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signed by Mr Jordi AYET PUIGARNAU, Director

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To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of  
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enhanced action to protect the EU budget**

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**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN  
PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL  
COMMITTEE, THE COMMITTEE OF THE REGIONS AND THE COURT OF  
AUDITORS**

**Commission Anti-Fraud Strategy: enhanced action to protect the EU budget**

{SWD(2019) 170 final} - {SWD(2019) 171 final}

**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN  
PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL  
COMMITTEE, THE COMMITTEE OF THE REGIONS AND THE COURT OF  
AUDITORS**

**Commission Anti-Fraud Strategy: enhanced action to protect the EU budget**

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## Key abbreviations

<i>Abbreviation</i>	<i>Meaning</i>
AOD	Authorising Officer by Delegation
CAFS	Commission Anti-Fraud Strategy
DG(s)	Directorate(s)-General
DG BUDG	Directorate-General for Budget
DG HR	Directorate-General Human Resources and Security
DG TAXUD	Directorate-General for Taxation and Customs Union
ECA	European Court of Auditors
EPPO	European Public Prosecutor's Office
Eurojust	EU Agency for Criminal Justice Cooperation
Europol	EU Agency for Law Enforcement Cooperation
FPDNet	Fraud Prevention and Detection Network
FN	Footnote
FR	Financial Regulation <sup>1</sup>
IAS	Internal Audit Service
IBOAs	Institutions, bodies, offices and agencies of the EU
IMS	Irregularity Management System
MFF	Multiannual Financial Framework
MS	Member States
OLAF	European Anti-Fraud Office
OLAF Regulation	Regulation (EU, Euratom) No 883/2013 <sup>2</sup>

<sup>1</sup> Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012, OJ L 193, 30.7.2018, p. 1.

<sup>2</sup> Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing

PIF <sup>3</sup>	Protection of the EU's financial interests
PIF Directive	Directive (EU) 2017/1371 <sup>4</sup>
SG	Secretariat-General
SJ	Legal Service
SOCTA	Serious and Organised Crime Threat Assessment
SPP	Strategic planning and programming
TFEU	Treaty on the Functioning of the European Union
TOR	Traditional own resources
VAT	Value added tax

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Regulation (EC) No 1073/1999 of the European Parliament and of the Council, and Council Regulation (Euratom) No 1074/1999, OJ L 248, 18.9.2013, p. 1, as amended.

<sup>3</sup> French acronym for "protection des intérêts financiers de l'Union européenne".

<sup>4</sup> Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law, OJ L 198, 28.7.2017, p. 29.

## 1. Executive Summary

EU citizens and taxpayers deserve EU institutions that operate with the utmost integrity. Their hard-earned contributions to the EU budget should be spent in a sound and efficient way and be protected from fraud. In 2017, the EU decisively stepped up the fight against fraud, by adopting the Directive on the fight against fraud to the Union's financial interests by means of criminal law and the Regulation establishing the European Public Prosecutor's Office (EPPO). To continue these positive developments beyond 2018 and prepare for a new generation of spending programmes in the Multiannual Financial Framework (MFF) 2021 - 2027, the Commission is updating its 2011 'Commission Anti-Fraud Strategy' (CAFS) with this Communication. The CAFS is an internal policy document binding on the Commission services and executive agencies in their fight against fraud and corruption affecting the EU's financial interests.

An evaluation of the 2011 CAFS concluded that the CAFS is still relevant and effective as a policy framework for the Commission in protecting the EU budget but needs to adapt to an evolving situation (new funding schemes and fraud trends, development of IT tools, etc.).

The Commission services have further carried out a fraud risk assessment, involving also the executive agencies. The two main vulnerabilities identified are (i) insufficient analysis of fraud data, which limits the Commission's understanding of fraud, and (ii) certain gaps in the Commission's supervision over fraud risk management at department level. These weaknesses have also been addressed in the recommendations of a recent Special Report from the European Court of Auditors entitled 'Fighting fraud in EU spending: action needed'.

The priority objectives of this 2019 CAFS are therefore to equip the Commission with a stronger analytical capability for purposes of prevention and detection and with a more centralised system of oversight for its anti-fraud action. In addition, the accompanying Action Plan, addressed to the Commission services and executive agencies, aims to improve anti-fraud cooperation and workflows across the board, for example the Commission's and other EU bodies' cooperation with OLAF and with the European Public Prosecutor's Office (EPPO), currently being established. The Action Plan also carries forward the work of the 2011 CAFS, particularly in ensuring the soundness of public procurement and encouraging international cooperation.

The Commission intends to tighten its internal monitoring systems for the 2019 CAFS and the accompanying CAFS Action Plan and develop indicators to make anti-fraud action more measurable. This will be reflected in the annual reports on the protection of the EU's financial interests, in which the Commission regularly reports on the implementation of the CAFS.

The objectives of the 2019 CAFS are listed in an annex to this Communication. The Communication is accompanied by two staff working documents, one that presents the results of the fraud risk assessment and another that sets out the updated Action Plan. The Evaluation of the 2011 CAFS is published simultaneously in a separate staff working document.

## 2. Introduction

### 2.1. The European Union's fight against fraud

Fraud that affects the EU budget can cause EU funds to be siphoned off from their legitimate purposes and thereby compromise the effectiveness of EU measures. When fraudsters succeed, they call the integrity of EU action into question and undermine the public's trust in EU policies.

Under Article 317 of the Treaty on the Functioning of the European Union (TFEU) and Article 36 of the Financial Regulation (FR)<sup>5</sup>, the Commission implements the EU budget, complying with sound financial management principles and applying effective and efficient internal control, which includes preventing, detecting, correcting<sup>6</sup> and following-up on fraud and other irregularities. The Commission does so in cooperation with the Member States, which collect and spend up to 80 % of the EU budget. Accordingly, Article 325(1) TFEU requires both the EU and the Member States to counter fraud and any other illegal activities affecting the financial interests of the EU.

