

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programme to support specific activities in the field of financial services, financial reporting and auditing (repealed)

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PARLIAMENT AND OF THE COUNCIL

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the field of financial services, financial reporting and auditing (repealed)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 95 thereof,

Having regard to the proposal from the Commission,

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

Acting in accordance with the procedure laid down in Article 251 of the Treaty⁽²⁾,

Whereas:

- (1) The financial services sector is a key component of the internal market, crucial for the proper functioning of the European economy and for global competitiveness. A healthy and dynamic financial sector requires a solid framework for regulation and supervision, which is capable of meeting the demands of increasingly integrated financial markets in the Community.
- (2) The crisis in the financial markets which has unfolded since 2007 has put the issue of the supervision of financial institutions and financial reporting and auditing at the centre of the Community's political agenda in regard to which it is necessary to ensure a well-functioning common framework for the internal market.
- (3) In a global economy, there is also a need to converge standards between jurisdictions and develop international standards under a transparent and democratically accountable process. It is therefore important that the Community play a role in the international standard-setting process for financial markets. To ensure that the interests of the Community are respected and that global standards are of high quality and compatible with Community law, it is essential that the interests of the Community are adequately represented in that international standard-setting process.
- (4) According to Regulation (EC) No 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards⁽³⁾ (the IAS Regulation), International Financial Reporting Standards (IFRS) should be incorporated into Community law to be applied by companies with securities listed on a regulated market in the Community, provided that the IFRS meet the criteria set out in that Regulation. IFRS therefore play a major role in the functioning of the internal

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market and thus the Community 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.

- (5) IFRS are issued by the International Accounting Standards Board (IASB) and related interpretations are issued by the International Financial Reporting Interpretations Committee (IFRIC), two bodies within the International Accounting Standards Committee Foundation (IASCF). It is therefore important to establish appropriate funding arrangements for the IASCF.
- (6) The European Financial Reporting Advisory Group (EFRAG) was founded in 2001 by European organisations representing issuers, investors and the accountancy profession involved in the financial reporting process. In accordance with the IAS Regulation, the EFRAG provides the Commission with opinions on whether an accounting standard issued by the IASB or an interpretation issued by IFRIC, which is to be endorsed, complies with Community law. The EFRAG is also increasingly used as a platform to provide upstream, technical input concerning draft accounting standards.
- (7) Taking into account the EFRAG's key role in supporting internal market law and policy and in representing European interests in the standard-setting process at international level, it is necessary for the Community to contribute to the EFRAG's financing.
- (8) In the field of statutory audit, the Public Interest Oversight Board (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 the 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 Community 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 of 17 May 2006 on statutory audits of annual accounts and consolidated accounts⁽⁴⁾.
- (9) The introduction of ISAs into Community law and the key role of the PIOB in ensuring that they fulfil the requirements laid down in Directive 2006/43/EC means that the Community 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. It is therefore important to ensure appropriate funding arrangements for the PIOB.
- (10) Accordingly, it is appropriate to establish a Community programme (the 'Programme') to allow the co-financing of activities of the EFRAG, the IASCF and the PIOB, which pursue, in accordance with Article 162 of Commission Regulation (EC, Euratom) No 2342/2002 of 23 December 2002, laying down detailed rules for the implementation of Council Regulation (EC, Euratom) No 1605/2002⁽⁵⁾, aims of a general European interest by designing standards, endorsing standards or supervising standard-setting processes in the field of financial reporting and auditing.
- (11) It is also appropriate to provide grants to the three legal support structures, the exclusive aim of which is to provide administrative support to the Committee of

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European Securities Regulators, established by Commission Decision 2009/77/EC⁽⁶⁾, the Committee of European Banking Supervisors, established by Commission Decision 2009/78/EC⁽⁷⁾ and the Committee of European Insurance and Pension Supervisors, established by Commission Decision 2009/79/EC⁽⁸⁾ (together, the ‘Committees of Supervisors’), for carrying out their mandates and projects relating to supervisory convergence, in particular training of staff of national supervisory authorities and management of information technology projects.

- (12) The financial crisis has demonstrated the urgent need for progress in the area of supervisory convergence and cooperation. It is therefore appropriate for the Community to contribute financially to specific actions of the Committees of Supervisors which are to be carried out to achieve such progress.
- (13) Uniform implementation and application of Community law in the field of financial services as far as supervision is concerned is essential for the dismantling of remaining obstacles to the smooth functioning of the internal market. Some of the most effective and appropriate means by which to achieve such dismantling are for the Committees of Supervisors to provide better common training for the staff of national supervisory authorities and to develop common information technology instruments.
- (14) Bodies working in the field of supervision, accounting and auditing are highly dependent on funding and, despite their major roles in the Community, none of the proposed beneficiaries of the Programme benefit from any financial support from the Community budget, which may affect their capacity to comply with their respective missions which are decisive for the functioning of the internal market.
- (15) Community co-financing ensures that beneficiaries benefit from clear, stable, diversified, sound and adequate funding and that they are able to accomplish their public interest mission in an independent and efficient manner.
- (16) Sufficient funding should be provided by means of a Community contribution towards the functioning of the Committees of Supervisors and international accounting and auditing standard setting, and in particular to the IASCF, including the EFRAG and the IOB.
- (17) Community funding should, in particular in the specific case of the IASCF, be made conditional upon practical fulfilment of the governance reforms requested by the Community.
- (18) When transmitting their draft work programmes on an annual basis to the European Parliament, the Council, and the Commission, as requested in the European Parliament Resolution of 9 October 2008⁽⁹⁾ and in the Council conclusions of 14 May 2008, the Committees of Supervisors should include in such work programmes a section detailing the activities that have been financed under the Programme in the course of the year of transmission, indicating, in particular, the amounts of financing and the outcomes of the financed activities, and a description of the activities that the Committees of Supervisors intend to submit to the Commission during the course of the following year for financing under the Programme.

