



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 20 February 2014  
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**COVER NOTE**

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From: Secretary-General of the European Commission,  
signed by Mr Jordi AYET PUIGARNAU, Director

date of receipt: 14 February 2014

To: Mr Uwe CORSEPIUS, Secretary-General of the Council of the European  
Union

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No. Cion doc.: C(2014) 968 final

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Subject: COMMISSION DELEGATED REGULATION (EU) No .../. of 14.2.2014  
establishing a derogation from Regulation (EU) No 1290/2013 of the  
European Parliament and of the Council laying down the rules for  
participation and dissemination in "Horizon 2020 - the Framework  
Programme for Research and Innovation (2014-2020)" with regard to the  
Bio-Based Industries Joint Undertaking

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Delegations will find attached document C(2014) 968 final.

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Encl.: C(2014) 968 final



Brussels, 14.2.2014  
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**COMMISSION DELEGATED REGULATION (EU) No .../..**

**of 14.2.2014**

**establishing a derogation from Regulation (EU) No 1290/2013 of the European Parliament and of the Council laying down the rules for participation and dissemination in "Horizon 2020 - the Framework Programme for Research and Innovation (2014-2020)" with regard to the Bio-Based Industries Joint Undertaking**

(Text with EEA relevance)

## EXPLANATORY MEMORANDUM

### **1. CONTEXT OF THE DELEGATED ACT**

In the context of Horizon 2020, the Bio-Based Industries Joint Undertaking (BBI JU) has been set up for the implementation of a public-private partnership in the field of bio-based industries. The main focus of this JU will be on the transformation of non-edible parts of plants (e.g. wood, agricultural and forestry residues) and biodegradable wastes into bio-based products and biofuels. The BBI JU is a public-private partnership between the European Commission and the Bio-Based Industries Consortium (BIC AISBL). The significant leverage effect of 2.8: 1 is a consequence of the significant commitment of the industrial BIC members of €2.8 billion, with a public investment of up to €1 billion.

Regulation (EU) No 1290/2013 of the European Parliament and of the Council of 11 December 2013 laying down the rules for participation and dissemination in “Horizon 2020 - the Framework Programme for Research and Innovation (2014-2020)” will apply to the BBI Joint Undertaking. However, the specific operating needs of this initiative, in particular the current fragmentation of this nascent industrial sector and the many small to medium-sized industrial stakeholders, require a derogation from this regulation, as described in section 3 below.

### **2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT**

The Commission organised two meetings, on 17 and 25 September 2013, with experts nominated by the Member States to present and discuss the draft delegated act. The comments made by experts during the meetings and received in writing after the meetings were taken into account to a wide extent. Consequently, a large majority of experts endorsed the attached version of the draft delegated act. Copies of the initial and final drafts were sent in parallel to the European Parliament and to the Council.

### **3. LEGAL ELEMENTS OF THE DELEGATED ACT**

This delegated act is adopted on the basis of Article 290 TFEU and according with the empowerment given by the Council and the European Parliament to the Commission in Art. 1(3) of the Regulation (EU) No 1290/2013 of the European Parliament and of the Council laying down the rules for participation and dissemination in “Horizon 2020 - the Framework Programme for Research and Innovation (2014-2020)”.

According to Article 1(3), in order to take into account the specific operating needs of funding bodies set up under Article 187 TFEU, the Commission is empowered to adopt delegated acts in accordance with Article 56 of the same regulation.

For the BBI JU, the Commission is empowered to adopt a delegated act regarding the eligibility for funding. The derogation is justified by the fact that the BBI JU will encourage participation of small and medium-sized enterprises (SMEs) and secondary and higher education establishments and others, whilst achieving at the same time the optimal level of leverage effect on private investment.

#### **4. BUDGETARY IMPLICATION**

There is no specific budgetary implication with respect to the EU contribution to the BBI JU as established in the proposed Council Regulation.

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(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1290/2013 of the European Parliament and of the

Council of 11 December 2013 laying down the rules for participation and dissemination in "Horizon 2020 - the Framework Programme for Research and Innovation (2014-2020)" and repealing Regulation (EC) No 1906/2006<sup>1</sup>, and in particular Article 1(3)(b) thereof,

Whereas:

- (1) Regulation (EU) No 1291/2013<sup>2</sup> of the European Parliament and of the Council establishes the Framework Programme for Research and Innovation (2014-2020) (Horizon 2020) and provides for the involvement of the Union in public-private partnerships, including in joint undertakings, in key areas where research and innovation can contribute to the Union's wider competitiveness goals and help tackle societal challenges.
- (2) Participation in indirect actions under Horizon 2020 should comply with Regulation (EU) No 1290/2013. However, in order to take into account the specific operating needs of joint undertakings established pursuant to Article 187 of the Treaty in the area of bio-based industries, the power to adopt acts in accordance with Article 290 of the Treaty was delegated to the Commission for the duration of Horizon 2020.
- (3) The Bio-Based Industries Joint Undertaking (BBI JU) was set up by [Council Regulation (EU) No /<sup>3</sup>] in the area of bio-based industries for a period up to 31 December 2024 in order to implement the Joint Technology Initiative on Bio-Based Industries.
- (4) Specific operating needs have been identified in order to facilitate and encourage the participation of specific types of participants. Those specific operating needs are a

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<sup>1</sup> OJ L 347, 20.12.2013, p. 81

<sup>2</sup> OJ L 347, 20.12.2013, p. 104

<sup>3</sup> (Complete title of Regulation + OJ ref.)

result of the current fragmentation of this nascent industrial sector with many small and medium-sized industrial stakeholders. Participation of those stakeholders together with secondary and higher education establishments and others in the BBI JU should also be facilitated and encouraged due to their recognized strength in research and development. In order to achieve an optimal level of leverage effect on private investment, only those stakeholders should be eligible for funding of actions other than innovation actions by the BBI JU.

- (5) Accordingly, it is appropriate to establish a derogation from Article 10(1) of Regulation (EU) No 1290/2013 in order to limit the eligibility for funding, for actions other than innovation actions, to entities such as small and medium-sized enterprises or secondary and higher education establishments,

HAS ADOPTED THIS REGULATION:

#### *Article 1*

By way of derogation from Article 10(1) of Regulation (EU) No 1290/2013, with regard to the Bio-Based Industries Joint Undertaking only the following participants shall be eligible for funding from the Bio-Based Industries Joint Undertaking for actions in the area of bio-based industries other than innovation actions:

- (a) small and medium-sized enterprises;
- (b) secondary and higher education establishments;
- (c) non-profit legal entities, including those carrying out research or technological development as one of their main objectives;
- (d) the Joint Research Centre;
- (e) international European interest organisations.

#### *Article 2*

This Regulation shall enter into force on the twentieth 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, 14.2.2014

*For the Commission*  
*The President*  
*José Manuel BARROSO*