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⁽¹⁾ Text with EEA relevance.

EN

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

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II

(Non-legislative acts)

REGULATIONS

COMMISSION IMPLEMENTING REGULATION (EU) 2022/388

of 8 March 2022

amending Implementing Regulation (EU) 2018/2066 on the monitoring and reporting of greenhouse gas emissions pursuant to Directive 2003/87/EC of the European Parliament and of the Council*(Text with EEA relevance)*

THE EUROPEAN COMMISSION,

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

Having regard to Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a system for greenhouse gas emission allowance trading within the Union and amending Council Directive 96/61/EC ⁽¹⁾, and in particular Article 14(1) thereof,

Whereas:

- (1) Commission Implementing Regulation (EU) 2018/2066 ⁽²⁾ lays down rules for the monitoring and reporting of greenhouse gas emissions from the activities subject to Directive 2003/87/EC and, in particular, of emissions from biomass. That Regulation was amended by Commission Implementing Regulation (EU) 2020/2085 ⁽³⁾ in order to align the provisions regarding the emissions from biomass with the rules laid down in Directive (EU) 2018/2001 ⁽⁴⁾, in particular as regards the relevant definitions and the sustainability and greenhouse gas emission saving criteria for the use of biomass. Following those amendments, the provisions regarding the sustainability and greenhouse gas emissions saving criteria for the use of biomass apply from 1 January 2022.
- (2) The application of the sustainability and greenhouse gas emissions saving criteria to activities covered by Directive 2003/87/EC is required to ensure the sustainability of biofuels, bioliquids and biomass fuels used for combustion and its contribution to the climate and environmental objectives of the Union.

⁽¹⁾ OJ L 275, 25.10.2003, p. 32.

⁽²⁾ Commission Implementing Regulation (EU) 2018/2066 of 19 December 2018 on the monitoring and reporting of greenhouse gas emissions pursuant to Directive 2003/87/EC of the European Parliament and of the Council and amending Commission Regulation (EU) No 601/2012 (OJ L 334, 31.12.2018, p. 1).

⁽³⁾ Commission Implementing Regulation (EU) 2020/2085 of 14 December 2020 amending and correcting Implementing Regulation (EU) 2018/2066 on the monitoring and reporting of greenhouse gas emissions pursuant to Directive 2003/87/EC of the European Parliament and of the Council (OJ L 423, 15.12.2020, p. 37).

⁽⁴⁾ Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources (OJ L 328, 21.12.2018, p. 82).

- (3) There is a growing recognition of the need for alignment of bioenergy policies with other environmental objectives and of the need to ensure fair access to the biomass raw material market for the development of innovative, high value-added bio-based solutions and a sustainable circular bioeconomy. Member States should therefore take into consideration the available sustainable supply of biomass for energy and non-energy uses and the maintenance of the national forest carbon sinks and ecosystems as well as the principles of the circular economy and the biomass cascading use, and the waste hierarchy established in Directive 2008/98/EC of the European Parliament and of the Council on waste ⁽⁹⁾. The Union's Emissions Trading System (ETS) aims to contribute to achieving the Union's climate change mitigation objectives in terms of the reduction of greenhouse gas emissions. In the pursuit of this goal, it is essential to also contribute to wider environmental objectives, and in particular the prevention of biodiversity loss, which is negatively impacted by the indirect land use change associated to the production of certain biofuels, bioliquids and biomass fuels. Considering that a zero rate will apply to all biomass in the ETS until sustainability criteria are fully implemented, Member States are encouraged, in line with the Treaty principle of the 'polluter pays', to use market-based instruments and tools such as taxation at their disposal in order to ensure that the use of unsustainable biomass in the ETS sectors is discouraged to avoid negative environmental impacts.
- (4) Member States had until 30 June 2021 to transpose Directive (EU) 2018/2001. The transposition of the Directive is not yet complete in many Member States.
- (5) Directive (EU) 2018/2001 provides for the adoption of a number of delegated and implementing acts to implement the sustainability and greenhouse gas emissions saving criteria for biomass. The adoption of several of those acts is delayed.
- (6) Directive (EU) 2018/2001 aims to strengthen the role of voluntary international and national certification schemes for verification of compliance with the sustainability and greenhouse gas emissions saving criteria in a harmonised manner. Member States may also set up national certification schemes. The methodologies used by those certification schemes need to be updated once the delegated and implementing acts provided for under Directive (EU) 2018/2001 are adopted. Furthermore, verifiers need to be trained.
- (7) In order to ensure a robust, efficient and harmonised implementation, it is considered necessary and proportionate to postpone the application of the sustainability and greenhouse gas emissions saving criteria for biofuels, bioliquids and biomass in Implementing Regulation (EU) 2018/2066. A period of one calendar year is appropriate to align with the ETS's annual compliance cycle.
- (8) This Regulation also reduces economic uncertainty for operators using biofuels, bioliquids and biomass fuels for combustion in activities under Directive 2003/87/EC, as certification schemes are expected to become fully operational in the course of 2022.
- (9) Implementing Regulation (EU) 2018/2066 should therefore be amended accordingly.
- (10) Pending the adoption of the necessary rules to implement Directive (EU) 2018/2001, this Regulation should apply from 1 January 2022.
- (11) The measures provided for in this Regulation are in accordance with the opinion of the Climate Change Committee,

HAS ADOPTED THIS REGULATION:

Article 1

In Article 38 of Implementing Regulation (EU) 2018/2066, the following paragraph 6 is added:

'6. By way of derogation from paragraph 5, first subparagraph, Member States, or competent authorities as appropriate, may consider as fulfilled the sustainability and greenhouse gas emissions saving criteria referred to in that paragraph for biofuels, bioliquids and biomass fuels used for combustion from 1 January 2022 to 31 December 2022.'

⁽⁹⁾ Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (OJ L 312, 22.11.2008, p. 3).

Article 2

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

It shall apply from 1 January 2022.

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

Done at Brussels, 8 March 2022.

For the Commission
The President
Ursula VON DER LEYEN

COMMISSION IMPLEMENTING REGULATION (EU) 2022/389**of 8 March 2022****laying down implementing technical standards for the application of Directive (EU) 2019/2034 of the European Parliament and of the Council with regard to the format, structure, content lists and annual publication date of the information to be disclosed by competent authorities****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Directive (EU) 2019/2034 of the European Parliament and of the Council of 27 November 2019 on the prudential supervision of investment firms and amending Directives 2002/87/EC, 2009/65/EC, 2011/61/EU, 2013/36/EU, 2014/59/EU and 2014/65/EU ⁽¹⁾, and in particular Article 57(4) thereof,

Whereas:

- (1) Directive (EU) 2019/2034 requires competent authorities to disclose certain information in order for the internal investment firms' market to operate with increasing effectiveness and to ensure adequate levels of transparency for the general public. Pursuant to that Directive, the information disclosed is to be sufficiently comprehensive and accurate to enable a meaningful comparison of the approaches adopted by Member States' competent authorities.
- (2) To further facilitate that comparison, information from the competent authorities is to be published in a common format, updated regularly and made accessible at a single electronic location. It is therefore necessary to determine the format, structure, content lists and annual publication date of that information. While the supervisory disclosure requirements set out in Title V of Directive (EU) 2019/2034 extend across the field of prudential regulation, it is necessary to first focus on the supervisory responsibilities stemming from that Directive and from Regulation (EU) 2019/2033 of the European Parliament and of the Council ⁽²⁾.
- (3) This Regulation is based on the draft implementing technical standards submitted to the Commission by the European Banking Authority after having consulted the European Securities and Markets Authority.
- (4) The European Banking Authority has conducted open public consultations on the draft implementing technical standards on which this Regulation is based, analysed the potential related costs and benefits, and requested the advice of the Banking Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council ⁽³⁾,

HAS ADOPTED THIS REGULATION:

*Article 1***Laws, regulations, administrative rules and general guidance**

When publishing information on texts of laws, regulations, administrative rules and general guidance adopted in their Member State in the field of prudential regulation pursuant to Article 57(1), point (a), of Directive (EU) 2019/2034, competent authorities shall use the applicable forms set out in Annex I to this Regulation.

⁽¹⁾ OJ L 314, 5.12.2019, p. 64.

⁽²⁾ Regulation (EU) 2019/2033 of the European Parliament and of the Council of 27 November 2019 on the prudential requirements of investment firms and amending Regulations (EU) No 1093/2010, (EU) No 575/2013, (EU) No 600/2014 and (EU) No 806/2014 (OJ L 314, 5.12.2019, p. 1).

⁽³⁾ Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p. 12).

*Article 2***Options and discretions**

When publishing information on the manner of exercising the options and discretions available pursuant to Article 57(1), point (b), of Directive (EU) 2019/2034, competent authorities shall use the applicable forms set out in Annex II to this Regulation.

*Article 3***General criteria and methodologies for supervisory review and evaluation process**

When publishing information on the general criteria and methodologies, competent authorities use in the supervisory review and evaluation referred to in Article 36 of Directive (EU) 2019/2034 pursuant to Article 57(1), point (c), of that Directive, competent authorities shall use the form set out in Annex III to this Regulation.

*Article 4***Aggregated statistical data**

When publishing information on aggregated statistical data on key aspects of the implementation of the prudential framework pursuant to Article 57(1), point (d), of Directive (EU) 2019/2034, competent authorities shall use the forms set out in Annex IV to this Regulation.

