



FINANCIAL RULES
OF THE FUEL CELLS AND HYDROGEN 2 JOINT UNDERTAKING

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CHAPTER 1

SCOPE

Article 1 **Subject Matter**

The Financial Rules of the FCH 2 JU are based on Commission Delegated Regulation (EU) 2019/887 on the model financial regulation for public-private partnerships referred to in Article 71 of Regulation (EU, Euratom) N° 2018/1046.

Article 2 **Definitions**

For the purposes of these Financial Rules, the following definitions shall apply:

- 'Governing Board' means the main internal body of the FCH 2 JU that is responsible for taking decisions on financial and budgetary matters, irrespective of the name given to it in the constituent act of the FCH 2 JU,
- 'Executive Director' means the person responsible for implementing the decisions of the Governing Board and the FCH 2 JU's budget as authorising officer, irrespective of the title given to him in the constituent act of the PPP body,
- 'member' means a member of the FCH 2 JU in accordance with its constituent act,
- 'constituent act' means the instrument of Union law governing the main aspects of the creation and operation of the FCH 2 JU,

Article 2 of Regulation (EU, Euratom) 2018/1046 shall apply *mutatis mutandis*.

Article 3 **Scope of the budget**

For each financial year, the budget of the FCH 2 JU shall forecast and authorize all revenue and expenditure considered necessary for the FCH 2 JU. It shall consist of:

- (a) the revenue of the FCH 2 JU, comprising:
 - (i) its members' financial contribution to the administrative costs;
 - (ii) its members' financial contribution to the operational costs;
 - (iii) revenue assigned to specific items of expenditure;
 - (iv) any revenue generated by the FCH 2 JU;
- (b) the expenditure of the FCH 2 JU, including administrative expenditure.

CHAPTER 2 BUDGETARY PRINCIPLES

Article 4

Respect for budgetary principles

The budget of the FCH 2 JU shall be established and implemented in accordance with the principles of unity, budgetary accuracy, annuality, equilibrium, unit of account, universality, specification, sound financial management and transparency as set out in these Financial Rules.

Article 5

Principles of unity and of budgetary accuracy

1. All revenue and expenditure shall be booked to a line in the budget of the FCH 2 JU.
2. No expenditure may be committed or authorised in excess of the appropriations authorised by the budget of the FCH 2 JU.
3. An appropriation may be entered in the budget of the FCH 2 JU only if it is for an item of expenditure considered necessary.
4. Interests generated by pre-financing payments made from the budget of the FCH 2 JU shall not be due to the FCH 2 JU.

Article 6

Principle of annuality

1. The appropriations entered in the budget of the FCH 2 JU shall be authorised for a financial year which shall run from 1 January to 31 December.
2. Commitment appropriations shall cover the total cost of the legal commitments entered into during the financial year.
3. Payment appropriations shall cover payments made to honour the legal commitments entered into in the financial year or preceding financial years.
4. For administrative appropriations, expenditure shall not exceed the revenue expected for the year as referred in Article 3(a)(i).
5. Given the needs of the FCH 2 JU, the unused appropriations may be entered in the estimate of revenue and expenditure of up to the following three financial years. These appropriations must be used first.
6. Paragraphs 1 to 5 shall not prevent budget commitments for actions extending over more than one financial year being broken down over several years into annual instalments where the constituent act so provides or where they relate to administrative expenditure.

Article 7

Commitment of appropriations

1. The appropriations entered in the budget may be committed with effect from 1 January, once the budget of the FCH 2 JU has been definitively adopted.

2. As of 15 October of the financial year, routine administrative expenditure may be committed in advance against the appropriations provided for the following financial year, provided that such expenditure has been approved in the last budget of the FCH 2 JU duly adopted, and only up to a maximum of one quarter of the total corresponding appropriations decided upon by the Governing Board for the current financial year.

Article 8

Principle of equilibrium

1. Revenue and payment appropriations shall be in balance.
2. Commitment appropriations shall not exceed the relevant annual Union contribution as set out in the annual transfer of funds agreement with the Commission, plus annual contributions from other members than the Union, any other revenue referred to in Article 3 and the amount of the unused appropriations referred to in Article 6(5).
3. The FCH 2 JU shall not raise loans within the framework of the budget of the FCH 2 JU.
4. If the budget result is positive, it shall be entered in the budget of the following financial year as revenue.

If the budget result is negative, it shall be entered in the budget for the following financial year as payment appropriations.

Article 9

Principle of unit of account

The budget of the FCH 2 JU shall be drawn up and implemented in euro and the accounts shall be presented in euro. However, for cash-flow purposes, the accounting officer shall be authorised to carry out operations in other currencies as laid down in the financial rules of the FCH 2 JU.

Article 10

Principle of universality

1. Without prejudice to paragraph 2, total revenue shall cover total payment appropriations. All revenue and expenditure shall be entered in full without any adjustment against each other, subject to any specific provision in the financial rules of the FCH 2 JU on cases where certain deductions may be made from payment requests, which shall then be passed for payment of the net amount.
2. Revenue earmarked for a specific purpose, such as income from foundations, subsidies, gifts and bequests, shall be used to finance specific items of expenditure.
3. The Executive Director may accept any donation made to the FCH 2 JU, such as income from foundations, subsidies, gifts and bequests.

Acceptance of donations which may involve a significant financial charge shall be subject to the prior authorisation of the Governing Board, which shall take a decision within two months of the date on which the request is

submitted to it. If the Governing Board fails to take a decision within that period, the donation shall be deemed to be accepted.

The amount above which the financial charge involved is considered significant shall be set by a decision of the Governing Board.

Article 11

Corporate sponsoring

Article 26 of Regulation (EU, Euratom) No 2018/1046 does not apply to the FCH 2 JU.

Article 12

Principle of specification

1. Appropriations shall be earmarked for specific purposes at least by title and chapter.
2. The Executive Director may transfer appropriations:
 - (a) from one title to another up to a maximum of 10 % of the appropriations for the year shown on the line from which the transfer is made;
 - (b) from one chapter to another and within each chapter without limit.
3. Beyond the limits referred to in paragraph 2, the Executive Director may propose transfers of appropriations from one title to another to the Governing Board. The Governing Board shall have three weeks to oppose the proposed transfers. After that time-limit the proposed transfers shall be deemed to be adopted.
4. The Executive Director shall inform the Governing Board as soon as possible of all transfers carried out under paragraph 2.