Every year the Commission's report on the protection of the EU's financial interests – the PIF Report<sup>7</sup> – gives an overview of how the EU budget is affected by detected irregularities, including fraud. Though amounts and numbers fluctuate from year to year, it is clear that the level of known and reported fraud<sup>8</sup> requires sustained EU action.

#### Irregularities reported as fraudulent, 2014 - 2017

Budget sector	2014		2015		2016		2017	
	Number of fraudulent irregularities	Amounts involved (EUR m)	Number of fraudulent irregularities	Amounts involved (EUR m)	Number of fraudulent irregularities	Amounts involved (EUR m)	Number of fraudulent irregularities	Amounts involved (EUR m)
Natural resources	519	68.6	444	74.1	413	61.8	276	59.9
Cohesion policy	306	274.2	371	477.5	407	236.9	345	320.4
Pre-accession	31	14.47	29	7.8	28	3.0	19	3.2
Direct expenditure	83	4.7	5	0.2	49	6.3	65	7.3
Own resources	710	176.2	612	78	513	83	441	76.4
<b>Total</b>	<b>1 649</b>	<b>538.2</b>	<b>1 461</b>	<b>637.6</b>	<b>1 410</b>	<b>391.0</b>	<b>1 146</b>	<b>467.1</b>

Source: Protection of the EU's financial interests — Fight against fraud annual reports 2014 to 2017<sup>9</sup>.

<sup>5</sup> Reference in FN 1.

<sup>6</sup> Correction of fraud is an umbrella term, which notably refers to the recovery of amounts unduly spent and to administrative sanctions.

<sup>7</sup> Latest report: Report from the Commission to the European Parliament and the Council, 29th Annual Report on the Protection of the European Union's financial interests – Fight against fraud – 2017, COM (2018) 553 final.

<sup>8</sup> As this naturally does not include undetected fraud, it is not possible to identify the level of actual fraud.

<sup>9</sup> These figures do not yet fully reflect the large cases of customs undervaluation recently discovered in the United Kingdom (see [OLAF Report 2017](#), p. 26), which are estimated to have a budgetary impact of around EUR 2.5 billion.

Every year, the European Parliament examines the PIF Report and comments on it in a resolution, emphasising the importance of the fight against fraud<sup>10</sup>. Most recently, the European Court of Auditors (ECA) produced a special report<sup>11</sup> about the institutional framework and working methods behind the Commission's fight against fraud in EU spending. The report underlined the importance of the subject and recommended further action.

Against this backdrop, the revised Commission Anti-Fraud Strategy sets out a comprehensive approach to combating fraud affecting the EU's financial interests and guides the Commission, its departments and its executive agencies, as they discharge their legal, political and managerial responsibilities, respectively, to protect the EU budget. The Member States are not directly addressed, but the Commission calls on them to also take appropriate measures to prevent, detect and correct fraud affecting the EU's financial interests, in line with their obligation under the Treaty. The responsible Commission departments and OLAF will continue to support and monitor the action taken by Member States to tackle fraud.

## **2.2. The 2011 Commission Anti-Fraud Strategy (CAFS)**

On 24 June 2011, the Commission adopted its current anti-fraud strategy. This comprised: (i) a Communication from the Commission<sup>12</sup> to the other institutions, describing strategic objectives and key operational steps to attain them, and (ii) a more detailed internal Commission Action Plan<sup>13</sup>.

The 2011 CAFS set out three priorities: (i) introducing anti-fraud provisions in Commission proposals on spending programmes under the MFF for 2014 – 2020; (ii) implementing anti-fraud strategies at service level; and (iii) revising the public procurement directives.

## **2.3. Implementation and evaluation of the CAFS**

Since 2013, the Commission has reported on the implementation of the 2011 CAFS in the PIF Reports<sup>14</sup>. The priority actions and all measures set out in the internal action plan have been completed or are continuing in the case of those of a repetitive nature, e.g. training.

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<sup>10</sup> See, e.g., Recital B of the resolution of the European Parliament of 3 May 2018 on the Annual report 2016 on the protection of the EU's financial interests – Fight against fraud, 2017/2216(INI), P8\_TA(2018)0196: 'whereas sound public spending and the protection of the EU's financial interests should be key elements of the EU's policy to increase the confidence of citizens by ensuring that their money is used properly and effectively'.

<http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P8-TA-2018-0196&format=XML&language=EN>

<sup>11</sup> 'Fighting fraud in EU spending: action needed', [ECA, Special Report No 01/2019](#).

<sup>12</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee, and the Committee of the Regions and the Court of Auditors of 24 September 2011 on the Commission Anti-Fraud Strategy, COM (2011) 376 final.

<sup>13</sup> Communication to the Commission, Commission Internal Action Plan for the Implementation of the Commission Anti-Fraud Strategy, SEC (2011) 787/3. The Communication was further accompanied by an action plan for the fight against smuggling of cigarettes and alcohol: Commission Staff Working Paper, Action plan to fight against smuggling of cigarettes and alcohol along the EU Eastern border, SEC (2011) 791 final.

<sup>14</sup> See FN 7.



The Commission services carried out an evaluation to assess the relevance, effectiveness, efficiency and coherence of the 2011 CAFS and its implementation. Its results are presented in detail in a Commission staff working document, published together with this Communication.