*Article 5***Annual publication date**

1. Competent authorities shall publish the information referred to in Article 57(1) of Directive (EU) 2019/2034 at a single electronic location for the first time by 30 June 2022.
2. Competent authorities shall update the information referred to in Article 57(1), point (d), of Directive (EU) 2019/2034 by 30 June each year based on the supervisory reporting information as at 31 December of the preceding year.
3. Competent authorities shall update the information referred to in Article 57(1), points (a), (b) and (c), of Directive (EU) 2019/2034 regularly, and no later than 30 June of each year, unless there is no change in the information published.

*Article 6***Entry into force**

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

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

Done at Brussels, 8 March 2022.

For the Commission
The President
Ursula VON DER LEYEN

RULES AND GUIDANCE

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General remarks on filling in templates in Annex I

When publishing information on the general criteria and methodologies, competent authorities shall not disclose any supervisory measures directed at specific investment firms, whether taken with respect to a single investment firm or to a group of investment firms.

PART 1

Transposition of Directive (EU) 2019/2034

	Transposition of provisions of Directive (EU) 2019/2034	Provisions of Directive (EU) 2019/2034	Links to national text ⁽¹⁾	Reference(s) to national provisions ⁽²⁾	Available in EN (Y/N)
010	Date of the last update of information in these templates		(dd/mm/yyyy)		
020	I Subject matter, scope and definitions	Articles 1 to 3			
030	II Competent authorities	Articles 4 to 8			
040	III Initial capital	Articles 9 to 11			
050	IV Prudential supervision				
060	CHAPTER 1 - Principles of prudential supervision				
070	Section 1 - Competences and duties of home and host Member States	Articles 12 to 14			
080	Section 2 - Professional secrecy and duty to report	Articles 15 to 17			
090	Section 3 - Sanctions, investigatory powers and right of appeal	Articles 18 to 23			
100	CHAPTER 2 - Review process				
110	Section 1 - Internal capital adequacy assessment process and internal risk	Article 24			
120	Section 2 - Internal governance, transparency, treatment of risks and remuneration	Articles 25 to 35			
130	Section 3 - Supervisory review and evaluation process	Articles 36 to 37			
140	Section 4 - Supervisory measures and powers	Articles 38 to 45			
150	CHAPTER 3 - Supervision of investment firm groups				
160	Section 1 - Supervision of investment firm groups on a consolidated basis and supervision of compliance with the group capital test	Articles 46 to 50			
170	Section 2 - Investment holding companies, mixed financial holding companies and mixed-activity holding companies	Articles 51 to 56			
180	TITLE V - PUBLICATION BY COMPETENT AUTHORITIES	Article 57			
190	TITLE VI - DELEGATED ACTS	Article 58			
200	TITLE VII - AMENDMENTS TO OTHER DIRECTIVES	Articles 59 to 64			
210	TITLE VIII - FINAL PROVISIONS	Articles 65 to 69			

⁽¹⁾ Hyperlink(s) to the website containing the national text transposing the provision of Union law in question.

⁽²⁾ Detailed references to the provision of national law, such as relevant Title, Chapter, paragraph etc.

PART 2

Model approval ⁽¹⁾

010	Date of the last update of information in this template	(dd/mm/yyyy)
		Description of the approach
020	Supervisory approach for the approval of the use of alternative Internal Model Approach (IMA) to calculate minimum capital requirements for market risk	
030	Minimum documentation to be provided by the investment firm applying for the use of alternative IMA	[free text]
040	Description of the assessment process conducted by the competent authority (use of self-assessment, reliance on external auditors and on-site-inspections) and main criteria of the assessment	[free text]
050	Form of the decisions taken by the competent authority and communication of the decisions to applicants	[free text]

PART 3

Specific disclosure requirements applied to investment firms

	Directive (EU) 2019/2034	Provision	Information to be provided by the competent authority	
010	Date of the last update of information in this template			(dd/mm/yyyy)
020	Article 44(a)	Competent authorities have the power to require investment firms that do not meet the conditions for qualifying as small and non-interconnected investment firms set out in Article 12(1) of Regulation (EU) 2019/2033 and investment firms referred to in Article 46(2) of Regulation (EU) 2019/2033 to publish the information referred to in Article 46 of that regulation more than once a year and to set deadlines for that publication;	Frequency and deadlines for publication applicable to investment firms	[free text]
030	Article 44(b)	Competent authorities may require investment firms that do not meet the conditions for qualifying as small and non-interconnected investment firms set out in Article 12(1) of Regulation (EU) 2019/2033 and investment firms referred to in Article 46(2) of Regulation (EU) 2019/2033 to use specific media and locations, in particular the investment firms' websites, for publications other than the financial statements;	Types of specific media to be used by investment firms	[free text]

⁽¹⁾ Applicable from 26 June 2026 or the date of application to credit institutions of the requirements as stated in Article 57(1) of Regulation (EU) 2019/2033.

040	Article 44(c)	Competent authorities may require parent undertakings to publish annually, either in full or by way of references to equivalent information, a description of their legal structure and governance and organisational structure of the investment firm group in accordance with Article 26(1) of this Directive and with Article 10 of Directive 2014/65/EU.	Investment firm group parent's legal structure and governance and organisational structure	<i>[free text]</i>
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PART 4

Regulatory reporting

010	Date of the last update of information in this template	(dd/mm/yyyy)
020	Implementation of the reporting on financial information in accordance with Commission Implementing Regulation XXX/2021	
030	Are XBRL standards used for submitting the reporting to the competent authority?	<i>[Yes/No]</i>

OPTIONS AND DISCRETIONS

List of templates

PART 1	Options and discretions set out in Directive (EU) 2019/2034, Regulation (EU) 2019/2033
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PART 3	Variable elements of remuneration (Article 32 of Directive (EU) 2019/2034)

General remarks on filling in templates in Annex II

When publishing information on the general criteria and methodologies, the competent authorities shall not disclose any supervisory measures directed at specific investment firms, whether taken with respect to a single investment firm or to a group of investment firms.

PART 1

Options and discretions set out in Directive (EU) 2019/2034, Regulation (EU) 2019/2033

	Directive (EU) 2019/ 2034	Regulation (EU) 2019/ 2033	Addressee	Denomination	Description of the option or discretion	Exercised (Y/N/NA) ⁽¹⁾	National text ⁽²⁾	Reference(s) ⁽³⁾	Available in EN (Y/N)	Details / Comments
010	Date of the last update of information in this template							(dd/mm/yyyy)		
020	5(1)		Competent authority	Application of CRD requirements	Competent authorities may decide to apply Regulation (EU) No 575/2013 to an investment firm that carries out activities specified in points 3 and 6 in Section A of Annex I of Directive 2014/65/EU where the total value of the consolidated assets of the investment firm is equal to or exceeds EUR 5 000 000 000 where conditions of Article 5(1) of Directive (EU) 2019/2034 apply.	[Y/N/NA]	Mandatory if Y	Mandatory if Y		
030	24(2)		Competent authority	Internal capital and liquid assets	Competent authorities may request small and non-interconnected investment firms to apply requirements for internal capital and liquid assets as provided for in Article 24 of Directive (EU) 2019/2034.	[Y/N/NA]	Mandatory if Y	Mandatory if Y		
040	36(2)		Competent authority	Supervisory review and evaluation	Competent authorities shall decide on a case-by-case basis whether and in which form the review and evaluation is to be carried out for small and non-interconnected investment firms.	[Y/N/NA]	Mandatory if Y	Mandatory if Y		
050	40(7)		Competent authority	Additional own funds requirement	Competent authorities may impose on a case-by-case basis an additional own funds requirements referred to in Article 40 of Directive (EU) 2019/2034 on small and non-interconnected investment firms.	[Y/N/NA]	Mandatory if Y	Mandatory if Y		
060	41(1)		Competent authority	Additional own funds requirement	Competent authorities may request investment firms which are not small and non-interconnected investment firms to have a level of own funds which would cover the potential impact of cyclical economic fluctuations.	[Y/N/NA]	Mandatory if Y	Mandatory if Y		
070	42(1)		Competent authority	Liquidity requirements	Competent authorities shall impose specific liquidity requirements referred to in point (k) of Article 39(2) of Directive (EU) 2019/2034 for investment firms for which liquidity requirements apply as referred to in Article 42(1) of Directive (EU) 2019/2034.	[Y/N/NA]	Mandatory if Y	Mandatory if Y		
080	46(6)		Competent authority	Exemption from group supervisor criteria	Competent authorities may designate a supervisor on a consolidated basis other than the one referred to in Article 46(6) of Directive (EU) 2019/2034.	[Y/N/NA]	Mandatory if Y	Mandatory if Y		
090		1(2)(c)	Competent authority	Application of Capital Requirements Regulation (Regulation (EU) No 575/2013) requirements	Competent authority may decide to apply Regulation (EU) No 575/2013 requirements for investment firms which carry out activities specified in points 3 and 6 in Section A of Annex I of Directive 2014/65/EU and for which the value of total consolidated assets of the investment firm or group of investment firms is equal to or exceeds EUR 15 000 000 000 in accordance with Article 1(2) of Regulation (EU) 2019/2033.	[Y/N/NA]	Mandatory if Y	Mandatory if Y		

