notified under document C(2019) 9369)***(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Council Directive 89/662/EEC of 11 December 1989 concerning veterinary checks in intra-Community trade with a view to the completion of the internal market ⁽¹⁾, and in particular Article 9(4) thereof,

Having regard to Council Directive 90/425/EEC of 26 June 1990 concerning veterinary checks applicable in intra-Union trade in certain live animals and products with a view to the completion of the internal market ⁽²⁾, and in particular Article 10(4) thereof,

Having regard to Council Directive 2002/99/EC of 16 December 2002 laying down the animal health rules governing the production, processing, distribution and introduction of products of animal origin for human consumption ⁽³⁾, and in particular Article 4(3) thereof,

Whereas:

- (1) Regulation (EU) 2016/429 of the European Parliament and of the Council ⁽⁴⁾ lays down rules for the prevention and control of animal diseases, which are transmissible to animals or to humans, including rules providing for emergency measures to be taken in the event of cases of certain listed diseases, including African swine fever. Regulation (EU) 2016/429 applies from 21 April 2021. Regulation (EU) 2017/625 of the European Parliament and of the Council ⁽⁵⁾ repeals Directives 89/662/EEC and 90/425/EEC with effect from 14 December 2019. However, Article 164(2) of that Regulation provides that Article 9 of Directive 89/662/EEC and Article 10 of Directive 90/425/EEC are to continue to apply in relation to matters governed by Regulation (EU) 2016/429 until the date of application of Regulation (EU) 2016/429.
- (2) Commission Implementing Decision 2014/709/EU ⁽⁶⁾ lays down animal health control measures in relation to African swine fever in certain Member States, where there have been confirmed cases of that disease in domestic or feral pigs (the Member States concerned). The Annex to that Implementing Decision demarcates and lists certain areas of the Member States concerned in Parts I to IV thereof, differentiated by the level of risk based on the epidemiological situation as regards that disease. The Annex to Implementing Decision 2014/709/EU has been

⁽¹⁾ OJ L 395, 30.12.1989, p. 13.

⁽²⁾ OJ L 224, 18.8.1990, p. 29.

⁽³⁾ OJ L 18, 23.1.2003, p. 11.

⁽⁴⁾ Regulation (EU) 2016/429 of the European Parliament and of the Council of 9 March 2016 on transmissible animal diseases and amending and repealing certain acts in the area of animal health (Animal Health Law) (OJ L 84, 31.3.2016, p. 1).

⁽⁵⁾ Regulation (EU) 2017/625 of the European Parliament and of the Council of 15 March 2017 on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products, amending Regulations (EC) No 999/2001, (EC) No 396/2005, (EC) No 1069/2009, (EC) No 1107/2009, (EU) No 1151/2012, (EU) No 652/2014, (EU) 2016/429 and (EU) 2016/2031 of the European Parliament and of the Council, Council Regulations (EC) No 1/2005 and (EC) No 1099/2009 and Council Directives 98/58/EC, 1999/74/EC, 2007/43/EC, 2008/119/EC and 2008/120/EC, and repealing Regulations (EC) No 854/2004 and (EC) No 882/2004 of the European Parliament and of the Council, Council Directives 89/608/EEC, 89/662/EEC, 90/425/EEC, 91/496/EEC, 96/23/EC, 96/93/EC and 97/78/EC and Council Decision 92/438/EEC (Official Controls Regulation) (OJ L 95, 7.4.2017, p. 1).

⁽⁶⁾ Commission Implementing Decision 2014/709/EU of 9 October 2014 concerning animal health control measures relating to African swine fever in certain Member States and repealing Implementing Decision 2014/178/EU (OJ L 295, 11.10.2014, p. 63).

amended several times to take account of changes in the epidemiological situation in the Union as regards African swine fever that need to be reflected in that Annex. The Annex to Implementing Decision 2014/709/EU was last amended by Commission Implementing Decision (EU) 2019/2114 ⁽⁷⁾, following instances of African swine fever in Lithuania and Poland.

- (3) Council Directive 2002/60/EC ⁽⁸⁾ lays down the minimum Union measures to be taken for the control of African swine fever. In particular, Article 9 of Directive 2002/60/EC provides for the establishment of a protection and a surveillance zone when African swine fever has been officially confirmed in pigs on a holding, and Articles 10 and 11 of that Directive lay down the measures to be taken in the protection and surveillance zones in order to prevent the spread of that disease. Recent experience has shown that the measures laid down in Directive 2002/60/EC are effective in controlling the spread of that disease, and in particular the measures providing for the cleaning and disinfecting of infected holdings and other measures related to the eradication of that disease.
- (4) Since the date of adoption of Implementing Decision (EU) 2019/2114, the epidemiological situation in Poland and Slovakia has improved as regards domestic pigs due to the measures being applied by those Member States in accordance with Directive 2002/60/EC. In addition, there have been further cases of African swine fever in feral pigs in Poland, Lithuania and Hungary.
- (5) Taking into account the effectiveness of the measures being applied in Poland and Slovakia in accordance with Directive 2002/60/EC, and in particular those laid down in Article 10(4)(b) and Article 10(5) thereof, and in line with the risk mitigation measures for African swine fever set out in the Terrestrial Animal Health Code of the World Organisation for Animal Health (the OIE Code), certain areas in the districts of chełmski, parczewski, włodawski and radzyński in Poland and in the district of Trebišov in Slovakia currently listed in Part III of the Annex to Implementing Decision 2014/709/EU should now be listed in Part II of that Annex, in view of the expiry of the period of three months from the date of the final cleaning and disinfection of the infected holdings and due to the absence of African swine fever outbreaks in those areas for the past three months in accordance with the OIE Code. Given that Part III of the Annex to Implementing Decision 2014/709/EU lists the areas where the epidemiological situation is still evolving and very dynamic, when any amendments are made to areas listed in that Part, particular consideration must always be given to the effect on the surrounding areas, as has been done in this instance. The Annex to Implementing Decision 2014/709/EU should therefore be amended accordingly.
- (6) Furthermore, following the recent cases of African swine fever in feral pigs in Poland, Lithuania and Hungary, and taking into account the current epidemiological situation in the Union, regionalisation in those three Member States has been reassessed and updated. In addition, the risk management measures in place also have been reassessed and updated. These changes also need to be reflected in the Annex to Implementing Decision 2014/709/EU.
- (7) In December 2019, several cases of African swine fever were observed in feral pigs in the district of białobrzegi in Poland in areas currently listed in Part I of the Annex to Implementing Decision 2014/709/EU. These cases of African swine fever in feral pigs constitute an increased level of risk which should be reflected in that Annex. Accordingly, these areas of Poland affected by African swine fever should now be listed in Part II of the Annex to Implementing Decision 2014/709/EU instead of in Part I thereof.
- (8) In addition, in December 2019, several cases of African swine fever in feral pigs were also observed in the districts of lubelski, nizański and bielski in Poland in areas currently listed in Part II of the Annex to Implementing Decision 2014/709/EU, located in close proximity to areas listed in Part I thereof. These cases of African swine fever in feral pigs constitute an increased level of risk which should be reflected in that Annex. Accordingly, these areas of Poland listed in Part I of the Annex to Implementing Decision 2014/709/EU that are in close proximity to areas listed in Part II affected by these recent cases of African swine fever should now be listed in Part II of that Annex instead of in Part I thereof.
- (9) In December 2019, one case of African swine fever in feral pigs was also observed in the county of Telšiai in Lithuania in an area currently listed in Part II of the Annex to Implementing Decision 2014/709/EU, located in close proximity to an area listed in Part I thereof. This case of African swine fever in feral pigs constitutes an increased level of risk which should be reflected in that Annex. Accordingly, this area of Lithuania listed in Part I of the Annex to Implementing Decision 2014/709/EU that are in close proximity to an area listed in Part II affected by this recent case of African swine fever should now be listed in Part II of that Annex instead of in Part I thereof.

⁽⁷⁾ Commission Implementing Decision (EU) 2019/2114 of 6 December 2019 amending the Annex to Implementing Decision 2014/709/EU concerning animal health control measures relating to African swine fever in certain Member States (OJ L 318, 10.12.2019, p. 163).

⁽⁸⁾ Council Directive 2002/60/EC of 27 June 2002 laying down specific provisions for the control of African swine fever and amending Directive 92/119/EEC as regards Teschen disease and African swine fever (OJ L 192, 20.7.2002, p. 27).

