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COMMUNICATION TO THE COMMISSION

Regulatory Scrutiny Board

Mission, tasks and staff

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As part of the Commission's renewed commitment to better regulation, the Commission has announced that the Impact Assessment Board will be transformed into an independent Regulatory Scrutiny Board to strengthen the existing system of quality control.

The adoption of the Communication 'Better Regulation for Better results – An EU Agenda'¹, sets out the Commission's new approach. It is therefore the right moment to set up the new Regulatory Scrutiny Board and to define its mission, duties, composition and recruitment rules. The Board is established by a Decision of the President².

Compared to the Impact Assessment Board, the Regulatory Scrutiny Board functions will be widened to include major retrospective evaluation and fitness checks of existing Union policies and legislation. Its composition and capacity will also be strengthened. The new functions of the Board will be phased-in to reflect the time needed to recruit its new members, during which time the members of the Impact Assessment Board will continue to work for the Regulatory Scrutiny Board.

The Board will operate within the framework of the Commission's Working Methods 2014-2019.³

The scope of the new independent Regulatory Scrutiny Board

The Impact Assessment Board was established in 2006 to improve the quality of the Commission's impact assessments. The Impact Assessment Board has examined over 700 impact assessments since then and its scrutiny has been rigorous; the Board has required over 40% of cases to be resubmitted in recent years. While forward looking impact assessment is critical, it is only one part of the policy cycle. The evaluation of existing policies and legislation is also important. It is time, therefore, to extend the mission of the existing Impact Assessment Board to cover the most significant retrospective evaluations and "fitness checks" of existing policies to ensure that the Commission's policy making is based on high quality evaluation of what is already in place in line with the "evaluate first" principle.

The new Regulatory Scrutiny Board will scrutinise the quality of all impact assessments, major evaluations and fitness-checks of existing legislation and issue opinions on the draft of the related reports in line with the relevant guidelines⁴. The Board's opinions will

¹ COM(2015)215

² C(2015)3263

³ C(2014)9004

⁴ SWD(2015)111

provide recommendations on how these draft reports should be improved by the Commission services. The Board's opinions on impact assessment reports are assessments of the quality of draft impact assessments. They are not assessments of the legislative proposals which are presented and decided later. The Board gives advice and opinions to the political level of the Commission.

According to the Commission's Working Methods 2014-2019, any initiative with an impact assessment must be accompanied by a positive Board opinion on its draft impact assessment for the proposal to be launched into Inter-Service Consultation. The Board may also offer advice to individual Commission services regarding the application and interpretation of the relevant guidelines in particularly challenging assessments/evaluations and on methodological issues. It may also offer advice on horizontal issues relating to the further development of the Commission's impact assessment and evaluation/fitness check processes and guidelines.

Independence and objectivity

The Regulatory Scrutiny Board members shall act independently and autonomously in preparing opinions. They shall not seek or take instructions from any other institution, body, office or agency. They must disclose any potential conflict of interest to the Chairperson and can be requested not to participate in the scrutiny of any impact assessments or evaluations or fitness checks where such potential conflict of interest arises.

Composition of the Regulatory Scrutiny Board

The Regulatory Scrutiny Board will comprise a Chair person and six members. Their expertise members will cover macroeconomics, microeconomics, social policy and environment policy (so as to cover the three pillars of sustainable development). The Board will be administratively attached to the Secretariat-General.

Three members will be officials selected from within the Commission services. Three posts will be created, therefore, for officials who will work full time exclusively for the Board and be transparently selected on the basis of their expertise in accordance with prevailing Commission rules. They will be ranked as Director, Principal Adviser or Adviser.

Three temporary posts will be created to permit the recruitment of the members from outside the Commission on the basis of their proven academic expertise in impact assessment, ex-post evaluation and regulatory policy generally. These members will be engaged as temporary staff pursuant to Article 2(a) CEOS and will be ranked as Director, Principal Adviser or Adviser.

All members shall serve for a fixed non-renewable period of three years. They shall work full-time for the Board and will be administratively attached to the Secretariat General. At the time of their appointment, and as a condition of their subsequent service as members of the Board, all members will be subject to the Staff Regulations governing the conditions of employment of officials and other servants of the European Union and the Commission's code on good administrative behaviour. These lay down strict rules on ethics, confidentiality and conflict of interest which are particularly relevant and important in relation to the activities of the new Board. The Commission officials members of the Board will, after the period of three years, return to the Directorate-General of origin.

Functioning of the Regulatory Scrutiny Board

The functioning of the Regulatory Scrutiny Board will be governed by its Rules of Procedure which will be decided by its Chair, with the agreement of the President, after having consulted the First Vice-President. The secretariat of the Board will be provided by the Secretariat-General. In addition, the Board will be supported by up to three assistants, to be selected by the Chair.

When scrutinising draft impact assessments and evaluation or fitness check reports, the Board's opinion will take account of the Commission's guidelines and agreed standards on impact assessment, evaluation, fitness checks and public consultation.

The Board may call upon any Commission department, Commission official or external expert as appropriate, for ad hoc advice when assessing an individual impact assessment, fitness check or evaluation report bearing in mind the need to avoid any potential conflict of interest.

Transparency

With a view to transparency, the names and CVs of the Regulatory Scrutiny Board members will be published on the internet site of the Commission. The opinions of the Board, similar to the current Impact Assessment Board opinions, shall be published on the Commission's web-site at the same time as the report concerned and, in the case of impact assessments, once a political decision has been taken by the Commission on a related initiative.