100		1(5)	Competent authority	Application of Regulation (EU) No 575/2013 requirements	Competent authorities may allow Regulation (EU) No 575/2013 requirements to be applied to investment firms which carry out activities specified in points 3 and 6 in Section A of Annex I of Directive 2014/65/EU and if the investment firm is a subsidiary of a credit institution or financial holding company or a mixed financial holding company in accordance with Article 1(5) of Regulation (EU) 2019/2033.	[Y/N/NA]	Mandatory if Y	Mandatory if Y		
110		6(1)	Competent authority	Application of requirements on an individual basis	Competent authorities may exempt an investment firm from the application of Article 5 of Regulation (EU) 2019/2033 in respect of parts 2, 3, 4, 6 and 7, where all conditions of Article 6(1) are fulfilled.	[Y/N/NA]	Mandatory if Y	Mandatory if Y		
120		6(2)	Competent authority	Application of requirements on an individual basis	Competent authorities may exempt an investment firm from the application of Article 5 of Regulation (EU) 2019/2033 in respect of part 6, where all conditions of Article 6(2) are fulfilled.	[Y/N/NA]	Mandatory if Y	Mandatory if Y		
130		6(3)	Competent authority	Application of requirements on an individual basis	Competent authorities may exempt an investment firm from the application of Article 5 of the Regulation (EU) 2019/2033 in respect of part 5 where all conditions of Article 6(3) are fulfilled.	[Y/N/NA]	Mandatory if Y	Mandatory if Y		
140		7(4)	Competent authority	Application of requirements on a consolidated basis	Competent authorities may exempt the parent undertaking from requirements to comply with the obligation laid down in part 5 on the basis of their consolidated situation.	[Y/N/NA]	Mandatory if Y	Mandatory if Y		
150		8(1)	Competent authority	Application of requirements on a consolidated basis	Competent authorities may allow the application of Article 8 of Regulation (EU) 2019/2033 where group structures are sufficiently simple, there are no significant risks to clients or to the market from the investment firm group as a whole that would otherwise require supervision on a consolidated basis.	[Y/N/NA]	Mandatory if Y	Mandatory if Y		
160		8(4)	Competent authority	Application of requirements on a consolidated basis	Competent authorities may allow a parent to hold a lower amount of own funds than the amount calculated under Article 8(3) of Regulation (EU) 2019/2033, provided that this amount is not lower than the sum of the own funds requirements imposed on an individual basis on its subsidiary investment firms, financial institutions, ancillary services undertakings and tied agents, and the total amount of any contingent liabilities in favour of those entities.	[Y/N/NA]	Mandatory if Y	Mandatory if Y		
170		9(4)	Competent authority	Own funds	Competent authorities may allow for investment firms which are small and non-interconnected or not legal persons or joint-stock companies to use further instruments or funds as equivalent to own funds instruments	[Y/N/NA]	Mandatory if Y	Mandatory if Y		
180		10(2)	Competent authority	Qualifying holdings of own funds	Competent authorities may prohibit an investment firm from having qualifying holdings as referred to in Article 10(1) of Regulation (EU) 2019/2033, where the amount of those holdings exceeds the percentages of own funds laid down in that paragraph.	[Y/N/NA]	Mandatory if Y	Mandatory if Y		
190		11(3)	Competent authority	Own funds	Competent authorities may require an investment firm to be subject to different own funds requirements than the ones referred to in Article 11 of the Regulation (EU) 2019/2033	[Y/N/NA]	Mandatory if Y	Mandatory if Y		

200		13(2)	Competent authority	Own funds. Fixed overheads requirement	Competent authorities may adjust the amount of fixed overheads requirement as referred in Article 13(1) of Regulation (EU) 2019/2033 when it considers that there has been a material change in the activities of an investment firm.	[Y/N/NA]	Mandatory if Y	Mandatory if Y		
210		15(4)	Competent authority	Own funds	Competent authorities may adjust the corresponding amount of a relevant K-factor when they consider that there has been a material change in the business activity of the investment firm.	[Y/N/NA]	Mandatory if Y	Mandatory if Y		
220		17(2)	Competent authority	K-factors. K-AUM (assets under management)	The competent authority may replace missing historical data points by regulatory determinations based on the business projections of the investment firm submitted in accordance with Article 7 of Directive 2014/65/EU.	[Y/N/NA]	Mandatory if Y	Mandatory if Y		
230		18(2)	Competent authority	K-factors. K-CMH (client money held)	The competent authority may replace missing historical data points by regulatory determinations based on the business projections of the investment firm submitted in accordance with Article 7 of Directive 2014/65/EU.	[Y/N/NA]	Mandatory if Y	Mandatory if Y		
240		19(3)	Competent authority	K-factors. K-ASA (assets safeguarded and administered)	The competent authority may replace missing historical data points by regulatory determinations based on the business projections of the investment firm submitted in accordance with Article 7 of Directive 2014/65/EU.	[Y/N/NA]	Mandatory if Y	Mandatory if Y		
250		20(3)	Competent authority	K-factors. K-COH (client orders handled)	The competent authority may replace missing historical data points by regulatory determinations based on the business projections of the investment firm submitted in accordance with Article 7 of Directive 2014/65/EU.	[Y/N/NA]	Mandatory if Y	Mandatory if Y		
260		30(1)	Competent authority	K-factors. K-TCD	Competent authorities may change the volatility adjustment for certain types of commodities for which there are different levels of volatility in prices.	[Y/N/NA]	Mandatory if Y	Mandatory if Y		
270		33(4)	Competent authority	K-factors. K-DTF (daily trading flow)	The competent authority may replace missing historical data points by regulatory determinations based on the business projections of the investment firm submitted in accordance with Article 7 of Directive 2014/65/EU.	[Y/N/NA]	Mandatory if Y	Mandatory if Y		
280		38(2)	Competent authority	Concentration risk	Competent authorities may grant the investment firm a limited period to comply with the limit regarding to concentration risk and exposure value excess referred in Article 37 of Regulation (EU) 2019/2033.	[Y/N/NA]	Mandatory if Y	Mandatory if Y		
290		41(2)	Competent authority	Concentration risk	Competent authorities may fully or partially exempt exposures referred to in Article 41(2) of Regulation (EU) 2019/2033 from the application of Article 37 of Regulation (EU) 2019/2033.	[Y/N/NA]	Mandatory if Y	Mandatory if Y		
300		43(1)	Competent authority	Liquidity requirements	Competent authorities may exempt small and non-interconnected investment firms from application of liquidity requirements set out in Article 43(1) of Regulation (EU) 2019/2033.	[Y/N/NA]	Mandatory if Y	Mandatory if Y		

(¹) 'Y' (Yes) indicates that the competent authority or Member State empowered to exercise the relevant option or discretion has exercised it.
 'N' (No) Indicates that the competent authority or Member State empowered to exercise the relevant option or discretion has not exercised it.
 'NA' (Not applicable) indicates that the exercise of the option is not possible or the discretion does not exist.

(²) The text of the provision in the national legislation.

(³) Reference to the national legislation and hyperlink(s) to the website containing the national text transposing the Union provision in question.

PART 2

Number of investment firms using transitional provisions set out in Directive (EU) 2019/2034 and Regulation (EU) 2019/2033

	Directive (EU) 2019/2034	Regulation (EU) 2019/2033	Addressee	Scope	Denomination	Description of the option or discretion	Year	Exercised (Y/N/NA) ⁽¹⁾	Number of investment firms applying the transitional provision
	Date of the last update of information in this template						(dd/mm/yyyy)		
010		Article 57(3)	Investment firms	Own funds	Application of lower own funds requirements	Investment firms referred to in Article 57(3) of Regulation (EU) 2019/2033 may apply lower own funds requirements for a period of 5 years from 26 June 2021.	[Year]	[Y/N/NA]	
020		Article 57(4)	Investment firms	Own funds	Application of lower own funds requirements	Investment firms referred to in Article 57(4) of Regulation (EU) 2019/2033 may apply lower own funds requirements for a period of 5 years from 26 June 2021.	[Year]	[Y/N/NA]	
030		Article 57(6)	Investment firms dealing on own accounts	Own funds	Application of lower own funds requirements	Investment firms which deal on own account and which are referred to in Article 57(6) of Regulation (EU) 2019/2033 may limit their own funds requirements for a period of 5 years from 26 June 2021 to at least EUR 250 000, subject to an annual increase of at least EUR 100 000 during a 5-year period.	[Year]	[Y/N/NA]	

⁽¹⁾ 'Y' (Yes) indicates that the competent authority or Member State empowered to exercise the relevant option or discretion has exercised it.
 'N' (No) Indicates that the competent authority or Member State empowered to exercise the relevant option or discretion has not exercised it.
 'NA' (Not applicable) indicates that the exercise of the option is not possible or the discretion does not exist.

