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Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund covered by the Common Strategic Framework and laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Council Regulation (EC) No 1083/2006**

{SEC(2011) 1141 final}

{SEC(2011) 1142 final}

## EXPLANATORY MEMORANDUM

### **1. CONTEXT OF THE PROPOSAL**

On 29 June 2011, the Commission adopted a proposal for the next multi-annual financial framework for the period 2014-2020: A Budget for Europe 2020<sup>1</sup>. Simplification of policy delivery, focus on results and increased use of conditionality are among the major hallmarks of the next set of programmes.

Simplification has been defined as a key objective in the EU Budget Review Communication<sup>2</sup>, the Smart Regulation agenda<sup>3</sup> and the aforesaid communication on the next multi-annual financial framework. Experience suggests that in the current programming period, the diversity and fragmentation of rules governing spending programmes are often perceived as unnecessarily complicated and difficult to implement and control. This imposes a heavy administrative burden on beneficiaries as well as on the Commission and Member States, which can have the unintended effect of discouraging participation, increasing error rates and delaying implementation. This means that the potential benefits of EU programmes are not fully realised.

The European Regional Development Fund (ERDF), the European Social Fund (ESF), the Cohesion Fund (CF), the European Agricultural Fund for Rural Development (EAFRD) and the future European Maritime and Fisheries Fund (EMFF) (hereinafter referred to as the 'CSF Funds') pursue complementary policy objectives and their management is shared between the Member States and the Commission. It is therefore important to maximise the effectiveness of all structural instruments in terms of delivering objectives and targets set in programmes and optimise synergies and efficiency of the different instruments. This will be achieved through sound policy, regulatory and institutional framework conditions for the funds, an increased focus on results and monitoring progress towards objectives and targets agreed in programmes as well as the harmonisation, to the extent possible, of implementation rules and control requirements.

Against this background, this Regulation delivers a common set of basic rules. It is divided into two parts.

The first part sets out a series of common provisions governing all structural instruments covered by the Common Strategic Framework. These provisions concern the general principles of support such as partnership, multi-level governance, equality between men and women, sustainability and compliance with applicable EU and national law. The proposal also contains the common elements of strategic planning and programming, including a list of joint thematic objectives derived from the Europe 2020 Strategy, provisions on the Common Strategic Framework at Union level and on Partnership Contracts to be concluded with each Member State. It sets out a common approach to reinforce the performance orientation of the cohesion policy, the rural development policy and the maritime and fisheries policy and therefore includes provisions concerning conditionalities and performance review, but also the arrangements for monitoring,

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<sup>1</sup> COM(2011)500 final.

<sup>2</sup> COM(2010)700 final.

<sup>3</sup> COM(2010)543 final.

reporting and evaluation. Common provisions concerning the implementation of CSF Funds are also set out with regard to eligibility rules, and special arrangements are defined for financial instruments and community led local development. Some management and control arrangements are also common for all CSF Funds.

The second part includes specific provisions set out for the ERDF, the ESF and the CF. These include provisions related to the mission and goals of cohesion policy, the financial framework, specific programming and reporting arrangements, major projects and joint action plans. The second part sets out the requirements on management and control systems under cohesion policy and elaborates the specific arrangements for control and financial management.

At the same time, the Commission will ensure that synergies already obtained through simplification and harmonisation of the first pillar (EAGF – European Agricultural Guarantee Fund) and the second pillar (EAFRD) of the Common Agriculture Policy are preserved. The strong link between the EAGF and the EAFRD will therefore be maintained and the structures already in place in the Member States will be sustained.

## **2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES AND IMPACT ASSESSMENTS**

### **2.1. Consultations and expert advice**

The Regulation draws on extensive consultations with stakeholders, including Member States, regions, social and economic partners, academic experts and international institutions in the context of the preparation of the proposal for each structural fund for the 2014-2020 financial framework. The results of the *ex post* evaluations carried out on the 2000-2006 programmes; and a broad range of studies and expert advice were used as input.

For the next cohesion policy framework, expert advice was provided by the High Level Group reflecting on future Cohesion Policy, with 10 meetings held between 2009 and 2011, an informal platform established to support the work of the Commission in developing the future directions of cohesion policy as well as a Task Force on Conditionality, which met three times in early 2011. A public consultation on the conclusions of the Fifth Cohesion Report was held between 12 November 2010 and 31 January 2011. A total of 444 contributions were received. A summary of the results was published on 13 May 2011<sup>4</sup>.

On the future of rural development, a public consultation was held between 23 November 2010 and 25 January 2011 and an advisory committee with stakeholders was organised on 12 January 2011.<sup>5</sup> Altogether, 517 contributions were received by the Commission. Of the contributions from organisations, 44% came from the farming and processing sector and 40% from national, regional and local authorities, environmental organisations, think-tanks and research institutes as well as, development organisations, the trade sector, and consumer organisations. Other organisations (12%) participating in

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<sup>4</sup> "Results of the public consultation on the conclusions of the fifth report on economic, social and territorial cohesion Brussels", Commission Staff Working Paper, SEC(2011) 590 final, 13.5.2011.

<sup>5</sup> [http://ec.europa.eu/agriculture/events/cap-towards-2020\\_en.htm](http://ec.europa.eu/agriculture/events/cap-towards-2020_en.htm)

the consultation included health protection organisations, water management bodies and civil society representations.

On reform of the common fisheries policy, a Green Paper was adopted in April 2009<sup>6</sup>, followed by a public consultation. In addition to the public consultation, approximately 200 meetings with Member States, the Advisory Committee on Fisheries and Aquaculture (ACFA) and the Regional Advisory Councils (RACs), the fishing industry, the processing and marketing sector, trade unions, NGOs, and the research community were organized. In particular: (i) two meetings with the Member States, during which future funding was discussed, took place in Gent (12-14 September 2010) and Noordwijk (9-11 March 2011); (ii) a dedicated seminar on the future European Fisheries Fund with the participation of stakeholders from industry, trade unions and Member States was organised on 13 April 2010, in Brussels; (iii) a conference on the future of local development in fisheries areas took place in Brussels (12-13 April 2011).

A number of common conclusions can be drawn from the results of the different public consultations which confirmed the following:

- A majority of stakeholders called for continued financial support of these policies;
- EU support should focus on a number of priorities and the different policies should be aligned with the Europe 2020 Strategy;
- For cohesion policy in particular, stakeholders called for a more results-oriented approach and there was strong support for a more transparent and simplified set of financial management procedures;

A majority of stakeholders called for a more integrated approach or joined-up strategies with other EU policies and financial instruments.

## **2.2. Impact assessment**

This proposal draws on three Impact Assessments: one carried out for the ERDF, the CF and the ESF together; and one each for the EAFRD and for the EMFF. These impact assessments analysed issues including EU added value, performance and delivery of the policies, as well as simplification and harmonisation of rules. The options assessed in the impact assessments related to (i) improving the capacity of the policies to deliver European added value, (ii) increasing the performance of the policies and (iii) simplification – reducing administrative costs and minimising the risk error.

### *2.2.1. Delivering European added value*

To be able to deliver greater European added value, the structural programmes need to both: a) concentrate their support on EU priorities and b) coordinate with other EU policies and financial instruments. The Europe 2020 Strategy provides a clear set of common objectives, including headline targets and flagship initiatives, as a clear framework for identification of funding priorities. There is broad consensus among stakeholders on the role of the different policies (cohesion policy, rural development

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<sup>6</sup> COM(2009)163 final.

policy and maritime and fisheries policy) in contributing to the achievement of the Europe 2020 Strategy<sup>7</sup>.

As for concentration on EU priorities, the options assessed included a flexible approach to concentration by earmarking provisions; a more visible and comprehensive link with the Europe 2020 headline targets and the Integrated Guidelines, ensuring a critical mass for the ESF and, thirdly, concentration on EU priorities in less developed Member States only. The preferred option is to establish a strong link to Europe 2020 targets which would contribute most to reaching the headline targets.

As for coordination with other EU policies and financial instruments, the options examined included a loose alignment based on non-binding Community Strategic Guidelines, a more comprehensive alignment with the Europe 2020 objectives through the Common Strategic Framework and Partnership Contract, and no alignment with other EU policies and financial instruments beyond formal compliance. Strategic planning arrangements which include the Common Strategic Framework at Union level and Partnership Contracts at national level are considered to ensure effective coordination between Union policies and instruments.

### *2.2.2. Increasing the performance of the policy*

The effectiveness of the different structural instruments depends on sound policy, regulatory and institutional frameworks. In many sectors, a combination of strategic and regulatory conditions and public investment is needed to address bottlenecks to growth effectively. The options examined in this context related to: a) the status quo (macro-fiscal conditionality under the CF, compliance with procedures and with EU sectoral legislation and strategic frameworks, albeit unsystematically applied, no provisions related to performance; b) *ex ante* conditionalities to be fulfilled prior to the adoption of the programmes; c) *ex post* conditionalities including the performance framework and performance reserve; d) strengthened macro-fiscal conditionality; and e) combined option. The preferred option was the combined option since this option would allow addressing the preconditions necessary for the effective use of the CSF Funds and would provide incentives to attain predefined objectives and targets and align the implementation of programmes with the Union's economic governance.

### *2.2.3. Simplification - reducing administrative costs and minimising the risk error*

Sound, effective and efficient management of the structural instruments requires appropriate, effective and transparent systems involving all the different administrations concerned. These systems need to ensure the selection of high quality operations and the effective implementation of these operations to achieve the objectives of the policy. The management and control systems must also ensure the prevention and detection of irregularities, including fraud, and thus reasonable assurance on the regularity of expenditure. At the same time the delivery system should be as simple and streamlined as possible to ensure efficient implementation and the reduction of administrative burden for beneficiaries

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<sup>7</sup>

Council conclusions on the Fifth Report on economic, social and territorial cohesion, 3068th General Affairs Council meeting, Brussels, 21 February 2011.

The options examined for cohesion policy included different reimbursement options (based on real costs and simplified cost options), eGovernance and assurance. The main differences between the options relate to the level of Commission involvement in the assessment of management and control systems, to the availability of reimbursement options linked to results, and to the mechanisms for promoting eGovernance in the day to day management of EU funds. A proportional approach entailing risk based control arrangements, the availability of a wide range of reimbursement options, and advanced eGovernance at the level of Member States and regions is the preferred option since it could lead to a significant potential reduction in the cost of controls and a decline in workload and would also comply better with the subsidiarity principle.

### 3. LEGAL ELEMENTS OF THE PROPOSAL

EU action is justified both on the grounds of the objectives laid out in Article 174 of the Treaty on the Functioning of the European Union (TFEU) and the subsidiarity principle. The right to act is enshrined in Article 175 of the TFEU which explicitly calls on the Union to implement this policy by means of Structural Funds, in conjunction with Article 177, which defines the role of the CF. The aims of the ESF, ERDF and the CF are defined in Articles 162, 176 and 177 of the TFEU respectively. The actions related to agriculture and fisheries are justified by Articles 38 and 39 of the TFEU.

Article 174 of the TFEU states that particular attention shall be paid to rural areas, areas affected by industrial transition, and regions which suffer from severe and permanent natural or demographic handicaps such as the northernmost regions with very low population density and island, cross-border and mountain regions.

Article 349 of the TFEU states that specific measures shall be adopted to take account of the structural social and economic situation of the outermost regions, which is compounded by certain specific features which severely restrain their development.

### 4. BUDGETARY IMPLICATIONS

The Commission's proposal for a multi-annual financial framework foresees an amount of EUR 376 billion for economic, social and territorial cohesion for the period 2014-2020.

Proposed budget 2014-2020	EUR billion
Less developed regions	162,6
Transition regions	38,9
More developed regions	53,1
Territorial cooperation	11,7
Cohesion Fund	68,7
Extra allocation for outermost and sparsely populated regions	0,926
Connecting Europe Facility for transport, energy and ICT	40 (with an additional EUR 10 billion ring fenced inside the Cohesion Fund)

*\*All figures in constant 2011 prices*

The Commission's proposal has also established, with the aim of enhancing the contribution of the CSF Funds in delivering on the headline targets of the Europe 2020

Strategy, minimum shares for the ESF for each category of regions. The application of the shares result in a minimum overall share for the ESF of 25% of the budget allocated to cohesion policy, i.e. EUR 84 billion. It is however important to note that the indicated minimum ESF allocation includes the budget for a forthcoming Commission proposal regarding food support for the most deprived persons.

The Commission's proposal for the financing of the EAFRD and the EMFF will be included in the Fund-specific regulations for each Fund.

## **5. SUMMARY OF THE CONTENT OF THE REGULATION**

### **5.1. Common provisions governing all CSF Funds**

#### *5.1.1. General principles*

The general principles governing the support of all CSF Funds will include partnership and multi-level governance, compliance with applicable EU and national law, promotion of equality between men and women and sustainable development.

Within this context, for the ESF, the Commission will continue to be assisted by the Committee foreseen in Article 163 of the Treaty and composed of one government representative, one representative of the workers' organisations and one representative of the employers' organisations from each Member State.

#### *5.1.2. Strategic approach*

In order to maximise the impact of the policy in delivering European priorities, the Commission proposes to reinforce the strategic programming process. This involves defining a list of thematic objectives in the Regulation in line with the Europe 2020 Strategy:

- (1) strengthening research, technological development and innovation;
- (2) enhancing access to and use and quality of information and communication technologies;
- (3) enhancing the competitiveness of small and medium-sized enterprises, the agricultural sector (for the EAFRD) and fisheries and aquaculture sector (for the EMFF);
- (4) supporting the shift towards a low-carbon economy in all sectors;
- (5) promoting climate change adaptation, risk prevention and management;
- (6) protecting the environment and promoting resource efficiency;
- (7) promoting sustainable transport and removing bottlenecks in key network infrastructures;
- (8) promoting employment and supporting labour mobility;
- (9) promoting social inclusion and combating poverty;

- (10) investing in education, skills and lifelong learning;
- (11) enhancing institutional capacity and an efficient public administration.

The Common Strategic Framework will translate the objectives and targets of the Union priorities of smart, sustainable and inclusive growth into key actions for the ERDF, the CF, the ESF, the EAFRD and the EMFF which will ensure an integrated use of the CSF Funds to deliver common objectives.

Partnership Contracts between the Commission and each Member State will set out the commitments of partners at national and regional level and the Commission. They will be linked to the objectives of the Europe 2020 Strategy and the National Reform Programmes. They will set out an integrated approach for territorial development supported by all the CSF Funds and include objectives based on agreed indicators, strategic investments and a number of conditionalities. They will contain commitments to give yearly account of progress in the annual reports on cohesion policy, on rural development policy and in other public reporting.

### 5.1.3. *Conditionalities and performance*

To reinforce performance, new conditionality provisions will be introduced to ensure that EU funding creates strong incentives for Member States to deliver Europe 2020 objectives and targets. Conditionality will take the form of both '*ex ante*' conditions that must be in place before funds are disbursed and '*ex post*' conditions that will make the release of additional funds contingent on performance.

The rationale for strengthening '*ex ante*' conditionality for these funds is to ensure that the conditions necessary for their effective support are in place. Past experience suggests that the effectiveness of investments financed by the funds have in some instances been undermined by bottlenecks in policy, regulatory and institutional frameworks. The concept of conditionality is not a new concept within the framework of cohesion policy. Over successive programming periods, a number of mechanisms have been introduced to maximise the effectiveness of the interventions. Some are linked to management and control disciplines while others to strategic and regulatory frameworks as well as administrative capacity. The experiences with the application of conditionalities however indicate variations across programmes. A more transparent and systematic application is therefore justified.

'*Ex post*' conditionality will strengthen the focus on performance and the attainment of the Europe 2020 objectives. It will be based on the achievement of milestones related to targets for outputs and results linked to Europe 2020 objectives set for programmes in the partnership contract. 5% of the budget of the relevant funds will be set aside and allocated, during a mid-term performance review, to the Member States whose programmes have met their milestones. In addition to the performance reserve, failure to achieve milestones may lead to the suspension of funds, and a serious underachievement in meeting targets for a programme may give rise to a cancellation of funds.

To ensure that the effectiveness of the funds is not undermined by unsound macro-fiscal policies, the Commission proposes to reinforce the rules governing the Funds on macro-fiscal conditionality and align them with the new Stability and Growth Pact enforcement measures to be adopted as part of the Sixth Economic Governance Package.

At the same time, a higher co-financing rate (by 10 percentage points) can be applied when a Member State is receiving financial assistance in accordance with Articles 136 and 143 of the TFEU, thus reducing the effort required from national budgets at a time of fiscal consolidation, while keeping the same overall level of EU funding.

#### *5.1.4. Common management arrangements*

The proposal envisages a management and control system which is similar across shared management instruments and is based on common principles. A system of national accreditation is put in place to emphasize the commitment of Member States to sound financial management. The arrangements underpinning the assurance of the Commission with regard to the regularity of expenditure have been harmonised and new common elements such as a management declaration of assurance and annual clearance of accounts have been introduced to reinforce assurance.

#### *5.1.5. Community-led local development*

Member States will have the possibility to use common processes for preparation, negotiation, management and implementation, and will be encouraged to do so in particular where the need for improved coordination of human capital and infrastructure investments is greatest.

The CSF Funds need to address multiple development needs at sub-regional and local level. To facilitate the implementation of multi-dimensional and cross-sectoral interventions, the Commission proposes to strengthen community-led initiatives, facilitate the implementation of integrated local development strategies and formation of local action groups, based on the experience of the LEADER approach.

#### *5.1.6. Financial instruments*

In addition to grant funding, it is proposed that support for enterprises and projects expected to generate substantial financial returns will be delivered primarily through innovative financial instruments.

While financial instruments will remain similar to those employed in 2007-2013, several elements of simplification should be emphasized. First, the Commission will offer ready made solutions through access to financial instruments set up at EU level and models for national and regional funds based on standard terms and conditions laid down by the Commission. Second, the proposal represents a clear framework for the implementation of these instruments, and addresses the ambiguities which arose in the context the 2007-2013 legislative framework, increasing legal certainty for all parties. Third, financial instruments can in the future be used for all types of investment and beneficiary representing a significant extension of the possibilities to use these innovative instruments.

#### *5.1.7. Monitoring and evaluation*

Common provisions for all CSF funds in the area of monitoring and evaluation include the role and composition of the monitoring committee, annual implementation reports, annual review meetings, progress reports on the implementation of the Partnership Contract, *ex ante* and *ex post* evaluations.

### 5.1.8. *Simplified and streamlined eligibility rules*

In the current period, many beneficiaries using funds from different Union funding instruments are faced with different eligibility rules which increases the complexity of management and thus also the risk of errors. Emphasis has therefore been placed on measures to ensure that administrative costs are proportionate and that the administrative burden associated with the management of EU funds by beneficiaries is reduced. The aim is to harmonise, to the extent possible, these basic rules for instruments implemented under shared management, in order to reduce the multiplicity of rules applied on the ground. Simplified costs options such as flat rates and lump sums provide the means for Member States to introduce performance-oriented management at the level of individual operations.

Common provisions on the delivery include common rules on eligible expenditure, the different forms of financial support, simplified costs, and durability of operations. The proposal also envisages common principles for the management and control systems

In the context of the CAP, the current rules on administrative costs and the control systems will be maintained and sustained.

## 5.2. **General provisions applicable to the ERDF, the ESF and the CF**

Part Three of the Regulation defines the mission and goals of cohesion policy, the geographical coverage of support, financial resources and principles of assistance, programming, major projects, joint action plans, territorial development, monitoring and evaluation, information and communication, eligibility of expenditure and management and control systems.

### 5.2.1. *Geographical coverage of support*

This includes a distinction in relation to less developed, transition and more developed regions.

**Less developed regions:** In accordance with the TFEU, supporting the less developed regions will remain an important priority for cohesion policy. The catching up process of economically and socially lagging regions will require long-term sustained efforts in a world of increasing uncertainty. This category concerns those regions whose GDP per capita is less than 75 % of the average GDP of the EU-27.

**Transition regions:** A new category of region – 'transition regions' – will be introduced to replace the current phasing-out and phasing-in system. This category will include all regions with a GDP per capita between 75% and 90% of the EU-27 average.

**More developed regions:** While interventions in the less developed regions will remain the priority for cohesion policy, there are important challenges that concern all Member States such as global competition in the knowledge-based economy, the shift towards the low carbon economy and social polarisation exacerbated by the current economic climate. This category concerns those regions whose GDP per capita is above 90% of the average GDP of the EU-27.

All regions whose GDP per capita for the 2007-2013 period was less than 75% of the average of the EU-25 for the reference period but whose GDP per capita has grown to more than 75% of the EU-27 average will receive two thirds of their 2007-13 allocation.

Minimum shares for the ESF will be established for each category of regions (25% for convergence regions, 40% for transition, and 52% for competitiveness regions).

The CF will support Member States whose GNI per inhabitant is less than 90% of the EU-27 average in making investments in TEN-T transport networks and the environment. Part of the Cohesion Fund allocation (EUR 10 billion) will be ring-fenced to finance core transport networks under the Connecting Europe Facility

Experience with the current financial framework shows that many Member States have difficulties in absorbing large volumes of EU funds over a limited period of time. Furthermore, the fiscal situation in some Member States has made it more difficult to release funds to provide national co-financing. In order to address the issue of absorption of funding the Commission is proposing a number of steps:

- to fix at 2,5% of GDP the capping rates for cohesion allocations;
- capping co-financing rates at the level of each priority axis within the operational programmes at 85% in less developed regions (or in certain cases, 80% and 75%) and outermost regions, 60% in transition regions and 50% in more developed regions;
- to include certain conditions in the partnership contracts regarding the improvement of administrative capacity.

#### 5.2.2. *Reinforced strategic programming geared towards results*

The Commission proposes a more results-oriented programming process to ensure that cohesion policy programmes have a clear intervention logic, are oriented towards results, and include the appropriate provisions for an integrated approach to development and the effective implementation of the Funds. In particular, the Commission proposes to introduce the Joint Action Plans, which are operations comprising a group of projects as part of an operational programme, with specific objectives, result indicators and outputs agreed between the Member State and the Commission. They offer a simplified management and control system geared towards performance.

#### 5.2.3. *Streamlining financial management and control*

Management and control system need to find a balance between the costs of management and control and the risks involved.

The Commission's role in the *ex ante* review of national management and control systems will be proportionate, as an obligatory review by the Commission is replaced by a risk based approach. Small programmes will be exempt from a Commission review. The risk-based approach reduces administrative costs associated with small programmes and solid administrations. It also reinforces assurance, as Commission resources can be used more efficiently and targeted to areas of higher risks.

Electronic data management can be a major source of reductions in administrative burden and at the same time increase the controllability of projects and expenditure. It is therefore proposed to require all Member States to set up systems by the end of 2014 to enable beneficiaries to submit all information by way of electronic data exchange.

One of the complexities associated with the financial management system in the 2007-2013 programming period is the general rule that all supporting documents for individual operations have to be retained until three years after the programme has been closed. The proposal therefore foresees a mandatory annual closure of completed operations or expenditure in the framework of the annual clearance of accounts. This aims to reduce the burden associated with a long retention period of documents for individual beneficiaries and the risks associated with the loss of the audit trail.

Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund covered by the Common Strategic Framework and laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Council Regulation (EC) No 1083/2006**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 177 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national Parliaments,

Having regard to the opinion of the European Economic and Social Committee<sup>8</sup>,

Having regard to the opinion of the Committee of the Regions<sup>9</sup>,

Having regard to the opinion of the Court of Auditors<sup>10</sup>,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Article 174 of the Treaty provides that, in order to strengthen its economic, social and territorial cohesion, the Union shall aim at reducing disparities between the levels of development of the various regions and the backwardness of the least favoured regions or islands, particular rural areas, areas affected by industrial transition, and regions which suffer from severe and permanent natural or demographic handicaps. Article 175 of the Treaty requires that the Union would support the achievement of these objectives by action it takes through the European Agricultural Guidance and Guarantee Fund, Guidance Section, the European Social Fund, the European Regional Development Fund, the European Investment Bank and other instruments.

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<sup>8</sup> OJ C , , p. .

<sup>9</sup> OJ C , , p. .

<sup>10</sup> OJ C , , p. .

- (2) In line with the conclusions of the European Council of 17 June 2010, whereby the Union strategy for smart, sustainable and inclusive growth was adopted, the Union and Member States should implement the delivery of smart, sustainable and inclusive growth, while promoting harmonious development of the Union and reducing regional disparities.
- (3) In order to improve coordination and harmonise implementation of the Funds providing support under the cohesion policy, namely the European Regional Development Fund (ERDF), the European Social Fund (ESF) and the Cohesion Fund (CF), with the Funds for rural development, namely the European Agricultural Fund for Rural Development (EAFRD), and for the maritime and fisheries sector, namely the European Maritime and Fisheries Fund (EMFF), common provisions should be established for all these Funds (the 'CSF Funds'). In addition this Regulation contains provisions which are common for the ERDF, the ESF and the CF, but do not apply to the EAFRD and the EMFF. Due to the particularities that exist for each CSF Fund, specific rules applicable to each CSF Fund and to the European territorial cooperation goal under the ERDF should be specified in separate regulations.
- (4) As regards the Common Agricultural Policy (CAP), significant synergies have already been obtained by harmonising and aligning management and control rules for the first pillar (EAGF - European Agricultural Guarantee Fund) and the second pillar (EAFRD) of the CAP. The strong link between the EAGF and the EAFRD should therefore be maintained and the structures already in place in the Member States be sustained.
- (5) The outermost regions should benefit from specific measures and additional funding to offset the handicaps resulting from the factors referred to in Article 349 of the Treaty.
- (6) To ensure correct and consistent interpretation of provisions and to contribute to the legal certainty of Member States and beneficiaries, it is necessary to define certain terms that are used in the Regulation.
- (7) It is set out that this Regulation consists of three parts, of which the first contains recitals and definitions, the second contains rules applicable to all CSF Funds and the third includes provisions applicable only to the ERDF, the ESF and the CF (the 'Funds').
- (8) Under Article 317 of the Treaty, and in the context of shared management, the conditions allowing the Commission to exercise its responsibilities for implementation of the general budget of the European Union should be specified and the responsibilities of cooperation by the Member States clarified. Those conditions should enable the Commission to obtain assurance that Member States are using the CSF Funds in a legal and regular manner and in accordance with the principle of sound financial management within the meaning of Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities (hereinafter referred to as the 'Financial Regulation')<sup>11</sup>. Member States and the

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<sup>11</sup> OJ L 248, 16.9.2002, p. 1.

bodies designated by them for that purpose should be responsible for implementing programmes at the appropriate territorial level, in accordance with the institutional, legal and financial framework of the Member State. These provisions also ensure that attention is drawn to the need to ensure complementarity and consistency of Union intervention, the proportionality of administrative arrangements and a reduction of the administrative burden of beneficiaries of the CSF Funds.

- (9) For the Partnership Contract and each programme respectively, a Member State should organise a partnership with the representatives of competent regional, local, urban and other public authorities, economic and social partners, and bodies representing civil society, including environmental partners, non-governmental organisations, and bodies responsible for promoting equality and non-discrimination. The purpose of such a partnership is to respect the principle of multi-level governance, ensure the ownership of planned interventions by stakeholders and build on the experience and know-how of relevant actors. The Commission should be empowered to adopt delegated acts providing for a code of conduct in order to ensure that partners are involved in the preparation, implementation, monitoring and evaluation of Partnership Contracts and programmes in a consistent manner.
- (10) The activities of the CSF Funds and the operations which they support should comply with applicable Union and national law which is directly or indirectly linked to the implementation of the operation.
- (11) In the context of its effort to increase economic, territorial and social cohesion, the Union should, at all stages of implementation of the CSF Funds, aim at eliminating inequalities and promoting equality between men and women, as well as combating discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.
- (12) The objectives of the CSF Funds should be pursued in the framework of sustainable development and the Union's promotion of the aim of protecting and improving the environment as set out in Article 11 and 19 of the Treaty, taking into account the polluter pays principle. The Member States should provide information on the support for climate change objectives in line with the ambition to devote at least 20% of the Union budget to this end, using a methodology adopted by the Commission by implementing act.
- (13) In order to achieve the targets and objectives of the Union strategy for smart, sustainable and inclusive growth, the CSF Funds should focus their support on a limited number of common thematic objectives. The precise scope of each of the CSF Funds should be set out in Funds-specific rules and may be limited to only some of the thematic objectives defined in this Regulation.
- (14) The Commission should adopt by delegated act a Common Strategic Framework which translates the objectives of the Union into key actions for the CSF Funds, in order to provide clearer strategic direction to the programming process at the level of Member States and regions. The Common Strategic Framework should facilitate sectoral and territorial coordination of Union intervention under the CSF Funds and with other relevant Union policies and instruments.

