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(Legislative acts)

REGULATIONS

REGULATION (EU) No 258/2014 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 3 April 2014
establishing a Union programme to support specific activities in the field of financial reporting and
auditing for the period of 2014-20 and repealing Decision No 716/2009/EC
(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

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

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

Acting in accordance with the ordinary legislative procedure ⁽²⁾,

Whereas:

- (1) Decision No 716/2009/EC of the European Parliament and of the Council ⁽³⁾ established a Community programme to support specific activities in the field of financial services, financial reporting and auditing. On the basis of that Decision, the European Financial Reporting Advisory Group (EFRAG), the International Financial Reporting Standards Foundation (the IFRS Foundation), which is the legal successor to the International Accounting Standards Committee Foundation (IASCF), and the Public Interest Oversight Board (PIOB) benefited from Union co-financing in the form of operating grants until 31 December 2013.
- (2) The crisis in the financial markets which has unfolded since 2008 has put the issue of financial reporting and auditing at the centre of the Union's political agenda. A well-functioning common financial reporting framework is essential for the internal market, for the effective functioning of the capital markets and for the realisation of the integrated market for financial services in the Union.
- (3) As well as playing a central role in ensuring that investors are equipped with important information relating to the balance sheet, the profit and loss statement and cash flow, financial statements support effective corporate governance.

⁽¹⁾ OJ C 161, 6.6.2013, p. 64.

⁽²⁾ Position of the European Parliament of 13 March 2014 (not yet published in the Official Journal) and decision of the Council of 24 March 2014.

⁽³⁾ Decision No 716/2009/EC of the European Parliament and of the Council of 16 September 2009 establishing a Community programme to support specific activities in the field of financial services, financial reporting and auditing (OJ L 253, 25.9.2009, p. 8).

- (4) As well as playing a vital role in protecting shareholder and creditor interests, financial statements form the bedrock of prudential regulation in the sense that all major legislative instruments on financial services rely on company financial statements, including Regulation (EU) No 648/2012 of the European Parliament and of the Council ⁽¹⁾ and Regulation (EU) No 575/2013 of the European Parliament and of the Council ⁽²⁾. Regulators rely on accounting terminology in order to understand what risks a company is taking and therefore what is required of that company.
- (5) In a global economy, there is a need for a global accounting language, while taking into account the many different accounting traditions already used. The G20 has repeatedly called for global accounting standards and for the convergence of existing and future accounting standards. International Financial Reporting Standards (IFRS) developed by the International Accounting Standards Board (IASB) are adopted and used in many, but not in some major, jurisdictions around the world. Such international accounting standards need to be developed under a transparent and democratically accountable process. To ensure that the interests of the Union are respected and that global standards are of high quality and compatible with Union law, it is essential that the interests of the Union are adequately taken into account in that international standard-setting process. Those interests include the maintenance of the principle that financial statements should give a 'true and fair view', and should be reliable and understandable, comparable and relevant.
- (6) In accordance with Regulation (EC) No 1606/2002 of the European Parliament and of the Council ⁽³⁾, IFRS should be incorporated into Union law in order to be applied by companies with securities listed on a regulated market in the Union, only if IFRS meet the criteria set out in that Regulation, including the requirement that accounts give a 'true and fair view' as laid down in Article 4(3) of Directive 2013/34/EU of the European Parliament and of the Council ⁽⁴⁾. IFRS therefore play a major role in the functioning of the internal market and thus the Union has a direct interest in ensuring that the process through which IFRS are developed and approved delivers standards that are consistent with the requirements of the legal framework of the internal market.
- (7) IFRS are issued by the IASB and related interpretations are issued by the IFRS Interpretations Committee, two bodies within the IFRS Foundation. It is therefore important to establish appropriate funding arrangements for the IFRS Foundation.
- (8) EFRAG was founded in 2001 by European organisations representing issuers and the accountancy profession involved in the financial reporting process. In accordance with Regulation (EC) No 1606/2002, EFRAG provides the Commission with opinions on whether an accounting standard issued by the IASB or an interpretation issued by the IFRS Interpretations Committee, which is to be endorsed, complies with the endorsement criteria set out in that Regulation.
- (9) EFRAG is taking up the role of the 'single European accounting voice' in the global arena. In that capacity, EFRAG provides input to the IASB's standard-setting process. In order for EFRAG to fulfil such a role, it should be exposed to all possible views held in the Union in the course of due process, whereby national standard-setters, governments and regulators as well as other stakeholders, play an essential role given the significant differences of opinion that already exist between Member States and various stakeholders. All interactions of EFRAG with the IASB should be fully transparent and any decision taken by EFRAG should be after fully consulting national standard-setters.
- (10) Taking into account EFRAG's role in assessing whether IFRS comply with the requirement of Union company law and policy, as laid out in Regulation (EC) No 1606/2002, it is necessary for the Union to ensure EFRAG's stable financing and thus contribute to its funding.

