Commission Implementing Regulation (EU) 2017/672 of 7 April 2017 authorising a health claim made on foods, other than those referring to the reduction of disease risk and to children's development and health and amending Regulation (EU) No 432/2012 (Text with EEA relevance)

COMMISSION IMPLEMENTING REGULATION (EU) 2017/672

of 7 April 2017

authorising a health claim made on foods, other than those referring to the reduction of disease risk and to children's development and health and amending Regulation (EU) No 432/2012

(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 1924/2006 of the European Parliament and of the Council of 20 December 2006 on nutrition and health claims made on foods[(1)], and in particular Article 18(4) thereof,

Whereas:

(1) Regulation (EC) No 1924/2006 provides that health claims made on foods are prohibited unless they are authorised by the Commission in accordance with that Regulation and included in a list of permitted claims.

(2) Pursuant to Article 13(3) of Regulation (EC) No 1924/2006 Commission Regulation (EU) No 432/2012[(2)] was adopted, which establishes a list of permitted health claims made on foods other than those referring to the reduction of disease risk and to children's development and health.

(3) Regulation (EC) No 1924/2006 also provides that applications for authorisations of health claims may be submitted by food business operators to the national competent authority of a Member State. The national competent authority is to forward valid applications to the European Food Safety Authority (EFSA), hereinafter referred to as ‘the Authority’, for a scientific assessment, as well as to the Commission and the Member States for information.

(4) The Authority is to deliver an opinion on the health claim concerned.

(5) The Commission is to decide on the authorisation of health claims taking into account the opinion delivered by the Authority.

(6) In order to stimulate innovation, health claims which are based on newly developed scientific evidence and/or which include a request for the protection of proprietary data shall undergo an accelerated type of authorisation.

Changes to legislation: *There are outstanding changes not yet made to Commission Implementing Regulation (EU) 2017/672. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(7) Following an application from AlzChem AG, submitted pursuant to Article 13(5) of Regulation (EC) No 1924/2006, the Authority was required to deliver an opinion on a health claim related to creatine in combination with resistance training and improvement in muscle strength (Question No EFSA-Q-2015-00437[(3)]). The claim proposed by the applicant was worded as follows: 'creatine contributes to the maintenance of muscle function in the elderly'.

(8) On 23 February 2016, the Commission and the Member States received the scientific opinion from the Authority which concluded that on the basis of the data presented, a cause and effect relationship had been established between the consumption of creatine in combination with resistance training and improvement in muscle strength. The target population is adults over the age of 55, who are engaged in regular resistance training. Accordingly, a health claim reflecting this conclusion should be considered as complying with the requirements of Regulation (EC) No 1924/2006 and should be included in the Union list of permitted claims, established by Regulation (EU) No 432/2012.

(9) One of the objectives of Regulation (EC) No 1924/2006 is to ensure that health claims are truthful, clear and reliable and useful to the consumer, and that the wording and the presentation are taken into account in that respect. Therefore, where the wording of claims used by the applicant has the same meaning for consumers as that of an authorised health claim, because they demonstrate the same relationship that exists between a food category, a food or one of its constituents and health, these claims should be subject to the same conditions of use as those listed in the Annex to this Regulation.

(10) In accordance with Article 20 of Regulation (EC) No 1924/2006, the Register of nutrition and health claims containing all authorised health claims should be updated in order to take into account this Regulation.

(11) Regulation (EU) No 432/2012 should therefore be amended accordingly.

(12) The Member States have been consulted,

HAS ADOPTED THIS REGULATION:

Article 1

The health claim set out in the Annex to this Regulation shall be included in the Union list of permitted claims as provided for in Article 13(3) of Regulation (EC) No 1924/2006.

Article 2

The Annex to Regulation (EU) No 432/2012 is amended in accordance with the Annex to this Regulation.

Article 3

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

***Changes to legislation:** There are outstanding changes not yet made to Commission Implementing Regulation (EU) 2017/672. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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

Done at Brussels, 7 April 2017.

For the Commission

The President

Jean-Claude JUNCKER