- (10) In December 2019, one case of African swine fever was observed in feral pigs in the county of Békés in Hungary in an area currently listed in Part I of the Annex to Implementing Decision 2014/709/EU. This case of African swine fever in feral pigs constitutes an increased level of risk which should be reflected in that Annex. Accordingly, this area of Hungary affected by African swine fever should now be listed in Part II of the Annex to Implementing Decision 2014/709/EU instead of in Part I thereof.
- (11) In addition, in December 2019, several cases of African swine fever in feral pigs were also observed in the counties of Szabolcs-Szatmár-Bereg, Nógrád and Pest in Hungary in areas currently listed in Part II of the Annex to Implementing Decision 2014/709/EU, located in close proximity to areas listed in Part I thereof. These cases of African swine fever in feral pigs constitute an increased level of risk which should be reflected in that Annex. Accordingly, these areas of Hungary listed in Part I of the Annex to Implementing Decision 2014/709/EU that are in close proximity to areas listed in Part II affected by these recent cases of African swine fever should now be listed in Part II of that Annex instead of in Part I thereof.
- (12) In order to take account of recent developments in the epidemiological evolution of African swine fever in the Union, and in order to combat the risks associated with the spread of that disease in a proactive manner, new high-risk areas of a sufficient size should be demarcated for Poland, Lithuania and Hungary and duly listed in Parts I and II of the Annex to Implementing Decision 2014/709/EU. The Annex to Implementing Decision 2014/709/EU should therefore be amended accordingly.
- (13) Given the urgency of the epidemiological situation in the Union as regards the spread of African swine fever, it is important that the amendments made to the Annex to Implementing Decision 2014/709/EU by this Decision should take effect as soon as possible.
- (14) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

HAS ADOPTED THIS DECISION:

Article 1

The Annex to Implementing Decision 2014/709/EU is replaced by the text set out in the Annex to this Decision.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 17 December 2019.

For the Commission
Stella KYRIAKIDES
Member of the Commission

ANNEX

The Annex to Implementing Decision 2014/709/EU is replaced by the following:

'ANNEX

PART I

1. Belgium

The following areas in Belgium:

in Luxembourg province:

- the area is delimited clockwise by:
- Frontière avec la France,
- Rue Mersinhat,
- La N818 jusque son intersection avec la N83,
- La N83 jusque son intersection avec la N884,
- La N884 jusque son intersection avec la N824,
- La N824 jusque son intersection avec Le Routeux,
- Le Routeux,
- Rue d'Orgéo,
- Rue de la Vierre,
- Rue du Bout-d'en-Bas,
- Rue Sous l'Eglise,
- Rue Notre-Dame,
- Rue du Centre,
- La N845 jusque son intersection avec la N85,
- La N85 jusque son intersection avec la N40,
- La N40 jusque son intersection avec la N802,
- La N802 jusque son intersection avec la N825,
- La N825 jusque son intersection avec la E25-E411,
- La E25-E411 jusque son intersection avec la N40,
- N40: Burnaimont, Rue de Luxembourg, Rue Ranci, Rue de la Chapelle,
- Rue du Tombois,
- Rue Du Pierroy,
- Rue Saint-Orban,
- Rue Saint-Aubain,
- Rue des Cottages,
- Rue de Relune,
- Rue de Rulune,
- Route de l'Ermitage,
- N87: Route de Habay,
- Chemin des Ecoliers,
- Le Routy,
- Rue Burgknapp,
- Rue de la Halte,
- Rue du Centre,
- Rue de l'Eglise,

- Rue du Marquisat,
- Rue de la Carrière,
- Rue de la Lorraine,
- Rue du Beynert,
- Millewée,
- Rue du Tram,
- Millewée,
- N4: Route de Bastogne, Avenue de Longwy, Route de Luxembourg,
- Frontière avec le Grand-Duché de Luxembourg,
- Frontière avec la France,
- La N87 jusque son intersection avec la N871 au niveau de Rouvroy,
- La N871 jusque son intersection avec la N88,
- La N88 jusque son intersection avec la rue Baillet Latour,
- La rue Baillet Latour jusque son intersection avec la N811,
- La N811 jusque son intersection avec la N88,
- La N88 jusque son intersection avec la N883 au niveau d'Aubange,
- La N883 jusque son intersection avec la N81 au niveau d'Aubange,
- La N81 jusque son intersection avec la E25-E411,
- La E25-E411 jusque son intersection avec la N40,
- La N40 jusque son intersection avec la rue du Fet,
- Rue du Fet,
- Rue de l'Accord jusque son intersection avec la rue de la Gaume,
- Rue de la Gaume jusque son intersection avec la rue des Bruyères,
- Rue des Bruyères,
- Rue de Neufchâteau,
- Rue de la Motte,
- La N894 jusque son intersection avec la N85,
- La N85 jusque son intersection avec la frontière avec la France.

2. Estonia

The following areas in Estonia:

- Hiiu maakond.

3. Hungary

The following areas in Hungary:

- Békés megye 950150, 950250, 950350, 950450, 950550, 950650, 950660, 950750, 950950, 950960, 950970, 951050, 951150, 951250, 951950, 952050, 952150, 952550, 952750, 952850, 952950, 953050, 953150, 953250, 953260, 953270, 953350, 953650, 953660, 953750, 953850, 953950, 953960, 954050, 954060, 954150, 954350, 954450, 954550, 954650, 954750, 954850, 954860, 954950, 955050, 955270, 955350, 955450, 955650, 955750, 955760, 955950, 956150, 956160 és 956450 kódszámú vadgazdálkodási egységeinek teljes területe,
- Bács-Kiskun megye 600150, 600850, 601550, 601650, 601660, 601750, 601850, 601950, 602050, 603250, 603750 és 603850 kódszámú vadgazdálkodási egységeinek teljes területe,
- Budapest 1 kódszámú, vadgazdálkodási tevékenységre nem alkalmas területe,
- Csongrád megye 800150, 800160, 800250, 802220, 802260, 802310 és 802450 kódszámú vadgazdálkodási egységeinek teljes területe,

- Fejér megye 400150, 400250, 400351, 400352, 400450, 400550, 401150, 401250, 401350, 402050, 402350, 402360, 402850, 402950, 403050, 403250, 403350, 403450, 403550, 403650, 403750, 403950, 403960, 403970, 404570, 404650, 404750, 404850, 404950, 404960, 405050, 405750, 405850, 405950, 406050, 406150, 406550, 406650 és 406750 kódszámú vadgazdálkodási egységeinek teljes területe,
- Hajdú-Bihar megye 900750, 901250, 901260, 901270, 901350, 901551, 901560, 901570, 901580, 901590, 901650, 901660, 902450, 902550, 902650, 902660, 902670, 902750, 903650, 903750, 903850, 903950, 903960, 904050, 904060, 904150, 904250, 904350, 904950, 904960, 905050, 905060, 905070, 905080, 905150, 905250 és 905260 kódszámú vadgazdálkodási egységeinek teljes területe,
- Jász-Nagykun-Szolnok megye 750150, 750160, 750250, 750260, 750350, 750450, 750460, 751250, 751260, 754450, 754550, 754560, 754570, 754650, 754750, 754950, 755050, 755150, 755250, 755350 és 755450 kódszámú vadgazdálkodási egységeinek teljes területe,
- Komárom-Esztergom megye 251360, 251550, 251850, 251950, 252050, 252150, 252250, 252350, 252450, 252550, 252650, 252750, és 253550 kódszámú vadgazdálkodási egységeinek teljes területe,
- Nógrád megye 552010, 552150, 552250, 552350, 552450, 552460, 552520, 552550, 552610, 552620, 552710, 552850, 552860, 552950, 552970, 553050, 553110, 553250, 553260, 553350, 553650, 553750, 553850, 553910 és 554050 kódszámú vadgazdálkodási egységeinek teljes területe,
- Pest megye 570150, 570250, 570350, 570450, 570550, 570650, 570750, 570850, 571050, 571150, 571250, 571350, 571550, 571610, 571750, 571760, 572150, 572250, 572350, 572550, 572650, 572750, 572850, 572950, 573150, 573250, 573260, 573350, 573360, 573450, 573850, 573950, 573960, 574050, 574150, 574350, 574360, 574550, 574650, 574750, 574850, 574860, 574950, 575050, 575150, 575250, 575350, 575550, 575650, 575750, 575850, 575950, 576050, 576150, 576250, 576350, 576450, 576650, 576750, 576850, 576950, 577050, 577150, 577250, 577350, 577450, 577650, 577850, 577950, 578050, 578150, 578250, 578350, 578360, 578450, 578550, 578560, 578650, 578850, 578950, 579050, 579150, 579250, 579350, 579450, 579460, 579550, 579650, 579750, 580050, 580250 és 580450 kódszámú vadgazdálkodási egységeinek teljes területe,
- Szabolcs-Szatmár-Bereg megye 851950, 852350, 852450, 852550, 852750, 853751, 853850, 853950, 853960, 854050, 855650 és 855660 kódszámú vadgazdálkodási egységeinek teljes területe.