⁽¹⁾ Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories (OJ L 201, 27.7.2012, p. 1).

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

⁽³⁾ Regulation (EC) No 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards (OJ L 243, 11.9.2002, p. 1).

⁽⁴⁾ Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.6.2013, p. 19).

- (11) On 12 November 2013 the Commission published the report of Philippe Maystadt, special advisor to the Commissioner responsible for internal market and services (the 'special advisor's report'), in which he outlined potential reforms to EFRAG governance aimed at reinforcing the Union's contribution to the development of international accounting standards. In order to achieve the expected objectives of the co-financing programme established by this Regulation (the 'Programme'), it is necessary that arrangements for governance are revised in line with the recommendations set out in the special advisor's report and that those reforms are implemented without delay. The Commission should monitor the implementation of the reform of EFRAG governance and inform the European Parliament and the Council of the progress in its implementation. To this end, the Commission should submit to the European Parliament and to the Council a report on the implementation of the governance reform by 31 March 2014.
- (12) The technical work of EFRAG should be focused on technical advice to the Commission on the endorsement of IFRS as well as on the appropriate participation in the process of development of such IFRS and should ensure that Union interests are adequately taken into account in the international standard-setting process. Those interests should include the notion of 'prudence', the maintenance of the requirement of a 'true and fair view' as laid down in Directive 2013/34/EU and should take into account the impact of standards on financial stability and the economy. The Commission should assess the technical work of EFRAG in reports prepared in accordance with the criteria laid down in this Regulation.
- (13) In the field of statutory audit, PIOB was created in 2005 by the Monitoring Group, an international organisation responsible for monitoring the governance reform of the International Federation of Accountants (IFAC). The role of PIOB is to oversee the process leading to the adoption of International Standards on Auditing (ISAs) and other public interest activities of the IFAC. It is possible for ISAs to be adopted for their application in the Union provided, in particular, that they have been developed with due process, public oversight and transparency as required under Article 26 of Directive 2006/43/EC of the European Parliament and of the Council⁽¹⁾. The audit proposals of 30 November 2011 also envisage the introduction of ISAs in the Union.
- (14) The introduction of ISAs in the Union and the key role of PIOB in ensuring that they fulfil the requirements laid down in Directive 2006/43/EC mean that the Union has a direct interest in ensuring that the process through which such standards are developed and approved delivers standards that are consistent with the legal framework of the internal market. The Commission proposal to amend Directive 2006/43/EC also explicitly recognises the role of PIOB. It is therefore important to ensure appropriate funding arrangements for PIOB.
- (15) Bodies working in the field of accounting and auditing are highly dependent on funding and play major roles in the Union which are decisive for the functioning of the internal market. The proposed beneficiaries of the programme established by Decision No 716/2009/EC have been co-financed by operating grants from the Union budget, which has allowed them to increase their financial independence from private sector and ad hoc sources, thereby raising their capacity and credibility. Public funding in itself however should not be seen as confirmation of such independence from the private sector. In particular, greater transparency with regard to membership of the boards of, inter alia, the IASB and EFRAG should be required to ensure that all stakeholders are represented in the standard-setting and endorsement process. EFRAG and the IASB should take all appropriate steps to avoid conflicts of interests, including disclosure requirements adapted to the function and responsibilities of the different categories of staff employed by those organisations.
- (16) Experience has shown that Union co-financing ensures that beneficiaries benefit from clear, stable, diversified, sound and adequate funding and contributes to enabling the beneficiaries to accomplish their public interest mission in an independent and efficient manner. Therefore, sufficient funding should continue to be provided by means of a Union contribution towards the functioning of international accounting and auditing standard-setting, and in particular to the IFRS Foundation, EFRAG and PIOB.

