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)

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.

(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[(4)] and Regulation (EU) No 575/2013 of the European Parliament and of the Council[(5)]. 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[(6)], 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[(7)]. 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.

(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[(8)]. 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.

(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[(9)], 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[(10)] and Commission Delegated Regulation (EU, Euratom) No 1268/2012[(11)], 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.

(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.