PART 3

Variable elements of remuneration (Article 32 of Directive (EU) 2019/2034)

	Directive (EU) 2019/2034	Addressee	Provisions	Information to disclose	Exercised (Y/N/NA)	References	Available in EN (Y/N)	Details / Comments
010	Date of the last update of information in this template			(dd/mm/yyyy)				
020	Article 30(2)	Member States	Member states shall describe how they ensure that investment firms set the appropriate ratios between the variable and the fixed component of the total remuneration.	[Free text/value]	[Y/N/NA]	Mandatory if Y	Mandatory if Y	
030	Article 32(3)	Member States or Competent Authorities	Description of any restriction on the types and designs or prohibitions of instruments that can be used for the purposes of awarding variable remuneration.	[Free text/value]	[Y/N/NA]	Mandatory if Y	Mandatory if Y	

040	Article 32(5)	Member States	Thresholds other than those referred to in Article 32(4) that competent authority has increased for certain investment firms.	[Value in EUR]	[Y/N/NA]	Mandatory if Y	Mandatory if Y	
050	Article 32(6)	Member States	Thresholds other than those referred to in Article 32(4) that competent authority has decreased for certain investment firms.	[Value in EUR]	[Y/N/NA]	Mandatory if Y	Mandatory if Y	
060	Article 32(7)	Member States	Description of market specificities or nature of the responsibilities and job profile of staff members who are entitled to annual variable remuneration whose annual variable remuneration does not exceed EUR 50 000 and does not represent more than one fourth of that individual's total annual remuneration but but the individual has not been subject to the exemption set out in Article 32(4).	[Free text/value]	[Y/N/NA]	Mandatory if Y	Mandatory if Y	

(1) 'Y' (Yes) indicates that the competent authority or Member State empowered to exercise the relevant option or discretion has exercised it.

N' (No) Indicates that the competent authority or Member State empowered to exercise the relevant option or discretion has not exercised it.

NA' (Not applicable) indicates that the exercise of the option is not possible or the discretion does not exist.

(2) Reference to the national legislation and hyperlink(s) to the website containing the national text transposing the Union provision in question.

SUPERVISORY REVIEW AND EVALUATION PROCESS (SREP)

List of templates

General remarks on filling in templates in Annex III

When publishing information on the general criteria and methodologies, competent authorities shall not disclose any supervisory measures directed at specific investment firms, whether taken with respect to a single investment firm or to a group of investment firms.

SUPERVISORY REVIEW AND EVALUATION PROCESS (SREP) ⁽¹⁾

010	Date of the last update of information in this template		(dd/mm/yyyy)
020	Scope of application of SREP (Article 36 of IFD)	Description of the competent authority's approach to the scope of application of SREP including: — what types of investment firms are covered by/excluded from SREP. — a high-level overview of how the competent authority takes into account the principle of proportionality when considering the scope of SREP and frequency of assessment of various SREP elements ⁽¹⁾ .	[free text or reference or hyperlink to such guidance]
030	Assessment of SREP éléments (Articles 36 of IFD)	Description of the competent authority's approach to the assessment of individual SREP elements including: — a high-level overview of the assessment process and methodologies applied to the assessment of SREP elements, including: (i) business model analysis; (ii) assessment of internal governance and investment firm-wide controls; (iii) assessment of risks to capital; and (iv) assessment of risks to liquidity; — a high-level overview of how the competent authority takes into account the principle of proportionality when assessing individual SREP elements ⁽²⁾ .	[free text or reference or hyperlink to such guidance]
040	Review and evaluation of ICAAP and ILAAP (Articles 24 and 36 of IFD)	Description of the competent authority's approach to the review and evaluation of the additional own funds and specific liquidity requirements as part of the SREP, and, in particular, for assessing the reliability of additional own funds and liquidity calculations for the purposes of determining additional own funds and liquidity requirements including ⁽³⁾ : — an overview of the methodology applied by the competent authority to review the internal capital adequacy assessment process (ICAAP) and the internal liquidity adequacy assessment process (ILAAP) of investment firms;	[free text or reference or hyperlink to such guidance]

⁽¹⁾ Competent authorities are to disclose the criteria and methodologies used in rows 020 to 040 and in row 050 for the overall assessment, in the form of an explanatory note as per the second column.

		— information/reference to the competent authority requirements for submission of ICAAP and ILAAP-related information, in particular covering what information needs to be submitted; — information on whether an independent review of the ICAAP and the ILAAP is required from the investment firms.	
050	Overall SREP assessment and supervisory measures (Articles 38 and 39 of IFD)	Description of the competent authority's approach to the overall SREP assessment (summary) and application of supervisory measures on the basis of the overall SREP assessment ⁽⁴⁾ Description of how SREP outcomes are linked to the application of early intervention measures according to Article 27 of Directive 2014/59/EU and determination of conditions whether the investment firm can be considered failing or likely to fail according to Article 32 of that Directive ⁽⁵⁾.	<i>[free text or reference or hyperlink to such guidance]</i>

⁽⁴⁾ The scope of SREP to be considered both at a level of an investment firm and in respect of its own resources. A competent authority shall explain the approach used to classify investment firm into different categories for SREP purposes, describing the use of quantitative and qualitative criteria, and how financial stability or other overall supervisory objectives are affected by such categorisation. A competent authority shall also explain how categorisation is put in practice for the purposes of ensuring at least a minimum engagement in SREP assessments, including the description of the frequencies for the assessment of all SREP elements for different categories of investment firms.

⁽⁵⁾ Including working tools e.g. on-site inspections and off-site examinations, qualitative and quantitative criteria, statistical data used in the assessments. Hyperlinks to any guidance on the website to be added.

⁽³⁾ Competent authorities shall also explain how the assessment of the internal capital adequacy assessment process (ICAAP) and the internal liquidity assessment process (ILAAP) is covered by the minimum engagement models applied for proportionality purposes based on SREP categories as well as how proportionality is applied for the purposes of specifying supervisory expectations to ICAAP and ILAAP, and in particular, any guidelines or minimum requirements for the ICAAP and ILAAP the competent authorities have issued.

⁽⁴⁾ The approach competent authorities apply to arrive at the overall SREP assessment and its communication to the investment firms. The overall assessment by competent authorities is based on a review of all the elements referred to in row 020 to 040, along with any other relevant information about the investment firm that the competent authority may obtain.

⁽⁵⁾ Competent authorities may also disclose the policies that guide their decisions for taking supervisory measures (within the meaning of Article 18 of the IFD) and early intervention measures (within the meaning of Article 27 of the Bank Recovery and Resolution Directive (BRRD)) whenever their assessment of an investment firm identifies weaknesses or inadequacies that call for supervisory intervention. Such disclosures might include the publication of internal guidelines or other documents describing general supervisory practices. However, no disclosure is required regarding decisions on individual investment firms, to respect the confidentiality principle.

Furthermore, competent authorities may provide information regarding the implications if an investment firm violates relevant legal provisions or does not comply with the supervisory or early intervention measures imposed based on the SREP outcomes, e.g. it shall list enforcement procedures that are in place (where applicable).

AGGREGATE STATISTICAL DATA

List of templates

PART 1	Individual data per competent authority
PART 2	Data on market risk
PART 3	Data on supervisory measures and administrative penalties
PART 4	Data on exemptions

General remarks on filling in templates in Annex IV

- 1) When publishing information on the general criteria and methodologies, competent authorities shall not disclose any supervisory measures directed at specific investment firms, whether taken with respect to a single investment firm or to a group of investment firms.
- 2) Numerical cells shall include only numbers. There shall be no references to national currencies. The currency used is the euro; and non-euro area Member States shall convert their national currencies into the euro using the ECB exchange rates (at the common reference date, i.e. the last day of the year under review), with one decimal place when disclosing amounts in millions.
- 3) Unit of disclosure shall be in millions of euro for the reported monetary amounts (hereafter – EUR million).
- 4) Percentages shall be disclosed with two decimals.
- 5) If data is not being disclosed, the reason for non-disclosure shall be provided using the EBA nomenclature, i.e. N/A (for not available) or C (for confidential).
- 6) The data shall be disclosed on an aggregated basis without identifying individual investment firms.
- 7) Data shall be compiled only for investment firms subject to Directive (EU) 2019/2034. Investment firms which are not subject to the Directive (EU) 2019/2034 regime are excluded from the data collection exercise.

