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I

(Legislative acts)

DIRECTIVES

COUNCIL DIRECTIVE (EU) 2021/514

of 22 March 2021

amending Directive 2011/16/EU on administrative cooperation in the field of taxation

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 113 and 115 thereof,

Having regard to the proposal from the European Commission,

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

Having regard to the opinion of the European Parliament ⁽¹⁾,

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

Acting in accordance with a special legislative procedure,

Whereas:

- (1) In order to accommodate new initiatives of the Union in the field of tax transparency, Council Directive 2011/16/EU ⁽³⁾ has been the subject of a series of amendments over recent years. Those changes mainly introduced reporting obligations, followed by a communication to other Member States, related to financial accounts, advance cross-border rulings and advance pricing arrangements, country-by-country reports and reportable cross-border arrangements. Those amendments thus extended the scope of the automatic exchange of information. The tax authorities of Member States now have a broader set of cooperation tools at their disposal, to detect and tackle forms of tax fraud, tax evasion and tax avoidance.
- (2) In recent years, the Commission has been monitoring the application, and, in 2019, completed an evaluation, of Directive 2011/16/EU. While significant improvements have been made in the field of automatic exchange of information, there is still a need to improve provisions that relate to all forms of exchanges of information and administrative cooperation.
- (3) Pursuant to Article 5 of Directive 2011/16/EU, the requested authority is to communicate to the requesting authority any information it has in its possession, or that it obtains as a result of administrative enquiries, which is foreseeably relevant to the administration and enforcement of the domestic laws of Member States concerning the taxes falling within the scope of that Directive. To ensure the effectiveness of the exchanges of information and to prevent unjustified refusals of requests, as well as to provide legal certainty for both tax administrations and taxpayers, the internationally agreed standard of foreseeable relevance should be clearly delineated and codified.

⁽¹⁾ Not yet published in the Official Journal.

⁽²⁾ Not yet published in the Official Journal.

⁽³⁾ Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC (OJ L 64, 11.3.2011, p. 1).

- (4) There is sometimes a need for addressing requests for information that concern groups of taxpayers who cannot be identified individually and the foreseeable relevance of the requested information can rather only be described on the basis of a common set of characteristics. Considering this, tax administrations should continue using group requests for information under a clear legal framework.
- (5) It is important that Member States exchange information related to income derived from intellectual property, as this area of the economy is prone to profit shifting arrangements due to its highly mobile underlying assets. Therefore, royalties as defined in point (b) of Article 2 of Council Directive 2003/49/EC ^(*) should be included in the categories of income subject to mandatory automatic exchange of information in order to strengthen the fight against tax fraud, tax evasion and tax avoidance. Member States should make every possible and reasonable effort to include the tax identification number (TIN) of residents issued by the Member State of residence in the communication of the categories of income and capital subject to mandatory automatic exchange of information.
- (6) The digitalisation of the economy has been growing rapidly over recent years. This has given rise to an increasing number of complex situations linked to tax fraud, tax evasion and tax avoidance. The cross-border dimension of services offered through the use of platform operators has created a complex environment where it can be challenging to enforce tax rules and ensure tax compliance. There is a lack of tax compliance and the value of unreported income is significant. Tax administrations of Member States have insufficient information to correctly assess and control gross income earned in their country from commercial activities performed with the intermediation of digital platforms. This is particularly problematic where the income or taxable amount flows via digital platforms established in another jurisdiction.
- (7) Tax administrations frequently request information from platform operators. This causes platform operators significant administrative and compliance costs. At the same time, some Member States have imposed a unilateral reporting obligation, which creates an additional administrative burden for platform operators, as they have to comply with many national standards of reporting. It is therefore essential to introduce a standardised reporting requirement which would apply across the internal market.
- (8) Considering that most of the income or taxable amounts of the sellers on digital platforms flow cross-border, the reporting of information related to the relevant activity would bring additional positive results if that information were also communicated to the Member States that would be eligible for taxing the earned income. In particular, the automatic exchange of information between tax authorities is crucial in order to provide those tax authorities with the necessary information to enable them to assess income taxes and value added tax (VAT) due correctly.
- (9) To ensure the proper functioning of the internal market, the reporting rules should be both effective and simple. Recognising the difficulties in detecting taxable events that occur while performing a commercial activity which is facilitated through digital platforms and also taking account of the additional administrative burden that tax administrations would face in such cases, it is necessary to impose a reporting obligation on platform operators. The platform operators are better placed to collect and verify the necessary information on all sellers operating on and making use of a specific digital platform.
- (10) The reporting obligation should cover both cross-border and non-cross-border activities, in order to ensure the effectiveness of the reporting rules, the proper functioning of the internal market, a level playing field and the principle of non-discrimination. In addition, such an application of the reporting rules would reduce the administrative burden on the digital platforms.
- (11) Given the wide use of digital platforms in performing commercial activities, both by individuals and entities, it is crucial to ensure that the reporting obligation applies regardless of the legal nature of the seller. Nevertheless, an exception should be provided for governmental entities, which should not be subject to the reporting obligation.

^(*) Council Directive 2003/49/EC of 3 June 2003 on a common system of taxation applicable to interest and royalty payments made between associated companies of different Member States (OJ L 157, 26.6.2003, p. 49).

- (12) The reporting of income earned through such activities should provide tax administrations with comprehensive information necessary for correctly assessing the income tax due.
- (13) For the sake of simplification and mitigation of compliance costs, it would be reasonable to require platform operators to report income earned by the sellers through the use of the digital platform in one single Member State.
- (14) Given the nature and flexibility of digital platforms, the reporting obligation should also extend to those platform operators that perform commercial activity in the Union but are neither resident for tax purposes, nor incorporated or managed, or have a permanent establishment in a Member State ('foreign platform operators'). This would ensure a level playing field among all digital platforms and prevent unfair competition. In order to facilitate achieving this objective, foreign platform operators should be required to register and report in one single Member State for the purpose of operating in the internal market. After revoking a registration of a foreign platform operator, Member States should ensure that such foreign platform operator is required to provide to the Member State concerned appropriate assurances, such as affidavits or security deposits, while re-registering in the Union.
- (15) Nevertheless, it is appropriate to lay down measures that would reduce administrative burden on foreign platform operators and tax authorities of Member States, in cases where adequate arrangements exist, ensuring that equivalent information is exchanged between a non-Union jurisdiction and a Member State. In those cases, it would be appropriate to relieve platform operators that reported in a non-Union jurisdiction from an obligation to report in a Member State, to the extent that the information received by the Member State relates to the activities in the scope of this Directive and the information is equivalent to the information required under the reporting rules set out in this Directive. In order to foster administrative cooperation in this field with non-Union jurisdictions and recognising the need for flexibility in the negotiations of agreements between Member States and non-Union jurisdictions, this Directive should allow a qualified platform operator of a non-Union jurisdiction to solely report equivalent information on reportable sellers to the tax authorities of a non-Union jurisdiction, which, in turn, would send such information to the tax administrations of Member States. Wherever appropriate, this mechanism should be enabled in order to prevent equivalent information from being reported and transmitted more than once.
- (16) In view of the fact that tax authorities worldwide are confronted with the challenges linked to the ever growing digital platform economy, the Organisation for Economic Cooperation and Development (OECD) has developed Model Rules for Reporting by Platform Operators with respect to Sellers in the Sharing and Gig Economy ('Model Rules'). Given the prevalence of cross-border activities that are carried out by digital platforms as well as the sellers active on them, it can reasonably be expected that non-Union jurisdictions will have sufficient incentives to follow the leading example of the Union and implement the collection and mutual automatic exchange of information on reportable sellers according to the Model Rules. Although not identical to the scope of this Directive in terms of the sellers on which information must be reported and the digital platforms by which information must be reported, the Model Rules are expected to provide for the reporting of equivalent information in relation to relevant activities that are in scope of both this Directive and the Model Rules, which may be expanded further to cover additional relevant activities.
- (17) In order to ensure uniform conditions for the implementation of this Directive, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council^(*). More specifically, the Commission should, by means of implementing acts, determine whether information required to be exchanged pursuant to an agreement between the competent authorities of a Member State and a non-Union jurisdiction is equivalent to that specified in this Directive. Given that the conclusion of agreements with non-Union jurisdictions on administrative cooperation in the area of taxation remains within the competence of Member States, the Commission's action could also be triggered by a request from a Member State. This administrative procedure should, without altering the scope and conditions of this Directive, provide for legal certainty as regards the correlation of the obligations stemming from this Directive and any exchange of information agreements Member States may have with non-Union jurisdictions.

(*) Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

For this purpose, it is necessary that, following the request of a Member State, the determination of equivalence could also be made in advance of an envisaged conclusion of such an agreement. Where the exchange of such information is based on a multilateral instrument, the decision on equivalence should be taken in relation to the whole of the relevant framework covered by such an instrument. Nevertheless, it should still remain possible to take the decision on equivalence, where appropriate, concerning a bilateral instrument or the exchange relationship with an individual non-Union jurisdiction.

- (18) For the reasons of preventing tax fraud, tax evasion and tax avoidance, it is appropriate that the reporting of commercial activity includes rental of immovable property, personal services, sale of goods and rental of any mode of transport. Activities carried out by a seller acting as an employee of the platform operator should not fall within the scope of such reporting.
- (19) For reasons of reducing unnecessary compliance costs for sellers that engage in real estate renting, such as hotel chains or tour operators, there should be a threshold of a number of rentals per property listing above which the reporting obligation would not apply. Nevertheless, in order to avoid the risk of circumventing reporting obligations by intermediaries appearing on the digital platforms as a single seller while managing a large number of property units, appropriate safeguards should be introduced.
- (20) The objective of preventing tax fraud, tax evasion and tax avoidance could be ensured by requiring platform operators to report income earned through digital platforms at an early stage, before the tax authorities of Member States carry out their yearly tax assessments. To facilitate the work of tax authorities of Member States, the reported information should be exchanged within one month following the reporting. In order to facilitate the automatic exchange of information and enhance the efficient use of resources, exchanges of information should be carried out electronically through the existing common communication network (CCN) developed by the Union.
- (21) Where foreign platform operators report equivalent information on reportable sellers to the respective tax authorities of non-Union jurisdictions, the effective implementation of due diligence procedures and reporting requirements is expected to be assured by the tax authorities of those jurisdictions. However, in instances where this is not the case, foreign platform operators should be obliged to register and report in the Union, and Member States should enforce the registration, due diligence and reporting obligations of such foreign platform operators. Therefore, Member States should lay down rules on penalties applicable to infringements of national provisions adopted pursuant to this Directive and should take all measures necessary to ensure that they are implemented. While the choice of penalties remains within the discretion of Member States, the penalties provided for should be effective, proportionate and dissuasive. Given that digital platforms often have a wide geographical reach, it is appropriate that Member States endeavour to act in a coordinated manner when aiming at enforcement of compliance with the registration and reporting requirements applicable to digital platforms operating from non-Union jurisdictions, including the prevention of digital platforms from being able to operate within the Union as a last resort. Within the limits of its competence, the Commission should facilitate the coordination of such Member States' actions, thereby taking into account any future common measures towards digital platforms as well as differences in the potential measures available to Member States.
- (22) It is necessary to strengthen the provisions of Directive 2011/16/EU regarding the presence of officials of one Member State in the territory of another Member State and the carrying out of simultaneous controls by two or more Member States in order to ensure the effective application of those provisions. Therefore, the responses to requests for the presence of officials of another Member State should be provided by the competent authority of the requested Member State within a specified timeframe. Where officials of one Member State are present in the territory of another Member State during an administrative enquiry, or participate in an administrative enquiry through the use of electronic means of communication, they should be subject to the procedural arrangements laid down by the requested Member State to directly interview individuals and examine records.

- (23) A Member State that intends to carry out a simultaneous control should be required to communicate its intention to the other Member States concerned. For reasons of efficiency and legal certainty, it is appropriate to provide that the competent authority of each Member State concerned is obliged to respond within a specified timeframe.
- (24) Multilateral controls carried out with the support of the Fiscalis 2020 programme established by Regulation (EU) No 1286/2013 of the European Parliament and of the Council ⁽⁶⁾ have demonstrated the benefit of coordinated controls of one or more taxpayers that are of common or complementary interest to the competent authorities of two or more Member States. Such joint actions are currently conducted only on the basis of the combined application of the existing provisions regarding the presence of officials of one Member State in the territory of another Member State and simultaneous controls. However, in many cases that practice has shown that further improvements are needed to ensure legal certainty.
- (25) It is therefore appropriate that Directive 2011/16/EU is supplemented with a number of provisions that further clarify the framework and the main principles that should apply when the competent authorities of Member States choose to resort to the means of a joint audit. Joint audits should be an additional tool available for administrative cooperation among Member States in the area of taxation, which would supplement the existing framework that provides for the possibilities for the presence of officials of another Member State in administrative offices, participation in administrative enquiries as well as simultaneous controls. Joint audits would take the form of administrative enquiries conducted jointly by the competent authorities of two or more Member States, and be linked to one or more persons of common or complementary interest to the competent authorities of those Member States. Joint audits can play an important role in contributing to the better functioning of the internal market. Joint audits should be structured to offer legal certainty to taxpayers through clear procedural rules, including measures to mitigate the risk of double taxation.
- (26) For the purpose of ensuring legal certainty, the provisions of Directive 2011/16/EU as regards joint audits should also contain the main aspects of further details of that tool, such as the specified timeframe for response to a request for a joint audit, the scope of rights and obligations of the officials participating in a joint audit and the process leading to establishment of a final report of a joint audit. Those provisions on joint audits should not be interpreted as prejudging any processes that would take place in a Member State in accordance with its national law as a consequence or a follow-up to the joint audit, such as charging or assessing tax by a decision of tax authorities of Member States, process of appeal or settlement relating thereto or remedies available to taxpayers arising from those processes. In order to ensure legal certainty, the final report of a joint audit should reflect the findings on which the competent authorities concerned agreed. Moreover, the competent authorities concerned could also agree that the final report of a joint audit includes any issues where an agreement could not be reached. The mutually agreed findings of the final report of a joint audit should be taken into account in the relevant instruments issued by the competent authorities of the participating Member States following that joint audit.
- (27) In order to ensure legal certainty, it is appropriate to provide that joint audits should be conducted in a pre-agreed and coordinated manner, and in accordance with the laws and procedural requirements of the Member State where the activities of a joint audit take place. Such requirements may also include an obligation to ensure that officials of a Member State who took part in the joint audit in another Member State, also take part, if required, in any process of complaint, review or appeal in that Member State.
- (28) The rights and obligations of the officials who participate in the joint audit, when they are present in activities performed in a different Member State, should be determined in accordance with the laws of the Member State where the activities of the joint audit take place. At the same time, while complying with the laws of the Member State where the activities of a joint audit take place, officials of another Member State should not exercise any powers that would exceed the scope of the powers granted to them under the laws of their Member State.

⁽⁶⁾ Regulation (EU) No 1286/2013 of the European Parliament and of the Council of 11 December 2013 establishing an action programme to improve the operation of taxation systems in the European Union for the period 2014-2020 (Fiscalis 2020) and repealing Decision No 1482/2007/EC (OJ L 347, 20.12.2013, p. 25).

