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⁽¹⁾ Text with EEA relevance.

EN

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⁽¹⁾ Text with EEA relevance.

II

(Non-legislative acts)

REGULATIONS

COMMISSION DELEGATED REGULATION (EU) 2022/803

of 16 February 2022

supplementing Regulation (EU) No 600/2014 of the European Parliament and of the Council by specifying rules of procedure for the exercise of the power to impose fines or periodic penalty payments by the European Securities Markets Authority regarding data reporting service providers

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012 ⁽¹⁾, and in particular Article 38k(10),

Whereas:

- (1) Given the cross-border dimension of market data handling, data quality and the necessity to achieve economies of scale, and to avoid the adverse impact of potential divergences on both data quality and the task of data reporting providers, Regulation (EU) 2019/2175 of the European Parliament and of the Council ⁽²⁾ transferred authorisation and supervision powers with regard to the activities of data reporting services providers ('DRSPs') in the Union to the European Securities and Markets Authority ('ESMA').
- (2) It is appropriate to specify the rules of procedure for the exercise of the power to impose fines and periodic penalty payments by ESMA with regard to the DRSPs in scope of its supervision. In particular, Regulation (EU) No 600/2014 prescribes that those rules of procedures should include provisions on the rights of the defence, the collection of fines or periodic penalty payments and the limitation periods for the imposition and enforcement of fines and periodic penalty payments.
- (3) Where ESMA finds that there are serious indications of possible existence of facts liable to constitute one or more infringements of the requirements for data reporting services providers, ESMA is to appoint an independent investigation officer within ESMA to investigate the matter. Upon completion of the investigation, the investigation officer is to give the person subject to the investigation the opportunity to be heard. This means that the person should have the right to make written comments within a reasonable time limit of not less than four weeks before the investigation officer submits its findings to ESMA. The person subject to the investigation should be allowed to be assisted by a counsel of their choice. The investigation officer should consider, whether, as a result of the submissions made by the person subject to the investigation, it is necessary to amend the statement of findings before submitting it to ESMA.

⁽¹⁾ OJ L 173, 12.6.2014, p. 84.

⁽²⁾ Regulation (EU) 2019/2175 of the European Parliament and of the Council of 18 December 2019 amending Regulation (EU) No 1093/2010 establishing a European Supervisory Authority (European Banking Authority), Regulation (EU) No 1094/2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), Regulation (EU) No 1095/2010 establishing a European Supervisory Authority (European Securities and Markets Authority), Regulation (EU) No 600/2014 on markets in financial instruments, Regulation (EU) 2016/1011 on indices used as benchmarks in financial instruments and financial contracts or to measure the performance of investment funds, and Regulation (EU) 2015/847 on information accompanying transfers of funds (OJ L 334, 27.12.2019, p. 1).

- (4) ESMA should assess the completeness of the file submitted by the investigation officer based on a list of documents. To ensure that the person subject to the investigation is able to adequately prepare their defence, before adopting a final decision with regard to fines or supervisory measures, ESMA should provide them the right to provide further written comments.
- (5) In order to ensure that persons cooperate with an investigation, ESMA should be able to take certain coercive measures. When ESMA has taken a decision requiring a person to bring an infringement to an end, or has requested to supply complete information or to submit complete records, data or any other material, or has taken a decision to conduct an on-site inspection, it may impose periodic penalty payments in order to compel the person subject to the investigation to comply with the decision taken. Before imposing periodic penalty payments ESMA should provide the person the opportunity to provide written submissions.
- (6) The right of defence should be weighed against the need, under specific circumstances, for urgent action by ESMA. Where urgent action pursuant to Article 38l of Regulation (EU) No 600/2014 is warranted, the right of defence of the person subject to the investigation should not be an impediment to ESMA taking urgent measures. In such case, in order to prevent significant and imminent damage to the financial system, ESMA may adopt an interim decision without providing the person subject to the investigation the opportunity to make submissions. ESMA should give the person the opportunity to be heard as soon as possible after adopting the interim decision and before a confirmatory decision is adopted. The procedure should nonetheless grant the right of the person subject to the investigation to be heard in advance by the investigation officer.
- (7) The files prepared by ESMA and the investigation officer contain information that is indispensable to the person concerned in preparing for judicial or administrative proceedings. After a person subject to investigation has received the notification of statement of finding either from the investigation officer or from ESMA, the person should therefore be entitled to have access to the file subject to the legitimate interest of other persons in the protection of their business secrets. The use of file documents accessed should only be permitted for judicial or administrative proceedings in relation to infringements of Regulation (EU) No 600/2014.
- (8) Both the power to impose fines and periodic penalty payments and the power to enforce fines and periodic penalty payments should be subject to a limitation period. For reasons of consistency, limitation periods for the imposition and enforcement of fines or periodic penalty payments should take into account existing Union legislation applicable to the imposition and enforcement of penalties on supervised entities and ESMA's experience in applying such legislation.
- (9) In order for ESMA to ensure safekeeping of collected fines and periodic penalties, ESMA should deposit them on interest-bearing accounts that are opened exclusively for the purpose of a single fine or periodic penalty payments aiming at ending a single infringement. As a matter of budgetary prudence, ESMA should only transfer the amounts to the Commission once the decisions are final due to the rights to appeal being exhausted or lapsed.
- (10) In order to ensure smooth functioning of the new supervisory framework for DRSPs, as introduced in Article 4 of Regulation (EU) 2019/2175, this Regulation should enter into force as a matter of urgency,

HAS ADOPTED THIS REGULATION:

Article 1

Definition

For the purpose of this Regulation 'data reporting services provider', or 'DRSP', means an approved publication arrangement or an approved reporting mechanism as defined in Article 2(1)(34) and Article 2(1)(36) of Regulation (EU) No 600/2014.

*Article 2***Rules of procedure in infringement proceedings before the investigation officer**

1. Upon completion of an investigation of potential infringements of the requirements referred to in Article 38g(1) of Regulation (EU) No 600/2014 and before submitting the file to ESMA, the investigation officer referred to in Article 38k(1) of that Regulation shall inform the person subject to investigation in writing stating its findings and shall provide that person with the opportunity to make written submissions pursuant to paragraph 3. The statement of findings shall set out the facts liable to constitute one or more of the infringements of the requirements referred to in Article 38g(1) of (EU) No 600/2014, including an assessment of the nature and seriousness of those infringements, taking into account the criteria laid down in Article 38g(2) of that Regulation.
2. The statement of findings shall set a reasonable time limit for the person subject to investigation to make its written submissions. In investigations other than those referred to in Article 5, this time limit shall be at least four weeks. The investigation officer shall not be obliged to take into account written submissions received after that time limit has expired.
3. In the written submissions, the person subject to investigation may set out all the facts which are relevant to its defence, and shall, if possible, attach documents as proof of the facts set out. The person subject to investigation may propose that the investigation officer hears other persons who may corroborate the facts set out in the submissions of the person subject to investigation.
4. The investigation officer may invite a person subject to investigation to which a statement of findings has been addressed to attend an oral hearing. The persons subject to investigation may be assisted by a counsel of their choice. Oral hearings shall not be public.

*Article 3***Rules of procedure in infringement proceedings before ESMA with regard to fines and supervisory measures**

1. The complete file to be submitted by the investigation officer to ESMA shall include the following documents:
 - (a) the statement of findings and a copy thereof addressed to the person subject to the investigation;
 - (b) a copy of the written submissions by the person subject to the investigation;
 - (c) the minutes of any oral hearing.
2. When a file is incomplete, ESMA shall make a reasoned request for additional documents to the investigation officer.
3. Where ESMA considers that the facts described in the statement of findings of the investigation officer do not to constitute infringements of the requirements referred to in Article 38g(1) of Regulation (EU) No 600/2014, it shall decide to close the case and it shall notify that decision to the person subject to investigation.
4. Where ESMA does not agree with the findings of the investigation officer, it shall submit a new statement of findings to the person subject to investigation. That statement of findings shall set a time limit of at least four weeks within which the person subject to investigation may make written submissions. ESMA shall not be obliged to take into account written submissions received after the expiry of that time limit for adopting a decision on the existence of an infringement and on supervisory measures and the imposition of a fine in accordance with Articles 38g and 38h of Regulation (EU) No 600/2014.
5. Where ESMA agrees with all or some of the findings of the investigation officer, it shall inform the person subject to investigation accordingly. Such communication shall set a time limit of at least two weeks in case ESMA agrees with all of the findings, and at least four weeks in case ESMA does not agree with all of the findings, within which period the person subject to investigation may make written submissions. ESMA shall not be obliged to take into account written submissions received after the expiry of that time limit for adopting a decision on the existence of an infringement and on supervisory measures and the imposition of a fine in accordance with Articles 38g and 38h of Regulation (EU) No 600/2014.

6. ESMA may invite the person subject to investigation to which a statement of findings has been addressed to attend an oral hearing. The person subject to investigation may be assisted by a counsel of their choice. Oral hearings shall not be public.

7. If ESMA decides that one or more of the infringements of the requirements referred to in Article 38g(1) of Regulation (EU) No 600/2014 has been committed by a person subject to investigation and has adopted a decision imposing a fine in accordance with Article 38h of that regulation, it shall notify immediately that decision to the person subject to investigation.

Article 4

Rules of procedure in infringement proceedings before ESMA with regard to periodic penalty payments

1. Before making a decision imposing a periodic penalty payment pursuant to Article 38i of Regulation (EU) No 600/2014, ESMA shall submit a statement of findings to the person subject to the proceedings setting out the reasons justifying the imposition of a periodic penalty payment and the amount of the periodic penalty payment per day of non-compliance. The statement of findings shall set a time limit of at least four weeks within which the person subject to the proceedings may make written submissions. ESMA shall not be obliged to take into account written submissions received after the expiry of that time limit for deciding on the periodic penalty payment.

2. Once the DRSP or the person subject to the proceedings, has complied with the relevant decision referred to in Article 38i(1) of Regulation (EU) No 600/2014, a periodic penalty payment shall no longer be imposed.

3. A decision referred to in Article 38i(1) of Regulation (EU) No 600/2014 shall indicate the legal basis and the reasons for the decision, the amount and the starting date of the periodic penalty payment.

4. ESMA may invite the person subject to the proceedings to attend an oral hearing. The person subject to the proceedings may be assisted by a counsel of their choice. Oral hearings shall not be public.

Article 5

Rules of procedure for interim decisions on supervisory measures

1. By way of derogation from Article 3(4), (5) and (6) and from Article 4(1) and (4), the procedure set out in this Article shall apply where ESMA adopts interim decisions pursuant to Article 38l(1), second subparagraph of Regulation (EU) No 600/2014.

2. Where ESMA decides that one or more of the infringements of requirements referred to in Article 38g(1) of Regulation (EU) No 600/2014 has been committed by a person subject to investigation and adopts an interim decision imposing supervisory measures pursuant to Article 38g of Regulation (EU) No 600/2014, it shall notify immediately that interim decision to the person subject to the interim decision.

ESMA shall set a time limit of at least four weeks within which the person subject to the interim decision may make written submissions on that decision. ESMA shall not be obliged to take into account written submissions received after the expiry of that time limit.

Upon request, ESMA shall grant access to the file to the person subject to the interim decision. File documents accessed shall be used only for the purposes of judicial or administrative proceedings concerning the application of Regulation (EU) No 600/2014.

ESMA may invite the person subject to the interim decision to attend an oral hearing. The persons subject to the interim decision may be assisted by a counsel of their choice. Oral hearings shall not be public.

3. ESMA shall take a final decision as soon as possible after the adoption of the interim decision.

Where ESMA considers, after having heard the person subject to the interim decision, that an infringement of the provisions referred to in Article 38g(1) of Regulation (EU) No 600/2014 has been committed by the person subject to the interim decision, it shall adopt a confirmatory decision imposing one or more supervisory measures laid down in Article 38g of Regulation (EU) No 600/2014. ESMA shall immediately notify that decision to the persons subject to the interim decision.

4. Where ESMA adopts a final decision that does not confirm the interim decision, the interim decision shall be deemed to be repealed.