Article 13

Principle of sound financial management and performance

1. Appropriations shall be used in accordance with the principle of sound financial management, and thus be implemented respecting the following principles:
 - (a) the principle of economy which requires the resources used by the FCH 2 JU in the pursuit of its activities shall be made available in due time, in appropriate quantity and quality and at the best price.
 - (b) the principle of efficiency which concerns the best relationship between the resources employed, the activities undertaken and the achievement of objectives.
 - (c) the principle of effectiveness which concerns the extent to which the objectives pursued are achieved through the activities undertaken.
2. In line with the principle of sound financial management, the use of appropriations shall focus on performance and for that purpose:
 - (a) objectives for activities shall be established *ex-ante*;
 - (b) progress in the achievement of objectives shall be monitored with performance indicators;

- (c) progress in, and problems with, the achievements of those objectives shall be reported to the European Parliament and the Council in accordance with point (d) of Article 16(2) and with Article 23(2).
3. Specific, measurable, attainable, relevant and time-bound objectives referred to in paragraphs 1 and 2 shall be set for all sectors of activity covered by the budget of the FCH 2 JU and relevant, accepted, credible, easy and robust indicators shall be defined where relevant. Information on the indicators shall be provided annually by the Executive Director to the Governing Board, at the latest when submitting the documents accompanying the draft budget of the FCH 2 JU.
 4. Unless the constituent act provides for evaluations to be conducted by the Commission, the FCH 2 JU, in order to improve decision-making, shall undertake evaluations, including retrospective evaluations, which shall be proportionate to the objectives and expenditure. Evaluation results shall be sent to the Governing Board.
 5. Retrospective evaluations shall assess the performance of the activity, including aspects such as effectiveness, efficiency, coherence, relevance and EU added value. Retrospective evaluations shall be based on the information generated by the monitoring arrangements and indicators established for the action concerned. They shall be undertaken at least once every multiannual financial framework and where possible in sufficient time for the findings to be taken into account in ex-ante evaluations or impact assessments which support the preparation of related programmes and activities.

Article 14

Internal control of budget implementation

1. Pursuant to the principle of sound financial management, the budget of the FCH 2 JU shall be implemented in compliance with effective and efficient internal control.
2. For the purposes of the implementation of the budget of the FCH 2 JU, internal control shall be applied at all levels of management and shall be designed to provide reasonable assurance of achieving the following objectives:
 - (a) effectiveness, efficiency and economy of operations;
 - (b) reliability of reporting;
 - (c) safeguarding of assets and information;
 - (d) prevention, detection, correction and follow-up of fraud and irregularities;
 - (e) adequate management of the risks relating to the legality and regularity of the underlying transactions, taking into account the multi-annual character of programmes as well as the nature of the payments concerned.
3. Effective and efficient internal control shall be based on best international practices and on the Internal Control Framework laid down by the Commission for its own departments, and shall include, in particular, the

elements laid down in Article 36(3) and (4) of Regulation (EU, Euratom) No 2018/1046.

Article 15

Principle of transparency

1. The budget of the FCH 2 JU shall be established and implemented and the accounts presented in accordance with the principle of transparency.
2. The budget of the FCH 2 JU including the establishment plan and any amending budgets, as adopted, including any adaptations as provided in Article 17(1), shall be published on the internet site of the FCH 2 JU within four weeks of their adoption and shall be transmitted to the Commission and the Court of Auditors.
3. The FCH 2 JU shall make available on its website no later than 30 June of the following financial year in which the funds were legally committed, information on the recipients of funds financed from the budget of the FCH 2 JU, including the experts contracted pursuant to Article 44 of these Financial Rules, in accordance with Article 38 of Regulation (EU, Euratom) 2018/1046, and following a standard presentation, subject to any specific procedure laid down in the basic act of the programme the implementation of which is entrusted to the FCH 2 JU.

The published information shall be easily accessible, transparent and comprehensive. The information shall be made available with due observance of the requirements of confidentiality and security, in particular the protection of personal data laid down in Regulation (EU) 2018/1725 of the European Parliament and of the Council¹.

CHAPTER 3 FINANCIAL PLANNING

Article 16

Estimate of revenue and expenditure

1. The FCH 2 JU shall send to the Commission and to the other members no later than 31 January of the year preceding that in which the budget of the FCH 2 JU is to be implemented an estimate of its revenue and expenditure and the general guidelines underlying that estimate, together with a draft of the annual work programme² referred to in Article 33(4). It shall be adopted by the Governing Board in accordance with the procedure provided for in the constituent act of the FCH 2 JU.
2. The estimate of revenue and expenditure of the FCH 2 JU shall include:

¹ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

² “Annual work programme” is referred to as “annual work plan” in the FCH 2 JU constituent act

- (a) an estimate of the number of permanent and temporary posts, by function group and by grade, as well as of the contract staff and seconded national experts expressed in full-time equivalents, within the limits of the budget appropriations;
- (b) where there is a change in the number of persons in post, a statement justifying the request for new posts;
- (c) a quarterly estimate of cash payments and receipts;
- (d) information on the progress in the achievement of all the objectives being pursued;
- (e) the targets set for the financial year to which the estimate relates, indicating any specific budgetary needs dedicated to achieving these targets;
- (f) the administrative costs and the implemented budget of the FCH 2 JU in the preceding financial year;
- (g) the amount of financial contributions made in year N-1 by the members and the value of contributions in kind made by the members, other than the Union;
- (h) information on the unused appropriations that are entered in the estimate of revenue and expenditure per year in accordance with Article 6(5).

Article 17

Establishment of the budget

1. The budget of the FCH 2 JU and the staff establishment plan, including the number of permanent and temporary posts by function group and by grade and complemented with the number of contract staff and of seconded national experts expressed in full-time equivalents, shall be adopted by the Governing Board in accordance with the constituent act of the FCH 2 JU. Detailed provisions may be laid down in the financial rules of the FCH 2 JU. Any amendment to the budget of the FCH 2 JU, including the establishment plan, shall be the subject of an amending budget of the FCH 2 JU adopted by the same procedure as the initial budget of the FCH 2 JU. The budget of the FCH 2 JU and, where appropriate, the amending budgets of the FCH 2 JU shall be adapted in order to take into account the amount of the Union contribution as laid down in the budget of the Union. The annual budget for a particular year shall be adopted by the end of the previous year.
2. The budget of the FCH 2 JU shall consist of a statement of revenue and a statement of expenditure.
3. The budget of the FCH 2 JU shall show:
 - a) in the statement of revenue:
 - (i) the estimated revenue of the FCH 2 JU for the financial year concerned ('year N');
 - (ii) the estimated revenue for year N-1 and the revenue for year N-2;
 - (iii) appropriate remarks on each revenue line;

- (b) in the statement of expenditure:
- (i) the commitment and payment appropriations for year N;
 - (ii) the commitment and payment appropriations for the preceding financial year and the expenditure committed and the expenditure paid in year N-2, the latter also expressed as a percentage of the budget of the FCH 2 JU of year N;
 - (iii) a summary statement of the schedule of payments due in subsequent financial years to meet budget commitments entered into in earlier financial years;
 - (iv) appropriate remarks on each subdivision.
4. The establishment plan shall show next to the number of posts authorised for the financial year, the number authorised for the preceding year and the number of posts actually filled. The same information shall be shown for temporary posts, as well as for contract staff and seconded national experts.