- (29) While the objective of the provisions on joint audits is to provide a useful tool for administrative cooperation in the field of taxation, nothing in this Directive should be construed as being contrary to the established rules on cooperation of Member States in judicial matters.
- (30) It is important that, as a matter of principle, the information communicated under Directive 2011/16/EU is used for the assessment, administration and enforcement of taxes which are covered by the material scope of that Directive. While this was not precluded so far, uncertainties regarding the use of information have arisen due to unclear framework. Therefore, and considering the significance that VAT has for the functioning of the internal market, it is appropriate to clarify that information communicated between Member States may also be used for the assessment, administration and enforcement of VAT and other indirect taxes.
- (31) A Member State communicating information to another Member State for tax purposes should permit the use of that information for other purposes in so far as it is allowed under the national law of both Member States. A Member State can do this either by permitting the different use after a mandatory request of the other Member State or by communicating to all Member States a list of allowed other purposes.
- (32) In order to assist tax administrations participating in exchange of information under this Directive, practical arrangements, including where appropriate a joint data controller agreement, a data processor – data controller agreement or models thereof, should be drafted by Member States, assisted by the Commission. Only persons duly accredited by the Security Accreditation Authority of the Commission may have access to the information communicated pursuant to Directive 2011/16/EU and provided by electronic means using the CCN, and only in so far as it is necessary for the care, maintenance and development of the central directory on administrative cooperation in the field of taxation and of the CCN. The Commission is also responsible for ensuring the security of the central directory on administrative cooperation in the field of taxation and of the CCN.
- (33) In order to prevent data breaches and limit potential damage, it is of utmost importance to improve the security of all data, exchanged between the competent authorities of Member States in the framework of Directive 2011/16/EU. Therefore, it is appropriate to supplement that Directive with rules on the procedure to be followed by Member States and the Commission in the event of a data breach in a Member State as well as in the cases when the breach occurs to the CCN. Given the sensitive nature of the data that could be subject to a data breach, it would be appropriate to provide for measures such as requesting the suspension of the exchange of information with the Member State(s) where the data breach occurred, or suspending access to the CCN to one or more Member States until the data breach is remedied. Given the technical nature of the processes related to data exchange, Member States, assisted by the Commission, should agree on the practical arrangements necessary for the implementation of the procedures to be followed in case of a data breach and measures to be taken to prevent future data breaches.
- (34) In order to ensure uniform conditions for the implementation of Directive 2011/16/EU and in particular, for the automatic exchange of information between competent authorities, implementing powers should be conferred on the Commission to adopt a standard form, with a limited number of components, including the linguistic arrangements. Those powers should be exercised in accordance with Regulation (EU) No 182/2011.
- (35) The European Data Protection Supervisor was consulted in accordance with Article 42 of Regulation (EU) 2018/1725 of the European Parliament and of the Council ⁽⁷⁾.

⁽⁷⁾ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

- (36) Any processing of personal data carried out within the framework of Directive 2011/16/EU should continue to comply with Regulation (EU) 2016/679 of the European Parliament and of the Council ^(*) and Regulation (EU) 2018/1725. Data processing is set out in Directive 2011/16/EU solely with the objective of serving a general public interest, namely the matters of taxation and the purposes of combating tax fraud, tax evasion and tax avoidance, safeguarding tax revenues and promoting fair taxation, which strengthen opportunities for social, political and economic inclusion in Member States. Therefore, in Directive 2011/16/EU, the references to the relevant Union law on data protection should be updated and extended to the rules introduced by this Directive. This is in particular important for the purpose of ensuring legal certainty for data controllers and data processors within the meaning of Regulations (EU) 2016/679 and (EU) No 2018/1725 while ensuring the protection of the rights of data subjects.
- (37) This Directive respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union. In particular, this Directive seeks to ensure full respect for the right to the protection of personal data and the freedom to conduct business.
- (38) Since the objective of this Directive, namely efficient administrative cooperation between Member States under conditions compatible with the proper functioning of the internal market, cannot be sufficiently achieved by the Member States because the aim of this Directive to improve the cooperation between tax administrations requires uniform rules that can be effective in cross-border situations but can rather, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Directive does not go beyond what is necessary in order to achieve that objective.
- (39) Directive 2011/16/EU should therefore be amended accordingly,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directive 2011/16/EU is amended as follows:

- (1) Article 3 is amended as follows:

- (a) in point (9), first subparagraph, point (a) is replaced by the following:

‘(a) for the purposes of Article 8(1) and Articles 8a to 8ac, the systematic communication of predefined information to another Member State, without prior request, at pre-established regular intervals. For the purposes of Article 8(1), reference to available information relates to information in the tax files of the Member State communicating the information, which is retrievable in accordance with the procedures for gathering and processing information in that Member State;’

- (b) in point (9), first subparagraph, point (c) is replaced by the following:

‘(c) for the purposes of provisions of this Directive other than Article 8(1) and (3a) and Articles 8a to 8ac, the systematic communication of predefined information provided in points (a) and (b) of the first subparagraph of this point.’;

- (c) in point (9), the second subparagraph is replaced by the following:

‘In the context of Articles 8(3a), 8(7a), 21(2) and Annex IV, any capitalised term shall have the meaning that it has under the corresponding definitions set out in Annex I. In the context of Article 25(3) and (4), any capitalised term shall have the meaning that it has under the corresponding definitions set out in Annex I or V. In the context of Article 8aa and Annex III, any capitalised term shall have the meaning that it has under the corresponding definitions set out in Annex III. In the context of Article 8ac and Annex V, any capitalised term shall have the meaning that it has under the corresponding definitions set out in Annex V.’;

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

(d) the following points are added:

- ‘26. “joint audit” means an administrative enquiry jointly conducted by the competent authorities of two or more Member States, and linked to one or more persons of common or complementary interest to the competent authorities of those Member States;
- 27. “data breach” means a breach of security leading to destruction, loss, alteration or any incident of inappropriate or unauthorised access, disclosure or use of information, including but not limited to personal data transmitted, stored or otherwise processed, as the result of deliberate unlawful acts, negligence or accidents. A data breach may concern the confidentiality, availability and integrity of data.’;

(2) the following Article is inserted:

‘Article 5a

Foreseeable relevance

1. For the purposes of a request referred to in Article 5, the requested information is foreseeably relevant where, at the time the request is made, the requesting authority considers that, in accordance with its national law, there is a reasonable possibility that the requested information will be relevant to the tax affairs of one or several taxpayers, whether identified by name or otherwise, and be justified for the purposes of the investigation.

2. With the aim to demonstrate the foreseeable relevance of the requested information, the requesting authority shall provide at least the following information to the requested authority:

- (a) the tax purpose for which the information is sought; and
- (b) a specification of the information required for the administration or enforcement of its national law.

3. Where a request referred to in Article 5 relates to a group of taxpayers who cannot be identified individually the requesting authority shall provide at least the following information to the requested authority:

- (a) a detailed description of the group;
- (b) an explanation of the applicable law and of the facts based on which there is reason to believe that the taxpayers in the group have not complied with the applicable law;
- (c) an explanation how the requested information would assist in determining compliance by the taxpayers in the group; and
- (d) where relevant facts and circumstances related to the involvement of a third party that actively contributed to the potential non-compliance of the taxpayers in the group with the applicable law.’;

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

‘2. The request referred to in Article 5 may contain a reasoned request for an administrative enquiry. If the requested authority takes the view that no administrative enquiry is necessary, it shall immediately inform the requesting authority of the reasons thereof.’;

(4) in Article 7, paragraph 1 is replaced by the following:

‘1. The requested authority shall provide the information referred to in Article 5 as quickly as possible, and no later than three months from the date of receipt of the request. However, where the requested authority is unable to respond to the request by the relevant time limit, it shall inform the requesting authority immediately and in any event within three months of the receipt of the request, of the reasons for its failure to do so, and the date by which it considers it might be able to respond. The time limit shall not be longer than six months from the date of receipt of the request.

However, where the requested authority is already in possession of that information, the information shall be transmitted within two months of that date.’;

(5) in Article 7, paragraph 5 is deleted;

(6) Article 8 is amended as follows:

(a) paragraphs 1 and 2 are replaced by the following:

‘1. The competent authority of each Member State shall, by automatic exchange, communicate to the competent authority of any other Member State all information that is available concerning residents of that other Member State, on the following specific categories of income and capital as they are to be understood under the national legislation of the Member State which communicates the information:

- (a) income from employment;
- (b) director’s fees;
- (c) life insurance products not covered by other Union legal instruments on exchange of information and other similar measures;
- (d) pensions;
- (e) ownership of and income from immovable property;
- (f) royalties.

For taxable periods starting on or after 1 January 2024, Member States shall endeavour to include the Tax Identification Number (TIN) of residents issued by the Member State of residence in the communication of the information referred to in the first subparagraph.

Member States shall inform the Commission annually of at least two categories of income and capital listed in the first subparagraph with regard to which they communicate information concerning residents of another Member State.

2. Before 1 January 2024, Member States shall inform the Commission of at least four categories listed in the first subparagraph of paragraph 1 in respect of which the competent authority of each Member State shall, by automatic exchange, communicate to the competent authority of any other Member State information concerning residents of that other Member State. Such information shall concern taxable periods starting on or after 1 January 2025.’;

(b) in paragraph 3, the second subparagraph is deleted;

(7) Article 8a is amended as follows:

(a) in paragraph 5, point (a) is replaced by the following:

‘(a) in respect of information exchanged pursuant to paragraph 1 – without delay after the advance cross-border rulings or advance pricing arrangements have been issued, amended or renewed and at the latest three months following the end of the half of the calendar year during which the advance cross-border rulings or advance pricing arrangements were issued, amended or renewed;’;

(b) in paragraph 6, point (b) is replaced by the following:

‘(b) a summary of the advance cross-border ruling or advance pricing arrangement, including a description of the relevant business activities or transactions or series of transactions and any other information that could assist the competent authority in assessing a potential tax risk, without leading to the disclosure of a commercial, industrial or professional secret or of a commercial process, or of information whose disclosure would be contrary to public policy;’;

(8) the following Article is inserted:

‘Article 8ac

Scope and conditions of mandatory automatic exchange of information reported by Platform Operators

1. Each Member State shall take the necessary measures to require Reporting Platform Operators to carry out the due diligence procedures and fulfil reporting requirements laid down in Sections II and III of Annex V. Each Member State shall also ensure the effective implementation of, and compliance with, such measures in accordance with Section IV of Annex V.

2. Pursuant to the applicable due diligence procedures and reporting requirements contained in Sections II and III of Annex V, the competent authority of a Member State where the reporting in accordance with paragraph 1 took place shall, by means of automatic exchange, and within the time limit laid down in paragraph 3, communicate to the competent authority of the Member State in which the Reportable Seller is resident as determined pursuant to paragraph D of Section II of Annex V and, where the Reportable Seller provides immovable property rental services, in any case to the competent authority of the Member State in which the immovable property is located, the following information regarding each Reportable Seller:

- (a) the name, registered office address, TIN and, where relevant, individual identification number allocated pursuant to the first subparagraph of paragraph 4, of the Reporting Platform Operator, as well as the business name(s) of the Platform(s) in respect of which the Reporting Platform Operator is reporting;
- (b) the first and last name of the Reportable Seller who is an individual, and legal name of the Reportable Seller that is an Entity;
- (c) the Primary Address;
- (d) any TIN of the Reportable Seller, including each Member State of issuance, or, in the absence of a TIN, the place of birth of the Reportable Seller who is an individual;
- (e) the business registration number of the Reportable Seller that is an Entity;
- (f) the VAT identification number of the Reportable Seller, where available;
- (g) the date of birth of the Reportable Seller who is an individual;
- (h) the Financial Account Identifier to which the Consideration is paid or credited, insofar as it is available to the Reporting Platform Operator and the competent authority of the Member State where the Reportable Seller is resident in the meaning of paragraph D of Section II of Annex V has not notified the competent authorities of all other Member States that it does not intend to use the Financial Account Identifier for this purpose;
- (i) where different from the name of the Reportable Seller, in addition to the Financial Account Identifier, the name of the holder of the financial account to which the Consideration is paid or credited, to the extent available to the Reporting Platform Operator, as well as any other financial identification information available to the Reporting Platform Operator with respect to that account holder;
- (j) each Member State in which the Reportable Seller is resident determined pursuant to paragraph D of Section II of Annex V;
- (k) the total Consideration paid or credited during each quarter of the Reportable Period and the number of Relevant Activities in respect of which it was paid or credited;
- (l) any fees, commissions or taxes withheld or charged by the Reporting Platform during each quarter of the Reportable Period.

Where the Reportable Seller provides immovable property rental services, the following additional information shall be communicated:

- (a) the address of each Property Listing, determined on the basis of the procedures set out in paragraph E of Section II of Annex V and respective land registration number or its equivalent under the national law of the Member State where it is located, where available;
- (b) the total Consideration paid or credited during each quarter of the Reportable Period and number of Relevant Activities provided with respect to each Property Listing;
- (c) where available, the number of days each Property Listing was rented during the Reportable Period and the type of each Property Listing.

3. The communication pursuant to paragraph 2 of this Article shall take place using the standard computerised format referred to in Article 20(4) within two months following the end of the Reportable Period to which the reporting requirements applicable to the Reporting Platform Operator relate. The first information shall be communicated for Reportable Periods as from 1 January 2023.

4. For the purpose of complying with the reporting requirements pursuant to paragraph 1 of this Article, each Member State shall lay down the necessary rules to require a Reporting Platform Operator within the meaning of point (b) of subparagraph A(4) of Section I of Annex V to register within the Union. The competent authority of the Member State of registration shall allocate an individual identification number to such Reporting Platform Operator.

Member States shall lay down rules pursuant to which a Reporting Platform Operator may choose to register with the competent authority of a single Member State in accordance with the rules laid down in paragraph F of Section IV of Annex V. Member States shall take the necessary measures to require that a Reporting Platform Operator within the meaning of point (b) of subparagraph A(4) of Section I of Annex V, whose registration has been revoked in accordance with subparagraph F(7) of Section IV of Annex V, can only be permitted to re-register on the condition that it provides to the authorities of a Member State concerned appropriate assurances as regards its commitment to comply with the reporting requirements within the Union, including any outstanding unfulfilled reporting requirements.

The Commission shall, by means of implementing acts, lay down the practical arrangements necessary for the registration and identification of Reporting Platform Operators. Those implementing acts shall be adopted in accordance with the procedure referred to in Article 26(2).

5. Where a Platform Operator is deemed to be an Excluded Platform Operator, the competent authority of the Member State where the demonstration in accordance with subparagraph A(3) of Section I of Annex V was provided to, shall notify the competent authorities of all other Member States accordingly, including any subsequent changes.

6. The Commission shall, by 31 December 2022, establish a central register where information to be notified in accordance with paragraph 5 of this Article and communicated in accordance with subparagraph F(2) of Section IV of Annex V shall be recorded. That central register shall be available to the competent authorities of all Member States.

7. The Commission shall, by means of implementing acts, following a reasoned request by a Member State or on its own initiative, determine whether the information that is required to be automatically exchanged pursuant to an agreement between competent authorities of the Member State concerned and a non-Union jurisdiction is, within the meaning of subparagraph A(7) of Section I of Annex V, equivalent to that specified in paragraph B of Section III of Annex V. Those implementing acts shall be adopted in accordance with the procedure referred to in Article 26(2).

A Member State requesting the measure referred to in the first subparagraph shall send a reasoned request to the Commission.

If the Commission considers that it does not have all the information necessary for the appraisal of the request, it shall contact the Member State concerned within two months of receipt of the request and specify what additional information is required. Once the Commission has all the information it considers necessary, it shall, within one month, notify the requesting Member State and it shall submit the relevant information to the Committee referred to in Article 26(2).

When acting on its own initiative, the Commission shall adopt an implementing act as referred to in the first subparagraph only after a Member State has concluded a competent authority agreement with a non-Union jurisdiction that requires the automatic exchange of information on sellers deriving income from activities facilitated by Platforms.

When determining whether information is equivalent within the meaning of the first subparagraph in relation to a Relevant Activity, the Commission shall take into due account the extent to which the regime on which such information is based corresponds to that set out in Annex V, in particular with regard to:

- (i) the definitions of Reporting Platform Operator, Reportable Seller, Relevant Activity;
- (ii) the procedures applicable for the purpose of identifying Reportable Sellers;
- (iii) the reporting requirements; and

- (iv) the rules and administrative procedures that non-Union jurisdictions are to have in place to ensure effective implementation of, and compliance with, the due diligence procedures and reporting requirements set out in that regime.