#### **2.4. The case for a new CAFS**

The Commission's current anti-fraud framework, based on the 2011 CAFS, already provides a good strategic basis for fighting fraud. However, the preparation of the next MFF post-2020 is the right time for the Commission to adapt and strengthen its anti-fraud activities where appropriate, for example in relation to new ways of financing. Moreover, the 2019 CAFS strengthens the fight against fraud that harms the budget on the revenue side (e.g. by preventing tax fraud and tackling smuggling)<sup>15</sup>.

To guide the review of its anti-fraud policies, the Commission services carried out a fraud risk assessment, summarised in the following chapter. The 2019 CAFS also takes account of the Evaluation of the CAFS for 2011 – 2017 and the results of the recent ECA performance audit 'Fighting fraud in EU spending: action needed'<sup>16</sup>, among other sources.

The 2019 CAFS also adjusts to two significant additions to EU anti-fraud legislation adopted in 2017. These are: (i) the PIF Directive<sup>17</sup>, which sets stricter common standards for Member States' criminal laws to protect the EU's financial interests; and (ii) the Regulation that established the European Public Prosecutor's Office (EPPO)<sup>18</sup>, by way of enhanced cooperation among 22 Member States at this stage. Once operational (in 2021), the EPPO will prosecute more effectively those criminal offences that harm the EU's financial interests. Finally, the framework for an integrated policy of criminal and administrative investigations includes a proposal to amend the OLAF Regulation<sup>19</sup>. The amendments proposed will allow OLAF to cooperate closely with the EPPO and to carry out its own investigations more effectively. Smooth and strong cooperation between the EPPO, OLAF, Eurojust, Europol and the Member States is essential for ensuring that the scope of investigations is comprehensive and that the new institutional design for the fight against fraud is fully effective<sup>20</sup>. The implications of the EPPO's establishment for Commission departments are also mirrored in the 2019 CAFS Action Plan<sup>21</sup>.

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<sup>15</sup> As recommended by the Commission's Internal Audit Service in a 2016 audit on performance and coordination of anti-fraud activities in the traditional own resources area, summarised in the Report from the Commission to the European Parliament and the Council; Annual Report to the Discharge Authority on internal audits carried out in 2016, COM(2017) 497 final of 15 September 2017, p. 11.

<sup>16</sup> Referred to in Section 2.1 above and FN 11.

<sup>17</sup> Reference in FN 4.

<sup>18</sup> Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO'), OJ L 283, 31.10.2017, p. 1.

<sup>19</sup> Commission Proposal of 23 May 2018 for a Regulation of the European Parliament and of the Council amending Regulation (EU, Euratom) No 883/2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) as regards cooperation with the European Public Prosecutor's Office and the effectiveness of OLAF investigations, COM (2018) 338.

<sup>20</sup> As emphasised in paragraph 11 of the Resolution of the European Parliament of 3 May 2018 on the Annual report 2016 on the protection of the EU's financial interests – Fight against fraud (reference in FN 10).

<sup>21</sup> Section B.I. of the accompanying 2019 CAFS Action Plan, SWD (2019) 170.

## 2.5. The scope of the 2019 CAFS

The 2019 CAFS focuses on protecting the EU's financial interests from fraud, corruption and other intentional irregularities and on the risk of serious wrongdoing inside the EU's institutions and bodies. These areas are also central to the legislator in the fight against fraud.<sup>22</sup> As a result, the new CAFS covers:

- Fraud – including VAT fraud –, corruption and misappropriation affecting the EU's financial interests, as defined in Articles 3 and 4 of the PIF Directive;
- Other criminal offences affecting the Union's financial interests, e.g., offences linked to an abuse of procurement procedures where they affect the EU budget;
- Irregularities as defined in Article 1(2) of Regulation (EC, Euratom) No 2988/95<sup>23</sup> (insofar as they are intentional<sup>24</sup> but not already captured by the criminal offences referred to above);
- Serious breaches of professional obligations by staff or Members of the Union's institutions and bodies, as referred to in Article 1(4) of the OLAF Regulation and in the second subparagraph of Article 2(1) of Commission Decision (EC, ECSC, Euratom) No 352/1999<sup>25</sup>.

When the 2019 CAFS refers to "fraud", it uses this word as an umbrella term for various types of criminal and non-criminal wrongdoing, as set out above. More detail and context is provided in the Fraud Risk Assessment<sup>26</sup>.

Where this Communication and the accompanying staff working documents refer to the protection of the EU budget, financial interests of the EU outside the legal framework of the general budget, such as the European Development Fund<sup>27</sup>, are included, *mutatis mutandis*.

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<sup>22</sup> See Article 1, paragraphs 1 and 4, of the OLAF Regulation (reference in FN 2).

<sup>23</sup> Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities' financial interests, OJ L 312, 23.12.1995, p. 1.

<sup>24</sup> All irregularities are included in the scope of the OLAF Regulation, but the new CAFS focusses on intentional wrongdoing.

<sup>25</sup> Commission Decision (EC, ECSC, Euratom) No 352/1999 of 28 April 1999 establishing the European Anti-Fraud Office (OLAF), OJ L 136, 31.5.1999, p. 20, as amended.

<sup>26</sup> SWD (2019) 171, p. 6.

<sup>27</sup> See, with further references, Council Regulation (EU) 2018/1877 of 26 November 2018 on the financial regulation applicable to the 11<sup>th</sup> European Development Fund, and repealing Regulation (EU) 2015/323, OJ L 307, 3.12.2018, p. 1.