Article 6

Access to the file and use of documents

1. Upon request, ESMA shall grant access to the file to the person subject to the investigation to whom the investigation officer or ESMA has sent a statement of findings. Access shall be granted following the notification of any statement of findings.
2. File documents accessed shall be used by the person referred to in paragraph 1 only for the purposes of judicial or administrative proceedings concerning the application of Regulation (EU) No 600/2014.

Article 7

Limitation periods for the imposition of fines and periodic penalty payments

1. Fines and periodic penalty payments on DRSPs and other persons subject to investigation shall be subject to a limitation period of five years.
2. The limitation period referred to in paragraph 1 shall begin on the day following that on which the infringement is committed. In the case of continuing or repeated infringements, that limitation period shall begin on the day on which the infringement ceases.
3. Any action taken by ESMA, or by the national competent authority acting at the request of ESMA in accordance with Article 38o of Regulation (EU) No 600/2014 for the purpose of the investigation or proceedings in respect of an infringement of the requirements referred to in Article 38g(1) of Regulation (EU) No 600/2014 shall interrupt the limitation period for the imposition of fines and periodic penalty payments. That limitation period shall be interrupted with effect from the date on which the action is notified to the DRSP or the person subject to the investigation in respect of an infringement of the requirements referred to in Article 38g(1) of Regulation (EU) No 600/2014.
4. Each interruption as referred to in paragraph 3 shall restart the limitation period. The limitation period shall expire at the latest on the day on which a period equal to twice the limitation period has elapsed without ESMA having imposed a fine or a periodic penalty payment. That period shall be extended by the time during which limitation is suspended pursuant to paragraph 5.
5. The limitation period for imposing fines and periodic penalty payments shall be suspended for as long as the decision of ESMA is subject to proceedings pending before the Board of Appeal referred to in Article 60 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council ⁽³⁾, or is subject to a review by the Court of Justice of the European Union in accordance with Article 38m of Regulation (EU) No 600/2014.

⁽³⁾ Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84).

*Article 8***Limitation periods for the enforcement of penalties**

1. The power of ESMA to enforce decisions taken pursuant to Articles 38h and 38i of Regulation (EU) No 600/2014 shall be subject to a limitation period of five years.
2. The limitation period referred to in paragraph 1 shall be calculated from the day following that on which the decision becomes final.
3. The limitation period for the enforcement of penalties shall be interrupted by:
 - (a) a notification by ESMA to the person subject to the proceedings, of a decision varying the original amount of the fine or periodic penalty payment;
 - (b) any action of ESMA, or of a national competent authority acting at the request of ESMA in accordance with Article 38o of Regulation (EU) No 600/2014, designed to enforce payment or payment terms and conditions of the fine or periodic penalty payment.
4. Each interruption referred to in paragraph 3 shall restart the limitation period.
5. The limitation period for the enforcement of penalties shall be suspended for so long as:
 - (a) time to pay is allowed;
 - (b) enforcement of payment is suspended pursuant to a pending decision of ESMA Board of Appeal in accordance with Article 60 of Regulation (EU) No 1095/2010, and a review by the Court of Justice of the European Union in accordance with Article 38m of Regulation (EU) No 600/2014.

*Article 9***Collection of fines and periodic penalty payments**

1. The amounts of fines and periodic penalty payments collected by ESMA shall be lodged to an interest-bearing account opened by ESMA until such time as they become final. In case of multiple fines and periodic penalty payments collected by ESMA in parallel ESMA shall ensure that they are lodged to different accounts or subaccounts. Fines and periodic penalty payments paid shall not be entered into ESMA's budget or recorded as budgetary amounts.
2. Once ESMA has established that the fines or periodic penalty payments have become final following the exhaustion of all appeal rights ESMA shall transfer those amounts and potential interest accruing to the Commission. These amounts shall then be entered in the Union Revenue budget.
3. ESMA shall report on a regular basis to the Commission on the amounts of fines and periodic penalty payments imposed and their status.

*Article 10***Entry into force and date of application**

This Regulation shall enter into force and apply on the third 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, 16 February 2022.

For the Commission
The President
Ursula VON DER LEYEN

COMMISSION DELEGATED REGULATION (EU) 2022/804**of 16 February 2022****supplementing Regulation (EU) 2016/1011 of the European Parliament and of the Council by specifying rules of procedure for measures applicable to the supervision by the European Securities Markets Authority of certain benchmark administrators****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2016/1011 of the European Parliament and of the Council of 8 June 2016 on indices used as benchmarks in financial instruments and financial contracts or to measure the performance of investment funds and amending Directives 2008/48/EC and 2014/17/EU and Regulation (EU) No 596/2014 ⁽¹⁾, and in particular Articles 48i(10) thereof,

Whereas:

- (1) In accordance with Article 48f and 48g of Regulation (EU) 2016/1011 the European Securities and Markets Authority ('ESMA') is empowered to impose fines and periodic penalty payments under certain conditions on the benchmark administrators under its supervision. Article 48i(10) of Regulation (EU) 2016/1011 requires the Commission to specify the rules of procedure for the exercise of the power to impose these fines or periodic penalty payments including the rights of the defence, the collection of fines or periodic penalty payments and the limitation periods for the imposition and enforcement of penalties.
- (2) When ESMA finds that there are serious indications of possible existence of facts liable to constitute one or more infringements of the requirements set out in Article 42 of (EU) 2016/1011 for benchmark administrators under its supervision, ESMA appoints an independent investigation officer within ESMA to investigate the matter. Upon completion of its work, the investigation officer should transmit a complete file to ESMA. Being informed of these findings and having the opportunity to respond to them is integral to the right of defence. Therefore, the person under investigation should be informed of the investigation officer's findings, and should have the opportunity to respond to these findings within a reasonable time limit. The persons subject to the investigation should be allowed to be assisted by a counsel of their choice. The investigation officer should consider, whether, as a result of the submissions made by the person subject to the investigation, it is necessary to amend the statement of findings before submitting it to ESMA.
- (3) ESMA should assess the completeness of the file submitted by the investigation officer based on a list of documents. To ensure that the person subject to the investigation is able to adequately prepare their defence, before adopting a final decision with regard to fines or supervisory measures, ESMA should make sure that they are given the opportunity to provide further written comments.
- (4) In order to ensure that the person subject to the investigation cooperates with an investigation, ESMA should be able to take certain coercive measures. When ESMA has taken a decision requiring a person to bring an infringement to an end, or has requested to supply complete information or to submit complete records, data or any other material, or has taken a decision to conduct an on-site inspection, it may impose periodic penalty payments in order to compel the person subject to the investigation to comply with the decision taken. Before imposing periodic penalty payments ESMA should provide the person the opportunity to provide written submissions.
- (5) As the investigation officer carries out their work independently, ESMA should not be bound by the file they prepared. However, to ensure that the person subject to the investigation is able to adequately prepare their defence, where ESMA disagrees, they should, be informed and should be given the opportunity to respond.

⁽¹⁾ OJ L 171, 29.6.2016, p. 1.

- (6) To ensure that the person subject to the investigation is able to adequately prepare their defence, they should be informed and should have the opportunity to respond where ESMA agrees with all or part of the findings of the investigation officer.
- (7) The right to be heard should be weighed against the need, under specific circumstances, for urgent action by ESMA. Where urgent action pursuant to Article 48e of Regulation (EU) 2016/1011 is warranted, the right to be heard of the person subject to the investigation should not be an impediment to ESMA taking urgent measures. In such cases, the right to be heard of the person subject to the investigation should be assured as soon as possible after taking the decision. The procedure should nonetheless grant the right of the person subject to the investigation to be heard by the investigation officer.
- (8) ESMA's power to impose a periodic penalty payment should be exercised with due regard for the right to defence and should not be maintained beyond the period necessary. Where ESMA makes a decision to impose a periodic penalty payment, the person concerned should therefore have the opportunity to be heard and any penalty payment should no longer be due as of the moment the person concerned complies with ESMA's order to which it relates.
- (9) The files prepared by ESMA and the investigation officer contain information that is indispensable to the person concerned in preparing for judicial or administrative proceedings. After a person subject to investigation has received the notification of statement of finding either from the investigation officer or from ESMA, the person should be entitled to have access to the file subject to the legitimate interest of other persons in the protection of their business secrets. The use of file documents accessed should only be permitted for judicial or administrative procedures in relation to infringements of Article 42 of Regulation (EU) 2016/1011.
- (10) Both the power to impose fines and periodic penalty payments and the power to enforce fines and periodic penalties should be exercised within a reasonable time, and should therefore be subject to a limitation period. For reasons of consistency, limitation periods for the imposition and enforcement of fines or periodic penalty payments should take into account existing Union legislation applicable to the imposition and enforcement of penalties on supervised entities and ESMA's experience in applying such legislation. In order for ESMA to ensure safekeeping of collected fines and periodic penalties, ESMA should deposit them on interest-bearing accounts that are opened exclusively for the purpose of a single fine or periodic penalty payments aiming at ending a single infringement. As a matter of budgetary prudence, ESMA should only transfer the amounts to the Commission once the decisions are final due to the rights to appeal being exhausted or lapsed.
- (11) In accordance with Regulation (EU) 2021/168 of the European Parliament and of the Council ⁽²⁾ third country benchmarks can be used in the Union without the need for the relevant administrators to seek equivalence, recognition or endorsement in a transitional period extended until 2023. During this transitional period, recognition in the Union is an opt-in regime for benchmark administrators located in third countries, which indicates that their benchmarks will remain available for use in the Union after the transitional period ends. As a consequence, during such period, provisions on fines should apply only to administrators located in third countries which have voluntarily applied for recognition before the expiry of the transitional period introduced by Regulation (EU) 2021/168 and where the relevant national competent authority or ESMA has granted recognition.
- (12) In order to ensure the smooth application of the new supervisory powers attributed to ESMA, this Regulation should enter into force as a matter of urgency,

⁽²⁾ Regulation (EU) 2021/168 of the European Parliament and of the Council of 10 February 2021 amending Regulation (EU) 2016/1011 as regards the exemption of certain third-country spot foreign exchange benchmarks and the designation of replacements for certain benchmarks in cessation, and amending Regulation (EU) No 648/2012 (OJ L 49, 12.2.2021, p. 6).

HAS ADOPTED THIS REGULATION:

Article 1

Definitions

For the purpose of this Regulation, the following definitions applies:

- (1) ‘critical benchmark’ means a critical benchmark pursuant to article 20(1), points (a) and (c), of Regulation (EU) 2016/1011;
- (2) ‘third country benchmark’ means a benchmark whose administrator is located outside the Union.

Article 2

Rules of procedure in infringement proceedings before the investigation officer

1. Upon completion of an investigation of potential infringements listed in Article 42(1), point (a), of Regulation (EU) 2016/1011, and before submitting a file to ESMA, the investigation officer as referred to in Article 48i(1) of that Regulation, shall inform the person subject to investigation in writing of its findings and shall provide that person with the opportunity to make written submissions pursuant to paragraph 3. The statement of findings shall set out the facts liable to constitute one or more of the infringements of the requirements set out in Title VI of Regulation (EU) 2016/1011, including an assessment of the nature and seriousness of those infringements, taking into account the criteria laid down in Article 48e(2) of that Regulation.
2. The statement of findings shall set a reasonable time limit for the person subject to investigation to make its written submissions. In investigations other than those referred to in Article 5, this time limit shall be at least four weeks. The investigation officer shall not be obliged to take into account a written submissions received after that time limit has expired.
3. In its written submissions, the person subject to investigation may set out the facts, which it considers relevant for its defence and shall, if possible, attach documents as proof of the facts set out. The person subject to investigation may propose that the investigation officer hears other persons who may corroborate the facts set out in the submissions of the person subject to investigation.
4. The investigation officer may invite a person subject to investigation to which a statement of findings has been addressed to attend an oral hearing. The person subject to investigation may be assisted by a counsel of their choice. Oral hearings shall not be public.

Article 3

Rules of procedure in infringement proceedings before ESMA with regard to fines and supervisory measures

1. The complete file to be submitted by the investigation officer to ESMA shall include the following documents:
 - the statement of finding and a copy thereof addressed to the benchmark administrator or the person subject to the investigation;
 - a copy of the written submission by the benchmark administrator or the person subject to the investigation;
 - the minutes of any oral hearing.
2. When a file is incomplete, ESMA shall make a reasoned request for additional documents to the investigation officer.
3. Where ESMA considers that the facts described in the statement of findings of the investigation officer do not to constitute infringements of the requirements set out in Title VI of Regulation (EU) 2016/1011, it shall decide to close the case and it shall notify that decision to the person subject to investigation.