The same procedure shall apply for determining that the information is no longer equivalent.;

- (9) Article 8b is amended as follows:

- (a) paragraph 1 is replaced by the following:

‘1. Member States shall provide the Commission on an annual basis with statistics on the volume of automatic exchanges under Articles 8(1), 8(3a), 8aa and 8ac and with information on the administrative and other relevant costs and benefits relating to exchanges that have taken place and any potential changes, for both tax administrations and third parties.;

- (b) paragraph 2 is deleted;

- (10) Article 11 is amended as follows:

- (a) paragraph 1 is replaced by the following:

‘1. With a view to exchanging the information referred to in Article 1(1), the competent authority of a Member State may request the competent authority of another Member State that officials authorised by the former and in accordance with the procedural arrangements laid down by the latter:

- (a) be present in the offices where the administrative authorities of the requested Member State carry out their duties;
- (b) be present during administrative enquiries carried out in the territory of the requested Member State;
- (c) participate in the administrative enquiries carried out by the requested Member State through the use of electronic means of communication, where appropriate.

The requested authority shall respond to a request in accordance with the first subparagraph within 60 days of the receipt of the request, to confirm its agreement or communicate its reasoned refusal to the requesting authority.

Where the requested information is contained in documentation to which the officials of the requested authority have access, the officials of the requesting authority shall be given copies thereof.;

- (b) in paragraph 2, the first subparagraph is replaced by the following:

‘Where officials of the requesting authority are present during administrative enquiries, or participate in the administrative enquiries through the use of electronic means of communication, they may interview individuals and examine records subject to the procedural arrangements laid down by the requested Member State.;

- (11) in Article 12, paragraph 3 is replaced by the following:

‘3. The competent authority of each Member State concerned shall decide whether it wishes to take part in simultaneous controls. It shall confirm its agreement or communicate its reasoned refusal to the authority that proposed a simultaneous control within 60 days of receiving the proposal.;

- (12) the following Section is inserted:

‘SECTION IIa

Joint audits

Article 12a

Joint audits

1. The competent authority of one or more Member States may request the competent authority of another Member State (or other Member States) to conduct a joint audit. The requested competent authorities shall respond to the request for a joint audit within 60 days of the receipt of the request. The requested competent authorities may reject a request for a joint audit by the competent authority of a Member State on justified grounds.

2. Joint audits shall be conducted in a pre-agreed and coordinated manner, including linguistic arrangements, by the competent authorities of the requesting and the requested Member States, and in accordance with the laws and procedural requirements of the Member State where the activities of a joint audit take place. In each Member State where the activities of a joint audit take place, the competent authority of that Member State shall appoint a representative with responsibility for supervising and coordinating the joint audit in that Member State.

The rights and obligations of the officials of Member States who participate in the joint audit, when they are present in activities performed in a different Member State, shall be determined in accordance with the laws of the Member State where the activities of the joint audit take place. While complying with the laws of the Member State where the activities of the joint audit take place, officials of another Member State shall not exercise any powers that would exceed the scope of the powers granted to them under the laws of their Member State.

3. Without prejudice to paragraph 2, a Member State where the activities of the joint audit take place shall take the necessary measures to:

- (a) permit that officials of other Member States who participate in the activities of the joint audit interview individuals and examine records together with the officials of the Member State where the activities of the joint audit take place, subject to the procedural arrangements laid down by the Member State where those activities take place;
- (b) ensure that evidence collected during the activities of the joint audit can be assessed, including on its admissibility, under the same legal conditions as in the case of an audit carried out in that Member State where only the officials of that Member State take part, including in the course of any process of complaint, review or appeal; and
- (c) ensure that the person(s) subject to a joint audit or affected by it enjoy the same rights and have the same obligations as in the case of an audit where only the officers of that Member State take part, including in the course of any process of complaint, review or appeal.

4. Where competent authorities of two or more Member States conduct a joint audit, they shall endeavour to agree on the facts and circumstances relevant to the joint audit and endeavour to reach an agreement on the tax position of the audited person(s) based on the results of the joint audit. The findings of the joint audit shall be incorporated in a final report. Issues on which the competent authorities agree shall be reflected in the final report and be taken into account in the relevant instruments issued by the competent authorities of the participating Member States following that joint audit.

Subject to the first subparagraph, the actions by the competent authorities of a Member State or any of its officers following a joint audit and any further processes taking place in that Member State, such as a decision of tax authorities, process of appeal or settlement relating thereto, shall take place in accordance with the national law of that Member State.

5. The audited person(s) shall be informed of the outcome of the joint audit, including a copy of the final report within 60 days of the issuance of the final report.;

(13) Article 16 is amended as follows:

- (a) in paragraph 1, the first subparagraph is replaced by the following:

‘1. Information communicated between Member States in any form pursuant to this Directive shall be covered by the obligation of official secrecy and enjoy the protection extended to similar information under the national law of the Member State which received it. Such information may be used for the assessment, administration and enforcement of the national law of Member States concerning the taxes referred to in Article 2 as well as VAT and other indirect taxes.’;

- (b) paragraph 2 is replaced by the following:

‘2. With the permission of the competent authority of the Member State communicating information pursuant to this Directive, and only in so far as this is allowed under the national law of the Member State of the competent authority receiving the information, information and documents received pursuant to this Directive may be used for other purposes than those referred to in paragraph 1. Such permission shall be granted if the information can be used for similar purposes in the Member State of the competent authority communicating the information.’

The competent authority of each Member State may communicate to the competent authorities of all other Member States a list of purposes for which, in accordance with its national law, information and documents may be used, other than those referred to in paragraph 1. The competent authority that receives information and documents may use the received information and documents without the permission referred to in the first subparagraph of this paragraph for any of the purposes listed by the communicating Member State.’;

(14) Article 20 is amended as follows:

(a) in paragraph 2, the first subparagraph is replaced by the following:

‘2. The standard form referred to in paragraph 1 shall include at least the following information to be provided by the requesting authority:

- (a) the identity of the person under examination or investigation and, in the case of group requests as referred to in Article 5a(3), detailed description of the group;
- (b) the tax purpose for which the information is sought.’;

(b) paragraphs 3 and 4 are replaced by the following:

‘3. Spontaneous information and its acknowledgement pursuant to Articles 9 and 10 respectively, requests for administrative notifications pursuant to Article 13, feedback information pursuant to Article 14 and communications pursuant to Article 16(2) and (3) and Article 24(2) shall be sent using the standard forms adopted by the Commission in accordance with the procedure referred to in Article 26(2).

4. The automatic exchange of information pursuant to Articles 8 and 8ac shall be carried out using a standard computerised format aimed at facilitating such automatic exchange, adopted by the Commission in accordance with the procedure referred to in Article 26(2).’;

(15) in Article 21, the following paragraph is added:

‘7. The Commission shall develop and provide technical and logistical support for a secure central interface on administrative cooperation in the field of taxation where Member States communicate with the use of standard forms pursuant to Article 20(1) and (3). The competent authorities of all Member States shall have access to that interface. For the purpose of collecting statistics, the Commission shall have access to information about the exchanges recorded to the interface and which can be extracted automatically. The Commission shall have only access to anonymous and aggregated data. The access by the Commission shall be without prejudice to the obligation of Member States to provide statistics on exchanges of information in accordance with Article 23(4).

The Commission shall, by means of implementing acts, lay down the necessary practical arrangements. Those implementing acts shall be adopted in accordance with the procedure referred to in Article 26(2).’;

(16) in Article 22, paragraph 1a is replaced by the following:

‘1a. For the purposes of the implementation and enforcement of the laws of Member States giving effect to this Directive and to ensure the functioning of the administrative cooperation it establishes, Member States shall provide by law for access by tax authorities to the mechanisms, procedures, documents and information referred to in Articles 13, 30, 31, 32a and 40 of Directive (EU) 2015/849 of the European Parliament and of the Council (*).

(*) Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC (OJ L 141, 5.6.2015, p. 73).’;

(17) in Article 23a, paragraph 2 is replaced by the following:

‘2. Information communicated to the Commission by a Member State under Article 23, as well as any report or document produced by the Commission using such information, may be transmitted to other Member States. Such transmitted information shall be covered by the obligation of official secrecy and enjoy the protection extended to similar information under the national law of the Member State which received it.

Reports and documents produced by the Commission, referred to in the first subparagraph, may be used by Member States only for analytical purposes, and shall not be published or made available to any other person or body without the express agreement of the Commission.

Notwithstanding the first and second subparagraphs, the Commission may publish annually anonymised summaries of the statistical data that Member States communicate to it in accordance with Article 23(4).';

(18) Article 25 is replaced by the following:

'Article 25

Data protection

1. All exchange of information pursuant to this Directive shall be subject to Regulation (EU) 2016/679 of the European Parliament and of the Council (*). However, Member States shall, for the purposes of the correct application of this Directive, restrict the scope of the obligations and rights provided for in Article 13, Article 14(1) and Article 15, of Regulation (EU) 2016/679, to the extent required in order to safeguard the interests referred to in point (e) of Article 23(1) of that Regulation.

2. Regulation (EU) 2018/1725 of the European Parliament and of the Council (**) shall apply to any processing of personal data under this Directive by the Union institutions, bodies, offices and agencies. However, for the purposes of the correct application of this Directive, the scope of the obligations and rights provided for in Article 15, Article 16(1), and Articles 17 to 21, of Regulation (EU) 2018/1725, shall be restricted to the extent required in order to safeguard the interests referred to in point (c) of Article 25(1) of that Regulation.

3. Reporting Financial Institutions, intermediaries, Reporting Platform Operators and the competent authorities of Member States shall be considered to be data controllers when, acting alone or jointly, they determine the purposes and means of the processing of personal data within the meaning of Regulation (EU) 2016/679.

4. Notwithstanding paragraph 1, each Member State shall ensure each Reporting Financial Institution or intermediary or Reporting Platform Operator, as the case may be, which is under its jurisdiction:

- (a) informs each individual concerned that information relating to that individual will be collected and transferred in accordance with this Directive; and
- (b) provides to each individual concerned all information that the individual is entitled to from the data controller in sufficient time for that individual to exercise his/her data protection rights and, in any case, before the information is reported.

Notwithstanding point (b) of the first subparagraph, each Member State shall lay down rules obliging Reporting Platform Operators to inform Reportable Sellers of the reported Consideration.

5. Information processed in accordance with this Directive shall be retained for no longer than is necessary to achieve the purposes of this Directive, and in any case in accordance with each data controller's domestic rules on statute of limitations.

6. A Member State where a data breach occurred, shall report the data breach and any subsequent remedial action to the Commission without delay. The Commission shall inform all Member States without delay of the data breach that has been reported to it or of which it is aware and any remedial action.

Each Member State may suspend the exchange of information to the Member State(s) where the data breach occurred by giving notice in writing to the Commission and the Member State(s) concerned. Such suspension shall have immediate effect.

The Member State(s) where the data breach occurred shall investigate, contain and remedy the data breach and shall, by giving notice in writing to the Commission, request the suspension of the CCN access for the purposes of this Directive, if the data breach cannot be contained immediately and appropriately. Upon such request, the Commission shall suspend the CCN access of such Member State(s) for the purposes of this Directive.

Upon reporting by the Member State where the data breach occurred of remedying the data breach, the Commission shall resume the CCN access of the Member State(s) concerned for the purposes of this Directive. In case one or more Member States request the Commission to jointly verify whether the remediation of the data breach was successful, the Commission shall resume the CCN access of such Member State(s) for the purposes of this Directive upon such verification.

Where a data breach occurs to the central directory or the CCN for the purposes of this Directive and where the exchanges of Member States through the CCN can potentially be affected, the Commission shall inform Member States of the data breach and any remedial actions taken without undue delay. Such remedial actions may include suspending access to the central directory or the CCN for the purposes of this Directive until the data breach is remedied.

7. Member States, assisted by the Commission, shall agree on the practical arrangements necessary for the implementation of this Article, including data breach management processes which are aligned with internationally recognised good practices and where appropriate a joint data controller agreement, a data processor – data controller agreement, or models thereof.

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

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

(19) Article 25a is replaced by the following:

‘Article 25a

Penalties

Member States shall lay down the rules on penalties applicable to infringements of national provisions adopted pursuant to this Directive and concerning Articles 8aa, 8ab and 8ac, and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive.’;

(20) Annex V, the text of which is set out in the Annex to this Directive, is added.

Article 2

1. Member States shall adopt and publish, by 31 December 2022, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall immediately inform the Commission thereof.

They shall apply those provisions from 1 January 2023.

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

2. By way of derogation from paragraph 1 of this Article, Member States shall adopt and publish, by 31 December 2023, the laws, regulations and administrative provisions necessary to comply with point (1)(d) of Article 1 of this Directive as regards point (26) of Article 3 of Directive 2011/16/EU and with point (12) of Article 1 of this Directive as regards Section IIa of Directive 2011/16/EU. They shall immediately inform the Commission thereof.

They shall apply those provisions from 1 January 2024, at the latest.

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

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

Article 3

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

Article 4

This Directive is addressed to the Member States.

Done at Brussels, 22 March 2021.

For the Council
The President
M. do C. ANTUNES

ANNEX

‘ANNEX V

DUE DILIGENCE PROCEDURES, REPORTING REQUIREMENTS AND OTHER RULES FOR PLATFORM OPERATORS

This Annex lays down the due diligence procedures, reporting requirements and other rules that shall be applied by the Reporting Platform Operators in order to enable Member States to communicate, by automatic exchange, the information referred to in Article 8ac of this Directive.

This Annex also lays down the rules and administrative procedures that Member States shall have in place to ensure effective implementation of, and compliance with, the due diligence procedures and reporting requirements set out in it.

SECTION I

DEFINED TERMS

The following terms have the meaning set forth below:

A. Reporting Platform Operators

1. "Platform" means any software, including a website or a part thereof and applications, including mobile applications, accessible by users and allowing Sellers to be connected to other users for the purpose of carrying out a Relevant Activity, directly or indirectly, to such users. It also includes any arrangement for the collection and payment of a Consideration in respect of Relevant Activity.

The term "Platform" does not include software that without any further intervention in carrying out a Relevant Activity exclusively allows any of the following:

- (a) processing of payments in relation to Relevant Activity;
 - (b) users to list or advertise a Relevant Activity;
 - (c) redirecting or transferring of users to a Platform.
2. "Platform Operator" means an Entity that contracts with Sellers to make available all or part of a Platform to such Sellers.
 3. "Excluded Platform Operator" means a Platform Operator which has demonstrated upfront and on an annual basis to the satisfaction of the competent authority of the Member State to which, in accordance with the rules laid down in subparagraphs A(1) to A(3) of Section III, the Platform Operator otherwise would have had to report that Platform's entire business model is such that it does not have Reportable Sellers.
 4. "Reporting Platform Operator" means any Platform Operator, other than an Excluded Platform Operator, who is in any of the following situations:
 - (a) it is resident for tax purposes in a Member State or, where such Platform Operator does not have a residence for tax purposes in a Member State, it fulfils any of the following conditions:
 - (i) it is incorporated under the laws of a Member State;
 - (ii) it has its place of management (including effective management) in a Member State;
 - (iii) it has a permanent establishment in a Member State and is not a Qualified Non-Union Platform Operator;
 - (b) it is neither resident for tax purposes, nor incorporated or managed in a Member State, nor has a permanent establishment in a Member State, but facilitates the carrying out of a Relevant Activity by Reportable Sellers or a Relevant Activity involving the rental of immovable property located in a Member State and is not a Qualified Non-Union Platform Operator.