⁽¹⁾ Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts, amending Council Directives 78/660/EEC and 83/349/EEC and repealing Council Directive 84/253/EEC (OJ L 157, 9.6.2006, p. 87).

- (17) In addition to changing their funding patterns, the IFRS Foundation and EFRAG have undergone governance reforms to ensure that through their structure and processes they accomplish their public interest mission in an independent, efficient, transparent and democratically accountable manner. In relation to the IFRS Foundation, the Monitoring Board was created in 2009 to ensure public accountability and oversight, the effectiveness of the Standards Advisory Council was enhanced, transparency was improved and the role of impact assessments was formalised as part of the due process of the IASB. Efforts to improve the way in which those bodies are governed will continue. In 2013 the Commission initiated an evaluation of the application of Regulation (EC) No 1606/2002. The scope of evaluation covers in particular the criteria for the endorsement of IFRS in the Union as laid down in Article 3(2) of that Regulation and the governance arrangements of the IFRS Foundation and the IASB. By 31 December 2014, the Commission intends to complete the evaluation and report on the results to the European Parliament and to the Council. Where appropriate, the Commission will present a legislative proposal for improving the functioning of that Regulation.
- (18) This Regulation lays down a financial envelope for the entire duration of the Programme which is to constitute the prime reference amount, within the meaning of point 17 of the Interinstitutional Agreement of 2 December 2013 between the European Parliament, the Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management ⁽¹⁾, for the European Parliament and the Council during the annual budgetary procedure.
- (19) Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council ⁽²⁾ and Commission Delegated Regulation (EU, Euratom) No 1268/2012 ⁽³⁾, which safeguard Union financial interests, are to be applied in the course of implementation of the Programme, taking into account the principles of simplicity and consistency in the choice of budgetary instruments, a limit on the number of cases where the Commission retains direct responsibility for implementation and management, and the required proportionality between the level of resources and the administrative burden related to their use.
- (20) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission in respect of the establishment of the annual work programmes.
- (21) The Programme is expected to contribute to the objectives of ensuring comparability and transparency of company accounts throughout the Union, and of making the needs of the Union heard in the context of the global harmonisation of financial reporting standards. Speaking with a single European voice would help to promote the international acceptance of IFRS, convergence and high quality international standards for auditing in all Member States. The Programme also contributes to the Europe 2020 strategy, by reinforcing the single market of financial services and capital, as well as to the strategy's external dimension.
- (22) This Regulation should provide for the possibility of co-financing activities of certain bodies pursuing an objective forming part of and supporting Union policy in the field of developing standards, endorsing standards or supervising standard-setting processes related to financial reporting and auditing.
- (23) Union funding is proposed for a well-defined and limited number of the most important bodies in the field of financial reporting and auditing. Within the current institutional framework, the funding arrangements should ensure stable, diversified, sound and adequate funding to enable the relevant bodies to carry out their Union-related or public interest mission in an independent and efficient manner. Those bodies should disclose a breakdown of figures of the other funding from alternative sources.

⁽¹⁾ OJ C 373, 20.12.2013, p. 1.

⁽²⁾ Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298, 26.10.2012, p. 1).

⁽³⁾ Commission Delegated Regulation (EU, Euratom) No 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union (OJ L 362, 31.12.2012, p. 1).