4. Latvia

The following areas in Latvia:

- Alsungas novads,
- Kuldīgas novada Gudenieku pagasts,
- Pāvilostas novads,
- Stopiņu novada daļa, kas atrodas uz rietumiem no autoceļa V36, P4 un P5, Acones ielas, Dauguļupes ielas un Dauguļupītes,
- Ventspils novada Jūrkalnes pagasts,
- Grobiņas novads,
- Rucavas novada Dunikas pagasts.

5. Lithuania

The following areas in Lithuania:

- Klaipėdos rajono savivaldybės: Agluonėnų, Priekulės, Veiviržėnų, Judrėnų, Endriejavo ir Vėžaičių seniūnijos,
- Plungės rajono savivaldybės: Babrungo, Kulių, Nausodžio, Paukštakių, Platelių, Plungės miesto, Šateikių ir Žemaičių Kalvarijos seniūnijos,
- Skuodo rajono savivaldybės: Aleksandrijos, Lenkimų, Mosėdžio, Notėnų, Skuodo, Skuodo miesto, Šačių seniūnijos.

6. Poland

The following areas in Poland:

w województwie warmińsko-mazurskim:

- gminy Wielbark i Rozogi w powiecie szczycieńskim,
- gminy Janowiec Kościelny, Janowo i Kozłowo w powiecie nidzickim,
- powiat działdowski,
- gminy Łukta, Miłomłyn, Dąbrówno, Grunwald i Ostróda z miastem Ostróda w powiecie ostródzkim,
- gminy Kisielice, Susz, Iława z miastem Iława, Lubawa z miastem Lubawa, w powiecie iławskim,

w województwie podlaskim:

- gminy Kulesze Kościelne, Wysokie Mazowieckie z miastem Wysokie Mazowieckie, Czyżew w powiecie wysokomazowieckim,
- gminy Miastkowo, Nowogród, Śniadowo i Zbójna w powiecie łomżyńskim,
- powiat zambrowski,

w województwie mazowieckim:

- powiat ostrołęcki,
- powiat miejski Ostrołęka,
- gminy Bielsk, Brudzeń Duży, Drobin, Gąbin, Łąck, Nowy Duninów, Radzanowo, Słupno i Stara Biała w powiecie płońskim,
- powiat miejski Płock,
- powiat sierpecki,
- powiat żuromiński,
- gminy Andrzejewo, Brok, Małkinia Górna, Stary Lubotyń, Szulborze Wielkie, Wąsewo, Zaręby Kościelne i Ostrów Mazowiecka z miastem Ostrów Mazowiecka w powiecie ostrowskim,
- gminy Dzierzgowo, Lipowiec Kościelny, miasto Mława, Radzanów, Szreńsk, Szydłowo i Wieczfnia Kościelna, w powiecie mławskim,
- powiat przasnyski,
- powiat makowski,
- gminy Gzy, Obryte, Zatory, Pułtusk i część gminy Winnica położona na wschód od linii wyznaczonej przez drogę łączącą miejscowości Bielany, Winnica i Pokrzywnica w powiecie pułtuskim,
- gminy Brańszczyk, Długosiodło, Rząśnik, Wyszaków, Zabrodzie i część gminy Somianka położona na północ od linii wyznaczonej przez drogę nr 62 w powiecie wyszkowskim,
- gmina Błędów w powiecie grójeckim,
- gminy Iłża, Kowala, Przytyk, Skaryszew, Wierzbica, Wolanów, Zakrzew i część gminy Jedlińsk położona na zachód od linii wyznaczonej przez drogę nr S7 w powiecie radomskim,
- powiat miejski Radom,
- powiat szydłowiecki,
- gminy Borkowice, Gielniów, Odrzywół, Przysucha, Rusinów, Wieniawa w powiecie przysuskim,
- gmina Kazanów w powiecie zwoleńskim,
- gminy Ciepeliów, Chotcza, Lipsko, Rzecznów i Sienno w powiecie lipskim,
- powiat gostyniński,

w województwie podkarpackim:

- gmina Wielkie Oczy w powiecie lubaczowskim,
- gminy Laszki, Radymno z miastem Radymno, część gminy Wiązownica położona na południe od linii wyznaczonej przez drogę nr 867 i gmina wiejska Jarosław w powiecie jarosławskim,
- gminy Bojanów, Pysznica, Zaleszany i miasto Stalowa Wola w powiecie stalowowolskim,
- powiat tarnobrzski,
- gminy Przeworsk z miastem Przeworsk, Gać Jawornik Polski, Kańczuga, Tryńcza i Zarzecze w powiecie przeworskim,
- powiat łańcucki,
- gminy Trzebownisko, Głogów Małopolski i część gminy Sokołów Małopolski położona na południe od linii wyznaczonej przez drogę nr 875 w powiecie rzeszowskim,
- powiat kolbuszowski,

w województwie świętokrzyskim:

- gminy Lipnik, Opatów, Wojciechowice, Sadowie i część gminy Ożarów położona na południe od linii wyznaczonej przez drogę nr 74 w powiecie opatowskim,
- powiat sandomierski,

— gmina Brody w powiecie starachowickim,

— powiat ostrowiecki,

w województwie łódzkim:

— gminy Łyszkowice, Kocierzew Południowy, Kiernoza, Chąsno, część gminy wiejskiej Łowicz położona na północ od linii wyznaczonej przez drogę nr 92 i Nieborów w powiecie łowickim,

— gminy Biała Rawska, Cielądz, Rawa Mazowiecka z miastem Rawa Mazowiecka, Regnów i Sadkowiec w powiecie rawskim,

— gminy Bolimów, Godzianów, Kowiesy, Maków, Nowy Kawęczyn i Skierniewice w powiecie skierniewickim,

— powiat miejski Skierniewice,

— gminy Drzewica i Poświętne w powiecie opoczyńskim,

— gminy Czerniewice, Inowłódz i Rzeczyca w powiecie tomaszowskim,

w województwie pomorskim:

— powiat nowodworski,

— gminy Lichnowy, Miłoradz, Nowy Staw, Malbork z miastem Malbork w powiecie malborskim,

— gminy Mikołajki Pomorskie, Stary Targ i Sztum w powiecie sztumskim,

— powiat gdański,

— Miasto Gdańsk,

— powiat tczewski,

— powiat kwidzyński,

w województwie lubuskim:

— gminy Szlichtyngowa i Wschowa w powiecie wschowskim,

— gminy Iłowa, Wymiarki, miasto Gozdnicza, w powiecie żagańskim,

— gminy Brody, Lipinki Łużyckie, Przewóz, Trzebiel, Tuplice, część gminy Lubsko położona na zachód od linii wyznaczonej przez drogę nr 287, część gminy Żary położona na południe od linii wyznaczonej przez drogę nr 12, miasto Łęknica i miasto Żary w powiecie żarskim;

— gminy Bytnica, Krosno Odrzańskie, Maszewo i Gubin z miastem Gubin w powiecie krośnieńskim,

— gminy Międzyrzecz, Piszczew, Trzciel w powiecie międzyrzeckim,

— gmina Lubrza, Łągów, Skąpe, część gminy Zbąszynek położona na północ od linii wyznaczonej przez linię kolejową, część gminy Szczaniec położona na północ od linii wyznaczonej przez linię kolejową, część gminy Świebodzin położona na północ od linii wyznaczonej przez linię kolejową w powiecie świebodzińskim,

w województwie dolnośląskim:

— gminy Bolesławiec z miastem Bolesławiec, Gromadka i Osiecznica w powiecie bolesławieckim,

— gmina Węgliniec w powiecie zgorzeleckim,

— gminy Pęcław, Jerzmanowa, część gminy wiejskiej Głogów położona na południe od linii wyznaczonej przez drogę nr 12 i miasta Głogów położona na południe od linii wyznaczonej przez drogę nr 12 w powiecie głogowskim,

— gminy Chocianów, Grębocice, Radwanice, Przemków i część gminy Polkowice położona na północ od linii wyznaczonej przez drogę nr 331 w powiecie polkowickim,

— gmina Niechlów w powiecie górowskim.

w województwie wielkopolskim:

— powiat leszczyński,

— powiat miejski Leszno,

— powiat nowotomyski,

— gminy Granowo, Grodzisk Wielkopolski i Kamieniec w powiecie grodziskim,

— gminy Stęszew i Buk w powiecie poznańskim,

— powiat kościański.