PART 1

Individual data per Competent Authority (year 20XX)

			Reference to reporting template	Data	
	Number and size of investment firms				
010	Number of investment firms			[Value]	
020	Total assets of all investment firms in the Member state (in MEUR) ⁽¹⁾			[Value]	
	Number and size of third country investment firms ⁽²⁾				
030	From third countries	Number of branches ⁽³⁾		[Value]	
040		Number of subsidiaries ⁽⁴⁾		[Value]	
	Own funds composition with respect to own funds requirements			Data, in millions euro	Data, as percentage of total own funds requirements ⁽⁶⁾ %
050	Total Common Equity Tier 1 ⁽⁵⁾		I 01.00 row 0030	[Value]	[Value]
060	Total Additional Tier 1 ⁽⁵⁾		I 01.00 row 0300	[Value]	[Value]
070	Total Tier 2 capital ⁽⁵⁾		I 01.00 row 0420	[Value]	[Value]
080	Total own funds ⁽⁶⁾		I 01.00 row 0010	[Value]	[Value]
	Total own funds requirement by type			Data, in millions euro	Data, as percentage of the total own funds requirements ⁽⁶⁾ %
090	Data on own funds requirements	Fixed overheads requirement ⁽⁷⁾	I 02.00 row 0030	[Value]	[Value]
100		Permanent minimum capital requirement ⁽⁸⁾	I 02.00 row 0020	[Value]	[Value]
110		K-factor requirement ⁽⁹⁾	I 02.00 row 0040	[Value]	[Value]
120		of which Risk-to-Client (RtC) ⁽¹⁰⁾	I 04.00 row 0020	[Value]	[Value]
130		of which Risk-to-Market (RtM) ⁽¹¹⁾	I 04.00 row 0090	[Value]	[Value]
140		of which Risk-to-Firm (RtF) ⁽¹²⁾	I 04.00 row 0120	[Value]	[Value]

- (¹) The total assets figure shall be the sum of the asset values of all investment firms in a Member State, calculated based on applicable accounting standards, excluding any asset under management.
- (²) EEA countries shall not be included.
- (³) Number of branches as defined in point (3) of Article 3(1) of Directive (EU) 2019/2034. Any number of places of business set up in the same country by an investment firm with headquarters in a third country should be counted as a single branch.
- (⁴) Number of subsidiaries as defined in point (29) of Article 3(1) of Directive (EU) 2019/2034. Any subsidiary of a subsidiary undertaking shall be regarded as a subsidiary of the parent undertaking, which is at the head of those undertakings.
- (⁵) Capital as defined in Article 9 (1) of Regulation (EU) 2019/2033.
- (⁶) Total own funds requirement as defined in Article 11 of the Regulation (EU) 2019/2033.
- (⁷) Fixed overheads requirement as defined in point (a) of Article 11(1) of Regulation (EU) 2019/2033.
- (⁸) Permanent minimum capital requirement as defined in point (b) of Article 11(1) of Regulation (EU) 2019/2033.
- (⁹) K-factor requirement as defined in point (c) of Article 11(1) of Regulation (EU) 2019/2033.
- (¹⁰) Own funds requirements associated with Risk to Client as defined in Article 15(1)(a) of Regulation (EU) 2019/2033. Indicate total capital ratio in column 'Data, as percentage of the total own fund requirements %'.
- (¹¹) Own funds requirements associated with Risk to Market as defined in Article 15(1)(b) of Regulation (EU) 2019/2033.
- (¹²) Own funds requirements associated with Risk to Firm as defined in Article 15(1)(c) of Regulation (EU) 2019/2033.

PART 2

Data on market risk (¹) (year 20XX)

Risk to market data		Approach	Reference to reporting template	Data	
010	Own funds requirements for risk to market				
020	Breakdown by approach	Number of investment firms using each approach with respect to the total number of investment firms (¹)	K-factor net position risk approach	IF 04.00 row 0100	[Value]
030			of which standardised approach		[Value]
040			of which the alternative standardised approach		[Value]
050			of which the alternative internal model approach		[Value]
060			of which each of K-factor net position risk approach (²)		[Value]
070			K-factor Clearing Margin Given approach	IF 04.00 row 0110	[Value]
080			Both K-factors Clearing margin given and net position risk		[Value]

(¹) The template shall include information on all investment firms and not only on those with positions related to K-

090					Data in millions euro	Data as percentage of the total own funds requirements ⁽³⁾ %
100		Total own funds requirements under each approach ⁽¹⁾	K-factor net position risk approach	IF 04.00 row 0100	[Value]	[Value]
110			of which standardised approach		[Value]	[Value]
120			of which the alternative standardised approach		[Value]	[Value]
130			of which the alternative internal model approach ⁽²⁾		[Value]	[Value]
140			of which each of K-factor net position risk approach ⁽²⁾		[Value]	[Value]
150			K-factor Clearing margin given approach	IF 04.00 row 0110	[Value]	[Value]
160			Both and K-factors Clearing margin given and net position risk		[Value]	[Value]

⁽¹⁾ Some investment firm can use more than one approach, therefore the sum of items 020 to 060 may be different from the total number of investment firms calculating the K-factor net position risk.

⁽²⁾ When investment firms use more than one K-factor net position risk approach: standardised approach, the alternative standardised approach, the alternative internal model approach.

⁽³⁾ Own funds requirements as referred to in Article 9 of Regulation (EU) 2019/2033.

PART 3

Data on supervisory measures and administrative penalties ⁽²⁾ (year 20XX)

	Supervisory measures	Data
010	Supervisory measures taken in accordance with Article 38 (a)	Total number of supervisory measures taken in accordance with Article 39(2) of Directive (EU) 2019/2034
020		to hold own funds in excess of the minimum capital requirements [Article 39(2)(a)]
030		to reinforce governance arrangements and internal capital and liquid assets management [Article 39(2)(b)]
040		to present a plan to restore compliance with supervisory requirements [Article 39(2)(c)]
050		to apply a specific provisioning policy or treatment of assets [Article 39(2)(d)]
060		to restrict/limit business or activities [Article 39(2)(e)]
070		to reduce the risk inherent in the activities, products and systems, including outsourced activities [Article 39(2)(f)]
080		to limit variable remuneration [Article 39(2)(g)]
090		to strengthen own funds by using net profits [Article 39(2)(h)]
100		to restrict/prohibit distributions or interest payments [Article 39(2)(i)]
110		to impose additional or more frequent reporting requirements [Article 39(2)(j)]
120		to impose specific liquidity requirements [Article 39(2)(k)]
130		to impose additional disclosure requirements [Article 39(2)(l)]
140		to reduce risks posed to the security of investment firms' network and information systems [Article 39(2)(m)]
150		Number and nature of other supervisory measures taken (not listed in Article 39(2) of Directive (EU) 2019/2034)

⁽²⁾ Information shall be reported based on the date of decision. Due to differences in national regulations as well as in supervisory practices and approaches across the competent authorities, the figures provided in this table might not allow for a meaningful comparison between jurisdictions. Any conclusions without carefully considering these differences can be misleading.

160	Supervisory measures taken in accordance with Article 38(b) and other provisions of Directive (EU) 2019/2034 or Regulation (EU) 2019/2033	Total number of supervisory measures taken in accordance with Article 39(2) of Directive (EU) 2019/2034	[Value]
170		to hold own funds in excess of the minimum capital requirements [Article 39(2)(a)]	[Value]
180		to reinforce governance arrangements and internal capital and liquid assets management [Article 39(2)(b)]	[Value]
190		to present a plan to restore compliance with supervisory requirements [Article 39(2)(c)]	[Value]
200		to apply a specific provisioning policy or treatment of assets [Article 39(2)(d)]	[Value]
210		to restrict/limit business or activities [Article 39(2)(e)]	[Value]
220		to reduce the risk inherent in the activities, products and systems, including outsourced activities [Article 39(2)(f)]	[Value]
230		to limit variable remuneration [Article 39(2)(g)]	[Value]
240		to strengthen own funds by using net profits [Article 39(2)(h)]	[Value]
250		to restrict/prohibit distributions or interest payments [Article 39(2)(i)]	[Value]
260		to impose additional or more frequent reporting requirements [Article 39(2)(j)]	[Value]
270		to impose specific liquidity requirements [Article 39(2)(k)]	[Value]
280		to impose additional disclosure requirements [Article 39(2)(l)]	[Value]
290		to reduce risks posed to the security of investment firms' network and information systems [Article 39(2)(m)]	[Value]
300		Number and nature of other supervisory measures taken (not listed in Article 39(2) of Directive (EU) 2019/2034)	[Value]

	Administrative penalties ⁽¹⁾		Data
010	Administrative penalties (for other breaches of requirements imposed by Directive (EU) 2019/2034 or Regulation (EU) 2019/2033	Total number of administrative penalties from Article 18(2) of Directive (EU) 2019/2034 applied:	[Value]
020		public statements identifying the natural/legal person responsible and the nature of the breach [Article 18(2)(a)]	[Value]
030		orders requiring the natural/legal person responsible to cease the conduct and to desist from a repetition of that conduct [Article 18(2)(b)]	[Value]

040		temporary bans against natural person from exercising functions in investment firms [Article 18(2)(c)]	[Value]
050		administrative pecuniary penalties imposed on legal/natural person [points (d) to (f) of Article 18(2)]	[Value]
060		Number and nature of other administrative penalties applied (not specified in Article 18(2) of Directive (EU) 2019/2034)	[free text]

(¹) The administrative penalties imposed by competent authorities. Competent authorities shall report all administrative penalties against which there is no appeal available in their jurisdiction by the reference date of the disclosure. Competent authorities of Member States where it is permitted to publish administrative penalties subject to an appeal, shall also report those administrative penalties unless the appeal annulling the administrative penalty is issued.

Competent authorities shall not disclose supervisory actions or decisions directed at specific investment firms. When publishing information on the general criteria and methodologies, competent authorities shall not disclose any supervisory measures directed at specific investment firm whether taken with respect to a single investment firm or to a group of investment firms.