5. "Qualified Non-Union Platform Operator" means a Platform Operator for which all Relevant Activities that it facilitates are also Qualified Relevant Activities and that is resident for tax purposes in a Qualified Non-Union Jurisdiction or, where such Platform Operator does not have a residence for tax purposes in a Qualified Non-Union Jurisdiction, it fulfils any of the following conditions:
 - (a) it is incorporated under the laws of a Qualified Non-Union Jurisdiction; or
 - (b) it has its place of management (including effective management) in a Qualified Non-Union Jurisdiction.
6. "Qualified Non-Union Jurisdiction" means a non-Union jurisdiction that has in effect an Effective Qualifying Competent Authority Agreement with the competent authorities of all Member States which are identified as reportable jurisdictions in a list published by the non-Union jurisdiction.
7. "Effective Qualifying Competent Authority Agreement" means an agreement between the competent authorities of a Member State and a non-Union jurisdiction that requires the automatic exchange of information equivalent to that specified in paragraph B of Section III of this Annex as confirmed by an implementing act in accordance with Article 8ac(7).
8. "Relevant Activity" means an activity carried out for Consideration and being any of the following:
 - (a) the rental of immovable property, including both residential and commercial property, as well as any other immovable property and parking spaces;
 - (b) a Personal Service;
 - (c) the sale of Goods;
 - (d) the rental of any mode of transport.

The term "Relevant Activity" does not include an activity carried out by a Seller acting as an employee of the Platform Operator or a related Entity of the Platform Operator.
9. "Qualified Relevant Activities" means any Relevant Activity covered by the automatic exchange pursuant to an Effective Qualifying Competent Authority Agreement.
10. "Consideration" means compensation in any form, net of any fees, commissions or taxes withheld or charged by the Reporting Platform Operator, that is paid or credited to a Seller in connection with the Relevant Activity, the amount of which is known or reasonably knowable by the Platform Operator.
11. "Personal Service" means a service involving time- or task-based work performed by one or more individuals, acting either independently or on behalf of an Entity, and which is carried out at the request of a user, either online or physically offline after having been facilitated via a Platform.

B. Reportable Sellers

1. "Seller" means a Platform user, either an individual or an Entity, that is registered at any moment during the Reportable Period on the Platform and carries out a Relevant Activity.
2. "Active Seller" means any Seller that either provides a Relevant Activity during the Reportable Period or is paid or credited Consideration in connection with a Relevant Activity during the Reportable Period.
3. "Reportable Seller" means any Active Seller, other than an Excluded Seller, that is resident in a Member State or that rented out immovable property located in a Member State.
4. "Excluded Seller" means any Seller
 - (a) that is a Governmental Entity;
 - (b) that is an Entity the stock of which is regularly traded on an established securities market or a related Entity of an Entity the stock of which is regularly traded on an established securities market;

- (c) that is an Entity for which the Platform Operator facilitated more than 2 000 Relevant Activities by means of the rental of immovable property in respect of a Property Listing during the Reporting Period; or
- (d) for which the Platform Operator facilitated less than 30 Relevant Activities by means of the sale of Goods and for which the total amount of Consideration paid or credited did not exceed EUR 2 000 during the Reporting Period.

C. Other definitions

1. "Entity" means a legal person or a legal arrangement, such as a corporation, partnership, trust or foundation. An Entity is a related Entity of another Entity if either Entity controls the other Entity, or the two Entities are under common control. For this purpose control includes direct or indirect ownership of more than 50 % of the vote and value in an Entity. In indirect participation, the fulfilment of the requirement for the holding of more than 50 % of the right of ownership in the capital of the other Entity shall be determined by multiplying the rates of holding through the successive tiers. A person holding more than 50 % of the voting rights shall be deemed to hold 100 %.
2. "Governmental Entity" means the government of a Member State or other jurisdiction, any political subdivision of a Member State or other jurisdiction (which includes a state, province, county, or municipality), or any wholly owned agency or instrumentality of a Member State or other jurisdiction or of any one or more of the foregoing (each, a "Governmental Entity").
3. "TIN" means a Taxpayer Identification Number, issued by a Member State, or functional equivalent in the absence of a Taxpayer Identification Number.
4. "VAT identification number" means the unique number that identifies a taxable person or a non-taxable legal entity that is registered for value added tax purposes.
5. "Primary Address" means the address that is the primary residence of a Seller who is an individual, as well as the address that is the registered office of a Seller that is an Entity.
6. "Reportable Period" means the calendar year in respect of which reporting is being completed pursuant to Section III.
7. "Property Listing" means all immovable property units located at the same street address, owned by the same owner and offered for rent on a Platform by the same Seller.
8. "Financial Account Identifier" means the unique identifying number or reference available to the Platform Operator of the bank account or other similar payment services account to which the Consideration is paid or credited.
9. "Goods" means any tangible property.

SECTION II

DUE DILIGENCE PROCEDURES

The following procedures shall apply for the purpose of identifying Reportable Sellers.

A. Sellers not subject to review

For the purpose of determining whether a Seller that is an Entity qualifies as an Excluded Seller described in points (a) and (b) of subparagraph B(4) of Section I, a Reporting Platform Operator may rely on publicly available information or a confirmation from the Seller that is an Entity.

For the purpose of determining whether a Seller qualifies as an Excluded Seller described in points (c) and (d) of subparagraph B(4) of Section I, a Reporting Platform Operator may rely on its available records.

B. Collection of Seller information

1. The Reporting Platform Operator shall collect all of the following information for each Seller who is an individual and not an Excluded Seller:
 - (a) the first and last name;
 - (b) the Primary Address;
 - (c) any TIN issued to that Seller, including each Member State of issuance, and in the absence of a TIN, the place of birth of that Seller;

- (d) the VAT identification number of that Seller, where available;
 - (e) the date of birth.
2. The Reporting Platform Operator shall collect all of the following information for each Seller that is an Entity and not an Excluded Seller:
- (a) the legal name;
 - (b) the Primary Address;
 - (c) any TIN issued to that Seller, including each Member State of issuance;
 - (d) the VAT identification number of that Seller, where available;
 - (e) the business registration number;
 - (f) the existence of any permanent establishment through which Relevant Activities are carried out in the Union, where available, indicating each respective Member State, where such a permanent establishment is located.
3. Notwithstanding subparagraphs B(1) and (2), the Reporting Platform Operator shall not be required to collect information referred to in points (b) to (e) of subparagraph B(1) and points (b) to (f) of subparagraph B(2) where it relies on direct confirmation of the identity and residence of the Seller through an identification service made available by a Member State or the Union to ascertain the identity and tax residence of the Seller.
4. Notwithstanding point (c) of subparagraph B(1) and points (c) and (e) of subparagraph B(2), the Reporting Platform Operator shall not be required to collect the TIN or the business registration number, as the case may be, in any of the following situations:
- (a) the Member State of residence of the Seller does not issue a TIN or business registration number to the Seller;
 - (b) the Member State of residence of the Seller does not require the collection of the TIN issued to the Seller.

C. Verification of Seller information

1. The Reporting Platform Operator shall determine whether the information collected pursuant to paragraph A, subparagraph B(1), points (a) to (e) of subparagraph B(2) and paragraph E is reliable, using all information and documents available to the Reporting Platform Operator in its records, as well as any electronic interface made available by a Member State or the Union free of charge to ascertain the validity of the TIN and/or VAT identification number.
2. Notwithstanding subparagraph C(1), for the completion of the due diligence procedures pursuant to subparagraph F(2), the Reporting Platform Operator may determine whether the information collected pursuant to paragraph A, subparagraph B(1), points (a) to (e) of subparagraph B(2) and paragraph E is reliable, using information and documents available to the Reporting Platform Operator in its electronically searchable records.
3. In application of point (b) of subparagraph F(3) and notwithstanding subparagraphs C(1) and C(2), in instances where the Reporting Platform Operator has reason to know that any of the information items described in paragraph B or E may be inaccurate by virtue of information provided by the competent authority of a Member State in a request concerning a specific Seller, it shall request the Seller to correct information items that were found to be incorrect and to provide supporting documents, data or information, which is reliable and of independent source, such as:
- (a) valid government-issued identification document,
 - (b) recent tax residency certificate.

D. Determination of Member State(s) of residence of Seller for the purposes of this Directive

1. A Reporting Platform Operator shall consider a Seller resident in the Member State of the Seller's Primary Address. Where different from the Member State of the Seller's Primary Address, a Reporting Platform Operator shall consider Seller resident also in the Member State of issuance of TIN. Where the Seller has provided information with respect to the existence of a permanent establishment pursuant to point (f) of subparagraph B(2), a Reporting Platform Operator shall consider a Seller resident also in the respective Member State as specified by the Seller.

2. Notwithstanding subparagraph D(1), a Reporting Platform Operator shall consider a Seller resident in each Member State confirmed by an electronic identification service made available by a Member State or the Union pursuant to subparagraph B(3).

E. Collection of information on rented immovable property

Where a Seller is engaged in Relevant Activity involving the rental of immovable property, the Reporting Platform Operator shall collect the address of each Property Listing and, where issued, respective land registration number or its equivalent under the national law of the Member State where it is located. Where a Reporting Platform Operator facilitated more than 2 000 Relevant Activities by means of the rental of a Property Listing for the same Seller that is an Entity, the Reporting Platform Operator shall collect supporting documents, data or information that the Property Listing is owned by the same owner.

F. Timing and validity of due diligence procedures

1. A Reporting Platform Operator shall complete the due diligence procedures set out in paragraphs A to E by 31 December of the Reportable Period.
2. Notwithstanding subparagraph F(1), for Sellers that were already registered on the Platform as of 1 January 2023 or as of the date on which an Entity becomes a Reporting Platform Operator, the due diligence procedures set out in paragraphs A to E are required to be completed by 31 December of the second Reportable Period for the Reporting Platform Operator.
3. Notwithstanding subparagraph F(1), a Reporting Platform Operator may rely on the due diligence procedures conducted in respect of previous Reportable Periods, provided that:
 - (a) the Seller information required in subparagraphs B(1) and B(2) has been either collected and verified or confirmed within the last 36 months; and
 - (b) the Reporting Platform Operator does not have reason to know that information collected pursuant to paragraphs A, B and E is or has become unreliable or incorrect.

G. Application of the due diligence procedures to Active Sellers only

A Reporting Platform Operator may elect to complete the due diligence procedures pursuant to paragraphs A to F in respect of Active Sellers only.

H. Completion of the due diligence procedures by third parties

1. A Reporting Platform Operator may rely on a third party service provider to fulfil the due diligence obligations laid down in this Section, but such obligations shall remain the responsibility of the Reporting Platform Operator.
2. Where a Platform Operator fulfils the due diligence obligations for a Reporting Platform Operator with respect to the same Platform pursuant to subparagraph H(1), such Platform Operator shall carry out the due diligence procedures pursuant to the rules laid down in this Section. The due diligence obligations shall remain the responsibility of the Reporting Platform Operator.

SECTION III

REPORTING REQUIREMENTS

A. Time and manner of reporting

1. A Reporting Platform Operator within the meaning of point (a) of subparagraph A(4) of Section I shall report to the competent authority of the Member State determined in accordance with point (a) of subparagraph A(4) of Section I the information set out in paragraph B of this Section with respect to the Reportable Period no later than 31 January of the year following the calendar year in which the Seller is identified as a Reportable Seller. Where there is more than one Reporting Platform Operator, any of those Reporting Platform Operators shall be exempt from reporting the information if it has proof, in accordance with national law, that the same information has been reported by another Reporting Platform Operator.

2. If a Reporting Platform Operator within the meaning of point (a) of subparagraph A(4) of Section I fulfils any of the conditions listed therein in more than one Member State, it shall elect one of those Member States in which it will fulfil the reporting requirements set out in this Section. Such Reporting Platform Operator shall report the information listed in paragraph B of this Section with respect to the Reportable Period to the competent authority of the Member State of election, as this is determined in accordance with paragraph E of Section IV, no later than 31 January of the year following the calendar year in which the Seller is identified as a Reportable Seller. Where there is more than one Reporting Platform Operator, any of those Reporting Platform Operators shall be exempt from reporting the information if it has proof, in accordance with national law, that the same information has been reported by another Reporting Platform Operator in another Member State.
3. A Reporting Platform Operator within the meaning of point (b) of subparagraph A(4) of Section I shall report the information set out in paragraph B of this Section with respect to the Reportable Period to the competent authority of the Member State of registration, as this is determined in accordance with subparagraph F(1) of Section IV, no later than 31 January of the year following the calendar year in which the Seller is identified as a Reportable Seller.
4. Notwithstanding subparagraph A(3) of this Section, a Reporting Platform Operator within the meaning of point (b) of subparagraph A(4) of Section I shall not be required to provide the information set out in paragraph B of this Section with respect to Qualified Relevant Activities, covered by an Effective Qualifying Competent Authority Agreement, which already provides for the automatic exchange of equivalent information with a Member State on Reportable Sellers resident in that Member State.
5. A Reporting Platform Operator shall also provide the information set out in subparagraphs B(2) and B(3) to the Reportable Seller to which it relates, no later than 31 January of the year following the calendar year in which the Seller is identified as a Reportable Seller.
6. The information with respect to the Consideration paid or credited in a fiat currency shall be reported in the currency in which it was paid or credited. In case the Consideration was paid or credited in a form other than fiat currency, it shall be reported in the local currency, converted or valued in a manner that is consistently determined by the Reporting Platform Operator.
7. The information about the Consideration and other amounts shall be reported in respect of the quarter of the Reportable Period in which the Consideration was paid or credited.

B. Information to be reported

Each Reporting Platform Operator shall report the following information:

1. The name, registered office address, TIN and, where relevant, individual identification number allocated pursuant to subparagraph F(4) of Section IV of the Reporting Platform Operator, as well as the business name(s) of the Platform(s) in respect of which the Reporting Platform Operator is reporting.
2. With respect to each Reportable Seller that carried out Relevant Activity, other than immovable property rental:
 - (a) the information items required to be collected pursuant to paragraph B of Section II;
 - (b) the Financial Account Identifier, insofar as it is available to the Reporting Platform Operator and the competent authority of the Member State where the Reportable Seller is resident in the meaning of paragraph D of Section II has not published that it does not intend to use the Financial Account Identifier for this purpose;
 - (c) where different from the name of the Reportable Seller, in addition to the Financial Account Identifier, the name of the holder of the financial account to which the Consideration is paid or credited, to the extent available to the Reporting Platform Operator, as well as any other financial identification information available to the Reporting Platform Operator with respect to that account holder;
 - (d) each Member State in which the Reportable Seller is resident for the purposes of this Directive as determined pursuant to paragraph D of Section II;

- (e) the total Consideration paid or credited during each quarter of the Reportable Period and the number of Relevant Activities in respect of which it was paid or credited;
 - (f) any fees, commissions or taxes withheld or charged by the Reporting Platform Operator during each quarter of the Reportable Period.
3. With respect to each Reportable Seller that carried out Relevant Activity involving immovable property rental:
- (a) the information items required to be collected pursuant to paragraph B of Section II;
 - (b) the Financial Account Identifier, insofar as it is available to the Reporting Platform Operator and the competent authority of the Member State where the Reportable Seller is resident in the meaning of paragraph D of Section II has not published that it does not intend to use the Financial Account Identifier for this purpose;
 - (c) where different from the name of the Reportable Seller, in addition to the Financial Account Identifier, the name of the holder of the financial account to which the Consideration is paid or credited, to the extent available to the Reporting Platform Operator, as well as any other financial identification information available to the Reporting Platform Operator with respect to the account holder;
 - (d) each Member State in which the Reportable Seller is resident for the purposes of this Directive as determined pursuant to subparagraph D of Section II;
 - (e) the address of each Property Listing, determined on the basis of the procedures set out in paragraph E of Section II, and respective land registration number or its equivalent under the national law of the Member State where it is located, where available;
 - (f) the total Consideration paid or credited during each quarter of the Reportable Period and the number of Relevant Activities provided with respect to each Property Listing;
 - (g) any fees, commissions or taxes withheld or charged by the Reporting Platform Operator during each quarter of the Reportable Period;
 - (h) where available, the number of days each Property Listing was rented during the Reportable Period and the type of each Property Listing.

SECTION IV

EFFECTIVE IMPLEMENTATION

Pursuant to Article 8ac, Member States shall have rules and administrative procedures in place to ensure effective implementation of, and compliance with, the due diligence procedures and reporting requirements set out in Sections II and III of this Annex.