CHAPTER 4 FINANCIAL ACTORS

Article 18 **Segregation of duties**

The duties of authorising officer and accounting officer shall be segregated and mutually exclusive.

FCH 2 JU shall provide each financial actor with the resources required to perform his or her duties and a charter describing in detail his or her tasks, rights and obligations.

Article 19 **Budget implementation in accordance with the principle of sound financial management**

1. The Executive Director shall perform the duties of authorising officer. The Executive Director shall implement the revenue and expenditure of the budget of the FCH 2 JU in accordance with the financial rules of the FCH 2 JU and the principle of sound financial management, including through ensuring reporting on performance, under his or her own responsibility and within the limits of the appropriations authorised. The Executive Director shall be responsible for ensuring compliance with the requirements of legality, regularity and equal treatment of recipients of Union funds.

Without prejudice to the responsibilities of the authorising officer as regards prevention and detection of fraud and irregularities, the FCH 2 JU shall participate in fraud prevention activities of the European Anti-Fraud Office (OLAF).

2. The Executive Director may delegate the powers of budget implementation to staff of the FCH 2 JU covered by the Staff Regulations of Officials of the European Union and the Conditions of Employment of Other Servants of the

Union, laid down in Council Regulation (EEC, Euratom, ECSC) No 259/68 ⁽³⁾ ('Staff Regulations'), where those apply to the staff of the FCH 2 JU, in accordance with the conditions laid down in the financial rules of the FCH 2 JU. Those so empowered may act only within the limits of the powers expressly conferred upon them.

Article 20

Powers and duties of the authorising officer

1. The budget of the FCH 2 JU shall be implemented by the Executive Director in the departments placed under his or her authority.
2. In order to facilitate the implementation of their tasks, FCH 2 JU may conclude service-level agreements as referred to in Article 59 of Regulation (EU, Euratom) 2018/1046.
3. Technical expertise tasks and administrative, preparatory or ancillary tasks not involving the exercise of public authority or the use of discretionary powers of judgement may be entrusted by contract to external private-sector entities, where this proves to be indispensable.
4. The Executive Director shall put in place the organisational structure and the internal control systems suited to the performance of duties of the Executive Director, in accordance with the minimum standards or principles adopted by the Governing Board, on the basis of the Internal Control Framework laid down by the Commission for its own departments and having due regard to the risks associated with the management environment and the nature of the actions financed. The establishment of such structure and systems shall be supported by a risk analysis which takes into account their cost-effectiveness and performance considerations.

The Executive Director may establish within his or her departments an expertise and advice function designed to help him or her control the risks involved in his or her activities.

5. The Executive Director shall set up paper-based or electronic systems for the keeping of original supporting documents relating to budget implementation. Such documents shall be kept for at least five years from the date of the decision on which the European Parliament grants discharge for the financial year to which the documents relate. Personal data contained in the supporting documents shall where possible be deleted when those data are not necessary for control and audit purposes. Article 88 of Regulation (EU) 2018/1725 shall apply to the conservation of data.

Article 21

Ex ante controls

1. In order to prevent errors and irregularities before the authorisation of operations and to mitigate risks of non-achievement of objectives, each operation shall be subject at least to an ex-ante control relating to the

³ Regulation (EEC, Euratom, ECSC) No 259/68 of the Council of 29 February 1968 laying down the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Communities and instituting special measures temporarily applicable to officials of the Commission (OJ L 56, 4.3.1968, p. 1)

operational and financial aspects of the operation, on the basis of a multiannual control strategy which takes risk into account.

The extent in terms of frequency and intensity of the *ex-ante* controls shall be determined by the authorising officer responsible taking into account the results of prior controls as well as risk-based and cost-effectiveness considerations, on the basis of his/her own risk analysis, In case of doubt, the authorising officer responsible for validating the relevant operations shall, as part of the *ex-ante* control, request complementary information or perform an on-the-spot control in order to obtain reasonable assurance.

For a given operation, the verification shall be carried out by staff other than those who initiated the operation. The staff who carry out the verification shall not be subordinate to the members of staff who initiated the operation.

2. *Ex ante* controls shall comprise the initiation and the verification of an operation.

Initiation and verification of an operation shall be separate functions.

3. Initiation of an operation shall be understood as all the operations which are preparatory to the adoption of the acts implementing the budget of the FCH 2 JU by the authorising officer responsible.
4. *Ex ante* controls shall verify the coherence among supporting documents requested and any other information available.

The purpose of the *ex ante* controls shall be to ascertain that:

- (a) the expenditure is in order and complies with the provisions applicable;
- (b) the principle of sound financial management set out in Article 13 has been applied.

For the purpose of controls, a series of similar individual transactions relating to routine expenditure on salaries, pensions, reimbursement of mission expenses and medical expenses may be considered by the authorising officer responsible to constitute a single operation.

Article 22 ***Ex post* controls**

1. The authorising officer may put in place *ex post* controls to detect and correct errors and irregularities or operations after they have been authorised. Such controls may be organised on a sample basis according to risk and shall take account of the results of prior controls as well as cost-effectiveness and performance considerations.

The *ex post* controls may be carried out on the basis of documents and, where appropriate, on the spot.

2. The *ex post* controls shall be carried out by staff other than that responsible for the *ex ante* controls. The staff responsible for the *ex post* controls shall not be subordinate to the members of the staff responsible for the *ex ante* controls.

Authorising officers responsible and staff responsible for budget implementation shall have the necessary professional skills.

Article 23
Consolidated Annual Activity report

1. The authorising officer shall report annually to the Governing Board on the performance of his or her duties for year N-1 in the form of a consolidated annual activity report containing:
 - (a) information on:
 - (i) the achievement of the objectives and results set in the annual work programme⁴ referred to in Article 33 through the reporting on performance indicators;
 - (ii) the implementation of the FCH 2 JU annual work programme, budget and staff resources;
 - (iii) organisational management and the efficiency and effectiveness of the internal control systems including the implementation of FCH 2 JU anti-fraud strategy, the summary of number and type of internal audits carried out by the internal auditor, the internal audit capabilities, the recommendations made and the action taken on those recommendations and on the recommendations of previous years, as referred to in Articles 28 and 30;
 - (iv) any observations of the Court of Auditors and the actions taken on those observations;
 - (v) the service-level agreements concluded in accordance with Article 20(2).
 - (b) a declaration of the authorising officer stating whether he or she has a reasonable assurance that unless otherwise specified in any reservations related to defined areas of revenue and expenditure:
 - (i) the information contained in the report presents a true and fair view;
 - (ii) the resources assigned to the activities described in the report have been used for their intended purpose and in accordance with the principle of sound financial management;
 - (iii) the control procedures put in place give the necessary guarantees concerning the legality and regularity of the underlying transactions.
2. The consolidated annual activity report shall indicate the results of the operations by reference to the objectives set and performance considerations, the risks associated with the operations, the use made of the resources provided and the efficiency and effectiveness of the internal control systems, including an overall assessment of the costs and benefits of controls.

