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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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II

(Non-legislative acts)

REGULATIONS

COMMISSION DELEGATED REGULATION (EU) 2017/72

of 23 September 2016

supplementing Regulation (EU) No 575/2013 of the European Parliament and of the Council with regard to regulatory technical standards specifying conditions for data waiver permissions**(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 ⁽¹⁾, and in particular Articles 180(3), 181(3) and 182(4) thereof,

Whereas:

- (1) Once it starts implementing the Internal Ratings Based Approach (IRB Approach), an institution and any parent undertaking and its subsidiaries may request the competent authority's permission to use data covering a period of two rather than five years for probability of default (PD), own-loss given default (own-LGD) and own-conversion factor estimates for certain types of exposures. The conditions according to which the competent authorities may grant data waiver permissions should be set out.
- (2) Competent authorities should verify that institutions comply with the requirements laid down in Regulation (EU) No 575/2013 before they grant the data waiver permission. This Regulation however does not impose requirements for competent authorities for any specific regular review of the institutions' compliance with requirements for data waiver permission, therefore institutions ceasing to comply with the requirements of this Regulation have recourse to Article 146 of Regulation (EU) No 575/2013.
- (3) The shorter the data history, the more difficult it is to estimate risk parameters. With a view to ensuring that the data waiver permission is limited to a small subset of institution assets, a maximum quantitative threshold should be set, both at the level of the exposure value and at the level of the IRB Approach and the Standardised Approach calculated risk-weighted exposures amount for which the permission for the data waiver can be granted. For the same purpose, portfolios where composition of types of exposures firmly characterised by few or no defaults observed should be explicitly excluded from the scope of application of the permission for data waiver.
- (4) To ensure prudent calculation of own funds requirements, other considerations should also be taken into account by competent authorities when assessing requests for data waiver permissions. Specifically, institutions requesting permission for the use of shorter data series should apply an appropriate margin of conservatism. Moreover, institutions should prove to the satisfaction of the competent authorities the lack of accurate, complete or appropriate longer time series of data. Given that the impact on own funds requirements may be higher as a consequence of inaccurate data, institutions should also employ additional data quality validation procedures commensurate with the smaller sample size.

⁽¹⁾ OJ L 176, 27.6.2013, p. 1.

- (5) Types of exposures which are not included in the institution's portfolio at the time when the institution first implements the IRB Approach, should not be considered eligible for the granting of a data waiver permission. Conversely, data waiver permissions should be granted only for types of exposures that were included in the institution's portfolio at the time when the institution first implements the IRB Approach, irrespective of how these exposures move to the IRB Approach immediately or subsequently in accordance with the sequential roll-out plan.
- (6) The purpose of the data waiver is to provide an exemption from the obligation to use five years' historic data for the estimation of IRB parameters for types of exposures that exist in the institution's portfolio, when the institution first implements the IRB Approach. After five years from that first implementation, institutions should have collected sufficient data to no longer require use of the waiver. Therefore, data waiver permissions should not be granted after five years from the date an institution started implementing the IRB Approach.
- (7) There is a need to ensure that conditions laid down in this Regulation do not hamper the rating systems already in use by institutions, but that they instead assist with the smooth transition to the new regime, enhance legal certainty for institutions and avoid further costs to institutions. By virtue of Articles 180, 181 and 182 of Regulation (EU) No 575/2013, the data waiver permission concerns the use of two year data instead of five year data; as a result, it naturally expires three years after it is provided. Therefore, the regulatory technical standards should not affect the data waiver permissions already granted by competent authorities at the time of entry into force of this Regulation, because it would be disproportionate and would discourage use of the IRB Approach. The provisions in this Regulation are closely linked, since they all relate to the conditions under which a data waiver may be granted. To ensure coherence between those provisions, which should enter into force at the same time, and to facilitate a comprehensive view and compact access to them by persons subject to those obligations, it is desirable to include all of the regulatory technical standards required by Articles 180(3), 181(3) and 182(4) of Regulation (EU) No 575/2013 in a single Regulation.
- (8) This Regulation is based on the draft regulatory technical standards submitted by the European Banking Authority to the Commission.
- (9) The European Banking Authority has conducted open public consultations on the draft regulatory technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the opinion of the Banking Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council ⁽¹⁾,

HAS ADOPTED THIS REGULATION:

Article 1

Subject matter

This Regulation lays down the mandatory conditions under which competent authorities may grant institutions the permissions to use data covering a period of two rather than five years for probability of default ('PD'), own loss given default ('own-LGD') and own-conversion factor estimates as set out in point (h) of Article 180(1), point (e) of Article 180(2), and Articles 181(2) and 182(3) of Regulation (EU) No 575/2013 ('data waiver permissions').