- (24) The Commission, taking into account developments following the recommendations set out in the special advisor's report, should submit reports in March 2014 and on a yearly basis as of 2015, at the latest in June, on EFRAG's progress in the implementation of its governance reforms. The IASB has initiated the review of the Conceptual Framework. Following the issue of the revised Conceptual Framework, the Commission should report to the European Parliament and to the Council on any changes that have been introduced in the Conceptual Framework and reasons thereof, with a particular focus on the concepts of prudence and reliability ensuring that a 'true and fair view', as laid down in Directive 2013/34/EU, is respected. The beneficiaries should ensure the efficient and economic use of public money, including travel and related expenses.
- (25) The Programme should replace the previous co-financing programme for the beneficiaries. Therefore, for the sake of legal certainty, Decision No 716/2009/EC should be repealed.
- (26) Since the objective of this Regulation, namely the establishment of a Union programme for the period 2014 to 2020 in order to support the activities of bodies which contribute to the achievement of the policy objectives of the Union in relation to financial reporting and auditing, cannot be sufficiently achieved by the Member States but can rather, by reason of its scale and effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.
- (27) Any financing of new beneficiaries, even if they are direct successors to one of the beneficiaries listed in this Regulation, should be subject to approval by the European Parliament and by the Council in accordance with Article 294 of the Treaty on the Functioning of the European Union.
- (28) It is appropriate to align the period of application of this Regulation with that of Council Regulation (EU, Euratom) No 1311/2013⁽¹⁾. Therefore, this Regulation should apply from 1 January 2014 until 31 December 2020,

HAVE ADOPTED THIS REGULATION:

Article 1

Subject matter and scope

1. A Union programme (the 'Programme') is hereby established for the period from 1 January 2014 to 31 December 2020, in order to support the activities of bodies which contribute to the achievement of the policy objectives of the Union in relation to financial reporting and auditing.
2. The Programme covers the activities of developing or providing input to the development of standards, applying, assessing or monitoring standards or overseeing standard-setting processes in support of the implementation of Union policies in the field of financial reporting and auditing that are carried out by the IFRS Foundation, EFRAG or PIOB.

Article 2

Objective

The objective of the Programme is to improve the conditions for the efficient functioning of the internal market by supporting the transparent and independent development of international financial reporting and auditing standards.

⁽¹⁾ Council Regulation (EU, Euratom) No 1311/2013 of 2 December 2013 laying down the multiannual financial framework for the years 2014-2020 (OJ L 347, 20.12.2013, p. 884).

*Article 3***Beneficiaries**

1. The beneficiaries under the Programme shall be the following:

(a) in the field of financial reporting:

(i) EFRAG for the period from 1 January 2014 to 31 December 2016;

(ii) the IFRS Foundation;

(b) in the field of auditing: PIOB.

2. Bodies working in the field of financial reporting and auditing, which receive Union funding through the Programme, shall have a duty of care to ensure their own independence and that public money is used economically and efficiently, irrespective of the diverse funding streams from which they could benefit.

*Article 4***Award of grants**

Financing under the Programme shall be provided in the form of operating grants awarded on an annual basis.

*Article 5***Transparency**

Any beneficiary of funding awarded under the Programme shall indicate in a prominent place, such as a website, a publication or an annual report, that it has received funding from the budget of the Union and a breakdown of figures of other funding from alternative sources.

*Article 6***Financial provisions**

1. The financial envelope for the implementation of the Programme for the period 2014 to 2020 shall be EUR 43 176 000 in current prices.

2. The annual appropriations shall be authorised by the European Parliament and by the Council within the limits of the multiannual financial framework.

3. The indicative breakdown of the financial envelope laid down in paragraph 1 for the three beneficiaries shall be as follows:

(a) for EFRAG: EUR 9 303 000;

(b) for the IFRS Foundation: EUR 31 632 000;

(c) for PIOB: EUR 2 241 000.

*Article 7***Implementation of the Programme**

The Commission shall implement the Programme by establishing annual work programmes in accordance with Regulation (EU, Euratom) No 966/2012. Each annual work programme shall implement the objective of the Programme, as laid down in Article 2 of this Regulation, by specifying the following:

(a) the expected results;

(b) a breakdown of the budget per beneficiary, in accordance with the indicative amounts laid down in Article 6(3).

In order to ensure transparency, the annual work programme shall also mention, by way of reference, the objective laid down in Article 2, the method of implementation determined in Article 4 and the findings of the reports.

The Commission shall adopt the annual work programmes by means of implementing acts.

Article 8

Protection of the financial interests of the Union

1. The Commission shall take appropriate measures to ensure that, when activities financed under this Regulation are implemented, the financial interests of the Union are protected through the application of preventive measures against fraud, corruption and any other illegal activities, through effective checks and, if irregularities are detected, through the recovery of the amounts wrongly paid and, where appropriate, effective, proportionate and deterrent penalties.

