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THE MANAGEMENT BOARD,

Having regard to Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC ('the REACH Regulation'),

Having regard to the Staff Regulations of Officials of the European Union and the Conditions of Employment of Other Servants of the European Union (CEOS), laid down by Council Regulation (EEC, Euratom, ECSC) No 259/68 ('the Staff Regulations'),

Having regard to the Financial Regulation of the European Chemicals Agency, Management Board Decision 30/2019 ('the ECHA Financial Regulation'),

HAS ADOPTED THE FOLLOWING:

Charter of tasks and responsibilities of the ECHA Executive Director as authorising officer

1. Preamble

1.1 The 'Charter of the tasks and responsibilities of the Executive Director as authorising officer' (hereinafter the 'Charter') was drawn up in accordance with the provisions of the Staff Regulations, the Conditions of Employment of Other Servants and the ECHA Financial Regulation. It identifies the tasks entrusted to the Executive Director as authorising officer, their rights and duties and the responsibilities they assume in their role as authorising officer.

1.2 The Charter provides the Executive Director with a framework within which they are empowered to develop reliable and effective management control systems while upholding the principle of zero tolerance of fraud. The general context is one of transparency designed to determine the responsibility of the Executive Director as authorising officer in achieving the objectives set each year.

1.3 The Charter is part of a drive towards transparency and accountability. It is neither an exhaustive nor a restrictive description of the duties of the Executive Director as authorising officer; these are laid down in the ECHA Financial Regulation.

1.4 The Charter aims to ensure that the Executive Director as authorising officer is able to provide a reasonable assurance concerning sound financial management and the legality and regularity of operations for which they are responsible. The results obtained by the Executive Director as authorising officer are evaluated in the light of the risks inherent in the activities and the resources they are provided with to achieve their objectives.

2. Appointment of the Executive Director as authorising officer

2.1 The Executive Director shall be a temporary agent appointed by the Management Board in accordance with Article 84 of Regulation (EC) No 1907/2006 and shall be subject to the Staff Regulations and the CEOS.

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2.2 The Executive Director as authorising officer shall perform operations to implement the budget of the European Chemicals Agency in accordance with the provisions of the ECHA Financial Regulation as well as the Staff Regulations.

2.3 The Executive Director must follow as soon as possible after their appointment the appropriate training course(s) for the tasks and responsibilities they assume as authorising officer. The training requirement may be waived if the Executive Director can demonstrate, by means of qualifications or appropriate professional experience, that they have sufficient knowledge, experience and skills for the tasks and responsibilities they must assume.

3. Termination of duties of the Executive Director as authorising officer

3.1 In the event of a change of Executive Director, the outgoing Executive Director shall draw up for the successor or replacement a declaration setting out the state of ongoing cases. This declaration shall take the format of an interim annual activity report. The incoming Executive Director may include observations on the cases transferred from the previous Executive Director, in the qualifications contained in the declaration relating to the annual activity report.

3.2 Unless specifically amended or revoked by the newly appointed Executive Director, the delegation of powers granted by his/her predecessor shall remain valid.

3.3 The Agency shall inform the European Parliament and the Council within two weeks of the appointment or termination of duties of its Executive Director.

4. Appointment of delegated authorising officers

4.1 The Executive Director has general powers of implementation under Article 83 of Regulation (EC) 1907/2006 as well as Article 39 of the ECHA Financial Regulation. Furthermore, Article 41(1) of the ECHA Financial Regulation sets out that the powers of budget implementation may be delegated to staff of the Agency covered by the Staff Regulations, in accordance with the conditions laid down in the financial rules of the Agency.

4.2 Regularly, but at minimum annually, the Executive Director shall review the designation of the authorising officers by delegation for each budget line and its financial limits.

5. Mission of the Executive Director as Authorising Officer

5.1 The mission of the Executive Director as authorising officer covers the entire management process, which comprises:

- definition, on the basis of the policy decisions and the objectives, of the measures to be applied to achieve the objectives, the outcomes expected from application of these measures and, as far as possible, corresponding measurable indicators;
- implementation of these measures, including programming, planning and monitoring of actions prior to budget implementation and of proper budget implementation;
- evaluation of these measures and reporting thereon.

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5.2 The Executive Director as authorising officer shall put in place and maintain, in accordance with the Integrated Management System Strategy and Integrated Management System Framework adopted by the Management Board and with allowance for the management environment and the nature of the actions and projects financed,

- the organisational structure,
- the management and internal control systems and procedures adapted to the performance of their duties, including ex ante and ex post verifications, in accordance with Article 45(2) of the ECHA Financial Regulation,
- procedures and systems for managing and evaluating risks deriving from the management environment and the nature of the operations; in the case of multi-annual programmes, the Executive Director shall establish a multi-annual control strategy, specifying the nature and extent of controls over the period and the manner in which the results are to be measured year-on-year for the annual assurance process,
- procedures and systems for sound, efficient and effective financial management, with the purpose of achieving a regular, legal and planned implementation of the budget,
- procedures and system for checking whether the objectives set have been achieved (evaluation of the relevance and impact of measures), whether the expected outcomes have been produced (evaluation of the effectiveness of measures), and whether the implementation arrangements were appropriate (evaluation of efficiency).

