



Guidelines

**by the European Commission and the Standing Committee on Precursors
relating to Regulation (EU) No 98/2013 of the European Parliament and of
the Council of 15 January 2013**

on the marketing and use of explosives precursors

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INTRODUCTION

In modern day society there are numerous different types of chemicals used on a daily basis in a wide variety of industrial processes, professional functions as well as the large and diverse consumer sector. Chemicals are utilised as intermediates to produce other chemicals, as solvents to dissolve materials, to produce products such as paint, as food ingredients and in end products such as cleaning solutions. The vast majority of these chemicals are traded between businesses (B2B) for legitimate purposes. Trade between businesses and consumers (B2C) often relates to mixtures or products. However, some of the chemicals have the potential to be misused for the illicit manufacture of “home- made or improvised explosives”.

Terrorists and other criminals rarely have the ability or knowledge to manufacture the precursor ingredients necessary to produce homemade explosives, but instead they rely on purchasing them from the open market or divert them from legitimate uses.

Criminals do not necessarily need to purchase large quantities of these substances. Relatively small amounts can be sufficient to manufacture a significant amount of explosives, with quite easily accessible knowledge and equipment.

It was therefore necessary to restrict access to the explosives precursors that can be misused, including those precursors that can be extracted from mixtures. This conclusion led to the adoption of Regulation (EU) No 98/2013 of the European Parliament and of the Council of 15 January 2013 on the marketing and use of explosives precursors.

The risk of misuse depends partly on the:

- concentration of the precursors in a mixture,
- complexity of the mixture, and
- total amount purchased.

In general, manufacturers of homemade explosives prefer higher concentrations of a precursor in a solution or mixture. Therefore, if the precursor is not listed on the label of contents due to its very low concentration, they would generally not be aware of its potential. Furthermore, simple mixtures, i.e. mixtures with only a few ingredients, or substances in simple solutions would be preferred over complex mixtures, i.e. mixtures with many ingredients.

Scope

Regulation (EU) No 98/2013 of the European Parliament and of the Council of 15 January 2013 on the marketing and use of Explosive Precursors establishes harmonised rules concerning the making available, introduction, possession and use of substances or mixtures that could be misused for the illicit manufacture of explosives, with a view to limiting their availability to the general public, and ensuring that appropriate reporting of suspicious transactions, significant disappearances and thefts, throughout the supply chain is introduced.

Article 4 (1) of the regulation applies a strict control regime on a number of substances. It imposes a ban on the marketing and use of explosives precursors and states that: *‘restricted explosives precursors shall not be made available to, or introduced, possessed or used by, members of the general public’* above a specific concentration as identified in Annex I of the regulation - see appendix one for details.

However, individual Member States within the European Union have an option to introduce exemptions to article 4 (1). There are two exemptions available:

1. Licensing regime
2. Registration regime

Since these are exemptions, not all Member States will have a licensing or registration regime for the general public. In some Member States the general public will not be allowed to buy, use or possess products containing the substances in appendix one with concentrations over the limits specified.

In addition, Article 9 of the Regulation imposes a duty on economic operators to report any suspicious transactions as well as significant disappearances and thefts involving a number of substances or mixtures to the national contact points designated by Member State authorities.

Member States may apply already existing national regulations in combination with regulation 98/2013.

Pyrotechnic articles and medicinal products subject to prescription have explicitly been excluded from the scope of the Regulation (Art. 2.2). Food or feedingstuffs will in general not contain a high percentage amount of restricted explosives precursors and will therefore not be subject to the requirements of the Regulation.

Aim

These guidelines are an advisory document intended to facilitate and harmonise the implementation of the requirements of the Regulation by competent authorities and economic operators (sections A-D) and offer advice on good practice that will support compliance (sections E-Z). It reflects best practices identified by the experts of the Standing Committee on Precursors.

SECTION A: LICENSING REGIME

This section is a requirement of the Regulation and is intended to assist Member States who wish to establish a licensing regime to allow sales of Annex I substances.

As an exemption to Article 4 (1) of the Regulation, Article 4 (2) allows a Member State to maintain or establish a licensing regime for restricted explosives precursors and to issue licences for members of the general public with a legitimate need to acquire, introduce, possess or use restricted explosives precursors in concentrations above those of Annex I of the regulation.

Member States may decide to limit licences granted for a restricted precursor to a specified amount (in possession at any time, per purchase or per year), number of purchases and/or to a specified maximum concentration. An example of the types of fields that should appear in the document proving possession of a licence can be found in appendix three.

Competent Authority

The competent authority(ies) are designated by a Member State and given responsibility for granting the licences.

Granting a licence

The Competent Authority(ies), designated by a Member State, is responsible for granting the licence to an individual member of the general public.

When reviewing an application, the Competent Authority may:

- check if lower concentrations or alternatives for the requested substance or for the intended use are available.
- carry out checks on the background of the individual asking for a licence.

On the basis of this and/or other available information, the Competent Authority may grant or refuse the licence.

If a licence is granted, the Competent Authority may:

- choose how to limit the validity of the licence, through permitting single or multiple use for a period not exceeding three years.
- oblige the licence holder to demonstrate, until the designated expiry of the licence, that the conditions under which the licence was granted are still fulfilled.

If the conditions under which the licence was granted no longer exist or are not complied with, the Competent Authority may suspend or revoke the licence.

As laid down in Article 7.3 of the Regulation, the Competent Authority may define a fee for the application for a licence but this must not exceed the cost of processing the application.