### 3. Fraud risk assessment<sup>28</sup>

A qualitative fraud risk assessment was carried out in close consultation with all Commission services and executive agencies. It focused on vulnerabilities to fraud in the Commission's internal control systems and identified two areas for improvement:

- To improve fraud risk assessment and fraud risk management, the Commission needs a more comprehensive central analytical capability so that it can scan data on fraud patterns, fraudsters' profiles and vulnerabilities in EU internal control systems. A substantial boost to the Commission's analytical capabilities should provide support and advice to financial actors, auditors and investigators in preventing and fighting fraud and help the Commission: (i) develop anti-fraud policies based on facts and evidence; (ii) use its control mechanisms and resources as effectively and efficiently as possible; and (iii) enable fraud to be detected.
- In line with the Commission's decentralised model of financial management, fraud risk assessment and management is undertaken by authorising officers by delegation<sup>29</sup>, i.e. they are the prime responsibility of Commission services and executive agencies. The main advantage of this model is the possibility to tailor anti-fraud strategies to the policy area or field of operations of the individual department concerned. However, to ensure consistency and to optimise efficiency and effectiveness, decentralised assessment and management of fraud risks need to be coordinated and monitored by a strong central review system.

Apart from systemic vulnerabilities, the fraud risk assessment also analysed fraud patterns. Cost overcharging through false declarations and/or falsified supporting documents is one of the most frequent fraud patterns detected. This type of fraud risk is expected to become less significant because the new Financial Regulation and the sector-specific programmes in the MFF 2021–2027 aim to increase the proportion of EU funding not linked to costs or based on simplified cost options, which have proven to be less prone to attempts at fraud<sup>30</sup>. Potential new risks posed by those types of funding – linked to verifying the results of the funding measure – will be monitored and mitigated as necessary. The new 2019 CAFS Action Plan therefore calls for control strategies to be optimised<sup>31</sup>.

In the area of traditional own resources (TOR), customs fraud — committed through smuggling, misdeclaration or undervaluation — causes considerable damage to the EU budget. In 2016, the fraud detection rate of 0.33 % in TOR exceeded the 0.21 % fraud detection rate on the expenditure side of the budget<sup>32</sup>. Even though the 'gap' was narrower<sup>33</sup>,

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<sup>28</sup> Presented in detail in the accompanying staff working document, SWD (2019) 171.

<sup>29</sup> Pursuant to the second sentence of Article 74(2) FR.

<sup>30</sup> European Court of Auditors, Annual Report on the implementation of the budget concerning the financial year 2016, together with the institutions' replies, OJ C 322, 28.9.2017, p. 1, paragraphs 1.10/11.

<sup>31</sup> Action 27 of the accompanying 2019 CAFS Action Plan, SWD (2019) 170.

<sup>32</sup> Report from the Commission to the European Parliament and the Council, Protection of the European Union's financial interests – Fight against fraud, 2016 Annual Report, COM (2017) 383 final, p. 15. The fraud detection rate measures the financial impact of detected fraud as a proportion of total revenue or expenditure; it is determined for the budget as a whole and for particular sectors.

<sup>33</sup> Without including the UK undervaluation case, case explained in OLAF Report 2017, pp. 26-27: [https://ec.europa.eu/anti-fraud/sites/antifraud/files/olaf\\_report\\_2017\\_en.pdf](https://ec.europa.eu/anti-fraud/sites/antifraud/files/olaf_report_2017_en.pdf).

this trend continued in 2017 (0.30 % against 0.29 %). In the area of VAT, it is estimated that cross-border fraud, such as ‘missing trader’ or ‘carousel’ fraud<sup>34</sup>, generates budgetary losses of around EUR 50 billion a year<sup>35</sup>. However, most of this is borne by the Member States.

In revenue fraud, the harm caused by organised crime groups is very significant<sup>36</sup>, although such criminal groups are also active in procurement and subsidy fraud<sup>37</sup>. The EU has a policy cycle in place for tackling organised and serious international crime which involves coordination between the EU institutions and agencies and the Member States<sup>38</sup>. Several of the policy priorities for 2018 - 2021 for this type of crime are on fighting fraud<sup>39</sup>. The EU strategy for fighting cigarette smuggling and other forms of illicit trade in tobacco products<sup>40</sup>, whose action plan was recently updated,<sup>41</sup> also has a strong focus on tackling organised crime.

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<sup>34</sup> Explained in Europol, European Union Serious and Organised Crime Threat Assessment (SOCTA), 2017, p. 44: <https://www.europol.europa.eu/activities-services/main-reports/european-union-serious-and-organised-crime-threat-assessment-2017>.

<sup>35</sup> Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee of 7 April 2016 on an action plan on VAT, Towards a single EU VAT area – Time to decide, COM (2016) 148, p. 3.

<sup>36</sup> OLAF Report 2016, p. 19: [https://ec.europa.eu/anti-fraud/sites/antifraud/files/olaf\\_report\\_2016\\_en.pdf](https://ec.europa.eu/anti-fraud/sites/antifraud/files/olaf_report_2016_en.pdf)

<sup>37</sup> OLAF Report 2017, pp. 22-23: [https://ec.europa.eu/anti-fraud/sites/antifraud/files/olaf\\_report\\_2017\\_en.pdf](https://ec.europa.eu/anti-fraud/sites/antifraud/files/olaf_report_2017_en.pdf)  
Europol, SOCTA 2017 (reference in FN 34), p. 45.

<sup>38</sup> Publication by the General Secretariat of the Council ‘The EU Policy Cycle to tackle organised and serious international crime’: <http://www.consilium.europa.eu/media/30232/qc0114638enn.pdf>

<sup>39</sup> Council conclusions of 18 May 2017 on setting the EU’s priorities for the fight against organised and serious international crime between 2018 and 2021, Council Document 9450/17: <http://data.consilium.europa.eu/doc/document/ST-9450-2017-INIT/en/pdf>

Fraud-related priorities (not limited to fraud that harms the EU budget) concern cybercrime, excise fraud and VAT fraud, money laundering and asset recovery, and document fraud.