- (15) The Common Strategic Framework should therefore establish the key areas of support, territorial challenges to be addressed, policy objectives, priority areas for cooperation activities, coordination mechanisms and mechanisms for coherence and consistency with the economic policies of Member States and the Union.
- (16) On the basis of the Common Strategic Framework adopted by the Commission, each Member State should prepare, in cooperation with its partners and in dialogue with the Commission, a Partnership Contract. The Partnership Contract should translate the elements set out in the Common Strategic Framework into the national context and set out firm commitments to the achievement of Union objectives through the programming of the CSF Funds.
- (17) Member States should concentrate support to ensure a significant contribution to the achievement of Union objectives in line with their specific national and regional development needs. *Ex ante* conditionalities should be defined to ensure that the necessary framework conditions for the effective use of Union support are in place. The fulfilment of those *ex ante* conditionalities should be assessed by the Commission in the framework of its assessment of the Partnership Contract and programmes. In cases where there is a failure to fulfil an *ex ante* conditionality, the Commission should have the power to suspend payments to the programme.
- (18) A performance framework should be defined for each programme with a view to monitoring progress towards the objectives and targets set for each programme over the course of the programming period. The Commission should undertake a performance review in cooperation with the Member States in 2017 and 2019. A performance reserve should be foreseen and allocated in 2019 where milestones set in the performance framework have been attained. Due to their diversity and multi-country character, there should be no performance reserve for 'European Territorial Cooperation' programmes. In cases where the shortfall in the achievement of milestones or targets is significant, the Commission should be able to suspend payments to the programme or, at the end of the programming period, apply financial corrections, in order to ensure that the Union budget is not used in a wasteful or inefficient way.
- (19) Establishing a closer link between cohesion policy and the economic governance of the Union will ensure that the effectiveness of expenditure under the CSF Funds is underpinned by sound economic policies and that the CSF Funds can, if necessary, be redirected to addressing the economic problems a country is facing. This process has to be gradual, starting with amendments to the Partnership Contract and to the programmes in support of Council recommendations to address macroeconomic imbalances and social and economic difficulties. Where, despite the enhanced use of CSF Funds, a Member State fails to take effective action in the context of the economic governance process, the Commission should have the right to suspend all or part of the payments and commitments. Decisions on suspensions should be proportionate and effective, taking into account the impact of the individual programmes for addressing the economic and social situation in the relevant Member State and previous amendments to the Partnership Contract. When deciding on suspensions, the Commission should also respect equality of treatment between Member States, taking into account in particular the impact of the suspension on the economy of the Member State concerned. The suspensions should be lifted and funds be made available again to

the Member State concerned as soon as the Member State takes the necessary action.

- (20) In order to ensure focus on the achievement of the Union strategy for smart, sustainable and inclusive growth, common elements should be defined for all programmes. In order to ensure the consistency of programming arrangements for the CSF Funds, the procedures for adoption and amendment of programmes should be aligned. Programming should ensure consistency with the Common Strategic Framework and Partnership Contract, coordination of the CSF Funds between themselves and with the other existing financial instruments and the European Investment Bank.
- (21) Territorial cohesion has been added to the goals of economic and social cohesion by the Treaty, and it is necessary to address the role of cities, functional geographies and sub-regional areas facing specific geographical or demographic problems. To this end, to better mobilise potential at a local level, it is necessary to strengthen and facilitate community-led local development by laying down common rules and close coordination for all CSF Funds. Responsibility for the implementation of local development strategies should be given to local action groups representing the interests of the community, as an essential principle.
- (22) Financial instruments are increasingly important due to their leverage effect on CSF Funds, their capacity to combine different forms of public and private resources to support public policy objectives, and because revolving forms of finance make such support more sustainable over the longer term.
- (23) Financial instruments supported by the CSF Funds should be used to address specific market needs in a cost effective way, in accordance with the objectives of the programmes, and should not crowd out private financing. The decision to finance support measures through financial instruments should be determined therefore on the basis of an *ex ante* analysis.
- (24) Financial instruments should be designed and implemented so as to promote substantial participation by private sector investors and financial institutions on an appropriate risk-sharing basis. To be sufficiently attractive to private sector, financial instruments need to be designed and implemented in a flexible manner. Managing authorities should therefore decide on the most appropriate forms to implement financial instruments to address the specific needs of the target regions, in accordance with the objectives of the relevant programme.
- (25) Managing authorities should have the possibility to contribute resources from programmes to financial instruments set up at Union level, or to instruments set up at regional level. Managing authorities should also have the possibility to implement financial instruments directly, through specific funds or through funds of funds.
- (26) The amount of the resources paid at any time from the CSF Funds to financial instruments should correspond to the amount necessary to implement planned investments and payments to final recipients, including management costs and fees, determined on the basis of business plans and cash-flow forecasts for a pre-defined period which should not exceed two years.

- (27) It is necessary to lay down specific rules regarding the amounts to be accepted as eligible expenditure at closure, to ensure that the amounts, including the management costs and fees, paid from the CSF Funds to financial instruments are effectively used for investments and payments to final recipients. It is also necessary to lay down specific rules regarding the reuse of resources attributable to the support from the CSF Funds, including the use of legacy resources after the closure of the programmes.
- (28) Member States should monitor programmes in order to review implementation and progress towards achieving the programme's objectives. To this end, monitoring committees should be set up and their composition and functions defined for CSF Funds. Joint Monitoring Committees could be set up to facilitate coordination between the CSF Funds. In order to ensure effectiveness, monitoring committees should be able to issue recommendations to managing authorities regarding implementation of the programme and should monitor actions taken as a result of its recommendations.
- (29) Alignment of the monitoring and reporting arrangements of the CSF Funds is necessary to simplify management arrangements at all levels. It is important to ensure proportionate reporting requirements but also the availability of comprehensive information on progress made at key review points. Therefore it is necessary that reporting requirements reflect information needs in given years and are aligned with the timing of the performance reviews.
- (30) With a view to monitoring progress of programmes, an annual review meeting should take place between the Member State and the Commission. The Member State and the Commission should however be able to agree not to organize the meeting in order to avoid unnecessary administrative burden.
- (31) In order for the Commission to monitor progress towards achieving Union objectives, Member States should submit progress reports on the implementation of their Partnership Contracts. On the basis of such reports, the Commission should prepare a strategy report on progress in 2017 and 2019.
- (32) It is necessary to evaluate the effectiveness, efficiency and impact of assistance from the CSF Funds in order to improve the quality of implementation and design of programmes, and to determine the impact of programmes in relation to the targets for the Union strategy for smart sustainable and inclusive growth and in relation to GDP and unemployment, where relevant. The responsibilities of Member States and the Commission in this regard should be specified.
- (33) In order to improve the quality and design of each programme, and verify that objectives and targets can be reached, an *ex ante* evaluation of each programme should be carried out.
- (34) An evaluation plan should be drawn up by the authority responsible for the preparation of the programme. During the programming period managing authorities should carry out evaluations to assess the effectiveness and impact of a programme. The monitoring committee and the Commission should be informed about the results of evaluations to facilitate management decisions.

- (35) *Ex post* evaluations should be carried out in order to assess the effectiveness and efficiency of the CSF Funds and their impact on the overall goals of the CSF Funds and the Union strategy for smart, sustainable and inclusive growth.
- (36) It is useful to specify the types of action that may be undertaken at the initiative of the Commission and of the Member States as technical assistance with support from the CSF Funds.
- (37) In order to ensure an effective use of Union resources, and avoid the over-financing of revenue generating operations, it is necessary to set out the rules for calculating the contribution from the CSF Funds to a revenue-generating operation.
- (38) The starting and closing dates for the eligibility of expenditure should be defined so as to provide for a uniform and equitable rule applying to the implementation of the CSF Funds across the Union. In order to facilitate the execution of programmes, it is appropriate to establish that the starting date for the eligibility of expenditure may be prior to 1 January 2014 if the Member State concerned submits a programme before that date. With a view to ensuring an effective use of EU Funds and reducing the risk to the EU budget, it is necessary to put in place restrictions on support for completed operations.
- (39) In accordance with the principle of subsidiarity and subject to exceptions provided for in Regulation(s) (EU) No [...] [ERDF, ESF, CF, ETC, EAFRD, EMFF Regulations], Member States should adopt national rules on the eligibility of expenditure.
- (40) With a view to simplifying the use of the CSF Funds and reducing the risk of errors, while providing for differentiation where needed to reflect the specificities of policy, it is appropriate to define the forms of support, harmonized conditions of reimbursement of grants and flat rate financing, specific eligibility rules for grants and specific conditions on the eligibility of operations depending on location.
- (41) To ensure the effectiveness, fairness and sustainable impact of the intervention of the CSF Funds, there should be provisions guaranteeing that investments in businesses and infrastructures are long-lasting and prevent the CSF Funds from being used to undue advantage. Experience has shown that a period of five years is an appropriate minimum period to be applied, except where State aid rules foresee a different period. It is appropriate to exclude actions supported by the ESF and those not entailing productive investment or investment in infrastructure from the general requirement of durability, unless such requirements are derived from applicable State aid rules, and to exclude contributions to or from financial instruments.
- (42) Member States should adopt adequate measures to guarantee the proper set up and functioning of their management and control systems to give assurance on the legal and regular use of the CSF Funds. The obligations of Member States as regards the management and control systems of programmes, and in relation to the prevention, detection and correction of irregularities and infringements of Union law should therefore be specified.

- (43) In accordance with the principles of shared management, Member States should have the primary responsibility, through their management and control systems, for the implementation and control of the operations in programmes. In order to strengthen the effectiveness of the control over the selection and implementation of operations and the functioning of the management and control system, the functions of the managing authority should be specified.
- (44) In order to provide assurance *ex ante* on the set up and design of the main systems of management and control, Member States should designate an accrediting body that is responsible for the accreditation and withdrawal of accreditation of managing and control bodies.
- (45) The powers and responsibilities of the Commission to verify the effective functioning of the management and control systems, and to require Member State action, should be laid down. The Commission should also have the power to carry out audits focused on issues relating to sound financial management in order to draw conclusions on the performance of Funds.
- (46) Union budget commitments should be effected annually. In order to ensure effective programme management, it is necessary to lay down common rules for interim payment requests, the payment of the annual balance, where appropriate, and the final balance, without prejudice to specific rules that are required for each of the CSF Funds.
- (47) The pre-financing payment at the start of programmes ensures that the Member State has the means to provide support to beneficiaries in the implementation of the programme from programme adoption. Therefore, provisions should be made for initial pre-financing amounts from the CSF Funds. Initial pre-financing should be totally cleared at closure of the programme.
- (48) In order to safeguard the Union's financial interests, there should be measures limited in time that allow the authorising officer by delegation to interrupt payments where there is evidence to suggest a significant deficiency in the functioning of the management and control system, evidence of irregularities linked to a payment application, or a failure to submit documents for the purpose of clearance of accounts.
- (49) In order to ensure that expenditure co-financed by the Union budget in any given financial year is used in accordance with the applicable rules, an appropriate framework should be created for the annual clearance of accounts. Under this framework, the accredited bodies should submit to the Commission, in respect of each programme, a management declaration of assurance accompanied by the certified annual accounts, a summary report of controls and an independent audit opinion and control report.
- (50) In order to safeguard the Union budget, it may be necessary for the Commission to make financial corrections. To ensure legal certainty for the Member States, it is important to define the circumstances under which breaches of applicable Union or national law can lead to financial corrections by the Commission. In order to ensure that financial corrections which the Commission may impose on Member States are related to the protection of the EU's financial interests, they should be confined to cases where the breach of Union or national law concerns

directly or indirectly the eligibility, regularity, management or control of operations and the corresponding expenditure. To ensure proportionality it is important that the Commission considers the nature and the gravity of the breach in deciding the amount of financial correction.

- (51) In order to encourage financial discipline, it is appropriate to define the arrangements for decommitment of any part of the budget commitment in a programme, in particular where an amount may be excluded from decommitment, notably when delays in implementation result from circumstances which are independent of the party concerned, abnormal or unforeseeable and whose consequences cannot be avoided despite the diligence shown.
- (52) Additional general provisions are necessary in relation to the specific functioning of the Funds. In particular, in order to increase their added value, and to enhance their contribution to the priorities of the Union strategy for smart, sustainable and inclusive growth, the functioning of these Funds should be simplified and concentrated on the goals of 'Investment for growth and jobs' and 'European territorial cooperation'.
- (53) Additional provisions for the specific functioning of the EAFRD and the EMFF are set out in the relevant sector-specific legislation.
- (54) In order to promote the Treaty objectives of economic, social and territorial cohesion, the 'Investment for growth and jobs' goal should support all regions. To provide balanced and gradual support and reflect the level of economic and social development, resources under that goal should be allocated from the ERDF and the ESF among the less developed regions, the transition regions and the more developed regions according to their gross domestic product (GDP) per capita in relation to the EU average. In order to ensure the long-term sustainability of investment from the Structural Funds, regions whose GDP per capita for the 2007-2013 period was less than 75% of the average of the EU-25 for the reference period but whose GDP per capita has grown to more than 75% of the EU-27 average should receive at least two thirds of their 2007-2013 allocation. Member States whose per capita gross national income (GNI) is less than 90 % of that of the Union average should benefit under the 'Investment for growth and jobs' goal from the CF.
- (55) Objective criteria should be fixed for designating eligible regions and areas for support from the Funds. To this end, the identification of the regions and areas at Union level should be based on the common system of classification of the regions established by Regulation (EC) No 1059/2003 of the European Parliament and the Council of 26 May 2003 on the establishment of a common classification of territorial units for statistics (NUTS)<sup>12</sup>.
- (56) In order to set out an appropriate financial framework, the Commission should establish, by means of implementing acts, the indicative annual breakdown of available commitment appropriations using an objective and transparent method with a view to targeting the regions whose development is lagging behind, including those receiving transitional support.

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OJ L 154, 21.6.2003, p. 1.

- (57) It is necessary to fix the limits of those resources for the 'Investment for growth and jobs' goal and to adopt objective criteria for their allocation to regions and Member States. In order to encourage the necessary acceleration of development of infrastructure in transport and energy as well as information and communication technologies across the Union, a Connecting Europe Facility should be created. The allocation of the annual appropriations from the Funds and the amounts transferred from the Cohesion Fund to the Connecting Europe Facility to a Member State should be limited to a ceiling that would be fixed taking into account the capacity of that particular Member State to absorb these appropriations. In addition, in line with the headline target on poverty reduction, it is necessary to reorient the scheme for food support for the most deprived persons to promote social inclusion and the harmonious development of the Union. A mechanism is envisaged which transfers resources to this instrument and ensures that these will be constituted from ESF allocations through an implicit corresponding decrease of the minimum percentage of the Structural Funds to be allocated to the ESF in each country.
- (58) In order to strengthen the focus on results and achievement of the Europe 2020 objectives and targets, five per cent of the resources for the 'Investment for growth and jobs' goal should be set aside as a performance reserve for each Fund, and category of region in each Member State.
- (59) As regards the Funds and with a view to ensuring an appropriate allocation to each category of regions, resources should not be transferred between less developed, transition and more developed regions except in duly justified circumstances linked to the delivery of one or more thematic objectives and for no more than 2 % of the total appropriation for that category of region.
- (60) In order to ensure a genuine economic impact, support from the Funds should not replace public expenditure or equivalent structural expenditure by Member States under the terms of this Regulation. In addition, so that the support from the Funds takes into account a broader economic context, the level of public expenditure should be determined with reference to the general macroeconomic conditions in which the financing takes place based on the indicators provided in the Stability and Convergence Programmes submitted annually by Member States in accordance with Regulation (EC) No. 1466/1997 of 7 July 1997 on the strengthening of the surveillance of budgetary positions and the surveillance and coordination of economic policies<sup>13</sup>. Verification by the Commission of the principle of additionality should concentrate on the Member States in which less developed and transition regions cover at least 15% of the population because of the scale of the financial resources allocated to them.
- (61) It is necessary to lay down additional provisions concerning the programming, management, monitoring and control of operational programmes supported by the Funds. Operational programmes should set out priority axes corresponding to thematic objectives, elaborate a consistent intervention logic to tackle the development needs identified, and set out the framework for performance assessment. They should also contain other elements necessary to underpin the effective and efficient implementation of these Funds.

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OJ L 209, 2.8.1997, p. 1.

- (62) With a view to improving complementarities and simplifying implementation, it should be possible to combine support from the CF and the ERDF with support from the ESF in joint operational programmes under the growth and jobs goal.
- (63) Major projects represent a substantial share of Union spending and are frequently of strategic importance with respect to the achievement of the Union strategy for smart, sustainable and inclusive growth. Therefore it is justified that operations of substantial size continue to be subject to approval by the Commission under this regulation. To ensure clarity, it is appropriate to define the content of a major project for this purpose. The Commission should also have the possibility to refuse support for a major project where the granting of such support is not justified.
- (64) In order to give Member States the option of implementing part of an operational programme using a result-based approach, it is useful to provide for a joint action plan comprising a set of actions to be carried out by a beneficiary to contribute to the objectives of the operational programme. In order to simplify and reinforce the result orientation of the Funds the management of the joint action plan should be exclusively based on jointly agreed milestones, outputs and results as defined in the Commission decision adopting the joint action plan. Control and audit of a joint action plan should also be limited to the achievement of these milestones, outputs and results. Consequently, it is necessary to lay down rules on its preparation, content, adoption, financial management and control of joint action plans.
- (65) Where an urban or territorial development strategy requires an integrated approach because it involves investments under more than one priority axis of one or several operational programmes, action supported by the Funds should be carried out as an integrated territorial investment within an operational programme.
- (66) It is necessary to adopt specific rules in relation to the functions of the monitoring committee and the annual reports on implementation of operational programmes supported by the Funds. Additional provisions for the specific functioning of the EAFRD are set out in the relevant sector specific legislation.
- (67) To ensure the availability of essential and up to date information on programme implementation, it is necessary that Member States provide the Commission with the key data on a regular basis. In order to avoid an additional burden on Member States, this should be limited to data collected continuously, and the transmission should be performed by way of electronic data exchange.
- (68) In accordance with Article 175 of the Treaty, the Commission submits Cohesion Reports to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions every three years on the progress made towards achieving the Union's economic, social and territorial cohesion. It is necessary to lay down the content of this report.
- (69) It is considered appropriate that the Commission, in cooperation with the Member States, carries out the *ex post* evaluation for the Funds to obtain information at the appropriate level on the results and impact of interventions financed. Specific

provisions are also needed to establish a procedure for the approval of the evaluation plans for the Funds.

- (70) It is important to bring the achievements of the Union's Funds to the attention of the general public. Citizens have the right to know how the Union's financial resources are invested. The responsibility to ensure that the appropriate information is communicated to the public should lie with both the managing authorities and the beneficiaries. To ensure more efficiency in communication to the public at large and stronger synergies between the communication activities undertaken at the initiative of the Commission, the resources allocated to communication actions under this Regulation shall also contribute to cover the corporate communication of the political priorities of the European Union as far as they are related to the general objectives of this Regulation.
- (71) For the purpose of ensuring a wide dissemination of information about the achievements of the Funds and the role of the Union therein and to inform potential beneficiaries about funding opportunities, detailed rules about information and communication measures, as well as certain technical characteristics of such measures, should be defined in this Regulation.
- (72) With a view to strengthening accessibility and transparency of information about funding opportunities and project beneficiaries, in each Member State a single website or website portal providing information on all the operational programmes, including the lists of operations supported under each operational programme, should be made available.
- (73) It is necessary to determine the elements for modulating the co-financing rate from the Funds to operational programmes, in particular, to increase the multiplier effect of Union resources. It is also necessary to establish the maximum rates of co-financing by category of region in order to ensure respect of the principle of co-financing through an appropriate level of national support.
- (74) It is necessary for Member States to designate a managing authority, a certifying authority and a functionally independent auditing authority for each operational programme. To provide flexibility for Member States in the set up of control systems, it is appropriate to provide the option for the functions of the certifying authority to be carried out by the managing authority. The Member State should also be allowed to designate intermediate bodies to carry out certain tasks of the managing authority or the certifying authority. The Member State should in that case lay down clearly their respective responsibilities and functions.
- (75) The managing authority bears the main responsibility for the effective and efficient implementation of the Funds and thus fulfils a substantial number of functions related to programme management and monitoring, financial management and controls as well as project selection. Its responsibilities and functions should be set out.
- (76) The certifying authority should draw up and submit to the Commission payment applications. It should draw up the annual accounts, certifying the completeness, accuracy and veracity of the annual accounts and that the expenditure entered in the accounts complies with applicable Union and national rules. Its responsibilities and functions should be set out.

- (77) The audit authority should ensure that audits are carried out on the management and control systems, on an appropriate sample of operations and on the annual accounts. Its responsibilities and functions should be set out.
- (78) In order to take account of the specific organisation of the management and control systems for the ERDF, ESF and CF and the need to ensure a proportionate approach, specific provisions are required for the accreditation and withdrawal of accreditation of the managing authority and the certifying authority.
- (79) Without prejudice to the Commission's powers as regards financial control, cooperation between the Member States and the Commission in this field should be increased and criteria should be established which allow the Commission to determine, in the context of its strategy of control of national systems, the level of assurance it should obtain from national audit bodies.
- (80) In addition to common rules on financial management, additional provisions are necessary for the ERDF, ESF and CF. In particular, with a view to ensuring reasonable assurance for the Commission prior to the annual clearance of accounts, applications for interim payments should be reimbursed at a rate of 90 % of the amount resulting from applying the co-financing rate for each priority axis as laid down in the decision adopting the operational programme to the eligible expenditure for the priority axis. The outstanding amounts due should be paid to the Member States upon annual clearance of accounts, provided that reasonable assurance has been attained in regard to the eligibility of expenditure for the year covered by the clearance procedure.
- (81) To ensure that beneficiaries receive the support as soon as possible and to reinforce the assurance for the Commission it is appropriate to require that payment applications include only expenditure for which the support has been paid to beneficiaries. Pre-financing each year should be foreseen to ensure that Member State have sufficient means to operate under such arrangements. Such pre-financing should be cleared each year with the clearance of accounts.
- (82) To ensure the appropriate application of the general rules on decommitment, the rules established for the Funds should detail how the deadlines for decommitment are established and how the respective amounts are calculated.
- (83) It is necessary to specify the detailed procedure for the annual clearance of accounts applicable to the Funds to ensure a clear basis and legal certainty for these arrangements. It is important to envisage a limited possibility for the Member State to define a provision in its annual accounts for an amount, which is subject to an ongoing procedure with the audit authority.
- (84) The process of annual clearance of accounts should be accompanied by an annual closure of completed operations (for the ERDF and the CF) or expenditure (for the ESF). In order to reduce the costs associated with the final closure of operational programmes, to reduce the administrative burden for beneficiaries and to provide legal certainty, annual closure should be obligatory thereby limiting the period during which the supporting documents need to be maintained and during which operations can be audited and financial corrections imposed.

- (85) In order to safeguard the Union's financial interests and provide the means to ensure effective programme implementation, there should be measures allowing for the suspension by the Commission of payments at the level of priority axis or operational programme.
- (86) It is appropriate to lay down the specific arrangements and procedures for financial corrections by Member States and by the Commission in respect of the Funds to provide legal certainty for Member States.
- (87) The frequency of audits on operations should be proportionate to the extent of the Union's support from the Funds. In particular, the number of audits carried out should be reduced where the total eligible expenditure for an operation does not exceed EUR 100 000. Nevertheless, it should be possible to carry out audits at any time where there is evidence of an irregularity or fraud, or, following closure of a completed operation, as part of an audit sample. In order that the level of auditing by the Commission is proportionate to the risk, the Commission should be able to reduce its audit work in relation to operational programmes where there are no significant deficiencies or where the audit authority can be relied on.
- (88) In order to supplement and amend certain non-essential elements of this Regulation, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission in respect of a code of conduct on the objectives and criteria to support the implementation of partnership, the adoption of a Common Strategic Framework, additional rules on the allocation of the performance reserve, the definition of the area and population covered by the local development strategies, detailed rules on financial instruments (*ex ante* assessment, combination of support, eligibility, types of activities not supported), the rules on certain types of financial instruments set up at national, regional, transnational or cross-border level, rules concerning funding agreements, transfer and management of assets, the arrangements for management and control, the rules on payment requests, and establishment of a system of capitalisation of annual instalments, the definition of the flat rate for revenue generating operations, the definition of the flat rate applied to indirect costs for grants based on existing methods and corresponding rates applicable in Union policies, the responsibilities of Member States concerning the procedure for reporting irregularities and recovery of sums unduly paid, the modalities of exchange of information of operations, the arrangements for the adequate audit trail, the conditions of national audits, the accreditation criteria for managing authorities and certifying authorities, the identification of commonly accepted data carriers, and the criteria for establishing the level of financial correction to be applied. The Commission should also be empowered to amend Annex V in order to address future adaptation needs. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level.
- (89) The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and Council.
- (90) The Commission should be empowered to adopt, by means of implementing acts, as regards all CSF Funds, decisions approving the Partnership Contracts, decisions on the allocation of the performance reserve, decisions suspending

payments linked to Member States' economic policies, and, in the case of decommitment, decisions to amend decisions adopting programmes; and as regards the Funds, decisions identifying the regions and Member States fulfilling the Investment for growth and jobs criteria, decisions setting out the annual breakdown of commitment appropriations to the Member States, decisions setting out the amount to be transferred from each Member State's CF allocation to the Connecting Europe Facility, decisions setting out the amount to be transferred from each Member State's Structural Funds allocation for food for deprived people, decisions adopting and amending operational programmes, decisions on major projects, decisions on joint action plans, decisions suspending payments and decisions on financial corrections.

- (91) In order to ensure uniform conditions for the implementation of this Regulation, the implementing powers relating to the methodology concerning climate change objectives, standard terms and conditions for monitoring of financial instruments, the uniform conditions concerning the monitoring and provision of monitoring information for financial instruments, the methodology for the calculation of net revenue for revenue-generating projects, the electronic data exchange system between the Member State and the Commission, the model of operational programme for the Funds, the nomenclature for the categories of intervention, the format for information on major projects and methodology to be used in carrying out the cost-benefit analysis on major projects, the model for the joint action plan, the model of the annual and final implementation reports, certain technical characteristics of information and publicity measures and related instructions, rules on the exchange of information between beneficiaries and managing authorities, certifying authorities, audit authorities and intermediate bodies, the model of the management declaration, the models for the audit strategy, opinion and annual control report and methodology for the sampling method, the rules concerning use of data collected during audits, and the model for payment applications should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers<sup>14</sup>.
- (92) This Regulation replaces Council Regulation (EC) No 1083/2006 of 11 July 2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Regulation (EC) No 1260/1999<sup>15</sup>. That Regulation should be therefore repealed.
- (93) Since the objective of this Regulation, namely to reduce disparities between levels of development of the various regions and the backwardness of the least favoured regions or islands, particular rural areas, areas affected by industrial transition, and regions which suffer from severe and permanent natural or demographic handicaps, cannot be sufficiently achieved by Member States but can be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this

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<sup>14</sup> OJ L 55, 28.2.2011, p.13.

<sup>15</sup> OJ L 210, 31.7.2006, p. 25.

Regulation does not go beyond what is necessary in order to achieve that objective,

HAVE ADOPTED THIS REGULATION

## **PART ONE**

### **SUBJECT-MATTER AND DEFINITIONS**

#### *Article 1*

##### **Subject-matter**

This Regulation lays down the common rules applicable to the European Regional Development Fund (ERDF), the European Social Fund (ESF), the Cohesion Fund (CF), the European Agricultural Fund for Rural Development (EAFRD) and the European Maritime and Fisheries Fund (EMFF), which are operating under the Common Strategic Framework (the 'CSF Funds'). It also defines the provisions necessary to ensure the effectiveness of the CSF Funds and their coordination with one another and with other Union instruments.

This Regulation also lays down the general rules governing the ERDF, the ESF (together referred to as the 'Structural Funds') and the CF. The Regulation defines the tasks, priority objectives and organisation of the Structural Funds and the CF (the 'Funds'), the criteria for Member States and regions to be eligible for support from the CSF Funds, the financial resources available and the criteria for their allocation.

The rules set out in this Regulation apply without prejudice to the provisions laid down in Regulation (EU) No [...] /2012 of the European Parliament and of the Council on the financing, management and monitoring of the common agriculture policy<sup>16</sup> (hereinafter referred to as the 'CAP' Regulation) and to the specific provisions laid down in the following Regulations:

- (1) Regulation (EU) No [...] /2012 of the European Parliament and of the Council on the European Regional Development Fund and repealing Regulation (EC) No 1080/2006<sup>17</sup> (the 'ERDF Regulation');
- (2) Regulation (EU) No [...] /2012 of the European Parliament and of the Council on the European Social Fund and repealing Regulation (EC) No 1081/2006<sup>18</sup> (the 'ESF Regulation');
- (3) Regulation (EU) No [...] /2012 of the European Parliament and of the Council establishing a Cohesion Fund and repealing Regulation (EC) No 1084/2006<sup>19</sup> (the 'CF Regulation');

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OJ L , , p . .

- (4) Regulation (EU) No [...]/2012 of the European Parliament and of the Council on European territorial cooperation<sup>20</sup> (the 'ETC Regulation');
- (5) Regulation (EU) No [...]/2012 of the European Parliament and of the Council on the European Agricultural Fund for Rural Development and repealing Regulation (EC) No 1698/2005<sup>21</sup> (the 'EAFRD Regulation'); and
- (6) Regulation (EU) No [...]/2012 of the European Parliament and of the Council on the European Maritime and Fisheries Fund and repealing Regulation (EC) No 1198/2006<sup>22</sup> (the 'EMFF Regulation').