7. Romania

The following areas in Romania:

- Județul Suceava.

8. Slovakia

The following areas in Slovakia:

- the whole district of Vranov nad Topľou,
- the whole district of Humenné,
- the whole district of Snina,
- the whole district of Sobrance,
- the whole district of Košice-mesto,
- in the district of Michalovce, the whole municipalities of Tušice, Moravany, Pozdišovce, Michalovce, Zalužice, Lúčky, Závadka, Hnojné, Poruba pod Vihorlatom, Jovsa, Kusín, Klokočov, Kaluža, Vinné, Trnava pri Laborci, Oreské, Staré, Zbudza, Petrovce nad Laborcom, Lesné, Suché, Rakovec nad Ondavou, Nacina Ves, Voľa, Pusté Čemerné and Strážske,
- in the district of Košice - okolie, the whole municipalities not included in Part II.

9. Greece

The following areas in Greece:

- in the regional unit of Drama:
 - the community departments of Sidironero and Skaloti and the municipal departments of Livadero and Ksiropotamo (in Drama municipality),
 - the municipal department of Paranesti (in Paranesti municipality),
 - the municipal departments of Kokkinogeia, Mikropoli, Panorama, Pyrgoi (in Prosotsani municipality),
 - the municipal departments of Kato Nevrokopi, Chrysokefalo, Achladea, Vathytopos, Volakas, Granitis, Dasotos, Eksohi, Katafyto, Lefkogeia, Mikrokleisoura, Mikromilea, Ochyro, Pagoneri, Perithorio, Kato Vrontou and Potamoi (in Kato Nevrokopi municipality),
- in the regional unit of Xanthi:
 - the municipal departments of Kimmerion, Stavroupoli, Gerakas, Dafnonas, Komnina, Kariofyto and Neochori (in Xanthi municipality),
 - the community departments of Satres, Thermes, Kotyli, and the municipal departments of Myki, Echinis and Oraio (in Myki municipality),
 - the community department of Selero and the municipal department of Sounio (in Avdira municipality),
- in the regional unit of Rodopi:
 - the municipal departments of Komotini, Anthochorio, Gratini, Thrylorio, Kalhas, Karydia, Kikidio, Kosmio, Pandrosos, Aigeiros, Kallisti, Meleti, Neo Sidirochori and Mega Doukato (in Komotini municipality),
 - the municipal departments of Ipio, Arriana, Darmani, Archontika, Fillyra, Ano Drosini, Aratos and the Community Departments Kehros and Organi (in Arriana municipality),
 - the municipal departments of Iasmos, Sostis, Asomatoi, Polyanthos and Amvrosia and the community department of Amaxades (in Iasmos municipality),
 - the municipal department of Amaranta (in Maroneia Sapon municipality),
- in the regional unit of Evros:
 - the municipal departments of Kyriaki, Mandra, Mavroklisi, Mikro Dereio, Protokklisi, Roussa, Goniko, Geriko, Sidirochori, Megalo Derio, Sidiro, Giannouli, Agriani and Petrolou (in Soufli municipality),
 - the municipal departments of Dikaia, Arzos, Elaia, Therapio, Komara, Marasia, Ormenio, Pentalofos, Petrola, Plati, Ptelea, Kyprinos, Zoni, Fulakio, Spilaio, Nea Vyssa, Kavili, Kastanies, Rizia, Sterna, Ampelakia, Valtos, Megali Doxipara, Neochori and Chandras (in Orestiada municipality),
 - the municipal departments of Asvestades, Ellinohori, Karoti, Koufovouno, Kiani, Mani, Sitochori, Alepochori, Asproneri, Metaxades, Vrysika, Doksa, Elafoxori, Ladi, Paliouri and Poimeniko (in Didymoteicho municipality),

- in the regional unit of Serres:
 - the municipal departments of Kerkini, Livadia, Makrynitsa, Neochori, Platanakia, Petritsi, Akritochori, Vyroneia, Gonimo, Mandraki, Megalochori, Rodopoli, Ano Poroia, Katw Poroia, Sidirokastro, Vamvakophyto, Promahonas, Kamaroto, Strymonochori, Charopo, Kastanousi and Chorero and the community departments of Achladochori, Agkistro and Kapnophyto (in Sintiki municipality),
 - the municipal departments of Serres, Elaionas and Oinoussa and the community departments of Orini and Ano Vrontou (in Serres municipality),
 - the municipal departments of Dasochoriou, Irakleia, Valtero, Karperi, Koimisi, Lithotopos, Limnochori, Podismeno and Chrysochorafa (in Irakleia municipality).

PART II

1. Belgium

The following areas in Belgium:

in Luxembourg province:

- the area is delimited clockwise by:
 - La frontière avec la France au niveau de Florenville,
 - La N85 jusque son intersection avec la N894 au niveau de Florenville,
 - La N894 jusque son intersection avec la rue de la Motte,
 - La rue de la Motte jusque son intersection avec la rue de Neufchâteau,
 - La rue de Neufchâteau,
 - La rue des Bruyères jusque son intersection avec la rue de la Gaume,
 - La rue de la Gaume jusque son intersection avec la rue de l'Accord,
 - La rue de l'Accord,
 - La rue du Fet,
 - La N40 jusque son intersection avec la E25-E411,
 - La E25-E411 jusque son intersection avec la N81 au niveau de Weyler,
 - La N81 jusque son intersection avec la N883 au niveau d'Aubange,
 - La N883 jusque son intersection avec la N88 au niveau d'Aubange,
 - La N88 jusque son intersection avec la N811,
 - La N811 jusque son intersection avec la rue Baillet Latour,
 - La rue Baillet Latour jusque son intersection avec la N88,
 - La N88 jusque son intersection avec la N871,
 - La N871 jusque son intersection avec la N87 au niveau de Rouvroy,
 - La N87 jusque son intersection avec la frontière avec la France.

2. Bulgaria

The following areas in Bulgaria:

- the whole region of Haskovo,
- the whole region of Yambol,
- the whole region of Sliven,
- the whole region of Stara Zagora,
- the whole region of Gabrovo,
- the whole region of Pernik,
- the whole region of Kyustendil,
- the whole region of Dobrich,
- the whole region of Plovdiv,
- the whole region of Pazardzhik,

- the whole region of Smolyan,
- the whole region of Burgas excluding the areas in Part III,
- the whole region of Veliko Tarnovo excluding the areas in Part III,
- the whole region of Shumen excluding the areas in Part III,
- the whole region of Varna excluding the areas in Part III.

3. Estonia

The following areas in Estonia:

- Eesti Vabariik (välja arvatud Hiiu maakond).

4. Hungary

The following areas in Hungary:

- Békés megye 950850, 950860, 951260, 951350, 951450, 951460, 951550, 951650, 951750, 952250, 952350, 952450, 952650, 953450, 953510, 956250, 956350, 956550, 956650 és 956750 kódszámú vadgazdálkodási egységeinek teljes területe,
- Borsod-Abaúj-Zemplén megye 650100, 650200, 650300, 650400, 650500, 650600, 650700, 650800, 650900, 651000, 651100, 651200, 651300, 651400, 651500, 651610, 651700, 651801, 651802, 651803, 651900, 652000, 652100, 652200, 652300, 652601, 652602, 652603, 652700, 652900, 653000, 653100, 653200, 653300, 653401, 653403, 653500, 653600, 653700, 653800, 653900, 654000, 654201, 654202, 654301, 654302, 654400, 654501, 654502, 654600, 654700, 654800, 654900, 655000, 655100, 655200, 655300, 655400, 655500, 655600, 655700, 655800, 655901, 655902, 656000, 656100, 656200, 656300, 656400, 656600, 656701, 656702, 656800, 656900, 657010, 657100, 657300, 657400, 657500, 657600, 657700, 657800, 657900, 658000, 658100, 658201, 658202, 658310, 658401, 658402, 658403, 658404, 658500, 658600, 658700, 658801, 658802, 658901, 658902, 659000, 659100, 659210, 659220, 659300, 659400, 659500, 659601, 659602, 659701, 659800, 659901, 660000, 660100, 660200, 660400, 660501, 660502, 660600 és 660800, valamint 652400, 652500 és 652800 kódszámú vadgazdálkodási egységeinek teljes területe,
- Fejér megye 403150, 403160, 403260, 404250, 404550, 404560, 405450, 405550, 405650, 406450 és 407050 kódszámú vadgazdálkodási egységeinek teljes területe,
- Hajdú-Bihar megye 900150, 900250, 900350, 900450, 900550, 900650, 900660, 900670, 901850, 900850, 900860, 900930, 900950, 901050, 901150, 901450, 901750, 901950, 902050, 902150, 902250, 902350, 902850, 902860, 902950, 902960, 903050, 903150, 903250, 903350, 903360, 903370, 903450, 903550, 904450, 904460, 904550 és 904650, 904750, 904760, 904850, 904860, 905350, 905360, 905450 és 905550 kódszámú vadgazdálkodási egységeinek teljes területe,
- Heves megye 700150, 700250, 700260, 700350, 700450, 700460, 700550, 700650, 700750, 700850, 700860, 700950, 701050, 701111, 701150, 701250, 701350, 701550, 701560, 701650, 701750, 701850, 701950, 702050, 702150, 702250, 702260, 702350, 702450, 702550, 702750, 702850, 702950, 703050, 703150, 703250, 703350, 703360, 703370, 703450, 703550, 703610, 703750, 703850, 703950, 704050, 704150, 704250, 704350, 704450, 704550, 704650, 704750, 704850, 704950, 705050, 705150, 705250, 705350, 705450, 705510 és 705610 kódszámú vadgazdálkodási egységeinek teljes területe,
- Jász-Nagykun-Szolnok megye 750550, 750650, 750750, 750850, 750970, 750980, 751050, 751150, 751160, 751350, 751360, 751450, 751460, 751470, 751550, 751650, 751750, 751850, 751950, 752150, 752250, 752350, 752450, 752460, 752550, 752560, 752650, 752750, 752850, 752950, 753060, 753070, 753150, 753250, 753310, 753450, 753550, 753650, 753660, 753750, 753850, 753950, 753960, 754050, 754150, 754250, 754360, 754370, 754850, 755550, 755650 és 755750 kódszámú vadgazdálkodási egységeinek teljes területe,
- Komárom-Esztergom megye: 252460, 252850, 252860, 252950, 252960, 253050, 253150, 253250, 253350 és 253450 kódszámú vadgazdálkodási egységeinek teljes területe,
- Nógrád megye 550110, 550120, 550130, 550210, 550310, 550320, 550450, 550460, 550510, 550610, 550710, 550810, 550950, 551010, 551150, 551160, 551250, 551350, 551360, 551450, 551460, 551550, 551650, 551710, 551810, 551821, 552360 és 552960 kódszámú vadgazdálkodási egységeinek teljes területe,
- Pest megye 570950, 571850, 571950, 572050, 573550, 573650, 574250 és 580150 kódszámú vadgazdálkodási egységeinek teljes területe,

- Szabolcs-Szatmár-Bereg megye 850950, 851050, 851150, 851250, 851350, 851450, 851550, 851560, 851650, 851660, 851751, 851752, 852850, 852860, 852950, 852960, 853050, 853150, 853160, 853250, 853260, 853350, 853360, 853450, 853550, 853560, 853650, 854150, 854250, 854350, 854450, 854550, 854560, 854650, 854660, 854750, 854850, 854860, 854870, 854950, 855050, 855150, 855250, 855350, 855450, 855460, 855550, 855750, 855850, 855950, 855960, 856051, 856150, 856250, 856260, 856350, 856360, 856450, 856550, 856650, 856750, 856760, 856850, 856950, 857050, 857150, 857350, 857450, 857650, valamint 850150, 850250, 850260, 850350, 850450, 850550, 852050, 852150, 852250, 857550, 850650, 850850, 851851 és 851852 kódszámú vadgazdálkodási egységeinek teljes területe.

5. Latvia

The following areas in Latvia:

- Ādažu novads,
- Aizputes novads,
- Aglonas novads,
- Aizkraukles novads,
- Aknīstes novads,
- Alojās novads,
- Alūksnes novads,
- Amatas novads,
- Apes novads,
- Auces novads,
- Babītes novads,
- Baldones novads,
- Baltinavas novads,
- Balvu novads,
- Bauskas novads,
- Beverīnas novads,
- Brocēnu novads,
- Burtnieku novads,
- Carnikavas novads,
- Cēsu novads,
- Cesvaines novads,
- Cīblas novads,
- Dagdas novads,
- Daugavpils novads,
- Dobeles novads,
- Dundagas novads,
- Durbes novads,
- Engures novads,
- Ērgļu novads,
- Garkalnes novads,
- Gulbenes novads,
- Iecavas novads,
- Ikšķiles novads,
- Ilūkstes novads,
- Inčukalna novads,
- Jaunjelgavas novads,

- Jaunpiebalgas novads,
- Jaunpils novads,
- Jēkabpils novads,
- Jelgavas novads,
- Kandavas novads,
- Kārsavas novads,
- Ķeguma novads,
- Ķekavas novads,
- Kocēnu novads,
- Kokneses novads,
- Krāslavas novads,
- Krimuldas novads,
- Krustpils novads,
- Kuldīgas novada Ēdoles, Īvandes, Padures, Rendas, Kabiles, Rumbas, Kurmāles, Pelču, Snēpeles, Turlavas, Laidu un Vārmes pagasts, Kuldīgas pilsēta,
- Lielvārdes novads,
- Līgatnes novads,
- Limbažu novads,
- Līvānu novads,
- Lubānas novads,
- Ludzas novads,
- Madonas novads,
- Mālpils novads,
- Mārupes novads,
- Mazsalacas novads,
- Mērsraga novads,
- Naukšēnu novads,
- Neretas novads,
- Ogres novads,
- Olaines novads,
- Ozolnieku novads,
- Pārgaujas novads,
- Pļaviņu novads,
- Preiļu novads,
- Priekules novads,
- Priekuļu novads,
- Raunas novads,
- republikas pilsēta Daugavpils,
- republikas pilsēta Jelgava,
- republikas pilsēta Jēkabpils,
- republikas pilsēta Jūrmala,
- republikas pilsēta Rēzekne,
- republikas pilsēta Valmiera,
- Rēzeknes novads,

- Riebiņu novads,
- Rojas novads,
- Ropažu novads,
- Rugāju novads,
- Rundāles novads,
- Rūjienas novads,
- Salacgrīvas novads,
- Salas novads,
- Salaspils novads,
- Saldus novads,
- Saulkrastu novads,
- Sējas novads,
- Siguldas novads,
- Skrīveru novads,
- Skrundas novads,
- Smiltenes novads,
- Stopiņu novada daļa, kas atrodas uz austrumiem no autoceļa V36, P4 un P5, Acones ielas, Dauguļupes ielas un Dauguļupītes,
- Strenču novads,
- Talsu novads,
- Tērvetes novads,
- Tukuma novads,
- Vaiņodes novads,
- Valkas novads,
- Varakļānu novads,
- Vārkavas novads,
- Vecpiebalgas novads,
- Vecumnieku novads,
- Ventspils novada Ances, Tārgales, Popes, Vārves, Užavas, Piltenes, Puzes, Ziru, Ugāles, Usmas un Zlēku pagasts, Piltenes pilsēta,
- Viesītes novads,
- Viļakas novads,
- Viļānu novads,
- Zilupes novads.

6. Lithuania

The following areas in Lithuania:

- Alytaus miesto savivaldybė,
- Alytaus rajono savivaldybė: Alytaus, Alovės, Butrimonių, Daugų, Nemunaičio, Pivašiūnų, Punios, Raitininkų seniūnijos,
- Anykščių rajono savivaldybė,
- Akmenės rajono savivaldybė,
- Biržų miesto savivaldybė,
- Biržų rajono savivaldybė,
- Druskininkų savivaldybė,
- Elektrėnų savivaldybė,

