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⁽¹⁾ Text with EEA relevance

EN

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

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DECISIONS

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⁽¹⁾ Text with EEA relevance

II

(Non-legislative acts)

REGULATIONS

COMMISSION IMPLEMENTING REGULATION (EU) 2016/1798

of 30 September 2016

entering a name in the register of protected designations of origin and protected geographical indications (ข้าวสังข์หยดเมืองพัทลุง (Khao Sangyod Muang Phatthalung) (PGI))

THE EUROPEAN COMMISSION,

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

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

Whereas:

- (1) Pursuant to Article 50(2)(a) of Regulation (EU) No 1151/2012, Thailand's application to register the name 'ข้าวสังข์หยดเมืองพัทลุง' (Khao Sangyod Muang Phatthalung) was published in the *Official Journal of the European Union* ⁽²⁾.
- (2) As no statement of opposition under Article 51 of Regulation (EU) No 1151/2012 has been received by the Commission, the name 'ข้าวสังข์หยดเมืองพัทลุง' (Khao Sangyod Muang Phatthalung) should therefore be entered in the register,

HAS ADOPTED THIS REGULATION:

Article 1

The name 'ข้าวสังข์หยดเมืองพัทลุง' (Khao Sangyod Muang Phatthalung) (PGI) is hereby entered in the register.

The name specified in the first paragraph denotes a product in Class 1.6. Fruit, vegetables and cereals, fresh or processed, as listed in Annex XI to Commission Implementing Regulation (EU) No 668/2014 ⁽³⁾.

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*.⁽¹⁾ OJ L 343, 14.12.2012, p. 1.⁽²⁾ OJ C 188, 27.5.2016, p. 50.⁽³⁾ Commission Implementing Regulation (EU) No 668/2014 of 13 June 2014 laying down rules for the application of Regulation (EU) No 1151/2012 of the European Parliament and of the Council on quality schemes for agricultural products and foodstuffs (OJ L 179, 19.6.2014, p. 36).

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

Done at Brussels, 30 September 2016.

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

COMMISSION IMPLEMENTING REGULATION (EU) 2016/1799**of 7 October 2016****laying down implementing technical standards with regard to the mapping of credit assessments of external credit assessment institutions for credit risk in accordance with Articles 136(1) and 136(3) of 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 ⁽¹⁾, and in particular the third subparagraph of Article 136(1) and the third subparagraph of Article 136(3) thereof,

Whereas:

- (1) The provisions in this Regulation are closely linked, since they deal with the mapping of credit risk assessments with the exception of those assigned to securitisation positions. To ensure coherence between those provisions, which should enter into force at the same time, and to facilitate a comprehensive view and compact access to them by those subject to those obligations, it is desirable to include all the implementing technical standards required by Regulation (EU) No 575/2013 in relation to the mapping of credit risk assessments with the exception of those assigned to securitisation positions in a single Regulation.
- (2) Article 136(1) of Regulation (EU) No 575/2013 requires the specification, for all External Credit Assessment Institutions (ECAIs), of the correspondence of the relevant credit assessments issued by an ECAI to the credit quality steps set out in Section 2 of that Regulation ('mapping'). ECAIs are credit rating agencies that are registered or certified in accordance with Regulation (EC) No 1060/2009 of the European Parliament and of the Council ⁽²⁾ or a central bank issuing credit ratings which are exempt from the application of that Regulation.
- (3) Certain similar terms and concepts used in Regulation (EC) No 1060/2009 and in Regulation (EU) No 575/2013 can be the subject of confusion. 'Credit assessment' is a term used under Regulation (EU) No 575/2013 to refer both to the 'labels' of the different categories of ratings by ECAIs, and to the assignment of one such rating to a particular item. However, points (h) and (a) of Article 3(1) of Regulation (EC) No 1060/2009 clearly distinguish between these two concepts with the use of the terms 'rating category' and 'credit rating', respectively. To avoid confusion, given the need to refer to these two particular concepts separately, and given the complementarity of the two Regulations, the terminology of Regulation (EC) No 1060/2009 should be used as more specific.
- (4) Given that Article 4(1) of Regulation (EC) No 1060/2009 permits the use of credit ratings for regulatory purposes by credit institutions and investment firms only if issued by credit rating agencies established in the Union and registered or certified in accordance with that Regulation, the mapping of ECAIs credit assessments should cover credit assessments that comply with the definition of 'credit rating' according to point (a) of Article 3(1) of that Regulation. Further, given that by virtue of Article 136 of Regulation (EU) No 575/2013, a mapping is required for all ECAIs, the definition of which includes, by virtue of Article 4(98) of that Regulation also credit ratings produced by central banks exempted from the application of Regulation (EC) No 1060/2009, the mapping of ECAIs rating categories should also cover such credit ratings as well. Regulation (EU) No 575/2013 prevents the use of credit ratings for certain asset classes (such as equity) within the Standardised Approach. Therefore, with regards to assessments for fixed-income collective investment undertakings (CIUs), only those that solely depend on the credit quality of the underlying assets should be covered by the mapping of ECAIs' credit assessments.

⁽¹⁾ OJ L 176, 27.6.2013, p. 1.

⁽²⁾ Regulation (EC) No 1060/2009 of the European Parliament and of the Council of 16 September 2009 on credit rating agencies (OJ L 302, 17.11.2009, p. 1).

- (5) The mapping has the objective of assigning the appropriate risk weights of Regulation (EU) No 575/2013 to the rating categories of an ECAI. Therefore, it should be able to identify not only relative differences of risk but also the absolute levels of the risk of each rating category, ensuring appropriate levels of capital under the Standardised Approach.
- (6) Given the wide range of methodologies across ECAIs, objectivity and consistency of the mapping methodology are key aspects for ensuring a level playing field for institutions as well as fairness of treatment for ECAIs. For this reason, when elaborating rules on the use of quantitative and qualitative factors and their comparison with the benchmark, it is necessary to build upon the previous regulatory framework, namely Part 3 of the 'Revised Guidelines on the recognition of External Credit Assessment Institutions' dated 30 November 2010, with a view to ensuring a smooth transition to the mapping set out in this Regulation. This would also ensure consistency with international standards in this area, reflected, in turn, in Annex 2 of the 'Basel II: International Convergence of Capital Measurement and Capital Standards: A Revised Framework — Comprehensive Version' dated June 2006.
- (7) The default definitions used by ECAIs may differ from the one set forth in Article 178 of Regulation (EU) No 575/2013, as reflected in Regulation (EC) No 1060/2009 and Commission Delegated Regulation (EU) 2015/2 ⁽¹⁾. Nevertheless, in order to ensure that the overall level of the capital required to externally rated exposures is not changed, the types of default events used for the calibration of the benchmark referred to in point (c) of Article 136(2) of Regulation (EU) No 575/2013 should be used as the default definition for the purposes of this Regulation.
- (8) The mapping should be understood as the correspondence of the rating categories of an ECAI with a regulatory scale which has been defined for prudential purposes. Therefore it should be considered as a distinct concept from the one the European Securities and Markets Authority (ESMA) is required to provide in the form of a report, by virtue of Article 21(4b) of Regulation (EC) No 1060/2009 aiming at allowing investors to easily compare all credit ratings that exist with regard to a specific rated entity. Also for the purposes of this Regulation 'mapping' does not refer to mappings which are developed under other frameworks, such as the Eurosystem Credit Assessment Framework, as these may operate on different methodologies and definitions.
- (9) A different mapping should be conducted for each relevant set of rating categories ('rating scale'). When the rating scale of an ECAI is the same across exposure classes, the mapping should not differ in order to guarantee the differentiation of risk weights across exposure classes established by Regulation (EU) No 575/2013. When an ECAI has several rating scales, the relationship established by the ECAI among them should be considered for the mapping.
- (10) Unsolicited ratings, as referred to in point (x) of Article 3(1) of Regulation (EC) No 1060/2009, should be included in the mapping of an ECAI as long as these ratings can be used for regulatory purposes in accordance with Article 4(1) of Regulation (EC) No 1060/2009 and the European Banking Authority (EBA) has confirmed that they do not differ in quality from solicited credit ratings of this ECAI in accordance with Article 138 of Regulation (EU) No 575/2013.
- (11) Both quantitative and qualitative factors should be used to produce a mapping, with the qualitative factors being considered in a second stage, as and when necessary and especially where quantitative factors are not adequate. As a result qualitative factors should assist in reviewing, correcting and enhancing any initial mapping done based on quantitative factors, where such review is justified and necessary. This two-step approach is required in order to contribute to the objectivity of the mapping and to ensure that the mapping actually represents the correspondence of the rating categories of an ECAI with a regulatory scale which has been defined for prudential purposes.
- (12) It is necessary to avoid causing undue material disadvantage on those ECAIs which, due to their more recent entrance in the market, present limited quantitative information, with the view to balancing prudential with market concerns. Therefore, the relevance of the quantitative factors for deriving the mapping should be relaxed. Updates to the mapping should be made whenever this becomes necessary to reflect quantitative information collected after the entry into force of the present Regulation.

⁽¹⁾ Commission Delegated Regulation (EU) 2015/2 of 30 September 2014 supplementing Regulation (EC) No 1060/2009 of the European Parliament and of the Council with regard to regulatory technical standards for the presentation of the information that credit rating agencies make available to the European Securities and Markets Authority (OJ L 2, 6.1.2015, p. 24).

- (13) The default rate associated with items assigned the same rating category should be considered as the most representative quantitative factor, and should be calculated from default data corresponding to such items. Where sufficient default data corresponding to these items is not available, an estimate of the default rate should still be calculated on the basis of the opinion of the relevant ECAI and any default evidence associated with the items assigned the same rating category for which the mapping is being performed.
- (14) The calculation of the default rate should meet certain requirements in order to ensure that it is comparable across ECAIs. For example, it should be measured over a 3-year time horizon in order to allow the observation of a significant number of defaults when risk is very low and it should account for withdrawals to avoid an underestimation of risk. In addition, it should include neither public sector ratings nor issue ratings, given the scarcity of defaults for the former type of ratings, and to avoid biasing the default rates towards issuers with higher number of issues by using the latter ratings.
- (15) Default rates should be calculated for each rating category to the extent possible over a long term and a short term observation period. The former should provide the basis for the mapping, whereas the latter should provide an early warning about a potential increase, or decrease, in the level of risk of the rating category. Where a sufficient number of credit ratings is not available, only the long run default rate should be calculated due to the high degree of uncertainty regarding the calculation of short run default rates. In this case, a warning about a potential increase in the level of risk of the rating category should be provided by the qualitative factors.
- (16) The definition of default established by the ECAI to calculate the default rate associated with items assigned the same rating category is a key element of the mapping. A stricter definition of default may produce higher default rates compared to other less strict default definitions. Therefore the impact of the definition of default on the calculation of the default rate should be estimated in order to ensure an accurate mapping.
- (17) When only scarce default data is available, the time horizon considered in a rating category should be taken into account for the purpose of the mapping to ensure consistency across ECAIs. Thus, where a short term horizon has been chosen, some items may qualify for a particular level of risk. However, these same items may represent a significantly different level of risk if evaluated over the 3-year time horizon chosen for the calculation of the default rate. This factor should be recognised and appropriately reflected in the mapping.
- (18) The meaning of the rating category and its relative position within the rating scale should be especially helpful when there is no quantitative factor available and the mapping of adjacent rating category is known. For that purpose, credit quality steps should be characterised in terms of aspects such as the capacity of the issuer to meet its financial obligations, its sensitivity to the economic situation or its proximity to the default status.
- (19) General risk drivers of the items assigned a rating category should also be taken into account. The size and the degree of activity diversification of the items assigned a rating category should be considered as relevant indicators of their underlying risk profile. It should also be possible to consider as qualitative factors other measures of creditworthiness assigned to items of the same rating category, in order to convey additional information with respect to the default behaviour of the relevant rating category. The relevance, objectivity and reliability of the different measures of creditworthiness should be carefully analysed before their application for the purpose of the mapping exercise.
- (20) With a view to ensuring consistency with international standards, the benchmarks of the long-run and short run default rates provided in the document 'Basel II: International Convergence of Capital Measurement and Capital Standards: A Revised Framework — Comprehensive Version' dated June 2006, should be used for the purpose of the mapping exercise. However, more detailed rules should be provided to account for the variety of ECAIs that currently operate in the EU market and whose default rates may significantly deviate from the pattern of the international ECAIs underlying the current benchmark. More concretely, the long-run benchmark should be defined in terms of intervals to acknowledge that a range of values can be compatible with each credit quality step.
- (21) Rating categories should be initially mapped to a credit quality step based on the comparison of their long-run default rate with the long-run benchmark and the information provided by the qualitative factors.