## *Article 2*

### **Definitions**

For the purposes of this Regulation, the definitions on financial instruments as laid down in the Financial Regulation shall apply to financial instruments supported by the CSF Funds, except where otherwise provided in this Regulation.

In addition, the following definitions shall apply:

- (1) 'Union strategy for smart, sustainable and inclusive growth' means the targets and shared objectives guiding the action of Member States and the Union set out in the Communication of the Commission: Europe 2020: A strategy for smart, sustainable and inclusive growth, and contained in the Conclusions adopted by the European Council of 17 June 2010 as Annex I (New European Strategy for Jobs and Growth, EU Headline Targets), Council Recommendation of 13 July 2010 on broad guidelines for the economic policies of the Member States and the Union<sup>23</sup> and Council Decision of 21 October 2010 on guidelines for the employment policies of the Member States<sup>24</sup>, and any revision of such targets and shared objectives.
- (2) 'Common Strategic Framework' means the document translating the objectives and targets of the Union strategy for smart, sustainable and inclusive growth into key actions for the CSF Funds, establishing for each thematic objective the key actions to be supported by each CSF Fund and the mechanisms for ensuring the coherence and consistency of the programming of the CSF Funds with the economic and employment policies of the Member States and of the Union;
- (3) 'Fund-specific rules' means the provisions laid down in or established on the basis of Part Three of this Regulation or a specific or generic regulation governing one or more of the CSF Fund(s) referred to or listed in the third subparagraph of Article 1;

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OJ L 191, 23.7.2010, p.28.

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OJ L 308, 24.11.2010, p.46.

- (4) 'programming' means the process of organisation, decision-making and allocation of financial resources in several stages intended to implement, on a multi-annual basis, the joint action by the Union and the Member States to achieve Union strategy for smart, sustainable and inclusive growth;
- (5) 'programme' means 'operational programme' referred to in Part Three of this Regulation and in the EMFF Regulation, and 'rural development programme' referred to in the EAFRD Regulation;
- (6) 'priority' means the 'priority axis' referred to in Part Three of this Regulation and the 'Union priority' referred to in the EMFF Regulation and in the EAFRD Regulation;
- (7) 'operation' means a project, contract, action or group of projects selected by the managing authorities of the programmes concerned, or under their responsibility, contributing to the objectives of the priority or priorities to which it relates; in the context of financial instruments, the operation is constituted by the financial contributions from a programme to financial instruments and the subsequent financial support provided by these financial instruments;
- (8) 'beneficiary' means a public or private body responsible for initiating or initiating and implementing operations; in the context of State aid, the term 'beneficiary' means the body which receives the aid; in the context of financial instruments, the term 'beneficiary' means the body that implements the financial instrument;
- (9) 'final recipient' means a legal or natural person that receives financial support from a financial instrument;
- (10) 'State aid' means aid falling under Article 107(1) of the Treaty which shall be deemed for the purposes of this Regulation also to include *de minimis* aid within the meaning of Commission Regulation (EC) No 1998/2006 of 15 December 2006 on the application of Articles 87 and 88 of the Treaty to *de minimis* aid<sup>25</sup>, Commission Regulation (EC) No 1535/2007 of 20 December 2007 on the application of Articles 87 and 88 of the EC Treaty to *de minimis* aid in the sector of agricultural production<sup>26</sup> and Commission Regulation (EC) No 875/2007 of 24 July 2007 on the application of Articles 87 and 88 of the EC Treaty to *de minimis* aid in the fisheries sector and amending Regulation (EC) No 1860/2004<sup>27</sup>;
- (11) 'completed operation' means an operation that has been physically completed or fully implemented and in respect of which all related payments have been made by beneficiaries and the corresponding public contribution has been paid to the beneficiaries;
- (12) 'public support' means any financial support to the financing of an operation the origin of which is the budget of national, regional or local public authorities, the

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<sup>25</sup> OJ L 379, 28.12.2006, p. 5.

<sup>26</sup> OJ L 337, 21.12.2007, p. 35.

<sup>27</sup> OJ L 193, 25.7.2007, p. 6.

budget of the Union related to the CSF Funds, the budget of public law bodies or the budget of associations of public authorities or public law bodies;

- (13) 'public law body' means any body governed by public law in the meaning of Article 1(9) of Directive 2004/18/EC of the European Parliament and of the Council<sup>28</sup> and any European grouping of territorial cooperation (EGTC) established in accordance with Regulation (EC) No 1082/2006 of the European Parliament and of the Council<sup>29</sup>, regardless of whether the relevant national implementing provisions consider the EGTC a public law body or a private law body;
- (14) 'document' means a paper or an electronic medium bearing information relevant in the framework of this Regulation;
- (15) 'intermediate body' means any public or private body which acts under the responsibility of a managing or certifying authority, or which carries out duties on behalf of such an authority vis-à-vis beneficiaries' implementing operations;
- (16) 'local development strategy' means a coherent set of operations to meet local objectives and needs, which contributes to meeting the Union strategy for smart, sustainable and inclusive growth and which is implemented in partnership at the appropriate level;
- (17) 'rolling closure' means closure of operations as a result of the annual clearance of account exercise and before the general closure of the programme;
- (18) 'Partnership Contract' means the document prepared by the Member State with the involvement of partners in line with the multi-level governance approach, which sets out the Member State's strategy, priorities and arrangements for using the CSF Funds in an effective and efficient way to pursue the Union strategy for smart, sustainable and inclusive growth, and which is approved by the Commission following assessment and dialogue with the Member State;
- (19) 'category of regions' means the categorisation of regions as 'less developed regions', 'transition regions' or 'more developed regions' according to Article 82(2);
- (20) 'request for payment' means a payment application or declaration of expenditure submitted by the Member State to the Commission;
- (21) 'EIB' means the European Investment Bank, the European Investment Fund or any subsidiary of the European Investment Bank;
- (22) 'SME' means a micro, small or medium sized enterprise in the meaning of Commission Recommendation 2003/361/EC, or subsequent amendments thereof;
- (23) 'accounting year, means, for the purposes of Part Three, the period from 1 July to 30 June, except for the first accounting year, in respect of which it means the

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<sup>28</sup> OJ L 134, 30.4.2004, p. 114.

<sup>29</sup> OJ L 210, 31.7.2006, p. 19.

period from the start date for eligibility of expenditure until 30 June 2015. The final accounting year shall be from 1 July 2022 to 30 June 2023;

- (24) 'financial year, means, for the purposes of Part Three, the period from 1 January to 31 December.

## **PART TWO**

### **COMMON PROVISIONS APPLICABLE TO CSF FUNDS**

#### **TITLE I**

#### **Principles of Union support for the CSF Funds**

##### *Article 3*

##### **Scope**

The rules set out in this Part shall apply without prejudice to the provisions laid down in Part Three.

##### *Article 4*

##### **General principles**

1. The CSF Funds shall provide support, through multi-annual programmes, which complements national, regional and local intervention, to deliver the Union strategy for smart, sustainable and inclusive growth, taking account of the Integrated Guidelines, the country-specific recommendations under Article 121(2) of the Treaty and the relevant Council recommendations adopted under 148(4) of the Treaty.
2. The Commission and the Member States shall ensure that support from the CSF Funds is consistent with the policies and priorities of the Union and complementary to other instruments of the Union.
3. Support from the CSF Funds shall be implemented in close cooperation between the Commission and the Member States.
4. Member States and the bodies designated by them for that purpose shall be responsible for implementing programmes and carrying out their tasks under this Regulation and the Fund-specific rules at the appropriate territorial level, in accordance with the institutional, legal and financial framework of the Member State and subject to compliance with this Regulation and the Fund-specific rules.

5. Arrangements for the implementation and use of the CSF Funds, and in particular the financial and administrative resources required for the implementation of the CSF Funds, in relation to the reporting, evaluation, management and control shall take into account the principle of proportionality having regard to the level of support allocated.
6. In accordance with their respective responsibilities, the Commission and the Member States shall ensure coordination among the CSF Funds, and with other Union policies and instruments, including those in the framework of the Union's external action.
7. The part of the Union budget allocated to the CSF Funds shall be implemented within the framework of shared management between the Member States and the Commission, in accordance with Article 53(b) of the Financial Regulation, with the exception of the amount of the CF transferred to the Connecting Europe Facility referred to in Article 84(4) and innovative actions at the initiative of the Commission under Article 9 of the ERDF Regulation, and technical assistance at the initiative of the Commission.
8. The Commission and the Member States shall apply the principle of sound financial management in accordance with Article 27 of the Financial Regulation.
9. The Commission and the Member States shall ensure the effectiveness of the CSF Funds, in particular through monitoring, reporting and evaluation.
10. The Commission and the Member States shall carry out their respective roles in relation to the CSF Funds with the aim of reducing the administrative burden for beneficiaries.

#### *Article 5*

#### **Partnership and multi-level governance**

1. For the Partnership Contract and each programme respectively, a Member State shall organise a partnership with the following partners:
  - (a) competent regional, local, urban and other public authorities;
  - (b) economic and social partners; and
  - (c) bodies representing civil society, including environmental partners, non-governmental organisations, and bodies responsible for promoting equality and non-discrimination.
2. In accordance with the multi-level governance approach, the partners shall be involved by Member States in the preparation of Partnership Contracts and progress reports and in the preparation, implementation, monitoring and evaluation of programmes. The partners shall participate in the monitoring committees for programmes.
3. The Commission shall be empowered to adopt delegated acts in accordance with Article 142 to provide for a European code of conduct that lays down objectives

and criteria to support the implementation of partnership and to facilitate the sharing of information, experience, results and good practices among Member States.

4. At least once a year, for each CSF Fund, the Commission shall consult the organisations which represent the partners at Union level on the implementation of support from the CSF Funds.

#### *Article 6*

### **Compliance with Union and national law**

Operations financed by the CSF Funds shall comply with applicable Union and national law.

#### *Article 7*

### **Promotion of equality between men and women and non-discrimination**

The Member States and the Commission shall ensure that equality between men and women and the integration of gender perspective is promoted in the preparation and implementation of programmes.

The Member States and the Commission shall take appropriate steps to prevent any discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation during the preparation and implementation of programmes.

#### *Article 8*

### **Sustainable development**

The objectives of the CSF Funds shall be pursued in the framework of sustainable development and the Union's promotion of the aim of protecting and improving the environment, as set out in Article 11 of the Treaty, taking into account the polluter pays principle.

The Member States and the Commission shall ensure that environmental protection requirements, resource efficiency, climate change mitigation and adaptation, disaster resilience and risk prevention and management are promoted in the preparation and implementation of Partnership Contracts and programmes. Member States shall provide information on the support for climate change objectives using the methodology adopted by the Commission. The Commission shall adopt this methodology by means of an implementing act. The implementing act shall be adopted in accordance with the examination procedure referred to in Article 143(3).

## **TITLE II**

### **STRATEGIC APPROACH**

#### **CHAPTER I**

### **Thematic objectives for the CSF Funds and Common Strategic Framework**

#### *Article 9*

#### **Thematic objectives**

Each CSF Fund shall support the following thematic objectives in accordance with its mission in order to contribute to the Union strategy for smart, sustainable and inclusive growth:

- (1) strengthening research, technological development and innovation;
- (2) enhancing access to, and use and quality of, information and communication technologies;
- (3) enhancing the competitiveness of small and medium-sized enterprises, the agricultural sector (for the EAFRD) and the fisheries and aquaculture sector (for the EMFF);
- (4) supporting the shift towards a low-carbon economy in all sectors;
- (5) promoting climate change adaptation, risk prevention and management;
- (6) protecting the environment and promoting resource efficiency;
- (7) promoting sustainable transport and removing bottlenecks in key network infrastructures;
- (8) promoting employment and supporting labour mobility;
- (9) promoting social inclusion and combating poverty;
- (10) investing in education, skills and lifelong learning;
- (11) enhancing institutional capacity and an efficient public administration.

Thematic objectives shall be translated into priorities specific to each CSF Fund and set out in the Fund-specific rules.

## *Article 10*

### **Common Strategic Framework**

In order to promote the harmonious, balanced and sustainable development of the Union, a Common Strategic Framework shall translate the objectives and targets of the Union strategy for smart, sustainable and inclusive growth into key actions for the CSF Funds.

## *Article 11*

### **Content**

The Common Strategic Framework shall establish:

- (a) for each thematic objective, the key actions to be supported by each CSF Fund;
- (b) the key territorial challenges for urban, rural, coastal and fisheries areas, as well as for areas with particular territorial features referred to in Articles 174 and 349 of the Treaty, to be addressed by the CSF Funds;
- (c) horizontal principles and policy objectives for the implementation of the CSF Funds;
- (d) priority areas for cooperation activities for each of the CSF Funds, where appropriate, taking account of macro-regional and sea basin strategies;
- (e) coordination mechanisms among the CSF Funds, and with other relevant Union policies and instruments, including external instruments for cooperation;
- (f) mechanisms for ensuring the coherence and consistency of the programming of the CSF Funds with the country-specific recommendations under Article 121(2) of the Treaty and the relevant Council recommendations adopted under 148(4) of the Treaty.

## *Article 12*

### **Adoption and review**

The Commission shall be empowered to adopt a delegated act in accordance with Article 142 on the Common Strategic Framework within 3 months of the adoption of this Regulation.

Where there are major changes in the Union strategy for smart, sustainable and inclusive growth, the Commission shall review and, where appropriate, adopt, by delegated act in accordance with Article 142, a revised Common Strategic Framework.

Within 6 months of adoption of a revised Common Strategic Framework, Member States shall propose amendments, where necessary, to their Partnership Contract and programmes to ensure their consistency with the revised Common Strategic Framework.

## CHAPTER II

### Partnership Contract

#### *Article 13*

##### **Preparation of the Partnership Contract**

1. Each Member State shall prepare a Partnership Contract for the period from 1 January 2014 to 31 December 2020.
2. The Partnership Contract shall be drawn up by Member States in cooperation with the partners referred to in Article 5. The Partnership Contract shall be prepared in dialogue with the Commission.
3. The Partnership Contract shall cover all support from the CSF Funds in the Member State concerned.
4. Each Member State shall transmit its Partnership Contract to the Commission within 3 months of the adoption of the Common Strategic Framework.

#### *Article 14*

##### **Content of the Partnership Contract**

The Partnership Contract shall set out:

- (a) arrangements to ensure alignment with the Union strategy for smart, sustainable and inclusive growth, including:
  - (i) an analysis of disparities and development needs with reference to the thematic objectives and key actions defined in the Common Strategic Framework and the targets set in the country-specific recommendations under Article 121(2) of the Treaty and the relevant Council recommendations adopted under Article 148(4) of the Treaty;
  - (ii) a summary analysis of the *ex ante* evaluations of the programmes justifying the selection of the thematic objectives and the indicative allocations of the CSF Funds;
  - (iii) for each thematic objective, a summary of the main results expected for each of the CSF Funds;
  - (iv) the indicative allocation of support by the Union by thematic objective at national level for each of the CSF Funds, as well as the total indicative amount of support foreseen for climate change objectives;

- (v) the main priority areas for cooperation, taking account, where appropriate, of macro-regional and sea basin strategies;
  - (vi) horizontal principles and policy objectives for the implementation of the CSF Funds;
  - (vii) the list of the programmes under the ERDF, the ESF and the CF, except those under the European territorial cooperation goal, and of the programmes of the EAFRD and the EMFF, with the respective indicative allocations by CSF Fund and by year;
- (b) an integrated approach to territorial development supported by the CSF Funds setting out:
- (i) the mechanisms at national and regional level that ensure coordination between the CSF Funds and other Union and national funding instruments and with the EIB;
  - (ii) the arrangements to ensure an integrated approach to the use of the CSF Funds for the territorial development of urban, rural, coastal and fisheries areas and areas with particular territorial features, in particular the implementation arrangements for Articles 28, 29 and 99 accompanied, where appropriate, by a list of the cities to participate in the urban development platform referred to in Article 8 of the ERDF Regulation;
- (c) an integrated approach to address the specific needs of geographical areas most affected by poverty or of target groups at highest risk of discrimination or exclusion, with special regard to marginalised communities, where appropriate, including the indicative financial allocation for the relevant CSF Funds;
- (d) arrangements to ensure effective implementation, including:
- (i) a consolidated table of milestones and targets established in programmes for the performance framework referred to in Article 19(1), together with the methodology and mechanism to ensure consistency across programmes and CSF Funds;
  - (ii) a summary of the assessment of the fulfilment of *ex ante* conditionalities and of the actions to be taken at national and regional level, and the timetable for their implementation, where *ex ante* conditionalities are not fulfilled;
  - (iii) the information required for *ex ante* verification of compliance with the rules on additionality as they are defined in Part Three of this Regulation;
  - (iv) the actions taken to involve the partners and their role in the preparation of the Partnership Contract and the progress report as defined in Article 46 of this Regulation;

- (e) arrangements to ensure efficient implementation of the CSF Funds, including:
  - (i) an assessment of whether there is a need to reinforce the administrative capacity of the authorities and, where appropriate, beneficiaries, and actions to be taken for this purpose;
  - (ii) a summary of the actions planned and corresponding targets in the programmes to achieve a reduction in the administrative burden for beneficiaries;
  - (iii) an assessment of the existing systems for electronic data exchange, and the actions planned to permit all exchanges of information between beneficiaries and authorities responsible for management and control of programmes to be carried out solely by electronic data exchange.

#### *Article 15*

#### **Adoption and amendment of the Partnership Contract**

1. The Commission shall assess the consistency of the Partnership Contract with this Regulation, with the Common Strategic Framework, and the country-specific recommendations under Article 121(2) of the Treaty and the Council recommendations adopted under 148(4) of the Treaty, taking account of the *ex ante* evaluations of the programmes, and shall make observations within three months of the date of submission of the Partnership Contract. The Member State shall provide all necessary additional information and, where appropriate, shall revise the Partnership Contract.
2. The Commission shall adopt a decision, by means of implementing acts, approving the Partnership Contract no later than six months after its submission by the Member State, provided that any observations made by the Commission have been satisfactorily taken into account. The Partnership Contract shall not enter into force before 1 January 2014.
3. Where a Member State proposes an amendment to the Partnership Contract, the Commission shall carry out an assessment in accordance with paragraph 1 and, where appropriate, shall adopt a decision, by means of implementing acts, approving the amendment.

## CHAPTER III

### Thematic concentration, *ex ante* conditionalities and performance review

#### *Article 16*

##### **Thematic concentration**

Member States shall concentrate support, in accordance with the Fund-specific rules, on actions bringing the greatest added value in relation to the Union strategy for smart, sustainable and inclusive growth, addressing the challenges identified in the country-specific recommendations under Article 121(2) of the Treaty and the relevant Council recommendations adopted under 148(4) of the Treaty, and taking into account national and regional needs.

#### *Article 17*

##### ***Ex ante* conditionalities**

1. *Ex ante* conditionalities shall be defined for each CSF Fund in the Fund-specific rules.
2. Member States shall assess whether the applicable *ex ante* conditionalities are fulfilled.
3. Where *ex ante* conditionalities are not fulfilled at the date of transmission of the Partnership Contract, Member States shall set out in the Partnership Contract a summary of the actions to be taken at national or regional level and the timetable for their implementation, to ensure their fulfilment not later than two years after the adoption of the Partnership Contract or by 31 December 2016, whichever is earlier.
4. Member States shall set out the detailed actions relating to the fulfilment of *ex ante* conditionalities, including the timetable for their implementation, in the relevant programmes.
5. The Commission shall assess the information provided on the fulfilment of *ex ante* conditionalities in the framework of its assessment of the Partnership Contract and programmes. It may decide, when adopting a programme, to suspend all or part of interim payments to the programme pending the satisfactory completion of actions to fulfil an *ex ante* conditionality. The failure to complete actions to fulfil an *ex ante* conditionality by the deadline set out in the programme shall constitute a basis for suspending payments by the Commission.
6. Paragraphs 1 to 5 shall not apply to programmes under the European territorial cooperation goal.

## *Article 18*

### **Performance reserve**

5% of the resources allocated to each CSF Fund and Member State, with the exception of resources allocated to the European territorial cooperation goal and to Title V of the EMFF Regulation, shall constitute a performance reserve to be allocated in accordance with Article 20.

## *Article 19*

### **Performance review**

1. The Commission, in cooperation with the Member States, shall undertake a review of the performance of the programmes in each Member State in 2017 and 2019, with reference to the performance framework set out in the respective Partnership Contract and programmes. The method for establishing the performance framework is set out in Annex I.
2. The review shall examine the achievement of the milestones of the programmes at the level of priorities, on the basis of the information and the assessments presented in the progress reports submitted by the Member States in the years 2017 and 2019.

## *Article 20*

### **Allocation of performance reserve**

1. Where the review of performance undertaken in 2017 reveals that a priority within a programme has not attained its milestones set for the year 2016, the Commission shall make recommendations to the Member State concerned.
2. On the basis of the review undertaken in 2019, the Commission shall adopt a decision, by means of implementing acts, to determine for each CSF Fund and Member State the programmes and priorities which have attained their milestones. The Member State shall propose the attribution of the performance reserve for the programmes and priorities set out in that Commission decision. The Commission shall approve the amendment of the programmes concerned in accordance with Article 26. Where a Member State fails to submit the information in accordance with Article 46(2) and (3), the performance reserve for the programmes or the priorities concerned shall not be allocated.
3. Where there is evidence resulting from a performance review that a priority has failed to achieve the milestones set out in the performance framework, the Commission may suspend all or part of an interim payment of a priority of a programme in accordance with the procedure laid down in Fund-specific rules.
4. Where the Commission, based on the examination of the final implementation report of the programme, establishes a serious failure to achieve the targets set out in the performance framework, it may apply financial corrections in respect

of the priorities concerned in accordance with Fund-specific rules. The Commission shall be empowered to adopt delegated acts in accordance with Article 142 to establish criteria and the methodology for determining the level of financial correction to be applied. .

5. Paragraph 2 shall not apply to programmes under the European territorial cooperation goal and to Title V of the EMFF Regulation.

## **CHAPTER IV**

### **Macroeconomic conditionalities**

#### *Article 21*

##### **Conditionality linked to the coordination of Member States' economic policies**

1. The Commission may request a Member State to review and propose amendments to its Partnership Contract and the relevant programmes, where this is necessary:
  - (a) to support the implementation of a Council recommendation, addressed to the Member State concerned and adopted in accordance with Articles 121(2) and/or 148(4) of the Treaty, or to support the implementation of measures addressed to the Member State concerned and adopted in accordance with Article 136(1) of the Treaty;
  - (b) to support the implementation of a Council recommendation addressed to the Member State concerned and adopted in accordance with Article 126(7) of the Treaty;
  - (c) to support the implementation of a Council recommendation addressed to the Member State concerned and adopted in accordance with Article 7(2) of Regulation (EU) No .../2011 [on the prevention and correction of macroeconomic imbalances], provided that these amendments are deemed necessary to help correct the macroeconomic imbalances; or
  - (d) to maximise the growth and competitiveness impact of the available CSF Funds pursuant to paragraph 4, if a Member State meets one of the following conditions:
    - (i) Union financial assistance is made available to it under Council Regulation (EU) No 407/2010;
    - (ii) medium-term financial assistance is made available to it in accordance with Council Regulation (EC) No 332/2002<sup>30</sup>;

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<sup>30</sup> OJ L 53, 23.2.2002, p. 1.

- (iii) financial assistance in the form of an ESM loan is made available to it in accordance with the Treaty establishing the European Stability Mechanism.
- 2. The Member State shall submit a proposal for amending the Partnership Contract and the relevant programmes within one month. If necessary, the Commission shall make observations within one month from the submission of the amendments, in which case the Member State shall re-submit its proposal within one month.
- 3. Where the Commission has not made observations or where its observations have been satisfactorily taken into account, the Commission shall adopt a decision approving the amendments to the Partnership Contract and the relevant programmes without undue delay.
- 4. By derogation to paragraph 1, where financial assistance is made available to a Member State in accordance with paragraph 1(d) and is linked to an adjustment programme, the Commission may without any proposal from the Member State amend the Partnership Contract and the programmes with a view to maximising the growth and competitiveness impact of the available CSF Funds. To ensure effective implementation of the Partnership Contract and the relevant programmes, the Commission shall become involved in their management as detailed in the adjustment programme or the Memorandum of Understanding signed with the Member State concerned.
- 5. Where the Member State fails to respond to the Commission's request referred to in paragraph 1 or does not reply satisfactorily within one month to the observations of the Commission referred to in paragraph 2, the Commission may, within three months following its observations, adopt a decision, by means of implementing acts, suspending part or all of the payments for the programmes concerned.
- 6. The Commission shall suspend, by means of implementing acts, part or all of the payments and commitments for the programmes concerned where:
  - (a) the Council decides that the Member State does not comply with the specific measures set out by the Council in accordance with Article 136(1) of the Treaty;
  - (b) the Council decides in accordance with Article 126(8) or Article 126(11) of the Treaty that the Member State concerned has not taken effective action to correct its excessive deficit;
  - (c) the Council concludes in accordance with Article 8(3) of Regulation (EU) No [...] /2011 [on the prevention and correction of macroeconomic imbalances] that, on two successive instances, the Member State has not submitted a sufficient corrective action plan or the Council adopts a decision declaring non-compliance in accordance with Article 10(4) of that Regulation;
  - (d) the Commission concludes that the Member State has not taken measures to implement the adjustment programme referred to in Council Regulation

(EU) No 407/2010 or Council Regulation (EC) No 332/2002 and as a consequence decides not to authorise the disbursement of the financial assistance granted to this Member State; or

- (e) the Board of Directors of the European stability mechanism concludes that the conditionality attached to an ESM financial assistance in the form of an ESM loan to the concerned Member State was not met and as a consequence decides not to disburse the stability support granted to it.
7. When deciding to suspend part or all of the payments or commitments in accordance with paragraphs 5 and 6 respectively, the Commission shall ensure that the suspension is proportionate and effective, taking into account the economic and social circumstances of the Member State concerned, and respects equality of treatment between Member States, in particular with regard to the impact of the suspension on the economy of the Member State concerned.
8. The Commission shall without delay lift the suspension of payments and commitments where the Member State has proposed amendments to the Partnership Contract and the relevant programmes as requested by the Commission, which the Commission has approved and, where applicable:
- (a) the Council has decided that the Member State complies with the specific measures set out by the Council in accordance with Article 136(1) of the Treaty;
  - (b) the excessive deficit procedure is held in abeyance in accordance with Article 9 of Regulation (EC) No 1467/97 or the Council has decided in accordance with Article 126(12) of the Treaty to abrogate the decision on the existence of an excessive deficit;
  - (c) the Council has endorsed the corrective action plan submitted by the concerned Member State in accordance with Article 8(2) of Regulation (EU) No [...] [EIP Regulation] or the excessive imbalance procedure is placed in a position of abeyance in accordance with Article 10(5) of that Regulation or the Council has closed the excessive imbalance procedure in accordance with Article 11 of that Regulation;
  - (d) the Commission has concluded that the Member State has taken measures to implement the adjustment programme referred to in Council Regulation (EU) No 407/2010 or Council Regulation (EC) No 332/2002 and as a consequence has authorised the disbursement of the financial assistance granted to this Member State; or
  - (e) the Board of Directors of the European stability mechanism has concluded that the conditionality attached to a financial assistance in the form of an ESM loan to the concerned Member State is met and as a consequence has decided to disburse the stability support granted to it.

At the same time, the Council shall decide, on a proposal from the Commission, to re-budget the suspended commitments in accordance with Article 8 of Council Regulation (EU) No [...] laying down the multiannual financial framework for the years 2014 to 2020.

**Increase in payments for Member State with temporary budgetary difficulties**

1. On the request of a Member State, interim payments and payments of the final balance may be increased by 10 percentage points above the co-financing rate applicable to each priority for the ERDF, ESF and CF or to each measure for the EAFRD and the EMFF. The increased rate, which may not exceed 100%, shall apply to requests for payment relating to the accounting period in which the Member State has submitted its request and in subsequent accounting periods during which the Member State meets one of the following conditions:
  - (a) where the Member State concerned has adopted the euro, it receives macro-financial assistance from the Union under Council Regulation (EU) No 407/2010<sup>31</sup>;
  - (b) where the Member State concerned has not adopted the euro, it receives medium-term financial assistance in accordance with Council Regulation (EC) No 332/2002<sup>32</sup>;
  - (c) financial assistance is made available to it in accordance with the Treaty establishing the European Stability Mechanism signed on 11 July 2011.

The first sub-paragraph shall not apply to programmes under the ETC Regulation.

2. Notwithstanding paragraph 1, Union support through interim payments and payments of the final balance shall not be higher than the public support and the maximum amount of support from the CSF Funds for each priority for the ERDF, ESF and CF, or for each measure for the EAFRD and the EMFF, as laid down in the decision of the Commission approving the programme.

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<sup>31</sup> OJ L 118, 12.5.2010, p.1.

<sup>32</sup> OJ L 53, 23.2.2002, p. 1.