- Ignalinos rajono savivaldybė,
- Jonavos rajono savivaldybė,
- Joniškio rajono savivaldybė,
- Jurbarko rajono savivaldybė,
- Kaišiadorių rajono savivaldybė,
- Kalvarijos savivaldybė,
- Kauno miesto savivaldybė,
- Kauno rajono savivaldybė: Domeikavos, Garliavos, Garliavos apylinkių, Karmėlavos, Lapių, Linksmakalnio, Neveronių, Rokų, Samylų, Taurakiemio, Vandžiogalos ir Vilkijos seniūnijos, Babtų seniūnijos dalis į rytus nuo kelio A1, Užliedžių seniūnijos dalis į rytus nuo kelio A1 ir Vilkijos apylinkių seniūnijos dalis į vakarus nuo kelio Nr. 1907,
- Kelmės rajono savivaldybė,
- Kėdainių rajono savivaldybė,
- Kupiškio rajono savivaldybė,
- Lazdijų rajono savivaldybė,
- Marijampolės savivaldybė: Degučių, Marijampolės, Mokolų, Liudvinavo ir Narto seniūnijos,
- Mažeikių rajono savivaldybė,
- Molėtų rajono savivaldybė,
- Pagėgių savivaldybė,
- Pakruojo rajono savivaldybė,
- Panevėžio rajono savivaldybė,
- Panevėžio miesto savivaldybė,
- Pasvalio rajono savivaldybė,
- Radviliškio rajono savivaldybė,
- Rietavo savivaldybė,
- Prienų rajono savivaldybė: Stakliškių ir Veiverių seniūnijos,
- Plungės rajono savivaldybė: Alsėdžių, Žlibinų ir Stalgėnų seniūnijos,
- Raseinių rajono savivaldybė,
- Rokiškio rajono savivaldybė,
- Skuodo rajono savivaldybės: Barstyčių ir Ylakių seniūnijos,
- Šakių rajono savivaldybė,
- Šalčininkų rajono savivaldybė,
- Šiaulių miesto savivaldybė,
- Šiaulių rajono savivaldybė,
- Šilutės rajono savivaldybė,
- Širvintų rajono savivaldybė,
- Šilalės rajono savivaldybė,
- Švenčionių rajono savivaldybė,
- Tauragės rajono savivaldybė,
- Telšių rajono savivaldybė,
- Trakų rajono savivaldybė,
- Ukmergės rajono savivaldybė,
- Utenos rajono savivaldybė,
- Varėnos rajono savivaldybė,
- Vilniaus miesto savivaldybė,
- Vilniaus rajono savivaldybė,

- Vilkaviškio rajono savivaldybė: Bartninkų, Gražiškių, Keturvalakių, Kybartų, Klausūčių, Pajevonio, Šeimenos, Vilkaviškio miesto, Virbalio, Vištyčio seniūnijos,
- Visagino savivaldybė,
- Zarasų rajono savivaldybė.

7. Poland

The following areas in Poland:

w województwie warmińsko-mazurskim:

- gminy Kalinowo, Prostki i gmina wiejska Elk w powiecie elckim,
- gminy Elbląg, Gronowo Elbląskie, Milejewo, Młynary, Markusy, Rychliki i Tolkmicko w powiecie elbląskim,
- powiat miejski Elbląg,
- powiat gołdapski,
- gmina Wieliczki w powiecie oleckim,
- powiat piski,
- gmina Górowo Iławeckie z miastem Górowo Iławeckie w powiecie bartoszyckim,
- gminy Biskupiec, Gietrzwałd, Jonkowo, Purda, Stawiguda, Świątki, Olsztynek i miasto Olsztyn oraz część gminy Barczewo położona na południe od linii wyznaczonej przez linię kolejową w powiecie olsztyńskim,
- gmina Miłakowo, część gminy Małdyty położona na południowy – zachód od linii wyznaczonej przez linię kolejową biegnącą od Olsztyna do Elbląga i część gminy Morąg położona na południe od linii wyznaczonej przez linię kolejową biegnącą od Olsztyna do Elbląga w powiecie ostródzkim,
- część gminy Ryn położona na południe od linii wyznaczonej przez linię kolejową łączącą miejscowości Giżycko i Kętrzyn w powiecie giżyckim,
- gminy Braniewo i miasto Braniewo, Frombork, Lelkowo, Pieniężno, Płoskinia oraz część gminy Wilczęta położona na północ od linii wyznaczonej przez drogę nr 509 w powiecie braniewskim,
- gmina Reszel, część gminy Kętrzyn położona na południe od linii kolejowej łączącej miejscowości Giżycko i Kętrzyn biegnącej do granicy miasta Kętrzyn, na zachód od linii wyznaczonej przez drogę nr 591 biegnącą od miasta Kętrzyn do północnej granicy gminy oraz na zachód i na południe od zachodniej i południowej granicy miasta Kętrzyn, miasto Kętrzyn i część gminy Korsze położona na południe od linii wyznaczonej przez drogę biegnącą od wschodniej granicy łączącą miejscowości Krelikiejmy i Sątoczno i na wschód od linii wyznaczonej przez drogę łączącą miejscowości Sątoczno, Sajna Wielka biegnącą do skrzyżowania z drogą nr 590 w miejscowości Glitajny, a następnie na wschód od drogi nr 590 do skrzyżowania z drogą nr 592 i na południe od linii wyznaczonej przez drogę nr 592 biegnącą od zachodniej granicy gminy do skrzyżowania z drogą nr 590 w powiecie kętrzyńskim,
- gminy Lubomino i Orneta w powiecie lidzbarskim,
- gmina Nidzica w powiecie nidzickim,
- gminy Dźwierzuty, Jedwabno, Pasym, Szczytno i miasto Szczytno i Świętajno w powiecie szczycieńskim,
- powiat mrągowski,
- gmina Zalewo w powiecie iławskim,

w województwie podlaskim:

- gminy Rudka, Brańsk z miastem Brańsk, i część gminy Boćki położona na zachód od linii wyznaczonej przez drogę nr 19 w powiecie bielskim,
- powiat grajewski,
- powiat moniecki,
- powiat sejneński,
- gminy Łomża, Piątnica, Jedwabne, Przytuły i Wiznaw powiecie łomżyńskim,
- powiat miejski Łomża,
- gminy Dziadkowice, Grodzisk, Mielnik, Nurzec-Stacja i Siemiatycze z miastem Siemiatycze w powiecie siemiatyckim,
- gminy Białowieża, Czyże, Narew, Narewka, Hajnówka z miastem Hajnówka i część gminy Dubicze Cerkiewne położona na północny wschód od linii wyznaczonej przez drogę nr 1654B w powiecie hajnowskim,

- gminy Klukowo, Szepietowo, Kobylin-Borzymy, Nowe Piekuty i Sokoły w powiecie wysokomazowieckim,
 - powiat kolneński z miastem Kolno,
 - gminy Czarna Białostocka, Dobrzyniewo Duże, Gródek, Michałowo, Supraśl, Tykocin, Wasilków, Zabłudów, Zawady, Choroszcz i część gminy Poświętne położona na zachód od linii wyznaczonej przez drogę nr 681 w powiecie białostockim,
 - powiat suwalski,
 - powiat miejski Suwałki,
 - powiat augustowski,
 - powiat sokólski,
 - powiat miejski Białystok,
- w województwie mazowieckim:
- powiat siedlecki,
 - powiat miejski Siedlce,
 - gminy Bielany, Ceranów, Kosów Lacki, Repki i gmina wiejska Sokołów Podlaski w powiecie sokołowskim,
 - powiat węgrowski,
 - powiat łosicki,
 - gminy Grudusk, Opinogóra Górna, Gołymin-Ośrodek i część gminy Głinojeck położona na zachód od linii wyznaczonej przez drogę nr 7 w powiecie ciechanowskim,
 - powiat sochaczewski,
 - gminy Policzna, Przyłęk, Tczów i Zwolen w powiecie zwoleńskim,
 - gminy Garbatka – Letnisko, Gniewoszów i Sieciechów w powiecie kozienickim,
 - gmina Solec nad Wisłą w powiecie lipskim,
 - gminy Gózd, Jastrzębia, Jedlnia Letnisko, Pionki z miastem Pionki i część gminy Jedlińsk położona na wschód od linii wyznaczonej przez drogę nr S7 w powiecie radomskim,
 - gminy Bodzanów, Bulkowo, Staroźreby, Słubice, Wyszogród i Mała Wieś w powiecie płońskim,
 - powiat nowodworski,
 - powiat płoński,
 - gminy Pokrzywnica, Świercze i część gminy Winnica położona na zachód od linii wyznaczonej przez drogę łączącą miejscowości Bielany, Winnica i Pokrzywnica w powiecie pułtuskim,
 - powiat wołomiński,
 - część gminy Somianka położona na południe od linii wyznaczonej przez drogę nr 62 w powiecie wyszkowskim,
 - gminy Borowie, Garwolin z miastem Garwolin, Górzno, Miastków Kościelny, Parysów, Pilawa, Trojanów, Żelechów, część gminy Wilga położona na północ od linii wyznaczonej przez rzekę Wilga biegnącą od wschodniej granicy gminy do ujścia do rzeki Wisły w powiecie garwolińskim,
 - gmina Boguty – Pianki w powiecie ostrowskim,
 - gminy Stupsk, Wiśniewo i część gminy Strzegowo położona na zachód od linii wyznaczonej przez drogę nr 7 w powiecie mławskim,
 - powiat otwocki,
 - powiat warszawski zachodni,
 - powiat legionowski,
 - powiat piaseczyński,
 - powiat pruszkowski,
 - gminy Belsk Duży, Goszczyn, Chynów, Grójec, Jasieniec, Mogielnica, Nowe Miasto nad Pilicą, Pniewy i Warka w powiecie grójeckim,
 - powiat grodziski,
 - powiat żyrardowski,
 - gminy Białobrzegi, Promna, Radzanów, Stara Błotnica, Wyśmierzyce w powiecie białobrzelskim,