4. Where ESMA does not agree with the findings of the investigation officer it shall submit a new statement of findings to the person subject to investigation. That statement of findings shall set a time limit of at least four weeks within which the person subject to investigation may make written submissions. ESMA shall not be obliged to take into account written submissions received after the expiry of that time limit for adopting a decision on the existence of an infringement and on supervisory measures and the imposition of a fine in accordance with Article 48e and 48f of Regulation (EU) 2016/1011.
5. Where ESMA agrees with all or some of the findings of the investigation officer it shall inform the person subject to investigation accordingly. Such communication shall set a time limit of at least two weeks in case ESMA agrees with all of the findings, and at least four weeks in case ESMA does not agree with all of the findings, within which period the person subject to investigation may make written submissions. ESMA shall not be obliged to take into account written submissions received after the expiry of that time limit for adopting a decision on the existence of an infringement and on supervisory measures and the imposition of a fine in accordance with Articles 48e and 48f of Regulation (EU) 2016/1011.
6. ESMA may invite the person subject to investigation to which a statement of findings has been addressed to attend an oral hearing. The person subject to investigation may be assisted by a counsel of their choice. Oral hearings shall not be public.
7. If ESMA decides that one or more of the infringements of the requirements provided for in Title VI of Regulation (EU) 2016/1011 has been committed by a person subject to investigation and has adopted a decision imposing a fine in accordance with Article 48f of that regulation, it shall notify immediately that decision to the person subject to investigation.

Article 4

Rules of procedure in infringement proceedings before ESMA with regard to periodic penalty payments

1. Before making a decision imposing a periodic penalty payment pursuant to Article 48g of Regulation (EU) 2016/1011, ESMA shall submit a statement of findings to the person subject to the proceedings setting out the reasons justifying the imposition of a periodic penalty payment and the amount of the periodic penalty payment per day of non-compliance. The statement of findings shall set a time limit of at least four weeks within which the person subject to the proceeding may make written submissions. ESMA shall not be obliged to take into account written submissions received after the expiry of that time limit for deciding on the periodic penalty payment.
2. Once the benchmark administrator or person subject to the proceeding referred to in article 48b(1) of Regulation (EU) 2016/1011 has complied with the relevant decision referred to in Article 48g(1) of Regulation (EU) 2016/1011, a periodic penalty payment shall no longer be imposed.
3. A decision by ESMA to impose a periodic penalty payment shall indicate the legal basis and the reasons for the decision and the amount and the starting date of the periodic penalty payment.
4. ESMA may invite the person subject to the proceedings to attend an oral hearing. The person subject to the proceedings may be assisted by a counsel of their choice. Oral hearings shall not be public.

Article 5

Rules of procedure for interim decisions on supervisory measures

1. By way of derogation from Article 3(4), (5) and (6) and Article 4(1) and (4), the procedure set out in this Article shall apply where ESMA adopts interim decisions pursuant to Article 48j(1), second subparagraph, of Regulation (EU) 2016/1011.
2. Where ESMA decides that an infringement of a requirement provided for in Title VI of Regulation (EU) 2016/1011 has been committed by a person subject to investigation and adopt an interim decision imposing supervisory measures pursuant to Article 48e of Regulation (EU) 2016/1011, it shall notify immediately that interim decision to the person subject to the interim decision.

ESMA shall set a time limit of at least four weeks within which the person subject to interim decision may make a written submission on the interim decision. ESMA shall not be obliged to take into account a written submission received after the expiry of that time limit.

Upon request, ESMA shall grant access to the file to the person subject to the interim decision. File documents accessed shall be used only for the purposes of judicial or administrative proceedings concerning the application of Regulation (EU) 2016/1011.

ESMA may invite the person subject to the interim decision to attend an oral hearing. The person subject to the interim decision may be assisted by a counsel of their choice. Oral hearings shall not be public.

3. ESMA shall take a final decision as soon as possible after the adoption of the interim decision.

Where ESMA considers, after having heard the person subject to interim decision, that an infringement of a requirement set out in Title VI of Regulation (EU) 2016/1011 have been committed by the person subject to the interim decision, it shall adopt a confirmatory decision imposing one or more supervisory measures laid down in Article 48e of Regulation (EU) 2016/1011. ESMA shall immediately notify that decision to the person subject to the interim decision.

4. Where ESMA adopts a final decision that does not confirm the interim decision, the interim decision shall be deemed to be repealed.

Article 6

Access to the file and use of documents

1. Upon request, ESMA shall grant access to the file to the person subject to the investigation to whom the investigation officer or ESMA has sent a statement of findings. Access shall be granted following the notification of any statement of findings.

2. File documents accessed shall be used by the person referred to in paragraph 1 only for the purposes of judicial or administrative proceedings concerning the application of Regulation (EU) 2016/1011.

Article 7

Limitation periods for the imposition of fines and periodic penalty payments

1. Fines and periodic penalty payments on benchmark administrators and other persons subject to investigation shall be subject to a limitation period of five years.

2. The limitation period referred to in paragraph 1 shall begin on the day following that on which the infringement is committed. In case of continued or repeated infringements, that limitation period shall begin on the day on which the infringement ceases.

3. Any action taken by ESMA or by the national competent authority acting at the request of ESMA in accordance with article 48m of Regulation (EU) 2016/1011 for the purpose of the investigation or proceedings in respect of an infringement pursuant to title VI of Regulation (EU) 2016/1011 shall interrupt the limitation period for the imposition of fines and periodic penalty payments. That limitation period shall be interrupted with effect from the date on which the action is notified to the benchmark administrators or the person subject to the investigation in respect of an infringement pursuant to Regulation (EU) 2016/1011.

4. Each interruption as referred to in paragraph 3 shall restart the limitation period. The limitation period shall expire at the latest on the day on which a period equal to twice the limitation period has elapsed without ESMA having imposed a fine or a periodic penalty payment. That period shall be extended by the time during which limitation is suspended pursuant to paragraph 5.

5. The limitation period for imposing fines and periodic penalty payments shall be suspended for as long as the decision of ESMA is subject to proceedings pending before the Board of Appeal, referred to in Article 60 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council ⁽³⁾, and before the Court of Justice of the European Union, in accordance with Article 48k of Regulation (EU) 2016/1011.

Article 8

Limitation periods for the enforcement of penalties

1. The power of ESMA to enforce decisions taken pursuant to Articles 48e and 48g of Regulation (EU) 2016/1011 shall be subject to a limitation period of five years.
2. The limitation period referred to in paragraph 1 shall be calculated from the day following that on which the decision becomes final.
3. The limitation period for the enforcement of penalties shall be interrupted by:
 - (a) a notification by ESMA to the person subject to the proceedings of a decision varying the original amount of the fine or periodic penalty payment;
 - (b) any action of ESMA, of a national competent authority acting at the request of ESMA in accordance with article 48m of Regulation (EU) 2016/1011, designed to enforce payment or payment terms and conditions of the fine or periodic penalty payment.
4. Each interruption referred to in paragraph 3 shall restart the limitation period.
5. The limitation period for the enforcement of penalties shall be suspended for so long as:
 - (a) time to pay is allowed;
 - (b) enforcement of payment is suspended pursuant to a pending decision of the ESMA Board of Appeal, in accordance with Article 60 of Regulation (EU) No 1095/2010, and the Court of Justice of the European Union, in accordance with Article 48k of Regulation (EU) 2016/1011.

Article 9

Collection of fines and periodic penalty payments

1. The amounts of fines and periodic penalty payments collected by ESMA shall be lodged to an interest-bearing account opened by ESMA until such time as they become final. Where several fines and periodic penalty payments are collected by ESMA in parallel, ESMA shall ensure that they are lodged to different accounts or subaccounts. Fines and periodic penalty payments paid shall not be entered into ESMA's budget or recorded as budgetary amounts.
2. Once ESMA has established that the fines or periodic penalty payments have become final following the exhaustion of all appeal rights that accounting officer shall transfer those amounts and potential interest accruing to the Commission. These amounts shall then be entered in the union Revenue budget.
3. ESMA shall report on a regular basis to the Commission on the amounts of fines and periodic penalty payments imposed and their status.

Article 10

Entry into force and date of application

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

⁽³⁾ Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84).

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

Done at Brussels, 16 February 2022.

For the Commission
The President
Ursula VON DER LEYEN

COMMISSION DELEGATED REGULATION (EU) 2022/805**of 16 February 2022****supplementing Regulation (EU) 2016/1011 of the European Parliament and of the Council by specifying fees applicable to the supervision by the European Securities Markets Authority of certain benchmark administrators****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2016/1011 of the European Parliament and of the Council of 8 June 2016 on indices used as benchmarks in financial instruments and financial contracts or to measure the performance of investment funds and amending Directives 2008/48/EC and 2014/17/EU and Regulation (EU) No 596/2014 ⁽¹⁾, and in particular Article 48l(3) thereof,

Whereas:

- (1) Article 48l of Regulation (EU) 2016/1011 requires ESMA to charge administrators of critical benchmarks and third-country benchmark administrators fees associated with applications for authorisation pursuant to Article 34 and for recognition under Article 32 of that Regulation and annual fees associated with the performance of its tasks in accordance with that Regulation in relation to critical benchmarks and recognised third-country benchmark administrators. Article 48l(2) of Regulation (EU) 2016/1011 requires that such fees be proportionate to the turnover of the benchmark administrator concerned and cover all costs incurred by ESMA for the authorisation or recognition and the performance of its tasks in relation to critical benchmark administrators and third-country benchmark administrators in accordance with that Regulation.
- (2) Fees charged for ESMA's activities related to administrators of critical benchmarks and of third country benchmarks should be set at a level such as to avoid a significant accumulation of deficit or surplus. Where there is a recurrent significant surplus or deficit, the level of fees should be revised.
- (3) Fees associated with applications for authorisation ('authorisation fees') and recognition ('recognition fees') should be charged to administrators of critical and of third-country benchmarks to cover ESMA's costs for processing applications for authorisation and recognition, including costs for verifying that applications are complete, requesting additional information, drafting of decisions and costs relating to the assessment of the systemic importance of critical benchmarks as well as the compliance of third-country benchmark administrators.
- (4) Considering that the assessment of applications are equally resource intensive whether submitted by large or small administrators, the recognition fee should be a lump-sum recognition fee identical for all third country administrators.
- (5) On the basis of the expected workload and the cost this represents for ESMA, to be fully covered by the one-off recognition fee, the cost of assessing a recognition application should be set to EUR 40 000.
- (6) Critical benchmarks are subject to more intense scrutiny under Regulation (EU) 2016/1011, and their administrators need to comply with more stringent organisational requirements. As a result, the authorisation process represents a higher workload for ESMA. Therefore, the authorisation fee for the administrator of a critical benchmark should be significantly higher than the fee for assessing an application for recognition.
- (7) In order to promote the quality and completeness of applications received and in line with ESMA's approach towards the registration of entities it supervises, the recognition fee should be due at the time of the submission of the application.

⁽¹⁾ OJ L 171, 29.6.2016, p. 1.