## TITLE III

### PROGRAMMING

#### CHAPTER I

#### General provisions on the CSF Funds

##### *Article 23*

##### **Preparation of programmes**

1. The CSF Funds shall be implemented through programmes in accordance with the Partnership Contract. Each programme shall cover the period from 1 January 2014 to 31 December 2020.
2. Programmes shall be drawn up by Member States or any authority designated by them, in cooperation with the partners.
3. Programmes shall be submitted by the Member States at the same time as the Partnership Contract, with the exception of European territorial cooperation programmes, which shall be submitted within six months of the approval of the Common Strategic Framework. All programmes shall be accompanied by the *ex ante* evaluation as set out in Article 48.

##### *Article 24*

##### **Content of programmes**

1. Each programme shall set out a strategy for the programme's contribution to the Union strategy for smart, sustainable and inclusive growth consistent with the Common Strategic Framework and Partnership Contract. Each programme shall include the arrangements to ensure effective, efficient and coordinated implementation of the CSF Funds and actions to achieve a reduction of administrative burden for beneficiaries.
2. Each programme shall define priorities setting out specific objectives, financial appropriations of support from the CSF Funds and corresponding national co-financing.
3. Each priority shall set out indicators to assess progress of programme implementation towards achievement of objectives as the basis for monitoring, evaluation and review of performance. These shall include:
  - (a) financial indicators relating to expenditure allocated;
  - (b) output indicators relating to the operations supported;

(c) result indicators relating to the priority.

For each CSF Fund, the Fund-specific rules shall set out common indicators and may provide for programme-specific indicators.

4. Each programme, except those which cover exclusively technical assistance, shall include a description of the actions to take into account the principles set out in Articles 7 and 8.
5. Each programme, except those where technical assistance is undertaken under a specific programme, shall set out the indicative amount of support to be used for climate change objectives.
6. Member States shall draft the programme in accordance with the Fund-specific rules.

#### *Article 25*

#### **The procedure for adoption of programmes**

1. The Commission shall assess the consistency of programmes with this Regulation, the Fund-specific rules, their effective contribution to the thematic objectives and the Union priorities specific to each CSF Fund, the Common Strategic Framework, the Partnership Contract, the country-specific recommendations under Article 121(2) of the Treaty and the Council recommendations adopted under 148(4) of the Treaty, taking account of the *ex ante* evaluation. The assessment shall address, in particular, the adequacy of the programme strategy, the corresponding objectives, indicators, targets and the allocation of budgetary resources.
2. The Commission shall make observations within three months of the date of submission of the programme. The Member State shall provide to the Commission all necessary additional information and, where appropriate, revise the proposed programme.
3. In accordance with the Fund-specific rules, the Commission shall approve each programme no later than six months following its formal submission by the Member State(s), provided that any observations made by the Commission have been satisfactorily taken into account, but not before 1 January 2014 or before adoption by the Commission of a decision approving the Partnership Contract.

#### *Article 26*

#### **Amendment of programmes**

1. Requests for amendment of programmes submitted by a Member State shall be duly substantiated and shall in particular set out the expected impact of the changes to the programme on achieving the Union strategy for smart, sustainable and inclusive growth and the specific objectives defined in the programme, taking account of the Common Strategic Framework and the

Partnership Contract. They shall be accompanied by the revised programme and, where appropriate, a revised Partnership Contract.

In the case of amendment of programmes under the European territorial cooperation goal, the relevant Partnership Contract shall not be amended.

2. The Commission shall assess the information provided in accordance with paragraph 1, taking account of the justification provided by the Member State. The Commission may make observations and the Member State shall provide to the Commission all necessary additional information. In accordance with Fund-specific rules, the Commission shall approve requests for amendment of a programme no later than five months after their formal submission by the Member State provided that any observations made by the Commission have been satisfactorily taken into account. The Commission shall, where necessary, amend at the same time the decision approving the Partnership Contract in accordance with Article 15(3).

#### *Article 27*

### **Participation of the European Investment Bank**

1. The EIB may, at the request of Member States, participate in the preparation of the Partnership Contract, as well as in activities relating to the preparation of operations, in particular major projects, financial instruments and public-private partnerships.
2. The Commission may consult the EIB before the adoption of the Partnership Contract or the programmes.
3. The Commission may request the EIB to examine the technical quality and economic and financial viability of major projects and to assist it as regards the financial instruments to be implemented or developed.
4. The Commission, in implementing the provisions of this Regulation, may award grants or service contracts to the EIB covering initiatives implemented on a multi-annual basis. The commitment of the Union budget contributions in respect of these grants or service contracts shall be effected annually.

## **CHAPTER II**

### **Community-led local development**

#### *Article 28*

### **Community-led local development**

1. Community-led local development, which is designated as LEADER local development in relation to the EAFRD, shall be:

- (a) focused on specific sub-regional territories;
  - (b) community-led, by local action groups composed of representatives of public and private local socio-economic interests, where at the decision-making level neither the public sector nor any single interest group shall represent more than 49 % of the voting rights;
  - (c) carried out through integrated and multi-sectoral area-based local development strategies;
  - (d) designed taking into consideration local needs and potential, and include innovative features in the local context, networking and, where appropriate, cooperation.
2. Support from the CSF Funds to local development shall be consistent and coordinated between the CSF Funds. This shall be ensured inter alia through coordinated capacity-building, selection, approval and funding of local development strategies and local development groups.
  3. Where the selection committee for the local development strategies set up under Article 29(3) determines that the implementation of the local development strategy selected requires support from more than one Fund, a lead Fund may be designated.
  4. Where a lead Fund is designated, the running costs, animation and networking activities for the local development strategy shall be financed from the lead Fund only.
  5. Local development supported by the CSF Funds shall be carried out under one or more priorities of the programme.

#### *Article 29*

#### **Local development strategies**

1. A local development strategy shall contain at least the following elements:
  - (a) the definition of the area and population covered by the strategy;
  - (b) an analysis of the development needs and potential of the area, including an analysis of strengths, weaknesses, opportunities and threats;
  - (c) a description of the strategy and its objectives, a description of the integrated and innovative character of the strategy and a hierarchy of objectives, including clear and measurable targets for outputs or results. The strategy shall be coherent with the relevant programmes of all the CSF Funds involved;
  - (d) a description of the process of community involvement in the development of the strategy;
  - (e) an action plan demonstrating how objectives are translated into actions;

- (f) a description of the management and monitoring arrangements of the strategy, demonstrating the capacity of the local action group to implement the strategy and a description of specific arrangements for evaluation;
  - (g) the financial plan of the strategy, including the planned allocation of each of the CSF Funds.
2. Member States shall define criteria for the selection of local development strategies. The Fund-specific rules may set out selection criteria.
  3. Local development strategies shall be selected by a committee set up for this purpose by the relevant managing authorities of the programmes.
  4. The selection and approval of all local development strategies shall be completed by 31 December 2015 at the latest.
  5. The decision to approve a local development strategy by the managing authority shall set out the allocations of each CSF Fund. It shall also set out the roles of the authorities responsible for the implementation of the relevant programmes for all implementation tasks relating to the strategy.
  6. The Commission shall be empowered to adopt delegated acts in accordance with Article 142 concerning the definition of the area and population covered by the strategy referred in paragraph 1(a).

### *Article 30*

#### **Local action groups**

1. Local action groups shall design and implement the local development strategies.  
  
Member States shall define the respective roles of the local action group and the authorities responsible for the implementation of the relevant programmes, for all implementation tasks relating to the strategy.
2. The managing authority shall ensure that the local action groups either select one partner within the group as a lead partner in administrative and financial matters, or come together in a legally constituted common structure.
3. The tasks of local action groups shall include the following:
  - (a) building the capacity of local actors to develop and implement operations;
  - (b) drawing up a non-discriminatory and transparent selection procedure and criteria for the selection of operations, which avoid conflicts of interest, that shall ensure that at least 50% of the votes in selection decisions are from the non public sector partners, providing for the possibility of appeal against selection decisions and allowing selection by written procedure;

- (c) ensuring coherence with the local development strategy when selecting operations, by prioritising them according to their contribution to meeting the strategies' objectives and targets;
- (d) preparing and publishing calls for proposals or an ongoing project submission procedure, including definition of selection criteria;
- (e) receiving applications for support and assessing them;
- (f) selecting operations and fixing the amount of support and, where relevant, presenting the proposals to the responsible body for final verification of eligibility before approval;
- (g) monitoring the implementation of the local development strategy and the operations supported and carrying out specific evaluation activities linked to the local development strategy.

#### *Article 31*

#### **Support from the CSF Funds for local development**

Support for local development shall include:

- (a) the costs of preparatory support;
- (b) implementation of operations under the local development strategy;
- (c) preparation and implementation of cooperation activities of the local action group;
- (d) running costs and animation of the local development strategy up to the limit of 25 % of the total public expenditure incurred within the local development strategy.

### **TITLE IV**

## **FINANCIAL INSTRUMENTS**

#### *Article 32*

#### **Financial instruments**

1. The CSF Funds may be used to support financial instruments under a programme, including when organised through funds of funds, in order to contribute to the achievement of specific objectives set out under a priority, based on an *ex ante* assessment which has identified market failures or sub-optimal investment situations, and investment needs.

Financial instruments may be combined with grants, interest rate subsidies and guarantee fee subsidies. In this case, separate records must be maintained for each form of financing.

The Commission shall be empowered to adopt delegated acts in accordance with Article 142 laying down detailed rules concerning the *ex ante* assessment of financial instruments, the combination of support provided to final recipients through grants, interest rate subsidies, guarantee fee subsidies and financial instruments, additional specific rules on eligibility of expenditure and rules specifying the types of activities which shall not be supported through financial instruments.

2. Final recipients supported by financial instruments may also receive grants or other assistance from a programme or from another instrument supported by the budget of the Union. In this case, separate records must be maintained for each source of financing.
3. Contributions in kind are not eligible expenditure in respect of financial instruments, except for contributions of land or real estate in respect of investments with the objective of supporting urban development or urban regeneration, where the land or real estate forms part of the investment. Such contributions of land or real estate shall be eligible provided that the conditions in Article 59 are met.

### *Article 33*

#### **Implementation of financial instruments**

1. In implementing Article 32, managing authorities may provide a financial contribution to the following financial instruments:
  - (a) financial instruments set up at Union level, managed directly or indirectly by the Commission;
  - (b) financial instruments set up at national, regional, transnational or cross-border level, managed by or under the responsibility of the managing authority.
2. Title [VIII] of the Financial Regulation shall apply to financial instruments referred to in paragraph 1(a). Contributions from the CSF Funds to financial instruments under paragraph 1(a) shall be placed in separate accounts and used, in accordance with the objectives of the respective CSF Funds, to support actions and final recipients consistent with the programme or programmes from which such contributions are made.
3. For financial instruments under paragraph 1(b), the managing authority may provide a financial contribution to the following financial instruments:
  - (a) financial instruments complying with the standard terms and conditions laid down by the Commission, by means of implementing acts in accordance with the examination procedure referred to in Article 143(3);

- (b) already existing or newly created financial instruments which are specifically designed to achieve the intended purpose and which respect the applicable Union and national rules.

The Commission shall adopt delegated acts in accordance with Article 142 laying down the specific rules regarding certain types of financial instruments referred to in point (b), as well as the products that may be delivered through such instruments.

4. When supporting financial instruments referred to in paragraph 1(b) the managing authority may:
  - (a) invest in the capital of existing or newly created legal entities, including those financed from other CSF Funds, dedicated to implementing financial instruments consistent with the objectives of the respective CSF Funds, which will undertake implementation tasks; the support to such investments shall be limited to the amounts necessary to implement new financial instruments consistent with the objectives of this Regulation; or
  - (b) entrust implementation tasks to:
    - (i) the European Investment Bank;
    - (ii) international financial institutions in which a Member State is a shareholder, or financial institutions established in a Member State aiming at the achievement of public interest under the control of a public authority, selected in accordance with applicable Union and national rules;
    - (iii) a body governed by public or private law selected in accordance with applicable Union and national rules.
  - (c) undertake implementation tasks directly, in the case of financial instruments consisting solely of loans or guarantees.

The Commission shall be empowered to adopt delegated acts in accordance with Article 142 laying down rules concerning funding agreements, the role and responsibility of the entities to which the implementation tasks are entrusted, as well as management costs and fees.

5. The entities referred to in paragraph 4(b)(i) and (ii), when implementing financial instruments through funds of funds, may further entrust part of the implementation to financial intermediaries provided that these entities ensure under their responsibility that the financial intermediaries satisfy the criteria laid down in [Articles 57 and 131 (1), (1a) and (3)] of the Financial Regulation. Financial intermediaries shall be selected on the basis of open, transparent, proportionate and non-discriminatory procedures, avoiding conflicts of interests.
6. The entities referred to in paragraph 4(b) to which implementation tasks have been entrusted shall open fiduciary accounts in their name and on behalf of the managing authority. The assets held on such fiduciary accounts shall be

managed in accordance with the principle of sound financial management following appropriate prudential rules and shall have appropriate liquidity.

7. The Commission shall be empowered to adopt delegated acts in accordance with Article 142 laying down detailed rules concerning specific requirements regarding the transfer and management of assets managed by the entities to which implementation tasks are entrusted, as well as conversion of assets between euro and national currencies.

#### *Article 34*

##### **Implementation of certain financial instruments**

1. The bodies accredited in accordance with Article 64 shall not carry out on-the-spot verifications of operations comprising financial instruments implemented under Article 33(1)(a). They shall receive regular control reports from the bodies entrusted with the implementation of these financial instruments.
2. The bodies responsible for the audit of programmes shall not carry out audits of operations comprising financial instruments implemented under Article 33(1)(a) and of management and control systems relating to these instruments. They shall receive regular control reports from the auditors designated in the agreements setting up of these financial instruments.
3. The Commission shall be empowered to adopt delegated acts in accordance with Article 142 concerning the arrangements for management and control of financial instruments implemented under Articles 33(1)(a) and 33(4)(b)(i), (ii) and (iii).

#### *Article 35*

##### **Requests for payment including expenditure for financial instruments**

1. As regards financial instruments referred to in Article 33(1)(a), the request for payment shall include and separately disclose the total amount of support paid to the financial instrument.
2. As regards financial instruments referred to in Article 33(1)(b) implemented in accordance with Article 33(4)(a) and (b), the total eligible expenditure presented in the request for payment shall include and separately disclose the total amount of support paid or expected to be paid to the financial instrument for investments in final recipients to be made over a pre-defined period of maximum two years, including management costs or fees.
3. The amount determined in accordance with paragraph 2 shall be adjusted in subsequent requests for payment, to take account of the difference between the amount of support previously paid to the financial instrument concerned, and the amounts effectively invested in final recipients, plus management costs and fees paid. These amounts shall be separately disclosed in the payment request.

4. As regards financial instruments referred to in Article 33(1)(b) implemented in accordance with Article 33(4)(c), the request for payment shall include the total amount of the payments effected by the managing authority for investments in final recipients. These amounts shall be separately disclosed in the payment request.
5. The Commission shall be empowered to adopt, by means of delegated acts in accordance with Article 142, the specific rules concerning payments and withdrawal of payments to financial instruments and possible consequences in respect of requests of payments.

### *Article 36*

#### **Eligible expenditure at closure**

1. At closure of a programme, the eligible expenditure of the financial instrument shall be the total amount effectively paid or, in the case of guarantee funds committed, by the financial instrument within the eligibility period indicated in Article 55(2), corresponding to:
  - (a) payments to final recipients;
  - (b) resources committed for guarantee contracts, whether outstanding or already come to maturity, in order to honour possible guarantee calls for losses, calculated according to a prudent *ex ante* risk assessment, covering a multiple amount of underlying new loans or other risk-bearing instruments for new investments in final recipients;
  - (c) capitalised interest rate subsidies or guarantee fee subsidies, due to be paid for a period not exceeding 10 years after the eligibility period laid down in Article 55(2), used in combination with financial instruments, paid into an escrow account specifically set up for that purpose, for effective disbursement after the eligibility period laid down in Article 55(2), but in respect of loans or other risk-bearing instruments disbursed for investments in final recipients within the eligibility period laid down in Article 55(2);
  - (d) reimbursement of management costs incurred or payment of management fees of the financial instrument.
2. In the case of equity-based instruments and micro-credit, capitalised management costs or fees due to be paid for a period not exceeding 5 years after the eligibility period laid down in Article 55(2), in respect of investments in final recipients which occurred within that eligibility period and which cannot be covered by Articles 37 and 38, may be considered as eligible expenditure when paid into an escrow account specifically set up for that purpose.
3. The eligible expenditure determined in accordance with paragraphs 1 and 2 shall not exceed the sum of the:

- (i) total amount of the support from the CSF Funds paid to the financial instrument; and
  - (ii) corresponding national co-financing.
4. The Commission shall be empowered to adopt delegated acts in accordance with Article 142 concerning the establishment of a system of capitalisation of annual instalments for interest rate subsidies and guarantee fee subsidies.

#### *Article 37*

#### **Interest and other gains generated by support from the CSF Funds to financial instruments**

1. Support from the CSF Funds paid to financial instruments shall be placed in interest-bearing accounts domiciled within financial institutions in Member States or invested on a temporary basis according to the principle of sound financial management.
2. Interest and other gains attributable to support from the CSF Funds paid to financial instruments shall be used for the same purposes as the initial support from the CSF Funds within the same financial instrument.
3. The managing authority shall ensure that adequate records of the use of interest and other gains are maintained.

#### *Article 38*

#### **Re-use of resources attributable to the support from the CSF Funds until closure of the programme**

1. Capital resources paid back to financial instruments from investments or from the release of resources committed for guarantee contracts, which are attributable to the support from the CSF Funds, shall be re-used for further investments through the same or other financial instruments, in accordance with the aims of the programme or programmes.
2. Gains and other earnings or yields, including interest, guarantee fees, dividends, capital gains or any other income receipts generated by investments, attributable to the support from the CSF Funds to the financial instrument, shall be used for the following purposes, where applicable, up to the amounts necessary:
  - (a) reimbursement of management costs incurred and payment of management fees of the financial instrument;
  - (b) preferential remuneration of investors operating under the market economy investor principle, who provide counterpart resources to the support from the CSF Funds to the financial instrument or who co-invest at the level of final recipients;

- (c) further investments through the same or other financial instruments, in accordance with the aims of the programme or programmes.
3. The managing authority shall ensure that adequate records of the use of the resources and gains referred to in paragraphs 1 and 2 are maintained.

#### *Article 39*

#### **Use of legacy resources after closure of the programme**

Member States shall adopt the necessary measures to ensure that the capital resources and gains and other earnings or yields attributable to the support from the CSF Funds to financial instruments are used in accordance with the aims of the programme for a period of at least 10 years after the closure of the programme.

#### *Article 40*

#### **Report on Implementation of Financial Instruments**

1. The managing authority shall send to the Commission a specific report covering the operations comprising financial instruments as an annex to the annual implementation report.
2. The report referred to in paragraph 1 shall include, for each financial instrument, the following information:
  - (a) identification of the programme and of the priority from which support from the CSF Funds is provided;
  - (b) description of the financial instrument and implementation arrangements;
  - (c) identification of the bodies to whom implementation tasks have been entrusted;
  - (d) total amount of support by programme and priority or measure to the financial instrument included in requests for payment submitted to the Commission;
  - (e) total amount of support paid or committed in guarantee contracts by the financial instrument to the final recipients by programme and priority or measure included in requests for payment submitted to the Commission;
  - (f) revenues of, and repayments to, the financial instrument;
  - (g) multiplier effect of investments made by the financial instrument and value of investments and participations;
  - (h) contribution of the financial instrument to the achievement of the indicators of the programme and of the priority concerned.

3. The Commission shall adopt, by means of implementing act, in accordance with the examination procedure referred to in Article 143(3), the uniform conditions concerning the monitoring and provision of monitoring information to the Commission, including in respect of financial instruments referred to in Article 33(1)(a).

## **TITLE V**

### **MONITORING AND EVALUATION**

#### **CHAPTER I**

#### **Monitoring**

##### **SECTION I**

##### **MONITORING OF PROGRAMMES**

###### *Article 41*

###### **Monitoring committee**

1. Within three months of the date of notification to the Member State of the decision adopting a programme, the Member State shall set up a committee to monitor implementation of the programme, in agreement with the managing authority.

A Member State may set up a single monitoring committee for programmes co-financed by the CSF Funds.

2. Each monitoring committee shall draw up and adopt its rules of procedure.

###### *Article 42*

###### **Composition of the monitoring committee**

1. The monitoring committee shall be composed of representatives of the managing authority and intermediate bodies and of representatives of the partners. Each member of the monitoring committee shall have a voting right.

The monitoring committee of a programme under the European territorial cooperation goal shall also include representatives of any third country participating in that programme.

2. The Commission shall participate in the work of the monitoring committee in an advisory capacity.

3. If the EIB contributes to a programme, it may participate in the work of the monitoring committee in an advisory capacity.
4. The monitoring committee shall be chaired by a representative of the Member State or of the managing authority.

#### *Article 43*

#### **Functions of the monitoring committee**

1. The monitoring committee shall meet at least once a year and shall review implementation of the programme and progress towards achieving its objectives. In doing so, it shall have regard to the financial data, common and programme-specific indicators, including changes in result indicators and progress towards quantified target values, and the milestones defined in the performance framework.
2. The monitoring committee shall examine in detail all issues that affect the performance of the programme.
3. The monitoring committee shall be consulted and issue an opinion on any amendment of the programme proposed by the managing authority.
4. The monitoring committee may issue recommendations to the managing authority regarding implementation of the programme and its evaluation. It shall monitor actions taken as a result of its recommendations.

#### *Article 44*

#### **Implementation reports**

1. From 2016 until and including 2022, the Member State shall submit to the Commission an annual report on implementation of the programme in the previous financial year.

The Member State shall submit a final report on implementation of the programme by 30 September 2023 for the ERDF, ESF and Cohesion Fund and an annual implementation report for the EAFRD and EMFF.

2. Annual implementation reports shall set out information on implementation of the programme and its priorities by reference to the financial data, common and programme-specific indicators and quantified target values, including changes in result indicators, and the milestones defined in the performance framework. The data transmitted shall relate to values for indicators for fully implemented operations and also for selected operations. They shall also set out actions taken to fulfil the *ex ante* conditionalities and any issues which affect the performance of the programme, and the corrective measures taken.
3. The annual implementation report submitted in 2017 shall set out and assess the information set out in paragraph 2 and progress towards achieving the objectives of the programme, including the contribution of the CSF Funds to changes in

result indicators, when evidence is available from evaluations. It shall also assess the implementation of actions to take into account the principles set out in Articles 6, 7 and 8 and report on support used for climate change targets.

4. The annual implementation report submitted in 2019 and the final implementation report for the CSF Funds shall, in addition to the information and assessment set out in paragraphs 2 and 3, include information on and assess progress towards achieving the objectives of the programme and its contribution to achieving the Union strategy for smart, sustainable and inclusive growth.
5. The annual implementation reports referred to in paragraphs 1 to 4 shall be admissible where they contain all the information required in those paragraphs. The Commission shall inform the Member State within 15 working days from the date of receipt of the annual implementation report if it is not admissible, failing which it shall be deemed admissible.
6. The Commission shall examine the annual implementation report and inform the Member State of its observations within two months of the receipt of the annual implementation report and within 5 months of receipt of the final report. Where the Commission does not provide observations within these deadlines, the reports shall be deemed to be accepted.
7. The Commission may issue recommendations to address any issues which affect the implementation of the programme. Where such recommendations are made, the managing authority shall inform the Commission within three months of the corrective measures taken.
8. A citizen's summary of the contents of the annual and the final implementation reports shall be made public.

#### *Article 45*

#### **Annual review meeting**

1. An annual review meeting shall be organised every year from 2016 until and including 2022 between the Commission and each Member State to examine the performance of each programme, taking account of the annual implementation report and the Commission's observations and recommendations, where applicable.
2. The annual review meeting may cover more than one programme. In 2017 and 2019, the annual review meeting shall cover all programmes in the Member State and shall also take account of the progress reports submitted by the Member State in accordance with Article 46 in those years.
3. The Member State and the Commission may agree not to organise an annual review meeting for a programme in years other than 2017 and 2019.
4. The annual review meeting shall be chaired by the Commission.

5. The Member State shall ensure that appropriate follow-up is given to any comments of the Commission following the meeting.

## **SECTION II**

### **STRATEGIC PROGRESS**

#### *Article 46*

##### **Progress report**

1. By 30 June 2017 and by 30 June 2019, the Member State shall submit to the Commission a progress report on implementation of the Partnership Contract as at 31 December 2016 and 31 December 2018 respectively.
2. The progress report shall set out information on and assess:
  - (a) changes in the development needs in the Member State since the adoption of the Partnership Contract;
  - (b) progress towards achievement of the Union strategy for smart, sustainable and inclusive growth, in particular in respect of the milestones set out for each programme in the performance framework and the support used for climate change objectives;
  - (c) whether the actions taken to fulfil *ex ante* conditionalities not fulfilled at the date of adoption of the Partnership Contract have been implemented in accordance with the timetable established;
  - (d) implementation of mechanisms to ensure coordination between the CSF Funds and other Union and national funding instruments and with the EIB;
  - (e) progress towards achievement of priority areas established for cooperation;
  - (f) actions taken to reinforce the capacity of the Member State authorities and, where appropriate, beneficiaries to administer and use the CSF Funds;
  - (g) actions planned and corresponding targets in the programmes to achieve a reduction in the administrative burden for beneficiaries;
  - (h) the role of the partners referred in Article 5 in the implementation of the Partnership Contract.
3. Where the Commission determines, within three months of the date of submission of the progress report that the information submitted is incomplete or unclear, it may request additional information from the Member State. The Member State shall provide to the Commission the information requested within

three months and, where appropriate, shall revise the progress report accordingly.

4. In 2017 and 2019, the Commission shall prepare a strategic report summarising the progress reports of the Member States, which it shall submit to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions.
5. In 2018 and 2020, the Commission shall include in its Annual Progress Report to the spring meeting of the European Council a section summarising the strategic report, in particular with regard to progress made towards Union strategy for smart, sustainable and inclusive growth.

## **CHAPTER II**

### **Evaluation**

#### *Article 47*

#### **General Provisions**

1. Evaluations shall be carried out to improve the quality of the design and implementation of programmes, as well as to assess their effectiveness, efficiency and impact. Impact of programmes shall be evaluated in accordance with the mission of the respective CSF Funds in relation to the targets for the Union strategy for smart, sustainable and inclusive growth<sup>33</sup> as well as in relation to Gross Domestic Product (GDP) and unemployment, where appropriate.
2. Member States shall provide the resources necessary for carrying out evaluations, and shall ensure that procedures are in place to produce and collect the data necessary for evaluations, including data related to common and where appropriate programme-specific indicators.
3. Evaluations shall be carried out by experts that are functionally independent of the authorities responsible for programme implementation. The Commission shall provide guidance on how to carry out evaluations.
4. All evaluations shall be made public in their entirety.

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<sup>33</sup> Ref. EU2020 headline targets.

**Ex ante evaluation**

1. Member States shall carry out *ex ante* evaluations to improve the quality of the design of each programme.
2. Ex ante evaluations shall be carried out under the responsibility of the authority responsible for the preparation of the programmes. They shall be submitted to the Commission at the same time as the programme, together with an executive summary. The Fund-specific rules may establish thresholds under which the *ex ante* evaluation may be combined with the evaluation for another programme.
3. *Ex ante* evaluations shall appraise:
  - (a) the contribution to the Union strategy for smart, sustainable and inclusive growth, having regard to the selected thematic objectives and priorities, taking into account national and regional needs;
  - (b) the internal coherence of the proposed programme or activity and its relation with other relevant instruments;
  - (c) the consistency of the allocation of budgetary resources with the objectives of the programme;
  - (d) the consistency of the selected thematic objectives, the priorities and corresponding objectives of the programmes with the Common Strategic Framework, the Partnership Contract and the country-specific recommendations under Article 121(2) of the Treaty and the Council recommendations adopted under Article 148(4) of the Treaty;
  - (e) the relevance and clarity of the proposed programme indicators;
  - (f) how the expected outputs will contribute to results;
  - (g) whether the quantified target values for indicators are realistic, having regard to the support from the CSF Funds envisaged;
  - (h) the rationale for the form of support proposed;
  - (i) the adequacy of human resources and administrative capacity for management of the programme;
  - (j) the suitability of the procedures for monitoring the programme and for collecting the data necessary to carry out evaluations;
  - (k) the suitability of the milestones selected for the performance framework;
  - (l) the adequacy of planned measures to promote equal opportunities between men and women and to prevent discrimination;
  - (m) the adequacy of planned measures to promote sustainable development.

4. The *ex ante* evaluation shall incorporate, where appropriate, the requirements for Strategic Environmental Assessment set out in implementation of Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment<sup>34</sup>.

#### *Article 49*

#### **Evaluation during the programming period**

1. An evaluation plan shall be drawn up by the managing authority for each programme and submitted in accordance with the Fund-specific rules.
2. Member States shall ensure that appropriate evaluation capacity is available.
3. During the programming period, managing authorities shall carry out evaluations including evaluations to assess effectiveness, efficiency and impact, for each programme on the basis of the evaluation plan. At least once during the programming period, an evaluation shall assess how support from the CSF Funds has contributed to the objectives for each priority. All evaluations shall be examined by the monitoring committee and sent to the Commission.
4. The Commission may carry out, at its own initiative, evaluations of programmes.