- (22) Pursuant to Article 136(1) second subparagraph of Regulation (EU) No 575/2013 the adequacy of the mapping should be reviewed frequently because the long-run default rate could change and become representative of a different credit quality step. To that end, recent short run default rates experienced within a rating category should be regularly confronted with their relevant short run benchmarks ('monitoring' and 'trigger' levels). A breach of the short run benchmarks for a consecutive period of 2 years could signal a weakening of assessment standards which could imply that the new underlying long-run default rate is representative of a less favourable credit quality step. This signal would be more relevant where the trigger level is breached instead of the monitoring level. In particular, a single defaulted item associated with the highest rating categories could trigger consideration of the review of the mapping assigned to the single ECAI that rated that item.
- (23) Revised draft implementing technical standards should be submitted where necessary to include newly established ECAIs in the mapping.
- (24) Given that compliance with Regulation (EU) No 575/2013 is required at all times, it is necessary to monitor the performance of the mappings on a continuous basis.
- (25) This Regulation is based on the draft implementing technical standards submitted by EBA, ESMA and European Insurance and Occupational Pensions Authority (EIOPA) jointly (the 'European Supervisory Authorities (ESAs)') to the Commission.
- (26) On 29 March 2016, the Commission notified the Joint Committee of the ESAs of its intention to endorse the draft implementing technical standards with amendments in order to ensure a balance between a solid prudential approach and the need to avoid further concentration in an already very concentrated credit rating market dominated by three large ECAIs with a combined market share of around 90 %. In its notification, the Commission highlighted in particular the need to avoid the automatic application after 3 years of a more conservative mapping to all ECAIs which did not produced sufficient ratings and irrespective of the quality of their ratings, as this approach would risk to create a regulatory barrier to market entry and undermine the competitive position of smaller/newer ECAIs simply because they do not produce as many ratings as large incumbent firms. In its formal opinion of 12 May 2016, the Joint Committee of the ESAs confirmed its initial position and did not resubmit implementing technical standards amended in a way consistent with the Commission's proposed amendments.
- (27) In order to ensure a balance between a solid prudential approach and competition in the credit rating market, the draft implementing technical standards should be amended in respect of provisions that may cause undue material disadvantage to smaller/newer ECAIs due to their more recent entrance in the market, in particular the provisions concerning application of a more conservative treatment in case of limited data, the entry into force of a new mapping automatically as of 2019, the provision concerning the review of the mapping and the mapping tables applicable as of 2019.
- (28) EBA, ESMA and EIOPA have conducted open public consultations on the draft implementing technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the opinion of the Banking Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council ⁽¹⁾; the opinion of the Securities and Markets Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council ⁽²⁾; and the opinion of the Insurance and Reinsurance Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1094/2010 of the European Parliament and of the Council ⁽³⁾,

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

⁽²⁾ 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).

⁽³⁾ Regulation (EU) No 1094/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/79/EC (OJ L 331, 15.12.2010, p. 48).

HAS ADOPTED THIS REGULATION:

TITLE I

QUANTITATIVE FACTORS, QUALITATIVE FACTORS AND BENCHMARK

CHAPTER 1

Quantitative factors

Article 1

Quantitative factors of the mapping of a rating category

The quantitative factors referred to in point (a) of Article 136(2) of Regulation (EU) No 575/2013 shall be the short run and long run default rates associated with items assigned the same rating category, as set out in Articles 2 to 6.

Article 2

Items used for the calculation of the quantitative factors

The calculation of the default rates referred to in Article 1 for each rating category shall be performed based solely on items assigned the same rating category by the external credit assessment institution (ECAI) for which the mapping is being performed, where the items meet all of the following requirements:

- (a) they belong to the 'corporate ratings' referred to in point (a) of Article 3 of Delegated Regulation (EU) 2015/2, and they are assigned on an issuer basis;
- (b) they are assigned either of the following:
 - (i) a solicited credit rating;
 - (ii) an unsolicited credit rating that meets the requirements of Article 138 of Regulation (EU) No 575/2013.

Section 1

Calculation of the quantitative factors of a rating category where a sufficient number of credit ratings is available

Article 3

Determination of whether a sufficient number of credit ratings is available

1. For the purpose of the short run default rate calculation, the number of items assigned the same rating category by the ECAI for which the mapping is being performed shall be deemed sufficiently numerous, where the items meet all of the following requirements:

- (a) they are sufficient with respect to the perceived risk profile of the rating category, considering as an indicator, the number of items representing the inverse of the long run default rate benchmark of the rating category, as referred to in point (a) of Article 14;
- (b) they are representative of the most recent pool of items assigned the same rating category.

2. For the purpose of the long run default rate calculation, the number of items assigned the same rating category by the ECAI for which the mapping is being performed shall be deemed sufficiently numerous where at minimum the most recent 10 short run default rates as referred to in paragraph 1 are available.

Article 4

Short run default rates of a rating category where a sufficient number of credit ratings is available

1. Where a sufficient number of credit ratings is available according to Article 3(1), the short run default rates referred to in Article 1 shall be calculated in the manner described in paragraphs 2 to 5.

2. The short run default rates of a rating category shall be calculated over a 3-year time horizon as a ratio where:
 - (a) the denominator represents the number of items assigned the same rating category present at the beginning of the time horizon;
 - (b) the numerator represents the number of items referred to in point (a) that have defaulted prior to the end of the time horizon.
3. Items withdrawn prior to the end of the time horizon and not defaulted shall only contribute to the denominator of the short run default rates referred to in point (a) of paragraph 2 with a weight equal to 50 %. Any item for which there is evidence that it has been withdrawn prior to the occurrence of a default shall be considered to be a defaulted item.
4. Items shall be considered to be defaulted items to be included in the numerator specified in point (b) of paragraph 2 where any of the following types of event has occurred:
 - (a) a bankruptcy filing or legal receivership that will likely cause a miss or delay in future contractually required debt service payments;
 - (b) a missed or delayed disbursement of a contractually required interest or principal payment, unless payments are made within a contractually allowed grace period;
 - (c) a distressed exchange if the offer implies the investor will receive less value than the promise of the original securities;
 - (d) the rated entity is under a significant form of regulatory supervision owing to its financial condition.
5. The short run default rates shall be calculated for each available pool of items assigned the same rating category on semi-annual periods, which are based on 1 January and 1 July of each year.

Article 5

Long run default rate of a rating category where a sufficient number of credit ratings is available

1. Where a sufficient number of credit ratings is available in accordance with Article 3, the long run default rate referred to in Article 1 shall be calculated according to paragraphs 2 to 4.
2. The long run default rate shall be calculated as the weighted average of at least the most recent 20 short run default rates calculated according to Article 4(1). If the available short run default rates span a longer period and they are relevant, the short run default rates for that longer period shall be used. Where less than 20 short run default rates calculated according to Article 4(1) are available the remaining short run default rates shall be estimated to span the 20 short run default rates.
3. For the purpose of producing the weighted average referred to in paragraph 2, the short run default rates calculated according to Article 4 shall include the most recent recessionary period. This recessionary period shall span a semester or more of the negative growth rates of the Gross Domestic Products in the main geographical areas of reference of the rated items.
4. For the purpose of producing the weighted average referred to in paragraph 2, the following shall apply:
 - (a) the short run default rates calculated according to Article 4(1) shall be weighted based on the number of items specified in point (a) of Article 4(2);
 - (b) the estimated short run default rates shall be weighted based on estimates of the number of items assigned the same rating category present at the beginning of the time horizon.

The weights shall ensure an adequate representation of recessionary and non-recessionary years in a full economic cycle.

Section 2

Calculation of the quantitative factors of a rating category where a sufficient number of credit ratings is not available*Article 6***Items used and long run default rate of a rating category where a sufficient number of credit ratings is not available**

Where a sufficient number of credit ratings as referred to in Article 3 is not available, the calculation of the long run default rate specified in Article 1 shall be performed according to both the following:

- (a) it shall be based on the estimate provided by the ECAI of the long run default rate associated with all items assigned the same rating category, pursuant to point (a) of Article 136(2) of Regulation (EU) No 575/2013;
- (b) the estimate referred to in point (a) shall be complemented with the number of defaulted and non-defaulted items assigned the rating category by the ECAI for which the mapping is being performed.

CHAPTER 2

Qualitative factors*Article 7***Qualitative factors of the mapping of a rating category**

The qualitative factors referred to in point (b) of Article 136(2) of Regulation (EU) No 575/2013 shall be:

- (a) the definition of default considered by the ECAI, as referred to in Article 8;
- (b) the time horizon of a rating category considered by the ECAI, as referred to in Article 9;
- (c) the meaning of a rating category and its relative position within the rating scale established by the ECAI, as referred to in Article 10;
- (d) the creditworthiness of the items assigned the same rating category, as referred to in Article 11;
- (e) the estimate provided by the ECAI of the long run default rate associated with all items assigned the same rating category, pursuant to point (a) of Article 136(2) of Regulation (EU) No 575/2013, as set out in Article 12;
- (f) the relationship established by the ECAI ('internal mapping'), where available, between, on the one hand, the rating category which is being mapped, and, on the other hand, other rating categories produced by the same ECAI, where a mapping for the latter categories has already been set out according to this Regulation, as referred to in Article 13;
- (g) any other relevant information that can describe the degree of risk expressed by a rating category.

*Article 8***Definition of default used by the ECAI**

The type of events considered by the ECAI for the purposes of establishing whether an item is in default situation shall be compared to those specified in Article 4(4) by using all available information. Where the comparison indicates that not all such types of default events have been considered by the ECAI, the quantitative factors referred to in Article 1 shall be adjusted accordingly.

*Article 9***Time horizon of a rating category**

The time horizon considered by the ECAI for assigning a rating category shall provide a relevant indication of whether the level of risk of that rating category is sustainable over the time horizon specified in Article 4(2).

*Article 10***Meaning and relative position of a rating category**

1. The meaning of a rating category established by the ECAI shall be set according to the characteristics of the capacity of financial commitments as reflected in the items assigned such rating category being honoured, and more in particular by its degree of sensitivity to the economic environment and its degree of proximity to the default situation.
2. The meaning of a rating category shall be compared to the one established for each credit quality step, as set out in Article 15.
3. The meaning of a rating category shall be considered in combination with its relative position within the rating scale established by the ECAI.

*Article 11***Creditworthiness of items assigned the same rating category**

1. The creditworthiness of items assigned the same rating category shall be determined by considering at least their size and the degree of sector and geographical diversification of their business activity.
2. Different measures of creditworthiness assigned to items of the same rating category may be used, to the extent appropriate, to complement the information provided by the quantitative factors referred to in Article 1 where they are reliable and relevant for the mapping.

*Article 12***Estimate provided by the ECAI of the long run default rate associated with all items assigned the same rating category**

The estimate provided by the ECAI of the long run default rate associated with all items assigned the same rating category shall be taken into account for the purpose of the mapping as long as it has been adequately justified.

*Article 13***Internal mapping of a rating category established by the ECAI**

The corresponding credit quality step of other rating categories produced by the same ECAI for which an internal mapping exists according to point (f) of Article 7 shall be used as a relevant indication of the level of risk of the rating category which is being mapped.

CHAPTER 3

Benchmark and related references

Article 14

Benchmark

The benchmark referred to in point (c) of Article 136(2) of Regulation (EU) No 575/2013, shall be distinguished in:

- (a) a long-run default rate benchmark for each credit quality step as set out in Table 1 of Annex I;
- (b) a short-run default rate benchmark for each credit quality step as set out in Table 2 of Annex I.

Article 15

Reference meaning of the rating category per credit quality step

The reference meaning of a rating category that corresponds to each credit quality step is set out in Annex II.

TITLE II

MAPPING TABLES

Article 16

Mapping tables

The correspondence of the rating categories of each ECAI with the credit quality steps set out in Section 2 of Chapter 2 of Title II of Part Three of Regulation (EU) No 575/2013 is that set out in Annex III.

TITLE III

FINAL PROVISION

Article 17

Entry into force

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

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

Done at Brussels, 7 October 2016.

For the Commission
The President
Jean-Claude JUNCKER

ANNEX I

Benchmarks for the purposes of Article 14

Table 1

**Long-run benchmark
(3-year time horizon)**

Credit Quality Step	Long run benchmark		
	Mid value	Lower bound	Upper bound
1	0,10 %	0,00 %	0,16 %
2	0,25 %	0,17 %	0,54 %
3	1,00 %	0,55 %	2,39 %
4	7,50 %	2,40 %	10,99 %
5	20,00 %	11,00 %	26,49 %
6	34,00 %	26,50 %	100,00 %

Table 2

**Short run benchmarks
(3-year time horizon)**

Credit Quality Step	Short run benchmarks	
	Monitoring level	Trigger level
1	0,80 %	1,20 %
2	1,00 %	1,30 %
3	2,40 %	3,00 %
4	11,00 %	12,40 %
5	28,60 %	35,00 %
6	not applicable	not applicable

ANNEX II

Reference meaning of the rating category per credit quality step for the purposes of Article 15

Credit Quality Step	Meaning of the rating category
1	The rated entity has extremely/very strong capacity to meet its financial commitments and is subject to minimal/very low credit risk.
2	The rated entity has strong capacity to meet its financial commitments and is subject to low credit risk but is somewhat more susceptible to the adverse effects of changes in circumstances and economic conditions than rated entities in CQS 1.
3	The rated entity has adequate capacity to meet its financial commitments and is subject to moderate credit risk. However, adverse economic conditions or changing circumstances are more likely to lead to a weakened capacity of the rated entity to meet its financial commitments.
4	The rated entity has the capacity to meet its financial commitments but is subject to substantial credit risk. It faces major ongoing uncertainties and exposure to adverse business, financial, or economic conditions, which could lead to the rated entity's inadequate capacity to meet its financial commitments.
5	The rated entity has the capacity to meet its financial commitments but is subject to high credit risk. Adverse business, financial, or economic conditions will likely impair the rated entity's capacity or willingness to meet its financial commitments.
6	The rated entity is currently vulnerable or highly vulnerable and is subject to very high credit risk, including in or very near to default. It is dependent upon favourable business, financial, and economic conditions to meet its financial commitments.