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- (19) In addition to changing their funding patterns, the IASCF and the EFRAG are currently undergoing governance reforms, the need for which has been highlighted by the financial crisis, to ensure that through their structure and processes they accomplish their public interest mission in an independent, efficient, transparent and democratically accountable manner. The importance of those reforms was stressed in the report of the High Level Group on financial supervision chaired by Jacques de Larosière (de Larosière Group) of 25 February 2009, in the Commission Communication for the Spring European Council of 4 March 2009 entitled ‘Driving European recovery’, and by the Group of Twenty (G-20), meeting on 2 April 2009. Those reforms should be in place by the time the Community co-financing starts. In relation to the IASCF, the reforms should include, inter alia, meeting the expectations set out in the European Parliament Resolution of 24 April 2008 on International Financial Reporting Standards (IFRS) and the Governance of the International Accounting Standards Board (IASB) and in the Council Conclusions of 8 July 2008, in particular the creation of the Monitoring Board with relevant powers and appropriate composition, greater transparency and legitimacy in regard to the IASCF’s standard-setting and agenda-setting processes, the enhancement of the effectiveness of the Standards Advisory Council and the formalisation of the role of impact assessments as part of the due process of the IASB.
- (20) Beneficiaries that pursue international activities in third countries, such as the PIOB and the IASCF, should not continue to benefit from Community co-financing if, after the first 2 years thereof, they have not made significant progress towards ensuring that neutral funding arrangements form a majority of their total funding, including from third-country participants.
- (21) Directive 2006/43/EC provides that Member States set up independent oversight bodies in the field of auditing. Recent market events have, however, revealed deficiencies in many areas including auditing. To improve the quality of auditing in the European Union further, the Commission should therefore, by 1 July 2010, present a report on reinforcing European audit firm oversight cooperation.
- (22) The financial crisis may lead to the setting up of new bodies at Community or international level with a mandate covering Community objectives which are similar to those of the beneficiaries of the Programme.
- (23) It should be possible to include in the Programme such bodies as new beneficiaries, provided that they fulfil the eligibility criteria set out in this Decision.
- (24) The measures necessary for the implementation of this Decision should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission⁽¹⁰⁾.
- (25) In particular, the Commission should be empowered to select new beneficiaries for the Programme and to amend the Annex accordingly. Since those measures are of general scope and are designed to amend non-essential elements of this Decision by supplementing it with new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.

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- (26) Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities⁽¹¹⁾ (the Financial Regulation) and Regulation (EC, Euratom) No 2342/2002, which safeguard the Community financial interests, have to be applied taking into account the principles of simplicity and consistency in the choice of budgetary instruments, a limitation 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.
- (27) The financial crisis has highlighted the need for reform of the regulatory and supervisory models for the European Union's financial sector. In its Communication entitled 'Driving European recovery', the Commission announced its intention to put forward the necessary legislative proposals with due consideration for the conclusions presented by the de Larosière Group. The European Council of 19 and 20 March 2009 agreed on the need to improve the regulation and supervision of financial institutions in the European Union, with the report of the de Larosière Group as a basis for action. The Commission should present relevant proposals to the European Parliament and the Council as soon as possible and in any event by 1 July 2010.
- (28) This Decision should provide for the possibility of co-financing activities of certain bodies pursuing aims of a general Community interest on Community-wide issues in the field of financial services and designing standards, endorsing standards or supervising standard-setting processes in the field of financial reporting and auditing.
- (29) Community funding is proposed for a well-defined and limited number of the most important bodies in the field of financial services. Within the current institutional framework, the new funding arrangements will ensure stable, diversified, sound and adequate funding to enable the relevant bodies to carry out their Community-related or Community public interest mission in an independent and efficient manner. Financial support will be granted in accordance with the conditions laid down in the Financial Regulation and in Regulation (EC, Euratom) No 2342/2002.
- (30) Since the objectives of this Decision cannot be sufficiently achieved by the Member States and can therefore, by reason of its scale and effects, be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Decision does not go beyond what is necessary in order to achieve those objectives,

HAVE DECIDED AS FOLLOWS:

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- (1) Opinion of 25 March 2009 (not yet published in the Official Journal).
- (2) Opinion of the European Parliament of 6 May 2009 (not yet published in the Official Journal) and Council Decision of 27 July 2009.
- (3) [OJ L 243, 11.9.2002, p. 1.](#)
- (4) [OJ L 157, 9.6.2006, p. 87.](#)
- (5) [OJ L 357, 31.12.2002, p. 1.](#)
- (6) [OJ L 25, 29.1.2009, p. 18.](#)
- (7) [OJ L 25, 29.1.2009, p. 23.](#)
- (8) [OJ L 25, 29.1.2009, p. 28.](#)
- (9) European Parliament Resolution of 9 October 2008 with recommendations to the Commission on Lamfalussy follow-up: future structure of supervision (not yet published in the Official Journal).
- (10) [OJ L 184, 17.7.1999, p. 23.](#)
- (11) [OJ L 248, 16.9.2002, p. 1.](#)