A. Rules to enforce the collection and verification requirements laid down in Section II

1. Member States shall take the necessary measures to require Reporting Platform Operators to enforce the collection and verification requirements under Section II in relation to their Sellers.
2. Where a Seller does not provide the information required under Section II after two reminders following the initial request by the Reporting Platform Operator, but not prior to the expiration of 60 days, the Reporting Platform Operator shall close the account of the Seller and prevent the Seller from re-registering on the Platform or withhold the payment of the Consideration to the Seller as long as the Seller does not provide the information requested.

B. Rules requiring Reporting Platform Operators to keep records of the steps undertaken and any information relied upon for the performance of the due diligence procedures and reporting requirements and adequate measures to obtain those records

1. Member States shall take the necessary measures to require Reporting Platform Operators to keep records of the steps undertaken and any information relied upon for the performance of the due diligence procedures and reporting requirements set out in Sections II and III. Such records shall remain available for a sufficiently long period of time and in any event for a period of not less than 5 years but not more than 10 years following the end of the Reportable Period to which they relate.

2. Member States shall take the necessary measures, including the possibility of addressing an order for reporting to Reporting Platform Operators, in order to ensure that all necessary information is reported to the competent authority so that the latter can comply with the obligation to communicate information in accordance with Article 8ac(2).

C. Administrative procedures to verify compliance of Reporting Platform Operators with the due diligence procedures and reporting requirements

Member States shall lay down administrative procedures to verify the compliance of Reporting Platform Operators with the due diligence procedures and reporting requirements set out in Sections II and III.

D. Administrative procedures to follow up with a Reporting Platform Operator where incomplete or inaccurate information is reported

Member States shall lay down procedures for following up with Reporting Platform Operators where the reported information is incomplete or inaccurate.

E. Administrative procedure for the election of a single Member State in which to report

If a Reporting Platform Operator within the meaning of point (a) of subparagraph A(4) of Section I fulfils any of the conditions listed therein in more than one Member State, it shall elect one of those Member States, to fulfil its reporting requirements pursuant to Section III. The Reporting Platform Operator shall notify all the competent authorities of those Member States of its election.

F. Administrative procedure for single registration of a Reporting Platform Operator

1. A Reporting Platform Operator within the meaning of point (b) of subparagraph A(4) of Section I of this Annex shall register with the competent authority of any Member State pursuant to Article 8ac(4) when it commences its activity as a Platform Operator.
2. The Reporting Platform Operator shall communicate to the Member State of its single registration the following information:
 - (a) name;
 - (b) postal address;
 - (c) electronic addresses, including websites;
 - (d) any TIN issued to the Reporting Platform Operator;
 - (e) a statement with information about identification of that Reporting Platform Operator for VAT purposes within the Union, pursuant to Title XII, Chapter 6, Sections 2 and 3 of Council Directive 2006/112/EC (*);
 - (f) Member States in which Reportable Sellers are residents within the meaning of paragraph D of Section II.
3. The Reporting Platform Operator shall notify the Member State of single registration of any changes in the information provided under subparagraph F(2).
4. The Member State of single registration shall allocate an individual identification number to the Reporting Platform Operator and shall notify it to the competent authorities of all Member States by electronic means.
5. The Member State of single registration shall request the Commission to delete a Reporting Platform Operator from the central register in the following cases:
 - (a) the Platform Operator notifies that Member State that it no longer carries out any activity as a Platform Operator;
 - (b) in the absence of a notification pursuant to point (a), there are grounds to assume that the activity of a Platform Operator has ceased;
 - (c) the Platform Operator no longer meets the conditions laid down in point (b) of subparagraph A(4) of Section I;
 - (d) the Member State revoked the registration with its competent authority pursuant to subparagraph F(7).

6. Each Member State shall forthwith notify the Commission of any Platform Operator within the meaning of point (b) of subparagraph A(4) of Section I that commences its activity as a Platform Operator while failing to register itself pursuant to this paragraph.

Where a Reporting Platform Operator does not comply with the obligation to register or where its registration has been revoked in accordance with subparagraph F(7) of this Section, Member States shall, without prejudice to Article 25a, take effective, proportionate and dissuasive measures to enforce compliance within their jurisdiction. The choice of such measures shall remain within the discretion of Member States. Member States shall also endeavour to coordinate their actions aimed at enforcing compliance, including the prevention of the Reporting Platform Operator from being able to operate within the Union as a last resort.

7. Where a Reporting Platform Operator does not comply with the obligation to report in accordance with subparagraph A(3) of Section III of this Annex after two reminders by the Member State of single registration, the Member State shall, without prejudice to Article 25a, take the necessary measures to revoke the registration of the Reporting Platform Operator made pursuant to Article 8ac(4). The registration shall be revoked not later than after the expiration of 90 days but not prior to the expiration of 30 days after the second reminder.

(*) Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ L 347, 11.12.2006, p. 1).'

II

(Non-legislative acts)

INTERNATIONAL AGREEMENTS

COUNCIL DECISION (EU) 2021/515

of 22 March 2021

on the signing, on behalf of the Union, of the Agreement in the form of an Exchange of Letters between the European Union and the Commonwealth of Australia pursuant to Article XXVIII of the General Agreement on Tariffs and Trade (GATT) 1994 relating to the modification of concessions on all the tariff-rate quotas included in the EU Schedule CLXXV as a consequence of the United Kingdom's withdrawal from the European Union

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular the first subparagraph of Article 207(4), in conjunction with Article 218(5) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) On 15 June 2018 the Council authorised the Commission to open negotiations pursuant to Article XXVIII of the General Agreement on Tariffs and Trade (GATT) 1994 on the apportionment of the tariff rate quotas included in the EU Schedule CLXXV as a consequence of the United Kingdom's withdrawal from the Union.
- (2) Negotiations with Australia have been concluded and an Agreement in the form of an Exchange of Letters between the European Union and the Commonwealth of Australia pursuant to Article XXVIII of the General Agreement on Tariffs and Trade (GATT) 1994 relating to the modification of concessions on all the tariff rate quotas included in the EU Schedule CLXXV as a consequence of the United Kingdom's withdrawal from the European Union (the 'Agreement') was initialled on 18 December 2020.
- (3) The Agreement should be signed,

HAS ADOPTED THIS DECISION:

Article 1

The signing on behalf of the Union of the Agreement in the form of an Exchange of Letters between the European Union and the Commonwealth of Australia pursuant to Article XXVIII of the General Agreement on Tariffs and Trade (GATT) 1994 relating to the modification of concessions on all the tariff rate quotas included in the EU Schedule CLXXV as a consequence of the United Kingdom's withdrawal from the European Union is hereby authorised, subject to the conclusion of the said Agreement ⁽¹⁾.

⁽¹⁾ The text of the Agreement will be published together with the decision on its conclusion.

Article 2

The President of the Council is hereby authorised to designate the person(s) empowered to sign the Agreement on behalf of the Union.

Article 3

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

Done at Brussels, 22 March 2021.

For the Council
The President
J. BORRELL FONTELLES

**COUNCIL DECISION (EU) 2021/516
of 22 March 2021**

on the signing, on behalf of the Union, of the Agreement in the form of an Exchange of Letters between the European Union and the Republic of Indonesia pursuant to Article XXVIII of the General Agreement on Tariffs and Trade (GATT) 1994 relating to the modification of concessions on all the tariff-rate quotas included in the EU Schedule CLXXV as a consequence of the United Kingdom's withdrawal from the European Union

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular the first subparagraph of Article 207(4), in conjunction with Article 218(5) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) On 15 June 2018 the Council authorised the Commission to open negotiations pursuant to Article XXVIII of the General Agreement on Tariffs and Trade (GATT) 1994 on the apportionment of the tariff-rate quotas included in the EU Schedule CLXXV as a consequence of the United Kingdom's withdrawal from the Union.
- (2) Negotiations with Indonesia have been concluded and an Agreement in the form of an Exchange of Letters between the European Union and the Republic of Indonesia pursuant to Article XXVIII of the General Agreement on Tariffs and Trade (GATT) 1994 relating to the modification of concessions on all the tariff-rate quotas included in the EU Schedule CLXXV as a consequence of the United Kingdom's withdrawal from the European Union (the 'Agreement') was initialled on 28 January 2021.
- (3) The Agreement should be signed,

HAS ADOPTED THIS DECISION:

Article 1

The signing on behalf of the Union of the Agreement in the form of an Exchange of Letters between the European Union and the Republic of Indonesia pursuant to Article XXVIII of the General Agreement on Tariffs and Trade (GATT) 1994 relating to the modification of concessions on all the tariff-rate quotas included in the EU Schedule CLXXV as a consequence of the United Kingdom's withdrawal from the European Union is hereby authorised, subject to the conclusion of the said Agreement ⁽¹⁾.

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The President of the Council is hereby authorised to designate the person(s) empowered to sign the Agreement on behalf of the Union.

Article 3

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

Done at Brussels, 22 March 2021.

For the Council
The President
J. BORRELL FONTELLES

⁽¹⁾ The text of the Agreement will be published together with the decision on its conclusion.

REGULATIONS

COMMISSION DELEGATED REGULATION (EU) 2021/517

of 11 February 2021

amending Delegated Regulation (EU) 2017/2361 as regards the arrangements for the payment of contributions to the administrative expenditures of the Single Resolution Board

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 806/2014 of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation (EU) No 1093/2010 ⁽¹⁾, and in particular Article 65(5) thereof,

Whereas:

- (1) When calculating the individual annual contributions referred to in Commission Delegated Regulation (EU) 2017/2361 ⁽²⁾, the Single Resolution Board ('the Board') relies in particular on the data on total assets and total risk exposures that the European Central Bank (ECB) collects from the entities that are subject to the Single Resolution Mechanism to calculate the supervisory fees referred to in Regulation (EU) No 1163/2014 of the European Central Bank ⁽³⁾. For this purpose, and pursuant to Article 6 of Delegated Regulation (EU) 2017/2361, the ECB annually transmits to the Board the data on each contribution debtor collected by the ECB in that year. Those data are to be transmitted within five working days from the issuance of the ECB's fee notices and in any case no later than 31 December of the year for which the fee notices are issued.
- (2) Regulation (EU) No 1163/2014 has been amended by Regulation (EU) 2019/2155 of the European Central Bank ⁽⁴⁾, inter alia to change the system whereby the ECB collects the data for determining the supervisory fees. Prior to that amendment, Regulation (EU) No 1163/2014 provided for the advance payment of the annual supervisory fees to the ECB. Following the amendment, Regulation (EU) No 1163/2014 provides for the levying of supervisory fees only after the end of the relevant fee period, once the actual annual expenditures have been determined, and requires the ECB to issue a fee notice to each fee debtor annually, within six months after the start of the following fee period.
- (3) Because the ECB now raises the supervisory fees only after the start of the Board's financial year, it can only transmit the most recent data to the Board subsequently. As a result, the deadlines laid down in Delegated Regulation (EU) 2017/2361 for the transmission of data from the ECB to the Board no longer enable the Board to calculate and raise in advance the individual annual contributions due for a given financial year. To maintain coherence between the Board's system of levying contributions in advance and the ECB's new regime, and to enable the Board to

⁽¹⁾ OJ L 225, 30.7.2014, p. 1.

⁽²⁾ Commission Delegated Regulation (EU) 2017/2361 of 14 September 2017 on the final system of contributions to the administrative expenditures of the Single Resolution Board (OJ L 337, 19.12.2017, p. 6).

⁽³⁾ Regulation (EU) No 1163/2014 of the European Central Bank of 22 October 2014 on supervisory fees (ECB/2014/41) (OJ L 311, 31.10.2014, p. 23).

⁽⁴⁾ Regulation (EU) 2019/2155 of the European Central Bank of 5 December 2019 amending Regulation (EU) No 1163/2014 on supervisory fees (ECB/2019/37) (OJ L 327, 17.12.2019, p. 70).

continue calculating and raising in advance the annual contributions, the deadlines for the transmission of the data and for the issuance of the contribution notices under Delegated Regulation (EU) 2017/2361 need to be amended. Since the deadline for the ECB to invoice the supervisory fees is by the end of June of each year, the Board should be entitled to raise advance instalments on contributions to cover expenditures for the part of its financial year preceding that date. To minimise the administrative burden on the entities and groups concerned, and on the Board, instalments should only be raised from entities and groups that fall under the direct responsibility of the Board.

- (4) Experience with the application of Delegated Regulation (EU) 2017/2361 has shown that it is important that changes in the composition of the group of entities falling within the scope of Article 2 of Regulation (EU) No 806/2014 and therefore required to contribute to the administrative expenditures of the Board are reflected in the annual calculation of the administrative contributions in a timely manner. The Board should therefore use the most recent information on the composition of the group of those entities. The ECB, national resolution authorities and national competent authorities should therefore assist the Board with all relevant information to assess whether an entity is obliged to contribute to the administrative expenditures of the Board. Furthermore, it is necessary to clarify in which way the Board is to treat cases where entries in the group of entities that are bound to contribute to the administrative expenditures of the Board occur at such a time of the year when the ECB no longer determines the corresponding data.
- (5) For operational reasons, it is necessary for the Board to have a clear cut-off date for determining the composition of the group of entities that enter the calculation of the annual contributions in a given year. The Board should revise that calculation in the following year to incorporate any changes that may have occurred after that cut-off date.
- (6) The ECB's shift from an *ex ante* fee issuance system to an *ex post* fee issuance system has resulted in a gap in the transmission of data from the ECB to the Board for the period from December 2019 to June 2021. To ensure that the Board is able to raise the resources to cover its administrative expenditures for 2021 with the data that are available to it at the beginning of that year, transitional arrangements are necessary for the financial year 2021. To reflect the situation of the contributing entities closer to financial year 2021, however, the Board should recalculate those contributions in 2022 on the basis of more recent data that will have become available to it in the meantime. The difference between the amount of the individual annual contribution due for the financial year 2021 as recalculated in year 2022 and the amount of that contribution as calculated in year 2021 should be added or subtracted, respectively, from the amount of the individual annual contribution due for the financial year 2022.
- (7) Since the Board needs to apply the transitional arrangements in order to raise the contributions for its administrative expenditures for the financial year 2021 as soon as possible after the beginning of the year, this Regulation should enter into force on the day following its publication. Such early entry into force has no impact on the entities subject to the contributions, as the general rule that the Board may use the latest available data in order to calculate the contributions, when the ECB has not provided the Board with the most recent data on time, is already established by Article 6(7) of Delegated Regulation (EU) 2017/2361. No preparation from the entities concerned is therefore required.
- (8) Delegated Regulation (EU) 2017/2361 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Delegated Regulation (EU) 2017/2361 is amended as follows:

- (1) the following Article 4a is inserted:

*'Article 4a***Advance instalments on the individual annual contributions**

1. Each financial year, prior to the receipt of the data in accordance with Article 6(1), the Board may raise advance instalments on the individual annual contributions for an amount up to 75 % of the amount of annual contributions referred to in Article 3(1) from the entities and groups referred to in Article 4(1), point (a), for that financial year. The advance instalment of each entity or group shall be calculated in proportion to the individual annual contributions calculated for such entity or group in the immediately preceding financial year.