Mapping tables for the purposes of Article 16

Credit quality step	1	2	3	4	5	6
AM Best Europe-Rating Services Ltd						
Long-term issuer credit ratings scale	aaa, aa+, aa, aa-	a+, a, a-	bbb+, bbb, bbb-	bb+, bb, bb-	b+, b, b-	ccc+, ccc, ccc-, cc, c, rs
Long-term debt ratings scale	aaa, aa+, aa, aa-	a+, a, a-	bbb+, bbb, bbb-	bb+, bb, bb-	b+, b, b-	ccc+, ccc, ccc-, cc, c, d
Financial strength ratings scale	A++, A+	A, A-	B++, B+	B, B-	C++, C+	C, C-, D, E, F, S
Short-term ratings scale	AMB-1+	AMB-1-	AMB-2, AMB-3	AMB- 4		
ARC Ratings S.A.						
Medium and long-term issuers rating scale	AAA, AA	A	BBB	BB	B	CCC, CC, C, D
Medium and long-term issues rating scale	AAA, AA	A	BBB	BB	B	CCC, CC, C, D
Short-term issuers rating scale	A-1+	A-1	A-2, A-3	B, C, D		
Short-term issues rating scale	A-1+	A-1	A-2, A-3	B, C, D		
ASSEKURATA Assekuranz Rating-Agentur GmbH						
Long-term credit rating scale	AAA, AA	A	BBB	BB	B	CCC, CC/C, D
Short-term corporate rating scale	A++	A		B, C, D		
Axesor SA						
Global rating scale	AAA, AA	A	BBB	BB	B	CCC, CC, C, D, E
BCRA — Credit Rating Agency AD						
Bank long-term ratings scale	AAA, AA	A	BBB	BB	B	C, D
Insurance long-term ratings scale	iAAA, iAA	iA	iBBB	iBB	iB	iC, iD
Corporate long-term ratings scale	AAA, AA	A	BBB	BB	B	CCC, CC, C, D
Municipality long-term ratings scale	AAA, AA	A	BBB	BB	B	CCC, CC, C, D

Issue long-term ratings scale	AAA, AA	A	BBB	BB	B	CCC, CC, C, D
Bank short-term ratings scale	A-1+	A-1	A-2, A-3	B, C, D		
Corporate short-term ratings scale	A-1+	A-1	A-2, A-3	B, C, D		
Municipality short-term ratings scale	A-1+	A-1	A-2, A-3	B, C, D		
Issue short-term rating scale	A-1+	A-1	A-2, A-3	B, C, D		
Banque de France						
Global long-term issuer credit ratings scale	3++	3+, 3	4+	4, 5+	5, 6	7, 8, 9, P
Capital Intelligence Ltd						
International long-term issuer rating scale	AAA, AA	A	BBB	BB	B	C, RS, SD, D
International long-term issue rating scale	AAA, AA	A	BBB	BB	B	CCC, CC, C, D
International short-term issuer rating scale	A-1+	A-1	A-2, A-3	B, C, D		
International short-term issue rating scale	A-1+	A-1	A-2, A-3	B, C, D		
Cerved Rating Agency S.p.A.						
Corporate long-term rating scale	A1.1, A1.2, A1.3	A2.1, A2.2, A3.1	B1.1, B1.2	B2.1, B2.2	C1.1	C1.2, C2.1
Creditreform Ratings AG						
Long-term rating scale	AAA, AA	A	BBB	BB	B	C, D
CRIF S.p.A.						
Global long-term rating scale	AAA, AA	A	BBB	BB	B	CCC, D1, D2
Dagong Europe Credit Rating						
Long-term credit rating scale	AAA, AA	A	BBB	BB	B	CCC, CC, C, D
Short-term credit rating scale	A-1		A-2, A-3	B, C, D		

<i>DBRS Ratings Limited</i>						
Long-term obligations rating scale	AAA, AA	A	BBB	BB	B	CCC, CC, C, D
Commercial paper and short-term debt rating scale	R-1 H, R-1 M	R-1 L	R-2, R-3	R-4, R-5, D		
Claims paying ability rating scale	IC-1	IC-2	IC-3	IC-4	IC-5	D
<i>European Rating Agency, a.s.</i>						
Long-term rating scale		AAA, AA, A	BBB	BB	B	CCC, CC, C, D
Short-term rating scale		S1	S2	S3, S4, NS		
<i>EuroRating Sp. z o.o.</i>						
Global long-term rating scale	AAA, AA	A	BBB	BB	B	CCC, CC, C, D
<i>Euler Hermes Rating GmbH</i>						
Global long-term rating scale	AAA, AA	A	BBB	BB	B	CCC, CC, C, SD, D
<i>FERI EuroRating Services AG</i>						
FERI EuroRating rating scale	AAA, AA	A		BBB, BB	B	CCC, CC, D
<i>Fitch Ratings</i>						
Long-term issuer credit ratings scale	AAA, AA	A	BBB	BB	B	CCC, CC, C, RD, D
Corporate finance obligations — Long-term ratings scale	AAA AA	A	BBB	BB	B	CCC, CC, C
Long-term international IFS ratings scale	AAA, AA	A	BBB	BB	B	CCC, CC, C
Short-term rating scale	F1+	F1	F2, F3	B, C, RD, D		
Short-term IFS ratings scale	F1+	F1	F2, F3	B, C		
<i>GBB-Rating Gesellschaft für Bonitätsbeurteilung GmbH</i>						
Global long-term rating scale	AAA, AA		A, BBB	BB	B	CCC, CC, C, D

<i>ICAP Group S.A</i>						
Global long-term rating scale		AA, A	BB, B	C, D	E, F	G, H
<i>Japan Credit Rating Agency Ltd</i>						
Long-term issuer ratings scale	AAA, AA	A	BBB	BB	B	CCC, CC, C, LD, D
Long-term issue ratings scale	AAA, AA	A	BBB	BB	B	CCC, CC, C, D
Short-term issuer ratings scale	J-1+	J-1	J-2	J-3, NJ, LD, D		
Short-term issue credit ratings scale	J-1+	J-1	J-2	J-3, NJ, D		
<i>Kroll Bond Rating Agency</i>						
Long-term credit rating scale	AAA, AA	A	BBB	BB	B	CCC, CC, C, D
Short-term credit rating scale	K1+	K1	K2, K3	B, C, D		
<i>Moody's Investors Service</i>						
Global long-term rating scale	Aaa, Aa	A	Baa	Ba	B	Caa, Ca, C
Bond fund rating scale	Aaa-bf, Aa-bf	A-bf	Baa-bf	Ba-bf	B-bf	Caa-bf, Ca-bf, C-bf
Global short-term rating scale	P-1	P-2	P-3	NP		
<i>Standard & Poor's Ratings Services</i>						
Long-term issuer credit ratings scale	AAA, AA	A	BBB	BB	B	CCC, CC, R, SD/D
Long-term issue credit ratings scale	AAA, AA	A	BBB	BB	B	CCC, CC, C, D
Insurer financial strength ratings scale	AAA, AA	A	BBB	BB	B	CCC, CC, SD/D, R
Fund credit quality ratings scale	AAAf, AAf	Af	BBBf	BBf	Bf	CCCf
Mid Market Evaluation ratings scale		MM1	MM2	MM3, MM4	MM5, MM6	MM7, MM8, MMD

Short-term issuer credit ratings scale	A-1+	A-1	A-2, A-3	B, C, R, SD/D		
Short-term issue credit ratings scale	A-1+	A-1	A-2, A-3	B, C, D		
<i>Scope Ratings AG</i>						
Global long-term rating scale	AAA, AA	A	BBB	BB	B	CCC, CC, C, D
Global short-term rating scale	S-1+	S-1	S-2	S-3, S-4		
<i>Spread Research</i>						
International long-term rating scale	AAA, AA	A	BBB	BB	B	CCC, CC, C, D
<i>The Economist Intelligence Unit Ltd</i>						
Sovereign rating band scale	AAA, AA	A	BBB	BB	B	CCC, CC, C, D

COMMISSION IMPLEMENTING REGULATION (EU) 2016/1800**of 11 October 2016****laying down implementing technical standards with regard to the allocation of credit assessments of external credit assessment institutions to an objective scale of credit quality steps in accordance with Directive 2009/138/EC of the European Parliament and of the Council****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Directive 2009/138/EC of 25 November 2009 of the European Parliament and of the Council on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) ⁽¹⁾, and in particular Article 109a(1) thereof,

Whereas:

- (1) In accordance with Article 111(1)(n) of Directive 2009/138/EC, the allocation of credit assessments of external credit assessment institutions (ECAIs) to an objective scale of credit quality steps for the purposes of the calculation of the solvency capital requirement (the 'allocation') needs to be consistent with the use of external credit assessments of ECAIs in the calculation of the capital requirements for credit institutions and financial institutions, as defined in Regulation (EU) No 575/2013 of the European Parliament and of the Council ⁽²⁾.
- (2) Commission Implementing Regulation (EU) 2016/1799 ⁽³⁾ establishes the mapping methodology for the use of external credit assessments of ECAIs in the calculation of the capital requirements for credit institutions and financial institutions, in particular the rules on how the relevant credit assessments are made correspondent to the six credit quality steps laid down in Regulation (EU) No 575/2013.
- (3) For the purposes of the calculation of the solvency capital requirement, Article 3 of Commission Delegated Regulation (EU) 2015/35 ⁽⁴⁾ provides that the allocation is subject to a system of seven credit quality steps in contrast to the six credit quality steps laid down in Regulation (EU) No 575/2013 and used in the mapping methodology for credit institutions and financial institutions.
- (4) In order to achieve the consistency required under Article 111(1)(n) of Directive 2009/138/EC, the allocation is based on the mapping methodology for credit institutions and financial institutions subject to alterations, where appropriate, taking into account the extra step laid down in the credit quality system of relevance for the calculation of the solvency capital requirement.
- (5) This Regulation establishes an allocation arrangement, taking into account quantitative and qualitative factors. It is necessary to avoid causing undue material disadvantage on those ECAIs which, due to their more recent entrance in the market, present limited quantitative information, with the view to balancing prudential with market concerns. Therefore, where there is limited quantitative information, the relevance of the quantitative factors for deriving the mapping should be relaxed. Updates to the mapping should be made whenever this becomes necessary to reflect quantitative information collected after the entry into force of the present Regulation.

⁽¹⁾ OJ L 335, 17.12.2009, p. 1.

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

⁽³⁾ Commission Implementing Regulation (EU) 2016/1799 of 7 October 2016 laying down implementing technical standards with regard to the mapping of credit assessments of external credit assessment institutions for credit risk in accordance with Articles 136(1) and 136(3) of Regulation (EU) No 575/2013 of the European Parliament and of the Council (see page 3 of this Official Journal).

⁽⁴⁾ 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) The allocation arrangements apply to credit assessments of ECAs, which are credit rating agencies that are registered or certified in accordance with Regulation (EC) No 1060/2009 of the European Parliament and of the Council ⁽¹⁾ or central banks issuing credit ratings which are exempt from the application of that Regulation, as well as to credit assessments endorsed by an ECAI in accordance with Regulation (EC) No 1060/2009.
- (7) This Regulation is based on the draft implementing technical standards submitted by the European supervisory authorities (ESAs) (the European Banking Authority, the European Insurance and Occupational Pensions Authority and the European Securities and Markets Authority) to the Commission.
- (8) On 29 March 2016, the Commission notified the Joint Committee of the ESAs of its intention to endorse the draft implementing technical standards with amendments in order to ensure a balance between a solid prudential approach and the need to avoid further concentration in an already very concentrated credit rating market dominated by three large ECAs with a combined market share of around 90 %. In its notification, the Commission highlighted in particular the need to avoid the automatic application after three years of a more conservative mapping to all ECAs which did not produce sufficient ratings and irrespective of the quality of their ratings, as this approach would risk creating a regulatory barrier to market entry and undermine the competitive position of smaller/newer ECAs simply because they do not produce as many ratings as large incumbent firms. In its formal opinion of 12 May 2016, the Joint Committee of the ESAs confirmed its initial position and did not resubmit implementing technical standards amended in a way consistent with the Commission's proposed amendments.
- (9) In order to ensure a balance between a solid prudential approach and competition in the credit rating market, the draft implementing technical standards should be amended in respect of provisions that may cause undue material disadvantage to smaller/newer ECAs due to their more recent entrance in the market, in particular the provisions concerning application of a more conservative treatment in case of limited data, the entry into force of a new mapping automatically as of 2019, the provision concerning the review of the mapping and the mapping tables applicable as of 2019.
- (10) The European Supervisory Authorities have conducted open public consultations on the draft implementing technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the opinion of the Banking Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council ⁽²⁾, the Insurance and Reinsurance Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1094/2010 of the European Parliament and of the Council ⁽³⁾, and of the Securities and Markets Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council ⁽⁴⁾,

HAS ADOPTED THIS REGULATION:

Article 1

The allocation of credit assessments of external credit assessment institutions to an objective scale of credit quality steps shall be that set out in the Annex.

Article 2

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

⁽¹⁾ Regulation (EC) No 1060/2009 of the European Parliament and of the Council of 16 September 2009 on credit rating agencies (OJ L 302, 17.11.2009, p. 1).

⁽²⁾ 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⁾ Regulation (EU) No 1094/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/79/EC (OJ L 331, 15.12.2010, p. 48).

⁽⁴⁾ 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).

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

Done at Brussels, 11 October 2016.