2. The Commission or its representatives and the Court of Auditors shall have the power of audit, on the basis of documents and on-the-spot checks, over all grant beneficiaries, contractors and subcontractors who have received Union funds under the Programme.

The European Anti-Fraud Office (OLAF) may carry out on-the-spot checks and inspections on economic operators concerned directly or indirectly by such funding in accordance with the procedures laid down in Council Regulation (Euratom, EC) No 2185/96 ⁽¹⁾ with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union in connection with a grant agreement or grant decision or a contract concerning Union funding.

Without prejudice to the first and second subparagraphs, cooperation agreements with third countries and international organisations, grant agreements, and grant decisions and contracts resulting from the implementation of this Regulation shall expressly empower the Commission, the Court of Auditors and OLAF to conduct such audits, on-the-spot checks and inspections.

Article 9

Evaluation

1. By 31 March 2014, the Commission shall submit a first report to the European Parliament and to the Council on necessary governance reforms in the area of accounting and financial information in respect of EFRAG, taking into account, inter alia, the developments following the recommendations set out in the special advisor's report, and on the steps that EFRAG has already taken to implement those reforms.

2. By 31 December 2014, the Commission shall submit a report to the European Parliament and to the Council on the findings of the Commission's evaluation of Regulation (EC) No 1606/2002 including, where appropriate, proposals for amending that Regulation with a view to improving its functioning, as well as on governance arrangements for all relevant institutions.

3. From 2015, the Commission shall prepare an annual report on the activity of the IFRS Foundation as regards the development of IFRS, of PIOB and of EFRAG.

4. With regard to the IFRS Foundation, the report referred to in paragraph 3 shall cover its activity and in particular the general principles against which new standards have been developed. The report shall also cover whether IFRS take due account of different business models, reflect the actual consequences of economic transactions, are not overly complex, and avoid artificial short-term and volatility biases.

Following the issuance of the revised Conceptual Framework, the report shall address any changes that have been introduced in the Conceptual Framework, with a particular focus on the concepts of prudence and reliability.

⁽¹⁾ Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (OJ L 292, 15.11.1996, p. 2).

5. With regard to PIOB or its successor organisation, the report referred to in paragraph 3 shall cover developments in the diversification of funding. If funding by the IFAC in a given year reaches more than two-thirds of the total annual PIOB funding, the Commission shall propose to limit its annual contribution for that year to a maximum of EUR 300 000.

6. With regard to EFRAG, the report referred to in paragraph 3 shall cover the following:

- (a) whether EFRAG in its technical work on international accounting standards takes appropriate account of the requirement of Article 3(2) of Regulation (EC) No 1606/2002, in particular, in assessing whether new or amended IFRS are consistent with the 'true and fair view' principle and conducive to the European public good;
- (b) whether EFRAG in its technical work on IFRS provides adequate assessment of whether draft, new or amended international accounting standards developed by the IASB are evidence-based, respond to the Union's needs, taking into account the diversity of accounting and economic models and views in the Union; and
- (c) EFRAG's progress in the implementation of its governance reforms, taking into account developments following the recommendations set out in the special advisor's report.

If appropriate, the Commission shall submit a legislative proposal to continue financing of EFRAG after 31 December 2016.

7. The Commission shall transmit the report referred to in paragraph 3 to the European Parliament and to the Council no later than 30 June each year.

8. No later than 12 months before the end of the Programme, the Commission shall submit to the European Parliament and to the Council a report on the achievement of the Programme's objective. That report shall appraise at least the overall pertinence and coherence of the Programme, the effectiveness of its execution and the overall and individual effectiveness of the beneficiaries' work programme in terms of achievements of the objective referred to in Article 2.

9. The Commission shall send the reports referred to in this Article to the European Economic and Social Committee for information.

Article 10

Repeal

Decision No 716/2009/EC shall be repealed with effect from 1 January 2014.

Article 11

Entry into force

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

It shall apply from 1 January 2014 until 31 December 2020.

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

Done at Brussels, 3 April 2014.

For the European Parliament
The President
M. SCHULZ

For the Council
The President
D. KOURKOULAS