The consolidated annual report shall be submitted to the Governing Board for assessment.

⁴ “Annual work programme” is referred to as “annual work plan” in the FCH 2 JU constituent act

3. No later than 1 July each year, the Governing Board shall send the consolidated annual activity report together with its assessment of it to the Court of Auditors, the Commission, the European Parliament and the Council.
4. Additional reporting requirements may be laid down in the constituent act in duly justified cases, in particular when it is required by the nature of the field in which the FCH 2 JU operates.
5. Once assessed by the Governing Board, the annual activity report shall be published on the website of the FCH 2 JU.

Article 24

Protection of the financial interests of the Union

1. If a member of staff involved in the financial management and control of transactions considers that a decision he or she is required by his or her superior to apply or to agree to is irregular or contrary to the principles of sound financial management or the professional rules which that member of staff is required to observe, he or she shall inform the Executive Director who shall, if the information is given in writing, reply in writing. If the Executive Director fails to take action within a reasonable time given the circumstances of the case and in any event within a month or if he or she confirms the initial decision or instruction and the member of staff believes that such confirmation does not constitute a reasonable response to his or her concern, the member of staff shall inform the relevant panel referred to in Article 143 of Regulation (EU, Euratom) 2018/1046 and the Governing Board in writing.
2. In the event of any illegal activity, fraud or corruption which may harm the interests of the Union, of the FCH 2 JU or of its members, a member of staff or other servant, including national experts seconded to the FCH 2 JU, shall inform their immediate superior, the Executive Director or the Governing Board of the FCH 2 JU or, as far as the interests of the Union or of the FCH 2 JU are concerned, the OLAF or the European Public Prosecutor's Office (EPPO) directly. Contracts with external auditors carrying out audits of the financial management of the FCH 2 JU shall provide for an obligation of the external auditor to inform the Executive Director or, if the latter may be involved, the Governing Board of any suspected illegal activity, fraud or corruption which may harm the interests of the Union, of the FCH 2 JU or of its members.

Article 25

Accounting officer

1. The Governing Board shall appoint an accounting officer covered by the Staff Regulations, where those apply to the staff of the FCH 2 JU, who shall be totally independent in the performance of his or her duties. The accounting officer shall be responsible in the FCH 2 JU for:
 - (a) properly implementing payments, collecting revenue and recovering amounts established as being receivable;

- (b) keeping, preparing and presenting the accounts in accordance with Chapter 8 of these Financial Rules;
- (c) implementing, in accordance with Chapter 8 of these Financial Rules, the accounting rules and the chart of accounts;
- (d) laying down and validating the accounting systems and, where appropriate, validating systems laid down by the authorising officer to supply or justify accounting information;
- (e) treasury management.

With respect to the tasks referred to in point (d) of the first subparagraph, the accounting officer shall be empowered to verify at any time compliance with the validation criteria.

2. The FCH 2 JU together with one or more PPP bodies may appoint the same accounting officer.

FCH 2 JU may also agree with the Commission that the accounting officer of the Commission shall also act as accounting officer of the FCH 2 JU.

They may also entrust the accounting officer of the Commission with part of the tasks of the accounting officer of the FCH 2 JU taking into account cost-benefit considerations.

In the cases referred to in this paragraph, they shall make necessary arrangements in order to avoid any conflict of interests.

3. The accounting officer shall obtain from the authorising officer all the information necessary for the production of accounts which give a true and fair view of the FCH 2 JU financial situation and of budgetary implementation. The authorising officer shall guarantee the reliability of that information.
4. Before the adoption of the accounts by the Executive Director, the accounting officer shall sign them off, thereby certifying that he or she has a reasonable assurance that the accounts present a true and fair view of the financial situation of the FCH 2 JU.

For the purpose of the first subparagraph, the accounting officer shall verify that the accounts have been prepared in accordance with the accounting rules referred to in Article 47 and that all revenue and expenditure is entered in the accounts.

The accounting officer shall be empowered to check the information received as well as to carry out any further checks he or she deems necessary in order to sign off the accounts.

The accounting officer shall make reservations, if necessary, explaining exactly the nature and scope of such reservations.

Subject to paragraph 5, only the accounting officer shall be empowered to manage cash and cash equivalents. The accounting officer shall be responsible for their safekeeping.

5. The accounting officer may, in the performance of his or her duties, delegate certain tasks to staff members subject to the Staff Regulations, where those apply to the staff of the FCH 2 JU, where this is indispensable for the

performance of his or her duties in accordance with the financial rules of the FCH 2 JU.

6. Without prejudice to any disciplinary action, the accounting officer may at any time be suspended temporarily or definitively from his or her duties by the Governing Board. In such a case, the Governing Board shall appoint an interim accounting officer.

Article 26

Liability of the financial actors

1. Articles 18 to 27 are without prejudice to any liability under criminal law which the financial actors may incur as provided for in the applicable national law and in the provisions in force concerning the protection of the Union's financial interests and the fight against corruption involving Union officials or officials of Member States.
2. Each authorising officer and accounting officer shall be liable to disciplinary action and payment of compensation as laid down in the Staff Regulations. In the event of illegal activity, fraud or corruption which may harm the interests of the FCH 2 JU or of its members, the matter shall be submitted to the authorities and bodies designated by the applicable legislation, in particular to the OLAF.
3. Any member of the staff may be required to compensate, in whole or in part, any damage suffered by the FCH 2 JU as a result of a serious misconduct on his or her part in the course of or in connection with the performance of his or her duties. The appointing authority shall take a reasoned decision after completing the formalities laid down by the applicable legislation with regard to disciplinary matters.

Article 27

Conflict of interests

1. Financial actors within the meaning of this Chapter and other persons, including the members of the Governing Board, involved in budget implementation and management, including acts preparatory thereto, audit or control, shall not take any action which may bring their own interests into conflict with those of the FCH 2 JU. They shall also take appropriate measures to prevent a conflict of interests from arising in the functions under their responsibility and to address situations which may objectively be perceived as a conflict of interests, taking into account the specific nature of the FCH 2 JU as set out in its constituent act.