For the Commission

The President

Jean-Claude JUNKER

Allocation of credit assessments of external credit assessment institutions to an objective scale of credit quality steps

Credit quality step	0	1	2	3	4	5	6
AM Best Europe-Rating Services Ltd							
Long-term issuer credit ratings scale	aaa	aa+, aa, aa-	a+, a, a-	bbb+, bbb, bbb-	bb+, bb, bb-	b+, b, b-	ccc+, ccc, ccc-, cc, c, rs
Long-term debt ratings scale	aaa	aa+, aa, aa-	a+, a, a-	bbb+, bbb, bbb-	bb+, bb, bb-	b+, b, b-	ccc+, ccc, ccc-, cc, c, d
Financial strength ratings scale		A++, A+	A, A-	B++, B+	B, B-	C++, C+	C, C-, D, E, F, S
Short-term ratings scale		AMB-1+	AMB-1-	AMB-2, AMB-3	AMB- 4		
ARC Ratings SA							
Medium- and long-term issuers rating scale	AAA	AA	A	BBB	BB	B	CCC, CC, C, D
Medium and long-term issues rating scale	AAA	AA	A	BBB	BB	B	CCC, CC, C, D
Short-term issuers rating scale		A-1+	A-1	A-2, A-3	B, C, D		
Short-term issues rating scale		A-1+	A-1	A-2, A-3	B, C, D		
ASSEKURATA Assekuranz Rating-Agentur GmbH							
Long-term credit rating scale	AAA	AA	A	BBB	BB	B	CCC, CC/C, D
Short-term corporate rating scale		A++	A		B, C, D		
Axesor SA							
Global rating scale	AAA	AA	A	BBB	BB	B	CCC, CC, C, D, E
BCRA — Credit Rating Agency AD							
Bank long-term ratings scale	AAA	AA	A	BBB	BB	B	C, D
Insurance long-term ratings scale	iAAA	iAA	iA	iBBB	iBB	iB	iC, iD
Corporate long-term ratings scale	AAA	AA	A	BBB	BB	B	CCC, CC, C, D
Municipality long-term ratings scale	AAA	AA	A	BBB	BB	B	CCC, CC, C, D

Issue long-term ratings scale	AAA	AA	A	BBB	BB	B	CCC, CC, C, D
Bank short-term ratings scale		A-1+	A-1	A-2, A-3	B, C, D		
Corporate short-term ratings scale		A-1+	A-1	A-2, A-3	B, C, D		
Municipality short-term ratings scale		A-1+	A-1	A-2, A-3	B, C, D		
Issue short-term rating scale		A-1+	A-1	A-2, A-3	B, C, D		
<i>Banque de France</i>							
Global long-term issuer credit ratings scale		3++	3+, 3	4+	4, 5+	5, 6	7, 8, 9, P
<i>Capital Intelligence</i>							
International long-term issuer rating scale	AAA	AA	A	BBB	BB	B	C, RS, SD, D
International long-term issue rating scale	AAA	AA	A	BBB	BB	B	CCC, CC, C, D
International short-term issuer rating scale		A-1+	A-1	A-2, A-3	B, C, D		
International short-term issue rating scale		A-1+	A-1	A-2, A-3	B, C, D		
<i>Cerved Rating Agency SpA.</i>							
Corporate long-term rating scale	A1.1	A1.2, A1.3	A2.1, A2.2, A3.1	B1.1, B1.2	B2.1, B2.2	C1.1	C1.2, C2.1
<i>Creditreform Ratings AG</i>							
Long-term rating scale	AAA	AA	A	BBB	BB	B	C, D
<i>CRIF S.p.A.</i>							
Global long-term rating scale	AAA	AA	A	BBB	BB	B	CCC, D1, D2
<i>Dagong Europe Credit Rating</i>							
Long-term credit rating scale	AAA	AA	A	BBB	BB	B	CCC, CC, C, D
Short-term credit rating scale		A-1		A-2, A-3	B, C, D		

<i>DBRS Ratings Limited</i>							
Long-term obligations rating scale	AAA	AA	A	BBB	BB	B	CCC, CC, C, D
Commercial paper and short-term debt rating scale		R-1 H, R-1 M	R-1 L	R-2, R-3	R-4, R-5, D		
Claims paying ability rating scale		IC-1	IC-2	IC-3	IC-4	IC-5	D
<i>European Rating Agency</i>							
Long-term rating scale			AAA, AA, A	BBB	BB	B	CCC, CC, C, D
Short-term rating scale			S1	S2	S3, S4, NS		
<i>EuroRating Sp. z o.o.</i>							
Global long-term rating scale	AAA	AA	A	BBB	BB	B	CCC, CC, C, D
<i>Euler Hermes Rating</i>							
Global long-term rating scale	AAA	AA	A	BBB	BB	B	CCC, CC, C, SD, D
<i>FERI EuroRating Services AG</i>							
FERI EuroRating rating scale	AAA	AA	A		BBB, BB	B	CCC, CC, D
<i>Fitch France S.A.S., Fitch Deutschland GmbH, Fitch Italia SpA, Fitch Polska SA, Fitch Ratings España S.A.U., Fitch Ratings Limited UK, Fitch Ratings CIS Limited</i>							
Long-term issuer credit ratings scale	AAA	AA	A	BBB	BB	B	CCC, CC, C, RD, D
Corporate finance obligations — Long-term ratings scale	AAA	AA	A	BBB	BB	B	CCC, CC, C
Long-term international IFS ratings scale	AAA	AA	A	BBB	BB	B	CCC, CC, C
Short-term rating scale		F1+	F1	F2, F3	B, C, RD, D		
Short-term IFS ratings scale		F1+	F1	F2, F3	B, C		
<i>GBB-Rating Gesellschaft für Bonitätsbeurteilung GmbH</i>							
Global long-term rating scale	AAA	AA		A, BBB	BB	B	CCC, CC, C, D

ICAP Group S.A							
Global long-term rating scale			AA, A	BB, B	C, D	E, F	G, H
Japan Credit Rating Agency Ltd							
Long-term issuer ratings scale	AAA	AA	A	BBB	BB	B	CCC, CC, C, LD, D
Long-term issue ratings scale	AAA	AA	A	BBB	BB	B	CCC, CC, C, D
Short-term issuer ratings scale		J-1+	J-1	J-2	J-3, NJ, LD, D		
Short-term issue credit ratings scale		J-1+	J-1	J-2	J-3, NJ, D		
Kroll Bond Rating Agency							
Long-term credit rating scale	AAA	AA	A	BBB	BB	B	CCC, CC, C, D
Short-term credit rating scale		K1+	K1	K2, K3	B, C, D		
Moody's Investors Service Cyprus Ltd, Moody's France S.A.S., Moody's Deutschland GmbH, Moody's Italia S.r.l., Moody's Investors Service España SA, Moody's Investors Service Ltd							
Global long-term rating scale	Aaa	Aa	A	Baa	Ba	B	Caa, Ca, C
Bond fund rating scale	Aaa-bf	Aa-bf	A-bf	Baa-bf	Ba-bf	B-bf	Caa-bf, Ca-bf, C-bf
Global short-term rating scale		P-1	P-2	P-3	NP		
Standard & Poor's Credit Market Services France S.A.S., Standard & Poor's Credit Market Services Italy S.r.l., Standard & Poor's Credit Market Services Europe Limited							
Long-term issuer credit ratings scale	AAA	AA	A	BBB	BB	B	CCC, CC, R, SD/D
Long-term issue credit ratings scale	AAA	AA	A	BBB	BB	B	CCC, CC, C, D
Insurer financial strength ratings scale	AAA	AA	A	BBB	BB	B	CCC, CC, SD/D, R
Fund credit quality ratings scale	AAAf	AAf	Af	BBBf	BBf	Bf	CCCf
Mid market evaluation ratings scale			MM1	MM2	MM3, MM4	MM5, MM6	MM7, MM8, MMD
Short-term issuer credit ratings scale		A-1+	A-1	A-2, A-3	B, C, R, SD/D		
Short-term issue credit ratings scale		A-1+	A-1	A-2, A-3	B, C, D		

<i>Scope Rating</i>							
Global long-term rating scale	AAA	AA	A	BBB	BB	B	CCC, CC,C, D
Global short-term rating scale		S-1+	S-1	S-2	S-3, S-4		
<i>Spread Research</i>							
International long-term rating scale	AAA	AA	A	BBB	BB	B	CCC, CC, C, D
<i>The Economist Intelligence Unit Ltd</i>							
Sovereign rating band scale	AAA	AA	A	BBB	BB	B	CCC, CC, C, D

COMMISSION IMPLEMENTING REGULATION (EU) 2016/1801**of 11 October 2016****on laying down implementing technical standards with regard to the mapping of credit assessments of external credit assessment institutions for securitisation 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 the third subparagraph of Article 270 thereof,

Whereas:

- (1) Article 270 of Regulation (EU) No 575/2013 requires the specification for all external credit assessment institutions (ECAIs), of the correspondence of the relevant credit assessments issued by an ECAI to the credit quality steps set out in Chapter 5 of that Regulation ('mapping'). ECAIs are credit rating agencies that are registered or certified in accordance with Regulation (EC) No 1060/2009 of the European Parliament and of the Council ⁽²⁾ or a central bank issuing credit ratings which are exempt from the application of that Regulation.
- (2) Certain similar terms and concepts used in Regulation (EC) No 1060/2009 and in Regulation (EU) No 575/2013 can be the subject of confusion. 'Credit assessment' is a term used under Regulation (EU) No 575/2013 to refer both to the 'labels' of the different categories of ratings by ECAIs, and to the assignment of one such rating to a particular item. However, points (h) and (a) of Article 3(1) of Regulation (EC) No 1060/2009 clearly distinguish between these two concepts with the use of the terms 'rating category' and 'credit rating', respectively. To avoid confusion and given the need to refer to these two particular concepts separately and given the complementarity of the two Regulations, those terms should be applied in this Regulation within the meaning of Regulation (EC) No 1060/2009.
- (3) Article 267 of Regulation (EU) No 575/2013 permits the use of credit ratings to determine the risk weight of a securitisation position only where that credit rating has been issued or has been endorsed by an ECAI in accordance with Regulation (EC) No 1060/2009. Further, point (b) of Article 268 of Regulation (EU) No 575/2013 makes use of a credit rating of an ECAI conditional on the ECAI having published the procedures, methodologies, assumptions and the key elements underpinning the assessments, in accordance with Regulation (EC) No 1060/2009. In addition, Article 10(3) of Regulation (EC) No 1060/2009 provides that rating categories that are attributed to structured finance instruments are clearly differentiated from rating categories used for any other entities. Therefore, it is appropriate to specify only the correspondence of the credit assessments of ECAIs to the credit quality steps set out in Chapter 5 of Regulation (EU) No 575/2013 for those rating categories to securitisation positions that meet all of those conditions.
- (4) Mappings of credit ratings for securitisation positions should give consideration to quantitative factors such as default and loss rates and the historical performance of credit ratings, as well as qualitative factor such as range of transactions, methodologies and meaning of rating categories. Nevertheless, it should be noted that the securitisation credit ratings apply to a wide range of transactions, which have historically performed in a materially heterogeneous manner during the 2007-2009 financial crisis. Further, as a result of the crisis, both ECAIs' methodologies and the Union regulatory approach to securitisation are undergoing changes and the securitisation framework is also the object of discussions at international level. In order to take into account these developments in the regulatory framework and the heterogeneous performance of securitisation credit ratings and to avoid disruption to the securitisation market, it is necessary to emphasise the qualitative aspects of the analysis of available quantitative data.

⁽¹⁾ OJ L 176, 27.6.2013, p. 1.

⁽²⁾ Regulation (EC) No 1060/2009 of the European Parliament and of the Council of 16 September 2009 on credit rating agencies (OJ L 302, 17.11.2009, p. 1).

- (5) Within the context of a qualitative analysis, in order to ensure an objective and consistent determination of the mapping, and with a view to ensuring a smooth transition for the market, it is necessary to rely on the mapping of credit assessments to credit quality steps that were issued in 2006 on the basis of Article 97 of Directive 2006/48/EC of the European Parliament and of the Council ⁽¹⁾. Those mappings applied to ECAIs issuing securitisation ratings at that time were not only based on a quantitative mapping methodology but also on historical evidence relating to the performance of credit ratings prior to the financial crisis. Those mappings had been designed to ensure overall objectiveness and consistency among the relative degrees of risks expressed by the different rating grades used to assign credit ratings by the ECAIs operating at that point in time in the securitisation market.
- (6) New ECAIs that have entered the securitisation market after the development of the mappings in 2006 on the basis of Article 97 of Directive 2006/48/EC have not assigned a sufficient number of ratings for the historical performance of those ratings to be assessed with statistical confidence. Nevertheless, it is necessary to extend the mapping of credit assessments to credit quality steps that is assigned to long-established ECAIs to new ECAIs, in order to strike the right balance between developing a prudent mapping for all ECAIs and avoiding causing substantial competitive disadvantages.
- (7) Given that separate credit quality steps apply for the calculation of risk-weighted exposure amounts under the standardised approach for securitisation under Article 251 of Regulation (EU) No 575/2013, which are different from those applying to securitisation positions under the ratings-based method referred to in Article 261 of that Regulation, separate mappings for the standardised approach and the ratings-based method should be provided.
- (8) Both Article 251 and Article 261 of Regulation (EU) No 575/2013 include references to credit quality steps for re-securitisation positions. As a result, the securitisation framework of Regulation (EU) No 575/2013 also covers re-securitisation positions. Therefore the mappings should cover credit ratings assigned to both securitisation and re-securitisation positions.
- (9) Following the completion of the ongoing regulatory reforms relating to capital requirements applicable to securitisations, and with the aim of considering new historical evidence covering a sufficiently long post-crisis data history, the mappings should be updated where available information could contribute to an improved design of a fully consistent and objective quantitative mapping methodology, in accordance with points (b) and (c) of Article 270 of Regulation (EU) No 575/2013, and with increasing consideration of quantitative evidence.
- (10) Given the emphasis on the qualitative aspects of the analysis of the performance of securitisation ratings, it is necessary to regularly monitor the data reported in order to consider the merit of reviewing the mappings assigned, where default of securitisation positions are observed, and to consider amending the determination of the mappings, as appropriate, in accordance with point (d) of Article 270 of Regulation (EU) No 575/2013.
- (11) This Regulation is based on the draft implementing technical standards submitted by the European supervisory authority (European Banking Authority) to the Commission.
- (12) The European Banking Authority has conducted open public consultations on the draft implementing technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the opinion of the Banking Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council ⁽²⁾,

HAS ADOPTED THIS REGULATION:

Article 1

Mapping tables under the standardised approach

The correspondence of the rating categories of each ECAI for securitisation positions subject to the standardised approach with the credit quality steps under the standardised approach set out in Table 1 of Article 251 of Regulation (EU) No 575/2013 is that set out in Annex I to this Regulation.