- (8) Annual fees are also to be charged to administrators of critical benchmarks and of recognised third-country benchmark to cover ESMA's costs for the performance of its tasks under Regulation (EU) 2016/1011 as regards the ongoing supervision of such administrators. For third country benchmarks, such fees should cover the implementation and maintenance of cooperation arrangements with third-country authorities and the monitoring of regulatory and supervisory developments in third countries. For critical benchmarks, the fees should also cover the expenses sustained by ESMA with respect to the supervision on an ongoing basis of compliance by those administrators with the requirements set out in Article 48l and Titles VI of Regulation (EU) 2016/1011, including through comparable compliance, where granted.
- (9) The cost of ongoing supervision of a critical benchmark depends on whether it requires ESMA to constitute and chair a college of supervisors for that benchmark, which represents a considerable additional workload. As a result, it is appropriate to differentiate between both cases in establishing supervision fees. By contrast, within the category of critical benchmarks, it should not be necessary to differentiate the supervision fees in accordance with the annual turnover of the administrator, as critical benchmarks by definition have a systemic impact in the Union.
- (10) Applying for recognition in the Union is a decision taken by third country benchmark administrators on commercial grounds, as offering their benchmarks in the Union is expected to generate revenue. Therefore, for recognised third country benchmark administrators, supervisory fees should be modulated as a function of the revenue they derive from the use of these benchmarks in the Union. In cases where no revenue is generated, a minimum supervisory fee should be set at EUR 20 000.
- (11) In order to discourage repeated or unfounded applications, recognition fees and authorisation fees should not be reimbursed in the case where an applicant withdraws its application. As the administrative work required in the case of an application for recognition or for authorisation that is refused is the same as that required in the case of an application that is accepted, recognition fees and authorisation fees should not be reimbursed if authorisation or recognition is refused.
- (12) In accordance with Regulation (EU) 2021/168 of the European Parliament and of the Council ⁽²⁾ third country benchmarks can be used in the Union without the need for the relevant administrators to seek equivalence, recognition or endorsement in a transitional period extended until 2023. During this transitional period, recognition in the Union is an opt-in regime for benchmark administrators located in third countries, which indicates that their benchmarks will remain available for use in the Union after the transitional period ends. As a consequence, during such period, provisions on recognition and supervisory fees should apply only to administrators located in third countries which have voluntarily applied for recognition before the expiry of the transitional period introduced by Regulation (EU) 2021/168 and where the relevant national competent authority or ESMA has granted recognition.
- (13) In order to ensure the smooth application of the new supervisory powers attributed to ESMA, this Regulation should enter into force as a matter of urgency,

HAS ADOPTED THIS REGULATION:

Article 1

Subject matter and scope

This Regulation lays down rules on fees that ESMA can charge to benchmark administrators in relation to authorisation, recognition and supervision.

⁽²⁾ Regulation (EU) 2021/168 of the European Parliament and of the Council of 10 February 2021 amending Regulation (EU) 2016/1011 as regards the exemption of certain third-country spot foreign exchange benchmarks and the designation of replacements for certain benchmarks in cessation, and amending Regulation (EU) No 648/2012 (OJ L 49, 12.2.2021, p. 6).

*Article 2***Definitions**

For the purpose of this Regulation, the following definitions applies:

- (1) 'critical benchmark' means a critical benchmark pursuant to article 20(1), points (a) and (c), of Regulation (EU) 2016/1011;
- (2) 'third country benchmark' means a benchmark whose administrator is located outside the Union.

*Article 3***Recognition fees and authorisation fees**

1. A benchmark administrator established in a third country that applies for recognition pursuant to article 32 of Regulation (EU) 2016/1011 shall pay a recognition fee of EUR 40 000.
2. The administrator of a critical benchmark that applies for authorisation in accordance with article 34 of Regulation (EU) 2016/1011 shall pay an application fee of EUR 250 000.
3. The authorisation fee and the recognition fee shall be paid at the time of the submission of the application, upon receipt of ESMA's debit note.
4. In the case of the applications received by national competent authorities after 1 October 2021 and transferred to ESMA, the recognition fees shall be paid at the beginning of 2022.
5. Recognition fees and authorisation fees shall not be reimbursed.

*Article 4***Annual supervisory fees**

1. The administrator of one or more critical benchmarks shall pay an annual supervisory fee:
 - (a) of EUR 250 000, in cases where ESMA has to chair a college of supervisors pursuant to article 46 of Regulation (EU) 2016/1011;
 - (b) of EUR 200 000, in cases where ESMA does not have to chair a college of supervisors pursuant to article 46 of Regulation (EU) 2016/1011.
2. A benchmark administrator established in a third country recognised by ESMA shall pay an annual supervisory fee calculated as follows:
 - (a) the annual supervisory fee for a given year (n) shall be the total annual fee for recognised third country administrators adjusted by the turnover coefficient;
 - (b) the total annual fee for recognised third country administrators for a given year (n) shall be equal to the ESMA supervisory budget for Regulation (EU) 2016/1011 for that year (n) minus the annual supervisory fees to be paid to ESMA by critical benchmark administrators for the year (n);
 - (c) for each third country administrator, the turnover coefficient shall be its share of the applicable turnover in the aggregate turnover generated by all recognised third country administrators

$$\text{Turnover Coefficient 'administrator i'} = \frac{\text{applicable turnover of administrator i}}{\sum \text{applicable turnover of all third country administrators}}$$

- (d) the minimum annual supervisory fee for recognised third country administrators shall be EUR 20 000, including when the applicable turnover of the recognised third country administrator is equal to zero.

3. Benchmark administrators shall pay their relevant annual supervisory fees to ESMA at the latest on 31 March of the calendar year in which they are due. If information for the previous calendar years are not available, the fees shall be calculated on the basis of the latest available information for annual fees. The annual fees paid are not reimbursed.

Article 5

Annual supervisory fees in year of recognition or authorisation

By way of derogation from article 4, the supervisory fee in the first year for recognised third country administrators and for authorised critical benchmark administrators, with reference to the year in which they have been recognised or authorised shall be calculated by reducing the supervisory fee, adjusting it by the following coefficient:

$$\text{Coefficient} = \frac{\text{Number of calendar days from the date of registration until 31 December}}{\text{Number of calendar days in year (n)}}$$

The supervisory fee of the first year shall be paid after the administrator has been notified by ESMA that its application has been successful and within 30 days from the date of issuance of ESMA's relevant debit note.

By way of derogation, where a benchmark administrator is authorised during the month of December, it shall not pay first-year supervisory fee.

Article 6

Applicable turnover

The turnover of a recognised third country benchmark administrator shall be its revenues accrued in relation to the use of its benchmarks by supervised entities in the Union during the benchmark administrator's most recently completed financial year.

A recognised third country benchmark administrator shall provide ESMA, on an annual basis, with audited figures confirming its revenues accrued in relation to the use of its benchmarks in the Union. The figures shall be certified by an external audit and shall be submitted to ESMA by electronic means before 30 September every year. If a third country administrator is recognised after 30 September of a calendar year, it shall provide the figures immediately upon recognition and by end of the calendar year of recognition. The documents containing audited figures shall be provided in a language customary to financial services.

If the revenues reported are expressed in a currency other than the euro, ESMA shall convert them into an amount in euro using the average euro foreign exchange rate applicable to the period during which the revenues were recorded. For that purpose, the euro foreign exchange reference rate published by the European Central Bank shall be used.

Third country administrators recognised before 1 January 2022 shall provide ESMA with their turnover of 2020 by 31 January 2022.

Article 7

General payment modalities

1. All fees shall be payable in euro.
2. Any late payments shall incur a daily penalty equal to 0,1 % of the amount due.

Article 8

Payment of application and authorisation fees

1. The fees for application, authorisation or extension of authorisation shall be due at the time the benchmark administrator applies and shall be paid in full within 30 days from the date of issuance of ESMA's invoice.

2. ESMA shall not reimburse fees to a benchmark administrator that decides to withdraw its application for authorisation.

Article 9

Payment of annual supervisory fees

1. The annual supervisory fee referred to in Article 4 for a financial year shall be paid to ESMA before 31 March of the calendar year for which they are due. The fees shall be calculated on the basis of the latest available information for annual fees.
2. ESMA shall not reimburse annual supervisory fees.
3. ESMA shall send the invoice to the benchmark administrator at least 30 days before the payment is due.

Article 10

Reimbursement of national competent authorities

1. In case of a delegation of tasks by ESMA to national competent authorities, only ESMA shall charge the recognition fee and the annual supervisory fees for third country administrators and administrators of critical benchmarks.
2. ESMA shall reimburse a national competent authority for the actual costs incurred as a result of work carried pursuant to Regulation (EU) 2016/1011, with an amount which fulfils the following conditions:
 - (a) the amount is agreed by ESMA and the competent authority before the delegation of tasks takes place;
 - (b) the amount is lower than the total amount of supervisory fees paid to ESMA by the relevant administrators of benchmarks.

Article 11

Transitional provisions

1. Article 3 shall not apply to administrators of critical benchmarks and of third country benchmarks already authorised or recognised by national competent authorities prior to the entry into force of this regulation.
2. In derogation of Article 12(1), in case this Regulation enters into force after the third month of 2022, the annual supervisory fees over 2022 applicable to administrators of benchmarks under ESMA supervision shall be due within 30 days from the date of issuance of ESMA's invoice.
3. For the purposes of the calculation in Article 4(2) of the annual supervisory fees applicable to benchmark administrators under ESMA supervision for the year 2022 the applicable turnover shall, in derogation of Article 4(2)(a)-(d), be provisionally based on revenue generated in 2021. When the audited accounts over 2021 become available the benchmark administrators shall submit them to ESMA without delay. ESMA will recalculate the annual supervisory fees over the year 2021 based on the audited accounts and will submit a final invoice, for the difference, to each benchmark administrator.

Article 12

Entry into force and date of application

This Regulation shall enter into force and apply on the third 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, 16 February 2022.

For the Commission
The President
Ursula VON DER LEYEN

COMMISSION IMPLEMENTING REGULATION (EU) 2022/806**of 23 May 2022**

amending Implementing Regulation (EU) 2020/492 imposing definitive anti-dumping duties on imports of certain woven and/or stitched glass fibre fabrics originating in the People's Republic of China and Egypt and Implementing Regulation (EU) 2020/776 imposing definitive countervailing duties on imports of certain woven and/or stitched glass fibre fabrics originating in the People's Republic of China and Egypt and imposing the definitive anti-dumping duties and the definitive countervailing duties on imports of certain woven and/or stitched glass fibre fabrics originating in the People's Republic of China and Egypt brought to an artificial island, a fixed or floating installation or any other structure in the continental shelf of a Member State or the exclusive economic zone declared by a Member State pursuant to UNCLOS

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union ⁽¹⁾ ('the basic anti-dumping Regulation'), and in particular Article 9(4) and Article 14a thereof,

Having regard to Regulation (EU) 2016/1037 of the European Parliament and of the Council of 8 June 2016 on protection against subsidised imports from countries not members of the European Union ⁽²⁾ ('the basic anti-subsidy Regulation'), and in particular Article 15(1) and Article 24a thereof,

Whereas:

1. MEASURES IN FORCE AND CONTINENTAL SHELF/EXCLUSIVE ECONOMIC ZONE**1.1. Measures in force**

- (1) On 16 June 2020, the European Commission ('the Commission') imposed definitive anti-dumping duties and definitive countervailing duties on imports of certain woven and/or stitched glass fibre fabrics ('GFF') originating in the People's Republic of China ('the PRC') and Egypt by, respectively, Commission Implementing Regulation (EU) 2020/492 ('GFF AD Regulation') ⁽³⁾ and Commission Implementing Regulation (EU) 2020/776 ('GFF AS Regulation') ⁽⁴⁾ ('the existing measures').

1.2. Continental Shelf/Exclusive Economic Zone

- (2) Regulation (EU) 2018/825 of the European Parliament and of the Council ⁽⁵⁾, which entered into force on 8 June 2018 ('TDI Modernisation package'), introduced the new Articles 14a and 24a into, respectively, the basic anti-dumping Regulation and the basic anti-subsidy Regulation.

⁽¹⁾ OJ L 176, 30.6.2016, p. 21.

⁽²⁾ OJ L 176, 30.6.2016, p. 55.

⁽³⁾ Commission Implementing Regulation (EU) 2020/492 of 1 April 2020 imposing definitive anti-dumping duties on imports of certain woven and/or stitched glass fibre fabrics originating in the People's Republic of China and Egypt (OJ L 108, 6.4.2020, p. 1).

⁽⁴⁾ Commission Implementing Regulation (EU) 2020/776 of 12 June 2020 imposing definitive countervailing duties on imports of certain woven and/or stitched glass fibre fabrics originating in the People's Republic of China and Egypt and amending Commission Implementing Regulation (EU) 2020/492 imposing definitive anti-dumping duties on imports of certain woven and/or stitched glass fibre fabrics originating in the People's Republic of China and Egypt (OJ L 189, 15.6.2020, p. 1).