A licence is not valid in Member States other than the one where it is issued, unless an individual Member State decides to recognise licences granted by the Competent Authority(ies) of another Member State according to Article 7.6.

Economic operators selling restricted explosives precursors in Member States that have a licensing regime should ask members of the general public for a licence before selling the products.

SECTION B: REGISTRATION REGIME

This section is a requirement of the Regulation and is intended to assist Member States who wish to operate a registration regime.

As an exemption to Article 4 (1), Article 4(3) of Regulation (EU) No 98/2013 allows Member States, who:

- do not wish to implement a licensing regime;
- already have a registration regime in place to control precursor substances; or
- want to allow access to a limited set of substances

to maintain or establish a registration regime allowing specific restricted explosives precursors to be made available to, or possessed or used by members of the general public.

New registration regimes may only apply to:

- Hydrogen peroxide in concentrations between 12% and 35% weight for weight (w/w),
- Nitromethane in concentrations between 30% and 40% w/w,
- Nitric acid in concentrations between 3% and 10% w/w.

(Note that, in higher concentrations, these three substances can only be made available to, introduced, possessed, or used by, members of the general public, where Member States decide to establish and maintain a licensing regime, and if the individual is granted the pertinent licence by the competent authorities. See Article 4(2) and Article 4(7) of the Regulation.)

However, Article 17 of the Regulation allows Member States to maintain registration regimes that existed before 1 March 2013 to some or all of the substances listed in Annex I.

The registration regime requires that an economic operator who makes these specific substances available for sale to the general public maintains a register of each transaction in accordance with the arrangements laid down in Article 8 of the Regulation.

For the purposes of registration pursuant to Article 4(3) of the Regulation, members of the general public shall identify themselves by means of an official identification document.

The register shall comprise at least the following information:

- (a) the name, address and, where applicable, either the identification number of the member of the general public or the type and number of their official identification document;
- (b) the name of the substance or mixture, including its concentration of the restricted precursor;
- (c) the amount of the substance or mixture;
- (d) the intended use of the substance or mixture as declared by the member of the general public, and where applicable the delivery address
- (e) the date and place of the transaction;
- (f) the signature of the member of the general public.

Documentation

The register shall be kept for five years from the date of the transaction. During that period, the register shall be made available for inspection at the request of the competent authorities.

The register shall be kept on paper, electronically or on another durable medium and shall be available for inspection at any time during 5 years from the date of transaction.

Any data stored shall:

- (a) match the format and content of the corresponding paper documents; and
- (b) be readily available at any time during 5 years from the date of transaction.

Member States should ensure in their implementing legislation that that registers of operators having ceased their activity are being transferred to the operators that take over their activity or, alternatively, to a competent authority.

SECTION C: LABELLING

This section is a requirement of the Regulation and is intended to assist economic operators who make above concentration Annex I substances available to the general public.

Regulation 98/2013 introduces the requirement to label products offered for sale to the general public which contain the substances in Annex I in concentrations in excess of the threshold limit values.

The labelling of the products can be limited to the following:

"Acquisition, possession or use by the general public is restricted."

In accordance with Article 5 of the Regulation, it is the responsibility of an economic operator who intends to make available restricted precursors to the general public, to ensure that the restriction is clearly indicated on the packaging, either by affixing the appropriate label or by verifying that such a label is affixed.

In order to comply with the labelling obligation, all operators along the supply chain need to be aware that a substance or mixture is subject to the Regulation. One simple way to fulfil this legal obligation may be through a supply chain collaborative approach. Commercial contracts between operators could foresee and ensure that the relevant information is transmitted from suppliers to retailers. The economic operator packaging the product prior to the product's entry into the retail supply chain is best placed to affix the required label.

In order to fulfil the requirement in Article 5, the text should be in the official language(s) of the Member State(s) where the product is made available on the market. (In Appendix four, the suggested text has been translated into all official languages of the European Union.) If the product also needs to be labelled according to the Classification, Labelling and Packaging Regulation (CLP) 1272/2008 (see further below), this is a requirement. As with CLP-labelling, it is possible to use multiple languages on a package, as long as the text is clearly readable.

Labelling according to CLP

Most of the products that require labelling according to Regulation (EU) No 98/2013 will also need to be labelled according to EU-Regulation 1272/2008 (CLP) due to their inherent hazardous properties.

Article 32((6) of CLP states that:

“Label elements resulting from the requirements provided for in other Community acts shall be placed in the section for supplemental information on the label referred to in Article 25.”

The requirements of the label according to CLP are specified in Article 17((1) of that Regulation, with point (h) requiring “where applicable, a section for supplemental information in accordance with Article 25.”

For products that fall within the scope of CLP, this means that the labelling according to Regulation 98/2013 should be placed in the section for supplemental information within the CLP-label. Furthermore, according to Article 17(2) of CLP, the CLP-label “[...] shall be written in the official language(s) of the Member State(s) where the substance or mixtures is placed on the market, unless the Member State(s) concerned provide(s) otherwise.”

Example label for hydrogen peroxide, 30%:

 DANGER	Superoxy 30 Hydrogen peroxide 30%	HP products Ltd Peroxyroad 5 1122 ZZ Bleach United Kingdom Phone: +44-6789123
Net content 500 ml.		
Causes serious eye damage. Harmful if swallowed. Wear eye protection. Do not eat, drink or smoke when using this product. IF IN EYES: Rinse cautiously with water for several minutes. Remove contact lenses, if present and easy to do. Continue rinsing. Immediately call a POISON CENTER or physician. Dispose of contents to environmental station.		
Acquisition, possession or use by the general public is restricted.		