⁽¹⁾ Directive 2006/48/EC of the European Parliament and of the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions (OJ L 177, 30.6.2006, p. 1);

⁽²⁾ Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p. 12).

*Article 2***Mapping tables under the ratings-based method**

The correspondence of the rating categories of each ECAI for securitisation positions subject to the IRB approach with the credit quality steps set out in Table 4 of Article 261(1) of Regulation (EU) No 575/2013 is that set out in Annex II to this Regulation.

*Article 3***Entry into Force**

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

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

Done at Brussels, 11 October 2016.

For the Commission

The President

Jean-Claude JUNCKER

Mapping table under the standardised approach as referred to in Article 1

Credit quality step	1	2	3	4	All other
<i>ARC Ratings SA</i>					
Medium and Long-Term Issues	AAA _{SF} to AA _{-SF}	A ⁺ _{SF} to A _{-SF}	BBB ⁺ _{SF} to BBB _{-SF}	BB ⁺ _{SF} to BB _{-SF}	Below BB _{-SF}
Short-Term Issues	A-1 ⁺ _{SF} , A-1 _{SF}	A-2 _{SF}	A-3 _{SF}		Below A-3 _{SF}
<i>Axesior SA</i>					
Structured finance rating scale	AAA _(sf) to AA _{-sf)}	A ⁺ _(sf) to A _{-sf)}	BBB ⁺ _(sf) to BBB _{-sf)}	BB ⁺ _(sf) to BB _{-sf)}	Below BB _{-sf)}
<i>Creditreform Ratings AG</i>					
Long-term rating scale	AAA _{sf} , AA _{-sf}	A ⁺ _{sf} to A _{-sf}	BBB ⁺ _{sf} to BBB _{-sf}	BB ⁺ _{sf} to BB _{-sf}	Below BB _{-sf}
<i>DBRS Ratings Limited</i>					
Long-term obligations rating scale	AAA (sf) to AA (low) (sf)	A (high) (sf) to A (low) (sf)	BBB (high) (sf) to BBB (low) (sf)	BB (high) (sf) to BB (low) (sf)	Below BB (low) (sf)
Commercial paper and short-term debt rating scale	R-1 (high) (sf) to R-1 (low) (sf)	R-2 (high) (sf) to R-2 (low) (sf)	R-3 (sf)		Below R-3 (sf)
<i>FERI EuroRating Services AG</i>					
Rating scale	AAA _{sf} to AA _{-sf}	A ⁺ _{sf} to A _{-sf}	BBB ⁺ _{sf} to BBB _{-sf}	BB ⁺ _{sf} to BB _{-sf}	Below BB _{-sf}
<i>Fitch Ratings</i>					
Long-term issuer credit ratings scale	AAA _{sf} to AA _{-sf}	A ⁺ _{sf} to A _{-sf}	BBB _{sf} to BBB _{-sf}	BB _{sf} to BB _{-sf}	Below BB _{-sf}
Short-term rating scale	F1 _{sf} , F1 _{sf}	F2 _{sf}	F3 _{sf}		Below F3 _{sf}
<i>Japan Credit Rating Agency Ltd</i>					
Long-term issuer ratings scale	AAA to AA-	A ⁺ to A-	BBB ⁺ to BBB-	BB ⁺ to BB-	Below BB-
Short-term issuer ratings scale	J-1 ⁺ , J-1	J-2	J-3		Below J-3

<i>Kroll Bond Rating Agency</i>					
Long-Term Credit	AAA (sf) to AA- (sf)	A+ (sf) to A- (sf)	BBB+ (sf) to BBB- (sf)	BB+ (sf) to BB- (sf)	Below BB- (sf)
Short-Term Credit	K1+ (sf), K1 (sf)	K2 (sf)	K3 (sf)		Below K3 (sf)
<i>Moody's Investors Service</i>					
Global long-term rating scale	Aaa(sf) to Aa3(sf)	A1(sf) to A3(sf)	Baa1(sf) to Baa3(sf)	Ba1(sf) to Ba3(sf)	Below Ba3(sf)
Global short-term rating scale	P-1(sf)	P-2(sf)	P-3(sf)		NP(sf)
<i>Standard & Poor's Ratings Services</i>					
Long-term issuer credit ratings scale	AAA (sf) to AA- (sf)	A+ (sf) to A- (sf)	BBB+ (sf) to BBB- (sf)	BB+ (sf) to BB- (sf)	Below BB- (sf)
Short-term issuer credit ratings scale	A-1+ (sf), A-1 (sf)	A-2 (sf)	A-3 (sf)		Below A-3 (sf)
<i>Scope Rating AG</i>					
Global long-term rating scale	AAA _{SF} to AA _{-SF}	A ₊ _{SF} to A _{-SF}	BBB ₊ _{SF} to BBB _{-SF}	BB ₊ _{SF} to BB _{-SF}	Below BB _{-SF}
Global short-term rating scale	S-1 ₊ _{SF} , S-1 _{SF}	S-2 _{SF}	S-3 _{SF}		S-4 _{SF}

Mapping table under the ratings-based method as referred to in Article 2

Credit quality step	1	2	3	4	5	6	7	8	9	10	11	All other
<i>ARC Ratings SA</i>												
Medium and Long-Term Issues	AAA _{SF}	AA ⁺ _{SF} to AA _{SF}	A ⁺ _{SF}	A _{SF}	A _{SF}	BBB ⁺ _{SF}	BBB _{SF}	BBB _{SF}	BB ⁺ _{SF}	BB _{SF}	BB _{SF}	Below BB _{SF}
Short-Term Issues	A-1 ⁺ _{SF} A-1 _{SF}	A-2 _{SF}	A-3 _{SF}									Below A-3 _{SF}
<i>Axesior SA</i>												
Structured finance rating scale	AAA _(sf)	AA ⁺ _(sf) to AA _(sf)	A ⁺ _(sf)	A _(sf)	A _(sf)	BBB ⁺ _(sf)	BBB _(sf)	BBB _(sf)	BB ⁺ _(sf)	BB _(sf)	BB _(sf)	Below BB _(sf)
<i>Creditreform Ratings AG</i>												
Long-term rating scale	AAA _{sf}	AA ⁺ _{sf} to AA _{sf}	A ⁺ _{sf}	A _{sf}	A _{sf}	BBB ⁺ _{sf}	BBB _{sf}	BBB _{sf}	BB ⁺ _{sf}	BB _{sf}	BB _{sf}	Below BB _{sf}
<i>DBRS Ratings Limited</i>												
Long-term obligations rating scale	AAA (sf)	AA (high) (sf) to AA (low) (sf)	A (high) (sf)	A (sf)	A (low) (sf)	BBB (high) (sf)	BBB (sf)	BBB (low) (sf)	BB (high) (sf)	BB (sf)	BB (low) (sf)	Below BB (low) (sf)
Commercial paper and short-term debt rating scale	R-1 (high) (sf) to R-1 (low) (sf)	R-2 (high) (sf) to R-2 (low) (sf)	R-3 (sf)									Below R-3 (sf)
<i>FERI EuroRating Services AG</i>												
Rating scale	AAA _{sf}	AA ⁺ _{sf} to AA _{sf}	A ⁺ _{sf}	A _{sf}	A _{sf}	BBB ⁺ _{sf}	BBB _{sf}	BBB _{sf}	BB ⁺ _{sf}	BB _{sf}	BB _{sf}	Below BB _{sf}

[illegible]

COMMISSION IMPLEMENTING REGULATION (EU) 2016/1802**of 11 October 2016****amending Implementing Regulation (EU) No 414/2013 specifying a procedure for the authorisation of same biocidal products in accordance with Regulation (EU) No 528/2012 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 528/2012 of the European Parliament and of the Council of 22 May 2012 concerning the making available on the market and use of biocidal products ⁽¹⁾, and in particular Article 17(7) thereof,

Whereas:

- (1) In Commission Implementing Regulation (EU) No 414/2013 ⁽²⁾ it is necessary to clarify that an individual product covered under a biocidal product family authorisation is also eligible as a related reference product with a view to obtain an authorisation for a same product.
- (2) References to applications for registration are now obsolete as this procedure is no longer applicable since the repeal of Directive 98/8/EC of the European Parliament and of the Council ⁽³⁾ and should therefore be deleted.
- (3) To respond to the needs of economic operators, in particular small and medium-sized enterprises, Article 3 of Implementing Regulation (EU) No 414/2013 should provide for the possibility to apply for national authorisation of same products in cases where the related reference product has been authorised by Union authorisation or is the subject of an application for such an authorisation.
- (4) It is necessary to clearly identify and to further specify the procedure for the submission of applications for authorisation of a same product and for acceptance of such applications where the related reference product has been authorised under the simplified authorisation procedure set out in Article 26 of Regulation (EU) No 528/2012 or is the subject of an application for such an authorisation.
- (5) In order to bring further predictability, guidelines on the details related to the handling of the applications covered by Implementing Regulation (EU) No 414/2013 should be developed by the European Chemicals Agency ('the Agency') and regularly updated on the basis of experience and scientific or technical progress.
- (6) To make the text clearer and unambiguous, the wording of Articles 5 and 6 should be amended.
- (7) Implementing Regulation (EU) No 414/2013 should therefore be amended accordingly.
- (8) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Biocidal Products,

⁽¹⁾ OJ L 167, 27.6.2012, p. 1.

⁽²⁾ Commission Implementing Regulation (EU) No 414/2013 of 6 May 2013 specifying a procedure for the authorisation of same biocidal products in accordance with Regulation (EU) No 528/2012 of the European Parliament and of the Council (OJ L 125, 7.5.2013, p. 4).

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

HAS ADOPTED THIS REGULATION:

Article 1

Implementing Regulation (EU) No 414/2013 is amended as follows:

- (1) Article 1 is replaced by the following:

'Article 1

Subject matter

This Regulation lays down the procedure applicable where an authorisation is sought for a product (the 'same product') which is identical to another single biocidal product, biocidal product family, or individual product of a biocidal product family which has been authorised or registered in accordance with Directive 98/8/EC of the European Parliament and of the Council (*) or Regulation (EU) No 528/2012, or for which an application for such authorisation has been submitted (the 'related reference product'), with regard to all the latest information submitted in relation to the authorisation or registration, except information which can be the subject of an administrative change in accordance with Commission Implementing Regulation (EU) No 354/2013 (**).

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

(**) Commission Implementing Regulation (EU) No 354/2013 of 18 April 2013 on changes of biocidal products authorised in accordance with Regulation (EU) No 528/2012 of the European Parliament and of the Council (OJ L 109, 19.4.2013, p. 4).;

- (2) in Article 3, the following paragraph 1a is inserted.

'1a. Where the related reference product has been authorised by Union authorisation or is the subject of an application for such an authorisation, applications for national authorisation of a same product shall be submitted in accordance with Article 29(1) of Regulation (EU) No 528/2012 to the competent authority of the Member State in which the national authorisation is sought.;

- (3) the following Articles 4a and 4b are inserted:

'Article 4a

Submission and acceptance of applications under the simplified procedure

1. Where the related reference product has been authorised in accordance with Article 26(3) of Regulation (EU) No 528/2012 or is the subject of an application for such an authorisation, applications for authorisation of a same product shall be submitted in accordance with Article 26(1) of that Regulation to the competent authority that has granted or is requested to grant the authorisation of the related reference product.

2. The competent authority shall accept the application in accordance with Article 26(2) of Regulation (EU) No 528/2012.

Article 4b

Guidance on handling applications for authorisation of same products

1. The Agency shall, after consulting the Member States, the Commission and interested parties, draw up guidelines on the details related to the handling of applications covered by this Regulation.