Where there is a risk of a conflict of interests, the person in question shall refer the matter to the competent authority. The competent authority shall confirm in writing whether a conflict of interests is found to exist. In that case, the competent authority shall ensure that the person concerned ceases all activities in the matter. The competent authority shall take any further appropriate action.

2. For the purposes of paragraph 1, a conflict of interests 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

3. The competent authority referred to in paragraph 1 shall be the Executive Director. If the member of staff is the Executive Director, the competent authority shall be the Governing Board. In case of a conflict of interest involving a member of the Governing Board, the competent authority shall be the Governing Board, exclusive of the member concerned.
4. The FCH 2 JU shall adopt rules on the prevention and management of conflicts of interests and shall publish annually on its website the declaration of interests of the Governing Board members.

CHAPTER 5 INTERNAL AUDIT

Article 28

Appointment, powers and duties of the internal auditor

1. The FCH 2 JU shall have an internal audit function which shall be performed in compliance with the relevant international standards.
2. The internal audit function shall be performed by the Commission's internal auditor. The internal auditor may be neither authorising officer nor accounting officer.
3. The internal auditor shall advise the FCH 2 JU on dealing with risks, by issuing independent opinions on the quality of management and control systems and by issuing recommendations for improving the conditions of implementation of operations and promoting sound financial management.

The internal auditor shall be responsible in particular for:

- (a) assessing the suitability and effectiveness of internal management systems and the performance of departments in implementing programmes and actions by reference to the risks associated with them;
 - (b) assessing the efficiency and effectiveness of the internal control and audit systems applicable to each budget implementation operation.
4. The internal auditor shall perform his or her duties in relation to all the FCH 2 JU activities and departments. The internal auditor shall enjoy full and unlimited access to all information required to perform his or her duties, if necessary on the spot access, including in the Member States and in third countries.
 5. The internal auditor shall take note of the consolidated annual activity report of the authorising officer referred to in Article 23 and of any other pieces of information identified.
 6. The internal auditor shall report to the Governing Board and the Executive Director on his or her findings and recommendations. The FCH 2 JU shall ensure that action is taken with regard to recommendations resulting from audits.
 7. The internal auditor shall also report in any of the following cases:

- (a) critical risks and recommendations have not been addressed,
- (b) there are significant delays in the implementation of the recommendations made in the previous years.

The Governing Board and the Executive Director shall ensure the regular monitoring of the implementation of audit recommendations. The Governing Board shall examine the information referred to in Article 23 and whether the recommendations have been fully and timely implemented.

FCH 2 JU shall consider whether the recommendations made in the reports of its internal auditor are suitable for an exchange of best practices with other PPP bodies.

- 8. The FCH 2 JU shall make available the contact details of the internal auditor to any natural or legal person involved in expenditure operations, for the purposes of confidentially contacting the internal auditor.
- 9. The reports and findings of the internal auditor shall be accessible to the public only after validation by the internal auditor of the action taken for their implementation.

Article 29

Independence of the internal auditor

- 1. The internal auditor shall enjoy complete independence in the conduct of his or her audits. Special rules applicable to the internal auditor shall be laid down by the Commission and shall be such as to guarantee that the internal auditor is completely independent in the performance of his or her duties, and to establish the internal auditor's responsibility.
- 2. The internal auditor may not be given any instructions nor be restricted in any way as regards the performance of the functions which, by virtue of his or her appointment, are assigned to him or her under the Financial Regulation.

Article 30

Establishment of an internal audit capability

- 1. The Governing Board may establish with due regard to cost effectiveness and added value, an internal audit capability which shall perform its duties in compliance with the relevant international standards.

The purpose, authority and responsibility of the internal audit capability shall be provided for in the internal audit charter and shall be subject to the approval of the Governing Board.

The annual audit plan of an internal audit capability shall be drawn up by the Head of internal audit capability taking into consideration, inter alia, the Executive Director's assessment of risk in the FCH 2 JU.

The annual audit plan shall be reviewed and approved by the Governing Board.

The internal audit capability shall report to the Governing Board and the Executive Director on his or her findings and recommendations.

If the internal audit capability of FCH 2 JU is not cost- effective or is not able to meet international standards, the FCH 2 JU may decide to share an internal audit capability with other PPP bodies functioning in the same policy area.

In such cases the Governing Board of the both FCH 2 JU and the other concerned PPP bodies shall agree on the practical modalities of the shared internal audit capabilities.

The internal audit actors shall cooperate efficiently through exchanging information and audit reports and, when appropriate, establishing joint risk assessments and carrying out joint audits.

2. The Governing Board and the Executive Director shall ensure the regular monitoring of the implementation of the internal audit capability's recommendation.

CHAPTER 6 REVENUE AND EXPENDITURE OPERATIONS

Article 31

Implementation of revenue

1. Implementation of revenue shall comprise drawing up estimates of amounts receivable, establishing entitlements to be recovered and recovering undue amounts. It shall also include the possibility of waiving established entitlements, where appropriate.
2. Amounts wrongly paid shall be recovered.

If actual recovery has not taken place by the due date stipulated in the debit note, the accounting officer shall inform the authorising officer responsible and immediately launch the procedure for effecting recovery by any means offered by the law, including, where appropriate, by offsetting and, if this is not possible, by enforced recovery.

Where the authorising officer responsible plans to waive or partially waive recovery of an established amount receivable, he or she shall ensure that the waiver is in order and is in accordance with the principles of sound financial management and proportionality. The waiver decision shall be substantiated. The waiver decision shall state that action has been taken to secure recovery and the points of law and fact on which it is based.

The accounting officer shall keep a list of amounts due to be recovered. The FCH 2 JU entitlements shall be grouped in the list according to the date of issue of the recovery order. The accounting officer shall also indicate decisions to waive or partially waive recovery of established amounts. The list shall be added to the FCH 2 JU report on budgetary and financial management referred to in Article 53.

3. Any debt not repaid on the due date laid down in the debit note shall bear interest in accordance with Article 99 of Regulation (EU, Euratom) 2018/1046.
4. Entitlements of the FCH 2 JU in respect of third parties and entitlements of third parties in respect of the PPP body shall be subject to a limitation period of five years.

Article 32
Members' contribution

1. The FCH 2 JU shall present to its members requests for payment of all or part of their contribution under terms and at intervals set out in the constituent act or agreed with them.
2. The funds paid to the FCH 2 JU by its members by way of a contribution shall bear interest for the benefit of the budget of the FCH 2 JU.
3. Members shall bear the costs of their contribution to the administrative costs of the FCH 2 JU. Beneficiaries of funding provided by the FCH 2 JU, who are not member or constituent entities of the members of the FCH 2 JU, shall not contribute to such costs directly or indirectly and in any form. In particular, such beneficiaries shall not be invited or requested to contribute to the administrative costs of the FCH 2 JU when participating to projects co-financed by the FCH 2 JU.