More information on CLP labelling and packaging can be obtained from the Guidance Documents prepared by the European Chemicals Agency, available at <http://echa.europa.eu/web/guest/guidance-documents/guidance-on-clp>.

SECTION D: REPORTING OF SUSPICIOUS TRANSACTIONS, DISAPPEARANCES AND THEFTS

This section is a requirement of the Regulation and is intended to assist all suppliers to the general public and to businesses.

Beyond the main focus of Regulation (EU) 98/2013, which is to restrict the availability to the general public of substances or mixtures that could be misused for the illicit manufacture of explosives (those listed in Appendix One), the Regulation identifies a number of other substances which could also be used for illicit purposes and which are difficult to control because, in addition to professional use, they are widely used in common consumer products within a vast supply chain (those listed in Appendix Two). Any suspicious transactions involving these substances shall be reported.

'Suspicious transaction,' as defined in Article 3 of the Regulation, means any transaction concerning the substances listed in the Annexes, or mixtures or substances containing them, including transactions involving professional users, where there are reasonable grounds for suspecting that the substance or mixture is intended for the illicit manufacture of explosives. In line with this definition, a suspicious transaction is any (attempted) purchase of one or more explosives precursors, or mixture containing precursors, which deviates from ordinary expectations or interactions.

Article 9 of the Regulation gives economic operators the right to refuse a suspicious transaction and also imposes a duty on them to report any suspicious transactions as well as significant disappearances and thefts involving these substances to the national contact points designated by Member State authorities. Disappearances and thefts of amounts that are unusual to the business should be reported. Reporting should be done without undue delay.

In order to comply with the reporting obligation, all economic operators along the supply chain need to be aware that a specific substance is contained in a product. This implies that, as a general guide, reporting requirements apply only where a substance is listed as an ingredient on the label or in the safety data sheet. A collaborative approach based on commercial contracts between operators could foresee and ensure that the relevant information is transmitted from suppliers. Appendix Five contains a non-exhaustive list of other names used for the Annex I and II substances. It may be difficult to extract an explosive precursor from a complex mixture (i.e., nitrates in toothpaste), so this should be taken into account when identifying affected products. This does not preclude operators, however, from reporting when they consider it appropriate.

Given that 'over-the-counter' sales of substances or mixtures are not the only route to obtain explosive precursors, industry has an additional role to play in monitoring 'Business to Business' (B2B) transactions and reporting any suspicious activity to authorities.

However, there are cases when products containing precursors become so hard to use for making home-made explosives that they no longer constitute a threat. This depends on many factors, including the concentration of precursor in the product, the amount of the product and the complexity of the product. In some cases complex products might not be an alternative for the person making homemade explosive since there are other, more easily used products, available for the general public.

In order to be attractive as an explosive precursor a product must generally fulfil either of the following requirements;

- (i) the precursor substance is available pure or in a simple mixture regardless of concentration, or
- (ii) the precursor substance is available in a complex mixture but in a relatively high concentration.

Examples of (i) are pure precursors and mixtures/solutions of a precursor in one or only a few other substances/solvents. Regardless of concentration, it may in many cases be relatively simple to extract and enrich the precursor from such a product. For products that fall into this description, all suspicious transactions, thefts and disappearances should be reported, unless there are good reasons not to do so. For example thefts or disappearances of a very small amount (a few grams or millilitres) of a simple mixture does not necessarily trigger the obligation to report if it can be explained e.g. as a “normal” occurrence of shoplifting.

Examples of (ii) are mixtures containing many ingredients, but where the precursor is available in such a high amount that even with a complicated extraction procedure with bad yield, the precursor can be extracted in an amount that could be used. Products that fall into this description need normally only be reported if the amounts exceed normal household quantities. Mixtures containing more than five ingredients are in general complex enough to make extraction so complicated that it is not very likely that they will be used as precursors, unless the precursor is the dominant ingredient in the mixture.

Products where the concentration of any precursor(s) is below 1% (or 3% N by weight for nitrogenous fertilisers) are in general not a concern.

D.1 Guidelines for retail staff and management

This sub-section is intended for over-the-counter sales to the general public and is designed to give simple advice to small businesses and those selling everyday household items containing explosives precursors listed in Annexes I and II of the Regulation (see also in appendices One and Two of these guidelines). EU Member State authorities and/or business associations may distribute this information in the form of leaflets.

Whether a transaction is suspicious has to be judged on a case-by-case basis. The list of indicators in this section is not exhaustive but may be seen as a reference list, helpful for the purpose of identifying potential suspicious transactions.

Possible indicators of suspicious behaviour include, for example, when a customer:

- Appears nervous or avoids questions, or is not a regular type of customer,
- Attempts to purchase an unusual amount of a product or unusual combinations of products,
- Is not familiar with the regular use(s) of the product(s), nor with the handling instructions,

- Is not willing to share what he/she plans to use the product(s) for,
- Refuses alternative products or products with a lower (but for the proposed use sufficient) concentration,
- Insists on paying cash, especially large amounts
- Is unwilling to provide proof of identity or place of residence when requested,

Economic operators are required to report, to the national contact point designated by their Member State, details about any behaviour that they find suspicious (not only the examples above) and that may be of importance to prevent misuse of explosives precursors. Operators should also report disappearances and thefts that are significant and/or unusual during the course of their business or that cannot be easily explained.