<sup>40</sup> Communication from the Commission to the European Parliament and to the Council ‘Stepping up the fight against cigarette smuggling and other forms of illicit trade in tobacco products - A comprehensive EU Strategy’ of 6 June 2013, COM (2013) 324 final.

<sup>41</sup> Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee of 7 December 2018, 2nd Action Plan to fight the illicit tobacco trade 2018-2022, COM(2018) 846 final.

**CAFS Evaluation and Fraud Risk Assessment**  
**– strengths and weaknesses**  
**in the Commission’s fraud risk management**

**Strengths:**

- corporate anti-fraud strategy laying down coherent overarching principles;
- tailor-made anti-fraud strategies at service level, management plans and reporting, embedding fraud prevention and detection in internal control;
- support from OLAF and other ‘central services’ and exchange of best practices in dedicated fora for cooperation.

**Weaknesses:**

- gaps in IT-supported collection and strategic analysis of fraud-related data;
- lack of relevant and reliable indicators to make success in the fight against fraud more measurable;
- potential for more effective central coordination and oversight.

## **4. Principles and priorities**

### **4.1. Principles of the 2011 CAFS and of the 2019 CAFS**

The overall objective of the 2011 CAFS<sup>42</sup> is still fully relevant. The new CAFS reiterates it and emphasises the comprehensive approach required to counter EU-fraud. This comprehensive approach covers the complete anti-fraud cycle and comprises: (i) improving prevention, detection and the conditions for investigating fraud; and (ii) ensuring there is sufficient reparation and deterrence, with proportionate and dissuasive sanctions. As such, the guiding principles and target standards for Commission services and executive agencies in the fight against fraud remain valid<sup>43</sup>.

As an additional principle of the 2019 CAFS<sup>44</sup>, the Commission commits to effective internal and external communication on the EU’s fight against fraud. While internal communication is instrumental in steering and supporting the institution’s anti-fraud action, external communication serves to protect the EU’s reputation and to reassure the public about the integrity and sound financial management of EU operations. Communicating about the EU’s fight against fraud may also deter potential fraudsters.

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<sup>42</sup> Reference in FN 12, see p.3 of the 2011 CAFS.

<sup>43</sup> See pp. 6–9 of the 2011 CAFS, reference in FN 12.

<sup>44</sup> Derived from Principles 14/15 of the Commission’s revised Internal Control Framework, C(2017) 2373 final.

**Fight against fraud:  
Guiding principles and target standards**

- **zero tolerance for fraud;**
- **fight against fraud as an integral part of internal control;**
- **cost-effectiveness of controls;**
- **professional integrity and competence of EU staff;**
- **transparency on how EU funds are used;**
- **fraud prevention, notably fraud-proofing of spending programmes;**
- **effective investigation capacity and timely exchange of information;**
- **swift correction (including recovery of defrauded funds and judicial/administrative sanctions);**
- **good cooperation between internal and external players,**  
in particular between the EU and national authorities responsible, and among the departments of all EU institutions and bodies concerned;
- **effective internal and external communication on the fight against fraud.**

To resolve possible conflicts between the first and third principle, two factors are key:

- It is imperative to take the reputational aspect fully into account when applying the requirement of cost-effectiveness to anti-fraud controls, especially in cases of internal fraud.
- It is not possible to prevent fraud entirely, but as soon as there are indications that fraud may have occurred, quick action is essential: OLAF should be informed without delay, precautionary measures may have to be taken, and recovery should begin as soon as possible.

#### **4.2. Priorities of the new CAFS**

Based on the Fraud Risk Assessment and taking into account the recommendations of the ECA Special Report mentioned above<sup>45</sup>, the Commission has set out two priority objectives, related to improving (i) data collection and analysis and (ii) coordination, cooperation and processes.

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<sup>45</sup> Referred to in Section 2.1 above and FN 11.

#### 4.2.1. Objective No 1: data collection and analysis

##### **Further improve the understanding of fraud patterns, fraudsters' profiles and systemic vulnerabilities relating to fraud affecting the EU budget.**

Data collection and analysis serve financial actors, auditors and investigators and contribute to the EU's fight against fraud, notably through:

- observing the '(anti-)fraud landscape' in the EU and beyond, and providing insight into emerging fraud patterns and innovative ways of combating fraud;
- collecting and analysing data on established and suspected cases of fraud, deepening knowledge about vulnerabilities, fraud patterns and fraudsters' profiles, and helping to deploy or adjust control mechanisms and resources in the most effective and efficient way possible; and
- processing data on risk profiles and fraud indicators, to detect and prevent fraud in the future.

On the expenditure side of the budget, the Commission already maintains two databases that are crucially important for the fight against fraud:

- the Early Detection and Exclusion System (EDES) database, which records administrative sanctions imposed on unreliable businesses in direct and indirect management and flags up potential risks posed by individual entities; and
- the Irregularity Management System (IMS), managed by OLAF, through which Member States report irregularities, including fraud, detected in shared management of EU funds.

Among a variety of measures detailed in the Action Plan, improved monitoring of the completeness and quality of data and further developing the IMS as an analytical tool will increase the added value of the IMS, both for the Commission and the Member States. The Commission is committed to improving the quality and completeness of the data retrieved, and the analysis of the nature or methods of detected fraud, both:

- in general (through continued development of the analysis of IMS data and the use of other data available); and
- in relation to specific sectors and/or Member States (through more in-depth analyses based on much broader, yet tailored, data collection and intense cooperation with the relevant stakeholders).

In this context, the Commission is committed to developing specific and comparable knowledge about the anti-fraud framework in the different Member States, which is the background against which data on detection should be interpreted. Ultimately, this strengthened analysis aims to improve prevention (e.g. better data on fraud patterns and systemic vulnerabilities, which can be acted upon), detection (e.g. developing risk indicators, tailored to specific sectors or regions) and investigation (e.g. widening knowledge about fraudulent activities).