#### *Article 50*

#### ***Ex post* evaluation**

The *ex post* evaluations shall be carried out by the Commission or by the Member States, in close cooperation. *Ex post* evaluations shall examine the effectiveness and efficiency of the CSF Funds and their contribution to the Union strategy for smart, sustainable and inclusive growth in accordance with specific requirements established in the Fund-specific rules. *Ex post* evaluations shall be completed by 31 December 2023.

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<sup>34</sup> OJ L 197, 21.7.2001, p. 30

# TITLE VI

## TECHNICAL ASSISTANCE

### *Article 51*

#### **Technical assistance at the initiative of the Commission**

1. At the initiative of, or on behalf of the Commission, the CSF Funds may support the preparatory, monitoring, administrative and technical assistance, evaluation, audit and control measures necessary for implementing this Regulation.

Those measures may include but not limited to:

- (a) assistance for project preparation and appraisal, including with the EIB;
- (b) support for institutional strengthening and administrative capacity-building for the effective management of the CSF Funds;
- (c) studies linked to the Commission's reporting on the CSF Funds and the cohesion report;
- (d) measures related to the analysis, management, monitoring, information exchange and implementation of the CSF Funds, as well as measures relating to the implementation of control systems and technical and administrative assistance;
- (e) evaluations, expert reports, statistics and studies, including those of a general nature, concerning the current and future operation of the CSF Funds, which may be carried out where appropriate by the EIB;
- (f) actions to disseminate information, support networking, carry out communication activities, raise awareness and promote cooperation and exchange of experience, including with third countries. To bring about greater efficiency in communication to the public at large and stronger synergies between the communication activities undertaken at the initiative of the Commission, the resources allocated to communication actions under this Regulation shall also contribute to the corporate communication of the political priorities of the European Union as far as they are related to the general objectives of this Regulation;
- (g) the installation, operation and interconnection of computerised systems for management, monitoring, audit, control and evaluation;
- (h) actions to improve evaluation methods and the exchange of information on evaluation practices;
- (i) actions related to audit;

- (j) the strengthening of national and regional capacity regarding investment planning, needs assessment, preparation, design and implementation of financial instruments, joint action plans and major projects, including joint initiatives with the EIB.

*Article 52*

**Technical assistance of the Member States**

1. At the initiative of a Member State, the CSF Funds may support actions for preparation, management, monitoring, evaluation, information and communication, networking, complaint resolution, and control and audit. The CSF Funds may be used by the Member State to support actions for the reduction of administrative burden for beneficiaries, including electronic data exchange systems, and actions to reinforce the capacity of Member State authorities and beneficiaries to administer and use the CSF Funds. These actions may concern preceding and subsequent programming periods.
2. The Fund-specific rules may add or exclude actions which may be financed by the technical assistance of each CSF Fund.

**TITLE VII**

**FINANCIAL SUPPORT FROM THE CSF FUNDS**

**CHAPTER I**

**Support from the CSF Funds**

*Article 53*

**Determination of co-financing rates**

1. The Commission decision adopting a programme shall fix the co-financing rate or rates and the maximum amount of support from the CSF Funds according to the Fund-specific rules.
2. Technical assistance measures implemented at the initiative of, or on behalf of, the Commission may be financed at the rate of 100%.

### Revenue-generating operations

1. Net revenue generated after completion of an operation over a specific reference period shall be determined in advance by one of the following methods:
  - (a) application of a flat rate revenue percentage for the type of operation concerned;
  - (b) calculation of the current value of the net revenue of the operation, taking into account the application of the polluter-pays principle and, if appropriate, considerations of equity linked to the relative prosperity of the Member State concerned.

The eligible expenditure of the operation to be co-financed shall not exceed the current value of the investment cost of the operation less the current value of the net revenue, determined according to one of these methods.

The Commission shall be empowered to adopt delegated acts in accordance with Article 142 concerning the definition of the flat rate referred to in point (a) above.

The Commission shall adopt the methodology under point (b) by means of implementing acts in accordance with the examination procedure referred to in Article 143(3).

2. Where it is objectively not possible to determine the revenue in advance according to the methods set out in paragraph 1, the net revenue generated within three years of the completion of an operation or by 30 September 2023, whichever is earlier, shall be deducted from the expenditure declared to the Commission.
3. Paragraphs 1 and 2 shall apply only to operations whose total cost exceeds EUR 1 000 000.
4. This Article shall not apply to the ESF.
5. Paragraphs 1 and 2 shall not apply to operations subject to the rules on State aid or to support to or from financial instruments.

## CHAPTER II

### Eligibility of expenditure and durability

#### *Article 55*

#### **Eligibility**

1. The eligibility of expenditure shall be determined on the basis of national rules, except where specific rules are laid down in or on the basis of this Regulation or the Fund-specific rules.
2. Expenditure shall be eligible for a contribution from the CSF Funds if it has been incurred and paid by a beneficiary between the date of submission of the programme to the Commission or from 1 January 2014, whichever is earlier, and 31 December 2022. In addition, expenditure shall only be eligible for a contribution from the EAFRD and the EMFF if the relevant aid is actually paid by the paying agency between 1 January 2014 and 31 December 2022.
3. In the case of costs reimbursed on the basis of Article 57(1)(b) and (c), the actions constituting the basis for reimbursement shall be carried out between 1 January 2014 and 31 December 2022.
4. Operations shall not be selected for support by the CSF Funds where they have been physically completed or fully implemented before the application for funding under the programme is submitted by the beneficiary to the managing authority, irrespective of whether all related payments have been made by the beneficiary.
5. This Article shall be without prejudice to the rules on eligibility of technical assistance at the initiative of the Commission set out in Article 51.
6. Net revenue directly generated by an operation during its implementation which has not been taken into account at the time of approval of the operation, shall be deducted from the eligible expenditure of the operation in the final payment claim submitted by the beneficiary. This rule shall not apply to financial instruments and prizes.
7. In the case of amendment of a programme, expenditure becoming eligible because of the amendment to the programme shall only be eligible from the date of submission to the Commission of the request for amendment.
8. An operation may receive support from one or more CSF Funds and from other Union instruments, provided that the expenditure item included in a request for payment for reimbursement by one of the CSF Funds does not receive support from another Fund or Union instrument, or support from the same Fund under another programme.

## *Article 56*

### **Forms of support**

The CSF Funds shall be used to provide support in the form of grants, prizes, repayable assistance and financial instruments, or a combination thereof.

In the case of repayable assistance, the support repaid to the body that provided it, or to another competent authority of the Member State, shall be kept in a separate account and reused for the same purpose or in accordance with the objectives of the programme.

## *Article 57*

### **Forms of grants**

1. Grants may take any of the following forms:
  - (a) reimbursement of eligible costs actually incurred and paid, together with, where applicable, in-kind contributions and depreciation;
  - (b) standard scales of unit costs;
  - (c) lump sums not exceeding EUR 100 000 of public contribution;
  - (d) flat-rate financing, determined by the application of a percentage to one or several defined categories of costs.
2. The options referred to in paragraph 1 may be combined only where each covers different categories of costs or where they are used for different projects forming a part of an operation or for successive phases of an operation.
3. Where an operation or a project forming a part of an operation is implemented exclusively through the procurement of works, goods or services, only paragraph 1(a) shall apply. Where the procurement within an operation or project forming part of an operation is limited to certain categories of costs, all the options referred to in paragraph 1 may be applied.
4. The amounts referred to in paragraph 1(b), (c) and (d) shall be established on the basis of:
  - (a) a fair, equitable and verifiable calculation method based on:
    - (i) statistical data or other objective information; or
    - (ii) the verified historical data of individual beneficiaries or the application of their usual cost accounting practices;
  - (b) methods and corresponding scales of unit costs, lump sums and flat rates applicable in Union policies for a similar type of operation and beneficiary;

- (c) methods and corresponding scales of unit costs, lump sums and flat rates applied under schemes for grants funded entirely by the Member State for a similar type of operation and beneficiary;
  - (d) rates established by this Regulation or the Fund-specific rules.
5. The document setting out the conditions for support for each operation shall set out the method to be applied for determining the costs of the operation and the conditions for payment of the grant.

#### *Article 58*

#### **Flat rate financing for indirect costs for grants**

Where the implementation of an operation gives rise to indirect costs, they may be calculated as a flat rate in one of the following ways:

- (a) a flat rate of up to 20 % of eligible direct costs, where the rate is calculated on the basis of a fair, equitable and verifiable calculation method or a method applied under schemes for grants funded entirely by the Member State for a similar type of operation and beneficiary;
- (b) a flat rate of up to 15 % of eligible direct staff costs;
- (c) a flat rate applied to eligible direct costs based on existing methods and corresponding rates, applicable in Union policies for a similar type of operation and beneficiary.

The Commission shall be empowered to adopt delegated acts in accordance with Article 142 concerning the definition of the flat rate and the related methods referred to in point (c) above.

#### *Article 59*

#### **Specific eligibility rules for grants**

1. Contributions in kind in the form of provision of works, goods, services, land and real estate for which no cash payment supported by invoices or documents of equivalent probative value has been made, may be eligible provided that the eligibility rules of the CSF Funds and the programme allow for it and that all the following conditions are fulfilled:
- (a) the public support paid to the operation which includes contributions in kind shall not exceed the total eligible expenditure, excluding contributions in kind, at the end of the operation;
  - (b) the value attributed to contributions in kind does not exceed the costs generally accepted on the market in question;
  - (c) the value and the delivery of the contribution can be independently assessed and verified;

- (d) in the case of provision of land or real estate, the value is certified by an independent qualified expert or duly authorised official body and does not exceed the limit laid down in paragraph 3(b);
  - (e) in the case of contributions in kind in the form of unpaid work, the value of that work is determined taking into account the verified time spent and the rate of remuneration for equivalent work.
2. Depreciation costs may be considered as eligible under the following conditions:
- (a) the eligibility rules of the programme allow for it;
  - (b) the amount of the expenditure is duly justified by supporting documents having equivalent probative value to invoices where reimbursed in the form referred to in Article 57(1)(a);
  - (c) the costs relate exclusively to the period of support for the operation;
  - (d) public grants have not contributed towards the acquisition of the depreciated assets.
3. The following costs shall not be eligible for a contribution from the CSF Funds:
- (a) interest on debt;
  - (b) the purchase of land not built on and land built on in the amount exceeding 10% of the total eligible expenditure for the operation concerned. In exceptional and duly justified cases, a higher percentage may be permitted for operations concerning environmental conservation;
  - (c) value added tax. However, VAT amounts shall be eligible where they are not recoverable under national VAT legislation and are paid by a beneficiary other than non-taxable person as defined in the first subparagraph of Article 13(1) of Directive 2006/112/EC, provided that such VAT amounts are not incurred in relation to the provision of infrastructure.

#### *Article 60*

##### **Eligibility of operations depending on location**

1. Operations supported by the CSF Funds, subject to the derogations referred to in paragraphs 2 and 3, and the Fund-specific rules, shall be located in the area covered by the programme under which they are supported (the 'programme area').
2. The managing authority may accept that an operation is implemented outside the programme area but within the Union, provided that all the following conditions are satisfied:
  - (a) the operation is for the benefit of the programme area;

- (b) the total amount allocated under the programme to operations located outside the programme area does not exceed 10 % of the support from the ERDF, Cohesion Fund and EMFF at the level of the priority, or 3% of the support from the EAFRD at the level of the programme;
  - (c) the monitoring committee has given its agreement to the operation or types of operations concerned;
  - (d) the obligations of the authorities for the programme in relation to management, control and audit concerning the operation are fulfilled by the authorities responsible for the programme under which that operation is supported or they enter into agreements with authorities in the area in which the operation is implemented.
3. For operations concerning promotional activities, expenditure may be incurred outside the Union provided that the conditions set out in paragraph 2 (a) and the obligations in relation to management, control and audit concerning the operation are fulfilled.
  4. Paragraphs 1 to 3 shall not apply to programmes under the European territorial cooperation goal and paragraphs 2 and 3 shall not apply to operations supported by the ESF.

#### *Article 61*

#### **Durability of operations**

1. An operation comprising investment in infrastructure or productive investment shall repay the contribution from the CSF Funds if within five years from the final payment to the beneficiary or within the period of time set out in the State aid rules, where applicable, it is subject to:
  - (a) a cessation or relocation of a productive activity;
  - (b) a change in ownership of an item of infrastructure which gives to a firm or a public body an undue advantage; or
  - (c) a substantial change affecting its nature, objectives or implementation conditions which would result in undermining its original objectives.

Sums unduly paid in respect of the operation shall be recovered by the Member State.
2. Operations supported by the ESF and operations supported by the other CSF Funds that are not investment in infrastructure or productive investments shall repay the contribution from the Fund only where they are subject to an obligation for maintenance of investment under the applicable State aid rules and where they undergo a cessation or relocation of a productive activity within the period laid down in those rules.

3. Paragraphs 1 and 2 shall not apply to contributions to or by financial instruments or to any operation which undergoes cessation of a productive activity due to a non-fraudulent bankruptcy.
4. Paragraphs 1 and 2 shall not apply to natural persons who are beneficiary of investment support and, after the completion of the investment operation, become eligible for and receive support under the EGF (Regulation [2012] setting a European Globalisation Fund) where the investment concerned is directly linked to the type of activity identified as eligible for EGF support.

## **TITLE VIII**

### **MANAGEMENT AND CONTROL**

#### **CHAPTER I**

##### **Management and control systems**

###### *Article 62*

###### **General principles of management and control systems**

Management and control systems shall provide for:

- (a) a description of the functions of each body concerned in management and control, and the allocation of functions within each body;
- (b) compliance with the principle of separation of functions between and within such bodies;
- (c) procedures for ensuring the correctness and regularity of expenditure declared;
- (d) computerised systems for accounting, for the storage and transmission of financial data and data on indicators, for monitoring and for reporting;
- (e) systems for reporting and monitoring where the responsible body entrusts execution of tasks to another body;
- (f) arrangements for auditing the functioning of the management and control systems;
- (g) systems and procedures to ensure an adequate audit trail;
- (h) the prevention, detection and correction of irregularities, including fraud, and the recovery of amounts unduly paid, together with any interest.

## *Article 63*

### **Responsibilities of Member States**

1. Member States shall fulfil the management, control and audit obligations and assume the resulting responsibilities laid down in the rules on shared management set out in the Financial Regulation and the Fund-specific rules. In accordance with the principle of shared management, Member States shall be responsible for the management and control of programmes.
2. Member States shall ensure that their management and control systems for programmes are set up in accordance with the provisions of the Fund-specific rules and that the systems function effectively.
3. Member States shall establish and implement a procedure for the independent examination and resolution of complaints concerning the selection or implementation of operations co-financed by the CSF Funds. Member States shall report the results of such examinations to the Commission upon request.
4. All official exchanges of information between the Member State and the Commission shall be carried out using an electronic data exchange system established in compliance with the terms and conditions laid down by the Commission by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 143(3).

## **CHAPTER II**

### **Accreditation of management and control bodies**

## *Article 64*

### **Accreditation and coordination**

1. In accordance with [Article 56(3)] of the Financial Regulation, each body responsible for the management and control of expenditure under the CSF Funds shall be accredited by formal decision of an accrediting authority at ministerial level.
2. The accreditation shall be granted subject to the body complying with the accreditation criteria on internal environment, control activities, information and communication, and monitoring laid down in the Fund-specific rules.
3. The accreditation shall be based on an opinion of an independent audit body that assesses the body's compliance with the accreditation criteria. The independent audit body shall carry out its work in accordance with internationally accepted audit standards.

4. The accrediting authority shall supervise the accredited body and withdraw its accreditation by formal decision if one or more of the accreditation criteria are no longer met, unless the body takes the necessary remedial actions within a period of probation to be determined by the accrediting authority according to the severity of the problem. The accrediting authority shall notify the Commission immediately of the setting of any probation period for an accredited body and of any withdrawal decision.
5. The Member State may designate a coordinating body whose responsibility is to liaise with and provide information to the Commission, promote the harmonised application of Union rules, establish a synthesis report providing an overview at national level of all management declarations and the audit opinions and coordinate the implementation of remedial actions as regards any deficiencies of a common nature.
6. Without prejudice to the rules laid down in the Fund-specific rules, the bodies to be accredited under paragraph 1 shall be:
  - (a) for the ERDF, ESF and the Cohesion Fund, the managing authorities and, where appropriate, the certifying authorities;
  - (b) for the EAFRD and the EMFF, the paying agencies.

## **CHAPTER III**

### **Commission powers and responsibilities**

#### *Article 65*

#### **Commission powers and responsibilities**

1. The Commission shall satisfy itself on the basis of available information, including the accreditation procedure, annual management declaration, annual control reports, annual audit opinion, annual implementation report and audits carried out by national and Union bodies, that the Member States have set up management and control systems that comply with this Regulation and the Fund-specific rules and that these systems function effectively during the implementation of programmes.
2. Without prejudice to audits carried out by Member States, Commission officials or authorised Commission representatives may carry out on-the-spot audits or checks upon giving adequate prior notice. The scope of such audits or checks may include, in particular, verification of the effective functioning of management and control systems in a programme or a part thereof, operations and assessment of the sound financial management of operations or programmes. Officials or authorised representatives of the Member State may take part in such audits.

Commission officials or authorised Commission representatives, duly empowered to carry out on-the-spot audits, shall have access to all records, documents and metadata, irrespective of the medium in which they are stored, relating to operations supported by the CSF Funds or to management and control systems. Member States shall provide copies of such records, documents and metadata to the Commission upon request.

The powers set out in this paragraph shall not affect the application of national provisions which reserve certain acts for agents specifically designated by national legislation. Commission officials and authorised representatives shall not take part, inter alia, in home visits or the formal questioning of persons within the framework of national legislation. However, they shall have access to the information thus obtained.

3. The Commission may require a Member State to take the actions necessary to ensure the effective functioning of their management and control systems or the correctness of expenditure in accordance with the Fund-specific rules.
4. The Commission may require a Member State to examine a complaint submitted to the Commission concerning the selection or implementation of operations co-financed by the CSF Funds or the functioning of the management and control system.

## **TITLE IX**

# **FINANCIAL MANAGEMENT, CLEARANCE OF ACCOUNTS AND FINANCIAL CORRECTIONS, DECOMMITMENT**

## **CHAPTER I**

### **Financial management**

#### *Article 66*

#### **Budget commitments**

The budget commitments of the Union in respect of each programme shall be made in annual instalments for each Fund during the period between 1 January 2014 and 31 December 2020. The decision of the Commission adopting a programme shall constitute the financing decision within the meaning of Article 75(2) of the Financial Regulation and once notified to the Member State concerned, a legal commitment within the meaning of that Regulation.

For each programme, the budget commitment for the first instalment shall follow the adoption of the programme by the Commission.

The budget commitments for subsequent instalments shall be made by the Commission before 1 May of each year, on the basis of the decision referred to in the second subparagraph, except where Article 13 of the Financial Regulation applies.

As regards the performance reserve, budget commitments shall follow the Commission decision approving the amendment of the programme.

#### *Article 67*

##### **Common rules for payments**

1. Payments by the Commission of the contribution from the CSF Funds to each programme shall be made in accordance with budget appropriations and subject to available funding. Each payment shall be posted to the earliest open budget commitment of the Fund concerned.
2. Payments shall take the form of pre-financing, interim payments and payment of the annual balance, where applicable, and of the final balance.
3. For forms of support under Article 57(1)(b), (c) and (d), the amounts paid to the beneficiary shall be regarded as eligible expenditure.

#### *Article 68*

##### **Common rules for calculating interim payments, payment of the annual balance, where applicable, and payment of final balance**

The Fund-specific rules shall lay down rules for the calculation of the amount reimbursed as interim payments, payment of the annual balance, where applicable, and of the final balance. This amount shall be a function of the specific co-financing rate applicable to the eligible expenditure.

#### *Article 69*

##### **Requests for payment**

1. The specific procedure and information to be submitted for requests for payment shall be laid down in the Fund-specific rules.
2. The request for payment to be submitted to the Commission shall provide all the information necessary for the Commission to produce accounts in accordance with Article 61(2) of the Financial Regulation.

## *Article 70*

### **Accumulation of pre-financing and interim payments**

1. The cumulative total of pre-financing and interim payments and, where applicable, the annual balance by the Commission shall not exceed 95 % of the contribution from the CSF Funds to the programme.
2. When the ceiling of 95 % is reached, the Member States shall continue transmitting requests for payment to the Commission.

## *Article 71*

### **Use of the euro**

Amounts set out in programmes submitted by Member States, forecasts of expenditure, statements of expenditure, requests for payment, annual accounts and expenditure mentioned in the annual and final implementation reports shall be denominated in euro.

## *Article 72*

### **Payment of initial pre-financing**

1. Following the Commission decision adopting the programme, an initial pre-financing amount for the whole programming period shall be paid by the Commission. The initial pre-financing amount shall be paid in instalments according to budgetary needs. The instalments shall be defined in the Fund-specific rules.
2. Pre-financing shall be used only for making payments to beneficiaries in the implementation of the programme. It shall be made available without delay to the responsible body for this purpose.

## *Article 73*

### **Clearance of initial pre-financing**

The amount paid as initial pre-financing shall be totally cleared from the Commission accounts at the latest when the programme is closed.

## *Article 74*

### **Interruption of the payment deadline**

1. The payment deadline for an interim payment claim may be interrupted by the authorising officer by delegation within the meaning of the Financial Regulation for a maximum period of nine months if:

- (a) following information provided by a national or Union audit body, there is evidence to suggest a significant deficiency in the functioning of the management and control system;
  - (b) the authorising officer by delegation has to carry out additional verifications following information coming to his attention alerting him that expenditure in a request for payment is linked to an irregularity having serious financial consequences;
  - (c) there is a failure to submit one of the documents required under Article 75(1).
2. The authorising officer by delegation may limit the interruption to the part of the expenditure covered by the payment claim affected by the elements referred to in paragraph 1. The authorising officer by delegation shall inform the Member State and the managing authority immediately of the reason for interruption and shall ask them to remedy the situation. The interruption shall be ended by the authorising officer by delegation as soon as the necessary measures have been taken.

## **CHAPTER II**

### **Clearance of accounts and financial corrections**

#### *Article 75*

##### **Submission of information**

1. By 1 February of the year following the end of the accounting period, the Member State shall submit to the Commission the following documents and information in accordance with [Article 56] of the Financial Regulation:
  - (a) the certified annual accounts of the relevant bodies accredited pursuant to Article 64;
  - (b) the management declaration of assurance as to the completeness, accuracy and veracity of the annual accounts, the proper functioning of the internal control systems, as well as to the legality and regularity of the underlying transactions and the respect of the principle of sound financial management;
  - (c) a summary report of all available audits and controls carried out, including an analysis of systemic or recurrent weaknesses, as well as corrective actions taken or planned;
  - (d) an audit opinion by the designated independent audit body on the management declaration of assurance covering the completeness, accuracy and veracity of the annual accounts, the proper functioning of the internal control systems, as well as on the legality and regularity of the underlying

transactions and the respect of the principle of sound financial management, accompanied by a control report setting out the findings of the audits carried out relating to the accounting year covered by the opinion.

2. Upon request by the Commission, the Member State shall provide further information to the Commission. If a Member State does not provide the requested information by the deadline for its submission set by the Commission, the Commission may take its decision on the clearance of the accounts on the basis of the information in its possession.
3. By [15 February] of the year following the end of the accounting period, the Member State shall submit to the Commission a synthesis report in accordance with the last subparagraph of [Article 56(5)] of the Financial Regulation.

#### *Article 76*

##### **Clearance of accounts**

1. By 30 April of the year following the end of the accounting period, the Commission shall decide, in accordance with the Fund-specific rules, on the clearance of the accounts of the relevant bodies accredited pursuant to Article 64 for each programme. The clearance decision shall cover the completeness, accuracy and veracity of the annual accounts submitted and shall be without prejudice to any subsequent financial corrections.
2. The procedures for annual clearance shall be laid down in the Fund-specific rules.

#### *Article 77*

##### **Financial corrections by the Commission**

1. The Commission shall make financial corrections by cancelling all or part of the Union contribution to a programme and effecting recovery from the Member State in order to exclude from Union financing expenditure which is in breach of applicable Union and national law, including in relation to deficiencies in the management and control systems of Member States which have been detected by the Commission or the European Court of Auditors.
2. A breach of applicable Union or national law shall lead to a financial correction only where one of the following conditions is met:
  - (a) the breach has or could have affected the selection of an operation by the responsible body for support by the CSF Funds;
  - (b) there is a risk that the breach has or could have affected the amount of expenditure declared for reimbursement by the Union budget.
3. When deciding on the amount of a financial correction under paragraph 1, the Commission shall take account of the nature and gravity of the breach of

applicable Union or national law and its financial implications for the Union budget.

4. The criteria and the procedures for applying financial corrections shall be laid down in the Fund-specific rules.

## **CHAPTER III**

### **DECOMMITMENT**

#### *Article 78*

##### **Principles**

1. All programmes shall be submitted to a decommitment procedure established on the basis that amounts linked to a commitment which are not covered by pre-financing or a request for payment within a defined period shall be decommitted.
2. The commitment related to the last year of the period will be decommitted according to the rules to be followed for the closure of the programmes.
3. The Fund-specific rules shall specify the precise application of the decommitment rule for each CSF Fund.
4. That part of commitments still open shall be decommitted if any of the documents required for the closure has not been submitted to the Commission by the deadlines established in the Fund-specific rules.

#### *Article 79*

##### **Exception to the decommitment**

1. The amount concerned by decommitment shall be reduced by the amounts that the responsible body has not been able to declare to the Commission because of:
  - (a) operations suspended by a legal proceeding or by an administrative appeal having suspensory effect; or
  - (b) reasons of *force majeure* seriously affecting implementation of all or part of the programme. The national authorities claiming *force majeure* shall demonstrate the direct consequences of the *force majeure* on the implementation of all or part of the programme

The reduction may be requested once if the suspension or *force majeure* lasted up to one year, or several times corresponding to the duration of the *force majeure* or the number of years between the date of the legal or administrative

decision suspending the implementation of the operation and the date of the final legal or administrative decision.

2. By 31 January, the Member State shall send to the Commission information on the exceptions referred to in paragraph 1 for the amount to be declared by the end of preceding year.

#### *Article 80*

#### **Procedure**

1. The Commission shall inform the Member State and the managing authority in good time whenever there is a risk of application of decommitment under Article 78.
2. On the basis of the information it has on 31 January, the Commission shall inform the Member State and the managing authority of the amount of the decommitment resulting from the information in its possession.
3. The Member State shall have two months to agree to the amount to be decommitted or to submit its observations.
4. By 30 June, the Member State shall submit to the Commission a revised financing plan reflecting for the financial year concerned the reduced amount of support over one or several priorities of the programme. Failing such submission, the Commission shall revise the financing plan by reducing the contribution from the CSF Funds for the financial year concerned. This reduction shall be allocated to each priority proportionately.
5. The Commission shall amend the decision adopting the programme, by means of implementing acts, not later than 30 September.

**PART THREE**

**GENERAL PROVISIONS APPLICABLE TO THE ERDF,  
THE ESF AND THE CF**

**TITLE I**

**OBJECTIVES AND THE FINANCIAL FRAMEWORK**

**CHAPTER I**

**Mission, goals and geographical coverage of support**

*Article 81*

**Mission and goals**

1. The Funds shall contribute to developing and pursuing the actions of the Union leading to strengthening of its economic, social and territorial cohesion in accordance with Article 174 of the Treaty.  
  
The actions supported by the Funds shall contribute to the Union strategy for smart, sustainable and inclusive growth.
2. To this end, the following goals shall be pursued:
  - (a) 'Investment for growth and jobs' in Member States and regions, to be supported by all the Funds; and
  - (b) 'European territorial cooperation', to be supported by the ERDF.

*Article 82*

**Investment for growth and jobs**

1. The Structural Funds shall support the Investment for growth and jobs goal in all regions corresponding to level 2 of the common classification of territorial units for statistics (hereinafter referred to as 'NUTS level 2') established by Regulation (EC) No 1059/2003.
2. Resources for the Investment for growth and jobs goal shall be allocated among the following three categories of NUTS level 2 regions:

- (a) less developed regions, whose GDP per capita is less than 75 % of the average GDP of the EU-27;
- (b) transition regions, whose GDP per capita is between 75% and 90% of the average GDP of the EU-27;
- (c) more developed regions, whose GDP per capita is above 90 % of the average GDP of the EU-27.

The three categories of regions are determined on the basis of how their GDP per capita, measured in purchasing power parities and calculated on the basis of Union figures for the period 2006 to 2008, relates to the average GDP of the EU-27 for the same reference period.

3. The Cohesion Fund shall support those Member States whose gross national income (GNI) per capita, measured in purchasing power parities and calculated on the basis of Union figures for the period 2007 to 2009, is less than 90 % of the average GNI per capita of the EU-27 for the same reference period.

The Member States eligible for funding from the Cohesion Fund in 2013, but whose nominal GNI per capita exceeds 90% of the average GNI per capita of the EU-27 as calculated under the first sub-paragraph shall receive support from the Cohesion Fund on a transitional and specific basis.