Appendices One and Two to these guidelines contain a list of explosives precursors.

The right to refuse a transaction and the duty to report suspicious transactions, disappearances and thefts, should in no case place retail staff at risk.

Disappearances and thefts

The Regulation also requires economic operators to report significant disappearances and thefts of the substances listed in its Annexes (see appendices One and Two to these guidelines), and of mixtures or substances containing them, to national contact points designated by Member States.

Suggested measures to prevent and detect disappearances and thefts:

2.1 Storage

- Secure stock room or cages against break in.
- Consider using video surveillance.
- No access to the stock for staff not involved in storage work, purchasing or selling.
- No access for outsiders (customers, visitors).

2.2 To reduce the risk of thefts during transport you can:

- Use measures against thefts like physical barriers (cages) during transport.
- Select a trustworthy transportation provider.
- Avoid unnecessary or lengthy stops during the journey.

2.3 To be able to identify thefts and disappearances you should consider:

- Establishing detailed records on purchases, selling and stock keeping of explosives precursors and mixtures.
- Periodically checking the stock to identify disappearances.
- Keeping records for not less than 5 years.

SECTION E: THE ROLE OF COMPANY CONTACT POINT(S)

This section is advisory.

Each company may decide for itself how best to establish staff responsibilities.

It is recommended that whenever possible companies with more than 50 employees should nominate at least one specific person to deal with internal and external control measures for ensuring the security of explosives precursors. Ideally, the person selected should already have a certain status or position within the company, so as to be in a position to act as a representative of the company and to make the decisions that are required for the fulfilment of their task. In many cases, personnel selected as the contact point(s) might also be the same liaison officer responsible for dealing with other sales controls for substances, such as drug precursors.

The contact point(s) does not necessarily have to be a chemist. One of the main skills required from this person is the ability to recognise suspicious transactions, which requires “commercial alertness”, tact and prudence. In large multi-site businesses, a contact point(s) should nominate a deputy.

A contact point(s) should be nominated who should produce a control inventory that identifies, by name, the substances manufactured or traded that is the responsibility of each contact point.

Management should clearly define the position, tasks and powers of the contact point(s) whom they nominate within the company. The information relating to the tasks and power of contact point(s) should be widely disseminated throughout the company.

The role of the contact point(s) might include the main following tasks:

- Ensure proper implementation of procedures within the company
- Ensure compliance with relevant aspects of this Guidelines document and any national laws and guidance that may apply
- Set up the internal procedures necessary to identify and notify suspicious transactions and to prevent diversion

The role will involve tracking any changes in products containing controlled chemicals, organisational structures and IT equipment to ensure that company security procedures are not compromised.

Exchange information with the competent authorities and disclose suspicious enquiries and transactions.

Raise awareness of the relevant staff dealing with explosives precursors:

- Identify the appropriate personnel
- Train and instruct these personnel on a regular basis

- Make sure that the information provided by competent authorities as regards new trends and developments, as well as information that is specific to the company, is made known to relevant personnel.

Maintaining open and effective lines of communication will include steps such as sharing effective security practices with established customers, others throughout industry and maintaining interaction with law enforcement officials. At the same time, companies understand that their role is to protect employees and communities where they operate, while safeguarding information that would pose a threat in the wrong hands.

In a small company the contact point may be a single person. However, within a large and/or multinational organisation there may be a central contact point, to set companywide policies and procedures, supported by a number of subsidiary contact points based at specific sites.

Section Z provides a comprehensive job checklist that might be useful to develop a contact point(s) duty list that suits individual company circumstances.

SECTION F: ORGANISATIONAL ARRANGEMENTS

This section is advisory and is aimed at all types of sale.

Management is advised to put in place internal procedures in order to ensure that the contact point(s) and all other involved personnel (particularly sales staff) share relevant information and consistently apply appropriate company procedures on a day-to-day basis.

In particular, the existence and application of a robust management system based on written procedures should help ensure that the checks to be carried out in order to identify suspicious transactions and orders are actually applied, and that once qualified as suspicious, transactions are notified to the authorities with the provision of appropriate information. Such procedures will also help the company demonstrate to their national authorities/security services that they have control measures in place. Written procedures are all the more important where the number of staff members dealing with chemicals of concern within the company are large and/or changeable.

Companies should keep site compliance records for not less than 5 years. They should be transferred if site ownership changes, either to the purchasing company or to the receiver if the site closes.

The following list should neither be taken as an exhaustive set nor as a minimal requirement, but are suggestions that companies may wish to take into account, keeping in mind that their procedures have to be proportionate to their trade activities and specific to their own organisation and needs. Companies should have:

- Procedures aiming at identifying suspicious transactions:
 - Definition of the responsibilities of the different functions within the company in identifying a suspicious transaction (not only the contact point).
 - Definition of the set of criteria to be used to check the suspicious character of the transactions.
 - Indicating substances of concern in the order processing system, requiring checks to be completed before the order is accepted. This should cover also websites, which should not allow orders to be automatically accepted without prior checks by competent staff.
 - Procedures managing the relationship with a customer requiring a delivery of substances of concern (questions to be asked, supporting documents to be required, arrangements specific to new clients, etc.)
 - New clients deserve special attention, but all clients have to be checked on a systematic basis.
- Procedures to follow when a suspicious transaction is identified:
 - In relation to the customer.