⁽⁵⁾ Regulation (EU) 2018/825 of the European Parliament and of the Council of 30 May 2018 amending Regulation (EU) 2016/1036 on protection against dumped imports from countries not members of the European Union and Regulation (EU) 2016/1037 on protection against subsidised imports from countries not members of the European Union (OJ L 143, 7.6.2018, p. 1).

- (3) According to these Articles, an anti-dumping or countervailing duty may also be imposed on any dumped or subsidised product brought in significant quantities to an artificial island, a fixed or floating installation or any other structure in the continental shelf of a Member State or the exclusive economic zone declared by a Member State pursuant to UNCLOS ('the CS/EEZ') ⁽⁶⁾, where this would cause injury to the Union industry.
- (4) The same Articles provided that the Commission should adopt implementing acts laying down the conditions for the incurrence of such duties, as well as the procedures relating to the notification and declaration of such products and the payment of such duties, including recovery, repayment and remission ('customs tool'), and that the Commission should only impose such duties as of the date the customs tool is operational. The customs tool ⁽⁷⁾ became applicable on 2 November 2019.

2. PROCEDURE

2.1. Partial reopening of the investigations

- (5) On 27 May 2021, the Commission published a Notice ⁽⁸⁾ reopening the investigations leading to the anti-dumping and countervailing measures on imports of certain woven and/or stitched glass fibre fabrics originating in the PRC and Egypt.
- (6) The reopening was limited in scope to the examination of whether the measures should be applied to certain woven and/or stitched glass fibre fabrics originating in PRC and Egypt ('the countries concerned') brought in significant quantities to the CS/EEZ as the customs tool was not applicable when the investigations that led to the existing measures were initiated and, thus, the Commission could not conclude on whether the extension of the duties to the CS/EEZ was appropriate.
- (7) The Commission had at its disposal sufficient evidence showing that GFF originating in the PRC and Egypt were being brought in significant quantities under the inward processing regime in order to be processed into wind blades that were then exported to offshore wind parks in the CS/EEZ, and that this would cause injury to the Union industry. Part of this evidence was provided by the EU Industry. A note to the file containing the evidence available to the Commission was available to interested parties.

2.2. Interested parties

- (8) The Commission notified the interested parties that cooperated in the investigations that led to the existing measures, namely the Mission of the People's Republic of China, the Mission of Egypt, the exporting producers and their related companies in the PRC and Egypt, Union producers, unrelated importers in the Union, and users in the Union about the reopening of the investigations.

⁽⁶⁾ The continental shelf comprises the seabed and subsoil of the submarine areas that extend beyond the territorial sea throughout the natural prolongation of the land territory to the outer edge of the continental margin, or to a distance of 200 nautical miles from the baselines from which the breadth of the territorial sea is measured where the outer edge of the continental margin does not extend up to that distance whereas the exclusive economic zone is an area beyond and adjacent to the territorial sea that shall not extend beyond 200 nautical miles (see notably Article 55 from the United Nations Convention on the Law of the Sea ('UNCLOS')). Artificial islands are areas of land, surrounded by water, that are above water that are not naturally formed but are the result of man building activity. These islands can be used to support the exploration or exploitation of the seabed or they can be used to support the production of energy from the water, currents or winds. They could be used as the point of delivery of dumped/subsidised products such as tubes to connect the platforms to the shore or to extract hydrocarbons from the seabed, drilling equipment and rigs or wind turbines. Fixed or floating installations and any other structures are constructions, including facilities, such as platforms whether fixed to the sea floor or floating which are intended for the exploration or exploitation of the seabed. They also include the constructions on site for the production of energy from the water, currents or winds. The product under review could also be delivered for use on those constructions.

⁽⁷⁾ Commission Implementing Regulation (EU) 2019/1131 of 2 July 2019 establishing a customs tool in order to implement Article 14a of Regulation (EU) 2016/1036 of the European Parliament and of the Council and Article 24a of Regulation (EU) 2016/1037 of the European Parliament and of the Council (OJ L 179, 3.7.2019, p. 12).

⁽⁸⁾ Notice concerning a partial reopening of the investigations leading to the anti-dumping and anti-subsidy measures on imports of certain woven and/or stitched glass fibre fabrics originating in the People's Republic of China and Egypt (OJ C 199, 27.5.2021, p. 6).

- (9) Interested parties were given the opportunity to make their views known in writing and to request a hearing with the Commission and/or the Hearing officer in trade proceedings within the time-limit set out in the Notice. None of the interested parties requested a hearing either with the Commission or the Hearing officer in trade proceedings.

2.3. Questionnaire replies

- (10) The Commission sent a questionnaire to the interested parties that cooperated in the investigations that led to the existing measures.
- (11) The Commission received questionnaire replies from four Union producers, the Union industry's association and one user.
- (12) No questionnaire reply was received from the exporting producers. The Commission notified the Missions of the PRC and Egypt that due to the insufficient cooperation from the exporting producers in the PRC and Egypt, it intended to apply Article 18 of the basic anti-dumping Regulation and Article 28 of the basic anti-subsidy Regulation respectively and therefore base its findings on the facts available. No comments were received in response to this notification.

2.4. Investigation period

- (13) The investigation period was the same as during the original investigations, i.e. 1 January 2018 to 31 December 2018 ('original period of investigation').

2.5. Product under investigation

- (14) The product under investigation is the same as in the investigations that led to the imposition of the existing measures i.e. fabrics of woven and/or stitched continuous filament glass fibre rovings and/or yarns with or without other elements, excluding products which are impregnated or pre-impregnated (pre-preg), and excluding open mesh fabrics with cells with a size of more than 1,8 mm in both length and width and weighing more than 35 g/m², currently falling under CN codes ex 7019 61 00, ex 7019 62 00, ex 7019 63 00, ex 7019 64 00, ex 7019 65 00, ex 7019 66 00, ex 7019 69 10, ex 7019 69 90, and ex 7019 90 00 (TARIC codes 7019 61 00 81, 7019 61 00 83, 7019 61 00 84, 7019 62 00 81, 7019 62 00 83, 7019 62 00 84, 7019 63 00 81, 7019 63 00 83, 7019 63 00 84, 7019 64 00 81, 7019 64 00 83, 7019 64 00 84, 7019 65 00 81, 7019 65 00 83, 7019 65 00 84, 7019 66 00 81, 7019 66 00 83, 7019 66 00 84, 7019 69 10 81, 7019 69 10 83, 7019 69 10 84, 7019 69 90 81, 7019 69 90 83, 7019 69 90 84, 7019 90 00 81, 7019 90 00 83 and 7019 90 00 84), and originating in the People's Republic of China and Egypt ('the product under investigation').

2.6. Comments on initiation

- (15) The Mission of Egypt questioned the legality of the new provisions of the anti-dumping and anti-subsidy basic Regulations (Articles 14a and 24a of the respective basic Regulations) under the United Nations Convention on the Law of the Sea ('UNCLOS') and the Union Customs Rules.
- (16) The Commission rejected the claim. Article 1(2) of Regulation (EU) No 952/2013 of the European Parliament and of the Council ⁽⁹⁾ explicitly provides that certain provisions of the customs legislation may apply outside the customs territory of the Union within the framework of legislation governing specific fields or of international convention. UNCLOS is part of Union law. The Exclusive Economic Zone is governed by Part V of UNCLOS, whereas the Continental Shelf is contained in Part VI of UNCLOS. Article 56 of UNCLOS defines 'Rights, jurisdiction and duties of the coastal State in the exclusive economic zone', which include 'the establishment and use of artificial islands,

⁽⁹⁾ Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ L 269, 10.10.2013, p. 1).

installations and structures'. Article 60(2) of UNCLOS provides that 'the coastal State shall have exclusive jurisdiction over such artificial islands, installations and structures, including jurisdiction with regard to customs, fiscal, health, safety and immigration laws and regulations'. The list of matters enumerated in this provision is not exhaustive. Article 80 of UNCLOS renders applicable Article 60 also for the Continental Shelf. The International Tribunal for the Law of the Sea has provided further guidance on the above provision of UNCLOS. It held in its M/V 'Saiga' judgment that '[i]n the exclusive economic zone, the coastal State has jurisdiction to apply customs laws and regulations in respect of artificial islands, installations and structures (Article 60, paragraph 2). In the view of the Tribunal, the Convention does not empower a coastal State to apply its customs laws in respect of any other parts of the exclusive economic zone not mentioned above' ⁽¹⁰⁾. On that basis, under UNCLOS, the Union has the competence to levy anti-dumping and countervailing duties, which are part of the 'customs, fiscal laws and regulations'. Indeed, the rule-making authority of the Union also extends to the areas on which the Member States have sovereign rights under public international law ⁽¹¹⁾. In sum, the Commission concluded that there is no reason to grant the request by the Mission of Egypt not to apply Articles 14a and 24a of the respective basic Regulations.

3. ASSESSMENT

3.1. Preliminary remarks

- (17) The Commission investigated, among others, the following operations during the original period of investigation:
- The re-export within the meaning of the Union Customs Code ⁽¹²⁾ of the product under investigation to the CS/EEZ;
 - Direct shipments of the product under investigation from the countries concerned to the CS/EEZ; and
 - The export or re-export of finished products incorporating the product under investigation from the EU customs territory to the CS/EEZ, both where the product under investigation was first released for free circulation into the EU customs territory then incorporated into the finished product, and where the product under investigation was incorporated into the finished product under a different customs procedure (for example under the inward processing procedure as referred to in the Union Customs Code).
- (18) Two users originally cooperated in the investigation: Siemens Gamesa Renewable Energy, S.A ('SGRE') and Vestas Wind Systems A/S ('Vestas'). However, after reopening of the investigations, only SGRE submitted a questionnaire reply.
- (19) As stated in recital (469) of the GFF AD regulation and recital (1079) of the GFF AS regulation, these two users are among the biggest wind turbine producers in the Union, together consuming above 20 % of the entire Union demand of GFF. They together import above 30 % of all imports from the countries concerned.
- (20) As stated in recital (464) of the GFF AD Regulation and recital (1075) of the GFF AS Regulation, wind turbine producers are the biggest users of GFF accounting for around 60–70 % of the GFF demand in the Union. The other users include boat (around 11 %), truck (around 8 %) and sport equipment (around 2 %) producers, as well as pipe rehabilitation system providers (around 8 %).
- (21) The wind turbine producers use GFF for the fabrication of blades for wind tower installations on the continent being then shipped and installed on shore or off shore on the CS/EEZ.
- (22) According to Table 2 of the GFF AD Regulation and GFF AS Regulation, the total consumption of GFF amounted to 168 270 tonnes in the investigation period.

⁽¹⁰⁾ Saint Vincent and the Grenadines v Guinea, 1 July 1999, ITLOS list of Cases, No 2.

⁽¹¹⁾ Case C-6/04 Commission v UK [2005] ECJ1-9056, paragraph 117.

⁽¹²⁾ Regulation (EU) No 952/2013.

- (23) During the investigation period of the original investigation, approx. 2 600 MW of new offshore wind capacities was added in the EU. One 8 MW offshore wind turbine uses 60 tonnes of GFF for the three wind blades. Accordingly, the EU28 offshore installations in 2018 required approx. 19 958 tonnes of GFF, and EU27 offshore installations approx. 10 118 tonnes.

3.2. Egypt

- (24) In 2018 there were no imports under the inward processing regime from Egypt. As a Party to the pan-Euro-Mediterranean convention, Egypt benefits from preferential tariff treatment. Thus, imports of GFF from Egypt are subject to 0 % preferential tariffs as opposed to 5-7 % MFN tariffs. It follows that in 2018 there was no economic justification for parties to import GFF under the inward processing regime from Egypt.
- (25) In the reply to the questionnaire, SGRE indicated that it did not import any GFF from Egypt destined for use in the CS/EEZ during the investigation period. Vestas did not provide any questionnaire response shedding light on this matter. In this respect, the Commission noted that already during the original investigation, Vestas failed to identify separately imports originating in Egypt. However, based on the information submitted in the original investigation, and in particular the data provided directly by Egyptian exporters, Vestas imported significant quantities of GFF from Egypt under the normal regime, amounting to between 5 % and 8 % of EU28 imports and between 2 % and 5 % of EU28 consumption ⁽¹³⁾. These shares would be significantly higher as a proportion of EU27 figures.
- (26) At the same time, Vestas had significant new EU offshore installations in 2018, accounting for 30-50 % of all such new installations in the EU28 and EU27. This indicates that significant quantities of Egyptian GFF were brought into the CS/EEZ during the investigation period of the original investigation. There is no information on file contradicting this conclusion.
- (27) This conclusion is further supported by the fact that imports of GFF originating in Egypt took place immediately after the imposition of measures under the inward processing regime (more than 230 tonnes in the second half of 2020).
- (28) Therefore, on the basis of the evidence available, the Commission concluded that significant quantities were brought into the CS/EEZ from Egypt, contributing to the injury already established in the original investigation.