2. The Board shall deduct the payment of the advance instalment from the entity's or group's individual annual contribution for that financial year.';

(2) Article 6 is amended as follows:

(a) paragraph 1 is replaced by the following:

'1. Each year, within five working days of the issuance by the ECB of fee notices in accordance with Article 12(1) of Regulation (EU) No 1163/2014, and in any case no later than 7 July of the year in which the fee notices are issued, the ECB shall provide the Board with the data on each contribution debtor as used by the ECB in that year to determine the supervisory fees in accordance with Regulation (EU) No 1163/2014.';

(b) the following paragraph 2a is inserted:

'2a. Where a contribution debtor is established in a given financial year and is not a supervised entity or a supervised group as referred to in Article 10(3), point (bc), of Regulation (EU) No 1163/2014, the individual annual contributions due by that contribution debtor for that financial year and for the following financial year shall be calculated by setting the fee factors to zero. In the third financial year for which an individual annual contribution is due by such contribution debtor, the administrative individual annual contribution due for the two preceding financial years shall be recalculated based on the fee factors used for that financial year, and the difference shall be settled accordingly.';

(c) paragraph 4 is replaced by the following:

'4. Where, for the purposes of this Regulation, the Board needs to identify whether an entity is part of the group that has nominated a given contribution debtor, or to verify whether an entity is obliged to contribute to the administrative expenditures of the Board, the ECB, national resolution authorities and national competent authorities shall assist the Board with all relevant information.';

(d) paragraph 6 is replaced by the following:

'6. For the calculation of the individual annual contributions due for a given financial year, the Board shall use the data used by the ECB in that year to determine the supervisory fees for the preceding year in accordance with Regulation (EU) No 1163/2014, and provided to the Board in accordance with this Article.';

(3) Article 7 is amended as follows:

(a) the following paragraph 4a is inserted:

'4a. For the purposes of calculating individual annual contributions due for a given financial year, the Board shall take into account any of the changes referred to in paragraphs 1, 2 and 3, that occur as of 1 January of that year, in the next financial year.';

(b) paragraph 6 is replaced by the following:

'6. Except as provided for in Article 6(2a), the individual annual contributions of entities or groups that are not subject to the changes referred to in paragraphs 1, 2 or 3 of this Article shall not be adjusted.';

(4) in Article 8, paragraphs 3 to 8 are replaced by the following:

'3. The contribution notice shall specify the amount of the individual annual contribution, or the advance instalment referred to in Article 4a, and the way in which the annual contribution or advance instalment shall be paid. The contribution notice shall be duly reasoned with regard to the factual and legal aspects of the individual contribution decision or advance instalment decision.

4. The Board shall address any other communication with regard to the individual annual contribution, including any settlement decision taken in accordance with Article 10(8), and, where applicable, with regard to the advance instalment, to the contribution debtor.

5. The individual annual contribution or advance instalment shall be payable in euros.

6. The contribution debtor shall pay the amount of the individual annual contribution or advance instalment within 35 calendar days of the issuance of the contribution notice. The contribution debtor shall comply with the requirements set out in the contribution notice with respect to the payment of the individual annual contribution or advance instalment. The date of payment shall be the date on which the Board's account is credited.

7. The individual annual contribution and, where applicable, the advance instalment, due by the entities referred to in Article 2 of Regulation (EU) No 806/2014 that are members of the same group shall be collected from the contribution debtor of that group.

8. Without prejudice to any other remedy available to the Board, in the event of partial payment, non-payment or non-compliance with the conditions for payment specified in the contribution notice, interest shall accrue on a daily basis on the outstanding amount of the individual annual contribution and, where applicable, of the advance instalment, at an interest rate of the ECB's main refinancing rate plus 8 percentage points from the date on which the payment was due.;

(5) Article 9 is amended as follows:

(a) paragraph 1 is replaced by the following:

'1. The payments of the individual annual contributions and advance instalments due and any interest for late payment pursuant to Article 8(8) shall be enforceable.;

(6) the following Article 14a is inserted:

'Article 14a

Transitional arrangements for the financial year 2021

In 2021, the Board shall calculate the individual annual contributions due for the financial year 2021 on the basis of the data provided by the ECB to the Board in 2019 and any subsequent updates thereto in accordance with Article 6. In 2022, the Board shall recalculate the individual annual contributions due for the financial year 2021 on the basis of the data provided by the ECB to the Board in 2021 in accordance with Article 6. Any difference between the amount originally calculated for the financial year 2021 and the recalculated amount shall be settled when calculating the individual annual contributions due for the financial year 2022.;

Article 2

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

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

Done at Brussels, 11 February 2021.

For the Commission
The President
Ursula VON DER LEYEN

COMMISSION IMPLEMENTING REGULATION (EU) 2021/518**of 18 March 2021****registering a geographical indication of a spirit drink under Article 30(2) of Regulation (EU) 2019/787 of the European Parliament and of the Council****‘Vasi vadkörte pálinka’**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2019/787 of the European Parliament and of the Council of 17 April 2019 on the definition, description, presentation and labelling of spirit drinks, the use of the names of spirit drinks in the presentation and labelling of other foodstuffs, the protection of geographical indications for spirit drinks, the use of ethyl alcohol and distillates of agricultural origin in alcoholic beverages, and repealing Regulation (EC) No 110/2008 ⁽¹⁾, and in particular Article 30(2) thereof,

Whereas:

- (1) In accordance with Article 17(5) of Regulation (EC) No 110/2008 of the European Parliament and of the Council ⁽²⁾, the Commission has examined Hungary's application of 14 October 2016 for the registration of the geographical indication ‘Vasi vadkörte pálinka’.
- (2) Regulation (EU) 2019/787, which replaces Regulation (EC) No 110/2008, entered into force on 25 May 2019. Under Article 49(1) thereof, Chapter III of Regulation (EC) No 110/2008 on geographical indications is repealed with effect from 8 June 2019.
- (3) After concluding that the application complied with Regulation (EC) No 110/2008, the Commission published the main specifications of the technical file in the *Official Journal of the European Union* ⁽³⁾ as required by Article 17(6) of that Regulation, in accordance with the first subparagraph of Article 50(4) of Regulation (EU) 2019/787.
- (4) No notice of opposition has been received by the Commission under Article 27(1) of Regulation (EU) 2019/787.
- (5) The name ‘Vasi vadkörte pálinka’ should therefore be registered as a geographical indication,

HAS ADOPTED THIS REGULATION:

Article 1

The geographical indication ‘Vasi vadkörte pálinka’ is hereby entered in the register. This Regulation grants the name ‘Vasi vadkörte pálinka’ the protection referred to in Article 21 of Regulation (EU) 2019/787 in accordance with Article 30(4) of that Regulation.

Article 2

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

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

⁽¹⁾ OJ L 130, 17.5.2019, p. 1.

⁽²⁾ Regulation (EC) No 110/2008 of the European Parliament and of the Council of 15 January 2008 on the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks and repealing Council Regulation (EEC) No 1576/89 (OJ L 39, 13.2.2008, p. 16).

⁽³⁾ OJ C 417, 2.12.2020, p. 59.

Done at Brussels, 18 March 2021.

For the Commission
On behalf of the President
Janusz WOJCIECHOWSKI
Member of the Commission

COMMISSION IMPLEMENTING REGULATION (EU) 2021/519**of 24 March 2021****amending Implementing Regulation (EU) 2015/1375 as regards testing for *Trichinella* in solipeds and the derogation of the United Kingdom from testing for *Trichinella* in domestic swine****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2017/625 of the European Parliament and of the Council of 15 March 2017 on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products, amending Regulations (EC) No 999/2001, (EC) No 396/2005, (EC) No 1069/2009, (EC) No 1107/2009, (EU) No 1151/2012, (EU) No 652/2014, (EU) 2016/429 and (EU) 2016/2031 of the European Parliament and of the Council, Council Regulations (EC) No 1/2005 and (EC) No 1099/2009 and Council Directives 98/58/EC, 1999/74/EC, 2007/43/EC, 2008/119/EC and 2008/120/EC, and repealing Regulations (EC) No 854/2004 and (EC) No 882/2004 of the European Parliament and of the Council, Council Directives 89/608/EEC, 89/662/EEC, 90/425/EEC, 91/496/EEC, 96/23/EC, 96/93/EC and 97/78/EC and Council Decision 92/438/EEC (Official Controls Regulation) ⁽¹⁾, and in particular point (a) of the first subparagraph of Article 18(8) thereof,

Whereas:

- (1) Regulation (EU) 2017/625 lays down rules for the performance of official controls and for action to be taken by the competent authorities in relation to the production of products of animal origin intended for human consumption.
- (2) *Trichinella* is a parasite which may be present in the meat of susceptible species, such as pigs and horses, and causes food-borne illness in humans when infected meat is consumed. Commission Implementing Regulation (EU) 2015/1375 ⁽²⁾ lays down specific rules on official controls for *Trichinella* in meat, including conditions for derogating from *Trichinella* testing at entry of meat of domestic swine into the Union.
- (3) On 6 June 2013, the European Food Safety Authority adopted a scientific opinion on the human health hazards to be covered by the inspection of meat (solipeds) ⁽³⁾. That opinion recommends the control of *Trichinella* in all solipeds (not only horses but also asses and mules) as a high priority. Commission Implementing Regulation (EU) 2019/627 ⁽⁴⁾ therefore lays down the mandatory testing of *Trichinella* in the carcasses of all solipeds. Implementing Regulation (EU) 2015/1375 lays down the mandatory testing of horses and other susceptible species. For reasons of consistency and to avoid any ambiguity, Implementing Regulation (EU) 2015/1375 should also refer to solipeds instead of horses.
- (4) Commission Regulation (EU) No 206/2010 ⁽⁵⁾ authorises the entry into the Union of meat of domestic swine from the United Kingdom. That Regulation lists the United Kingdom as applying a derogation from *Trichinella* testing of carcasses and meat of not weaned domestic swine less than five weeks of age in accordance with Article 3(2) of Implementing Regulation (EU) 2015/1375.

⁽¹⁾ OJ L 95, 7.4.2017, p. 1.

⁽²⁾ Commission Implementing Regulation (EU) 2015/1375 of 10 August 2015 laying down specific rules on official controls for *Trichinella* in meat (OJ L 212, 11.8.2015, p. 7).

⁽³⁾ EFSA Journal 2013;11(6):3263.

⁽⁴⁾ Commission Implementing Regulation (EU) 2019/627 of 15 March 2019 laying down uniform practical arrangements for the performance of official controls on products of animal origin intended for human consumption in accordance with Regulation (EU) 2017/625 of the European Parliament and of the Council and amending Commission Regulation (EC) No 2074/2005 as regards official controls (OJ L 131, 17.5.2019, p. 51).

⁽⁵⁾ Commission Regulation (EU) No 206/2010 of 12 March 2010 laying down lists of third countries, territories or parts thereof authorised for the introduction into the European Union of certain animals and fresh meat and the veterinary certification requirements (OJ L 73, 20.3.2010, p. 1).

- (5) Commission Delegated Regulation (EU) 2020/692 ⁽⁶⁾ repeals Regulation (EU) No 206/2010 with effect from 21 April 2021. In view of that repeal, Commission Implementing Regulation (EU) 2020/1478 ⁽⁷⁾ adds Annex VII to Implementing Regulation (EU) 2015/1375 with effect from 21 April 2021, which lists the third countries applying a derogation from *Trichinella* testing referred to in Article 13(2) of Implementing Regulation (EU) 2015/1375.
- (6) On 12 January 2021, the United Kingdom provided information that historical data on continuous testing carried out on slaughtered domestic swine population provide at least 95 % confidence that the prevalence of *Trichinella* does not exceed one per million in that population in accordance with Article 3(3)(b) of Implementing Regulation (EU) 2015/1375. Furthermore, the United Kingdom informed the Commission of its intention to apply the derogation from *Trichinella* testing of carcasses and meat of domestic swine where the animals come from a holding officially recognised as applying controlled housing conditions in accordance with Annex IV to that Implementing Regulation.
- (7) Therefore, the United Kingdom should be listed in Annex VII to Implementing Regulation (EU) 2015/1375, without prejudice to the application of Union law to and in the United Kingdom in respect of Northern Ireland in accordance with Article 5(4) of the Protocol on Ireland/Northern Ireland to the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community in conjunction with Annex 2 to that Protocol.
- (8) Annex VII to Implementing Regulation (EU) 2015/1375 should be amended in order to reflect the application of the derogations provided for in Article 3(2) and (3) of that Implementing Regulation by the United Kingdom.
- (9) Therefore, Implementing Regulation (EU) 2015/1375 should be amended accordingly.
- (10) Since Regulation (EU) No 206/2010 is repealed with effect from 21 April 2021 and Implementing Regulation (EU) 2020/1478 adds Annex VII to Implementing Regulation (EU) 2015/1375 with effect from that date, the listing of the United Kingdom in that Annex should apply from the same date.
- (11) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

HAS ADOPTED THIS REGULATION:

Article 1

Implementing Regulation (EU) 2015/1375 is amended as follows:

- (1) Article 2 is amended as follows:

- (a) the first subparagraph of paragraph 2 is replaced by the following:

‘Carcasses of solipeds, wild boar and other farmed and wild animal species susceptible to *Trichinella* infestation shall be systematically sampled in slaughterhouses or game-handling establishments as part of the post-mortem examination.’;

- (b) paragraph 3 is replaced by the following:

‘3. Pending the results of the *Trichinella* examination and provided full traceability is guaranteed by the food business operator, carcasses of domestic swine and of solipeds may be cut up into a maximum of six parts in a slaughterhouse or in a cutting plant on the same premises.’;

⁽⁶⁾ Commission Delegated Regulation (EU) 2020/692 of 30 January 2020 supplementing Regulation (EU) 2016/429 of the European Parliament and of the Council as regards rules for entry into the Union, and the movement and handling after entry of consignments of certain animals, germinal products and products of animal origin (OJ L 174, 3.6.2020, p. 379).

⁽⁷⁾ Commission Implementing Regulation (EU) 2020/1478 of 14 October 2020 amending Implementing Regulation (EU) 2015/1375 as regards sampling, the reference method for detection and import conditions related to *Trichinella* control (OJ L 338, 15.10.2020, p. 7).

(2) in Annex III, the introductory phrase and points (a) and (b) are replaced by the following:

‘Soliped meat, wild game meat and other meat that could contain *Trichinella* parasites must be examined in accordance with one of the digestion methods specified in Chapter I or II of Annex I, with the following changes:

(a) specimens weighing at least 10 g are taken from the lingual or jaw muscle of solipeds and from the foreleg, tongue or diaphragm of wild boar;

(b) in the case of solipeds, where those muscles are lacking, a larger-sized specimen is to be taken from a pillar of the diaphragm at the transition to the sinewy part. The muscle must be clean of connective tissue and fat;’

(3) in Annex IV, point (b) of Chapter II is replaced by the following:

‘(b) The number of tests and the results of testing for *Trichinella* in domestic swine, wild boar, solipeds, game and any other susceptible animals shall be submitted in accordance with Annex IV to Directive 2003/99/EC. Data on domestic swine shall, at least, provide specific information related to:

(i) tests on animals raised under controlled housing conditions;

(ii) tests on breeding sows, boars and fattening pigs.’;

(4) Annex VII is replaced by the following:

‘ANNEX VII

Third countries or regions thereof applying the derogations referred to in Article 13(2)

Country ISO code	Third country or regions thereof	Remarks
GB	United Kingdom (*)	Application of the derogations provided for in Article 3(2) and (3)’

(*) In accordance with the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community, and in particular Article 5(4) of the Protocol on Ireland/Northern Ireland in conjunction with Annex 2 to that Protocol, for the purposes of this Annex, references to the United Kingdom do not include Northern Ireland..

Article 2

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

Article 1(4) shall apply from 21 April 2021.

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

Done at Brussels, 24 March 2021.