- In relation to the authorities (keeping of evidence, information to be provided...)

Physical and procedural measures aiming at preventing and detecting theft (periodic checking of monitoring systems, frequent auditing of stocks...).

- Training and information:
 - Procedures managing the information flow within the company with regard to the risks of illicit diversion (in particular with regard to the information received from the competent authorities). These procedures should help ensure that the access to sensitive information (e.g. any list(s) of substances that are subject to controls and other elements of these guidelines) is restricted to the relevant personnel only.
 - Training programmes for the relevant personnel. These arrangements can comprise internal certification schemes for staff members with other trade control responsibilities.

Procedures governing the keeping of records should be in a format that makes the backtracking investigations and collection of data as easy as possible. In particular, purchase and sales records should be retained for not less than 5 years. Records and data should be made available for inspection at the request of the competent authorities.

- Internal periodic audit and review within the companies in pursuit of continuous improvement and adjustment of internal procedures and practices, taking due account of the experience gained by the company and the information provided by the competent authorities.

Section Z provides a comprehensive checklist that might be useful to develop internal procedures to suit individual company circumstances.

SECTION G: ADMINISTRATIVE SYSTEMS

This section is advisory and is aimed at all types of sale.

Companies should have pre-defined questions prepared for new customers no matter whether it is an over-the-counter sale, a sale via a call centre or whether explosives precursors are offered and sold via the Internet.

The sales person/administrator will have to use their discretion and draw upon their experience to assess whether an order or enquiry is ‘suspicious’.

A robust client screening process involves asking for end-use statements. These are required for certain regulations but this practice should also be adopted for explosives precursors restrictions on sale/use. Major customers will accept their necessity; law-abiding but knowledgeable customers will welcome the “warning”; unscrupulous customers often withdraw their order.

Record keeping

The following information for all transactions involving monitored substances shall be made available to appropriate government authorities upon request:

1. Name and address of the buyer and consignee if different
2. Name and address of any other persons involved in the transaction (i.e. the physical movement of the goods) where such information is available.
3. Name of the substance of concern
4. Quantity of the substance of concern
5. Date of supply (ex premises)

Notification of suspicious orders or enquiries

The requirement to report suspicious transactions should extend to any enquiry and transaction, regardless of whether the goods are intended for export or domestic sale. This includes instances when a client refuses to make end use statements and/or abruptly withdraws their order.

The following note may assist staff:

<p>If the order or enquiry is suspicious, obtain as much detail as possible i.e.</p> <ul style="list-style-type: none"> • Description of individuals if face-to-face contact is made. • Details of vehicles used, including make, model, colour and registration number. • If the customer makes a telephone enquiry, ask them to support it in writing. <p>If possible, delay the enquiry and make arrangements to re-contact the customer. In the interim period, and as soon as possible, contact the appropriate police or national contact points designated by your authorities. Write the name and contact details of the official security contact here for future reference:</p> <p>.....</p> <p>.....</p>
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Points to note:

- Automatic compliance screening is not a substitute for prudent, vigilant Staff.
- If an enquiry or order doesn't feel right, it probably is not right and needs investigation and reporting.

SECTION H SECURITY OF PREMISES / STORAGE / USAGE

This section is advisory and is intended for all companies storing explosives precursors.

Companies involved in activities involving explosives precursors should control access to their premises.

Access by other persons (visitors and contractors) to company premises should be restricted and monitored, in relation to controlled substances. A company should ensure that they have a written policy and procedures in place that has relevance for explosives precursors.

Companies should undertake checks on persons/companies receiving training on your premises. Keep records of visitors (foreign and local/domestic) to your company's premises where controlled activities take place or where controlled chemicals are manufactured or stored.

Although diversion of chemicals generally occurs after sale, companies should be aware of the potential for diversion or theft from within their own sites and take adequate measures to secure business premises against theft. Companies concerned by this risk are operating along the whole supply chain:

- Manufacturers
- Distributors
- Logistic Service Providers
- Customers

Consideration should be given to an increased level of security in areas where explosives precursors are stored, as appropriate and practical. Such security can take the form of:

- Access restricted area
- Secure rooms or cages
- Frequent auditing of stocks to identify quickly any shortfalls
- Increased vigilance in such storage areas and/or Closed Circuit Television (CCTV)

At facilities, actions can include measures such as installation of physical barriers, modified production processes or materials substitution. In product sales and distribution, actions can include measures such as locked display cabinets, storage cages or additional screening of transportation providers.

In cases where a theft occurs, the operator is advised to inform not only the police but also the national contact points designated by the Member State authorities, without delay. If appropriate (for example, if similar cases happened repeatedly or if the methodology used by the criminals is new), the competent authorities can provide information relating to this event to other companies and security agencies.

Companies should also be mindful of the risks of theft during transportation when selecting a carrier company. The selected carrier must be trustworthy and able to apply sufficient security measures for the transportation of sensitive chemicals. This should be taken into account especially for long distance movement with mandatory breaks in the journey.

SECTION Z: CHECKLIST FOR THE CONTACT POINT(S)

This section is advisory and is intended to assist (security) managers.

It is good practice to carry out a regular audit to ensure that standards for the control of compliance to international conventions, relevant regulations and changes in industry practice are being maintained.