PART 4

Data on exemptions (²) (year 20XX)

	Exemption granted to investment firms	Total number of exemption granted	Art. 9
010	Exemption from the application on an individual basis of prudential requirements set out in Article 5 in respect of parts 2, 3, 4, 6 and 7 of Regulation (EU) 2019/2033 (Article 6(1) (waivers for subsidiaries) (¹))	[Value]	
020	Exemption from the application on an individual basis of prudential requirements set out in Article 5 in respect of part 6 of Regulation (EU) 2019/2033 (Article 6(2) (waivers for subsidiaries) (¹))	[Value]	
030	Exemption from the application on an individual basis of prudential requirements set out in Article 5 in respect of part 5 of Regulation (EU) 2019/2033 (Article 6(3) (liquidity waivers for subsidiaries))	[Value]	
040	Exemption from the application on a consolidated basis of prudential requirements in respect of part 5 of Regulation (EU) 2019/2033 (Article 7(4) (prudential consolidation))		

(²) Competent authorities shall report information on exemptions practices based on the total number of exemptions by the competent authority, which are still effective or in force. The information to be reported is limited to those entities granted an exemption. Where the information is not available, i.e. not part of the regular reporting, it shall be reported as 'N/A'.

050	Total number of permissions granted	[Value]	
060	Total amount of consolidated own funds held in the subsidiaries established in third countries (in EUR millions)	[Value]	
070	Percentage of the total consolidated own funds held in subsidiaries established in third countries (%)	[Value]	
080	Percentage of the consolidated own funds requirements allocated to subsidiaries established in third countries (%)	[Value]	

(¹) The number of investment firms which have been granted the exemption shall be used as a basis for counting the exemptions.

DECISIONS

COUNCIL DECISION (EU) 2022/390

of 3 March 2022

appointing four members of the Court of Auditors

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 286(2) thereof,

Having regard to the proposals by the Czech Republic, the Republic of Latvia, the Republic of Poland and the Republic of Slovenia,

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

Whereas:

- (1) The terms of office of Mr Jan GREGOR, Mr Samo JEREB, Mr Mihails KOZLOVS and Mr Marek OPIOŁA are due to expire on 6 May 2022.
- (2) Four members should therefore be appointed to the Court of Auditors,

HAS ADOPTED THIS DECISION:

Article 1

The following are hereby appointed members of the Court of Auditors for the period from 7 May 2022 to 6 May 2028:

- Mr Jan GREGOR,
- Mr Mihails KOZLOVS,
- Mr Marek OPIOŁA,
- Mr Jorg Kristijan PETROVIČ.

Article 2

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

Done at Brussels, 3 March 2022.

For the Council
The President
G. DARMANIN

⁽¹⁾ Opinions of 19 January 2022 (not yet published in the Official Journal).

COUNCIL DECISION (EU) 2022/391**of 3 March 2022****on the position to be taken on behalf of the European Union in the 65th session of the Commission on Narcotic Drugs on the scheduling of substances under the Single Convention on Narcotic Drugs of 1961, as amended by the 1972 Protocol, and the Convention on Psychotropic Substances of 1971**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 83(1), in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The United Nations (UN) Single Convention on Narcotic Drugs of 1961, as amended by the 1972 Protocol (the 'Convention on Narcotic Drugs') entered into force on 8 August 1975.
- (2) Pursuant to Article 3 of the Convention on Narcotic Drugs, the Commission on Narcotic Drugs may decide to add substances to the Schedules of that Convention. It can make changes to the Schedules only in accordance with recommendations of the World Health Organisation (WHO), but it can also decide not to make changes recommended by the WHO.
- (3) The UN Convention on Psychotropic Substances of 1971 (the 'Convention on Psychotropic Substances') entered into force on 16 August 1976.
- (4) Pursuant to Article 2 of the Convention on Psychotropic Substances, the Commission on Narcotic Drugs may decide to add substances to the Schedules of that Convention or to remove them, on the basis of recommendations of the WHO. It has broad discretionary powers to take into account economic, social, legal, administrative and other factors, but may not act arbitrarily.
- (5) Changes to the Schedules of the Convention on Narcotic Drugs and the Convention on Psychotropic Substances have direct repercussions on the scope of application of Union law in the area of drug control. Council Framework Decision 2004/757/JHA ⁽¹⁾ applies to substances listed in the Schedules of those Conventions. Thus, any change to the Schedules annexed to those Conventions is directly incorporated into common Union rules.
- (6) The Commission on Narcotic Drugs is to decide, during its 65th session scheduled for 14 to 18 March 2022 in Vienna, on the addition of three new substances to the Schedules of the Convention on Narcotic Drugs and the Convention on Psychotropic Substances.
- (7) The Union is not a party to the Convention on Narcotic Drugs or the Convention on Psychotropic Substances. It has an observer status with no voting rights in the Commission on Narcotic Drugs, of which 12 Member States are members with the right to vote at its 65th session ⁽²⁾. It is necessary for the Council to authorise those Member States to express the position of the Union on the scheduling of substances under those Conventions, since such decisions on the addition of new substances to their Schedules fall under the competence of the Union.

⁽¹⁾ Council Framework Decision 2004/757/JHA of 25 October 2004 laying down minimum provisions on the constituent elements of criminal acts and penalties in the field of illicit drug trafficking (OJ L 335, 11.11.2004, p. 8).

⁽²⁾ Austria, Belgium, France, Germany, Hungary, Italy, Lithuania, Netherlands, Poland, Slovenia, Spain and Sweden.

- (8) The WHO has recommended the addition of two new substances to Schedule I of the Convention on Narcotic Drugs and one new substance to Schedule II of the Convention on Psychotropic Substances.
- (9) All substances reviewed by the WHO Expert Committee on Drug Dependence (the 'Expert Committee') and recommended for scheduling by the WHO are monitored by the European Monitoring Centre for Drugs and Drug Addiction as new psychoactive substances under the terms of Regulation (EC) No 1920/2006 of the European Parliament and of the Council ⁽⁷⁾.
- (10) According to the assessment by the Expert Committee, brorphine (chemical name: 1-{1-[1-(4-bromophenyl)ethyl]piperidin-4-yl}-1,3-dihydro-2H-benzimidazol-2-one) is a synthetic opioid similar to other synthetic opioids such as morphine and fentanyl. Brorphine may be convertible to bezitramide, which is an opioid listed in Schedule I of the Convention on Narcotic Drugs. Brorphine has no therapeutic uses nor has it received a marketing authorisation as a medicinal product. There is sufficient evidence that brorphine is being or is likely to be abused and may constitute a public health and social problem that warrants placing it under international control. Thus, the WHO recommends that brorphine be placed in Schedule I of the Convention on Narcotic Drugs.
- (11) Brorphine has been detected in four Member States and is controlled in at least three Member States. It has been associated with one non-fatal intoxication and is currently under intensive monitoring by the European Monitoring Centre for Drugs and Drug Addiction.
- (12) Therefore, the position of the Union should be to add brorphine to Schedule I of the Convention on Narcotic Drugs.
- (13) According to the assessment of the Expert Committee, metonitazene (chemical name: *N,N*-diethyl-2-(2-(4-methoxybenzyl)-5-nitro-1*H*-benzo[d]imidazol-1-yl)ethan-1-amine) is a synthetic opioid structurally similar to isotonitazene and etonitazene, both of which are listed in Schedule I of the Convention on Narcotic Drugs. Metonitazene has been studied in preclinical models for its analgesic effects but it is not known to have any therapeutic use. There is sufficient evidence that metonitazene is being or is likely to be abused and may constitute a public health and social problem that warrants placing it under international control. Thus, the WHO recommends that metonitazene be placed in Schedule I of the Convention on Narcotic Drugs.
- (14) Metonitazene has been detected in three Member States and is controlled in at least three Member States. It has been associated with one death and is currently under intensive monitoring by the European Monitoring Centre for Drugs and Drug Addiction.
- (15) Therefore, the position of the Union should be to add metonitazene to Schedule I of the Convention on Narcotic Drugs.
- (16) According to the assessment of the Expert Committee, eutylone (chemical name: 1-(1,3-benzodioxol-5-yl)-2-(ethylamino)butan-1-one) is a synthetic cathinone, presenting a chemical structure similar to, and pharmacological similarities to, amphetamines and cathinones already under international control. Related cathinones, such as methylone and *N*-ethylnorpentylone, are listed under Schedule II of the Convention on Psychotropic Substances. There is no known therapeutic use for eutylone, nor has it received a marketing authorisation as a medicinal product. There is sufficient evidence that eutylone is being or is likely to be abused and may constitute a public health and social problem that warrants placing it under international control. Thus, the WHO recommends that eutylone be placed in Schedule II of the Convention on Psychotropic Substances.
- (17) Eutylone has been detected in 20 Member States and is controlled in at least two Member States. It has been associated with one non-fatal intoxication and has been detected in three biological samples associated with serious adverse events. Eutylone is currently under intensive monitoring by the European Monitoring Centre for Drugs and Drug Addiction.

⁽⁷⁾ Regulation (EC) No 1920/2006 of the European Parliament and of the Council of 12 December 2006 on the European Monitoring Centre for Drugs and Drug Addiction (OJ L 376, 27.12.2006, p. 1).