For the Commission
The President
Ursula VON DER LEYEN

COMMISSION IMPLEMENTING REGULATION (EU) 2021/520**of 24 March 2021****laying down rules for the application of Regulation (EU) 2016/429 of the European Parliament and of the Council with regard to the traceability of certain kept terrestrial animals****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2016/429 of the European Parliament and of the Council of 9 March 2016 on transmissible animal diseases and amending and repealing certain acts in the area of animal health ('Animal Health Law') ⁽¹⁾, and in particular Article 120(1) and Article 120(2)(c), (d) and (f) thereof,

Whereas:

- (1) Regulation (EU) 2016/429 lays down traceability requirements for kept terrestrial animals and germinal products and empowers the Commission to adopt implementing acts in that respect.
- (2) Commission Delegated Regulation (EU) 2019/2035 ⁽²⁾ supplements Regulation (EU) 2016/429 by providing detailed rules concerning the traceability of kept terrestrial animals and hatching eggs.
- (3) To ensure the uniform application in the Union of the traceability rules laid down in Regulation (EU) 2016/429 and Delegated Regulation (EU) 2019/2035, certain rules should be adopted by means of this Regulation.
- (4) Articles 112, 113 and 115 of Regulation (EU) 2016/429 lay down obligations for operators keeping animals of bovine, ovine, caprine and porcine species to transmit information related to their animals into the computer databases set up in accordance with Article 109(1) of that Regulation. To ensure that all updates are transmitted to those databases regularly, it is necessary to specify in this Regulation the deadlines for transmitting that information.
- (5) Moreover, the information transmitted by the operators of kept bovine, ovine, caprine and porcine animals should be accessible to them in respect of their animals and their establishments after transmission. Rules for uniform access to data contained in the computer databases set up in accordance with Article 109(1) of Regulation (EU) 2016/429 should therefore be laid down in this Regulation.
- (6) In addition, certain other technical and operational details and formats of computer databases for kept bovine, ovine, caprine and porcine animals should also be laid down in this Regulation in order to ensure comparable quality of databases across the Union.
- (7) Under the conditions set out in Article 110(1)(b) and in point (b) of Article 112 of Regulation (EU) 2016/429, the exchange of electronic data between Member States may replace the issuing of identification documents for bovine animals when those animals are moved between Member States. The BOVEX protocol, established by the Commission, is designed for the exchange of electronic data between computer databases of Member States in respect of bovine animals. The Commission should recognise the full operability of those exchanges of electronic data between computer databases of Member States following this protocol.

⁽¹⁾ OJ L 84, 31.3.2016, p. 1.

⁽²⁾ Commission Delegated Regulation (EU) 2019/2035 of 28 June 2019 supplementing Regulation (EU) 2016/429 of the European Parliament and of the Council as regards rules for establishments keeping terrestrial animals and hatcheries, and the traceability of certain kept terrestrial animals and hatching eggs (OJ L 314, 5.12.2019, p. 115).

- (8) Whilst the means of identification to be used for various species of terrestrial animals, in particular kept bovine, ovine, caprine, porcine, camelid and cervid animals and psittacidae, are determined by Delegated Regulation (EU) 2019/2035, the technical specifications for these means of identification should be set out in this Regulation.
- (9) Delegated Regulation (EU) 2019/2035 sets out requirements for electronic identification of kept bovine, ovine, caprine, porcine, camelid and cervid animals and psittacidae. Such electronic identifiers should be approved by the competent authority of the Member State where the animals are kept. In order to ensure the readability of those electronic identifiers when animals are moved between Member States, the rules and conditions under which the competent authority may approve such electronic identifiers should be laid down in this Regulation. Those approvals should also take account of relevant ISO/IEC standards.
- (10) To ensure uniform application of identification and traceability throughout the Union, the periods for the application of the means of identification to kept bovine, ovine, caprine, porcine, camelid and cervid animals and psittacidae should be set out in this Regulation.
- (11) Until the date of application of Regulation (EU) 2016/429, Union rules on traceability include various exemptions from the identification and registration system with respect to some categories of animals, such as animals kept under extensive conditions. It is appropriate to review those rules and apply a balanced and harmonised approach to the exemptions from the identification and registration system, taking into account the relevant risks on the one hand and the proportionality and efficiency of the measures on the other hand. New rules reflecting this approach should therefore be laid down in this Regulation.
- (12) It is essential to preserve full traceability of kept bovine, ovine, caprine, porcine, camelid and cervid animals and psittacidae at any moment and avoid any operations that may jeopardise traceability. Removals, modifications and replacements of the means of identification are operations that could jeopardise traceability. Therefore those operations are to be carried out only after the competent authority has granted operators permission to do so. Certain rules concerning removals, modifications and replacements are laid down in Delegated Regulation (EU) 2019/2035. Additional provisions for those operations are needed to address specific aspects, including the deadlines of those operations, and should be laid down in this Regulation.
- (13) In order to ensure a smooth transition to the new legal framework, operators in Member States should be in a position to continue to use the means of identification approved before 21 April 2021 in accordance with Regulation (EC) No 1760/2000 of the European Parliament and of the Council ⁽³⁾, Council Regulation (EC) No 21/2004 ⁽⁴⁾ and Council Directive 2008/71/EC ⁽⁵⁾, as well as with the acts adopted on the basis of those Regulations and that Directive for a transitional period not exceeding 2 years from the date of application of this Regulation.
- (14) As Regulation (EU) 2016/429 applies with effect from 21 April 2021, this Regulation should also apply from that date.
- (15) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

⁽³⁾ Regulation (EC) No 1760/2000 of the European Parliament and of the Council of 17 July 2000 establishing a system for the identification and registration of bovine animals and regarding the labelling of beef and beef products and repealing Council Regulation (EC) No 820/97 (OJ L 204, 11.8.2000, p. 1).

⁽⁴⁾ Council Regulation (EC) No 21/2004 of 17 December 2003 establishing a system for the identification and registration of ovine and caprine animals and amending Regulation (EC) No 1782/2003 and Directives 92/102/EEC and 64/432/EEC (OJ L 5, 9.1.2004, p. 8).

⁽⁵⁾ Council Directive 2008/71/EC of 15 July 2008 on the identification and registration of pigs (OJ L 213, 8.8.2008, p. 31).

HAS ADOPTED THIS REGULATION:

CHAPTER 1

GENERAL PROVISIONS

Article 1

Subject matter and scope

This Regulation lays down rules concerning:

- (1) the deadlines for the transmission of information by operators for the registration of kept bovine, ovine, caprine and porcine animals in computer databases;
- (2) uniform access to data contained in computer databases of kept bovine, ovine, caprine and porcine animals and the technical specifications and operational rules of such databases;
- (3) the technical conditions and modalities for the exchange of electronic data in respect of kept bovine animals between Member States' computer databases and the recognition of full operability of a data exchange system;
- (4) the technical specifications, formats and design for means of identification of kept bovine, ovine, caprine, porcine, camelid and cervid animals;
- (5) the technical requirements for means of identification of kept psittacidae;
- (6) the time periods for the application of means of identification of kept bovine, ovine, caprine, porcine, camelid and cervid animals born in the Union or after the entry into the Union of those animals;
- (7) the configuration of the identification code of kept bovine, ovine, caprine, camelid and cervid animals;
- (8) the removal, modification and replacement of means of identification of kept bovine, ovine, caprine, porcine, camelid and cervid animals and the deadlines for such operations;
- (9) transitional measures regarding approval of means of identification.

Article 2

Definitions

For the purposes of this Regulation, the definitions laid down in Article 2 of Delegated Regulation (EU) 2019/2035 shall apply.

CHAPTER 2

COMPUTER DATABASES

Article 3

Deadlines and procedures for the transmission of information by operators for the registration of kept bovine, ovine, caprine and porcine animals

1. Operators keeping bovine, ovine, caprine and porcine animals shall transmit the information on movements, births and deaths referred to in point (d) of Article 112 of Regulation (EU) 2016/429 and on movements referred to in Article 113(1)(c) of that Regulation and in point (b) of Article 56 of Delegated Regulation (EU) 2019/2035 for registration in the computer databases set up for those species within a time period for transmission to be determined by the Member States. The maximum time period to transmit the information shall not exceed 7 days following the movement, birth or death of the animals, as applicable.

2. In the case of births, when determining the maximum time period for transmitting the information, Member States may use the date when the means of identification is applied to the animal as the starting point of the time period concerned, provided that there is no risk of confusion between this date and the date of birth of the animal.

3. By way of derogation from paragraph 1, the competent authority may extend the maximum time period to transmit the information on movements referred to in paragraph 1 up to 14 days following movements of bovine animals within the same Member State from establishments of origin to registered pasture establishments located in mountain areas for grazing. The competent authority may decide to accept lists of the bovine animals subject to movements to registered pasture establishments from the operators of those establishments. Those lists shall contain:

- (a) the unique registration number of the registered pasture establishment;
- (b) the animals' identification code;
- (c) the unique registration number of the establishment of origin;
- (d) the animals' date of arrival at the registered pasture establishment;
- (e) the animals' estimated date of departure from the registered pasture establishment.

Article 4

Uniform access to data contained in computer databases of kept bovine, ovine, caprine and porcine animals

Member States shall ensure that operators keeping bovine, ovine, caprine and porcine animals have, on their request and free of charge, at least read-only access to a minimum of information related to their establishments that is contained in the computer databases referred to in Article 109(1)(a) to (c) of Regulation (EU) 2016/429.

Article 5

Technical specifications for computer databases of kept bovine, ovine, caprine and porcine animals

Member States shall ensure that the computer databases of kept bovine, ovine, caprine and porcine animals referred to in Article 109(1)(a) to (c) of Regulation (EU) 2016/429 are set up in such a way that the information recorded in those databases can be exchanged between computer databases of Member States in the format set out in the third column of the table in Annex I to this Regulation.

Article 6

Operational rules of computer databases of kept bovine, ovine, caprine and porcine animals

Member States shall implement appropriate technical and organisational measures to ensure that the computer databases of kept bovine, ovine, caprine and porcine animals referred to in Article 109(1)(a) to (c) of Regulation (EU) 2016/429 continue operating in the face of potential disruptions. Those measures shall also guarantee the security, integrity and authenticity of the information recorded in such databases.

Article 7

Technical conditions and modalities for the electronic exchange of identification document data in respect of kept bovine animals between Member States' computer databases

1. When Member States exchange electronically with other Member States identification document data in respect of kept bovine animals that is referred to in points (a) to (c) of Article 44 of Delegated Regulation (EU) 2019/2035, that data shall be exchanged in the format of XML Schema Definition made available by the Commission to the competent authority.

2. The competent authority in the Member State of origin of the kept bovine animals intended to be moved shall ensure that the identification document data is transmitted electronically to the Member State of destination before the departure of the animals, and that a timestamp is provided with each transmission.

Article 8

Recognition of the full operability of a system for electronic exchange of identification document data in respect of kept bovine animals between Member States' computer databases

1. Member States exchanging electronically identification document data through a system established by the Commission and designed for the exchange of data in respect of kept bovine animals between Member States' computer databases shall be recognised as having a system of full operability.
2. The Commission shall establish and make public on its website the list of Member States exchanging identification document data through that system.

CHAPTER 3

MEANS OF IDENTIFICATION

Article 9

Technical specifications, formats and design for means of identification of kept bovine, ovine, caprine, porcine, camelid and cervid animals

1. The competent authority shall only approve the use of conventional ear tags or conventional pastern bands referred to in points (a) and (b) of Annex III to Delegated Regulation (EU) 2019/2035 as means of identification of kept bovine, ovine, caprine, porcine, camelid and cervid animals, if those means of identification fulfil the technical specification set out in Part 1 of Annex II to this Regulation.
2. The competent authority shall only approve the use of tattoos referred to in point (g) of Annex III to Delegated Regulation (EU) 2019/2035 as means of identification of kept ovine, caprine, porcine and cervid animals, as provided for in Article 46(2) and (3) and in Articles 52(1)(b), 73(2)(c) and 76(1)(c) of that Delegated Regulation, if those tattoos ensure indelible marking and proper reading.
3. The competent authority shall only approve the use of electronic identifiers referred to in points (c) to (f) of Annex III to Delegated Regulation (EU) 2019/2035 as means of identification of kept bovine, ovine, caprine, porcine, camelid and cervid animals, if those means of identification fulfil the technical specifications set out in Part 2 of Annex II to this Regulation. In addition, the electronic identifiers referred to in points (c) and (f) of Annex III to Delegated Regulation (EU) 2019/2035 shall fulfil the technical specification set out in Part 1 of Annex II to this Regulation.
4. By way of derogation from paragraph 3, the competent authority may approve the use of electronic ear tags as means of identification of kept porcine animals, if those means of identification fulfil the technical specifications laid down by the Member State where the porcine animals are kept, and display visibly, legibly and indelibly the unique registration number of:
 - (a) the establishment of birth of the animals; or
 - (b) the last establishment of the supply chain referred to in Article 53 of Delegated Regulation (EU) 2019/2035, when those animals are moved to an establishment outside that supply chain.

*Article 10***Technical specifications, formats and design for means of identification of kept psittacidae**

1. Operators keeping psittacidae shall ensure that:
 - (a) the leg ring referred to in Article 76(1)(a) of Delegated Regulation (EU) 2019/2035 fulfils the technical specifications set out in Part 1 of Annex II to this Regulation;
 - (b) the tattoo referred to in Article 76(1)(c) of Delegated Regulation (EU) 2019/2035 ensures indelible marking and proper reading.
2. The competent authority shall only approve the use of injectable transponders referred to in Article 76(1)(b) of Delegated Regulation (EU) 2019/2035 as means of identification of kept psittacidae, if those means of identification fulfil the technical specifications set out in point 2 of Part 2 of Annex II to this Regulation.

*Article 11***Operational rules for the approval of electronic identifiers of kept bovine, ovine, caprine, porcine, camelid and cervid animals and psittacidae**

1. When granting approval of the electronic identifiers referred to in points (c) to (f) of Annex III to Delegated Regulation (EU) 2019/2035 of kept bovine, ovine, caprine, porcine, camelid and cervid animals and psittacidae, the competent authority shall ensure that the manufacturers of the electronic identifiers have provided evidence that the conformance and performance tests referred to in point 4 of Part 2 of Annex II to this Regulation have been carried out in test centres accredited in accordance with ISO/IEC standard 17025 'General requirements for the competence of testing and calibration laboratories'.
2. When granting approval of the electronic identifiers referred to in paragraph 1, the competent authority may require that the manufacturers of the electronic identifiers apply additional tests for robustness and endurance to ensure their functionality under the specific geographic or climatic conditions of the Member State concerned in accordance with standards laid down by that Member State.

*Article 12***Configuration of the identification code of kept bovine, ovine, caprine, camelid and cervid animals**

The identification code of kept bovine, ovine, caprine, camelid and cervid animals shall be as follows:

- (a) the first element of the identification code shall be the country code of the Member State where the means of identification was first applied to the animals, in the format of either:
 - (i) the two-letter code in accordance with ISO standard 3166-1 alpha-2, except for Greece, for which the two-letter code 'EL' shall be used; or
 - (ii) the three-digit country code in accordance with ISO standard 3166-1 numeric;
- (b) the second element of the identification code shall be a unique code for each animal not exceeding 12 numeric characters.

*Article 13***Time periods for the application of means of identification of kept bovine animals**

1. Operators shall ensure that the means of identification referred to in point (a) of Article 112 of Regulation (EU) 2016/429 are applied to kept bovine animals before the expiry of a maximum time period after birth, to be determined by the Member State in which the animals were born. The maximum time period shall be calculated from the date of birth of the animals and shall not exceed 20 days.

2. By way of derogation from paragraph 1, Member States may authorise operators to extend the maximum time period for the application of a second means of identification to up to 60 days, following the date of birth of the animals, for reasons related to the physiological development of the animals, if the second means of identification is a ruminal bolus.

3. By way of derogation from paragraph 1, Member States may authorise operators to extend the maximum time period referred to in paragraph 1 to up to 9 months, under the following conditions:

- (a) the animals are:
 - (i) reared under extensive conditions, with calves staying with their mothers;
 - (ii) not accustomed to regular contact with humans;
- (b) the area where the animals are kept, ensures a high degree of isolation of the animals;
- (c) the extension does not compromise the traceability of the animals.

Member States may restrict the authorisation referred to in the first subparagraph to particular geographical regions or specific species or breeds of kept bovine animals.

4. Operators shall ensure that no kept bovine animals leave the establishment of birth unless the means of identification referred to in point (a) of Article 112 of Regulation (EU) 2016/429 have been applied to those animals.

Article 14

Time periods for the application of means of identification of kept ovine and caprine animals

1. Operators shall ensure that the means of identification referred to in Article 113(1)(a) of Regulation (EU) 2016/429 are applied to kept ovine and caprine animals before the expiry of a maximum time period after birth, to be determined by the Member State in which the animals were born. The maximum time period shall be calculated from the date of birth of the animals and shall not exceed 9 months.