The following checklist of points is provided as an aid to assist internal auditing for compliance and to help put in place the right procedures for your company. It is recommended that the contact point evaluate their internal compliance programmes at least once every year. Not all the questions listed below will be relevant to your particular business situation.

1. Commitment to Compliance

- Has the Chief Executive Officer of your Company signed the Responsible Care[®] / Fertilizer Product Stewardship Commitment, or any other voluntary agreement relevant to your industry?
- Are Directors of the Company aware of their legal responsibilities in complying with security controls on chemicals?

2. Control Inventory

With what frequency do you ascertain?

- which chemicals are subject to international conventions and national control requirements?
- that relevant requirements for each control measure are in place?
- that a control matrix for any controlled chemicals is in place?
- that appropriate staff keep an 'up to date' inventory of explosives precursors?

3. Awareness raising

- Has management accountability for internal compliance programmes for explosives precursors been assigned, e.g. is this indicated in the Company's latest organisational chart, has the delegation of responsibilities been clearly defined?
- Has adequate awareness raising and training for all employees and customers been undertaken to a level for them to reach and maintain proficiency and to develop the skills and knowledge necessary to perform their responsibilities in regard to controlled chemicals? (see Section 5 below on the scope of training)
- Have internal compliance performance goals / targets / objectives been included into employee's performance evaluations?
- Has provision has been made in written policy, plans, programmes and procedures for achieving continuous improvement of the internal compliance regime for controlled chemicals?
- Has provision been made to ensure the identification and dissemination of all legislation and requirements applicable to controlled chemicals?
- Is the Company striving for performance beyond legal compliance?
- Have all employees who have taken on control responsibilities received the necessary induction training and periodic retraining?
- Do staff and customers have access to:
 - This agreement?
 - Regulatory websites?
 - Relevant officials?

4. Information Management

- How does the Company keep up-to-date with the requirements in respect of each of the controlled substance?
- Does it ensure the identification and dissemination of all applicable policies, legislation and guidelines on relevant control measures?
- Does it maintain a reference list of sources of information and contacts and distribute changes/updates to relevant personnel?
- Does it provide resources (e.g. access to documentation) on controlled chemicals to the contact point?

5. Staff Training

(This commitment extends beyond employees to include others, where appropriate under Product Stewardship, such as product distributors and carriers.)

- Has the Company Identified the skills and knowledge necessary to perform internal compliance programmes for controlling sales of explosives precursors?
- Are adequate compliance training programmes in place, which fulfil the skills and knowledge, required of responsible officers and other relevant employees?
- Does the Company conduct induction and refresher awareness raising and training programmes for staff at all levels to reach and maintain proficiency and to develop the skills and knowledge necessary to perform their compliance responsibilities? Does the Company extend this commitment beyond employees to include others, when appropriate, such as product distributors and carriers?
- Do all the relevant employees receive on an annual basis (or more frequently if required) a general update on the general provisions of the Company's policy on maintaining sales controls?

6. Customer Information

Companies should assess customers and orders that may be unusual and carry possible risks.

- Is the following basic customer information being collected, assessed and acted on when selling explosives precursors:
- Is relevant information obtained from a reliable source(s) about the potential customers' bona fides, location, and activities?
If sales are being made to non-manufacturers are appropriate licences held? Have they been inspected and verified?
- Is the final end-user as well as the final end-use of the chemical established?
- Does the company establish if there are any national or international restrictions or prohibitions on trade with the potential customer or the end-user, or that it is not on one of various lists of entities of concern published by the different government agencies?
- Do the company's freight forwarders, transporters, agents, brokers, distributors know which substances are explosives precursors? Do they have copies of this Guidelines document and/or relevant national guidelines?
- Who ensures that the route and mode of transport will not lead to their diversion for prohibited use?
- Does the sales department alert customers at an early stage of the need for end-use information e.g. when providing them with a quotation
- Does the sales department have a *List of Advisory Questions for Customers* (see Section

C) and makes marketing, sales, order processing and procurement staff aware of these questions so that they can play their part in spotting any dubious business? Does it let them know how to proceed if they do sense something suspicious, e.g. consult the relevant security authority.

7. Record Keeping

- Are traceable records of activities and goods maintained for period of at least four years so that queries about any activity or goods subject to control may be readily checked and an adequate audit trail maintained?
- Has the Company established a policy for maintaining and storing of records, which addresses the minimum time that records are to be kept, the mode of safe keeping, as well as where records are kept?
- Is the record processing system regularly reviewed to ensure a logical sequence for recording of controlled activities?
- Are the records easily accessible?
- Are all related documents filed together or accessible through common filing fields?

8. Access to Premises

- Are checks undertaken on persons/companies visiting or receiving training on the company premises?
- Are records kept of visitors (foreign and local) to the company's premises where explosives precursors are manufactured or stored?

9. Provision for Audits

- Does the company audit its internal compliance programmes against the recommendations in this agreement?
- Is this part of its normal internal auditing programme?