4. Immediately following the entry into force of this Regulation, the Commission shall adopt a decision by implementing act setting out the list of regions fulfilling the criteria of the three categories of regions referred to in paragraph 2 and of Member States fulfilling the criteria of paragraph 3. This list shall be valid from 1 January 2014 to 31 December 2020.
5. In 2017, the Commission shall review the eligibility of Member States for the Cohesion Fund on the basis of Union GNI figures for the period 2013 to 2015 for the EU-27. Those Member States whose nominal GNI per capita exceeds 90% of the average GNI per capita of the EU-27, shall receive support from the Cohesion Fund on a transitional and specific basis.

## **CHAPTER II**

### **Financial framework**

#### *Article 83*

##### **Global resources**

1. The global resources available for budgetary commitment from the Funds for the period 2014 to 2020 shall be EUR 336 020 492 848 at 2011 prices, in accordance with the annual breakdown shown in Annex II. For the purposes of

programming and subsequent inclusion in the general budget of the Union, the amount of global resources shall be indexed at 2 % per year.

2. The Commission shall adopt a decision, by means of implementing acts, setting out the annual breakdown of the global resources by Member State, without prejudice to paragraph 3 of this Article and Article 84(7).
3. 0,35 % of the global resources shall be allocated to technical assistance at the initiative of the Commission.

#### *Article 84*

### **Resources for Investment for growth and jobs and for European territorial cooperation**

1. Resources for the Investment for growth and jobs goal shall amount to 96,52 % of the global resources (i.e., a total of EUR 324 320 492 844) and shall be allocated as follows:
  - (a) 50,13 % (i.e., a total of EUR 162 589 839 384) for less developed regions;
  - (b) 12,01 % (i.e., a total of EUR 38 951 564 661) for transition regions;
  - (c) 16,39 % (i.e., a total of EUR 53 142 922 017) for more developed regions;
  - (d) 21,19 % (i.e., a total of EUR 68 710 486 782) for Member States supported by the Cohesion Fund;
  - (e) 0,29 % (i.e., a total of EUR 925 680 000) as additional funding for the outermost regions identified in Article 349 of the Treaty and the NUTS level 2 regions fulfilling the criteria laid down in Article 2 of Protocol No 6 to the Treaty of Accession of Austria, Finland and Sweden.

All regions whose GDP per capita for the 2007-2013 period was less than 75% of the average of the EU-25 for the reference period but whose GDP per capita is above 75% of the GDP average of the EU-27 shall receive an allocation under the Structural Funds equal to at least two thirds of their 2007-2013 allocation.

2. The following criteria shall be used for the breakdown by Member State:
  - (a) eligible population, regional prosperity, national prosperity and unemployment rate for less developed regions and transition regions;
  - (b) eligible population, regional prosperity, unemployment rate, employment rate, educational level and population density for more developed regions;
  - (c) population, national prosperity and surface area for the Cohesion Fund.
3. At least 25 % of the Structural Funds resources for less developed regions, 40% for transition regions and 52% for more developed regions in each Member State shall be allocated to the ESF. For the purposes of this provision, the

support to a Member State through the [Food for deprived people instrument] shall be considered as part of the share of Structural Funds allocated to the ESF.

4. The support from the Cohesion Fund for transport infrastructure under the Connecting Europe Facility shall be EUR 10 000 000 000.

The Commission shall adopt a decision by implementing act setting out the amount to be transferred from each Member State's Cohesion Fund allocation for the whole period. The Cohesion Fund allocation of each Member State shall be reduced accordingly.

The annual appropriations corresponding to the support from the Cohesion Fund mentioned in the first subparagraph shall be entered in the relevant budget lines of the Connecting Europe Facility as from the 2014 budgetary exercise.

Support from the Cohesion Fund under the Connecting Europe Facility shall be implemented in accordance with Article [13] of Regulation (EU) [...] /2012 on establishing the Connecting Europe Facility<sup>35</sup> in respect of projects listed in Annex 1 to that Regulation, giving greatest possible priority to projects respecting the national allocations under the Cohesion Fund.

5. The support from the Structural Funds for [food for deprived people] under the Investment for Growth and Jobs shall be EUR 2 500 000 000.

The Commission shall adopt a decision by implementing act setting out the amount to be transferred from each Member State's Structural Funds allocation for the whole period in each Member State. The Structural Funds allocation of each Member State shall be reduced accordingly.

The annual appropriations corresponding to the support from the Structural Funds mentioned in the first subparagraph shall be entered in the relevant budget lines of the [food for deprived people instrument] with the 2014 budgetary exercise.

6. 5% of the resources for the Investment for growth and jobs goal shall constitute the performance reserve to be allocated in accordance with Article 20.
7. 0,2% of the ERDF resources for the Investment for growth and jobs goal shall be allocated to innovative actions at the initiative of the Commission in the area of sustainable urban development.
8. Resources for the European territorial cooperation goal shall amount to 3,48 % of the global resources available for budgetary commitment from the Funds for the period 2014 to 2020 (i.e., a total of EUR 11 700 000 004).

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<sup>35</sup> OJ...

## Article 85

### Non-transferability of resources

1. The total appropriations allocated to each Member State in respect of less developed regions, transition regions and more developed regions shall not be transferable between each of those categories of regions.
2. By way of derogation from paragraph 1, the Commission may accept, in duly justified circumstances which are linked to the implementation of one or more thematic objectives, a proposal by a Member State in its first submission of the Partnership Contract to transfer up to 2% of the total appropriation for a category of regions to other categories of regions.

## Article 86

### Additionality

1. For the purposes of this Article the following definitions apply:
  - (1) 'public or equivalent structural expenditure' means the Gross Fixed Capital Formation of the General Government reported in the Stability and Convergence Programmes prepared by Member States according to Council Regulation (EC) No 1466/97<sup>36</sup> to present their medium term budgetary strategy;
  - (2) 'fixed assets' means all tangible or intangible assets produced as outputs from processes of production that are themselves used repeatedly, or continuously, in processes of production for more than one year;
  - (3) gross fixed capital formation<sup>37</sup> means all the resident producers' acquisitions, less disposals, of fixed assets during a given period and certain additions to the value of non-produced assets realised by the productive activity of producer or institutional units;
  - (4) 'general government' means the totality of institutional units which, in addition to fulfilling their political responsibilities and their role of economic regulation, produce principally non-market services (possibly goods) for individual or collective consumption and redistribute income and wealth<sup>38</sup>.
2. Support from the Funds for the Investment for growth and jobs goal shall not replace public or equivalent structural expenditure by a Member State.

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<sup>36</sup> OJ L 209, 2.8.1997, p.1.

<sup>37</sup> As defined by the European System of Accounts (ESA) and transmitted by all 27 Member States in their Stability and Convergence Programmes.

<sup>38</sup> Explanation: The general government sector consists mainly of central, state and local government units together with social security funds imposed and controlled by those units. In addition, it includes non-profit institutions engaged in non-market production that are controlled and mainly financed by government units or social security funds.

3. Member States shall maintain for the period 2014-2020 a level of public or equivalent structural expenditure at least equal to the reference level set in the Partnership Contract.

The reference level on average per year of public or equivalent structural expenditure for the years 2014-2020 shall be set in the Partnership Contract, on the basis of an *ex ante* verification by the Commission of the information submitted in the Partnership Contract, having regard to the average level of public or equivalent structural expenditure per year in the period 2007-2013.

The Commission and the Member States shall take into account the general macroeconomic conditions and specific or exceptional circumstances, such as privatisations or an exceptional level of public or equivalent structural expenditure by a Member State in the period 2007-2013. They shall also take into account changes in the national allocations from the Structural Funds as compared to the years 2007-2013.

4. Verification of whether the level of public or equivalent structural expenditure under the Investment for growth and jobs goal has been maintained for the period shall only take place in those Member States in which less developed and transition regions cover at least 15 % of the total population.

In those Member States in which less developed and transition regions cover at least 70 % of the population, the verification shall take place at national level.

In those Member States in which less developed and transition regions cover more than 15 % and less than 70 % of the population, the verification shall take place at national and regional level. For that purpose, those Member States shall provide to the Commission information about the expenditure in the less developed and transition regions at each stage of the verification process.

5. The verification of whether the level of public or equivalent structural expenditure under the Investment for growth and jobs goal has been maintained shall take place at the time of submission of the Partnership Contract (*ex ante* verification), in 2018 (mid-term verification), and in 2022 (*ex post* verification).

The detailed rules relating to the verification of additionality are set out in point 2 of Annex III.

6. If it is established by the Commission in the *ex post* verification that a Member State has not maintained the reference level of public or equivalent structural expenditure under the Investment for growth and jobs goal set out in the Partnership Contract as set out in Annex III, the Commission may carry out a financial correction. In deciding whether or not to carry out a financial correction, the Commission will take into account whether the economic situation of the Member State has significantly changed since the mid-term verification and whether the change was taken into account at that time. The detailed rules relating to financial correction rates are set out in point 3 of Annex III.

7. Paragraphs 1 to 6 shall not apply to operational programmes under the European territorial cooperation goal.

# TITLE II

## PROGRAMMING

### CHAPTER I

#### General provisions on the Funds

##### *Article 87*

#### **Content and adoption of operational programmes under the Investment for growth and jobs goal**

1. An operational programme shall consist of priority axes. A priority axis shall concern one Fund for a category of region and shall correspond, without prejudice to Article 52, to a thematic objective and comprise one or more investment priorities of that thematic objective, in accordance with the Fund-specific rules. For the ESF, a priority axis may combine investment priorities from different thematic objectives set out in Article 9(8), (9), (10) and (11) in order to facilitate their contribution to other priority axes, in duly justified circumstances.
2. An operational programme shall set out:
  - (a) a strategy for the operational programme's contribution to the Union strategy for smart, sustainable and inclusive growth, including:
    - (i) an identification of needs addressing the challenges identified in the country-specific recommendations under Article 121(2) and the Council recommendations adopted under Article 148(4) of the Treaty, and taking into account the Integrated Guidelines and national and regional specificities;
    - (ii) a justification of the choice of thematic objectives and corresponding investment priorities, having regard to the Partnership Contract and the results of the *ex ante* evaluation;
  - (b) for each priority axis:
    - (i) the investment priorities and corresponding specific objectives;
    - (ii) the common and specific output and result indicators, with where appropriate a baseline value and a quantified target value, in accordance with the Fund-specific rules;
    - (iii) a description of actions to be supported including the identification of the main target groups, specific territories targeted and types of

beneficiaries where appropriate and the planned use of financial instruments;

- (iv) the corresponding categories of intervention based on a nomenclature adopted by the Commission by means of implementing acts in accordance with the examination procedure referred to Article 143(3) and an indicative breakdown of the programmed resources;
- (c) the contribution to the integrated approach for territorial development set out in the Partnership Contract, including:
- (i) the mechanisms that ensure coordination between the Funds, the EAFRD, the EMFF and other Union and national funding instruments, and with the EIB;
  - (ii) where appropriate, a planned integrated approach to the territorial development of urban, rural, coastal and fisheries areas and areas with particular territorial features, in particular the implementation arrangements for Articles 28 and 29;
  - (iii) the list of cities where integrated actions for sustainable urban development will be implemented, the indicative annual allocation of the ERDF support for these actions, including the resources delegated to cities for management under Article 7(2) of Regulation (EU) No [...] [ERDF] and the indicative annual allocation of ESF support for integrated actions;
  - (iv) the identification of the areas in which community-led local development will be implemented;
  - (v) the arrangements for interregional and transnational actions with beneficiaries located in at least one other Member State;
  - (vi) where appropriate, the contribution of the planned interventions towards macro regional strategies and sea basin strategies;
- (d) the contribution to the integrated approach set out in the Partnership Contract to address the specific needs of geographical areas most affected by poverty or target groups at highest risk of discrimination or exclusion, with special regard to marginalised communities, and the indicative financial allocation;
- (e) arrangements to ensure the effective implementation of the Funds, including:
- (i) a performance framework in accordance with Article 19(1);
  - (ii) for each *ex ante* conditionality, established in accordance with Annex IV, that is not fulfilled at the date of submission of the Partnership Contract and operational programme, a description of

- the actions to fulfil the *ex ante* conditionality and a timetable for such actions;
- (iii) the actions taken to involve the partners in the preparation of the operational programme, and the role of the partners in the implementation, monitoring and evaluation of the operational programme;
- (f) arrangements to ensure the efficient implementation of the Funds, including:
- (i) the planned use of technical assistance including actions to reinforce the administrative capacity of authorities and beneficiaries with the relevant information referred to in paragraph 2 (b) for the priority axis concerned;
  - (ii) an assessment of the administrative burden for beneficiaries and the actions planned to achieve a reduction accompanied by targets;
  - (iii) a list of major projects for which the estimated start date for the execution of the main works is before 1 January 2018;
- (g) a financing plan containing two tables:
- (i) a table specifying for each year, in accordance with Articles 53, 110 and 111, the amount of the total financial appropriation envisaged for the support from each of the Funds;
  - (ii) a table specifying, for the whole programming period, for the operational programme and for each priority axis, the amount of the total financial appropriation of the support from the Funds and the national co-financing. Where the national co-financing is made up of public and private co-financing, the table shall give the indicative breakdown between the public and the private components. It shall show, for information purposes, the envisaged participation from the EIB;
- (h) the implementing provisions for the operational programme containing:
- (i) identification of the accrediting body, the managing authority, the certifying authority, where applicable, and the audit authority;
  - (ii) identification of the body to which payments will be made by the Commission.
3. Each operational programme, except those where technical assistance is undertaken under a specific operational programme, shall include:
- (i) a description of specific actions to take into account environmental protection requirements, resource efficiency, climate change mitigation and adaptation, disaster resilience and risk prevention and management, in the selection of operations;

- (ii) a description of the specific actions to promote equal opportunities and prevent any discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation during the preparation, design and implementation of the operational programme and in particular in relation to access to funding, taking account of the needs of the various target groups at risk of such discrimination and in particular the requirements of ensuring accessibility for disabled persons;
- (iii) a description of its contribution to the promotion of equality between men and women and, where appropriate, the arrangements to ensure the integration of gender perspective at operational programme and operation level.

Member States shall submit an opinion of the national equality bodies on the measures set out in points (ii) and (iii) with the proposal for an operational programme under the Investment for growth and jobs goal.

4. Member States shall draft the operational programme according to the model adopted by the Commission.

The Commission shall adopt that model by means of implementing acts. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 143(2).

5. The Commission shall adopt a decision approving the operational programme by means of implementing acts.

#### *Article 88*

#### **Joint support from the Funds**

1. The Funds may jointly provide support for operational programmes under the Investment for growth and jobs goal.
2. The ERDF and the ESF may finance, in a complementary manner and subject to a limit of 5 % of Union funding for each priority axis of an operational programme, a part of an operation for which the costs are eligible for support from the other Fund on the basis of eligibility rules applied to that Fund, provided that they are necessary for the satisfactory implementation of the operation and are directly linked to it.
3. Paragraphs 1 and 2 shall not apply to programmes under the European territorial cooperation goal.

**Geographical scope of operational programmes under the  
Investment for growth and jobs goal**

Unless otherwise agreed between the Commission and the Member State, operational programmes for the ERDF and the ESF shall be drawn up at the appropriate geographical level and at least at NUTS level 2, in accordance with the institutional system specific to the Member State.

Operational programmes with support from the Cohesion Fund shall be drawn up at national level.

**CHAPTER II**

**MAJOR PROJECTS**

*Article 90*

**Content**

As part of an operational programme or operational programmes, the ERDF and the Cohesion Fund may support an operation comprising a series of works, activities or services intended in itself to accomplish an indivisible task of a precise economic or technical nature which has clearly identified goals and whose total cost exceeds EUR 50 000 000 (a 'major project'). Financial instruments shall not be considered major projects.

*Article 91*

**Information to be submitted to the Commission**

1. The Member State or the managing authority shall submit the following information on major projects to the Commission as soon as preparatory work has been completed:
  - (a) information on the body to be responsible for implementation of the major project, and its capacity
  - (b) a description of and information on the investment and its location;
  - (c) total cost and total eligible cost, taking account of the requirements set out in Article 54;

- (d) information on the feasibility studies carried out, including the options analysis, the results, and independent quality review;
- (e) a cost-benefit analysis, including an economic and a financial analysis, and a risk assessment;
- (f) an analysis of the environmental impact, taking into account climate change adaptation and mitigation needs, and disaster resilience;
- (g) the consistency with the relevant priority axes of the operational programme or programmes concerned, and its expected contribution to achieving the specific objectives of those priority axes;
- (h) the financing plan showing the total planned financial resources and the planned support from the Funds, the EIB, and all other sources of financing, together with physical and financial indicators for monitoring progress, taking account of the identified risks;
- (i) the timetable for implementing the major project and, where the implementation period is expected to be longer than the programming period, the phases for which support from the Funds is requested during the 2014 to 2020 programming period.

The Commission shall provide indicative guidance on the methodology to be used in carrying out the cost-benefit analysis referred to in point (e) above in accordance with the advisory procedure referred to in Article 143(2).

The format for the information on major projects to be submitted shall be set up in accordance with the model adopted by the Commission, by means of implementing acts. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 143(2).

2. Major projects submitted to the Commission for approval shall be contained in the list of major projects in an operational programme. The list shall be reviewed by the Member State or the managing authority two years following the adoption of an operational programme and may at the request of the Member State be adjusted in accordance with the procedure set out in Article 26(2), in particular to include major projects with an expected completion date by the end of 2022.

## *Article 92*

### **Decision on a major project**

1. The Commission shall appraise the major project on the basis of the information referred to in Article 91 in order to determine whether the proposed support from the Funds is justified.
2. The Commission shall adopt a decision, by means of implementing act, no later than three months after the date of submission of the information approving a major project in accordance with Article 91. That decision shall define the

physical object, the amount to which the co-financing rate for the priority axis applies, physical and financial indicators for monitoring progress, and the expected contribution of the major project to the objectives of the relevant priority axis or axes. An approval decision shall be conditional on the first works contract being concluded within two years of the date of the decision.

3. Where the Commission refuses to allow support from the Funds to be given to a major project, it shall notify the Member State of its reasons within the period laid down in paragraph 2.
4. Expenditure relating to major projects shall not be included in payment applications before adoption of an approval decision by the Commission.

## **CHAPTER III**

### **Joint action plan**

#### *Article 93*

##### **Scope**

1. A joint action plan is an operation defined and managed in relation to the outputs and results which it will achieve. It comprises a group of projects, not consisting in the provision of infrastructure, carried out under the responsibility of the beneficiary, as part of an operational programme or programmes. The outputs and results of a joint action plan shall be agreed between the Member State and the Commission and shall contribute to specific objectives of the operational programmes and form the basis of support from the Funds. Results shall refer to direct effects of the joint action plan. The beneficiary shall be a public law body. Joint action plans shall not be considered as major projects.
2. The public support allocated to a joint action plan shall be a minimum of EUR 10 000 000 or 20 % of the public support of the operational programme or programmes, whichever is lower.

#### *Article 94*

##### **Preparation of joint action plans**

1. The Member State, the managing authority or any designated public law body may submit a proposal for a joint action plan at the same time as or subsequent to the submission of the operational programmes concerned. It shall contain all the elements referred to in Article 95.
2. A joint action plan shall cover part of the period between 1 January 2014 and 31 December 2022. The outputs and results of a joint action plan shall give rise to

reimbursement only if attained after the date of the decision of approval of the joint action plan and before the end of the implementation period defined.

#### *Article 95*

### **Content of joint action plans**

The joint action plan shall contain:

- (1) an analysis of the development needs and objectives justifying the joint action plan, taking into account the objectives of the operational programmes and, where applicable, the country-specific recommendations and the broad guidelines of the economic policies of the Member States and of the Union under Article 121(2) and the Council recommendations which the Member States shall take into account in their employment policies under Article 148(4) of the Treaty;
- (2) the framework describing the relationship between the general and specific objectives of the joint action plan, the milestones and the targets for outputs and results, and the projects or types of projects envisaged;
- (3) the common and specific indicators used to monitor outputs and results, where relevant, by priority axis;
- (4) information on the geographic coverage and target groups of the joint action plan;
- (5) the expected implementation period of the joint action plan;
- (6) an analysis of the effects of the joint action plan on the promotion of equality between men and women and the prevention of discrimination;
- (7) an analysis of the effects of the joint action plan on the promotion of sustainable development, where appropriate;
- (8) the implementing provisions for the joint action plan, including the following:
  - (a) the designation of the beneficiary responsible for the implementation of the joint action plan, providing guarantees of its competence in the domain concerned as well as its administrative and financial management capacity;
  - (b) the arrangements for steering the joint action plan, in accordance with Article 97;
  - (c) the arrangements for monitoring and evaluating the joint action plan including arrangements ensuring the quality, collection and storage of data on the achievement of milestones, outputs and results;
  - (d) the arrangements ensuring the dissemination of information and communication on the joint action plan and on the Funds;

- (9) the financial arrangements of the joint action plan, including the following:
- (a) the costs of achieving milestones, outputs and result targets with reference to point (2), based on the methods set out in Article 57(4) and in Article 14 of the ESF Regulation;
  - (b) an indicative schedule of payments to the beneficiary linked to the milestones and targets;
  - (c) the financing plan by operational programme and priority axis, including the total eligible amount and the public support.

The format for the joint action plan shall be set up in accordance with the model adopted by the Commission, by means of implementing acts. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 143(2).

#### *Article 96*

#### **Decision on the joint action plan**

1. The Commission shall appraise the joint action plan on the basis of the information referred to in Article 95 in order to determine whether support from the Funds is justified.

Where the Commission, within three months following the submission of a joint action plan proposal, considers that it does not meet the appraisal requirements, it shall make observations to the Member State. The Member State shall provide to the Commission all necessary additional information requested and, where appropriate, revise the joint action plan accordingly.

2. Provided that any observations have been satisfactorily taken into account, the Commission shall adopt a decision approving the joint action plan no later than 6 months after its submission by the Member State but not before the adoption of the operational programmes concerned.
3. The decision referred to in paragraph 2 shall indicate the beneficiary and the objectives of the joint action plan, the milestones and targets for outputs and results, the costs of achieving these milestones, outputs and result targets, and the financing plan by operational programme and priority axis, including the total eligible amount and the public contribution, the implementation period of the joint action plan and, where relevant, the geographical coverage and target groups of the joint action plan.
4. Where the Commission refuses to allow support from the Funds to be given to a joint action plan, it shall notify the Member State of its reasons within the period laid down in paragraph 2.

## *Article 97*

### **Steering Committee and amendment of the joint action plan**

1. The Member State or the managing authority shall set up a steering committee for the joint action plan, distinct from the monitoring committee of the operational programmes. The steering committee shall meet at least twice a year.

Its composition shall be decided by the Member State in agreement with the managing authority, respecting the principle of partnership.

The Commission may participate in the work of the steering committee in an advisory capacity.

2. The steering committee shall carry out the following activities:
  - (a) review progress towards achieving the milestones, outputs and results of the joint action plan;
  - (b) consider and approve any proposal to amend the joint action plan in order to take account of any issues affecting its performance.
3. Requests for amendment of joint action plans submitted by a Member State shall be duly substantiated. The Commission shall assess whether the request for amendment is justified, taking account of the information provided by the Member State. The Commission may make observations and the Member State shall provide to the Commission all necessary additional information. The Commission shall adopt a decision on a request for amendment no later than three months after its formal submission by the Member State, provided that any observations made by the Commission have been satisfactorily taken into account. The amendment shall enter into force from the date of the decision, unless otherwise set out in the decision.

## *Article 98*

### **Financial management and control of the joint action plan**

1. Payments to the beneficiary of a joint action plan shall be treated as lump sums or standard scales of unit costs. The ceiling for lump sums set out in Article 57(1)(c) shall not apply.
2. The financial management, control and audit of the joint action plan shall aim exclusively at verifying that the conditions for payments defined in the decision approving the joint action plan have been fulfilled.
3. The beneficiary and bodies acting under its responsibility may apply their accounting practices for the costs of implementing operations. These accounting practices and the costs actually incurred by the beneficiary shall not be subject to audit by the audit authority or the Commission.

## **CHAPTER IV**

### **Territorial development**

#### *Article 99*

##### **Integrated territorial investment**

1. Where an urban development strategy or other territorial strategy or pact as defined in Article 12(1) of Regulation...[ESF] requires an integrated approach involving investments under more than one priority axis of one or more operational programmes, the action shall be carried out as an integrated territorial investment (an 'ITI').
2. The relevant operational programmes shall identify the ITIs planned and shall set out the indicative financial allocation from each priority axis to each ITI.
3. The Member State or the managing authority may designate one or more intermediate bodies, including local authorities, regional development bodies or non-governmental organisations, to carry out the management and implementation of an ITI.
4. The Member State or the relevant managing authorities shall ensure that the monitoring system for the operational programme provides for the identification of operations and outputs of a priority axis contributing to an ITI.

## **TITLE III**

### **MONITORING, EVALUATION, INFORMATION AND COMMUNICATION**

#### **CHAPTER I**

##### **Monitoring and evaluation**

#### *Article 100*

##### **Functions of the monitoring committee**

1. The monitoring committee shall examine in particular:

- (a) any issues that affect the performance of the operational programme;
  - (b) progress in implementation of the evaluation plan and the follow-up given to findings of evaluations;
  - (c) implementation of the communication strategy;
  - (d) implementation of major projects;
  - (e) implementation of joint action plans;
  - (f) actions to promote equality between men and women, equal opportunities, and non-discrimination, including accessibility for disabled persons;
  - (g) actions to promote sustainable development;
  - (h) actions in the operational programme relating to the fulfilment of *ex ante* conditionalities;
  - (i) financial instruments.
2. The monitoring committee shall examine and approve:
- (a) the methodology and criteria for selection of operations;
  - (b) the annual and final implementation reports;
  - (c) the evaluation plan for the operational programme and any amendment of the plan;
  - (d) the communication strategy for the operational programme and any amendment of the strategy;
  - (e) any proposal by the managing authority for any amendment to the operational programme.

#### *Article 101*

#### **Implementation reports for the Investment for growth and jobs goal**

1. By 30 April 2016 and by 30 April of each subsequent year until and including 2022 the Member State shall submit to the Commission an annual report in accordance with Article 44(1). The report submitted in 2016 shall cover the financial years 2014 and 2015, as well as the period between the starting date for eligibility of expenditure and 31 December 2013.
2. Annual implementation reports shall set out information on:
  - (a) implementation of the operational programme in accordance with Article 44(2);
  - (b) progress in preparation and implementation of major projects and joint action plans.

3. The annual implementation reports submitted in 2017 and 2019 shall set out and assess the information required under Articles 44(3) and (4) respectively, the information set out in paragraph 2, together with:
  - (a) progress in implementation of the integrated approach to territorial development, including sustainable urban development, and community-led local development under the operational programme;
  - (b) progress in implementation of actions to reinforce the capacity of Member State authorities and beneficiaries to administer and use the Funds;
  - (c) progress in implementation of any interregional and transnational actions;
  - (d) progress in implementation of the evaluation plan and the follow-up given to the findings of evaluations;
  - (e) the specific actions taken to promote equality between men and women and to prevent discrimination, including accessibility for disabled persons, and the arrangements implemented to ensure the integration of the gender perspective in the operational programme and operations;
  - (f) actions taken to promote sustainable development in accordance with Article 8;
  - (g) the results of the information and publicity measures of the Funds carried out under the communication strategy;
  - (h) progress in the implementation of actions in the field of social innovation, where appropriate;
  - (i) progress in the implementation of measures to address the specific needs of geographical areas most affected by poverty or of target groups at highest risk of discrimination or exclusion, with special regard to marginalised communities including, where appropriate, the financial resources used;
  - (j) the involvement of the partners in the implementation, monitoring and evaluation of the operational programme.
4. The annual and final implementation reports shall be drawn up following models adopted by the Commission by means of implementing acts. These implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 143(2).

#### *Article 102*

#### **Transmission of financial data**

1. By 31 January, 30 April, 31 July and 31 October, the managing authority shall transmit electronically to the Commission for monitoring purposes, for each operational programme and by priority axis:

- (a) the total and public eligible cost of the operations and the number of operations selected for support;
  - (b) the total and public eligible cost of contracts or other legal commitments entered into by beneficiaries in implementation of operations selected for support;
  - (c) the total eligible expenditure declared by beneficiaries to the managing authority.
2. In addition, the transmission on 31 January shall contain the above data broken down by category of intervention. This transmission shall be considered to fulfil the requirement for the submission of financial data referred to in Article 44(2).
3. A forecast of the amount for which Member States expect to submit payment applications for the current financial year and the subsequent financial year shall accompany the transmissions to be made by 31 January and 31 July.
4. The cut-off date for the data submitted under this Article shall be the end of the month preceding the month of submission.

#### *Article 103*

#### **Cohesion Report**

The report of the Commission referred to in Article 175 of the Treaty shall include:

- (a) a record of progress made on economic, social and territorial cohesion, including the socio-economic situation and development of the regions, as well as the integration of the Union's priorities;
- (b) a record of the role of the Funds, the EIB and the other instruments, as well as the effect of other Union and national policies, in the progress made.