2. Operators shall ensure that no kept ovine or caprine animals leave the establishment of birth unless the means of identification referred to in Article 113(1)(a) of Regulation (EU) 2016/429 have been applied to those animals.

Article 15

Time periods for the application of means of identification of kept porcine animals

1. Operators shall ensure that the means of identification referred to in point (a) of Article 115 of Regulation (EU) 2016/429 are applied to kept porcine animals before the expiry of a maximum time period after birth, to be determined by the Member State in which the animals were born. The maximum time period shall be calculated from the date of birth of the animals and shall not exceed 9 months.

2. Operators shall ensure that no kept porcine animals leave the establishment of birth or exit the supply chain unless the means of identification referred to in point (a) of Article 115 of Regulation (EU) 2016/429 have been applied to those animals.

Article 16

Time periods for the application of means of identification of kept camelid and cervid animals

1. Operators shall ensure that the means of identification referred to in Article 73(1) and (2) of Delegated Regulation (EU) 2019/2035 are applied to kept camelid and cervid animals before the expiry of a maximum time period after birth, to be determined by the Member State in which the animals were born. The maximum time period shall be calculated from the date of birth of the animals and shall not exceed 9 months.

2. Operators shall ensure that no kept camelid or cervid animals leave the establishment of birth or the establishment of first arrival if those animals were moved to that establishment from the habitat where they stayed as wild animals, unless the means of identification referred to in Article 73(1) and (2) of Delegated Regulation (EU) 2019/2035 have been applied to those animals.
3. The competent authority may exempt operators keeping reindeer from the requirements in paragraphs 1 and 2, provided that the exemption does not compromise the traceability of the animals.
4. By way of derogation from paragraph 1, Member States may exempt operators keeping cervid animals from the requirements in paragraph 1, under the following conditions:
 - (a) the animals are:
 - (i) reared under extensive conditions;
 - (ii) not accustomed to regular contact with humans;
 - (b) the area where the animals are kept, ensures a high degree of isolation of the animals;
 - (c) the exemption does not compromise the traceability of the animals.

Article 17

Time periods for the application of means of identification of kept bovine, ovine, caprine, porcine, camelid and cervid animals after their entry into the Union

1. After the entry into the Union of kept bovine, ovine, caprine, porcine, camelid and cervid animals and where those animals remain in the Union, operators shall ensure that the means of identification referred to in Article 81 of Delegated Regulation (EU) 2019/2035 are applied to those animals within 20 days following their arrival at the establishment of first arrival.
2. By way of derogation from paragraph 1, Member States of first arrival may authorise operators to extend the maximum time period for the application of a second means of identification to up to 60 days, following the date of birth of the animals, for reasons related to the physiological development of the animals, if the second means of identification is a ruminal bolus.
3. Operators shall ensure that no kept bovine, ovine, caprine, porcine, camelid or cervid animals leave the establishment of first arrival unless the means of identification referred to in Article 81 of Delegated Regulation (EU) 2019/2035 have been applied to those animals.

Article 18

Removal and modification of means of identification of kept bovine, ovine, caprine, porcine, camelid and cervid animals

The competent authority may only authorise operators to remove or modify the means of identification of kept bovine, ovine, caprine, porcine, camelid and cervid animals if the removal or modification does not compromise the traceability of the animals, including the traceability of the establishment in which they were born, and if individual identification of the animals, if applicable, remains possible.

Article 19

Replacement of means of identification of kept bovine, ovine, caprine, porcine, camelid and cervid animals and deadlines for such operations

1. The competent authority may only authorise operators to replace the means of identification of kept bovine, ovine, caprine, porcine, camelid and cervid animals if the replacement does not compromise the traceability of the animals, including the traceability of the establishment in which they were born, and if individual identification of the animals, if applicable, remains possible.

2. The replacement referred to in paragraph 1 may be authorised as follows:
- (a) where animals have been identified by two means of identification and one of those means of identification has become illegible or has been lost, provided that the animals' identification code remains unchanged and continues to match the code on the remaining means of identification;
 - (b) where animals have been identified by one or two means of identification displaying the animals' identification code and those means of identification have become illegible or have been lost, provided that it remains possible to determine the animals' identification code with reasonable certainty and the animals' identification code remains unchanged;
 - (c) where kept ovine, caprine or porcine animals have been identified by a means of identification displaying the unique registration number of an establishment and that means of identification has become illegible or has been lost, provided that it remains possible to determine with reasonable certainty the establishment of birth of the animals or, if applicable, the last establishment of the supply chain, and that the replacement means of identification displays the unique registration number of that establishment or, if applicable, that last establishment.
 - (d) in case of kept ovine and caprine animals, the replacement of the means of identification referred to in points (a) and (b) with new means of identification displaying a new identification code may be authorised, provided that the traceability is not compromised.
3. The replacement of the means of identification referred to in paragraph 1 shall be carried out as soon as possible and before the expiry of a maximum time period, to be determined by the Member State whose competent authority authorised operators to replace the means of identification, and before the animals are moved to another establishment.
4. Where the identification code of kept bovine, ovine, caprine and porcine animals displayed on the means of identification referred to in points (a) and (b) of Annex III to Delegated Regulation (EU) 2019/2035 cannot be reproduced on an electronic identifier due to technical limitations, the competent authority shall only allow the application to those animals of a new electronic identifier displaying a new identification code, if both identification codes are recorded in the computer databases referred to in Article 109(1) of Regulation (EU) 2016/429.

CHAPTER 4

TRANSITIONAL AND FINAL PROVISIONS

Article 20

Transitional measures regarding approvals of means of identification

By way of derogation from Articles 9, 10 and 11 of this Regulation, for a transitional period ending on 20 April 2023, Member States may continue to use the means of identification approved before 21 April 2021 in accordance with Regulations (EC) No 1760/2000 and (EC) No 21/2004 and Directive 2008/71/EC, as well as with the acts adopted on the basis of those Regulations and that Directive.

Article 21

Entry into force and application

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

It shall apply from 21 April 2021.

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

Done at Brussels, 24 March 2021.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX I

Technical specifications for information formats in computer databases of kept bovine, ovine, caprine and porcine animals

Type of information	Description	Format
Identification code of the animal	Country code	One of the following options: Letter code: ISO 3166-1 alpha-2 code ⁽¹⁾ Numeric code: ISO 3166-1 numeric code
	Unique code for each animal	12 numeric characters
Electronic identifier (optional)		One of the following options: — Electronic ear tag — Ruminal bolus — Injectable transponder — Electronic pastern band
Unique registration number of establishment		Country code followed by 12 alphanumeric characters
Name of operator of establishment		140 alphanumeric characters
Address of operator of establishment	Street name and house number	140 alphanumeric characters
	Postcode	10 alphanumeric characters
	City	35 alphanumeric characters
Date		Date (YYYY-MM-DD)
Total number of animals		15 numeric characters

⁽¹⁾ Except for Greece, for which the two-letter code 'EL' shall be used.

ANNEX II

PART 1

Technical specifications for means of identification of kept bovine, ovine, caprine, porcine, camelid and cervid animals and psittacidae

1. The means of identification referred to in points (a), (b), (c), (f) and (h) of Annex III to Delegated Regulation (EU) 2019/2035 of kept bovine, ovine, caprine, porcine, camelid and cervid animals and psittacidae shall be:
 - (a) non-reusable;
 - (b) of non-degradable material;
 - (c) tamper-proof;
 - (d) easy to read throughout the animals' lifetime;
 - (e) designed in such way that they can remain securely attached to the animals without being harmful to them;
 - (f) easily removable from the food chain.
2. The means of identification referred to in point 1 shall display visibly, legibly and indelibly one of the following:
 - (a) the first and second element of the animals' identification code in accordance with Article 12;
 - (b) the unique registration number of the animals' establishment referred to in point (a) of Article 18 of Delegated Regulation (EU) 2019/2035; or
 - (c) the alphanumeric identification code referred to in Article 76(1) of Delegated Regulation (EU) 2019/2035.
3. The means of identification referred to in point 1 may contain other information, if authorised by the competent authority, and provided that the means of identification comply with the requirements of point 2.

PART 2

Technical specifications for electronic identifiers of kept bovine, ovine, caprine, porcine, camelid and cervid animals

1. The electronic identifiers referred to in points (c) to (f) of Annex III to Delegated Regulation (EU) 2019/2035 shall display the first element of the animals' identification code in the form of the three-digit country code and the second element of the animals' identification code in accordance with Article 12.
2. The electronic identifiers referred to in point 1 shall be:
 - (a) read-only, passive transponders applying HDX or FDX-B technology, complying with ISO standards 11784 and 11785; and
 - (b) readable by devices complying with ISO standard 11785 and capable of reading HDX and FDX-B transponders.
3. The electronic identifiers referred to in point 1 shall be readable at a minimum reading distance as follows:
 - (a) for kept bovine animals:
 - (i) 12 centimetres, for ear tags when read with a portable reader;
 - (ii) 15 centimetres, for injectable transponders when read with a portable reader;
 - (iii) 25 centimetres, for ruminal boluses when read with a portable reader;
 - (iv) 80 centimetres, for all electronic identifiers when read with a stationary reader;

- (b) for kept ovine and caprine animals:
 - (i) 12 centimetres, for ear tags and pastern bands when read with a portable reader;
 - (ii) 20 centimetres, for ruminal boluses and injectable transponders when read with a portable reader;
 - (iii) 50 centimetres, for all electronic identifiers when read with a stationary reader.
 - 4. The electronic identifiers referred to in point 1 shall have been tested with favourable results with respect to:
 - (a) conformance with ISO standards 11784 and 11785 in accordance with the method referred to in point 7 of ISO standard 24631-1; and
 - (b) the minimum performance on reading distances referred to in point 3 of this Part in accordance with the method referred to in point 7 of ISO standard 24631-3.
-

COMMISSION IMPLEMENTING REGULATION (EU) 2021/521**of 24 March 2021****making specific arrangements to the mechanism making the exportation of certain products subject to the production of an export authorisation**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2015/479 of the European Parliament and of the Council of 11 March 2015 on common rules for exports ⁽¹⁾, and in particular Article 5 thereof,

Whereas:

- (1) On 30 January 2021, the Commission adopted Implementing Regulation (EU) 2021/111 ⁽²⁾ making the exportation of COVID-19 vaccines as well as active substances, including master and working cell banks, used to manufacture these vaccines, subject to the production of an export authorisation, pursuant to Article 5 of Regulation (EU) 2015/479. At the end of the six weeks period following the date of entry into force of these measures, the Commission adopted Implementing Regulation (EU) 2021/442 ⁽³⁾ making the exportation of the same products subject to an export authorisation until 30 June 2021, pursuant to Article 6 of Regulation (EU) 2015/479.
- (2) The global shortage of supply of COVID-19 vaccine persists and is even increasing in view of the delays of production.
- (3) In accordance with Implementing Regulation (EU) 2021/442, export authorisations are to be refused by the Member States where the exports concerned pose a threat to the execution of the Advanced Purchase Agreements (APAs) between the Union and vaccine manufacturers in view of their volume or other relevant circumstances, such as the volume of vaccines delivered to the Union at the time of the request.
- (4) There is still a lack of transparency as well as persisting constraints on production of COVID 19 vaccines and delays in their delivery in the Union, which may pose a threat to the security of supply within the Union of the goods covered by Implementing Regulation (EU) 2021/442. Additional elements should therefore also be considered in the decision to grant or refuse an export authorisation.
- (5) The information collected by the Commission through the export authorisation mechanism put in place by Implementing Regulation (EU) 2021/111 and continued by Implementing Regulation (EU) 2021/442 and through customs data has shown that exports which are subject to the authorisation mechanism may be channelled via countries so far exempted from the export authorisation requirement, thereby not allowing for the required level of transparency. These exemptions should therefore be temporarily suspended.
- (6) The exemption should be maintained for some of the countries and territories mentioned Article 1(9)(a) of Implementing Regulation (EU) 2021/442, namely those which have a particular dependency on the metropolitan supply chains of the Member States to which they are attached or on the supply chains of neighbouring Member States, respectively.
- (7) The information mentioned in recital (5) has also shown that Union manufacturers have exported large quantities of goods covered by the export authorisation mechanism to countries which have a large production capacity of their own, while those countries restrict their own exports to the Union, either by law or through contractual or other arrangements concluded with vaccine manufacturers established in their territory. This imbalance leads to shortages of supply within the Union.

⁽¹⁾ OJ L 83, 27.3.2015, p. 34.

⁽²⁾ Commission Implementing Regulation (EU) 2021/111 of 29 January 2021 making the exportation of certain products subject to the production of an export authorisation (OJ L 31 I, 30.1.2021, p. 1).

⁽³⁾ Commission Implementing Regulation (EU) 2021/442 of 11 March 2021 making the exportation of certain products subject to the production of an export authorisation (OJ L 85, 12.3.2021, p. 190).

- (8) Furthermore, the same information has shown that Union manufacturers have exported large quantities of goods covered by the export authorisation mechanism to certain countries without production capacity, but which have a higher vaccination rate than the Union or where the current epidemiological situation is less serious than in the Union. Exports to those countries may thus threaten the security of supply within the Union.
- (9) Member States should refuse export authorisations accordingly.
- (10) The Commission should take the same additional elements into consideration when conducting its assessment of the draft decision notified by the competent authority of the Member State pursuant to Article 2(4) of Implementing Regulation (EU) 2021/442.
- (11) Due to the urgency of the situation, the measures provided for in this Regulation should be taken in accordance with Article 3(3) of Regulation (EU) 2015/479.
- (12) This Regulation should enter into force immediately. Having regard to Article 5(5) of Regulation (EU) 2015/479, the measures provided for in this Regulation should apply for six weeks,

HAS ADOPTED THIS REGULATION:

Article 1

The application of point (a) of Article 1(9) of Implementing Regulation (EU) 2021/442 is suspended.

However, the suspension shall not apply to the following countries and territories:

- Andorra,
- the Faroe Islands,
- San Marino,
- Vatican City,
- the overseas countries and territories listed in Annex II to the Treaty on the Functioning of the European Union,
- Büsingen,
- Helgoland,
- Livigno,
- Ceuta and Melilla.

Article 2

1. The competent authority of a Member State shall grant an export authorisation requested pursuant to Implementing Regulation (EU) 2021/442 provided that:

- (a) the export authorisation fulfils the condition of Article 1(7) of Implementing Regulation (EU) 2021/442;
- (b) the authorisation does not otherwise pose a threat to the security of supply within the Union of the goods covered by Implementing Regulation (EU) 2021/442.

2. To determine whether the condition in point (b) of paragraph 1 is fulfilled, the competent authority of the Member State shall assess the following factors:

- (a) whether the country of destination of the export restricts its own exports to the Union of goods covered by Implementing Regulation (EU) 2021/442, or of the raw materials from which they are made, either by law or by any other means, including through the conclusion of contractual arrangements with the manufacturers of those goods;
- (b) the relevant conditions prevailing in the country of destination of the export, including the epidemiological situation, the vaccination rate and the existing availability of goods covered by Implementing Regulation (EU) 2021/442.

3. When the Commission assesses the draft decision notified by the competent authority of the Member State pursuant to Article 2(4) of Implementing Regulation (EU) 2021/442, it shall also evaluate whether the condition in point (b) of paragraph 1 of this Article is fulfilled, having regard to the factors listed in its paragraph 2.

Article 3

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

It shall apply until six weeks from its entry into force.

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

Done at Brussels, 24 March 2021.

For the Commission
The President
Ursula VON DER LEYEN

CORRIGENDA

Corrigendum to Commission Implementing Regulation (EU) 2020/1812 of 1 December 2020 laying down rules on the online data exchange and the notification of EU type-approvals under Regulation (EU) 2018/858 of the European Parliament and of the Council*(Official Journal of the European Union L 404 of 2 December 2020)*

On page 6, in Article 2(c):

- for:* 'a fine grained access control system that makes it possible to grant, read or write permissions for the access of authorised parties.'
- read:* 'a fine grained access control system that makes it possible to grant read or write permissions for the access of authorised parties.'
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