APPENDIX ONE – Regulation (EU) 98/2013 ANNEX I

List of restricted explosives precursors

Substance	Limit Value	Combined Nomenclature (CN) code for a separate chemically defined compound meeting the requirements of Note 1 to Chapter 28 or 29 of the CN, respectively ⁽¹⁾	Combined Nomenclature (CN) code for a mixture without constituents (e.g. mercury, precious or rare-earth metals or radioactive substances) which would determine classification under another CN code ⁽¹⁾	EC Number	CAS No
Hydrogen peroxide	12% w/w	2847 00 00	3824 90 97	231-765-0	7722-84-1
Nitromethane	30% w/w	2904 20 00	3824 90 97	200-876-6	75-52-5
Nitric acid	3% w/w	2808 00 00	3824 90 97	231-714-2	7697-37-2
Potassium chlorate	40% w/w	2829 19 00	3824 90 97	223-289-7	3811-04-9
Potassium perchlorate	40% w/w	2829 90 10	3824 90 97	231-912-9	7778-74-7
Sodium chlorate	40% w/w	2829 11 00	3824 90 97	231-887-4	7775-09-9
Sodium perchlorate	40% w/w	2829 90 10	3824 90 97	231-511-9	7601-89-0

⁽¹⁾ Commission Regulation (EC) no 948/2009 (OJ L 287, 31.10.2009, p. 1).

Refer to APPENDIX FIVE for further guidance and other names for specific substances in the Annexes of the Regulation.

APPENDIX TWO – Regulation (EU) 98/2013 ANNEX II²

Substances on their own or in mixtures or in substances for which suspicious transactions, significant disappearances and thefts shall be reported

Name of the substance	Combined Nomenclature (CN) code ⁽¹⁾	Combined Nomenclature (CN) code for mixtures without constituents (e.g. mercury, precious or rare-earth metals or radioactive substances) which would determine classification under another CN code ⁽¹⁾	EC number	CAS number
Hexamine	2921 29 00	3824 90 97	202-905-8	100-97-0
Sulphuric acid	2807 00 10	3824 90 97	231-639-5	7664-93-9
Acetone	2914 11 00	3824 90 97	200-662-2	67-64-1
Potassium nitrate	2834 21 00	3824 90 97	231-818-8	7757-79-1
Sodium nitrate	3102 50 10 (natural) 3102 50 90 (other than natural)	3824 90 97 3824 90 97	231-554-3	7631-99-4
Calcium nitrate	2834 29 80	3824 90 97	233-332-1	10124-37-5
Calcium ammonium nitrate	3102 60 00	3824 90 97	239-289-5	15245-12-2
Ammonium nitrate [in concentration of 16 % by weight of nitrogen in relation to ammonium nitrate or higher]	3102 30 10 (in aqueous solution) 3102 30 90 (other)	3824 90 97	229-347-6	6484-52-2
Aluminium, powders ⁽²⁾ ⁽³⁾	ex 7603 10 00 ex 7603 20 00			7429-90-5
Magnesium nitrate hexahydrate	2834 29 80	3824 90 96		13446-18-9
Magnesium, powders ⁽²⁾ ⁽³⁾	ex 8104 30 00			7439-95-4

⁽¹⁾ OJ L 39, 9.2.2013, p. 1.
⁽²⁾ With a particle size less than 200 µm.
⁽³⁾ As a substance or in mixtures containing 70 % or more, by weight, of aluminium and/or magnesium.

Refer to APPENDIX FIVE for further guidance and other names for specific substances in the Annexes of the Regulation.

² As amended by Commission delegated regulations (EU) 2017/214, 2017/215, and 2017/216 of 30 November 2016.

APPENDIX THREE – Format for a licence

Format for a document proving possession of a licence for a member of the general public to acquire, introduce, possess and use restricted explosives precursors, as defined in Annex I of the Regulation on the marketing and use of explosives precursors (EU 98/2013).

<p>1. Member of the general public (Name and address) Name: Identification Document Number: Address: Country: Tel.: Email:</p>
<p>2. Licence Number:</p>
<p>3. Licence for single use or multiple use <i>please tick</i></p> <p><input type="checkbox"/> single purchase, introduction, possession and use of a restricted precursor name of precursor(s): maximum amount: maximum concentration: licensed use:</p> <p><input type="checkbox"/> multiple purchase, introduction, possession and use of a restricted precursor name of precursor(s): maximum amount in possession at any time: maximum concentration: licensed use:</p>
<p>4. If different than box 1 and required by national law, address where the precursor(s) will be stored Address:</p>
<p>5. If different than box 1 and required by national law, address where the precursor(s) will be used: Address:</p>
<p>6. Written consent to the acquisition, introduction, possession and use of restricted precursor(s) in block 3 by [name country]:</p> <p>Name of the competent authority: Valid from: _____ until: _____</p> <p>Special requirements applicable to this licence: <input type="checkbox"/> yes, this licence is only valid with the special requirements attached to this licence <input type="checkbox"/> No</p> <p>Stamp and/or signature:</p>