5.3 The Executive Director as authorising officer shall take the action required for the performance of their tasks. To this end they shall make the necessary legal and budgetary commitments.

The Executive Director as authorising officer shall also put in place procedures and systems for the management, evaluation and reporting on:

- evaluation of risks deriving from the management environment and the nature of the operations;
- avoidance of a surge of budget implementation at the end of the year, to the extent possible, this being incompatible with sound financial management and efficient and effective internal control;
- the obligations concerning publicity and transparency;
- checks whether the objectives set have been achieved (evaluation of the relevance and impact of measures), whether the expected outcomes have been obtained (evaluation of the effectiveness of measures), and whether the implementation methods were appropriate (evaluation of efficiency).

5.4 The Executive Director is responsible for implementing the management and internal control systems which have been or are to be set up in the Agency in accordance with the Integrated Management System Strategy and Integrated Management System Framework adopted by the Management Board. These systems shall be evaluated regularly. The Executive Director has the management and internal control procedures described in a document accessible to all staff in the Agency. The procedures shall be updated regularly.

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5.5 Operations connected with the implementation of the budget shall include:

- establishing budget and legal commitments and handling all the preliminaries for these commitments;
- validating and authorising expenditure;
- preparing estimates of amounts receivable;
- establishing entitlements to be recovered and issuing recovery orders;
- sending debit notes to the Agency's debtors;
- making justified decisions with regard to the waiving of recoveries of income;
- taking individual decisions awarding grants or public procurement contracts.

Where periodic payments are made with regard to services rendered or goods delivered, and subject to their risk analysis, the authorising officer may order the application of a direct debit system from an imprest account.

The budgetary commitment and the corresponding legal commitment shall be signed by the same person (Executive Director or authorising officer by delegation), with the exception of provisional budgetary commitments and certain other cases referred to in Article 111(2) of Regulation (EU, Euratom) 2018/1046 and in the Internal Rules on the implementation of the budget of the Agency.

The Executive Director shall ensure that systems and controls are in place for payment orders to be issued in accordance with the rules, meaning that an appropriate validation decision has been taken in advance in the form of a 'passed for payment' endorsement, the beneficiary's particulars are correct and that the amount is due.

5.6 For the management of assets, the Executive Director shall put in place appropriate management systems for keeping track of them, in agreement with the Accounting Officer, in order to provide the Accounting Officer with all the information required to draw up the Agency's balance sheet. This information shall be certified by the Executive Director in their capacity as authorising officer.

5.7 With a view to using the appropriations, the Executive Director shall distribute the resources between the divisions and departments of the Agency in the most effective manner, if possible by reference to the objectives set with due account for the findings of the analysis of resources judged necessary to implement the measures in question, which was conducted when the Agency set these objectives. Each year they shall conduct a critical analysis of the use made of these resources, using in particular workload indicators and efficiency criteria as far as possible.

5.8 The Executive Director as authorising officer shall provide replies to the observations of the Court of Auditors and the European Commission's Internal Audit Service and to the questions and reports of the European Parliament, in particular to questions on action taken in response to the discharge.

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5.9 The Executive Director shall draft a consolidated annual activity report, which shall include the relevant accounts and the declaration of assurance. This report shall be established in line with Article 48 of the ECHA Financial Regulation and the minimum standard requirements defined in the Commission's Standing Instructions for the preparation of the annual activity reports. It shall include information on the implementation of the Agency's work programme, budget and staff resources referred to in Article 38 of the Agency's Financial Regulation and as such:

- the results of programmes, operations or actions by reference to the objectives set;
- the risks associated with these programmes, operations or actions;
- the use made of the resources provided;
- the efficiency and effectiveness of the internal control system – and any shortcomings which may have material impact on the budget.

It shall also contain:

- remarks on action taken to follow up on the observations made in connection with earlier budget discharges and/or reports by the Court of Auditors or internal auditors;
- remarks on action taken on any reservations contained in earlier declarations, where such qualifications pointed to measures taken or to be taken to remedy malfunctioning;
- an accounting annex based on the model set by the Commission's Accounting Officer and provided as part of the above mentioned minimum standard requirements.

5.10 When sending the consolidated annual activity report to the Management Board, the Executive Director shall sign a declaration, relating to this annual report, drawn up on the basis of the assessment of the functioning of the management and internal control systems conducted within the Agency. The purpose of this declaration shall be to confirm, on the basis of the facts in their possession, that

- the information contained in the report gives a true and fair view, except as otherwise specified in any reservations related to defined areas of revenue and expenditure,
- the resources assigned have been used for their intended purpose and in accordance with the principle of sound financial management,
- the control procedures put in place give the necessary guarantees concerning the legality and regularity of underlying transactions (see model declaration annexed to this Charter).