A new intelligence scanning function will feed into the overall process by proactively exploring the (anti-)fraud landscape for emerging cross-cutting or sector-specific fraud risks.

In particular, the Commission intends to use risk-scoring tools more comprehensively<sup>46</sup> in direct management and to further explore and promote their use in indirect and shared management.

On the revenue side, in the area of TOR, the Commission maintains the OWNRES database for irregularities reported by the Member States. The Commission's Anti-Fraud Information System (AFIS) provides a platform for secure contacts with the competent authorities in the Member States and enables effective transnational cooperation in fighting customs fraud. Moreover, the Commission has developed several tools to monitor and identify suspicious activities<sup>47</sup>. This work is shared with Member States. The Commission will further boost its analytical capabilities in this area. The aim is to research, support and facilitate the sharing of knowledge, good practice and lessons learnt in data analysis for the benefit of customs officials who fight fraud. The ultimate objective is to build a community of experts in the field, improve collaboration among all players concerned and bring genuine EU added value.

The increased availability of data and the continuous refinement of analysis techniques and IT tools may also improve the quality and quantity of incoming information of investigative interest for OLAF. Ultimately, this might lead to more, and better targeted, investigations being opened in the medium to long term.

It goes without saying that any collection and processing of data will respect data protection legislation and other applicable provisions.

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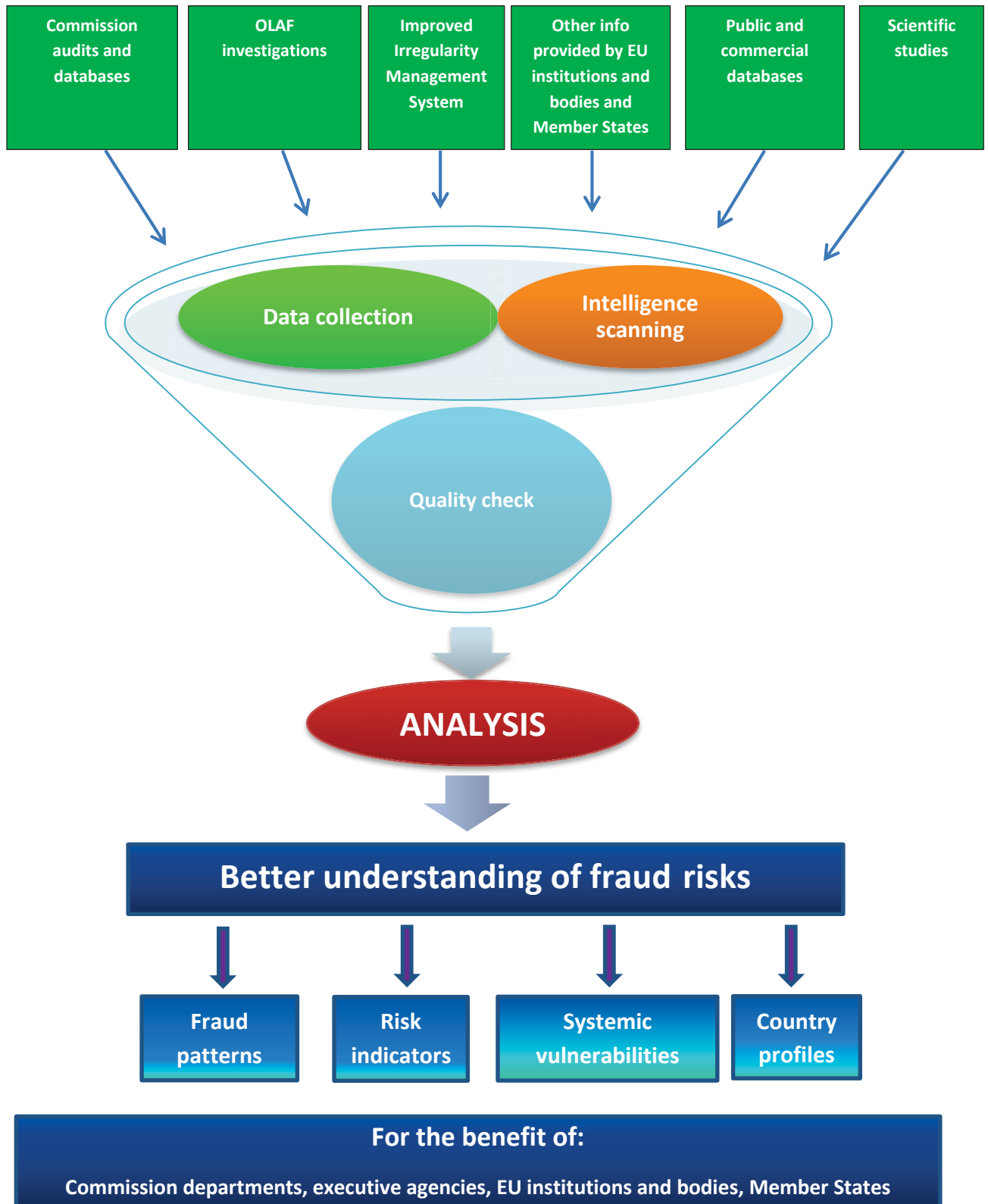
<sup>46</sup> Based on a set of pre-defined risk indicators, risk scoring tools process and analyse data on beneficiaries and contractors in order to identify the most risk-prone projects. Prominent examples are 'DAISY' (in an older version 'PLUTO'), developed for the services of the 'research family', and ARACHNE, increasingly used by Member States for managing the European Structural and Investment Funds.