2. Where necessary, those guidelines shall be updated taking into account the contributions from Member States and interested parties on its implementation as well as scientific and technical progress.;

(4) Article 5 is replaced by the following:

'Article 5

Evaluation and decision on applications for national authorisation

By way of derogation from Article 30 of Regulation (EU) No 528/2012, the receiving competent authority shall decide whether to grant or refuse authorisation of a same product in accordance with Article 19 of that Regulation within 60 days from the validation of the application in accordance with Article 3 of this Regulation, or, where applicable, from the subsequent date of adoption of the corresponding decision concerning the related reference product.';

(5) in Article 6, paragraph 2 is replaced by the following:

'2. If the Agency recommends the authorisation of the same product, the opinion shall contain at least both the following elements:

- (a) a statement on whether the conditions laid down in Article 19 of Regulation (EU) No 528/2012 are fulfilled, and a draft summary of biocidal products characteristics, as referred to in Article 22(2) of that Regulation;
- (b) where relevant, details of any terms and conditions which should be imposed on the making available on the market and use of the same product.';

(6) the following Article 6a is inserted:

'Article 6a

Evaluation and decision on applications under the simplified procedure

1. By way of derogation from Article 26(3) and (4) of Regulation (EU) No 528/2012, the receiving competent authority shall decide whether to grant or refuse authorisation of a same product in accordance with Article 25 of that Regulation within 60 days from the acceptance of the application in accordance with Article 4a(2) of this Regulation, or, where applicable, from the subsequent date of adoption of the corresponding decision concerning the related reference product.

2. The evaluation shall include a check that the information indicated in Article 2 has been submitted and that the proposed differences between the same product and the related reference product concern merely information which can be the subject of an administrative change in accordance with Implementing Regulation (EU) No 354/2013.

3. Where the product authorised through this procedure is intended to be made available on the market of other Member States, Article 27 of Regulation (EU) No 528/2012 shall apply.'.

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, 11 October 2016.

For the Commission

The President

Jean-Claude JUNCKER

COMMISSION IMPLEMENTING REGULATION (EU) 2016/1803**of 11 October 2016****establishing the standard import values for determining the entry price of certain fruit and vegetables**

THE EUROPEAN COMMISSION,

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

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

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

Whereas:

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

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

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

Done at Brussels, 11 October 2016.

*For the Commission,
On behalf of the President,*

Jerzy PLEWA
Director-General for Agriculture and Rural Development

⁽¹⁾ OJ L 347, 20.12.2013, p. 671.

⁽²⁾ OJ L 157, 15.6.2011, p. 1.

ANNEX

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

(EUR/100 kg)		
CN code	Third country code ⁽¹⁾	Standard import value
0702 00 00	MA	173,9
	ZZ	173,9
0707 00 05	TR	132,0
	ZZ	132,0
0709 93 10	TR	131,1
	ZZ	131,1
0805 50 10	AR	92,8
	CL	103,2
	TR	104,3
	UY	51,2
	ZA	104,2
	ZZ	91,1
0806 10 10	BR	285,5
	EG	206,9
	TR	146,1
	US	210,1
	ZZ	212,2
0808 10 80	AR	100,0
	BR	100,2
	CL	154,6
	NZ	142,5
	US	141,5
	ZA	112,9
	ZZ	125,3
0808 30 90	CN	101,3
	TR	134,9
	ZZ	118,1

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

DECISIONS

COMMISSION IMPLEMENTING DECISION (EU) 2016/1804

of 10 October 2016

on the detailed rules for the application of Articles 34 and 35 of Directive 2014/25/EU of the European Parliament and of the Council on procurement by entities operating in the water, energy, transport and postal services sectors

(notified under document C(2016) 6351)

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC ⁽¹⁾, and in particular Article 35(6) thereof,

After consulting the Advisory Committee for Public Contracts

Whereas:

- (1) In view of the time-limits laid down for the conduct of the procedure under Article 35 of Directive 2014/25/EU, it is necessary to provide that requests concerning the applicability of its Article 34 must include information which is useful and relevant to the evaluation of the request. To this end, a list should be drawn up of the information to be contained in such requests and of other practical procedures relating to them.
- (2) In order to ensure legal certainty and for purposes of transparency, notices of receipt or withdrawal of requests concerning the applicability of Article 34 of Directive 2014/25/EU, notices of extension or suspension of the period for the adoption by the Commission of implementing acts concerning those requests and notices of the applicability of Article 34 where no implementing act has been adopted within the deadline should be published in the *Official Journal of the European Union*. It is also necessary to stipulate the information to be contained in such notices.
- (3) With regard in particular to the information to be requested and the wording of notices, this Decision draws on the experience gained through the application of Commission Decision 2005/15/EC ⁽²⁾ which established detailed rules for the application of the procedure provided for in Article 30 of Directive 2004/17/EC of the European Parliament and of the Council ⁽³⁾, since the material conditions for exempting an activity from the provisions of Directive 2004/17/EC are substantially the same as under Article 34 of Directive 2014/25/EU.
- (4) It should be recalled that the assessment of direct exposure to competition that can be carried out in the context of Directive 2014/25/EU is without prejudice to the full-fledged application of competition law.
- (5) This Decision should replace Decision 2005/15/EC which was adopted on the basis of Directive 2004/17/EC. Decision 2005/15/EC should therefore be repealed.

⁽¹⁾ OJ L 94, 28.3.2014, p. 243.

⁽²⁾ Commission Decision 2005/15/EC of 7 January 2005 on the detailed rules for the application of the procedure provided for in Article 30 of Directive 2004/17/EC of the European Parliament and of the Council coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors (OJ L 7, 11.1.2005, p. 7).

⁽³⁾ Directive 2004/17/EC of the European Parliament and of the Council of 31 March 2004 coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors (OJ L 134, 30.4.2004, p. 1).

HAS ADOPTED THIS DECISION:

Article 1

1. Requests concerning the applicability of Article 34 of Directive 2014/25/EU submitted in accordance with Article 35 of that Directive ('requests concerning the applicability of Article 34') shall contain at least the information laid down in Annex I to this Decision. They shall follow the structure of Annex I to this Decision.
2. Where an independent national authority that is competent in relation to the activity concerned has adopted a reasoned and substantiated position as referred to in Article 35 of Directive 2014/25/EU, that position shall accompany the request.
3. Except under the particular circumstances referred to in the fourth subparagraph of Article 40(1) and where generalised use of electronic means of communication has been postponed pursuant to Article 106(2) of Directive 2014/25/EU, the requests referred to in paragraph 1 and the positions referred to in paragraph 2 shall be transmitted by electronic means to the electronic mailbox indicated for that purpose on the Commission's website and communicated to the Member States.
4. Where a request as referred to in paragraph 1 or a position as referred to in paragraph 2 is transmitted by other means than electronic means of communication in accordance with Article 40(1) or Article 106(2) of Directive 2014/25/EU, they shall be transmitted in triplicate by post or other suitable carrier to the Commission address published on its website and communicated to the Member States.

Article 2

1. Where the Commission receives a request concerning the applicability of Article 34 and access to the market is deemed not to be restricted in accordance with the first subparagraph of Article 34(3) of Directive 2014/25/EU, it shall publish a notice containing the information set out in Part A of Annex II to this Decision.

Where the Commission receives a request concerning the applicability of Article 34 and free access to the market cannot be presumed pursuant to the first subparagraph of Article 34(3) of Directive 2014/25/EU, it shall publish a notice containing the information set out in Part B of Annex II to this Decision.

2. Where the period for the adoption of the implementing acts referred to in Article 35 of Directive 2014/25/EU is extended in accordance with the fourth subparagraph of paragraph 1 of Annex IV to that Directive, the Commission shall publish a notice containing the information set out in Part A of Annex III to this Decision.
3. Where the period for the adoption of the implementing acts referred to in Article 35 of Directive 2014/25/EU is suspended in accordance with paragraph 2 of Annex IV to that Directive, the Commission shall publish a notice containing the information set out in Part B of Annex III to this Decision. The Commission shall publish a notice containing the information set out in Part C of Annex III to this Decision when the suspension ends.
4. Where the request concerning the applicability of Article 34 of Directive 2014/25/EU is withdrawn by the applicant, the Commission shall publish a notice containing the information set out in Part D of Annex III to this Decision.
5. Where contracts intended to enable a given activity to be carried out and design contests that are organised for the pursuit of such an activity cease to be subject to Directive 2014/25/EU because the Commission has not adopted the implementing act within the period provided for in Annex IV to that Directive, the Commission shall publish a notice containing the information set out in Annex IV to this Decision.
6. The information foreseen in the notices set out in Annexes II, III and IV may be changed and added to as appropriate, for instance where a previously submitted request is substantially modified in accordance with Article 35(4) of Directive 2014/25/EU.
7. The notices provided for in paragraphs 1 to 5 shall be published in the *Official Journal of the European Union*.

Article 3

Decision 2005/15/EC is repealed.

Article 4

This Decision is addressed to the Member States.

Done at Brussels, 10 October 2016.

For the Commission
The President
Jean-Claude JUNCKER

ANNEX I

INFORMATION TO BE PROVIDED IN REQUESTS CONCERNING THE APPLICABILITY OF ARTICLE 34 OF
DIRECTIVE 2014/25/EU

1. Section 1 — Identity and status of applicant

Article 35 of Directive 2014/25/EU provides that requests concerning the applicability of Article 34 are to be made by the Member States or, when the legislation of the Member State concerned provides for it, by the contracting entities. Depending on the case, the term ‘applicant’ may refer therefore to either the Member State or the contracting entities. It is used merely in the interest of simplification.

1.1. Full name and address of the applicant:

In the event that the activity covered by this request is carried out by undertakings affiliated ⁽¹⁾ to the applicant, the term ‘applicant’ will be deemed to refer to both the entity indicated in point 1.1 and the affiliated undertakings in question. Thus, in particular for sections 5 and 6 below, it will be necessary to supply the requisite information for the ‘applicant’ as thus defined.

1.2. Status of the applicant: contracting authority ⁽²⁾, public undertaking ⁽³⁾ or private undertaking?

1.3. For a contracting authority: are you making the request for and on behalf of your Member State?

If so, please supply the information requested for each point in sections 2 to 6 inclusive. With regard to each point in sections 5 and 6 in particular, please provide the requisite information for each of the entities carrying out the activity covered by this request. However, where there are a large number of such entities, the information may be restricted to those entities holding 10 % or more of the geographical market in question ⁽⁴⁾. Where the information is similar or identical for several entities, they may be grouped together, on condition that this is specified.

⁽¹⁾ Within the meaning of Article 29(1) of Directive 2014/25/EU, “affiliated undertaking” means any undertaking the annual accounts of which are consolidated with those of the contracting entity in accordance with the requirements of the Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.6.2013, p. 19). Article 29(2) adds that ‘in the case of entities, which are not subject to Directive 2013/34/EU, “affiliated undertaking” shall mean any undertaking that:

- (a) may be, directly or indirectly, subject to a dominant influence by the contracting entity;
- (b) may exercise a dominant influence over the contracting entity; or
- (c) in common with the contracting entity, is subject to the dominant influence of another undertaking by virtue of ownership, financial participation, or the rules which govern it.’

⁽²⁾ According to Article 3 of Directive 2014/25/EU, “contracting authorities” means State, regional or local authorities, bodies governed by public law or associations formed by one or more such authorities or one or more such bodies governed by public law.

“Bodies governed by public law” means bodies that have all of the following characteristics:

- (a) they are established for the specific purpose of meeting needs in the general interest, not having an industrial or commercial character;
- (b) they have legal personality; and
- (c) they are financed, for the most part, by the State, regional or local authorities, or by other bodies governed by public law; or are subject to management supervision by those authorities or bodies; or which have an administrative, managerial or supervisory board, more than half of whose members are appointed by the State, regional or local authorities, or by other bodies governed by public law.’

⁽³⁾ According to Article 4(2) of Directive 2014/25/EU, “Public undertaking” means any undertaking over which the contracting authorities may exercise directly or indirectly a dominant influence by virtue of their ownership of it, their financial participation therein, or the rules which govern it.

A dominant influence on the part of the contracting authorities shall be presumed in any of the following cases in which those authorities, directly or indirectly:

- (a) hold the majority of the undertaking’s subscribed capital;
- (b) control the majority of the votes attaching to shares issued by the undertaking,
- (c) can appoint more than half of the undertaking’s administrative, management or supervisory body’.

⁽⁴⁾ See section 3.

- 1.4. For contracting entities (the contracting authorities, the public undertakings and the private undertakings carrying out one of the activities referred to in Directive 2014/25/EU ⁽¹⁾): Please state the provision of national law stating that contracting entities may submit a request under Article 35.

2. Section 2 — Description of the activity covered by this request

- 2.1. Describe the activity to which the conditions of Article 34(1) ⁽²⁾ apply in your view. The activity concerned may form a part of a larger sector ⁽³⁾ or be exercised only in certain parts of the Member State concerned.
- 2.2. Where this differs from the national territory as a whole, indicate the area in which the activity covered by this request is carried out. Mention only the area in which you consider that the conditions of Article 34(1) are met.

3. Section 3 — The relevant market

A relevant product market comprises all those products and/or services which are regarded as interchangeable or substitutable by the consumer, by reason of their characteristics, their prices and their intended use ⁽⁴⁾.

The following factors are normally considered to be relevant to the determination of the relevant product market and should be taken into account in the analysis ⁽⁵⁾:

- the own- and cross-price elasticities of demand of the relevant products and/or services,
- any differences in the end use to which the products are put,

⁽¹⁾ The relevant activities or sectors may be summed up as follows:

electricity (production, transmission, distribution); gas (production, transport, distribution); heat (production, transport, distribution); hydrocarbons (extraction); coal and other solid fuels (exploration and extraction); drinking water (production, transport, distribution); urban transport (bus, underground etc.); railways (transport of persons and goods; making infrastructure available and management/operation of actual transport services); ports (seaports or inland ports, infrastructure to be made available and management/operation of the infrastructure); airports (making infrastructure available and management/operation of the infrastructure); and postal services. For an exact definition of the activities covered, see Articles 7 to 14 of Directive 2014/25/EU.