The declaration may contain reservations designed to highlight issues or weaknesses in the management and control systems associated with the operations and actions managed by the Agency. The reservations may contain observations concerning the management of cases taken over from their predecessor(s). The reservations should not make the declaration meaningless, but may point to malfunctioning in the design or application of management and internal control systems; in this case there should also be an indication of the impact on the declaration as a whole and the remedial measures taken or planned by the Executive Director.

6. Liability of the Executive Director as Authorising Officer

6.1 Liability arising from the Staff Regulations

The liability of the Executive Director as authorising officer shall be governed by the provisions of the Staff Regulations (in particular Articles 11, 11a, 12, 12a, 21, 21a, 22, 22a and 86 and Annex IX) and the corresponding provisions of the CEOS. In accordance with the second paragraph of Article 21 of the Staff Regulations, the responsibility of their subordinates shall in no way release them from their own responsibility. It shall be measured against the risks inherent in their work and the resources allocated to achieve their objectives.

In accordance with Article 22 of the Staff Regulations, the Executive Director may be required to make good, in whole or in part, any damage suffered by the European Union and the Agency as a result of serious misconduct on their part. The obligation to pay compensation shall apply in particular in the cases referred to in Article 56 of the ECHA Financial Regulation.

The Executive Director may be held liable in the event of serious negligence, in particular where the wrongdoing was made possible by inadequacies in the internal control systems devised and put in place under their responsibility.

In cases that do not involve intentional wrongdoing such as fraud, corruption, misappropriation of funds or theft, the Management Board, as appointing authority, shall base its decision to initiate the procedure for finding the Executive Director as authorising officer liable for disciplinary action and payment of compensation on the opinion of the panel referred to in Article 57 of the ECHA Financial Regulation.

6.2 Delegation of powers to authorising officers by delegation does not affect the liability of the Executive Director as authorising officer, who must exercise supervision to ensure the effectiveness and efficiency of the activities delegated and who remain answerable for the powers they have delegated.

7. Fraud, corruption, conflict of interest

7.1 Principles

The provisions of this Charter are without prejudice, in cases of fraud or corruption, to the liability under criminal law of the Executive Director as authorising officer as laid down in the national law applicable and in the provisions in force concerning the protection of the financial interests of the Agency and the fight against corruption involving staff of the Agency.

7.2 Conflicts of interest

A conflict of interest exists where the impartial and objective exercise of the functions of a financial actor or other person, as referred to in paragraph 1, is compromised for reasons involving family, emotional life, political or national affinity, economic interest or any other direct or indirect personal interest.

Any measures of budget implementation which may give rise to a conflict of interest between the Executive Director, or staff for whom they are responsible, and a third party supplying revenue for the budget or receiving expenditure shall be prohibited. If a case of this kind arises, the Executive Director shall refrain from acting and shall refer the matter to the Management Board.

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In accordance with Article 11a of the Staff Regulations, the Executive Director as authorising officer shall not, in the performance of duties, deal with a matter in which, directly or indirectly, they have any personal interest such as to impair their independence, and, in particular, family and financial interests.

8. Disqualification

In the event of failure to comply with the rules contained in this Charter, the Executive Director may at any time be temporarily or definitively suspended from their duties as authorising officer by the Management Board, without prejudice to any disciplinary action.

9. Entry into force

This charter shall enter into force on the day following its adoption.

Helsinki, 15 December 2021

signed

Paul Krajnik
Chair of the Management Board

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Annex: Model declaration of assurance by the Authorising Officer

I, the undersigned,

Name SURNAME

Executive Director of the European Chemicals Agency

In my capacity as Authorising Officer,

Declare that the information contained in this report gives a true and fair view,

State that I have reasonable assurance that the resources assigned to the activities described in this report have been used for their intended purpose and in accordance with the principles of sound financial management, and that the control procedures put in place give the necessary guarantees concerning the legality and regularity of the underlying transactions,

This reasonable assurance is based on my own judgement and on the information at my disposal, such as the results of the self-assessment, ex post controls, the work of the Internal Audit Capability, the recommendations of the Internal Audit Service and the lessons learnt from the reports of the Court of Auditors¹ for years prior to the year of this declaration,

Confirm that I am not aware of anything not reported here which could harm the interests of the Agency.

However, the following reservations should be noted: *[delete if not applicable]*

Done at Helsinki, on dd mm year

signature

Name SURNAME

¹ With regard to the implementation of the European Union legislation and the fee regulations under the Agency's remit, this assurance has to be limited to the field of competences of the Agency. Since ECHA's mandate does not include controls or inspections at national level, it cannot be confirmed that only registered or authorised substances and products, for which a fee has been paid to the Agency, are circulating on the European Union market.