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COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
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To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
No. Cion doc.:	C(2025) 3801 final
Subject:	COMMISSION DELEGATED REGULATION (EU) .../... amending Delegated Regulation (EU) 2020/1818 ¹ as regards the definition of prohibited weapons

Delegations will find attached document C(2025) 3801 final.

Encl.: C(2025) 3801 final



Brussels, 28.8.2025
C(2025) 3801 final

COMMISSION DELEGATED REGULATION (EU) .../...

of 28.8.2025

amending Delegated Regulation (EU) 2020/1818 as regards the definition of prohibited weapons

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

The White Paper for European Defence – Readiness 2030 sets out a plan for the ReArm Europe Initiative 2030, a defence package providing financial levers to Member States to drive an investment surge in defence capabilities. Making business easier and deepening the Single Market are among the plan's key goals. There is urgency to ramp up European defence readiness to ensure that Europe has a strong and sufficient European defence posture by 2030 at the latest. Based on projections of gradual take-up of the instruments proposed under the ReArm Europe Plan/Readiness 2030, defence investment could reach around EUR 800bn over the next four years. On 6 March 2025, the European Council called for the Commission to swiftly take work forward on simplifying the legal and administrative framework, for public procurement, industry cooperation, permitting and reporting requirements, in order to address all obstacles and bottlenecks hindering a rapid ramping up of the defence industry. This targeted amendment of the Delegated Regulation on sustainable finance benchmarks is part of this effort of clarification and simplification.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

Rebuilding European defence will require massive investment over a sustained period, both public and private. The stakeholder consultation process was comprehensive, comprising a public survey that was open until 22 April 2025, as well as a series of targeted meetings with Member States, relevant business representatives from the Union, and other key stakeholders. More specifically, further to this open public consultation, the Commission services collected data, evidence and suggestions from Member States, industry and other stakeholders on legal, regulatory and administrative obstacles that restrict the ability of the European defence industry to scale up production with enhanced agility to achieve defence readiness by 2030. Member States' experts were consulted during the drafting process of this amending regulation in accordance with the Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making¹. Three MS provided valuable comments regarding the scope of the definition, including suggestions to extend it. These comments were ultimately not taken on board because the relevant treaties either do not prohibit the production and development of such weapons but rather only refer to their use, or are without prejudice to nuclear states' right to retain their deterrence programme (non-proliferation treaty). In addition, extending the scope of the definition to weapons which are not excluded on the basis of a treaty was deemed problematic, given the objective to provide a definition which is legally grounded. The Commission recalls that this minimum threshold definition is without prejudice to Member States' national legislation prohibiting certain weapons, which must be complied with in any case by economic operators wishing to operate in each Member State.

¹ Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making, (OJ L 123, 12.5.2016, p. 1–14, ELI: http://data.europa.eu/eli/agree_interinst/2016/512/oj)

3. LEGAL ELEMENTS OF THE DELEGATED ACT

This amendment is a targeted modification of Delegated Regulation (EU) 2020/1818 on sustainable finance benchmarks using more precise and clearer requirements on rules regarding sustainable finance disclosures for companies involved in controversial weapons. Delegated Regulation (EU) 2020/1818 supplements Regulation (EU) 2016/1011 of the European Parliament and of the Council, as per delegation power given in Article 19(a).

COMMISSION DELEGATED REGULATION (EU) .../...

of 28.8.2025

amending Delegated Regulation (EU) 2020/1818 as regards the definition of prohibited weapons

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2016/1011 of the European Parliament and of the Council of 8 June 2016 on indices used as benchmarks in financial instruments and financial contracts or to measure the performance of investment funds and amending Directives 2008/48/EC and 2014/17/EU and Regulation (EU) No 596/2014¹, and in particular Article 19a(2) thereof,

Whereas:

- (1) As indicated in the Joint White Paper European Defence – Readiness 2030², boosting public investment in defence is indispensable, but it would not be sufficient. Undertakings established in the Union, including small and medium enterprises and mid-caps should have better access to capital, including guarantee instruments for de-risking investments, to bring their solutions to industrial scale and to drive the industrial ramp-up that the Union needs. Although the financial sector shows a growing interest in defence, it, the defence sector remains an under-served market due to limitations in investment policies of public and private financial institutions. The Joint White Paper sets out a defence package providing financial levers to Member States to drive an investment surge in defence capabilities. Making business easier and deepening the Single Market are among the package's key goals. On 6 March 2025, the European Council called upon the Commission to swiftly take work forward on simplifying the legal and administrative framework, for public procurement, industry cooperation, permitting and reporting requirements, to address all obstacles and bottlenecks hindering a rapid ramping up of the defence industry, including for SMEs and mid-caps.
- (2) Commission Delegated Regulation (EU) 2020/1818³ establishes climate-related labels for benchmarks which require that all companies involved in any activities related to controversial weapons are excluded from EU Paris-aligned and Climate Transition Benchmarks. However, the definition of controversial weapons in that Delegated Regulation leaves too much uncertainty and confusion for administrators referred to in Regulation (EU) 2016/1011, leading to confusion and should be clarified and simplified, notably because the relevant international treaties and conventions to

¹ OJ L 171, 29.6.2016, p. 1, ELI: <http://data.europa.eu/eli/reg/2016/1011/oj>.

² Joint White Paper for European Defence Readiness 2030 : JOIN/2025/120 final, 19.03.2025

³ Commission Delegated Regulation (EU) 2020/1818 of 17 July 2020 supplementing Regulation (EU) 2016/1011 of the European Parliament and of the Council as regards minimum standards for EU Climate Transition Benchmarks and EU Paris-aligned Benchmarks (OJ L 406, 3.12.2020, p. 17, ELI: http://data.europa.eu/eli/reg_del/2020/1818/oj).

which Member States are parties do not reference controversial weapons but rather prohibited weapons.

- (3) It is therefore necessary to amend the definition of controversial weapons in Delegated Regulation (EU) 2020/1818 and replace it by a definition of ‘prohibited weapons’ to ensure legal certainty and consistency across the sustainable finance rulebook and harmonised practices by benchmark administrators. This can be done while keeping a safe level of exclusions in line with the objective of Regulation (EU) 2016/1011.
- (4) Delegated Regulation (EU) 2020/1818 should therefore be amended accordingly.
- (5) The implementation of this Regulation might lead to warranted effects on transactions by funds relying on those indices based on EU Paris-aligned and Climate Transition Benchmarks. To avoid market disturbances, it is appropriate to give existing benchmarks sufficient time to adapt to those changes,

HAS ADOPTED THIS REGULATION:

Article 1

Delegated Regulation (EU) 2020/1818 is amended as follows:

(1) Article 12(1) is amended as follows:

(a) in the first subparagraph, point (a) is replaced by the following:

‘(a) companies involved in any activities related to prohibited weapons;’;

(b) the second subparagraph is replaced by the following:

‘For the purposes of point (a), prohibited weapons shall mean anti-personnel mines, cluster munitions, biological and chemical weapons the use, possession, development, transfer, manufacture, and stockpiling of which is expressly prohibited by the international arms conventions to which the majority of Member States are parties, as listed in the Annex.’;

(2) an Annex is added in accordance with the text set out in the Annex to this Regulation.

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*. .

It shall apply from[PO: please insert the day of publication + 6 months] with regard to already existing benchmarks authorised prior to its date of entry into force.

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

Done at Brussels, 28.8.2025

*For the Commission
On behalf of the President,
Andrius KUBILIUS
Member of the Commission*