#### *Article 104*

#### **Evaluation**

1. An evaluation plan shall be drawn up by the managing authority for each operational programme. The evaluation plan shall be submitted to the first meeting of the monitoring committee. Where a single monitoring committee covers more than one operational programme, an evaluation plan may cover all the operational programmes concerned.
2. By 31 December 2020, managing authorities shall submit to the Commission, for each programme, a report summarising the findings of evaluations carried out during the programming period, including an assessment of the main outputs and results of the programme.
3. The Commission shall carry out *ex post* evaluations in close cooperation with the Member States and managing authorities.

## CHAPTER II

### Information and Communication

#### *Article 105*

##### **Information and publicity**

1. Member States and managing authorities shall be responsible for:
  - (a) ensuring the establishment of a single website or a single website portal providing information on, and access to, all operational programmes in that Member State;
  - (b) informing potential beneficiaries about funding opportunities under operational programmes;
  - (c) publicising to Union citizens the role and achievements of cohesion policy and of the Funds through information and communication actions on the results and impact of Partnership Contracts, operational programmes and operations.
2. Member States shall in order to ensure transparency in the support of the Funds maintain a list of operations by operational programme and by Fund in CSV or XML format which shall be accessible through the single website or the single website portal providing a list and summary of all operational programmes in that Member State.

The list of operations shall be updated at least every three months.

The minimum information to be set out in the list of operations is laid down in Annex V.
3. Detailed rules concerning the information and publicity measures for the public and information measures for applicants and for beneficiaries are laid down in Annex V.
4. Technical characteristics of information and publicity measures for the operation and instructions for creating the emblem and a definition of the standard colours shall be adopted by the Commission by means of implementing acts in accordance with the examination procedure referred to Article 143(3).

## *Article 106*

### **Communication strategy**

1. The managing authority shall draw up a communication strategy for each operational programme. A common communication strategy may be drawn up for several operational programmes.

The communication strategy shall include the elements set out in Annex V and annual updates with details of the planned information and publicity activities to be carried out.

2. The communication strategy shall be discussed and approved by the first monitoring committee following the adoption of the operational programme.

Any revision of the communication strategy shall be discussed in, and approved by, the monitoring committee.

3. The managing authority shall inform the monitoring committee for each operational programme at least once a year of progress in the implementation of the communication strategy and its assessment of the results.

## *Article 107*

### **Information and communication officers and their networks**

1. Each Member State shall designate an information and communication officer to coordinate information and communication actions in relation to one or several Funds and shall inform the Commission accordingly.

2. The information and communication officer shall coordinate and chair meetings of a national network of Funds' communicators, including relevant European territorial cooperation programmes, the creation and maintenance of the website or website portal referred to in Annex V and the obligation to provide an overview about communication measures undertaken at national level.

3. Each managing authority shall designate one person to be responsible for information and communication at operational programme level and shall inform the Commission of those designated.

4. Union networks comprising the members designated by the Member States and the managing authorities shall be set up by the Commission to ensure exchange on the results of the implementation of the communication strategies, the exchange of experience in implementing the information and communication measures, and the exchange of good practices.

## **TITLE IV**

### **TECHNICAL ASSISTANCE**

#### *Article 108*

##### **Technical assistance at the initiative of the Commission**

The Funds may support technical assistance up to a ceiling of 0,35 % of their respective annual allocation.

#### *Article 109*

##### **Technical assistance of the Member States**

1. Each of the Funds may finance technical assistance operations eligible under any of the other Funds. The amount of the Funds allocated to technical assistance shall be limited to 4% of the total amount of the Funds allocated to operational programmes under each category of region of the Investment for growth and jobs goal.
2. Technical assistance shall take the form of a mono-fund priority axis within an operational programme or of a specific operational programme.
3. The allocation for technical assistance from a Fund shall not exceed 10% of the total allocation of that Fund to operational programmes in a Member State under each category of region of the Investment for growth and jobs goal.

## **TITLE V**

### **FINANCIAL SUPPORT FROM THE FUNDS**

#### *Article 110*

##### **Determination of co-financing rates**

1. The Commission decision adopting an operational programme shall fix the co-financing rate and the maximum amount of support from Funds for each priority axis.
2. For each priority axis, the Commission decision shall set out whether the co-financing rate for the priority axis will be applied to:

- (a) total eligible expenditure, including public and private expenditure; or
  - (b) public eligible expenditure.
3. The co-financing rate at the level of each priority axis of operational programmes under the Investment for growth and jobs goal shall be no higher than:
- (a) 85 % for the Cohesion Fund;
  - (b) 85 % for the less developed regions of Member States whose average GDP per capita for the period 2007 to 2009 was below 85 % of the EU-27 average during the same period and for the outermost regions;
  - (c) 80% for the less developed regions of Member States other than those referred to in point (b) eligible for the transitional regime of the Cohesion Fund on 1 January 2014;
  - (d) 75% for the less developed regions of Member States other than those referred to in points (b) and (c), and for all regions whose GDP per capita for the 2007-2013 period was less than 75% of the average of the EU-25 for the reference period but whose GDP per capita is above 75% of the GDP average of the EU-27;
  - (e) 60 % for the transition regions other than those referred to in point (d);
  - (f) 50 % for the more developed regions other than those referred to in point (d).

The co-financing rate at the level of each priority axis of operational programmes under the European territorial cooperation goal shall be no higher than 75%.

4. The co-financing rate of the additional allocation in accordance with Article 84(1)(e) shall be no higher than 50%.

The same co-financing rate shall apply to the additional allocation under Article 4(2) of Regulation (EU) No [...] /2012 [ETC Regulation].

5. The maximum co-financing rate under paragraph 3 at the level of a priority axis shall be increased by ten percentage points, where the whole of a priority axis is delivered through financial instruments, or through community-led local development.
6. The contribution from the Funds for each priority axis shall not be less than 20 % of the eligible public expenditure.
7. A separate priority axis with a co-financing rate of up to 100% may be established within an operational programme to support operations implemented through financial instruments set up at Union level and managed directly or indirectly by the Commission. Where a separate priority is established for this purpose, the support under this axis may not be implemented by any other means.

## *Article 111*

### **Modulation of the co-financing rates**

The co-financing rate from the Funds to a priority axis may be modulated to take account of:

- (1) the importance of the priority axis for the delivery of the Union strategy for smart, sustainable and inclusive growth, having regard to the specific gaps to be addressed;
- (2) protection and improvement of the environment, principally through the application of the precautionary principle, the principle of preventive action and the polluter pays principle;
- (3) the rate of mobilisation of private financing;
- (4) the coverage of areas with severe and permanent natural or demographic handicaps defined as follows:
  - (a) island Member States eligible under the Cohesion Fund, and other islands except those on which the capital of a Member State is situated or which have a fixed link to the mainland;
  - (b) mountainous areas as defined by the national legislation of the Member State;
  - (c) sparsely (less than 50 inhabitants per square kilometre) and very sparsely (less than 8 inhabitants per square kilometre) populated areas.

## **TITLE VI**

### **MANAGEMENT AND CONTROL**

#### **CHAPTER I**

#### **Management and control systems**

## *Article 112*

### **Responsibilities of Member States**

1. Member States shall ensure that management and control systems for operational programmes are set up in accordance with Articles 62 and 63.
2. Member States shall prevent, detect and correct irregularities and shall recover amounts unduly paid, together with any interest on late payments. They shall

notify these irregularities to the Commission and shall keep the Commission informed of the progress of related administrative and legal proceedings.

When amounts unduly paid to a beneficiary cannot be recovered and this is as a result of fault or negligence on the part of a Member State, the Member State shall be responsible for reimbursing the amounts concerned to the general budget of the Union.

The Commission shall be empowered to adopt delegated acts in accordance with Article 142 laying down detailed rules concerning the obligations of the Member States specified in this paragraph.

3. Member States shall ensure that no later than 31 December 2014, all exchanges of information between beneficiaries and managing authorities, certifying authorities, audit authorities and intermediate bodies can be carried out solely by means of electronic data exchange systems.

The systems shall facilitate interoperability with national and Union frameworks and allow for the beneficiaries to submit all information referred to in the first sub-paragraph only once.

The Commission shall adopt, by means of implementing acts, detailed rules concerning the exchanges of information under this paragraph. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 143(3).

## **CHAPTER II**

### **Management and control authorities**

#### *Article 113*

##### **Designation of authorities**

1. The Member State shall designate, for each operational programme, a national, regional or local public authority or body as managing authority. The same public authority or body may be designated as a managing authority for more than one operational programme.
2. The Member State shall designate, for each operational programme, a national, regional or local public authority or body as a certifying authority, without prejudice to paragraph 3. The same certifying authority may be designated for more than one operational programme.
3. The Member State may designate for an operational programme a managing authority which carries out in addition the functions of the certifying authority.

4. The Member State shall designate, for each operational programme, a national, regional or local public authority or body, functionally independent from the managing authority and the certifying authority, as audit authority. The same audit authority may be designated for more than one operational programme.
5. For the Investment for growth and jobs goal, provided that the principle of separation of functions is respected, the managing authority, the certifying authority, where applicable, and the audit authority may be part of the same public authority or body. However, for those operational programmes for which the total amount of support from the Funds exceeds EUR 250 000 000, the audit authority may not be part of the same public authority or body as the managing authority.
6. The Member State may designate one or more intermediate bodies to carry out certain tasks of the managing or the certifying authority under the responsibility of that authority. The relevant arrangements between the managing authority or certifying authority and the intermediate bodies shall be formally recorded in writing.
7. The Member State or the managing authority may entrust the management of part of an operational programme to an intermediate body by way of an agreement in writing between the intermediate body and the Member State or managing authority (a 'global grant'). The intermediate body shall provide guarantees of its solvency and competence in the domain concerned, as well as its administrative and financial management.
8. The Member State shall lay down in writing rules governing its relations with the managing authorities, certifying authorities and audit authorities, the relations between such authorities, and the relations of such authorities with the Commission.

#### *Article 114*

#### **Functions of the managing authority**

1. The managing authority shall be responsible for managing the operational programme in accordance with the principle of sound financial management.
2. As regards the programme management of the operational programme, the managing authority shall:
  - (a) support the work of the monitoring committee and provide it with the information it requires to carry out its tasks, in particular data relating to the progress of the operational programme in achieving its objectives, financial data and data relating to indicators and milestones;
  - (b) draw up and, after approval by the monitoring committee, submit to the Commission annual and final implementation reports;
  - (c) make available to intermediate bodies and beneficiaries information that is relevant to the execution of their tasks and the implementation of operations respectively;

- (d) establish a system to record and store in computerised form data on each operation necessary for monitoring, evaluation, financial management, verification and audit, including data on individual participants in operations, where applicable;
  - (e) ensure that the data referred to in point (d) is collected, entered and stored in the system, and that data on indicators is broken down by gender where required by Annex I of the ESF Regulation.
3. As regards the selection of operations, the managing authority shall:
- (a) draw up and, once approved, apply appropriate selection procedures and criteria that:
    - (i) are non-discriminatory and transparent;
    - (ii) take into account the general principles set out in Articles 7 and 8;
  - (b) ensure that a selected operation falls within the scope of the Fund or Funds concerned and within a category of intervention identified in the priority axis or axes of the operational programme;
  - (c) provide to the beneficiary a document setting out the conditions for support for each operation including the specific requirements concerning the products or services to be delivered under the operation, the financing plan, and the time-limit for execution;
  - (d) satisfy itself that the beneficiary has the administrative, financial and operational capacity to fulfil the conditions defined in point (c) before approval of the operation;
  - (e) satisfy itself that, where the operation has started before the submission of an application for funding to the managing authority, Union and national rules relevant for the operation have been complied with;
  - (f) ensure that an applicant does not receive support from the Funds where it has been, or should have been, subject to a procedure of recovery in accordance with Article 61 following the relocation of a productive activity within the Union;
  - (g) determine the categories of intervention to which the expenditure of an operation shall be attributed.
4. As regards the financial management and control of the operational programme, the managing authority shall:
- (a) verify that the co-financed products and services have been delivered and that expenditure declared by the beneficiaries has been paid by them and that it complies with applicable Union and national law, the operational programme and the conditions for support of the operation;
  - (b) ensure that beneficiaries involved in the implementation of operations reimbursed on the basis of eligible costs actually incurred maintain either

a separate accounting system or an adequate accounting code for all transactions relating to an operation;

- (c) put in place effective and proportionate anti-fraud measures taking into account the risks identified;
  - (d) set up procedures to ensure that all documents regarding expenditure and audits required to ensure an adequate audit trail are held in accordance with the requirements of Article 62(g);
  - (e) draw up the management declaration of assurance on the functioning of the management and control system, the legality and regularity of underlying transactions and the respect of the principle of sound financial management, together with a report setting out the results of management controls carried out, any weaknesses identified in the management and control system and any corrective action taken.
5. Verifications pursuant to paragraph 4(a) shall include the following procedures:
- (a) administrative verifications in respect of each application for reimbursement by beneficiaries;
  - (b) on-the-spot verifications of operations.

The frequency and coverage of the on-the-spot verifications shall be proportionate to the amount of public support to an operation and the level of risk identified by these verifications and audits by the audit authority for the management and control system as a whole.

6. On-the-spot verifications of individual operations pursuant to paragraph (5)(b) may be carried out on a sample basis.
7. Where the managing authority is also a beneficiary under the operational programme, arrangements for the verifications referred to in paragraph 4(a) shall ensure adequate separation of functions.
8. The Commission shall adopt delegated acts, in accordance with Article 142, laying down the modalities of the exchange of information in paragraph 2(d).
9. The Commission shall adopt delegated acts, in accordance with Article 142, laying down rules concerning arrangements for the audit trail referred to in paragraph 4(d).
10. The Commission shall adopt, by means of implementing acts, the model for the management declaration referred to in paragraph 4(e). Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 143(2).

**Functions of the certifying authority**

The certifying authority of an operational programme shall be responsible in particular for:

- (a) drawing up and submitting to the Commission payment applications and certifying that these result from reliable accounting systems, are based on verifiable supporting documents and have been subject to verifications by the managing authority;
- (b) drawing up the annual accounts;
- (c) certifying the completeness, accuracy and veracity of the annual accounts and that the expenditure entered in the accounts complies with applicable Union and national rules and has been incurred in respect of operations selected for funding in accordance with the criteria applicable to the operational programme and complying with Union and national rules;
- (d) ensuring that there is a system which records and stores, in computerised form, accounting records for each operation, and which supports all the data required for drawing up payment applications and annual accounts, including records of amounts recoverable, amounts recovered and amounts withdrawn following cancellation of all or part of the contribution for an operation or operational programme;
- (e) ensuring for the purposes of drawing up and submission of payment applications that it has received adequate information from the managing authority on the procedures and verifications carried out in relation to expenditure;
- (f) taking account when drawing up and submitting payment applications the results of all audits carried out by or under the responsibility of the audit authority;
- (g) maintaining accounting records in a computerised form of expenditure declared to the Commission and the corresponding public contribution paid to beneficiaries;
- (h) keeping an account of amounts recoverable and of amounts withdrawn following cancellation of all or part of the contribution for an operation. Amounts recovered shall be repaid to the general budget of the Union prior to the closure of the operational programme by deducting them from the next statement of expenditure.

### Functions of the audit authority

1. The audit authority shall ensure that audits are carried out on the management and control systems, on an appropriate sample of operations and on the annual accounts.

The Commission shall be empowered to adopt delegated acts in accordance with Article 142 to set out the conditions which those audits shall fulfil.

2. Where audits are carried out by a body other than the audit authority, the audit authority shall ensure that any such body has the necessary functional independence.
3. The audit authority shall ensure that audit work takes account of internationally accepted audit standards.
4. The audit authority shall, within six months of adoption of an operational programme, prepare an audit strategy for performance of audits. The audit strategy shall set out the audit methodology, the sampling method for audits on operations and the planning of audits in relation to the current accounting year and the two subsequent accounting years. The audit strategy shall be updated annually from 2016 until and including 2022. Where a common management and control system applies to more than one operational programme, a single audit strategy may be prepared for the operational programmes concerned. The audit authority shall submit the audit strategy to the Commission upon request.
5. The audit authority shall draw up:
  - (i) an audit opinion on the annual accounts for the preceding accounting year, whose scope shall cover the completeness, accuracy and veracity of the annual accounts, the functioning of the management and control system and the legality and regularity of the underlying transactions;
  - (ii) an annual control report setting out the findings of the audits carried out during the preceding accounting year.

The report under point (ii) shall set out any deficiencies found in the management and control system and any corrective measures taken or proposed to be taken.

Where a common management and control system applies to more than one operational programme, the information required under point (ii) may be grouped in a single report.

6. The Commission shall adopt, by means of implementing acts, models for the audit strategy, the audit opinion and the annual control report, as well as the methodology for the sampling method referred to in paragraph 4. These implementing acts shall be adopted in accordance with the examination procedure referred to in Article 143(3).

7. Implementing rules concerning the use of data collected during audits carried out by Commission officials or authorised Commission representatives shall be adopted by the Commission in accordance with the examination procedure referred to in Article 143(3).

## **CHAPTER III**

### **Accreditation**

#### *Article 117*

#### **Accreditation and withdrawal of accreditation of the managing authority and the certifying authority**

1. The accrediting body shall adopt a formal decision to accredit those managing authorities and certifying authorities that comply with the accreditation criteria that have been established by the Commission by means of delegated acts in accordance with Article 142.
2. The formal decision referred to in paragraph 1 shall be based on a report and an opinion of an independent audit body that assesses the management and control system, including the role of intermediate bodies therein, and its compliance with Articles 62, 63, 114 and 115. The accrediting body shall take into account whether the management and control systems for the operational programme are similar to those in place for the previous programming period, as well as any evidence of their effective functioning.
3. The Member State shall submit the formal decision referred to in paragraph 1 to the Commission within six months of the adoption of the decision adopting the operational programme.
4. Where the total amount of support from the Funds to an operational programme exceeds EUR 250 000 000 the Commission may request, within two months of receipt of the formal decision referred to in paragraph 1, the report and the opinion of the independent audit body and the description of the management and control system.

The Commission may make observations within two months of receipt of these documents.

In deciding whether to request those documents, the Commission shall take into account whether the management and control systems for the operational programme are similar to those in place for the previous programming period, whether the managing authority also carries out the functions of the certifying authority, and any evidence of their effective functioning.

*Article 118*

**Cooperation with audit authorities**

1. The Commission shall cooperate with audit authorities to coordinate their audit plans and methods and shall immediately exchange the results of audits carried out on management and control systems.
2. To facilitate this cooperation in cases where a Member State designates more than one audit authority, the Member State may designate a coordination body.
3. The Commission, the audit authorities and any coordination body shall meet on a regular basis and at least once a year, unless otherwise agreed, to examine the annual control report, the opinion and the audit strategy, and to exchange views on issues relating to improvement of the management and control systems.

**TITLE VII  
FINANCIAL MANAGEMENT, CLEARANCE OF  
ACCOUNTS AND FINANCIAL CORRECTIONS**

**CHAPTER I**

**Financial management**

*Article 119*

**Common rules for payments**

The Member State shall ensure that at the latest by the closure of the operational programme, the amount of public support paid to beneficiaries is at least equal to the contribution from the Funds paid by the Commission to the Member State.

*Article 120*

**Common rules for calculating interim payments and payment of the annual and final balance**

1. The Commission shall reimburse as interim payments 90% of the amount resulting from applying the co-financing rate for each priority axis laid down in the decision adopting the operational programme to the eligible expenditure for the priority axis included in the payment application. It shall determine the annual balance in accordance with Article 130(1).
2. The contribution from the Funds to a priority axis through the interim payments and payment of the annual and the final balance shall not be higher than:

- (a) the public support indicated in the payment application for the priority axis; and
  - (b) the contribution from the Funds for the priority axis laid down in the decision of the Commission approving the operational programme.
3. Notwithstanding Article 22, the Union support through the interim payments and payments of the final balance shall not be higher than the public support and the maximum amount of support from the Funds for each priority axis as laid down in the decision of the Commission approving the operational programme.

#### *Article 121*

#### **Payment applications**

1. Payment applications shall include, for each priority axis:
- (a) the total amount of eligible expenditure paid by beneficiaries in implementing operations, as entered into the accounts of the certifying authority;
  - (b) the total amount of public support incurred in implementing operations, as entered into the accounts of the certifying authority;
  - (c) the corresponding eligible public support which has been paid to the beneficiary, as entered into the accounts of the certifying authority.
2. Expenditure included in a payment application shall be supported by receipted invoices or accounting documents of equivalent probative value, except for forms of support under Articles 57 (1) (b) (c) and (d), 58, 59 (1) and 93 and under Article 14 of the Regulation (EU) No [...] /2012 of the European Parliament and of the Council of the European Social Funds and repealing Regulation (EC) No 1081/2006 [ESF]. For such forms of support, the amounts included in a payment application shall be the costs reimbursed to the beneficiary by the managing authority.
3. The Commission shall adopt, by means of implementing acts, the model for payment applications. These implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 143(2).

#### *Article 122*

#### **Payment to beneficiaries**

Managing authorities shall ensure that the beneficiaries receive the total amount of the public support as quickly as possible and in full and in any event before the inclusion of the corresponding expenditure in the payment application. No amount shall be deducted or withheld and no specific charge or other charge with equivalent effect shall be levied that would reduce these amounts for the beneficiaries.

### *Article 123*

#### **Use of the euro**

1. Member States which have not adopted the euro as their currency on the date of an application for payment shall convert the amounts of expenditure incurred in national currency into euro. This amount shall be converted into euro using the monthly accounting exchange rate of the Commission in the month during which the expenditure was registered in the accounts of the managing authority of the operational programme concerned. This rate shall be published electronically by the Commission each month.
2. When the euro becomes the currency of a Member State, the conversion procedure set out in paragraph 1 shall continue to apply to all expenditure recorded in the accounts by the managing authority before the date of entry into force of the fixed conversion rate between the national currency and the euro.

### *Article 124*

#### **Payment of pre-financing**

1. The initial pre-financing amount shall be paid in instalments as follows:
  - (a) in 2014: 2 % of the amount of support from the Funds for the entire programming period to the operational programme;
  - (b) in 2015: 1 % of the amount of support from the Funds for the entire programming period to the operational programme;
  - (c) in 2016: 1 % of the amount of support from the Funds for the entire programming period to the operational programme.

If an operational programme is adopted in 2015 or later, the earlier instalments shall be paid in the year of adoption.

2. An annual pre-financing amount shall be paid before 1 July in the years 2016 to 2022. In 2016, it shall be 2 % of the amount of the support from the Funds for the whole programming period to the operational programme. In the years 2017 to 2022, it shall be 2,5% of the amount of the support from the Funds for the whole programming period to the operational programme.

### *Article 125*

#### **Clearance of pre-financing**

The amount paid as annual pre-financing shall be cleared from the Commission accounts in accordance with Article 130.

## *Article 126*

### **Deadlines for presentation of interim payment applications and for their payment**

1. The certifying authority shall submit on a regular basis an application for interim payment covering amounts entered in its accounts as public support paid to beneficiaries in the accounting year ending 30 June.
2. The certifying authority shall submit the final application for interim payment by 31 July following the end of the previous accounting year and, in any event, before the first application for interim payment for the next accounting year.
3. The first application for interim payment shall not be made before the formal act accrediting the managing authority has been received by the Commission.
4. Interim payments shall not be made for an operational programme where the annual implementation report has not been sent to the Commission in accordance with Article 101.
5. Subject to available funding, the Commission shall make the interim payment no later than 60 days after the date on which a payment application is registered with the Commission.

## *Article 127*

### **Decommitment**

1. The Commission shall decommit any part of the amount calculated in accordance with the second subparagraph in an operational programme that has not been used for payment of the initial and annual pre-financing, interim payments and annual balance by 31 December of the second financial year following the year of budget commitment under the operational programme or for which a payment application drawn up in accordance with Article 121 has not been submitted in accordance with Article 126.

For the purposes of the decommitment, the Commission shall calculate the amount by adding one sixth of the annual budget commitment related to the 2014 total annual contribution to each of the 2015 to 2020 budget commitments.

2. By way of derogation from the first subparagraph of paragraph 1, the deadlines for decommitment shall not apply to the annual budget commitment related to the 2014 total annual contribution.
3. If the first annual budget commitment is related to the 2015 total annual contribution, by way of derogation from paragraph 1, the deadlines for decommitment shall not apply to the annual budget commitment related to the total annual contribution of 2015. In such cases, the Commission shall calculate the amount under the first sub-paragraph of paragraph 1 by adding one fifth of the annual budget commitment related to the 2015 total amount contribution to each of the 2016 to 2020 budget commitments.

4. That part of commitments still open on 31 December 2022 shall be decommitted if any of the documents required under Article 130(1) has not been submitted to the Commission by 30 September 2023.

## **CHAPTER II**

### **Clearance of accounts and closure**

#### **SECTION I**

##### **CLEARANCE OF ACCOUNTS**

###### *Article 128*

###### **Content of the annual accounts**

1. The certified annual accounts for each operational programme shall cover the accounting year and shall include at the level of each priority axis:
  - (a) the total amount of eligible expenditure entered into the accounts of the certifying authority as having been paid by beneficiaries in implementing operations and the corresponding eligible public support which has been paid and the total amount of public support incurred in implementing operations;
  - (b) the amounts withdrawn and recovered during the accounting year, the amounts to be recovered as at the end of the accounting year, the recoveries effected pursuant to Article 61, and the irrecoverable amounts;
  - (c) for each priority axis, the list of operations completed during the accounting year that were supported by ERDF and Cohesion Fund;
  - (d) for each priority axis, a reconciliation between the expenditure stated pursuant to point (a) and the expenditure declared in respect of the same accounting year in payment applications, accompanied by an explanation of any differences.
2. The certifying authority may specify by priority axis in the accounts a provision, which shall not exceed 5 % of the total expenditure in payment applications presented for a given accounting year, where the assessment of the legality and regularity of the expenditure is subject to an ongoing procedure with the audit authority. The amount covered shall be excluded from the total amount of eligible expenditure referred to in paragraph 1(a). These amounts shall be definitively included in, or excluded from, the annual accounts of the following year.

## *Article 129*

### **Submission of information**

For each year from 2016 until and including 2022, the Member State shall submit the documents referred to in Article 75(1).

## *Article 130*

### **Annual clearance of accounts**

1. For the purposes of calculating the amount chargeable to the Funds for an accounting year, the Commission shall take into account:
  - (a) the total amount of expenditure entered into the accounts referred to in Article 128(1)(a), to which shall be applied the co-financing rate for each priority axis;
  - (b) the total amount of payments made by the Commission during that accounting year, consisting of:
    - (i) the amount of interim payments paid by the Commission in accordance with Article 120(1) and Article 22; and
    - (ii) the amount of the annual pre-financing paid under Article 124(2).
2. The annual balance which, as a result of the clearance of accounts, is recoverable from the Member State shall be subject to a recovery order of the Commission. The annual balance payable to the Member State shall be added to the next interim payment made by the Commission following the clearance of accounts.
3. If, for reasons attributable to a Member State, the Commission is not in a position to clear the accounts by 30 April of the year following the end of an accounting year, the Commission shall notify the Member State of the actions that must be undertaken by the managing authority or audit authority, or of the additional enquiries the Commission proposes to undertake pursuant to Article 65(2) and (3).
4. Payment of the annual balance by the Commission shall be based on the expenditure declared in the accounts, net of any provision made in respect of expenditure declared to the Commission which is subject to a contradictory procedure with the audit authority.

## *Article 131*

### **Rolling Closure**

1. For the ERDF and the Cohesion Fund, the annual accounts for each operational programme shall include at the level of each priority axis the list of operations completed during the accounting year. The expenditure relating to these

operations included in the accounts subject to the clearance decision shall be considered as closed.

2. For the ESF, the expenditure included in the accounts that are subject to a clearance decision shall be considered as closed.

#### *Article 132*

#### **Availability of documents**

1. Without prejudice to the rules governing State aid, the managing authority shall ensure that all supporting documents on operations are made available to the Commission and the European Court of Auditors upon request for a period of three years. This three year period shall run from 31 December of the year of the clearance of accounts decision pursuant to Article 130 or, at the latest, from the date of payment of the final balance.

This three year period shall be interrupted either in the case of legal or administrative proceedings or by a duly justified request of the Commission.

2. The documents shall be kept either in the form of the originals, or certified true copies of the originals, or on commonly accepted data carriers including electronic versions of original documents or documents existing in electronic version only.
3. The documents shall be kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the data were collected or for which they are further processed.
4. The Commission shall be empowered to adopt delegated acts in accordance with Article 142 to set out which data carriers can be considered as commonly accepted.
5. The procedure for certification of conformity of documents held on commonly accepted data carriers with the original document shall be laid down by the national authorities and shall ensure that the versions held comply with national legal requirements and can be relied on for audit purposes.
6. Where documents exist in electronic version only, the computer systems used must meet accepted security standards that ensure that the documents held comply with national legal requirements and can be relied on for audit purposes.