- (18) Therefore, the position of the Union should be to add eutylone to Schedule II of the Convention on Psychotropic Substances.
- (19) It is appropriate to establish the position to be taken on behalf of the Union in the Commission on Narcotic Drugs, as the decisions on scheduling as regards the three substances will directly influence the content of Union law, namely Framework Decision 2004/757/JHA.
- (20) The position of the Union is to be expressed by the Member States that are members of the Commission on Narcotic Drugs, acting jointly in the interest of the Union.
- (21) Denmark is bound by Framework Decision 2004/757/JHA and is therefore taking part in the adoption and application of this Decision.
- (22) Ireland is bound by Framework Decision 2004/757/JHA and is therefore taking part in the adoption and application of this Decision,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on behalf of the Union by the Member States in the 65th session of the Commission on Narcotic Drugs from 14 to 18 March 2022, when that body is called upon to adopt decisions on the addition of substances to the Schedules of the United Nations Single Convention on Narcotic Drugs of 1961, as amended by the 1972 Protocol, and the United Nations Convention on Psychotropic Substances of 1971, shall be that set out in the Annex to this Decision.

Article 2

The position referred to in Article 1 shall be expressed by the Member States that are members of the Commission on Narcotic Drugs, acting jointly in the interest of the Union.

Article 3

This Decision is addressed to the Member States in accordance with the Treaties.

Done at Brussels, 3 March 2022.

For the Council
The President
G. DARMANIN

ANNEX

Position to be taken by the Member States which are members of the Commission on Narcotic Drugs, acting jointly in the interest of the Union, during the 65th session of the Commission on Narcotic Drugs from 14 to 18 March 2022 on the scheduling of substances:

- (1) Brorphine is to be included in Schedule I of the Single Convention on Narcotic Drugs of 1961, as amended by the 1972 Protocol.
 - (2) Metonitazene is to be included in Schedule I of the Single Convention on Narcotic Drugs of 1961, as amended by the 1972 Protocol.
 - (3) Eutylone is to be included in Schedule II of the Convention on Psychotropic Substances of 1971.
-

COUNCIL DECISION (EU) 2022/392**of 3 March 2022****concerning the position to be taken on behalf of the European Union within the North Pacific Fisheries Commission**

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission,

Whereas:

- (1) By Council Decision (EU) 2022/314 ⁽¹⁾, the Union acceded to the Convention on the Conservation and Management of High Seas Fishery Resources in the North Pacific Ocean (the 'Convention'), which established the North Pacific Fisheries Commission (NPFC).
- (2) The NPFC is responsible for the adoption of conservation and management measures to achieve the objectives of the Convention. Such measures may become binding upon the Union.
- (3) Regulation (EU) No 1380/2013 of the European Parliament and of the Council ⁽²⁾ provides that the Union is to ensure that fishing and aquaculture activities are environmentally sustainable in the long-term and are managed in a way that is consistent with the objectives of achieving economic, social and employment benefits, and of contributing to the availability of food supplies. It also provides that the Union is to apply the precautionary approach to fisheries management, and is to aim to ensure that exploitation of living marine biological resources restores and maintains population of harvested species above levels which can produce the maximum sustainable yield. It further provides that the Union is to take conservation and management measures based on best available scientific advice, to support the development of scientific knowledge and advice, to gradually eliminate discards, and to promote fishing methods that contribute to more selective fishing, the avoidance and reduction, as far as possible, of unwanted catches, and fishing with low impact on marine ecosystem and fishery resources. Regulation (EU) No 1380/2013 specifically provides that those objectives and principles are to be applied by the Union in the conduct of its external fisheries relations.
- (4) As stated in the Joint communication by the High Representative of the Union for Foreign Affairs and Security Policy and the Commission of 10 November 2016 entitled 'International ocean governance: an agenda for the future of oceans', and the Council conclusions of 24 March 2017 of the same title, the promotion of measures to support and enhance the effectiveness of regional fisheries management organisations and, where relevant, improve their governance is central to the Union's action in those fora.
- (5) The Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions of 16 January 2018 entitled 'A European Strategy for Plastics in a Circular Economy' refers to specific measures to reduce plastics and marine pollution as well as to reduce the loss or abandonment at sea of fishing gear.

⁽¹⁾ Council Decision (EU) 2022/314 of 15 February 2022 concerning the accession of the European Union to the Convention on the Conservation and Management of High Seas Fishery Resources in the North Pacific Ocean (OJ L 55, 28.2.2022, p. 12).

⁽²⁾ Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy, amending Council Regulations (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002 and (EC) No 639/2004 and Council decision 2004/585/EC (OJ L 354, 28.12.2013, p. 22).

- (6) It is appropriate to establish the position to be taken on the Union's behalf within the NPFC for the period 2022-2027, as the NPFC conservation and enforcement measures will be binding on the Union and capable of decisively influencing the content of Union law, namely Council Regulations (EC) No 1005/2008 ⁽³⁾ and (EC) No 1224/2009 ⁽⁴⁾ and Regulation (EU) 2017/2403 of the European Parliament and of the Council ⁽⁵⁾.
- (7) In view of the evolving nature of fishery resources in the area to which the Convention applies, as defined in Article 4(1) of the Convention (the 'Convention area') and the consequent need for the position of the Union to take account of new developments, including new scientific and other relevant information presented before or during the meetings of the NPFC, procedures should be established, in line with the principle of mutual sincere cooperation among the Union institutions enshrined in Article 13(2) of the Treaty on European Union, for the year-to-year specification of the Union position for the period 2022-2027,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on the Union's behalf in the meetings of the North Pacific Fisheries Commission (NPFC) is set out in Annex I.

Article 2

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

Article 3

The Union's position as set out in Annex I shall be assessed and, where appropriate, revised by the Council upon a proposal from the Commission, at the latest by the annual meeting of the NPFC in 2028.

Article 4

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

Done at Brussels, 3 March 2022.

For the Council
The President
G. DARMANIN

⁽³⁾ Council Regulation (EC) No 1005/2008 of 29 September 2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing, amending Regulations (EEC) No 2847/93, (EC) No 1936/2001 and (EC) No 601/2004 and repealing Regulations (EC) No 1093/94 and (EC) No 1447/1999 (OJ L 286, 29.10.2008, p. 1).

⁽⁴⁾ Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Union control system for ensuring compliance with the rules of the common fisheries policy, amending Regulations (EC) No 847/96, (EC) No 2371/2002, (EC) No 811/2004, (EC) No 768/2005, (EC) No 2115/2005, (EC) No 2166/2005, (EC) No 388/2006, (EC) No 509/2007, (EC) No 676/2007, (EC) No 1098/2007, (EC) No 1300/2008, (EC) No 1342/2008 and repealing Regulations (EEC) No 2847/93, (EC) No 1627/94 and (EC) No 1966/2006 (OJ L 343, 22.12.2009, p. 1).

⁽⁵⁾ Regulation (EU) 2017/2403 of the European Parliament and of the Council of 12 December 2017 on the sustainable management of external fishing fleets, and repealing Council Regulation (EC) No 1006/2008 (OJ L 347, 28.12.2017, p. 81).

ANNEX I

THE POSITION TO BE TAKEN ON THE UNION'S BEHALF WITHIN THE NORTH PACIFIC FISHERIES COMMISSION**1. PRINCIPLES**

In the framework of the North Pacific Fisheries Commission (NPFC), the Union shall:

- (a) act in accordance with the objectives and principles pursued by the Union within the common fisheries policy, in particular through the precautionary approach and the aims related to the maximum sustainable yield as laid down in Article 2(2) of Regulation (EU) No 1380/2013, to promote the implementation of an ecosystem-based approach to fisheries management, to avoid and reduce, as far as possible, unwanted catches and gradually eliminate discards, and to minimise the negative impact of fishing activities on marine ecosystems and their habitats, and, by promoting economically viable and competitive Union fisheries, to provide a fair standard of living for those who depend on fishing activities, while also taking account of the interests of consumers;
- (b) work towards appropriate involvement of stakeholders in the preparation of NPFC measures and ensure that measures adopted within the NPFC are in accordance with the objectives of the Convention on the Conservation and Management of High Seas Fishery Resources in the North Pacific Ocean (the 'Convention');
- (c) ensure that measures adopted within the NPFC are consistent with international law, and in particular with the provisions of the United Nations (UN) Convention on the Law of the Sea of 10 December 1982, the UN Agreement relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks of 4 December 1995, the Food and Agriculture Organization (FAO) Agreement to promote compliance with international conservation and management measures by fishing vessels on the high seas of 24 November 1993 and the FAO Port State Measures Agreement of 22 November 2009;
- (d) promote positions consistent with the best practices of regional fisheries management organisations (RFMOs) involved in fisheries management in the same area;
- (e) seek consistency and synergy with Union policy regarding its bilateral fisheries relations with third countries, and ensure coherence with its other policies, in particular in the fields of external relations, environment, trade, development, research and innovation;
- (f) ensure that the Union's international commitments are respected;
- (g) respect the Council conclusions of 19 March 2012 on the Commission Communication on the external dimension of the common fisheries policy;
- (h) aim to create a level playing field for the Union fleet within the area to which the Convention applies, as defined in Article 4(1) of the Convention (the 'Convention area'), based on the same principles and standards as those applicable under Union law, and to promote the uniform implementation of those principles and standards;
- (i) respect the Council conclusions of 3 April 2017 on the Joint communication by the High Representative of the Union for Foreign Affairs and Security Policy and the Commission of 10 November 2016 entitled 'International ocean governance: an agenda for the future of oceans', and promote measures to support and enhance the effectiveness of the NPFC and, where relevant, improve its governance and performance, in particular as regards science, compliance, transparency and decision-making;
- (j) promote coordination between RFMOs and regional sea conventions and cooperation with global organisations within their mandates, where appropriate;
- (k) promote cooperation mechanisms amongst non-tuna RFMOs similar to the Kobe process for tuna RFMOs.