<sup>47</sup> The Automated Monitoring Tool (AMT) monitors trade flows and identifies suspicious changes in volume or the average price of products, thus allowing the detection of undervaluation cases and other types of customs fraud such as evasion of anti-dumping duties or misdeclaration of the commodity. Contraffice allows the detection of cases of false declaration of origin by cross-checking information on physical movements of containers with information in customs declarations.



## Collection and analysis of fraud related data

### Information sources:



#### **4.2.2. Objective No 2: coordination, cooperation and processes**

##### **Optimise coordination, cooperation and workflows for the fight against fraud, in particular among Commission services and executive agencies**

Since its administrative reform in 2000<sup>48</sup>, the Commission has followed a decentralised model of financial management, which holds managers in the different departments accountable and allows the Commission to tailor anti-fraud controls to different policy areas and operations, thus increasing their effectiveness and efficiency. Therefore, the current legal framework<sup>49</sup> gives authorising officers by delegation (AODs) the responsibility for internal control, which includes preventing, detecting, correcting and following-up on fraud and other irregularities, while OLAF helps to develop the methods that prevent and combat fraud.

Under the 2011 CAFS, the Commission departments and executive agencies adopted anti-fraud strategies for their respective areas of responsibility. These strategies are based on sectoral fraud risk assessments and focus on cost-effective anti-fraud controls in risk-prone fields. OLAF provides methodological guidance and, upon request, individual advice for services' anti-fraud strategies, which are embedded in the Commission's internal control system and its annual strategic planning and programming cycle. In this context, OLAF systematically reviews the anti-fraud aspects of the Commission departments' management plans and annual activity reports. Moreover, the Fraud Prevention and Detection Network (FPDNet), chaired by OLAF, provides a forum for exchange among the anti-fraud correspondents in the Commission and its executive agencies.

Despite this significant support at Commission level, OLAF's support role remains at an advisory level, which means that department-level approaches may diverge in scope and ambition. Therefore, corporate oversight should be strengthened from an institutional point of view, to ensure that the Commission's anti-fraud policies are consistent and backed by strong analysis, taking them to the forefront of the fight against fraud. To that end, OLAF's support should be developed to provide flexible corporate oversight for fraud risk management that respects the responsibilities of the AODs but can challenge their assessments and managerial approaches where appropriate. In practice, this concept implies the following.

- Where possible, anti-fraud strategies of Commission services and executive agencies with similar profiles should be merged into joint anti-fraud strategies. Examples set by departments responsible for the European Structural and Investment Funds, for research funding and for external aid have proven useful in streamlining anti-fraud policies in those fields. Other service-level anti-fraud strategies should be updated to reflect the approach set out in this Communication.

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<sup>48</sup> Reforming the Commission, A White Paper, Part I, COM (2000) 200 final/2, Section V.

<sup>49</sup> Under Article 36(1) FR, the budget shall be implemented in compliance with effective and efficient internal control. One of the objectives of internal control, as defined in Article 36(2)(d) FR, is the prevention, detection, correction and follow-up of fraud and irregularities. Article 74(2) FR puts the responsibility for internal control and risk assessment in the hands of authorising officers by delegation. OLAF shall contribute to the design and development of methods of preventing and combating fraud affecting the financial interests of the Union, pursuant to the second sentence of Article 1(2) of the OLAF Regulation.

- Based on needs to be analysed, subgroups of the FPDNet should be set up, bringing together departments with similar profiles. OLAF and DG BUDG should be included in these subgroups, to stimulate exchange of best practice and to facilitate a peer review of anti-fraud strategies. The first subgroup of this kind was created for the TOR area in 2017.
- Mandatory review by OLAF of draft service-level anti-fraud strategies and updates<sup>50</sup>: OLAF will systematically advise services on the design of their anti-fraud strategies, which should include issuing recommendations when needed.
- An AOD who decides not to follow such recommendations needs to justify that decision in writing. Any issues that cannot be resolved bilaterally between OLAF and the department concerned may be discussed in the relevant subgroup of the FPDNet and/or in other suitable formats, without prejudice to the AOD's ultimate responsibility.
- Based on detailed annual reporting by the Commission services and executive agencies and regular exchanges with them, OLAF should monitor the implementation of service-level anti-fraud strategies and issue recommendations on these when necessary. Such recommendations are to be followed up as set out in the previous point. However, OLAF's role in reviewing and monitoring does not include carrying out anti-fraud audits. Audits in the anti-fraud area remain the prerogative of the Internal Audit Service of the Commission (IAS) and the ECA, based on the legal framework (e.g. the Financial Regulation) and their respective methodologies and risk assessment approach.

A yearly discussion and evaluation of the follow-up to OLAF's recommendations on the Commission's service-level anti-fraud strategies, and to the implementation of the 2019 CAFS Action Plan should take place in a dedicated meeting of the Commission's FPDNet at Directors' level.

Another important aspect of the Commission's anti-fraud work is the follow-up, by the Commission and its executive agencies, to OLAF's recommendations issued as a result of OLAF investigations. In cooperation with the authorising officers concerned, OLAF will improve the monitoring of the follow-up to its recommendations and regularly provide the central services with an overview of the monitoring results. The follow-up to OLAF's financial and administrative recommendations will also be supported by regular systematic discussion at working level in line with the Administrative Arrangements on co-operation and timely exchange of information agreed between the Commission and OLAF<sup>51</sup>, as well as by systemic follow-up in the FPDNet and by the Corporate Management Board.

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<sup>50</sup> Including a department's intention not to update an existing strategy after 3 years have passed since the last update.

<sup>51</sup> Annex to the Communication to the Commission of 21 November 2018 on revision of administrative arrangements on co-operation and a timely exchange of information between the European Commission and the European Anti-Fraud Office, C (2018) 7705 final.