Article 33
Implementation of expenditure

1. To implement expenditure, the authorising officer shall make budgetary commitments and legal commitments, shall validate expenditure and authorise payments and shall undertake the preliminary steps for the implementation of appropriations.
2. Every item of expenditure shall be committed, validated, authorised and paid.

Validation of expenditure is the act whereby the authorising officer responsible confirms a financial operation.

Authorisation of expenditure is the act by which the authorising officer responsible, having verified that the appropriations are available, instructs the accounting officer to pay the validated expenditure.

3. In respect of any measure which may give rise to expenditure chargeable to the budget of the FCH 2 JU, the authorising officer responsible shall make a budgetary commitment before entering into a legal commitment with third parties.
4. The annual work programme⁵ of the FCH 2 JU shall provide the authorisation by the Governing Board for the operational expenditure of the FCH 2 JU on the activities it covers, provided that the elements set out in this paragraph are clearly identified.

⁵ "Annual work programme" is referred to as "annual work plan" in the FCH 2 JU constituent act

The annual work programme⁶ shall comprise detailed objectives and expected results including performance indicators. It shall contain the following:

- (a) a description of the activities to be financed;
- (b) an indication of the amount allocated to each activities;
- (c) information on the overall strategy for the implementation of the programme entrusted to the FCH 2 JU;
- (d) a strategy for achieving efficiency gains and synergies;
- (e) a strategy for the organisational management and internal control systems including their anti-fraud strategy as last updated and an indication of measures to prevent recurrence of cases of conflict of interest, irregularities and fraud, in particular where weaknesses have led to critical recommendations reported under Article 23 or 28(6).

The FCH 2 JU shall adopt its annual work programme⁷ for a particular year by the end of the previous year. The annual work programme⁸ shall be published on the website of the FCH 2 JU.

Any substantial amendment to the annual work programme⁹ shall be adopted by the same procedure as the initial work programme, in accordance with the provisions of the constituent act.

The Governing Board may delegate the power to make non-substantial amendments to the work programme to the authorising officer of the FCH 2 JU.

Article 34 **Time limits**

The payment of expenditure must be carried out within the time limits specified in and in accordance with Article 116 of Regulation (EU, Euratom) 2018/1046.

⁶ “Annual work programme” is referred to as “annual work plan” in the FCH 2 JU constituent act

⁷ “Annual work programme” is referred to as “annual work plan” in the FCH 2 JU constituent act

⁸ “Annual work programme” is referred to as “annual work plan” in the FCH 2 JU constituent act

⁹ “Annual work programme” is referred to as “annual work plan” in the FCH 2 JU constituent act

CHAPTER 7 IMPLEMENTATION OF THE BUDGET OF THE FCH 2 JU

Article 35

Forms of the FCH 2 JU contributions

1. The FCH 2 JU contributions shall help achieve a Union policy objective and results specified and may take any of the following forms:
 - (a) financing not linked to costs of the relevant operations based on:
 - (i) the fulfilment of conditions set out in sector specific legislation or Commission Decisions or;
 - (ii) the achievement of results measures by reference to the previously set milestones or through performance indicators.
 - (b) Reimbursement of eligible costs actually incurred;
 - (c) unit costs, which cover all or certain specific categories of eligible costs which are clearly identified in advance by reference to an amount per unit;
 - (d) lump sums, which cover in global terms all or certain specific categories of eligible costs which are clearly identified in advance;
 - (e) flat-rate financing, which covers specific categories of eligible costs, which are clearly identified in advance, by applying a percentage;
 - (f) a combination of the forms referred to in points (a) to (e).

The FCH 2 JU contributions under point (a) of the first subparagraph shall be established in accordance with Article 181 of Regulation (EU, Euratom) 2018/1046, sector specific rules or a Commission decision. The FCH 2 JU contributions under points (c), (d) and (e) of the first subparagraph shall be established in accordance with Article 181 of Regulation (EU, Euratom) 2018/1046 or sector specific rules.
2. When determining the appropriate form of a contribution, the potential recipients' interests and accounting methods shall be taken into account to the greatest extent possible.
3. The authorising officer responsible shall report on financing not linked to costs pursuant to points (a) and (f) of the first subparagraph of paragraph 1 in the consolidated annual activity report referred to in Article 23.

Article 36

Cross-reliance on assessments

Article 126 of Regulation (EU, Euratom) 2018/1046 shall apply *mutatis mutandis*.

Article 37

Cross-reliance on audits

Article 127 of Regulation (EU, Euratom) 2018/1046 shall apply.

Article 38

Use of already available information

Article 128 of Regulation (EU, Euratom) 2018/1046 shall apply.

Article 39

Cooperation for protection of the financial interests of the Union

Article 129 of Regulation (EU, Euratom) 2018/1046 shall apply *mutatis mutandis*.

Article 40

Information to the Commission on cases of fraud and other financial irregularities

1. Without prejudice to its obligations pursuant to Article 8(1) of Regulation (EU, Euratom) No 883/2013 and Article 24(1) of Council Regulation (EU) 2017/1939, the FCH 2 JU shall inform the Commission without delay on cases of presumed fraud and other financial irregularities.

Moreover, it shall inform the Commission of any ongoing or completed investigations by the EPPO, the OLAF, and of any audits or controls by the Court of Auditors or the Internal Audit Service (IAS) without endangering the confidentiality of the investigations.

2. Where the Commission's responsibility to implement the Union's budget may be affected or in cases involving a potentially serious reputational risk for the Union, the EPPO and/or OLAF shall inform the Commission without delay of any ongoing or completed investigation, without endangering its confidentiality and effectiveness.

Article 41

Early-detection and exclusion system

Article 93 and Section 2 of Chapter 2 of Title V of Regulation (EU, Euratom) 2018/1046 shall apply.

Article 42

Rules on procedures, management and e-government

Section 1 and section 3 of Chapter 2 and Chapter 3 of Title V of Regulation (EU, Euratom) 2018/1046 shall apply *mutatis mutandis*.

Article 43

Procurement

1. As regards procurement, Title VII of Regulation (EU, Euratom) 2018/1046 shall apply subject to paragraphs 2 to 5 of this Article and any specific provisions of the constituent act or the basic act of the programme the implementation of which is entrusted to the FCH 2 JU.
2. For contracts with a value between EUR 60 000 and the thresholds laid down in Article 175 of Regulation (EU, Euratom) 2018/1046 the procedure set out

in Section 2 of Chapter 1 Annex I of Regulation (EU, Euratom) 2018/1046 for contracts with a low value not exceeding EUR 60 000 may be used.