3.3. The PRC

- (29) In 2018 the volume of GFF imports under inward processing procedure from China amounted to 5 343 tonnes. Out of this, the imports of the Member States with offshore installations amounted to 4 835 tonnes—15 % of which corresponded to the UK.
- (30) In reply to the questionnaire, SGRE reported imports of GFF from the PRC under both inward processing regime and normal regime for the CS/EEZ in the Union. Inward processing volumes for EU27 alone represented between 1 % and 3 % of total EU28 GFF consumption and between 4 % and 7 % of total EU28 GFF imports in the investigation period ⁽¹⁴⁾. This implies that the share in EU27 imports and EU27 consumption would be even larger. As these quantities are above *de minimis* levels, they are on their own significant enough to cause injury—and thus to contribute to the injury already established in the original investigation. Moreover, the Commission recalled that the injury analysis in the original investigation was made by cumulating imports from Egypt and the PRC. Therefore, any increase in imports channelled to the CS/EEZ can only further contribute to the injury as found in the original investigation.

4. DISCLOSURE

- (31) The parties were informed of the essential facts and considerations on the basis of which it was intended to extend the measures to certain woven and/or stitched glass fibre fabrics originating in the PRC and Egypt to the CS/EEZ. They were also granted a period within which they could make representations subsequent to this disclosure.

⁽¹³⁾ Ranges are provided for confidentiality reasons.

⁽¹⁴⁾ Ranges are provided for confidentiality reasons.

- (32) In their comments to final disclosure, SGRE claimed that the Commission was bound to carry out a full injury analysis under the basic Regulations before it could conclude any extension of the measures to a new territory, namely the CS/EEZ. It further argued that the Commission limited its injury analysis to the volume of imports of GFF from China to the CS/EEZ in 2018 and failed to examine the trend of imports in the CS/EEZ over the period concerned i.e. 2015 to 2018.
- (33) Moreover, SGRE argued that the Commission should have assessed whether it was in the Union interest to impose measures in relation to these imports. It was argued that the fact that Union interest did not prevent the imposition of the initial measures does not *sine qua non* mean that the Union interest would not prevent the extension of the measures to the CS/EEZ. SGRE claimed that the extension of the anti-dumping and countervailing measures on imports of GFF from China and Egypt to imports of GFF from China and Egypt to CS/EEZ would not be in the Union's interest as it would contradict the EU's renewable energy policy of supporting the attractiveness and the competitiveness of the EU wind energy which was faced with price pressure and overall profitability issues due to current market conditions. It further argued that the Union producers do not have enough production capacity to meet growing demand. It was stated that since the imposition of the anti-dumping and countervailing measures in 2020, the EU GFF industry has not sufficiently increased its production and production capacity of GFF to cover the growing EU demand. The Commission noted that no evidence was submitted in this regard, apart from a chart indicating the forecast of the offshore wind installations in Europe during the period 2020 and 2030.
- (34) SGRE also claimed that the extension of the anti-dumping and countervailing measures on imports of GFF from China and Egypt to imports of GFF from China and Egypt to CS/EEZ would force user such as SGRE to expand or shift their production of offshore wind turbine blades from EU countries to non-EU countries, thus affecting the Union employment and suppliers.
- (35) SGRE further argued that the extension of the anti-dumping and countervailing measures on imports of GFF from China and Egypt to imports of GFF from China and Egypt to CS/EEZ would lead to an increase in costs on the users of the product concerned.
- (36) The Commission noted that the Notice of reopening clearly stated that the reopening of the original investigations was limited in scope only to the examination of whether the measures should apply to GFF originating in PRC and Egypt brought in significant quantities to the CS/EEZ. The information contained in the note to the file leading to the reopening confirmed this limited scope. The scope of this investigation follows directly from the wording of Article 14a of the basic anti-dumping Regulation and Article 24a of the basic anti-subsidy Regulation and is also fully in line with Recital (24) of the TDI Modernisation Package ⁽¹⁵⁾. The required legal standard in these provisions is that the dumped and/or subsidised product brought in significant quantities to the CS/EEZ 'would cause injury to the Union industry.'
- (37) As clearly spelled out in the Notice of reopening, the particularity of the situation leading to this investigation was the fact that the customs tool provided in Articles 14a and 24a was not applicable at the time of the initiation of the initial investigation. Pursuant to Articles 14a(2) and 24a(2), the customs tool became then available and led to the reopening of the investigation. Nevertheless, as also specified in the Notice of reopening, in the original investigations leading to the imposition of anti-dumping and countervailing duties the Commission already included in its examination imports of the product concerned under inward processing and concluded that the Union industry suffered material injury during the period concerned. The injury analysis in the original investigations covered not only 2018, but the entire period concerned i.e. 2015-2018. The present investigation relied on those findings and aimed to ascertain whether the extension of the duties to the CS/EEZ was appropriate. Therefore, whether the dumped/subsidised product brought in significant quantities in the CS/EEZ would cause injury to the Union was already confirmed in the Regulation imposing the duties. The re-opening of the investigation confirmed the existence of those quantities and the appropriateness of extending the current measures to protect the Union industry.
- (38) Given this situation and the relevant legal standard, the Commission relied on the data, evidence and findings concerning injury in the original investigations. The current investigation found that there were dumped and subsidised imports brought in the CS/EEZ in significant quantities, and that they would cause further injury to the Union industry, as they could only aggravate its injurious situation. These claims were therefore rejected.

⁽¹⁵⁾ Regulation (EU) 2018/825.

- (39) As for the claim that the Union interest was not included in the scope of the reopened investigations, Articles 14a and 24a of respective basic Regulations do not contain any reference to the need to assess Union interest. In any event, SGRE did not submit comments on this point further to the initiation of this investigation. The Commission noted that the Union interest comments of SGRE are either similar to the comments already addressed and rebutted in the Regulations imposing the original measures, or not substantiated. Therefore, the Commission's assessment as to whether it is appropriate to extend the current measures to the CS/EEZ is confirmed and these claims were rejected.

5. EXTENSION OF MEASURES

- (40) On the basis of the above, the existing anti-dumping and countervailing duties on imports of fabrics of woven and/or stitched continuous filament glass fibre rovings and/or yarns with or without other elements, excluding products which are impregnated or pre-impregnated (pre-preg), and excluding open mesh fabrics with cells with a size of more than 1,8 mm in both length and width and weighing more than 35 g/m² originating in the People's Republic of China and Egypt should also be imposed on fabrics of woven and/or stitched continuous filament glass fibre rovings and/or yarns with or without other elements, excluding products which are impregnated or pre-impregnated (pre-preg), and excluding open mesh fabrics with cells with a size of more than 1,8 mm in both length and width and weighing more than 35 g/m² originating in the People's Republic of China and Egypt brought to an artificial island, a fixed or floating installation or any other structure in the continental shelf of a Member State or the exclusive economic zone declared by a Member State pursuant to UNCLOS.
- (41) The measures provided for in this Regulation are in accordance with the opinion of the Committee established by Article 15(1) of Regulation (EU) 2016/1036,

HAS ADOPTED THIS REGULATION:

Article 1

1. Definitive anti-dumping and countervailing duties are imposed on fabrics of woven and/or stitched continuous filament glass fibre rovings and/or yarns with or without other elements, excluding products which are impregnated or pre-impregnated (pre-preg), and excluding open mesh fabrics with cells with a size of more than 1,8 mm in both length and width and weighing more than 35 g/m² originating in the People's Republic of China and Egypt, currently falling under CN codes ex 7019 61 00, ex 7019 62 00, ex 7019 63 00, ex 7019 64 00, ex 7019 65 00, ex 7019 66 00, ex 7019 69 10, ex 7019 69 90, and ex 7019 90 00 (TARIC codes 7019 61 00 81, 7019 61 00 83, 7019 61 00 84, 7019 62 00 81, 7019 62 00 83, 7019 62 00 84, 7019 63 00 81, 7019 63 00 83, 7019 63 00 84, 7019 64 00 81, 7019 64 00 83, 7019 64 00 84, 7019 65 00 81, 7019 65 00 83, 7019 65 00 84, 7019 66 00 81, 7019 66 00 83, 7019 66 00 84, 7019 69 10 81, 7019 69 10 83, 7019 69 10 84, 7019 69 90 81, 7019 69 90 83, 7019 69 90 84, 7019 90 00 81, 7019 90 00 83 and 7019 90 00 84), which are re-exported within the meaning of the Union Customs Code to an artificial island, a fixed or floating installation or any other structure in the continental shelf of a Member State or the exclusive economic zone declared by a Member State pursuant to UNCLOS.

2. Definitive anti-dumping and countervailing duties are imposed on fabrics of woven and/or stitched continuous filament glass fibre rovings and/or yarns with or without other elements, excluding products which are impregnated or pre-impregnated (pre-preg), and excluding open mesh fabrics with cells with a size of more than 1,8 mm in both length and width and weighing more than 35 g/m² originating in the People's Republic of China and Egypt, currently falling under CN codes ex 7019 61 00, ex 7019 62 00, ex 7019 63 00, ex 7019 64 00, ex 7019 65 00, ex 7019 66 00, ex 7019 69 10, ex 7019 69 90, and ex 7019 90 00 (TARIC codes 7019 61 00 81, 7019 61 00 83, 7019 61 00 84, 7019 62 00 81, 7019 62 00 83, 7019 62 00 84, 7019 63 00 81, 7019 63 00 83, 7019 63 00 84, 7019 64 00 81, 7019 64 00 83, 7019 64 00 84, 7019 65 00 81, 7019 65 00 83, 7019 65 00 84, 7019 66 00 81, 7019 66 00 83, 7019 66 00 84, 7019 69 10 81, 7019 69 10 83, 7019 69 10 84, 7019 69 90 81, 7019 69 90 83, 7019 69 90 84, 7019 90 00 81, 7019 90 00 83 and 7019 90 00 84), which are received on an artificial island, a fixed or floating installation, or any other structure in the continental shelf of a Member State or the Exclusive Economic Zone declared by a Member State pursuant to UNCLOS, and do not fall within paragraph 1.

3. Specific rules for the imposition and collection of anti-dumping and countervailing duties pursuant to paragraphs 1 and 2 are established in Implementing Regulation (EU) 2019/1131 establishing a customs tool in order to implement Article 14a of Regulation (EU) 2016/1036 and Article 24a of Regulation (EU) 2016/1037.

4. The definitive anti-dumping and countervailing duties applicable to the net, free-at-Union-frontier price or, where applicable, free-at the continental shelf or Exclusive Economic Zone frontier price, before duty, of the product described in paragraphs 1 and 2 and produced by the companies listed below shall be as follows:

Country concerned	Company	Definitive anti-dumping duty	Definitive countervailing duty	TARIC additional code
PRC	Jushi Group Co. Ltd; Zhejiang Hengshi Fiberglass Fabrics Co. Ltd; Taishan Fiberglass Inc.	69,0 %	30,7 %	C531
	PGTEX China Co. Ltd; Chongqing Tenways Material Corp.	37,6 %	17,0 %	C532
	Other companies cooperating in both anti-subsidy and anti-dumping investigation listed in the Annex I	37,6 %	24,8 %	See Annex I
	Other companies cooperating in anti-dumping investigation but not in anti-subsidy investigation listed in the Annex II	34,0 %	30,7 %	See Annex II
	All other companies	69,0 %	30,7 %	C999
Egypt	Jushi Egypt For Fiberglass Industry S.A.E; Hengshi Egypt Fiberglass Fabrics S.A.E.	20,0 %	10,9 %	C533
	All other companies	20,0 %	10,9 %	C999

5. The application of the individual anti-dumping and countervailing duty rates specified for the companies mentioned in paragraph 4 or in Annexes I or II shall be conditional upon presentation to the customs authorities of the Member States of a valid commercial invoice, on which shall appear a declaration dated and signed by an official of the entity issuing such invoice, identified by his/her name and function, drafted as follows: *'I, the undersigned, certify that the (volume) of (product concerned) sold for export to the European Union covered by this invoice was manufactured by (company name and address) (TARIC additional code) in the (country concerned). I declare that the information provided in this invoice is complete and correct.'* If no such invoice is presented, the duty rate applicable to 'all other companies' shall apply.