⁽²⁾ 'Contracts intended to enable an activity mentioned in Articles 8 to 14 to be carried out shall not be subject to this Directive if the Member State or the contracting entities having introduced the request pursuant to Article 35 can demonstrate that, in the Member State in which it is performed, the activity is directly exposed to competition on markets to which access is not restricted; nor shall design contests that are organised for the pursuit of such an activity in that geographic area be subject to this Directive. ...'

⁽³⁾ An example might be electricity generation by conventional means only, which is a part of the larger electricity sector.

⁽⁴⁾ Where appropriate, specify also if the products are readily substitutable; perfect substitutes; less perfect substitutes or partial substitutes.

For any given product (for the purposes of this definition, the term 'product' refers to products or services) there is a variety of substitutes. This variety includes all the substitutes which could be envisaged for the product in question, that is to say, all the products which, to a greater or lesser extent, will fulfil the consumer's requirements. The range of substitutes extends from very exact (or perfect) substitutes (products to which consumers would turn immediately, for example, in the event of a very small increase in the price of the product in question) to very inexact (or imperfect) substitutes (products to which consumers would turn only in the event of a very sharp increase in the price of the product in question).

When it defines the relevant market, the Commission considers only products which can be readily substituted for the products in question. Readily substitutable products are those to which consumers would turn in response to a modest but significant increase in the price of the relevant product (e.g. 5 %). This permits the Commission to assess the competitive situation in the context of a relevant market comprising all the products to which consumers of the products in question would readily turn.

However, this does not mean that the Commission fails to take account of the constraints on the competitive behaviour of the entities concerned resulting from the existence of imperfect substitutes [those to which a consumer would not turn in response to a modest but significant increase in the price of the relevant product (e.g. 5 %). These effects are taken into account once the market has been defined and market share quantified.

It is consequently important for the Commission to have information on both products which can be readily substituted for the products in question and less perfect substitutes. [Example of perfect demand-side substitute: electricity produced from coal and that produced from renewable sources].

Partial substitutes are regarded as those products and services which can replace each other only within a certain geographical area, only during part of the year or only for certain uses [Example: in passenger transport, rail, underground, tram and bus would be only partially interchangeable at national level since these forms of transport coexist only within a given geographical area. However, within this area, they could be considered as perfect substitutes.]

⁽⁵⁾ This list is not exhaustive: the applicant may refer to other factors.

- differences in price between two products,
- the cost of switching from one product to another, in the case of two potentially competing products,
- established or entrenched consumer preferences for one type or category of product,
- product classifications (classifications maintained by trade associations, etc.).

The relevant geographical market comprises the area in which the entities concerned are involved in the supply and demand of products or services, in which the conditions of competition are sufficiently homogeneous and which can be distinguished from neighbouring areas because, in particular, conditions of competition are appreciably different in those areas ⁽¹⁾.

Factors relevant to the assessment of the relevant geographical market include ⁽²⁾:

- the nature and characteristics of the products or services concerned,
- the existence of barriers to entry,
- consumer preferences,
- appreciable differences in market shares or substantial price differences between neighbouring areas,
- transport costs.

- 3.1. In the light of the above, please explain the definition of the relevant product market or markets that, in your opinion, should form the basis of the Commission's analysis.

In your reply, please give reasons for assumptions or conclusions, supported by appropriate empirical evidence ⁽³⁾, and explain how the factors outlined above have been taken into account. In particular, please state the specific products or services directly or indirectly affected by this request and identify the categories of products considered as substitutable in your market definition.

In the questions below, this (or these) definition(s) is (are) referred to as 'the relevant product market(s)'.

- 3.2. Please explain the definition of the relevant geographical market or markets that in your opinion should form the basis of the Commission's analysis. In your reply, please give reasons for assumptions or conclusions, supported by appropriate empirical evidence ⁽⁴⁾, and explain how the factors outlined above have been taken into account. In particular, please specify the geographical area in which the entity or entities concerned by this request are active in the relevant product market(s), and if you consider the relevant geographical market to be wider than a single Member State, give the reasons for this.

In the questions below, this (or these) definition(s) is (are) referred to as 'the relevant geographical market(s)'.

⁽¹⁾ See the second subparagraph of Article 34(2) of Directive 2014/25/EU.

⁽²⁾ This list is not exhaustive: the applicant may refer to other factors.

⁽³⁾ I.e. facts and evidence that can be independently verified. All the analyses performed must be replicable in an independent manner. In particular, in the case of providing supporting evidence stemming from empirical analysis, the applicant must provide the sources, the raw data and all the details on the specific technical steps taken in order to reach the final conclusions.

⁽⁴⁾ I.e. facts and evidence that can be independently verified. All the analyses performed must be replicable in an independent manner. In particular, in the case of providing supporting evidence stemming from empirical analysis, the applicant must provide the sources, the raw data and all the details on the specific technical steps taken in order to reach the final conclusions.

4. **Section 4 — Applicability of the legislative acts referred to in Annex III to Directive 2014/25/EU.**

- 4.1. Is the activity covered by this request subject to one of the legislative acts referred to in Annex III to Directive 2014/25/EU ⁽¹⁾? If so, indicate the act or acts of national law transposing the Union legislation concerned.

5. **Section 5 — Information concerning the relevant market and access to that market**

This section must be completed irrespective of the reply to point 4.1 above.

Certain points may not be relevant for some activities or the factual situation of a given applicant — in such cases, please indicate so point by point.

The applicant may limit itself to giving a precise reference point by point to the relevant part(s) of a reasoned and substantiated position as referred to in Article 35 of Directive 2014/25/EU, adopted by an independent national authority that is competent in relation to the activity concerned, in which the point concerned is analysed.

- 5.1. Please give the reasons why you consider that access to the relevant market is not restricted.
- 5.2. For each relevant market, for each of the last three financial years ⁽²⁾, and for each of the following territories:
- (a) the EEA territory,
 - (b) the EU as a whole,
 - (c) the territory of the EFTA States as a whole,
 - (d) each Member State and each EFTA State where the applicant carries out an activity, and
 - (e) the relevant geographical market ⁽³⁾, if the applicant considers that this market is different,
- please provide the information referred to in points 5.2.1 to 5.2.9:
- 5.2.1. an estimate of the total size of the market in terms of sales value (in Euro) and volume (units) ⁽⁴⁾, indicating the basis for the calculations and sources used and providing documents, where available, to confirm these calculations;
- 5.2.2. the sales in value and volume, as well as an estimate of the market share held by the applicant;

⁽¹⁾ Annex III reads as follows:

- A. Transport or distribution of gas or heat
Directive 2009/73/EC
- B. Production, transmission or distribution of electricity
Directive 2009/72/EC
- C. Production, transport or distribution of drinking water
[No entry]
- D. Contracting entities in the field of rail services
Rail freight transport
Directive 2012/34/EU
International rail passenger transport
Directive 2012/34/EU
National rail passenger transport
[No entry]
- E. Contracting entities in the field of urban railway, tramway, trolleybus or motor bus services
[No entry]
- F. Contracting entities in the field of postal services
Directive 97/67/EC
- G. Extraction of oil or gas
Directive 94/22/EC
- H. Exploration for and extraction of coal or other solid fuels
[No entry]
- I. Contracting entities in the field of seaport or inland port or other terminal equipment
[No entry]
- J. Contracting entities in the field of airport installations
[No entry]

⁽²⁾ The information requested under headings 5.2.1 and 5.2.2 below should be supplied for all the territories referred to in points (a), (b), (c), (d) and (e).

⁽³⁾ See section 3.

⁽⁴⁾ The value and volume of a market should reflect production, plus imports, less exports for the geographical areas in question.

- 5.2.3. an estimate of the market share in value (and, where appropriate, volume) of all competitors (including importers) having at least 10 % of the geographical market under consideration. Provide documents, where available, to confirm the calculation of these market shares and provide the name, address, telephone number, fax number and appropriate contact person, of these competitors;
- 5.2.4. an estimate of the total value, volume and source of imports from outside the EEA territory and identify:
- (a) the share of such imports attributable to the applicant;
 - (b) an estimate of the extent to which any quotas, tariffs and non-tariff barriers to trade constitute barriers to these imports; and
 - (c) an estimate of the extent to which transportation and other costs affect these imports;
- 5.2.5. the extent to which trade between States within the territory of the EEA is hindered by:
- (a) transportation and other costs; and
 - (b) other non-tariff barriers to trade;
- 5.2.6. the manner in which the applicant produces and sells the products or services; for example, whether they are manufactured locally, or are sold through local distribution networks;
- 5.2.7. a comparison of the applicant's and its competitors' price levels in each Member State and EFTA State and a similar comparison of price levels between the EU, the EFTA States and other areas where these products are produced (for example, Eastern Europe, the United States of America, Japan, or any other relevant area);
- 5.2.8. the nature and extent of the vertical integration of the applicant compared with the largest competitors;
- 5.2.9. information on the cost structure of the applicant ⁽¹⁾. Also, specify any assets or infrastructure used jointly with other entities or used to carry out more than one activity covered by Directive 2014/25/EU. Where the use of such assets or infrastructures is subject to special conditions, such as universal service obligations or special rights, please specify.
- 5.3. Please provide the following information:
- 5.3.1. Over the last five years, has there been any significant entry to the geographical market(s) for the relevant products ⁽²⁾? If the answer is 'yes', where possible provide the name, address, telephone number and fax number of the undertaking concerned, as well as the appropriate contact person, and an estimate of their current market share.
- 5.3.2. In the opinion of the applicant are there any undertakings (including those at present operating only in markets outside the EU or outside the EEA) that could enter the market? If the answer is 'yes', please explain why and identify such undertakings by name, address, telephone number, fax number and appropriate contact person, and give an estimate of the time within which such market entry is likely to occur.
- 5.3.3. Describe the various factors influencing entry into the relevant markets in this case, from both a geographical and product viewpoint. In so doing, take account of the following, where appropriate:
- (a) the total costs of entry (research and development, distribution systems necessary, promotion, advertising, after-sales service, etc.) on an equivalent scale to that of a significant viable competitor, indicating the market share of such a competitor;
 - (b) any legal or regulatory barriers to entry, such as government authorisation or the existence of any standards;

⁽¹⁾ Where appropriate, this shall take account of synergies that can arise (e.g. in the case of joint production of various products or the reuse of by-products), quantifying their extent. Moreover, whenever possible, the information shall include an estimate of the applicant's position in the market in terms of cost efficiency (e.g. by comparing the applicant's cost structure with the one of closer competitors and/or with those operating in the same industry or sector).

⁽²⁾ See section 3.

- (c) any restrictions created by the existence of patents, know-how and other intellectual property rights in these markets and any restrictions created by the licensing of such rights;
- (d) the extent to which the applicant is a licensee or licensor of patents, know-how and other rights in the relevant markets;
- (e) the importance of economies of scale for the production of products in the relevant markets;
- (f) access to sources of supply, such as availability of raw materials.

RESEARCH AND DEVELOPMENT

- 5.3.4. Give an account of the importance of research and development in the ability of an undertaking operating in the relevant market(s) to compete in the long term. Explain the nature of the research and development carried out by the applicant in the relevant markets.

In so doing, take account of the following, where appropriate:

- (a) trends and intensity of research and development ⁽¹⁾ in these markets and for the applicant;
- (b) technological developments in these markets over an appropriate time period (in particular developments in products and/or services, production processes, distribution systems, and so on);
- (c) the major innovations that have been made in these markets and the undertakings responsible for these innovations;
- (d) the cycle of innovation in these markets and where the parties are in this cycle of innovation.

COOPERATION AGREEMENTS

- 5.3.5. To what extent do cooperation agreements (horizontal or vertical) exist in the relevant markets?
- 5.3.6. Give details of the most important cooperation agreements concluded by the applicant in the relevant markets, such as research and development, licensing, joint production, specialisation, distribution, long term supply and exchange of information agreements.

6. Section 6 — Exposure to competition

Certain points may not be relevant for some activities or the factual situation of a given applicant — in such cases, please indicate so point by point.

The applicant may limit itself to giving a precise reference point by point to the relevant part(s) of a reasoned and substantiated position as referred to in Article 35 of Directive 2014/25/EU, adopted by an independent national authority that is competent in relation to the activity concerned, in which the point concerned is analysed.

According to Article 34(2) of Directive 2014/25/EU, the question of whether an activity is directly exposed to competition must be decided on the basis of criteria that are in conformity with provisions on competition of the TFEU, such as the characteristics of the goods or services concerned, the existence of alternative goods or services, the prices, and the actual or potential presence of more than one supplier of the goods or services in question.

- 6.1. Explain why you consider that the activity covered by this request is fully exposed to competition in the relevant product market on the relevant geographical market(s). In particular, give the following information:

GENERAL CONDITIONS ON THE RELEVANT MARKET

- 6.1.1. Identify the five largest independent suppliers ⁽²⁾ to the applicant and their individual shares of the applicant's purchases (of raw materials or goods used to produce the relevant products). Provide the name, address, telephone number, fax number and appropriate contact person, of these suppliers.

⁽¹⁾ Research and development intensity is defined as research and development expenditure as a proportion of turnover.

⁽²⁾ Independent suppliers are suppliers who are not affiliated to the applicant. For the definition of affiliated undertakings, see footnote 1 to point 1.1.