3. The FCH 2 JU may be associated, at its request, as contracting authority, in the award of Commission or inter institutional contracts and with the award of contracts of other Union or PPP bodies.
4. The FCH 2 JU may conclude service-level agreements as referred to in paragraph 2 of Article 20, without having recourse to a public procurement procedure.

The FCH 2 JU may conclude a contract, without having recourse to a public procurement procedure, with its members other than the Union for the supply of goods, provision of services or performance of work that those members directly provide without having recourse to third parties.

The goods, services or work provided under the first and second subparagraph shall not be considered part of the contribution of the members to the budget of the FCH 2 JU.

5. The FCH 2 JU may use joint procurement procedures with contracting authorities of the host Member State to cover its administrative needs or with contracting authorities of Member States, the European Free Trade Association States or Union candidate countries which participate in it as members. In such cases, Article 165 of Regulation (EU, Euratom) 2018/1046 shall apply *mutatis mutandis*.

The FCH 2 JU may use joint procurement procedures with its private members or with contracting authorities of countries participating in Union programmes which participate in it as members. In such cases, Article 165 of Regulation (EU, Euratom) 2018/1046 shall apply *mutatis mutandis*.

Article 44 **Experts**

1. Article 237 of Regulation (EU, Euratom) 2018/1046 shall apply *mutatis mutandis* for the selection of experts subject to any specific procedure laid down in the basic act of the programme the implementation of which is entrusted to the FCH 2 JU.

The FCH 2 JU may use the lists drawn up by the Commission or by other Union or PPP bodies.

The FCH 2 JU may, if deemed appropriate and in duly justified cases, select any individual with the appropriate skills from outside the lists.

2. Article 238 of Regulation (EU, Euratom) 2018/1046 shall apply *mutatis mutandis* to non-remunerated experts.

Article 45 **Grants**

1. As regards grants, Title VIII of Regulation (EU, Euratom) 2018/1046 shall apply subject to any specific provisions of the constituent act or of the basic act of the programme the implementation of which is entrusted to the FCH 2 JU.

2. The FCH 2 JU shall use the relevant lump sums, unit costs or flat rate financing authorised in accordance with Article 181(3) of Regulation (EU, Euratom) 2018/1046 by a decision of the Commission authorising officer responsible for the programme the implementation of which is entrusted to the FCH 2 JU. In the absence of such decision, the FCH 2 JU may submit a proposal for adoption to the Commission authorising officer responsible accompanied with a detailed justification to substantiate its proposal. The proposed decision shall comply with Article 181(3) of Regulation (EU, Euratom) 2018/1046. The Commission will notify the FCH 2 JU of its decision to adopt or reject its proposal and the reasons thereof. The Commission authorising officer responsible may adopt the proposed decision with modifications to ensure compliance with Article 181(3) of Regulation (EU, Euratom) 2018/1046.

Article 46 **Prizes**

1. As regards prizes, the provisions of Title IX of Regulation (EU, Euratom) 2018/1046 shall apply subject to paragraph 2 of this Article and to any specific provisions of the constituent act or of the basic act of the programme the implementation of which is entrusted to the FCH 2 JU.
2. Contests for prizes with a unit value of EUR 1 000 000 or more may only be published if they are mentioned in the annual work programme¹⁰ referred to in Article 33(4) and after information on such prizes has been submitted to the Commission, which shall proceed to the information of the European Parliament and Council in accordance with Article 206(2) of Regulation (EU, Euratom) 2018/1046.

CHAPTER 8 **ACCOUNTING FRAMEWORK**

Article 47 **Accounting rules**

The FCH 2 JU shall set up an accounting system providing accurate, complete and reliable information in a timely manner.

The accounting officer of the FCH 2 JU shall apply the rules adopted by the accounting officer of the Commission based on internationally accepted accounting standards for the public sector.

For the purposes of the first paragraph of this Article, Articles 80 to 84 and 87 of Regulation 1046/2018 shall apply. Articles 85 and 86 of Regulation 1046/2018 shall apply *mutatis mutandis*.

¹⁰ “Annual work programme” is referred to as “annual work plan” in the FCH 2 JU constituent act

Article 48
Structure of the accounts

The annual accounts of the FCH 2 JU shall be prepared for each financial year which shall run from 1 January to 31 December. Those accounts shall be comprised of:

- (a) the financial statements of the FCH 2 JU;
- (b) the budget implementation reports of the budget of the FCH 2 JU.

Article 49
Supporting documents

Each entry into the accounts shall be based on appropriate supporting documents in accordance with Article 20(5) of these Financial Rules.

Article 50
Financial statements

1. The financial statements shall be presented in euro in accordance with the accounting rules referred to in Article 47 of these Financial Rules and shall comprise:
 - (a) the balance sheet which represent all assets and liabilities and the financial situation prevailing on 31 December of the preceding financial year;
 - (b) the statement of financial performance, which presents the economic result for the preceding financial year;
 - (c) the cash-flow statement showing amounts collected and disbursed during the financial year and the final treasury position;
 - (d) the statement of changes in net assets presenting an overview of the movements during the year in reserves and accumulated results.
2. The financial statements shall present information, including information on accounting policies, in a manner that ensures it is relevant, reliable, comparable and understandable.
3. The notes to the financial statements shall supplement and comment on the information presented in the statements referred to in paragraph 1 and shall supply all the additional information prescribed by the accounting rules referred to in Article 47 of these Financial Rules and the internationally accepted accounting practice where such information is relevant to the FCH 2 JU activities. The notes shall contain at least the following information:
 - (a) accounting principles, rules and methods;
 - (b) explanatory notes, supplying additional information not contained in the body of the financial statements, which is necessary for a fair presentation of the accounts.
4. The accounting officer shall, after the close of the financial year and up to the date of transmission of the general accounts, make any adjustments which, without involving disbursement or collection in respect of that year, are necessary for a true and fair view of those accounts.

Article 51

Budget implementation reports

1. The budget implementation reports shall be presented in euro and shall be comparable year by year. They shall consist of:
 - (a) reports which aggregate all budgetary operations for the year in terms of revenue and expenditure;
 - (b) explanatory notes, which shall supplement and comment on the information given in the reports.
2. The structure of the budget implementation reports shall be the same as that of the budget of the FCH 2 JU itself.
3. The budget implementation reports shall contain:
 - (a) information on revenue, in particular, changes in the revenue estimates, the revenue outturn and entitlements established;
 - (b) information showing changes in the total commitment and payment appropriations available;
 - (c) information showing the use made of the total commitment and payment appropriations available;
 - (d) information showing commitments outstanding, those carried over from the preceding financial year and those made during the financial year.

