Commission Delegated Regulation (EU) 2015/852 of 27 March 2015 supplementing Regulation (EU) No 508/2014 of the European Parliament and of the Council as regards the cases of non-compliance and the cases of serious non-compliance with the rules of the Common Fisheries Policy that may lead to an interruption of a payment deadline or suspension of payments under the European Maritime and Fisheries Fund

COMMISSION DELEGATED REGULATION (EU) 2015/852

of 27 March 2015

supplementing Regulation (EU) No 508/2014 of the European Parliament and of the Council as regards the cases of non-compliance and the cases of serious non-compliance with the rules of the Common Fisheries Policy that may lead to an interruption of a payment deadline or suspension of payments under the European Maritime and Fisheries Fund

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 508/2014 of the European Parliament and of the Council of 15 May 2014 on the European Maritime and Fisheries Fund and repealing Council Regulations (EC) No 2328/2003, (EC) No 861/2006, (EC) No 1198/2006 and (EC) No 791/2007 and Regulation (EU) No 1255/2011 of the European Parliament and of the Council[(1)], and in particular Article 102 thereof,

Whereas:

(1) The achievement of the objectives of the Common Fisheries Policy (CFP) should not be undermined by Member States violating CFP rules. Pursuant to Article 41 of Regulation (EU) No 1380/2013 of the European Parliament and of the Council[(2)], financial assistance from the European Maritime and Fisheries Fund (EMFF) is made conditional upon compliance with CFP rules by Member States. Non-compliance by Member States with the CFP rules may result in the interruption or suspension of payments or in the application of a financial correction to Union financial assistance under the CFP.

(2) Articles 83(1) and 142(1) of Regulation (EU) No 1303/2013 of the European Parliament and of the Council[(3)] set out the conditions under which interruption of a payment deadline or suspension of payments may be imposed, respectively. Those two Articles foresee that the fund-specific rules for the EMFF may lay down specific bases for interruption and suspension linked to non-compliance with rules applicable under the CFP.

(3) In order to safeguard the financial interests of the Union and its taxpayers, where a Member State has failed to comply with its obligations under the CFP, or where the Commission has evidence that suggests such a lack of compliance, the Commission is allowed, as a precautionary measure, to interrupt payment deadlines pursuant to Article 100 of Regulation (EU) No 508/2014.

Changes to legislation: *There are outstanding changes not yet made to Commission Delegated Regulation (EU) 2015/852. 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*

(4) In addition to the interruption of the payment deadline, and in order to avoid the risk of paying out ineligible expenditure, the Commission is allowed, pursuant to Article 101 of Regulation (EU) No 508/2014, to suspend payments in cases of serious non-compliance with the CFP rules.

(5) Financial consequences imposed on Member States if they do not comply with CFP rules should be proportionate to the nature, gravity, duration and repetition of the non-compliance.

(6) In order to provide legal certainty for Member States implementing operational programmes under the EMFF, it is necessary to define the cases of non-compliance with CFP rules essential to the conservation of marine biological resources that may trigger interruption of the payment deadline or suspension of payments in line with Regulation (EU) No 508/2014. Those cases will serve the purposes of Regulation (EU) No 508/2014 and implement Article 41 of Regulation (EU) No 1380/2013 without prejudice to any other sanctions imposed by CFP rules.

(7) Cases of non-compliance with CFP rules that are essential to the conservation of marine biological resources should be considered as serious, if the Member State has failed to take the necessary action to remedy the situation giving rise to an interruption of the payment deadline.

(8) Prior to the interruption or suspension of payments, the Commission has to adopt implementing acts pursuant to Articles 100(2) and 101(2) of Regulation (EU) No 508/2014 that will further specify the non-compliance of the Member State with its obligations under the CFP rules that is liable to affect the expenditure for which the interim payment is requested.

(9) Given the importance of ensuring that there is a harmonised and equal treatment of operators in all Member States from the start of the programming period, this Regulation should enter into force on the day following that of its publication in the *Official Journal of the European Union*,

HAS ADOPTED THIS REGULATION:

Article 1

Cases of non-compliance

The cases of non-compliance by a Member State with its obligations under the Common Fisheries Policy (CFP), that may trigger the interruption of the payment deadline for an interim payment claim pursuant to Article 100 of Regulation (EU) No 508/2014, are set out in the Annex to this Regulation.

***Changes to legislation:** There are outstanding changes not yet made to Commission Delegated Regulation (EU) 2015/852. 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*

Article 2

Cases of serious non-compliance

The cases of serious non-compliance by a Member State with its obligations under the CFP, that may trigger a suspension of payments pursuant to Article 101 of Regulation (EU) No 508/2014, shall be those listed in the Annex to this Regulation if, in addition:

(a) they give rise to an interruption of the payment deadline for an interim payment claim pursuant to Article 100 of Regulation (EU) No 508/2014; and

(b) the Member State has failed to take the necessary action to remedy the situation within the period of interruption of the payment deadline in relation to those cases.

Article 3

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*.

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

Done at Brussels, 27 March 2015.

For the Commission

The President

Jean-Claude JUNCKER

Changes to legislation: *There are outstanding changes not yet made to Commission Delegated Regulation (EU) 2015/852. 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*

ANNEX

Category 1: Failure to contribute to the objectives of the Common Fisheries Policy as set out in Article 2(2) of Regulation (EU) No 1380/2013 that are essential to the conservation of marine biological resources

1.1. Failure to ensure that fishing opportunities allocated to the Member State pursuant to Articles 16-17 of Regulation (EU) No 1380/2013 are respected;

1.2. Failure to meet requirements set out in different types of conservation measures listed in Article 7 of Regulation (EU) No 1380/2013.

Category 2: Failure to meet international obligations on conservation

2.1. Failure to meet obligations deriving from Article 28 of Regulation (EU) No 1380/2013.

Category 3: Failure to ensure that the fleet is in balance with the natural resources

3.1. Failure to submit the report on the balance between the fishing capacity of the fleet and the fishing opportunities that complies with all the requirements of Article 22(2) of Regulation (EU) No 1380/2013;

3.2. Failure to implement the action plan pursuant to Article 22(4) of Regulation (EU) No 1380/2013, if such a plan is included into the report submitted annually;

3.3. Failure to ensure that in case of fishing capacity withdrawn by public finances, respective fishing licences and authorisations are withdrawn in advance and the capacity is not replaced as referred to in Article 22(5) and (6) of Regulation (EU) No 1380/2013;

3.4. Failure to ensure that the fishing capacity does not exceed at any time the ceilings set out in Article 22(7) and Annex II to Regulation (EU) No 1380/2013;

3.5. Failure to implement the entry/exit scheme pursuant to the requirements of Article 23 of Regulation (EU) No 1380/2013;

3.6. Failure to manage the fishing fleet register in compliance with Article 24 of Regulation (EU) No 1380/2013 and Commission Regulation (EC) No 26/2004[(4)].

Category 4: Failure to implement the Community framework for the collection, management and use of data in line with Article 25 of Regulation (EU) No 1380/2013 as further specified in Council Regulation (EC) No 199/2008[(5)] that result in a lack of information on natural resources

4.1. Failure to collect and manage biological, environmental, technical and socioeconomic data necessary for fisheries management as set out in Articles 4, 13 and 17 of Regulation (EC) No 199/2008;

4.2. Failure to submit annually a report on execution of national data collection programmes and to make this report publicly available as set out in Article 7 of Regulation (EC) No 199/2008;

4.3. Failure to ensure a national coordination of the collection and management of scientific data for fisheries management as set out in Article 4 of Regulation (EC) No 199/2008;