

This draft has not been adopted or endorsed by the European Commission. Any views expressed are the preliminary views of the Commission services and may not in any circumstances be regarded as stating an official position of the Commission. The information transmitted is intended only for the Member State or entity to which it is addressed for discussions and may contain confidential and/or privileged material.

COMMISSION IMPLEMENTING REGULATION (EU) .../...

of **XXX**

authorising the placing on the market of *Schizochytrium* sp. (CABIO-A-2) oil as a novel food and amending Implementing Regulation (EU) 2017/2470

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2015/2283 of the European Parliament and of the Council of 25 November 2015 on novel foods, amending Regulation (EU) No 1169/2011 of the European Parliament and of the Council and repealing Regulation (EC) No 258/97 of the European Parliament and of the Council and Commission Regulation (EC) No 1852/2001¹, and in particular Article 12(1) thereof,

Whereas:

- (1) Regulation (EU) 2015/2283 provides that only novel foods authorised and included in the Union list of novel foods may be placed on the market within the Union.
- (2) Pursuant to Article 8 of Regulation (EU) 2015/2283, Commission Implementing Regulation (EU) 2017/2470² has established a Union list of novel foods.
- (3) On 19 March 2021, the company CABIO Biotech (Wuhan) Co., Ltd. ('the applicant') submitted an application for an authorisation to the Commission in accordance with Article 10(1) of Regulation (EU) 2015/2283 to place *Schizochytrium* sp. (CABIO-A-2) oil on the Union market as a novel food. The applicant requested for the novel food to be authorised for use in infant formula and follow-on formula as defined in Regulation (EU) No 609/2013 of the European Parliament and of the Council³ intended for infants and young children. The strain of *Schizochytrium* sp. used by the applicant and concerned by this application is specified as strain CABIO-A-2.

¹ OJ L 327, 11.12.2015, p. 1, ELI: <http://data.europa.eu/eli/reg/2015/2283/oj>.

² Commission Implementing Regulation (EU) 2017/2470 of 20 December 2017 establishing the Union list of novel foods in accordance with Regulation (EU) 2015/2283 of the European Parliament and of the Council on novel foods (OJ L 351, 30.12.2017, p. 72, ELI: http://data.europa.eu/eli/reg_impl/2017/2470/oj).

³ Regulation (EU) No 609/2013 of the European Parliament and of the Council of 12 June 2013 on food intended for infants and young children, food for special medical purposes, and total diet replacement for weight control and repealing Council Directive 92/52/EEC, Commission Directives 96/8/EC, 1999/21/EC, 2006/125/EC and 2006/141/EC, Directive 2009/39/EC of the European Parliament and of the Council and Commission Regulations (EC) No 41/2009 and (EC) No 953/2009 (OJ L 181, 29.6.2013, p. 35).

- (4) On 12 July 2021, the Commission requested the European Food Safety Authority ('the Authority') to carry out an assessment of *Schizochytrium* sp. (CABIO-A-2) oil as a novel food.
- (5) On 26 October 2023, the Authority adopted its scientific opinion on the 'Safety of oil from *Schizochytrium* sp. (strain CABIO-A-2) for use in infant and follow-on formula as a novel food pursuant to Regulation (EU) 2015/2283'⁴ in accordance with Article 11 of Regulation (EU) 2015/2283.
- (6) In its scientific opinion, the Authority concluded that the novel food, oil produced from the strain CABIO-A-2 of the microalgae *Schizochytrium* sp., is safe under the proposed conditions of use. Therefore, that scientific opinion gives sufficient grounds to establish that *Schizochytrium* sp. (CABIO-A-2) oil, when used under the proposed conditions of use fulfils the conditions for its placing on the market in accordance with Article 12(1) of Regulation (EU) 2015/2283.
- (7) It is appropriate that the inclusion of *Schizochytrium* sp. (CABIO-A-2) oil as a novel food in the Union list of novel foods contains the information referred to in Article 9(3) of Regulation (EU) 2015/2283.
- (8) *Schizochytrium* sp. (CABIO-A-2) oil should be included in the Union list of novel foods set out in Implementing Regulation (EU) 2017/2470. The Annex to Implementing Regulation (EU) 2017/2470 should therefore be amended accordingly.
- (9) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

HAS ADOPTED THIS REGULATION:

Article 1

- (1) *Schizochytrium* sp. (CABIO-A-2) oil is authorised to be placed on the market within the Union.
Schizochytrium sp. (CABIO-A-2) oil shall be included in the Union list of novel foods set out in Implementing Regulation (EU) 2017/2470.
- (2) The Annex to Implementing Regulation (EU) 2017/2470 is amended in accordance with the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in *the Official Journal of the European Union*.

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

Done at Brussels,

For the Commission
The President
Ursula VON DER LEYEN

⁴ EFSA Journal. 2023;21:e8415.