Please also identify the undertakings affiliated to the applicant and their individual shares of the applicant's purchases (of raw materials or goods used to produce the relevant products). Provide the name, address, telephone number, fax number and appropriate contact person, of these undertakings.

STRUCTURE OF SUPPLY IN THE RELEVANT MARKETS

- 6.1.2. Describe the distribution channels and after-sales service networks that exist in the relevant markets. In doing so, take account of the following, where appropriate:
- (a) the existing distribution systems and their importance in these markets. To what extent is distribution performed by third parties or by undertakings affiliated to the applicant?
 - (b) the existing after-sales service networks (for example, maintenance and repair) and their importance in these markets. To what extent are these services performed by third parties or by undertakings affiliated to the applicant?
- 6.1.3. Where appropriate, provide an estimate of the total EU-wide and EFTA-wide capacity for the last three years. During this period, what was the capacity of the applicant and what was the rate of its capacity utilisation?
- 6.1.4. Please indicate any other supply-side considerations you consider to be relevant.

STRUCTURE OF DEMAND IN THE RELEVANT MARKETS

- 6.1.5. Identify the five largest independent customers of the applicant in the relevant market and their individual shares of total sales of the relevant products by the applicant. Provide the name, address, telephone number, fax number and appropriate contact person, of each of these customers.
- 6.1.6. Explain the structure of demand in terms of:
- (a) the different phases of the markets, for example, take-off, expansion, maturity and decline, and a forecast of the growth rate of demand;
 - (b) the importance of customer preferences, in terms of brand loyalty, product differentiation and the provision of a full range of products;
 - (c) the degree of concentration or dispersion of demand;
 - (d) segmentation of customers into different groups with a description of the 'typical customer' of each group;
 - (e) the importance of exclusive distribution contracts and other types of long-term contracts;
 - (f) the extent to which contracting authorities, State undertakings or similar bodies are important as a source of demand.
- 6.1.7. Provide estimates of the degree of consumer activity in terms of switching supplier and renegotiating contracts in the last five years. Also give the sources used for this and, where available, the necessary documents to confirm the estimates.
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ANNEX II

**INFORMATION TO BE CONTAINED IN NOTICES OF REQUESTS CONCERNING THE APPLICABILITY OF
ARTICLE 34 OF DIRECTIVE 2014/25/EU**

A. Access to the market is deemed not to be restricted in accordance with the first subparagraph of Article 34(3) of Directive 2014/25/EU

Request [from a Member State/made by a contracting entity ⁽¹⁾]

On [...] the Commission received a request pursuant to Article 35 of Directive 2014/25/EU of the European Parliament and of the Council ⁽²⁾. The first working day following receipt of the request is [...].

This request, made by [name of the Member State concerned/name of the relevant contracting entity] ⁽³⁾, concerns [brief mention of the relevant sector or activity] in [that country/indicate the Member State concerned]. Article 34 of Directive 2014/25/EU provides that 'contracts intended to enable an activity mentioned in Articles 8 to 14 to be carried out shall not be subject to this Directive if the Member State or the contracting entities having introduced the request pursuant to Article 35 can demonstrate that, in the Member State in which it is performed, the activity is directly exposed to competition on markets to which access is not restricted; nor shall design contests that are organised for the pursuit of such an activity in that geographic area be subject to this Directive'. The assessment of direct exposure to competition that can be carried out in the context of Directive 2014/25/EU is without prejudice to the full-fledged application of competition law.

The Commission is allowed a period of [90 ⁽⁴⁾/105 ⁽⁵⁾] ⁽⁶⁾ working days to take a decision on this request, commencing on the working day referred to above. The period therefore expires on [...].

According to Article 35(5) of Directive 2014/25/EU, further requests concerning [brief mention of the relevant sector or activity] in [indicate the Member State concerned] before the expiry of the period opened in respect of this request shall not be considered as new procedures and shall be treated in the context of this request.

B. Free access to the market cannot be presumed on the basis of the first subparagraph of Article 34(3) of Directive 2014/25/EU

Request [from a Member State/made by a contracting entity ⁽⁷⁾]

On [...] the Commission received a request pursuant to Article 35 of Directive 2014/25/EU of the European Parliament and of the Council ⁽⁸⁾. The first working day following receipt of the request is [...].

This request, made by [name of the Member State concerned/name of the relevant contracting entity] ⁽⁹⁾, concerns [brief mention of the relevant sector or activity] in [that country/indicate the Member State concerned]. Article 34 of Directive 2014/25/EU provides that 'contracts intended to enable an activity mentioned in Articles 8 to 14 to be carried out shall not be subject to this Directive if the Member State or the contracting entities having introduced the request pursuant to Article 35 can demonstrate that, in the Member State in which it is performed, the activity is directly exposed to competition on markets to which access is not restricted; nor shall design contests that are organised for the pursuit of such an activity in that geographic area be subject to this Directive'. The assessment of direct exposure to competition that can be carried out in the context of Directive 2014/25/EU is without prejudice to the full-fledged application of competition law.

⁽¹⁾ Delete as appropriate.

⁽²⁾ Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28.3.2014, p. 243).

⁽³⁾ Delete as appropriate.

⁽⁴⁾ Pursuant to paragraph 1 a of Annex IV to Directive 2014/25/EU.

⁽⁵⁾ Pursuant to paragraph 1 a of Annex IV to Directive 2014/25/EU in combination with the second subparagraph of said paragraph 1.

⁽⁶⁾ Delete as appropriate: the 105 working days will apply where the request is not accompanied by a reasoned and substantiated position, adopted by an independent national authority that is competent in relation to the activity concerned, which thoroughly analyses the conditions for the possible applicability of Article 34(1) to the activity concerned.

⁽⁷⁾ Delete as appropriate.

⁽⁸⁾ Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28.3.2014, p. 243).

⁽⁹⁾ Delete as appropriate.

The Commission is allowed a period of [130 ⁽¹⁾]/145 ⁽²⁾] ⁽³⁾ working days to take a decision on this request, commencing on the working day referred to above. The period therefore expires on [...].

According to Article 35(5) of Directive 2014/25/EU, further requests concerning [brief mention of the relevant sector or activity] in [indicate the Member State concerned] before the expiry of the period opened in respect of this request shall not be considered as new procedures and shall be treated in the context of this request.

⁽¹⁾ Pursuant to paragraph 1 b of Annex IV to Directive 2014/25/EU.

⁽²⁾ Pursuant to paragraph 1 b of Annex IV to Directive 2014/25/EU in combination with the second subparagraph of said paragraph 1.

⁽³⁾ Delete as appropriate: the 145 working days will apply where the request is not accompanied by a reasoned and substantiated position, adopted by an independent national authority that is competent in relation to the activity concerned, which thoroughly analyses the conditions for the possible applicability of Article 34(1) to the activity concerned.

ANNEX III

INFORMATION TO BE CONTAINED IN NOTICES OF REQUESTS CONCERNING THE APPLICABILITY OF ARTICLE 34 OF DIRECTIVE 2014/25/EU — EXTENSION OR SUSPENSION OF PERIODS FOR THE ADOPTION OF IMPLEMENTING ACTS OR WITHDRAWAL OF A REQUEST**A. Extension of the period for adoption of implementing acts**

Request [from a Member State/made by a contracting entity ⁽¹⁾] — extension of deadline

On [...] the Commission received a request pursuant to Article 35 of Directive 2014/25/EU of the European Parliament and of the Council ⁽²⁾.

This request, made by [name of the Member State concerned/name of the relevant contracting entity] ⁽³⁾, concerns [brief mention of the relevant sector or activity] in [that country/indicate the Member State concerned]. The relevant notice was published on page number [...] of OJEU C number [...] of [...]. The [initial/prolonged] ⁽⁴⁾ deadline was [...].

Pursuant to the fourth subparagraph of paragraph 1 to Annex IV of Directive 2014/25/EU, the deadline may be extended by the Commission with the agreement of those having made the request for exemption concerned. Given that [brief justification for the extension] and with the agreement of [name of the Member State concerned/name of the relevant contracting entity] ⁽⁵⁾, the period available to the Commission for deciding on this request is hereby extended by [...] working days.

The final deadline therefore expires on [...].

B. Suspension of the period for adoption of implementing acts

On [...] the Commission received a request pursuant to Article 35 of Directive 2014/25/EU ⁽⁶⁾. The first working day following receipt of the request was [...] and the initial period available to the Commission for deciding on this request was of [90/105/130/145] ⁽⁷⁾ working days.

This request, made by [name of the Member State concerned/name of the relevant contracting entity] ⁽⁸⁾, concerns [brief mention of the relevant sector or activity] in [that country/indicate the Member State concerned]. The relevant notice was published on page number [...] of OJEU C number [...] of [...]. The [initial/prolonged] ⁽⁹⁾ deadline was [...].

Pursuant to Annex IV, paragraph 2, of Directive 2014/25/EU, the Commission may require the Member State or the contracting entity concerned or the competent independent national authority or any other competent national authority to provide all necessary information or to supplement or clarify information given within an appropriate time limit. On [...] the Commission asked [...] to provide additional information by [...] at the latest.

In the event of late or incomplete answers ⁽¹⁰⁾, the initial deadline shall be suspended for the period between the expiry of the time limit set in the request for information, and the receipt of the complete and correct information.

The final deadline will therefore expire after [...] ⁽¹¹⁾ working days after the receipt of the complete and correct information.

⁽¹⁾ Delete as appropriate.

⁽²⁾ Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28.3.2014, p. 243).

⁽³⁾ Delete as appropriate.

⁽⁴⁾ Delete as appropriate.

⁽⁵⁾ Delete as appropriate.

⁽⁶⁾ Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28.3.2014, p. 243).

⁽⁷⁾ Delete as appropriate.

⁽⁸⁾ Delete as appropriate.

⁽⁹⁾ Delete as appropriate.

⁽¹⁰⁾ See the second sentence of said Annex IV, paragraph 2.

⁽¹¹⁾ Initial number of working days available minus the number of working days between the first working day following the receipt of the request for exemption and the expiration of the deadline for providing the additional information.

C. End of the suspension of the period for adoption of implementing acts

On [...] the Commission received a request pursuant to Article 35 of Directive 2014/25/EU of the European Parliament and of the Council ⁽¹⁾.

This request, made by [name of the Member State concerned/name of the relevant contracting entity] ⁽²⁾, concerns [brief mention of the relevant sector or activity] in [that country/indicate the Member State concerned]. The relevant notice was published on page number [...] of OJEU C number [...] of [...].

On [...] the Commission asked [...] to provide additional information by [...] at the latest. As announced in the notice that was published on page number [...] of OJEU C number [...] of [...], the final deadline was prolonged by [...] working days after the receipt of the complete and correct information. Complete and correct information was received on [...].

The final deadline therefore expires on [...].

D. Withdrawal of a request concerning the applicability of Article 34 of Directive 2014/25/EU

On [...] the Commission received a request pursuant to Article 35 of Directive 2014/25/EU of the European Parliament and of the Council ⁽³⁾.

This request, made by [name of the Member State concerned/name of the relevant contracting entity] ⁽⁴⁾, concerns [brief mention of the relevant sector or activity] in [that country/indicate the Member State concerned]. The relevant notice was published on page number [...] of OJEU C number [...] of [...]. The [initial/prolonged] ⁽⁵⁾ deadline was [...].

On [...], the applicant withdrew the request, which is to be considered null and void. There is consequently no reason to decide whether Article 34 of Directive 2014/25/EU applies to [brief mention of the relevant sector or activity] in [that country/indicate the Member State concerned]. Directive 2014/25/EU therefore continues to apply in accordance with its own provisions when contracting entities award contracts for the pursuit of [brief mention of the relevant sector or activity] in [indicate the Member State concerned] and when they organise design contests for the pursuit of this activity in that geographical area.

⁽¹⁾ Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28.3.2014, p. 243).

⁽²⁾ Delete as appropriate.

⁽³⁾ Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28.3.2014, p. 243).

⁽⁴⁾ Delete as appropriate.

⁽⁵⁾ Delete as appropriate.

ANNEX IV

**INFORMATION TO BE CONTAINED IN NOTICES OF REQUESTS CONCERNING THE APPLICABILITY OF
ARTICLE 34 OF DIRECTIVE 2014/25/EU — APPLICABILITY OF ARTICLE 34(1) OF THE DIRECTIVE WHERE
NO IMPLEMENTING ACT HAS BEEN ADOPTED WITHIN THE DEADLINE**

Request [from a Member State/made by a contracting entity ⁽¹⁾]

On [...] the Commission received a request pursuant to Article 35 of Directive 2014/25/EU of the European Parliament and of the Council ⁽²⁾.

This request, made by [name of the Member State concerned/name of the relevant contracting entity] ⁽³⁾, concerns [brief mention of the relevant sector or activity] in [that country/indicate the Member State concerned]. The relevant notice was published on page number [...] of OJEU C number [...] of [...]. The [initial/prolonged] ⁽⁴⁾ deadline was [...].

Since the period for adoption of a decision expired on [...] without the adoption of a decision, Article 34(1) of said Directive is deemed to apply. Consequently, the provisions of Directive 2014/25/EU do not apply to the award of contracts for the pursuit of [brief mention of the relevant sector or activity] in [indicate the Member State concerned] nor to design contests organised for the pursuit of this activity in that geographical area.

⁽¹⁾ Delete as appropriate.

⁽²⁾ Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28.3.2014, p. 243).

⁽³⁾ Delete as appropriate.

⁽⁴⁾ Delete as appropriate.