Article 2

Conditions for eligibility of exposures

1. Subject to paragraphs 2 and 3, any type of exposures other than exposures to central governments, central banks and institutions as set out in points (a) and (b) of Article 147(2) of Regulation (EU) No 575/2013 shall be eligible for data waiver permissions.

⁽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. Exposures to corporates as set out in point (c) of Article 147(2) of Regulation (EU) No 575/2013 shall be eligible for data waiver permissions where they are not structurally characterised by few or no observed defaults.
3. Types of exposures which were not included in the institution's portfolio at the time when an institution started to implement the Internal Ratings Based Approach (IRB Approach) shall not be eligible for a data waiver permission.

Article 3

Quantitative conditions

1. Competent authorities may only grant data waiver permissions where the following quantitative conditions are met in respect of an institution:
 - (a) the total exposure value of the data waiver permission requested and all its data waiver permissions which have been granted but not revoked or expired ('data waiver permissions in force') do not exceed 5 % of the institution's total exposure value;
 - (b) the total risk-weighted exposure amount of the data waiver permission requested and all its data waiver permissions in force do not exceed 5 % of the institution's total risk-weighted exposure amount.
2. For the purposes of point (a) of paragraph 1, the total exposure value shall be the aggregate exposure value of all types of exposures measured for credit and dilution risk, before reduction of specific credit risk adjustments, additional value adjustments in accordance with Articles 34 and 110 of Regulation (EU) 575/2013 and of other own funds reductions.
3. For the purposes of point (b) of paragraph 1, total risk-weighted exposure amount shall be the aggregate risk exposure amount of all types of exposures, risk-weighted for credit and dilution risk in accordance with the approach applied by the institution

Article 4

Qualitative conditions

Competent authorities may only grant the data waiver permission to an institution that provides well-documented evidence that all the following conditions are met in respect of every type of exposure:

- (a) longer time series data are unavailable or unsuitable due to lack of accuracy, completeness or appropriateness;
- (b) an appropriate margin of conservatism is applied, in accordance with point (a) of Article 179(1) of Regulation (EU) No 575/2013 to adequately compensate for the expected range of estimation errors arising from the use of shorter historic data series;
- (c) the data input vetting process referred to in point (b) of Article 174 of Regulation (EU) No 575/2013 is enhanced for the shorter time series.

Article 5

Time period

Competent authorities may only grant waiver permissions for the first five years after the date when an institution was first permitted to calculate its risk-weighted exposure amounts using the IRB Approach in accordance with Article 143 of Regulation (EU) No 575/2013.

Article 6

Transitional Provision

Data waiver permissions granted by the competent authorities before the entry into force of this Regulation shall not be subject to this Regulation.

*Article 7***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, 23 September 2016.

For the Commission

The President

Jean-Claude JUNKER

COMMISSION IMPLEMENTING REGULATION (EU) 2017/73**of 13 January 2017****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, 13 January 2017.

*For the Commission,
On behalf of the President,
Jerzy PLEWA
Director-General
Directorate-General for Agriculture and Rural Development*

⁽¹⁾ OJ L 347, 20.12.2013, p. 671.

⁽²⁾ OJ L 157, 15.6.2011, p. 1.

ANNEX

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

(EUR/100 kg)		
CN code	Third country code ⁽¹⁾	Standard import value
0702 00 00	IL	269,9
	MA	128,9
	SN	190,2
	TR	121,5
	ZZ	177,6
0707 00 05	MA	79,2
	TR	185,8
	ZZ	132,5
0709 93 10	MA	252,9
	TR	248,4
	ZZ	250,7
0805 10 20	EG	50,8
	IL	126,4
	MA	54,9
	TR	75,6
	ZZ	76,9
0805 20 10	IL	155,4
	MA	72,7
	ZZ	114,1
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	EG	97,9
	IL	113,2
	JM	125,6
	MA	93,5
	TR	76,4
	ZZ	101,3
	TR	73,0
	ZZ	73,0
0808 10 80	CN	119,1
	US	137,0
	ZZ	128,1
0808 30 90	CL	307,7
	CN	78,1
	TR	133,1
	ZZ	173,0

⁽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) 2017/74

of 25 November 2016

establishing a common fiscal marker for gas oils and kerosene

(notified under document C(2016) 7546)

THE EUROPEAN COMMISSION,

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

Having regard to Council Directive 95/60/EC of 27 November 1995 on fiscal marking of gas oils and kerosene ⁽¹⁾, and in particular Article 2(2) thereof,

Whereas:

- (1) For the proper functioning of the internal market, and in particular to prevent tax evasion, Directive 95/60/EC provides for a common marking system to identify gas oils, falling within code 2710 00 69 of the Combined Nomenclature (CN), and kerosene, falling within CN code 2710 00 55, which have been released for consumption exempt from excise duty, or subject to a reduced excise duty rate. The first code has been split into CN codes 2710 19 43, 2710 19 46, 2710 19 47, 2710 19 48, 2710 20 11, 2710 20 15, 2710 20 17 and 2710 20 19, in order to take into account the sulphur content of gas oil and the presence of biodiesel in gas oil, and the second code has been transposed as CN code 2710 19 25 ⁽²⁾.
- (2) Commission Implementing Decision 2011/544/EU ⁽³⁾ established the product identified by the scientific name N-ethyl-N-[2-(1-isobutoxyethoxy)ethyl]-4-(phenylazo)aniline (Solvent Yellow 124) as the common fiscal marker provided for by Directive 95/60/EC, for the marking of gas oils and kerosene which have not borne duty at the full rate applicable to such energy products used as propellant.
- (3) Article 2 of Implementing Decision 2011/544/EU requires that Implementing Decision to be reviewed by 31 December 2016 at the latest, in the light of technical developments in the field of marking systems and taking into account the need to counteract fraudulent use of mineral oils exempted from excise duty, or subject to a reduced excise duty rate.
- (4) As part of the review process the Commission launched a call for expression of interest to present products suitable for use as a fiscal marker in gas oils and kerosene ⁽⁴⁾. The Commission seeks to identify a substance for marking which performs better in regard to a set of predefined criteria compared to the substance currently in use.
- (5) As the review is not yet completed, Solvent Yellow 124 should continue to be used as the common fiscal marker within the meaning of Directive 95/60/EC and subject to the conditions set out in that Directive.
- (6) This Decision does not release any undertaking from its obligations under Article 102 of the Treaty.
- (7) The opportunities offered by future developments in science should be taken into account by setting a time limit for the review of this Decision.

⁽¹⁾ OJ L 291, 6.12.1995, p. 46.

⁽²⁾ The codes of the combined nomenclature shall be those of Commission Implementing Regulation (EU) 2015/1754 of 6 October 2015 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 285, 30.10.2015, p. 1).

⁽³⁾ Commission Implementing Decision 2011/544/EU of 16 September 2011 on establishing a common fiscal marker for gas oils and kerosene (OJ L 241, 17.9.2011, p. 31).

⁽⁴⁾ OJ C 299, 11.9.2015, p. 28.

- (8) A review of this Decision should be undertaken at any time prior to this time limit if Solvent Yellow 124 is found to be giving rise to tax evasion or to be causing health or environmental damage or if a better performing substance than Solvent Yellow 124 is found by the Commission.
- (9) Implementing Decision 2011/544/EU should therefore be replaced.
- (10) The measures provided for in this Decision are in accordance with the opinion of the Committee on Excise Duty,

HAS ADOPTED THIS DECISION:

Article 1

The common fiscal marker provided for by Directive 95/60/EC, for the marking of all gas oils falling within CN codes 2710 19 43, 2710 19 46, 2710 19 47, 2710 19 48, 2710 20 11, 2710 20 15, 2710 20 17 and 2710 20 19 as well as of kerosene falling within CN code 2710 19 25, shall be Solvent Yellow 124, as specified in the Annex to this Decision.

Member States shall fix a marking level of at least 6 mg and not more than 9 mg of marker per liter of mineral oil.

Article 2

This Decision shall be reviewed by 31 December 2021 at the latest, taking into account technical developments in the field of marking systems and the need to counteract fraudulent use of energy products exempt from excise duty or subject to a reduced excise duty rate.

An earlier review shall be undertaken if it is found that Solvent Yellow 124 is giving rise to tax evasion or causing health or environmental damage, or if a better performing substance than Solvent Yellow 124 is found by the Commission.

Article 3

Implementing Decision 2011/544/EU is repealed.

Article 4

This Decision is addressed to the Member States.

Done at Brussels, 25 November 2016.

For the Commission
Pierre MOSCOVICI
Member of the Commission

ANNEX

1. Identification according to the Colour Index: *Solvent Yellow 124*
 2. Scientific name: *N-Ethyl-N-[2-(1-isobutoxyethoxy)ethyl]-4-(phenylazo)aniline*.
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CORRIGENDA**Corrigendum to Eleventh Council Directive 89/666/EEC of 21 December 1989 concerning disclosure requirements in respect of branches opened in a Member State by certain types of company governed by the law of another State**

(Official Journal of the European Union L 395 of 30 December 1989)

On page 38, Article 8, point (j):

for: '(j) the accounting documents in accordance with Article 7';

read: '(j) the accounting documents in accordance with Article 9';