At strategic level, the Corporate Management Board (CMB)<sup>52</sup> will, on an annual basis, discuss and review the Commission's anti-fraud policies, based on preparatory work to be done by OLAF, the FPDNet and the central services. Other ad-hoc discussions at the CMB may also take place when necessary. This strategic approach to corporate fraud risk management, with the CMB and OLAF as key players, is also reflected in the "governance package", which was adopted by the Commission on 21 November 2018 and assigns a strategic role regarding corporate aspects of the fight against fraud in the Commission to the CMB<sup>53</sup> and designates OLAF as the lead service in the conception and development of a European anti-fraud policy<sup>54</sup>.

## 5. Further objectives

Further objectives, which are spelled out more fully in the Annex and supported by action points detailed in the Action Plan, cover the following areas:

- integrity and compliance;
- know-how and equipment;
- transparency;
- legal framework; and
- fighting revenue fraud.

These objectives derive from the guiding principles set out in Section 4.1 above and from the fraud risk assessment carried out by the Commission services and explained in the respective staff working document. For instance, the Commission will continue to encourage — and police as necessary — the highest standards of professional integrity among its staff, as it has always done as a matter of principle, whose importance goes beyond the issue of fighting fraud. As for the objective of fighting revenue fraud, because of the risks identified, it is given a more prominent place in this 2019 CAFS than in the 2011 CAFS.

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<sup>52</sup> Acting under the President's authority, the Corporate Management Board contributes to the Commission's corporate governance by providing coordination, oversight, advice and strategic orientations on corporate management issues. Chaired by the Secretary-General, it regularly brings together the Directors-General responsible for budget, human resources and security, and the Director-General of the Legal Service. The Member(s) of the Cabinet of the President responsible for budget and administration, as well as the Head(s) of Cabinet of the Member(s) of the Commission in charge of budget, human resources and administration, are observers. See Section 1.3. of the Communication to the Commission of 21 November 2018, Governance in the European Commission, C (2018) 7703 final, and the Commission Decision of 21 November 2018 on the Corporate Management Board, C (2018) 7706 final.

<sup>53</sup> Article 2(1) of Commission Decision C (2018) 7706 final.

<sup>54</sup> Section 3.7.2. (p. 15) of Communication C (2018) 7703 final.

## 6. Monitoring and reporting

The Commission's anti-fraud action is firmly integrated in its annual strategic planning and programming (SPP) cycle<sup>55</sup>. In addition, as already mentioned, the different aspects of the Commission's anti-fraud policy will be discussed and evaluated in an annual dedicated meeting of the Commission's FPDNet at Directors' level. They will also be discussed at least once a year in the Corporate Management Board of the Commission. These discussions will include systemic aspects of the follow-up to OLAF's recommendations on the Commission's service-level anti-fraud strategies and to OLAF's investigation-based recommendations as well as the overall progress in the 2019 CAFS Action Plan. This will further increase the Commission's accountability for its activities in detecting and preventing fraud.

With its initiative 'Budget Focused on Results' (BFOR)<sup>56</sup>, the Commission has committed to performance-orientated policies for the Multiannual Financial Framework 2014-2020 that should yield maximum return on taxpayers' investment. European added value and performance are also among the principles underpinning the modernisation of the Multiannual Financial Framework 2021-2027, as proposed by the Commission. This also applies to anti-fraud policies. Therefore, the effectiveness and efficiency of these policies should be monitored through appropriate indicators, baseline supported where possible, reflecting outputs<sup>57</sup>, outcomes or results<sup>58</sup>, and impacts<sup>59</sup>. Since the Commission services and executive agencies are responsible for carrying out the measures set out in the Action Plan that accompanies this Communication, the Commission considers that output indicators should be set at department level, under OLAF's oversight. For the priority objectives, preliminary result indicators at the Commission level should be developed by 2020. During the implementation of the 2019 CAFS, these result indicators should be refined and complemented, in line with actual experiences and with the results of further analysis.

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<sup>55</sup> Based on their strategic plans (covering the Commission mandate and reflecting the President's strategic objectives) and building on their service-level anti-fraud strategies, Commission departments and executive agencies plan their anti-fraud action annually in their management plans, after an annual risk assessment, which includes fraud risks. Commission departments give an account of their work and their achievements in their annual activity reports, which include a dedicated section on fraud prevention and detection. Drawing on departmental reporting, the Commission adopts its comprehensive Annual Management and Performance Report, which contains chapters on internal control, including anti-fraud strategies, and on the protection of the EU's financial interests.

<sup>56</sup> See the BFOR Website: [http://ec.europa.eu/budget/budget4results/index\\_en.cfm](http://ec.europa.eu/budget/budget4results/index_en.cfm); Communication from the Commission to the European Parliament and the Council of 14 September 2016, Mid-term review/revision of the multiannual financial framework 2014 – 2020, An EU budget focused on results, COM (2016) 603 final.

<sup>57</sup> Output indicators relate to the specific deliverables of the intervention such as a new database for collecting monitoring results or a new European standard etc., see Chapter V, Section 2.2., p. 48, of the Better Regulation Guidelines, Commission Staff Working Document, SWD (2017) 350.

<sup>58</sup> Outcome/result indicators match the immediate effects of the intervention with particular reference to the direct addressees. Reference see preceding FN.

<sup>59</sup> Impact indicators relate to the intended outcome of the intervention in terms of impact on the wider economy/society beyond those directly affected by the intervention. Reference see FN 57.

As with the 2011 CAFS, the Commission will report regularly on the implementation of the 2019 CAFS and, in due course, on the development of relevant indicators under its annual PIF reports, addressed to the European Parliament and to the Council and available to the general public.

The next update of the CAFS is expected after the mid-term review of the MFF 2021 – 2027. In the meantime, the Action Plan will be reviewed and amended as appropriate.