Article 52

Provisional accounts and final accounts

1. The accounting officer of the FCH 2 JU shall send the provisional accounts to the accounting officer of the Commission and to the Court of Auditors by 1 March of the following year.

The accounting officer of the FCH 2 JU shall also provide by 1 March of the following year the required accounting information for consolidation purposes to the accounting officer of the Commission, in the manner and format laid down by the latter.

2. In accordance with Article 246(1) of Regulation (EU, Euratom) 2018/1046, the Court of Auditors shall, by 1 June, make its observations on the provisional accounts of the FCH 2 JU.
3. The accounting officer of the FCH 2 JU shall provide, by 15 June, the required accounting information to the accounting officer of the Commission, in the manner and format laid down by the Commission, with a view to drawing up the final consolidated accounts.

On receiving the Court of Auditor's observations on the provisional accounts of the FCH 2 JU, the accounting officer shall draw up the final accounts of the FCH 2 JU. The Executive Director shall send the final accounts to the Governing Board which shall issue an opinion on these accounts.

The Executive Director shall send the final accounts, together with the opinion of the Governing Board, to the accounting officer of the Commission, the Court of Auditors, the European Parliament and the Council, by 1 July of the following financial year.

The accounting officer of the FCH 2 JU shall also send to the Court of Auditors, with a copy to the accounting officer of the Commission, a representation letter covering those final accounts. The representation letter should be established at the same date at which the final accounts of the FCH 2 JU are drawn.

The final accounts shall be accompanied by a note drawn up by the accounting officer in which the latter declares that the final accounts were prepared in accordance with this chapter and with the applicable accounting principles, rules and methods.

A link to the pages of the website where the final accounts of the FCH 2 JU are disclosed shall be published in the Official Journal of the European Union by 15 November of the following year.

The Executive Director of the FCH 2 JU shall send to the Court of Auditors a reply to the observations made in the Court of Auditors annual report by 30 September of the following year at the latest. The replies of the Executive Director shall be sent to the Commission at the same time.

Article 53

Annual report on budgetary and financial management

1. The FCH 2 JU shall prepare a report on budgetary and financial management for the financial year. This report shall give an account, both in absolute terms and expressed as a percentage, at least, of the rate of implementation of appropriations together with summary information on the transfers of appropriations among the various budget items.
2. The Executive Director shall send the report on budgetary and financial management to the European Parliament, the Council, the Commission and the Court of Auditors by 31 March of the following financial year.

CHAPTER 9 EXTERNAL AUDIT, DISCHARGE AND COMBATTING FRAUD

Article 54

External audit

1. An independent external auditor shall verify that the annual accounts of the FCH 2 JU properly present the income, expenditure and financial position of the FCH 2 JU prior to the possible consolidation in the final accounts of the Commission.

Unless otherwise provided for in the constituent act, the Court of Auditors shall prepare a specific annual report on the FCH 2 JU in line with the requirements of Article 287(1) of the Treaty on the Functioning of the European Union. In preparing that report, the Court of Auditors shall consider the audit work performed by the independent external auditor referred to in the first subparagraph and the action taken in response to the external auditor's findings.

2. The FCH 2 JU shall send to the Court of Auditors the budget of the FCH 2 JU, as finally adopted. It shall inform the Court of Auditors, as soon as possible, of all decisions and acts adopted pursuant to Articles 6, 8 and 12.
3. The scrutiny carried out by the Court of Auditors shall be governed by Articles 254 to 259 of Regulation (EU, Euratom) 2018/1046.

Article 55

Timetable of the discharge procedure

1. The European Parliament, upon a recommendation from the Council, shall, before 15 May of year N+2 except where otherwise provided in the constituent act, give a discharge to the Executive Director in respect of the implementation of the budget for year N. The Executive Director shall inform the Governing Board of the observations of the European Parliament contained in the resolution accompanying the discharge decision.
2. If the time limit laid down in paragraph 1 cannot be met, the European Parliament or the Council shall inform the Executive Director of the reasons for the postponement.
3. If the European Parliament postpones the decision giving a discharge, the Executive Director, in cooperation with the Governing Board, shall make every effort to take measures as soon as possible to remove or facilitate removal of the obstacles to that decision.

Article 56

The discharge procedure

1. The discharge decision shall cover the accounts of all the revenue and expenditure of the FCH 2 JU, the budget result and the assets and liabilities of the FCH 2 JU shown in the financial statement.
2. With a view to granting the discharge, the European Parliament shall, after the Council has done so, examine the accounts and financial statements of the FCH 2 JU. It shall also examine the annual report drawn up by the Court of Auditors, together with the replies of the Executive Director of the FCH 2 JU, any relevant special reports by the Court of Auditors in respect of the financial year concerned and the Court of Auditors' statement of assurance as to the reliability of the accounts and the legality and regularity of the underlying transactions.
3. The Executive Director shall submit to the European Parliament, at its request, in the same manner as provided for in Article 261(3) of Regulation (EU, Euratom) 2018/1046 any information required for the smooth application of the discharge procedure for the financial year concerned.

Article 57

Follow-up measures

1. The Executive Director shall take all appropriate steps to act on the observations accompanying the European Parliament's discharge decision and on the comments accompanying the recommendation for discharge adopted by the Council.

2. At the request of the European Parliament or the Council, the Executive Director shall report on the measures taken in the light of the observations and comments referred to paragraph 1. The Executive Director shall send a copy thereof to the Commission and the Court of Auditors.

Article 58

On-the-spot checks by the Commission, the Court of Auditors and OLAF

1. The FCH 2 JU shall grant Commission staff and other persons authorised by the Commission, as well as the Court of Auditors, access to its sites and premises and to all the information, including information in electronic format, needed in order to conduct their audits.
2. OLAF may carry out investigations, including on-the-spot checks and inspections, in accordance with the provisions and procedures laid down in Regulation (EU, Euratom) No 883/2013 and Council Regulation (Euratom, EC) No 2185/96¹¹ with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union.

CHAPTER 10 FINAL AND TRANSITIONAL PROVISIONS

Article 59

Information requests

The Commission and the members of the FCH 2 JU other than the Union may request any necessary information or explanations from the FCH 2 JU regarding budgetary matters within their fields of competence.

Article 60

Repeal

The FCH 2 JU financial rules as adopted by Governing Board decision of 20/05/2016 are repealed with effect from the entry into force of the FCH 2 JU decision of the Governing Board FCH-GB-2019-16 adopting these Financial Rules.

Article 61

Entry into force

These Financial Rules shall enter into force on January 1st 2020¹².

¹¹ Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (OJ L 292, 15.11.1996, p. 2).

¹² FCH 2 JU GB decision FCH-GB-2019-16