6. Unless otherwise specified, the provisions in force concerning customs duties shall apply.

7. In cases where the countervailing duty has been subtracted from the anti-dumping duty for certain exporting producers, refund requests under Article 21 of Regulation (EU) 2016/1037 shall also trigger the assessment of the dumping margin for that exporting producer prevailing during the refund investigation period.

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, 23 May 2022.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX I

Other companies cooperating in both anti-subsidy and anti-dumping investigation

Name of the Company	TARIC additional code
Changshu Dongyu Insulated Compound Materials Co., Ltd	B995
Changzhou Pro-Tech Industry Co., Ltd	C534
Jiangsu Changhai Composite Materials Holding Co., Ltd	C535
Neijiang Huayuan Electronic Materials Co., Ltd	C537
NMG Composites Co., Ltd	C538
Zhejiang Hongming Fiberglass Fabrics Co., Ltd	C539

ANNEX II

Other companies cooperating in anti-dumping investigation but not in anti-subsidy investigation

Name of the Company	TARIC additional code
Jiangsu Jiuding New Material Co., Ltd	C536

COMMISSION IMPLEMENTING REGULATION (EU) 2022/807**of 23 May 2022****correcting Implementing Regulation (EU) 2022/191 imposing a definitive anti-dumping duty on imports of certain iron or steel fasteners originating in the People's Republic of China**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union ⁽¹⁾, and in particular Article 9(4) thereof,

Whereas:

- (1) By Commission Implementing Regulation (EU) 2022/191 ⁽²⁾, the Commission imposed a definitive anti-dumping duty on imports of certain iron or steel fasteners originating in the People's Republic of China.
- (2) Recital (347) and the Annex to Implementing Regulation (EU) 2022/191 included an error as regards the name of a cooperating not sampled exporting producer Liaocheng BSC Metal Products Co., Ltd. Namely, this company's name in recital (347) and in the Annex to Implementing Regulation (EU) 2022/191 was erroneously incomplete, i.e. the last three words of the company's name ('Products Co., Ltd') were omitted.
- (3) As a result, recital (347) and the Annex to Implementing Regulation (EU) 2022/191 do not reflect the correct full name of the cooperating not sampled exporting producer Liaocheng BSC Metal Products Co., Ltd. Therefore, the Commission has decided to correct recital (347) and the Annex to Implementing Regulation (EU) 2022/191 accordingly. This rectification should take effect as from the entry into force of Implementing Regulation (EU) 2022/191, namely 18 February 2022.
- (4) The measures provided for in this Regulation are in accordance with the opinion of the Committee, established by Article 15(1) of Regulation (EU) 2016/1036,

HAS ADOPTED THIS REGULATION:

Article 1

1. Recital 347 of Implementing Regulation (EU) 2022/191 is replaced by the following:

‘(347) Following final disclosure, the Commission noted some clerical errors included in the list of cooperating exporting producers that were corrected. These corrections were based on the information provided by the parties concerned in the sampling form. Thus, Shanghai Foreign Trade (Pudong) Co., Ltd. that submitted the sampling information for its related producers Shanghai Rongdun Industry Co., Ltd. and Shanghai Chunri New Energy Technology Co., Ltd., was removed from the list and replaced by its related producers. Likewise, BSC Corporation, a trader exporting the product produced by its related company Liaocheng BSC Metal Products Co., Ltd, was removed from the list and replaced by its related producer.’

2. The Annex to Implementing Regulation (EU) 2022/191 is replaced by the Annex to this Regulation.

⁽¹⁾ OJ L 176, 30.6.2016, p. 21.

⁽²⁾ Commission Implementing Regulation (EU) 2022/191 of 16 February 2022 imposing a definitive anti-dumping duty on imports of certain iron or steel fasteners originating in the People's Republic of China (OJ L 36, 17.2.2022, p. 1.)

Article 2

This Regulation shall enter into force with retroactive effect as from 18 February 2022.

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

Done at Brussels, 23 May 2022.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX

Cooperating exporting producers not sampled:

Country	Name	TARIC additional code
People's Republic of China	Anhui Goodlink Fastener Co., Ltd	C859
People's Republic of China	Beijing Jinzhaobo High Strength Fastener Co., Ltd.	C767
People's Republic of China	Liaocheng BSC Metal Products Co., Ltd	C768
People's Republic of China	Celo Suzhou Precision Fasteners Co. Ltd	C769
People's Republic of China	Changshu City Standard Parts Factory Co., Ltd.	C770
People's Republic of China	CHENGLONG TECHNOLOGY (JIAXING) CO., LTD.	C771
People's Republic of China	EC International (Nantong) Co., Ltd.	C772
People's Republic of China	FASTWELL METAL PRODUCTS CO., LTD	C773
People's Republic of China	Finework (Hunan) New Energy Technology Co.,Ltd	C774
People's Republic of China	FRÖTEK Plastic Technology(Wuxi) CO., LTD	C775
People's Republic of China	Haining Hisener Trade Co., Ltd	C776
People's Republic of China	HAINING JINJIE METAL CO.,LTD	C778
People's Republic of China	HAIYAN BOOMING FASTENER CO., LTD.	C779
People's Republic of China	Haiyan C&F Fittings Co.,LTD	C780
People's Republic of China	HAIYAN GUANGDA HARDWARE CO., LTD.	C781
People's Republic of China	Haiyan Jiamei Hardware Manufacturing And Tech. Co., Ltd	C782
People's Republic of China	Haiyan Shangxin Standard Parts Co., Ltd	C783
People's Republic of China	HAIYAN TIANQI STANDARD PARTS CO., LTD.	C784
People's Republic of China	Haiyan Wancheng Fasteners Co., Ltd.	C785
People's Republic of China	HAIYAN XINGLONG FASTENER CO., LTD	C786
People's Republic of China	HAIYAN YIHUI HARDWARE TECHNOLOGY CO., LTD	C787

People's Republic of China	HAIYAN YOUSUN ENTERPRISE CO., LTD	C788
People's Republic of China	HANDAN HAOSHENG FASTENER CO., LTD.	C789
People's Republic of China	HILTI (CHINA) LTD	C790
People's Republic of China	Jia Xing Tai Cheng Aoto Parts Co., Ltd	C791
People's Republic of China	Jiashan Chaoyi Fastener Co.,Ltd	C792
People's Republic of China	JIASHAN GIANT IMP.&EXP.TRADE CO.,LTD	C793
People's Republic of China	Jiashan Sanxin Fastener Company Limited	C794
People's Republic of China	Jiashan United Oasis Fastener Co.,Ltd	C795
People's Republic of China	JIASHAN WEIYUE FASTENER CO., LTD	C796
People's Republic of China	Jiashan Xiaohai Metal Products Factory	C797
People's Republic of China	JIASHAN YONGXIN FASTENER CO., LTD	C798
People's Republic of China	JIAXING CHENGFENG METAL PRODUCTS CO.,LTD	C799
People's Republic of China	JIAXING H.J TECH INDUSTRY LIMITED	C800
People's Republic of China	Jiaxing Huanhuan Tong Plastic Industry Co., LTD	C801
People's Republic of China	JIAXING KINFEST HARDWARE CO., LTD.	C802
People's Republic of China	JIAXING LONGSHENG HARDWARE CO.,LTD	C803
People's Republic of China	Jiaxing Shangxiang Import and Export Co., LTD	C804
People's Republic of China	JIAXING SULATER AUTO PARTS CO., LTD.	C805
People's Republic of China	JIAXING TAIXIN AUTO PARTS MANUFACTURING CO.,LTD	C806
People's Republic of China	Jiaxing Victor Screw Co.,Ltd	C807
People's Republic of China	JIAXING ZHENGYING HARDWARE CO.,LTD	C808
People's Republic of China	Jinan Huayang Fastener Co., Ltd	C809
People's Republic of China	JINAN STAR FASTENER CO., LTD	C810
People's Republic of China	Lianyungang Suli Hardware Technology Co., Ltd.	C811

People's Republic of China	NEDSCHROEF FASTENERS (KUNSHAN) CO., LTD.	C812
People's Republic of China	NEW STARWDH INDUSTRIAL CO., LTD	C813
People's Republic of China	Ningbo Dongxin High-Strength Nut Co., Ltd.	C814
People's Republic of China	Ningbo Economic & Technical Development Zone Yonggang Fasteners Co., Ltd.	C815
People's Republic of China	Ningbo Haixin Hardware Co., Ltd.	C816
People's Republic of China	NINGBO LEMNA PRODUCT TECHNOLOGY CO., LTD.	C817
People's Republic of China	Ningbo Minda Machinery & Electronics Co., Ltd.	C818
People's Republic of China	Ningbo Nanjubaoe Fastener Manufacturing Co. Ltd	C819
People's Republic of China	Ningbo Ningli High-Strength Fastener Co., Ltd	C820
People's Republic of China	Ningbo Shengtai Fastener Technology Co., Ltd	C821
People's Republic of China	Ningbo Taida Hezhong Fastener Manufacture Co., Ltd.	C822
People's Republic of China	Ningbo Zhenghai Yongding Fastener Co., Ltd.	C823
People's Republic of China	NINGBO ZHONGBIN FASTENER MFG. CO., LTD	C824
People's Republic of China	Ningbo Zhongjiang High Strength Bolts Co., Ltd.	C825
People's Republic of China	OK TECH CO., LTD	C826
People's Republic of China	PINGHU OTEBAY HARDWARE PRODUCT CO.LTD	C827
People's Republic of China	Pinghu Sanjiaozhou Lubricant Co., Ltd.	C828
People's Republic of China	Pol Shin Fastener (Zhejiang) Co., Ltd	C829
People's Republic of China	QIFENG PRECISION INDUSTRY SCI-TECH CORP.	C830
People's Republic of China	Shanghai Autocraft Co.,Ltd.	C831
People's Republic of China	SHANGHAI CHAEN CHIA FASTENERS CO.,LTD.	C832
People's Republic of China	SHANGHAI EAST BEST FOREIGN TRADE CO.,LTD.	C833
People's Republic of China	Shanghai Chunri New Energy Technology Co., Ltd.,	C777

People's Republic of China	Shanghai Rongdun Industry Co., Ltd.	C834
People's Republic of China	Shanghai Galgem Hardware Company Limited	C835
People's Republic of China	Shanghai High-Strength Bolts Plant	C836
People's Republic of China	SHANGHAI MOREGOOD HARDWARE CO., LTD.	C837
People's Republic of China	Shanghai Yueda Nails Co., Ltd.	C838
People's Republic of China	SSF INDUSTRIAL CO., LIMITED	C839
People's Republic of China	Suzhou Escort Hardware Manufacturing Co. Ltd	C840
People's Republic of China	Suzhou Hongly Hardware Co., Ltd	C841
People's Republic of China	Suzhou Litto Fastener Co., Ltd	C842
People's Republic of China	Suzhou YNK Fastener Co., Ltd.	C843
People's Republic of China	Yantai Agrati Fasteners Ltd.	C844
People's Republic of China	YUYAO ALFIRSTE HARDWARE CO., LTD	C845
People's Republic of China	Yuyao Zhenrui Metal Co., Ltd	C846
People's Republic of China	ZHE JIANG WORLD WIN FASTENER CO., LTD	C847
People's Republic of China	Zhejiang Channov Auto Parts Co., Ltd	C848
People's Republic of China	ZHEJIANG CHAOBOER HARDWARE CO., LTD	C849
People's Republic of China	ZHEJIANG DONGHE MACHINERY TECHNOLOGY CORPORATION LIMITED	C850
People's Republic of China	Zhejiang Excellent Industries Co. Ltd	C851
People's Republic of China	ZHEJIANG MS TECHNOLOGY CO., LTD.	C852
People's Republic of China	ZHEJIANG NEW SHENGDA FASTENER CO., LTD.	C853
People's Republic of China	Zhejiang RuiZhao Technology Co.,Ltd.	C854
People's Republic of China	Zhejiang Tianyuan Metal Products Co., Ltd	C855