APPENDIX FOUR – Translations of the labelling text

Country	Phrase
BG	Закупуването, притежаването или използването от масови потребители е ограничено.
CS	Pořízení, držení nebo použití osobami z řad široké veřejnosti podléhá omezení.
DA	Borgernes erhvervelse, besiddelse eller anvendelse er underlagt begrænsninger.
DE	Erwerb, Besitz oder Verwendung durch private Endverbraucher ist gesetzlich eingeschränkt.
EL	Απαγορεύεται η απόκτηση, η κατοχή ή η χρήση από το ευρύ κοινό.
EN	Acquisition, possession or use by the general public is restricted.
ES	La adquisición, posesión o utilización por el público en general está restringida.
ET	Üldsuse hulka kuuluvate isikute jaoks on nende ostmise, omamise ja kasutamise piiratud.
FI	Hankkimista, hallussapitoa tai käyttöä yksityiseen kulutukseen on rajoitettu.
FR	L'acquisition, la détention ou l'utilisation de ces produits par le grand public sont soumises à restriction.
GA	Tá srian le fáil, seilbh nó úsáid ag daoine den phobal.
HR	Stjecanje, posjedovanje ili uporaba za opću su javnost ograničeni.
HU	Lakossági beszerzése, birtoklása vagy felhasználása korlátozás alá esik.
IT	L'acquisto, la detenzione o l'uso da parte di privati sono soggetti a restrizioni.
LT	Įsigijimas, laikymas, naudojimas bei tiekimas vartotojams yra ribojimas.
LV	Nav paredzēts plašai sabiedrībai – ierobežota iegāde, turēšana īpašumā vai lietošana.
MT	L-akkwist, il-pussess jew l-użu mill-pubbliku inġenerali huma ristretti.
NL	Aankoop, bezit en gebruik door particulieren is aan beperkingen onderhevig.
PL	Nabywanie, posiadanie lub używanie przez przeciętnych użytkowników podlega ograniczeniom.
PT	A aquisição, posse ou utilização pelo público geral está sujeita a restrições.
RO	Achiziționarea, deținerea sau utilizarea de către publicul larg face obiectul unei restricții.
SK	Kúpa, vlastníctvo a použitie súkromnými osobami sú limitované zákonom.
SL	Pridobitev, posedovanje ali uporaba so za splošno javnost omejeni.
SV	Privatpersoners köp, innehav och användning omfattas av restriktioner.

APPENDIX FIVE – Further guidance and other names for substances in the Annexes of the Regulation

Further guidance on specific substances

Ammonium nitrate

- The placing on the market of ammonium nitrate for supply to non-professional users is restricted by the REACH Regulation (Regulation No 1907 of 18 December 2006 as amended by Commission Regulation (EC) No 552 of 22 June 2009, Annex XVII, Item 58).
- Fertilisers with at least 8 weight % nitrogen from ammonium and at least 8 weight% nitrogen from nitrate contain at least 16 weight % nitrogen from ammonium nitrate. On a voluntary basis, economic operators and farmers are asked to also report on Ammonium Nitrate with less than 16% by weight of nitrogen in relation to ammonium nitrate.

Calcium ammonium nitrate

- Whereas reference is made in Annex II to Calcium ammonium nitrate (with CAS number : 15245-12-2), the entry refers to “ammonium calcium nitrate” or “nitric acid, ammonium calcium salt”, alternative names given by ECHA for this substance³ (chemical formula $5\text{Ca}(\text{NO}_3)_2 \cdot \text{NH}_4\text{NO}_3 \cdot 10\text{H}_2\text{O}$).

Magnalium powder

- Magnalium is a mixture (an alloy) of aluminium (CAS RN 7429-90-5) and magnesium (CAS RN 7439-95-4), both of which are listed in Annex II of the regulation. Therefore magnalium powders (particle size $<200 \mu\text{m}$), as well as products containing $\geq 70\%$ of such powders, are subject to the reporting requirements of the regulation.

Nitrogenous fertilisers

- Regulation 98/2013 lists in Annex II the common nitrate salts used in nitrogenous fertilisers, which means that such fertilisers are subject to the reporting requirements as contained in Article 9 of the regulation. Fertilisers containing high amounts of these nitrates are of most concern. Thefts and disappearances may be prevented by keeping these fertilisers in places where they are not easily accessed by unauthorised persons, as far as that is possible in relation to the normal handling. It may facilitate the discovery of any thefts or disappearances to keep an inventory and to regularly check the stock.
- Some countries may have rules applicable to the storage of fertilisers. In addition, guidance materials on the secure storage of fertilisers have been issued by the fertiliser industry as well as by many authorities. You can ask your supplier for advice on this and/or approach the applicable authority in your country or region.

Nitromethane

- The content of nitromethane in blends with methanol and oil(s) intended for use as fuels for model vehicles is often given in percent by volume. It is difficult in practice to derive the corresponding content of nitromethane in percent by weight, since necessary parameters for the conversion are in most cases not known. Therefore, for the purpose of Regulation 98/2013, fuel blends containing methanol, nitromethane and

³ <http://echa.europa.eu/substance-information/-/substanceinfo/100.035.702>

oil(s), intended for use in model vehicles and with not more than 25 percent nitromethane by volume, may be regarded as containing not more than 30 percent nitromethane by weight.

Other names for specific substances

The names below may also be used to commonly refer to substances listed in the Annexes of the Regulation. The lists are not exhaustive and are intended for reference purposes only.

Other names for Annex I substances	Other names for Annex II substances
<p>Hydrogen peroxide:</p> <ul style="list-style-type: none"> • Peroxide • Dioxidane • Hydrogen Dioxide <p>Nitromethane</p> <ul style="list-style-type: none"> • Nitrocarbol <p>Nitric acid</p> <ul style="list-style-type: none"> • Aqua fortis • Fuming nitric <p>Perchlorates:</p> <ul style="list-style-type: none"> • Chlorate (VII) • Hyperchlorate <p>Chlorates:</p> <ul style="list-style-type: none"> • Chlorate (V) 	<p>Hexamine</p> <ul style="list-style-type: none"> • Methenamine • Hexamethylenetetramine • Urotropine <p>Acetone</p> <ul style="list-style-type: none"> • Propanone • Propan-2-one • 2-Propanone