2. ORIENTATIONS

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

- (a) conservation and management measures for fisheries resources in the Convention area based on the best scientific advice available, including total allowable catches and quotas or effort regulation for living marine biological resources regulated by the NPFC, which would achieve the maximum sustainable yield exploitation rate. Where necessary, those conservation and management measures shall include specific measures for stocks which suffer from overfishing to keep the fishing effort in line with available fishing opportunities;
 - (b) measures to prevent, deter and eliminate illegal, unreported and unregulated (IUU) fishing activities in the Convention area, including IUU fishing vessel listing;
 - (c) monitoring, control and surveillance measures in the Convention area to ensure efficiency of control and compliance with measures adopted within the NPFC;
 - (d) measures to minimise the negative impact of fishing activities on marine biodiversity and marine ecosystems and their habitats, including measures to reduce marine pollution and prevent the discharge of plastics at sea and reduce the impact on marine biodiversity and ecosystems of plastics present at sea, protective measures for vulnerable marine ecosystems in the Convention area, in line with the Convention and the FAO International Guidelines for the Management of Deep-sea Fisheries in the High Seas of 29 August 2008, and measures to avoid and reduce as far as possible unwanted catches, in particular of vulnerable marine species, and to gradually eliminate discards;
 - (e) measures to reduce the impact of abandoned, lost or otherwise discarded fishing gear in the ocean and to help identify and recover such gear;
 - (f) recommendations, where appropriate and to the extent permitted under the relevant constituent documents, encouraging the implementation of the International Labour Organisation Work in Fishing Convention of 14 June 2007;
 - (g) measures that aim to prohibit fisheries conducted solely for the purpose of harvesting shark fins and requiring that all sharks landed have each fin naturally attached;
 - (h) common approaches with other RFMOs, where appropriate, and in particular with those involved in fisheries management in the same region;
 - (i) additional technical measures based on advice from the subsidiary bodies and working groups of the NPFC.
-

ANNEX II

YEAR-TO-YEAR SPECIFICATION OF THE POSITION TO BE TAKEN ON THE UNION'S BEHALF AT MEETINGS OF THE NORTH PACIFIC FISHERIES COMMISSION

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

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

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

COUNCIL DECISION (EU) 2022/393**of 3 March 2022****on the position to be taken, on behalf of the European Union, in the 65th session of the Commission on Narcotic Drugs as regards the addition of three substances to the list of substances in Table I of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 207(4), first subparagraph, in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988 ('the Convention') was concluded by the Union by means of Council Decision 90/611/EEC ⁽¹⁾ and entered into force on 11 November 1990.
- (2) Pursuant to Article 12(2) to (7) of the Convention, substances may be added to the Tables of the Convention in which drug precursors are listed.
- (3) During its 65th session, which is due to take place in Vienna from 14 to 18 March 2022, the Commission on Narcotic Drugs is to adopt a decision on the addition of three substances to Table I of the Convention.
- (4) According to the assessment of the International Narcotics Control Board, three substances, namely 4-AP, 1-boc-4-AP and norfentanyl, are frequently used in the illicit manufacture of fentanyl and are highly suitable for the illicit manufacture of fentanyl and a number of fentanyl analogues, which are highly potent synthetic opioids. There is evidence that the volume and the extent of the illicit manufacture of fentanyl and fentanyl analogues pose serious public health and social problems. The placing of 4-AP, 1-boc-4-AP and norfentanyl under international control is therefore warranted.
- (5) On 2 February 2022 the International Narcotics Control Board recommended that the Commission on Narcotic Drugs add 4-AP, 1-boc-4-AP and norfentanyl to Table I of the Convention.
- (6) Illicitly manufactured fentanyl and fentanyl analogues have caused significant public health and social problems in certain Member States.
- (7) The decision on the addition of substances to Table I of the Convention falls under the exclusive competence of the Union. The Union has observer status in the Commission on Narcotic Drugs, of which 12 Member States of the Union are members with the right to vote.
- (8) It is appropriate to establish the position to be taken on behalf of the Union in the Commission on Narcotic Drugs, as the decision of that Commission will be binding on the Union and capable of decisively influencing the content of Union law, namely Regulation (EC) No 273/2004 of the European Parliament and of the Council ⁽²⁾ and Council Regulation (EC) No 111/2005 ⁽³⁾.
- (9) The Union's position should be expressed by the Member States of the Union that are members of the Commission on Narcotic Drugs, acting jointly in the interest of the Union.
- (10) The position to be taken on behalf of the Union in the Commission on Narcotic Drugs should be to add 4-AP, 1-boc-4-AP and norfentanyl to Table I of the Convention,

⁽¹⁾ Council Decision 90/611/EEC of 22 October 1990 concerning the conclusion, on behalf of the European Economic Community, of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (OJ L 326, 24.11.1990, p. 56).

⁽²⁾ Regulation (EC) No 273/2004 of the European Parliament and of the Council of 11 February 2004 on drug precursors (OJ L 47, 18.2.2004, p. 1).

⁽³⁾ Council Regulation (EC) No 111/2005 of 22 December 2004 laying down rules for the monitoring of trade between the Union and third countries in drug precursors (OJ L 22, 26.1.2005, p. 1).

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on behalf of the Union in the 65th session of the Commission on Narcotic Drugs from 14 to 18 March 2022 shall be to add the following substances to Table I of the Convention:

- (a) 4-AP;
- (b) 1-boc-4-AP; and
- (c) norfentanyl.

Article 2

The position set out in Article 1 shall be expressed by the Member States of the Union that are members of the Commission on Narcotic Drugs, acting jointly in the interest of the Union.

Article 3

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

Done at Brussels, 3 March 2022.

For the Council
The President
G. DARMANIN

CORRIGENDA

Corrigendum to Council Regulation (EU) 2021/1030 of 24 June 2021 amending Regulation (EC) No 765/2006 concerning restrictive measures in respect of Belarus

(Official Journal of the European Union L 224 I of 24 June 2021)

On page 2, in Article 1(1):

for:

‘(1) in Article 1, the following points are added:

- ‘7. “dual-use goods and technology” means the items listed in Annex I to Council Regulation (EC) No 428/2009 (*).
8. “investment services” means the following services and activities:
 - (i) reception and transmission of orders in relation to one or more financial instruments;
 - (ii) execution of orders on behalf of clients;
 - (iii) dealing on own account;
 - (iv) portfolio management;
 - (v) investment advice;
 - (vi) underwriting of financial instruments and/or placing of financial instruments on a firm commitment basis;
 - (vii) placing of financial instruments without a firm commitment basis;
 - (viii) any service in relation to the admission to trading on a regulated market or trading on a multilateral trading facility.
9. “transferable securities” means the following classes of securities which are negotiable on the capital market, with the exception of instruments of payment:
 - (i) shares in companies and other securities equivalent to shares in companies, partnerships or other entities, and depositary receipts in respect of shares;
 - (ii) bonds or other forms of securitised debt, including depositary receipts in respect of such securities;
 - (iii) any other securities giving the right to acquire or sell any such transferable securities.
- 10 “money-market instruments” means those classes of instruments which are normally dealt in on the money market, such as treasury bills, certificates of deposit and commercial papers and excluding instruments of payment.
11. “credit institution” means an undertaking the business of which is to take deposits or other repayable funds from the public and to grant credit for its own account.

(*) Council Regulation (EC) No 428/2009 of 5 May 2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items (OJ L 134, 29.5.2009, p. 1).’;

read:

‘(1) in Article 1, the following points are added:

- ‘7. “Belarusian air carrier” means an air transport undertaking holding a valid operating licence or equivalent issued by the competent authorities of Belarus.
8. “dual-use goods and technology” means the items listed in Annex I to Council Regulation (EC) No 428/2009 (*).

9. "investment services" means the following services and activities:
- (i) reception and transmission of orders in relation to one or more financial instruments;
 - (ii) execution of orders on behalf of clients;
 - (iii) dealing on own account;
 - (iv) portfolio management;
 - (v) investment advice;
 - (vi) underwriting of financial instruments and/or placing of financial instruments on a firm commitment basis;
 - (vii) placing of financial instruments without a firm commitment basis;
 - (viii) any service in relation to the admission to trading on a regulated market or trading on a multilateral trading facility.
10. "transferable securities" means the following classes of securities which are negotiable on the capital market, with the exception of instruments of payment:
- (i) shares in companies and other securities equivalent to shares in companies, partnerships or other entities, and depositary receipts in respect of shares;
 - (ii) bonds or other forms of securitised debt, including depositary receipts in respect of such securities;
 - (iii) any other securities giving the right to acquire or sell any such transferable securities.
11. "money-market instruments" means those classes of instruments which are normally dealt in on the money market, such as treasury bills, certificates of deposit and commercial papers and excluding instruments of payment.
12. "credit institution" means an undertaking the business of which is to take deposits or other repayable funds from the public and to grant credit for its own account.

(*) Council Regulation (EC) No 428/2009 of 5 May 2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items (OJ L 134, 29.5.2009, p. 1).';.

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