COMMISSION IMPLEMENTING REGULATION (EU) 2022/808**of 23 May 2022****amending Implementing Regulation (EU) No 540/2011 as regards the approval period of the active substance bispyribac****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC ⁽¹⁾, and in particular the Article 17, first paragraph, thereof,

Whereas:

- (1) Part B of the Annex to Commission Implementing Regulation (EU) No 540/2011 ⁽²⁾ sets out the active substances approved under Regulation (EC) No 1107/2009.
- (2) An application for the renewal of the approval of the active substance bispyribac was submitted on 30 July 2018, in accordance with Article 1 of Commission Implementing Regulation (EU) No 844/2012 ⁽³⁾.
- (3) The approval period of the active substance bispyribac was extended from 31 July 2021 until 31 July 2023 by Commission Implementing Regulation (EU) 2018/1916 ⁽⁴⁾.
- (4) However, on 22 October 2020, the applicant confirmed that it no longer supports the application for renewal of approval.
- (5) As the application for renewal was withdrawn, the extension of the approval period of this active substance, provided for by Implementing Regulation (EU) 2018/1916, is no longer justified. Therefore, a new expiry date should be set at the earliest date possible, while giving Member States sufficient time to withdraw authorisations for plant protection products containing that substance.
- (6) Implementing Regulation (EU) No 540/2011 should therefore be amended accordingly.
- (7) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to Implementing Regulation (EU) No 540/2011 is amended in accordance with the Annex to this Regulation.

⁽¹⁾ OJ L 309, 24.11.2009, p. 1.

⁽²⁾ Commission Implementing Regulation (EU) No 540/2011 of 25 May 2011 implementing Regulation (EC) No 1107/2009 of the European Parliament and of the Council as regards the list of approved active substances (OJ L 153, 11.6.2011, p. 1).

⁽³⁾ Commission Implementing Regulation (EU) No 844/2012 of 18 September 2012 setting out the provisions necessary for the implementation of the renewal procedure for active substances, as provided for in Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market (OJ L 252, 19.9.2012, p. 26).

⁽⁴⁾ Commission Implementing Regulation (EU) 2018/1916 of 6 December 2018 amending Implementing Regulation (EU) No 540/2011 as regards the extension of the approval period of the active substance bispyribac (OJ L 311, 7.12.2018, p. 24).

Article 2

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

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

Done at Brussels, 23 May 2022.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX

In Part B of the Annex to Implementing Regulation (EU) No 540/2011, in the sixth column, expiration of approval, of row 1, Bispribac, the date is replaced by '31 July 2022'.

DECISIONS

COUNCIL DECISION (CFSP) 2022/809

of 23 May 2022

amending Decision (CFSP) 2022/338 on an assistance measure under the European Peace Facility for the supply to the Ukrainian Armed Forces of military equipment, and platforms, designed to deliver lethal force

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Articles 28(1) and 41(2) thereof,

Having regard to the proposal from the High Representative of the Union for Foreign Affairs and Security Policy,

Whereas:

- (1) On 28 February 2022, the Council adopted Decision (CFSP) 2022/338 ⁽¹⁾, which established an assistance measure with a financial reference amount of EUR 450 000 000 intended to cover the supply to the Ukrainian Armed Forces of military equipment, and platforms, designed to deliver lethal force.
- (2) On 23 March 2022, the Council adopted Decision (CFSP) 2022/471 ⁽²⁾ amending Decision (CFSP) 2022/338, which increased the financial reference amount to EUR 900 000 000.
- (3) On 13 April 2022, the Council adopted Decision (CFSP) 2022/636 ⁽³⁾ amending Decision (CFSP) 2022/338, which further increased the financial reference amount to EUR 1 350 000 000.
- (4) In light of the ongoing armed aggression by the Russian Federation against Ukraine, the financial reference amount should be increased by an additional EUR 490 000 000.
- (5) Decision (CFSP) 2022/338 should be amended accordingly,

HAS ADOPTED THIS DECISION

Article 1

Decision (CFSP) 2022/338 is amended as follows:

- (1) in Article 2, paragraph 1 is replaced by the following:

‘1. The financial reference amount intended to cover the expenditure related to the Assistance Measure shall be EUR 1 840 000 000.’;

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

‘3. In accordance with Article 29(5) of Decision (CFSP) 2021/509, the administrator for assistance measures may call for contributions following the adoption of this Decision, up to EUR 1 840 000 000. The funds called by the administrator for assistance measures shall only be used to pay expenditure within the limits approved by the Committee established by Decision (CFSP) 2021/509 in the 2022 amending budget and in the budgets for subsequent years corresponding to the Assistance Measure.’;

⁽¹⁾ Council Decision (CFSP) 2022/338 of 28 February 2022 on an assistance measure under the European Peace Facility for the supply to the Ukrainian Armed Forces of military equipment, and platforms, designed to deliver lethal force (OJ L 60, 28.2.2022, p. 1).

⁽²⁾ Council Decision (CFSP) 2022/471 of 23 March 2022 amending Decision (CFSP) 2022/338 on an assistance measure under the European Peace Facility for the supply to the Ukrainian Armed Forces of military equipment, and platforms, designed to deliver lethal force (OJ L 96, 24.3.2022, p. 43).

⁽³⁾ Council Decision (CFSP) 2022/636 of 13 April 2022 amending Decision (CFSP) 2022/338 on an assistance measure under the European Peace Facility for the supply to the Ukrainian Armed Forces of military equipment, and platforms, designed to deliver lethal force (OJ L 117, 19.4.2022, p. 34).

(3) in Article 2, paragraph 4 is replaced by the following:

‘4. Expenditure related to the implementation of the Assistance Measure shall be eligible as from 1 January 2022 and until a date to be determined by the Council. The maximum eligible expenditure incurred before 11 March 2022 shall be EUR 450 000 000.’;

(4) in Article 4(4), point (j) is replaced by the following:

‘(j) the Ministry of Defence and the Federal Ministry of the Interior and Community of Germany’;

Article 2

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

Done at Brussels, 23 May 2022.

For the Council

The President

M. BEK

COUNCIL DECISION (CFSP) 2022/810**of 23 May 2022****amending Decision (CFSP) 2022/339 on an assistance measure under the European Peace Facility to support the Ukrainian Armed Forces**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Articles 28(1) and 41(2) thereof,

Having regard to the proposal from the High Representative of the Union for Foreign Affairs and Security Policy,

Whereas:

- (1) On 28 February 2022, the Council adopted Decision (CFSP) 2022/339 ⁽¹⁾, which established an assistance measure with a financial reference amount of EUR 50 000 000 intended to cover the financing of the provision of equipment and supplies not designed to deliver lethal force, such as personal protective equipment, first aid kits and fuel, to the Ukrainian Armed Forces.
- (2) On 23 March 2022, the Council adopted Decision (CFSP) 2022/472 ⁽²⁾ amending Decision (CFSP) 2022/339, which increased the financial reference amount to EUR 100 000 000.
- (3) On 13 April 2022, the Council adopted Decision (CFSP) 2022/637 ⁽³⁾ amending Decision (CFSP) 2022/339, which further increased the financial reference amount to EUR 150 000 000.
- (4) In light of the ongoing armed aggression by the Russian Federation against Ukraine, the financial reference amount should be increased by an additional EUR 10 000 000 intended to cover the financing of the provision of equipment and supplies not designed to deliver lethal force, such as personal protective equipment, first aid kits and fuel, to the Ukrainian Armed Forces.
- (5) Decision (CFSP) 2022/339 should be amended accordingly,

HAS ADOPTED THIS DECISION

Article 1

Decision (CFSP) 2022/339 is amended as follows:

- (1) in Article 2, paragraph 1 is replaced by the following:

‘1. The financial reference amount intended to cover the expenditure related to the Assistance Measure shall be EUR 160 000 000.’;

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

‘3. In accordance with Article 29(5) of Decision (CFSP) 2021/509, the administrator for assistance measures may call for contributions following the adoption of this Decision, up to EUR 160 000 000. The funds called by the administrator for assistance measures shall only be used to pay expenditure within the limits approved by the Committee established by Decision (CFSP) 2021/509 in the 2022 amending budget and in the budgets for subsequent years corresponding to the Assistance Measure.’;

⁽¹⁾ Council Decision (CFSP) 2022/339 of 28 February 2022 on an assistance measure under the European Peace Facility to support the Ukrainian Armed Forces (OJ L 61, 28.2.2022, p. 1).

⁽²⁾ Council Decision (CFSP) 2022/472 of 23 March 2022 amending Decision (CFSP) 2022/339 on an assistance measure under the European Peace Facility to support the Ukrainian Armed Forces (OJ L 96, 24.3.2022, p. 45).

⁽³⁾ Council Decision (CFSP) 2022/637 of 13 April 2022 amending Decision (CFSP) 2022/339 on an assistance measure under the European Peace Facility to support the Ukrainian Armed Forces (OJ L 117, 19.4.2022, p. 36).

(3) in Article 2, paragraph 4 is replaced by the following:

‘4. Expenditure related to the implementation of the Assistance Measure shall be eligible as from 1 January 2022 and until a date to be determined by the Council. The maximum eligible expenditure incurred before 11 March 2022 shall be EUR 50 000 000.’;

(4) in Article 4(4), point (k) is replaced by the following:

‘(k) the Ministry of Defence, the Federal Foreign Office and the Federal Ministry of the Interior and Community of Germany’;

Article 2

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

Done at Brussels, 23 May 2022.

For the Council

The President

M. BEK

DECISION (EU) 2022/811 OF THE SINGLE RESOLUTION BOARD**of 24 March 2022****on discharge in respect of the implementation of the budget and on the closure of the accounts of the
Single Resolution Board ('SRB') for the financial year 2020 (SRB/PS/2022/03)****(Only the English version is authentic)**

THE SINGLE RESOLUTION BOARD,

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, Articles 50(1)(b) and 63(8) of the SRM Regulation,

Having regard to Articles 97, 98 and 99 of the SRB Financial Regulation of 17 January 2020,

Having regard to the Final Annual Accounts of the SRB for the financial year 2020 as adopted on 30 June 2021 (the '2020 Final Annual Accounts'),

Having regard to the Annual Report of the SRB for the financial year 2020 as adopted on 7 May 2021 (the '2020 Annual Report'),

Having regard to the European Court of Auditors' Report on the annual accounts of the Single Resolution Board (SRB) for the financial year 2020, together with the SRB's replies (the '2020 Court of Auditors' Annual Report'),

Having regard to the Report on the 2020 Final Annual Accounts including audit opinions dated 16 June 2021 prepared by Mazars Réviseurs d'Entreprises (the 'Mazars 2020 Audit Report'),

Having regard to the European Court of Auditors' Report (pursuant to Article 92(4) of Regulation (EU) No 806/2014) on any contingent liabilities arising as a result of the performance by the Single Resolution Board, the Council or the Commission of their tasks under the SRM Regulation for the financial year 2020 (the 'Court of Auditors' Contingent Liabilities Report 2020'),

Having regard to the Internal Audit Annual Report 2020 dated 14 December 2020,

HAS ADOPTED THIS DECISION:

Sole Article

1. Grant the Chair of the Single Resolution Board discharge in respect of the implementation of the SRB's budget for the financial year 2020;
2. Approve the closure of the accounts of the SRB for the financial year 2020;
3. Set out its observations in the motion below;
4. Instruct the Chair of the Single Resolution Board to notify this Decision to the Council, the Commission and the Court of Auditors, to arrange for its publication in the *Official Journal of the European Union* (L series), and on the website of the SRB.

⁽¹⁾ OJ L 225, 30.7.2014, p. 1.

This Decision enters into force on the date of its signature.

For the Single Resolution Board,
Birgit RODOLPHE
Plenary Member

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