- gminy Klwów i Potworów w powiecie przysuskim,
 - powiat miejski Warszawa,
- w województwie lubelskim:
- powiat bialski,
 - powiat miejski Biała Podlaska,
 - gminy Aleksandrów, Biłgoraj z miastem Biłgoraj, Biszczka, Józefów, Księżpol, Łukowa, Obsza, Potok Górny i Tarnogród, część gminy Frampol położona na południe od linii wyznaczonej przez drogę nr 74, część gminy Goraj położona na zachód od linii wyznaczonej przez drogę nr 835, część gminy Terespol położona na południe od linii wyznaczonej przez drogę nr 858, część gminy Turobin położona na zachód od linii wyznaczonej przez drogę nr 835 w powiecie biłgorajskim,
 - powiat janowski,
 - powiat puławski,
 - powiat rycki,
 - gminy Stoczek Łukowski z miastem Stoczek Łukowski, Wola Mysłowska, Trzebieszów, Stanin, gmina wiejska Łuków i miasto Łuków w powiecie łukowskim,
 - gminy Bychawa, Jabłonna, Krzczonów, Garbów Strzyżewice, Wysokie, Bełżyce, Borzechów, Niedrzwica Duża, Konopnica, Wojciechów i Zakrzew w powiecie lubelskim,
 - gminy Rybczewice i Piaski w powiecie świdnickim,
 - gmina Fajslawice, część gminy Żółkiewka położona na północ od linii wyznaczonej przez drogę nr 842 i część gminy Łopiennik Górny położona na zachód od linii wyznaczonej przez drogę nr 17 w powiecie krasnostawskim,
 - powiat hrubieszowski,
 - gminy Krynice, Rachanie, Tarnawatka, Łaszczów, Telatyn, Tyszowce i Ulhówek w powiecie tomaszowskim,
 - gminy Białopole, Chełm, Dorohusk, Dubienka, Kamień, Leśniowice, Ruda – Huta, Sawin, Wojsławice, Żmudź w powiecie chełmskim,
 - powiat miejski Chełm,
 - gmina Adamów, Miączyn, Sitno, Komarów-Osada, Krasnobród, Łabunie, Zamość, Grabowiec, część gminy Zwierzyniec położona na południowy-wschód od linii wyznaczonej przez drogę nr 858 i część gminy Skierbieszów położona na wschód od linii wyznaczonej przez drogę nr 843 w powiecie zamojskim,
 - powiat miejski Zamość,
 - powiat kraśnicki,
 - powiat opolski,
 - gminy Dębowa Kłoda, Jabłoń, Podedwórze, Sosnowica w powiecie parczewskim,
 - gminy Hanna, Stary Brus, Wola Uhruska, Wiryki, gmina wiejska Włodawa oraz część gminy Hańsk położona na wschód od linii wyznaczonej od drogi nr 819 w powiecie włodawskim,
 - gmina Komarówka Podlaska w powiecie radzyńskim,
- w województwie podkarpackim:
- gminy Radomyśl nad Sanem i Zaklików w powiecie stalowowolskim,
 - gminy Horyniec-Zdrój, Cieszanów, Oleszyce, Stary Dzików i Lubaczów z miastem Lubaczów w powiecie lubaczowskim,
 - gminy Adamówka i Sieniawa w powiecie przeworskim,
 - część gminy Wiązownica położona na północ od linii wyznaczonej przez drogę nr 867 w powiecie jarosławskim,
 - gmina Kamień, część gminy Sokołów Małopolski położona na północ od linii wyznaczonej przez drogę nr 875 w powiecie rzeszowskim,
 - powiat leżajski,
 - powiat niżański,
- w województwie pomorskim:
- gminy Dzierzgoń i Stary Dzierzgoń w powiecie sztumskim,
 - gmina Stare Pole w powiecie malborskim,

w województwie świętokrzyskim:

- gmina Tarłów i część gminy Ożarów położona na północ od linii wyznaczonej przez drogę nr 74 w powiecie opatowskim,

w województwie lubuskim:

- gmina Sława w powiecie wschowskim,
- gminy Bobrowice i Dąbie w powiecie krośnieńskim,
- powiat nowosolski,
- powiat zielonogórski,
- powiat miejski Zielona Góra,
- gmina Jasień, część gminy Lubsko położona na zachód od linii wyznaczonej przez drogę nr 287 i część gminy wiejskiej Żary położona na północ od linii wyznaczonej przez drogę nr 12 w powiecie żarskim;
- gminy Brzeźnica, Małomice, Niegosławice, Szprotawa, Żagań i miasto Żagań w powiecie żagańskim,
- część gminy Zbąszynek położona na południe od linii wyznaczonej przez linię kolejową, część gminy Szczaniec położona na południe od linii wyznaczonej przez linię kolejową, część gminy Świebodzin położona na południe od linii wyznaczonej przez linię kolejową w powiecie świebodzińskim,

w województwie dolnośląskim:

- gmina Kotla, Żukowice, część gminy wiejskiej Głogów położona na północ od linii wyznaczonej przez drogę nr 12, część miasta Głogów położona na północ od linii wyznaczonej przez drogę nr 12 w powiecie głogowskim,
- gmina Gaworzycy w powiecie polkowickim,

w województwie wielkopolskim:

- powiat wolsztyński,
- gminy Rakoniewice i Wielichowo w powiecie grodziskim.

8. Slovakia

The following areas in Slovakia:

- in the district of Košice – okolie, the whole municipalities of Ďurkov, Kalša, Košický Klečenov, Nový Salaš, Rákoš, Ruskov, Skároš, Slančík, Slanec, Slanská Huta, Slanské Nové Mesto, Svinica and Trstené pri Hornáde,
- the whole district of Trebisov,
- in the district of Michalovce, the whole municipalities of the district not already included in Part I.

9. Romania

The following areas in Romania:

- Județul Bistrița-Năsăud.

PART III

1. Bulgaria

The following areas in Bulgaria:

- the whole region of Kardzhali,
- the whole region of Blagoevgrad,
- the whole region of Montana,
- the whole region of Ruse,
- the whole region of Razgrad,
- the whole region of Silistra,
- the whole region of Pleven,
- the whole region of Vratza,
- the whole region of Vidin,
- the whole region of Targovishte,
- the whole region of Lovech,

- the whole region of Sofia city,
- the whole region of Sofia Province,
- in the region of Shumen:
 - in the municipality of Shumen:
 - Salmanovo,
 - Radko Dimitrivo,
 - Vetrishte,
 - Kostena reka,
 - Vehtovo,
 - Ivanski,
 - Kladenets,
 - Drumevo,
 - the whole municipality of Smyadovo,
 - the whole municipality of Veliki Preslav,
 - the whole municipality of Varbitsa,
- in the region of Varna:
 - the whole municipality of Dalgopol,
 - the whole municipality of Provadiya,
- in the region of Veliko Tarnovo:
 - the whole municipality of Svishtov,
 - the whole municipality of Pavlikeni,
 - the whole municipality of Polski Trambesh,
 - the whole municipality of Strajitsa,
- in Burgas region:
 - the whole municipality of Burgas,
 - the whole municipality of Kameno,
 - the whole municipality of Malko Tarnovo,
 - the whole municipality of Primorsko,
 - the whole municipality of Sozopol,
 - the whole municipality of Sredets,
 - the whole municipality of Tsarevo,
 - the whole municipality of Sungurlare,
 - the whole municipality of Ruen,
 - the whole municipality of Aytos.

2. Lithuania

The following areas in Lithuania:

- Alytaus rajono savivaldybė: Simno, Krokialaukio ir Miroslavo seniūnijos,
- Birštono savivaldybė,
- Kauno rajono savivaldybė: Akademijos, Alšėnų, Batniavos, Čekiškės, Ežerėlio, Kačerginės, Kulautuvos, Raudondvario, Ringaudų ir Zapyškio seniūnijos, Babtų seniūnijos dalis į vakarus nuo kelio A1, Užliedžių seniūnijos dalis į vakarus nuo kelio A1 ir Vilkijos apylinkių seniūnijos dalis į rytus nuo kelio Nr. 1907,
- Kazlų Rudos savivaldybė,
- Marijampolės savivaldybė: Gudelių, Igliaukos, Sasnavos ir Šunskų seniūnijos,
- Prienų rajono savivaldybė: Ašmintos, Balbieriškio, Išlaužo, Jiezno, Naujosios Ūtos, Pakuonio, Prienų ir Šilavotos seniūnijos,
- Vilkaviškio rajono savivaldybės: Gižų ir Pilviškių seniūnijos.

3. Poland

The following areas in Poland:

w województwie warmińsko-mazurskim:

- Gminy Bisztynek, Sępólno i Bartoszyce z miastem Bartoszyce w powiecie bartoszyckim,
- gminy Kiwity i Lidzbark Warmiński z miastem Lidzbark Warmiński w powiecie lidzbarskim,
- gminy Srokowo, Barciany, część gminy Kętrzyn położona na północ od linii kolejowej łączącej miejscowości Giżycko i Kętrzyn biegnącej do granicy miasta Kętrzyn oraz na wschód od linii wyznaczonej przez drogę nr 591 biegnącą od miasta Kętrzyn do północnej granicy gminy i część gminy Korsze położona na północ od linii wyznaczonej przez drogę biegnącą od wschodniej granicy łączącą miejscowości Kreliekijmy i Sątoczno i na zachód od linii wyznaczonej przez drogę łączącą miejscowości Sątoczno, Sajna Wielka biegnącą do skrzyżowania z drogą nr 590 w miejscowości Glitajny, a następnie na zachód od drogi nr 590 do skrzyżowania z drogą nr 592 i na północ od linii wyznaczonej przez drogę nr 592 biegnącą od zachodniej granicy gminy do skrzyżowania z drogą nr 590 w powiecie kętrzyńskim,
- gmina Stare Juchy w powiecie elckim,
- część gminy Wilczeta położona na południe od linii wyznaczonej przez drogę nr 509 w powiecie braniewskim,
- część gminy Morąg położona na północ od linii wyznaczonej przez linię kolejową biegnącą od Olsztyna do Elbląga, część gminy Małdyty położona na północny – wschód od linii wyznaczonej przez linię kolejową biegnącą od Olsztyna do Elbląga w powiecie ostródzkim,
- gminy Godkowo i Pasłęk w powiecie elbląskim,
- gminy Kowale Oleckie, Olecko i Świętajno w powiecie oleckim,
- powiat węgorzewski,
- gminy Kruklanki, Wydminy, Miłki, Giżycko z miastem Giżycko i część gminy Ryn położona na północ od linii kolejowej łączącej miejscowości Giżycko i Kętrzyn w powiecie giżyckim,
- gminy Jeziorany, Kolno, Dywity, Dobrze Miasto i część gminy Barczewo położona na północ od linii wyznaczonej przez linię kolejową w powiecie olsztyńskim,

w województwie podlaskim:

- gminy Orla, Wyszki, Bielsk Podlaski z miastem Bielsk Podlaski i część gminy Boćki położona na wschód od linii wyznaczonej przez drogę nr 19 w powiecie bielskim,
- gminy Łapy, Juchnowiec Kościelny, Suraż, Turośń Kościelna, część gminy Poświętne położona na wschód od linii wyznaczonej przez drogę nr 681 w powiecie białostockim,
- gminy Kleszczewo, Czeremcha i część gminy Dubicze Cerkiewne położona na południowy zachód od linii wyznaczonej przez drogę nr 1654B w powiecie hajnowskim,
- gminy Perlejewo, Drohiczyn i Milejczyce w powiecie siemiatyckim,
- gmina Ciechanowiec w powiecie wysokomazowieckim,

w województwie mazowieckim:

- gminy Łaskarzew z miastem Łaskarzew, Maciejowice, Sobolew i część gminy Wilga położona na południe od linii wyznaczonej przez rzekę Wilga biegnącą od wschodniej granicy gminy do ujścia dorzeczki Wisły w powiecie garwolińskim,
- powiat miński,
- gminy Jabłonna Lacka, Sabnie i Sterdyń w powiecie sokołowskim,
- gminy Ojrzeń, Sońsk, Regimin, Ciechanów z miastem Ciechanów i część gminy Gliniojeck położona na wschód od linii wyznaczonej przez drogę nr 7 w powiecie ciechanowskim,
- część gminy Strzegowo położona na wschód od linii wyznaczonej przez drogę nr 7 w powiecie mławskim,
- gmina Nur w powiecie ostrowskim,
- gminy Grabów nad Pilicą, Magnuszew, Głowaczów, Kozienice w powiecie kozienickim,
- gmina Stromiec w powiecie białobrzeskim,

w województwie lubelskim:

- gminy Bełżec, Jarczów, Lubycza Królewska, Susiec, Tomaszów Lubelski i miasto Tomaszów Lubelski w powiecie tomaszowskim,
- gminy Wierzbica, Rejowiec, Rejowiec Fabryczny z miastem Rejowiec Fabryczny, Siedliszcze w powiecie chełmskim,

- gminy Izbica, Gorzków, Rudnik, Kraśniczyn, Krasnystaw z miastem Krasnystaw, Siennica Różana i część gminy Łopiennik Górny położona na wschód od linii wyznaczonej przez drogę nr 17, część gminy Żółkiewka położona na południe od linii wyznaczonej przez drogę nr 842 w powiecie krasnostawskim,
 - gmina Stary Zamość, Radecznica, Szczepieszyn, Sułów, Nielisz, część gminy Skierbieszów położona na zachód od linii wyznaczonej przez drogę nr 843, część gminy Zwierzyniec położona na północny-zachód od linii wyznaczonej przez drogę nr 858 powiecie zamojskim,
 - część gminy Frampol położona na północ od linii wyznaczonej przez drogę nr 74, część gminy Goraj położona na wschód od linii wyznaczonej przez drogę nr 835, część gminy Terespol położona na północ od linii wyznaczonej przez drogę nr 858, część gminy Turobin położona na wschód od linii wyznaczonej przez drogę nr 835 w powiecie biłgorajskim,
 - gmina Urszulín i część gminy Hańsk położona na zachód od linii wyznaczonej przez drogę nr 819 w powiecie włodawskim,
 - powiat łęczyński,
 - gmina Trawniki w powiecie świdnickim,
 - gminy Adamów, Krzywda, Serokomla, Wojcieszków w powiecie łukowskim,
 - gminy Milanów, Parczew, Siemień w powiecie parczewskim,
 - gminy Borki, Czemierniki, Kąkolewnica, Radzyń Podlaski z miastem Radzyń Podlaski, Ulan-Majorat, Wołyń w powiecie radzyńskim,
 - powiat lubartowski,
 - gminy Głusk, Jastków, Niemce i Wólka w powiecie lubelskim,
 - gminy Mielgiew i miasto Świdnik w powiecie świdnickim,
 - powiat miejski Lublin,
- w województwie podkarpackim:
- gmina Narol w powiecie lubaczowskim.

4. Romania

The following areas in Romania:

- Zona oraşului Bucureşti,
- Judeţul Constanţa,
- Judeţul Satu Mare,
- Judeţul Tulcea,
- Judeţul Bacău,
- Judeţul Bihor,
- Judeţul Brăila,
- Judeţul Buzău,
- Judeţul Călăraşi,
- Judeţul Dâmboviţa,
- Judeţul Galaţi,
- Judeţul Giurgiu,
- Judeţul Ialomiţa,
- Judeţul Ilfov,
- Judeţul Prahova,
- Judeţul Sălaj,
- Judeţul Vaslui,
- Judeţul Vrancea,
- Judeţul Teleorman,
- Judeţul Mehedinţi,
- Judeţul Gorj,

- Județul Argeș,
- Județul Olt,
- Județul Dolj,
- Județul Arad,
- Județul Timiș,
- Județul Covasna,
- Județul Brașov,
- Județul Botoșani,
- Județul Vâlcea,
- Județul Iași,
- Județul Hunedoara,
- Județul Alba,
- Județul Sibiu,
- Județul Caraș-Severin,
- Județul Neamț,
- Județul Harghita,
- Județul Mureș,
- Județul Cluj,
- Județului Maramureș.

PART IV

Italy

The following areas in Italy:

- tutto il territorio della Sardegna.'
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