## SECTION II

### CLOSURE OF OPERATIONAL PROGRAMMES

#### *Article 133*

##### **Submission of closure documents and payment of the final balance**

1. Member States shall submit the following documents by 30 September 2023:
  - (a) an application for payment of the final balance;
  - (b) a final implementation report for the operational programme; and
  - (c) the documents referred to in Article 75(1) for the final accounting year, from 1 July 2022 to 30 June 2023.
2. The final balance shall be paid no later than three months after the date of clearance of accounts of the final accounting year or one month after the date of acceptance of the final implementation report, whichever date is later.

## SECTION III

### SUSPENSION OF PAYMENTS

#### *Article 134*

##### **Suspension of payments**

1. All or part of the interim payments at the level of priority axes or operational programmes may be suspended by the Commission where:
  - (a) there is a serious deficiency in the management and control system of the operational programme for which corrective measures have not been taken;
  - (b) expenditure in a statement of expenditure is linked to an irregularity having serious financial consequences which has not been corrected;
  - (c) the Member State has failed to take the necessary action to remedy the situation giving rise to an interruption under Article 74;
  - (d) there is a serious deficiency in the quality and reliability of the monitoring system or of the data on common and specific indicators;
  - (e) the Member State has failed to undertake actions set out in the operational programme relating to fulfilment of an *ex ante* conditionalities;

- (f) there is evidence resulting from a performance review that a priority axis has failed to achieve the milestones set out in the performance framework;
  - (g) the Member State fails to respond or does not reply satisfactorily under Article 20(3).
2. The Commission may decide, by means of implementing acts, to suspend all or part of interim payments, after having given the Member State the opportunity to present its observations.
  3. The Commission shall end suspension of all or part of interim payments where the Member State has taken the necessary measures to enable the suspension to be lifted.

## **CHAPTER III**

### **Financial corrections**

#### **SECTION I**

#### **FINANCIAL CORRECTIONS BY MEMBER STATES**

##### *Article 135*

##### **Financial corrections by Member States**

1. The Member States shall in the first instance be responsible for investigating irregularities and for making the financial corrections required and pursuing recoveries. In the case of a systemic irregularity, the Member State shall extend its investigation to cover all operations potentially affected.
2. The Member State shall make the financial corrections required in connection with individual or systemic irregularities detected in operations or operational programmes. Financial corrections shall consist of cancelling all or part of the public contribution to an operation or operational programme. The Member State shall take into account the nature and gravity of the irregularities and the financial loss to the Funds and shall apply a proportionate correction. Financial corrections shall be recorded in the annual accounts by the managing authority for the accounting year in which the cancellation is decided.
3. The contribution from the Funds cancelled in accordance with paragraph 2 may be reused by the Member State within the operational programme concerned, subject to paragraph 4.
4. The contribution cancelled in accordance with paragraph 2 may not be reused for any operation that was the subject of the correction or, where a financial

correction is made for a systemic irregularity, for any operation affected by the systemic irregularity.

## **SECTION II**

### **FINANCIAL CORRECTIONS BY THE COMMISSION**

#### *Article 136*

##### **Criteria for financial corrections**

1. The Commission shall make financial corrections by means of implementing acts by cancelling all or part of the Union contribution to an operational programme in accordance with Article 77 where, after carrying out the necessary examination, it concludes that:
  - (a) there is a serious deficiency in the management and control system of the operational programme which has put at risk the Union contribution already paid to the operational programme;
  - (b) the Member State has not complied with its obligations under Article 135 prior to the opening of the correction procedure under this paragraph;
  - (c) expenditure contained in a payment application is irregular and has not been corrected by the Member State prior to the opening of the correction procedure under this paragraph.

The Commission shall base its financial corrections on individual cases of irregularity identified and shall take account of whether an irregularity is systemic. When it is not possible to quantify precisely the amount of irregular expenditure charged to the Funds, the Commission shall apply a flat rate or extrapolated financial correction.

2. The Commission shall, when deciding the amount of a correction under paragraph 1, take account of the nature and gravity of the irregularity and the extent and financial implications of the deficiencies in management and control systems found in the operational programme.
3. Where the Commission bases its position on reports of auditors other than those of its own services, it shall draw its own conclusions regarding the financial consequences after examining the measures taken by the Member State concerned under Article 135(2), the notifications sent under Article 112(3), and any replies from the Member State.
4. Where the Commission, based on the examination of the final implementation report of the operational programme, establishes a serious failure to achieve the targets set out in the performance framework, it may apply financial corrections in respect of the priority axes concerned by means of implementing acts.

5. When a Member State does not comply with its obligations as referred to in Article 86, the Commission may, in relation to the degree of non-compliance with these obligations, make a financial correction by cancelling all or part of the Structural Funds contribution to the Member State concerned.
6. The Commission shall be empowered to adopt delegated acts in accordance with Article 142 establishing the criteria for establishing the level of financial correction to be applied.

#### *Article 137*

#### **Procedure**

1. Before taking a decision on a financial correction, the Commission shall launch the procedure by informing the Member State of the provisional conclusions of its examination and requesting the Member State to submit its comments within two months.
2. Where the Commission proposes a financial correction on the basis of extrapolation or a flat rate, the Member State shall be given the opportunity to demonstrate, through an examination of the documentation concerned, that the actual extent of irregularity is less than the Commission's assessment. In agreement with the Commission, the Member State may limit the scope of this examination to an appropriate proportion or sample of the documentation concerned. Except in duly justified cases, the time allowed for this examination shall not exceed a further period of two months after the two-month period referred to in paragraph 1.
3. The Commission shall take account of any evidence supplied by the Member State within the time limits set out in paragraphs 1 and 2.
4. Where the Member State does not accept the provisional conclusions of the Commission, the Member State shall be invited to a hearing by the Commission, in order to ensure that all relevant information and observations are available as a basis for conclusions by the Commission on the application of the financial correction.
5. In order to apply financial corrections the Commission shall take a decision, by means of implementing acts, within six months of the date of the hearing, or of the date of receipt of additional information where the Member State agrees to submit such additional information following the hearing. The Commission shall take account of all information and observations submitted during the course of the procedure. If no hearing takes place, the six month period shall begin to run two months after the date of the letter of invitation to the hearing sent by the Commission.
6. Where irregularities affecting annual accounts sent to the Commission are detected by the Commission or by the European Court of Auditors, the resulting financial correction shall reduce support from the Funds to the operational programme.

## *Article 138*

### **Obligations of Member States**

A financial correction by the Commission shall not prejudice the Member State's obligation to pursue recoveries under Article 135(2) of this Regulation and to recover State aid in the meaning of Article 107(1) of the Treaty and under Article 14 of Council Regulation (EC) No 659/1999<sup>39</sup>.

## *Article 139*

### **Repayment**

1. Any repayment due to be made to the general budget of the Union shall be effected before the due date indicated in the order for recovery drawn up in accordance with Article 73 of the Financial Regulation. The due date shall be the last day of the second month following the issuing of the order.
2. Any delay in effecting repayment shall give rise to interest on account of late payment, starting on the due date and ending on the date of actual payment. The rate of such interest shall be one-and-a-half percentage points above the rate applied by the European Central Bank in its main refinancing operations on the first working day of the month in which the due date falls.

## **TITLE VIII**

### **Proportional control of operational programmes**

## *Article 140*

### **Proportional control of operational programmes**

1. Operations for which the total eligible expenditure does not exceed EUR 100 000 shall not be subject to more than one audit by either the audit authority or the Commission prior to the closure of all the expenditure concerned under Article 131. Other operations shall not be subject to more than one audit per accounting year by the audit authority and the Commission prior to the closure of all the expenditure concerned under Article 131. These provisions are without prejudice to paragraph 4.
2. For operational programmes for which the most recent audit opinion indicates that there are no significant deficiencies, the Commission may agree with the audit authority in the subsequent meeting referred to in Article 118(3) that the level of audit work required may be reduced so that it is proportionate to the risk

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<sup>39</sup> OJ L 83, 27.3.1999, p. 1.

established. In such cases, the Commission will not carry out its own on-the-spot audits unless there is evidence suggesting deficiencies in the management and control system affecting expenditure declared to the Commission in an accounting year for which the accounts have been the subject of a clearance decision.

3. For operational programmes for which the Commission concludes that it can rely on the opinion of the audit authority, it may agree with the audit authority to limit its own on the spot audits to audit the work of the audit authority unless there is evidence of deficiencies in the work of the audit authority work for an accounting year for which the accounts have been subject to a clearance decision.
4. Without prejudice to paragraph 1, the audit authority and the Commission may carry out audits of operations in case a risk assessment establishes a specific risk of irregularity or fraud, in case of evidence of serious deficiencies in the management and control system of the operational programme concerned, and, during the 3 years following closure of all the expenditure of an operation under Article 131, as part of an audit sample. The Commission may at any time carry out audits of operations for the purpose of assessing the work of an audit authority by re-performance of its audit activity.

## **PART FOUR**

### **DELEGATIONS OF POWER, IMPLEMENTING, TRANSITIONAL AND FINAL PROVISIONS**

#### **CHAPTER I**

#### **Delegations of power and implementing provisions**

##### *Article 141*

##### **Amendment of the Annexes**

The Commission may adopt, by means of delegated acts in accordance with Article 142, amendments to the Annex V to this Regulation within the scope of the relevant provisions of this Regulation.

##### *Article 142*

##### **Exercise of the delegation**

1. The powers to adopt delegated acts are conferred on the Commission subject to the conditions laid down in this Article.

2. The delegations of power referred to in this Regulation shall be conferred for an indeterminate period of time from the date of entry into force of this Regulation.
3. The delegations of power referred to in Article 141 may be revoked at any time by the European Parliament or by the Council.

A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
5. The delegated acts shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of 2 months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by 2 months at the initiative of the European Parliament or the Council.

If, on expiry of that period, neither the European Parliament nor the Council has objected to the delegated act, it shall be published in the *Official Journal of the European Union* and shall enter into force at the date stated therein.

The delegated act may be published in the *Official Journal of the European Union* and enter into force before the expiry of that period if the European Parliament and the Council have both informed the Commission of their intention not to raise objections.

If the European Parliament or the Council objects to a delegated act, the act shall not enter into force. The institution that objects to the delegated act shall state the reasons for its objections.

#### *Article 143*

#### **Committee Procedure**

1. The Commission shall be assisted by a Coordination Committee of the Funds. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.
3. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Where the opinion of the committee under paragraphs 2 and 3 is to be obtained by written procedure, that procedure shall be terminated without result when,

within the time-limit for delivery of the opinion, the chair of the committee so decides or (...) [*number of members*] (a ... majority of) [*majority to be specified: simple, two-thirds, etc.*] committee members so request.

Where the committee delivers no opinion, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.

## **CHAPTER II**

### **Transitional and final provisions**

#### *Article 144*

##### **Review**

The European Parliament and the Council shall review this Regulation by 31 December 20XX in accordance with Article 177 of the Treaty.

#### *Article 145*

##### **Transitional provisions**

1. This Regulation shall not affect the continuation or modification, including the total or partial cancellation, of the projects concerned, until their closure, or of assistance approved by the Commission on the basis of Regulation (EC) No 1083/2006 or any other legislation applying to that assistance on 31 December 2013.
2. Applications made under Council Regulation (EC) No 1083/2006 shall remain valid.

#### *Article 146*

##### **Repeal**

1. Council Regulation (EC) No 1083/2006 is hereby repealed with effect from 1 January 2014.
2. References to the repealed Regulation shall be construed as references to this Regulation.

#### *Article 147*

##### **Entry into force**

This Regulation shall enter into force on the 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 European Parliament*  
*The President*

*For the Council*  
*The President*

## ANNEX I

### **Method for establishing the performance framework**

1. The performance framework shall consist of milestones established for each priority for the years 2016 and 2018 and targets established for 2022. The milestones and targets shall be presented in accordance with the format set out in table 1.

Table 1: Standard format for the performance framework

Priority	Indicator and measurement unit, where appropriate	Milestone for 2016	Milestone for 2018	Target for 2022

2. Milestones are intermediate targets for the achievement of the specific objective of a priority, expressing the intended progress towards the targets set for the end of the period. Milestones established for 2016 shall include financial indicators and output indicators. Milestones established for 2018 shall include financial indicators, output indicators and where appropriate, result indicators. Milestones may also be established for key implementation steps.
3. Milestones shall be:
  - relevant, capturing essential information on the progress of a priority;
  - transparent, with objectively verifiable targets and the source data identified and publicly available;
  - verifiable, without imposing a disproportionate administrative burden;
  - consistent across operational programmes, where appropriate.

**ANNEX II**

**Annual breakdown of commitment appropriations for 2014 to 2020**

[...]

## ANNEX III

### Additionality

#### 1. PUBLIC OR EQUIVALENT STRUCTURAL EXPENDITURE

The figure on Gross Fixed Capital Formation in column X-1, expressed as a share of GDP, according to Table 2 of Annex 2 of the "Guidelines on the format and content of Stability and Convergence Programmes"<sup>40</sup>, will be used to determine public or equivalent structural expenditure.

#### 2. VERIFICATION

Verifications of additionality in accordance with Article 86(3) are subject to the following rules:

##### 2.1 *Ex-ante* verification

- (a) When a Member State submits a Partnership Contract, it shall provide information on the planned profile of expenditure in the format of Table 1 below. In those Member States in which less developed and intermediate regions cover more than 15% and less than 70% of the population, information about the expenditure in [less developed and intermediate regions] shall be provided in the same format.

Table 1

Expenditure of the General Government as a share of GDP	2014	2015	2016	2017	2018	2019	2020
P51	X	X	X	X	X	X	X

- (b) Member State shall provide to the Commission information on the main macroeconomic indicators and forecasts underlying the level of public or equivalent structural expenditure.
- (c) Once there is agreement by the Commission and the Member State, Table 1 above will be included in the Partnership Contract of the Member State concerned as the reference level of the public or equivalent structural expenditure to be maintained in the years 2014-2020.

##### 2.2 Mid-term verification

- (a) At the time of the mid-term verification, a Member State shall be deemed to have maintained the level of public or equivalent structural expenditure if the annual average of expenditure in the years 2014-2017 is equal to or higher than the reference level of expenditure set in the Partnership Contract.

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<sup>40</sup> As endorsed by the ECOFIN Council on 7 September 2010.

- (b) Following the mid-term verification, the Commission may revise, in consultation with a Member State, the reference level of public or equivalent structural expenditure in the Partnership Contract if the economic situation of the Member State has significantly changed since adoption of the Partnership Contract and the change was not taken into account when setting the reference level in the Partnership Contract.

### **2.3 *Ex post* verification**

At the time of the *ex post* verification, a Member State shall be deemed to have maintained the level of public or equivalent structural expenditure if the annual average of expenditure in the years 2014-2020 is equal to or higher than the reference level of expenditure set in the Partnership Contract.

## **3. FINANCIAL CORRECTION RATES FOLLOWING EX POST VERIFICATION**

Where the Commission decides to carry out a financial correction in accordance with Article 86(4), the rate of financial correction shall be obtained by subtracting 3% from the difference between the reference level in the Partnership Contract and the level achieved, expressed as a percentage of the reference level, and then dividing the result by 10. The financial correction shall be determined by applying that rate of financial correction to the Funds' contribution to the Member State concerned for the less developed and transition regions for the full programming period.

If the difference between the reference level in the Partnership Contract and the level achieved, expressed as a percentage of the reference level in the Partnership Contract, is 3 % or less, no financial correction shall be made.

The financial correction shall not exceed 5 % of the Funds' allocation to the Member State concerned for the less developed and transition regions for the full programming period.

## ANNEX IV

### *Ex ante* conditionalities

#### Thematic *ex ante* conditionalities

Thematic objectives	<u>Ex ante</u> conditionality	Criteria for fulfilment
<p>1. Strengthening research, technological development and innovation (<b>R&amp;D target</b>) (referred to in Article 9(1))</p>	<p>1.1. <i>Research and innovation</i>: The existence of a national or regional research and innovation strategy for smart specialisation in line with the National Reform Program, to leverage private research and innovation expenditure, which complies with the features of well-performing national or regional research and innovation systems<sup>41</sup>.</p>	<ul style="list-style-type: none"> <li>– A national or regional research and innovation strategy for smart specialisation is in place that:               <ul style="list-style-type: none"> <li>– is based on a SWOT analysis to concentrate resources on a limited set of research and innovation priorities;</li> <li>– outlines measures to stimulate private RTD investment;</li> <li>– contains a monitoring and review system.</li> </ul> </li> <li>– A Member State has adopted a framework outlining available budgetary resources for research and innovation;</li> <li>– A Member State has adopted a multi-annual plan for budgeting and prioritization of investments linked to EU priorities (European Strategy Forum on Research Infrastructures -ESFRI).</li> </ul>
<p>2. Enhancing access to and use and quality of</p>	<p>2.1. <i>Digital growth</i>: The existence within the national or regional innovation strategy for smart specialisation of an</p>	<ul style="list-style-type: none"> <li>– A chapter for digital growth within the national or regional innovation strategy for</li> </ul>

<sup>41</sup>

Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Europe 2020 Flagship Initiative Innovation Union (COM(2010) 546 final of 6.10.2010). Commitments 24/25 and Annex I "Self assessment tool: Features of well performing national and regional research and innovations systems". Conclusions of the Competitiveness Council: Conclusions on Innovation Union for Europe (doc. 17165/10 of 26.11.2010).

information and communication technologies ( <b>Broadband target</b> ) (referred to in Article 9(2))	explicit chapter for digital growth to stimulate demand for affordable, good quality and interoperable ICT-enabled private and public services and increase uptake by citizens, including vulnerable groups, businesses and public administrations including cross border initiatives.	<p>smart specialisation is in place that contains:</p> <ul style="list-style-type: none"> <li>– budgeting and prioritisation of actions through a SWOT analysis carried out in alignment with the Scoreboard of the Digital Agenda for Europe<sup>42</sup>;</li> <li>– an analyses of balancing support for demand and supply of information and communication technologies (ICT) should have been conducted;</li> <li>– measurable targets for outcomes of interventions in the field of digital literacy, skills, e-inclusion, e-accessibility, and e-health which are aligned with existing relevant sectoral national or regional strategies.</li> <li>– assessment of needs to reinforce ICT capacity-building.</li> </ul>
	2.2. <i>Next Generation Access (NGA) Infrastructure</i> : The existence of national NGA Plans which take account of regional actions in order to reach the EU high-speed Internet access targets <sup>43</sup> , focusing on areas where the market fails to provide an open infrastructure at an affordable cost and to an adequate quality in line with the EU competition and state aid rules, and provide accessible services to vulnerable groups.	<ul style="list-style-type: none"> <li>– A national NGA Plan is in place that contains: <ul style="list-style-type: none"> <li>– a plan of infrastructure investments through demand aggregation and a mapping of infrastructure and services, regularly updated;</li> <li>– sustainable investment models that enhance competition and provide access to open, affordable, quality and future proof infrastructure and services;</li> <li>– measures to stimulate private investment.</li> </ul> </li> </ul>
3. Enhancing the competitiveness of	3.1. Specific actions have been carried out for the effective implementation of	<ul style="list-style-type: none"> <li>– The specific actions include:</li> </ul>

<sup>42</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: A Digital Agenda for Europe (COM(2010) 245 final/2 of 26.8.2010); Commission Staff Working Paper: Digital Agenda Scoreboard (SEC(2011) 708 of 31.5.2011). Conclusions of the Transport, Telecommunications and Energy Council on the Digital Agenda for Europe (doc. 10130/10 of 26 May 2010)

<sup>43</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: A Digital Agenda for Europe (COM(2010) 245 final/2 of 26.8.2010); Commission Staff Working Paper: Digital Agenda Scoreboard (SEC(2011) 708 of 31.5.2011).

<p>small and medium-sized enterprises (SMEs)</p> <p>(referred to in Article 9(3))</p>	<p>the Small Business Act (SBA) and its Review of 23 February 2011<sup>44</sup> including the "Think Small First" principle.</p>	<ul style="list-style-type: none"> <li>– a monitoring mechanism to ensure the implementation of the SBA including a body in charge of coordinating SME issues across different administrative levels ("SME Envoy");</li> <li>– measures to reduce the time to set-up business to 3 working days and the cost to €100;</li> <li>– measures to reduce the time needed to get licenses and permits to take up and perform the specific activity of an enterprise to 3 months;</li> <li>– a mechanism for systematic assessment of the impact of legislation on SMEs using an "SME test" while taking into account differences in the size of enterprises, where relevant.</li> </ul>
	<p>3.2. Transposition into national law of Directive (2011/7/EU) of the European Parliament and of the Council of 16 February 2011 on combating late payment in commercial transactions<sup>45</sup>.</p>	<ul style="list-style-type: none"> <li>– Transposition of that Directive in accordance with Article 12 of the Directive (by 16 March 2013).</li> </ul>
<p>4. Supporting the shift towards a low-carbon economy in all sectors</p> <p>(referred to in</p>	<p>4.1. <i>Energy efficiency</i>: Transposition into national law of Directive (2010/31/EU) of the European Parliament and of the Council of 19 May 2010 on the energy performance of buildings in accordance with Article 28 of the Directive<sup>46</sup>.</p> <p>Compliance with Article 6(1) of</p>	<ul style="list-style-type: none"> <li>– Implementation of minimum requirements related to the energy performance of buildings required in line with Article 3, Article 4 and Article 5 of Directive 2010/31/EU</li> <li>– Adoption of measures necessary to establish a system of certification of the energy performance of buildings in accordance with Article 11 of Directive 2010/31/EU;</li> </ul>

<sup>44</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Think Small First - A Small Business Act for Europe (COM(2008) 394 of 23.6.2008); Conclusions of the Competitiveness Council: Think Small First – A Small Business Act for Europe (doc. 16788/08, 1.12.2008); Communication from the Commission to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions: Review of the "Small Business Act" for Europe (COM(2008) 78 final, 23.2.2011); Conclusions of the Competitiveness Council: Conclusions on the Review of the "Small Business Act" for Europe (doc. 10975/11 of 30.5.2011).

<sup>45</sup> OJ L 48, 23.2.2011, p. 1.

<sup>46</sup> OJ L 153, 18.6.2010, p. 13

<sup>47</sup> OJ L 140, 5.6.2009, p. 136.

<p>Article 9(4))</p>	<p>Decision No 406/2009/EC of the European Parliament and of the Council of 23 April 2009 on the effort of Member States to reduce their greenhouse gas emissions to meet the Community's greenhouse gas emission reduction commitments up to 2020<sup>47</sup>.</p> <p>Transposition into national law of Directive 2006/32/EC of the European Parliament and of the Council of 5 April 2006 on energy end-use efficiency and energy services<sup>48</sup>.</p> <p>Transposition into national law of Directive 2004/8/EC of the European Parliament and of the Council of 11 February 2004 on the promotion of cogeneration based on a useful demand in the internal energy market and amending Directive 92/42/EEC<sup>49</sup>.</p>	<ul style="list-style-type: none"> <li>– Realisation of the required rate of renovation of public buildings;</li> <li>– Final customers are provided with individual meters;</li> <li>– Efficiency in heating and cooling is promoted according to Directive 2004/8/EC.</li> </ul>
	<p>4.2. <i>Renewable energy</i>: Transposition into national law of Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives (2001/77/EC) and (2003/30/EC)<sup>50</sup>.</p>	<ul style="list-style-type: none"> <li>– A Member State has put in place transparent support schemes, priority in grid access and in dispatching, standard rules relating to the bearing and sharing of costs of technical adaptations which have been made public;</li> <li>– A Member State has adopted a national renewable energy action plan in accordance with Article 4 of Directive 2009/28/EC.</li> </ul>

<sup>48</sup> OJ L 114, 27.4.2006, p. 64.

<sup>49</sup> OJ L 52, 21.2.2004, p.50.

<sup>50</sup> OJ L 140, 5.6.2009, p. 16.

<p>5. Promoting climate change adaptation and risk prevention <i>(Climate change target)</i> (referred to in Article 9(5))</p>	<p>5.1. <i>Risk prevention and risk management</i>: The existence of national or regional risk assessments for disaster management, taking into account climate change adaptation<sup>51</sup></p>	<ul style="list-style-type: none"> <li>- A national or regional risk assessment shall be in place that includes: <ul style="list-style-type: none"> <li>- A description of the process, methodology, methods and non-sensitive data used for national risk assessment;</li> <li>- A description of single-risk and multi-risk scenarios;</li> <li>- Taking into account, where appropriate, national climate change adaptation strategies.</li> </ul> </li> </ul>
<p>6. Protecting the environment and promoting the sustainable use of resources (referred to in Article 9(6))</p>	<p>6.1. <i>Water sector</i>: The existence of a) a water pricing policy which provides adequate incentives for users to use water resources efficiently and b) an adequate contribution of the different water uses to the recovery of the costs of water services, in accordance with Article 9 of Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy<sup>52</sup>.</p>	<ul style="list-style-type: none"> <li>- A Member State has ensured contribution of the different water uses to the recovery of the costs of water services by sector in accordance with Article 9 of Directive 2000/60/EC.</li> <li>- The adoption of a river basin management plan for the river basin district where investments will take place in accordance with Article 13 of Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy<sup>53</sup>.</li> </ul>
	<p>6.2. <i>Waste sector</i>: Implementation of Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives<sup>54</sup>, in particular the development of waste management plans in accordance with the Directive and with the waste hierarchy..</p>	<ul style="list-style-type: none"> <li>- A Member State has reported to the Commission on progress towards targets of Article 11 of Directive 2008/98/EC, reasons for failure, and intended actions to meet the targets;</li> <li>- A Member State has ensured that its competent authorities establish, in accordance with Articles 1, 4, 13 and 16 of Directive 2008/98/EC, one or more waste management</li> </ul>

<sup>51</sup> Conclusions of the Justice and Home Affairs Council; 11-12 April 2011, Conclusion on further developing risk assessments for disaster management in the European Union.

<sup>52</sup> OJ L 327, 22.12.2000, p. 1.

<sup>53</sup> OJ L 327, 22.12.2000, p. 1.

<sup>54</sup> OJ L 312, 22.11.2008, p. 3.

		<p>plans as required by Article 28 of the Directive;</p> <ul style="list-style-type: none"> <li>- No later by 12 December 2013, a Member State has established, in accordance with Articles 1 and 4 of Directive 2008/98/EC, waste prevention programmes, as required by Article 29 of the Directive;</li> <li>- A Member State has taken necessary measures to achieve 2020 target on re-use and recycling in accordance with Article 11 of Directive 2008/98/EC.</li> </ul>
<p>7. Promoting sustainable transport and removing bottlenecks in key network infrastructures (referred to in Article 9(7))</p>	<p>7.1. <i>Road:</i> The existence of a comprehensive national transport plan which contains an appropriate prioritisation of investments in the core Trans European Network of Transport Infrastructure (TEN-T) network, in the comprehensive network (investments other than the core TEN-T) and in secondary connectivity (including public transport at regional and local level).</p>	<ul style="list-style-type: none"> <li>- A comprehensive transport plan is in place that contains: <ul style="list-style-type: none"> <li>- prioritisation of investments in the core TEN-T network, the comprehensive network and secondary connectivity. The prioritisation should take into account the contribution of investments to mobility, sustainability, the reduction of greenhouse gas emissions and contribution to the Single European transport area;</li> <li>- a realistic and mature project pipeline (including timetable, budgetary framework);</li> <li>- a strategic environmental assessment fulfilling the legal requirements for the transport plan;</li> <li>- measures to strengthen capacity of intermediary bodies and beneficiaries to deliver the project pipeline.</li> </ul> </li> </ul>
	<p>7.2. <i>Railway:</i> The existence within the comprehensive national transport plan of an explicit chapter on railway development which contains an appropriate prioritisation of investments in the core Trans European Network of Transport Infrastructure (TEN-T) network, in the comprehensive network (investments other than the core TEN-T) and in secondary connectivity of the</p>	<ul style="list-style-type: none"> <li>- A chapter on railway development within the comprehensive transport plan is in place that contains: <ol style="list-style-type: none"> <li>2. a realistic and mature project pipeline (including a timetable, budgetary framework);</li> <li>3. a strategic environmental assessment fulfilling the legal requirements for the transport plan;</li> <li>4. measures to strengthen capacity of intermediary bodies and beneficiaries to deliver the</li> </ol> </li> </ul>

	railway system according to their contributions to mobility, sustainability, national and European wide network effects. The investments cover mobile assets and interoperability and capacity building.	project pipeline.
8. Promoting employment and supporting labour mobility <b>(Employment target)</b> (referred to in Article 9(8) )	8.1. <i>Access to employment for job-seekers and inactive people, including local employment initiatives and support for labour mobility:</i> Active labour market policies are designed and delivered in coherence with the Employment guidelines <sup>55</sup> ;	<ul style="list-style-type: none"> <li>– Employment services have the capacity to and do deliver: <ul style="list-style-type: none"> <li>– personalised services and active and preventive labour market measures at an early stage, which are open for all jobseekers;</li> <li>– anticipating and counselling on long-term employment opportunities created by structural shifts in the labour market such as the shift to a low carbon economy;</li> <li>– transparent and systematic information on new job vacancies.</li> </ul> </li> <li>– Employment services have set up networks with employers and education institutes.</li> </ul>
	8.2. <i>Self-employment, entrepreneurship and business creation:</i> the existence of a comprehensive strategy for inclusive start-up support in accordance with the Small Business Act <sup>56</sup> and in coherence with the Employment guidelines and the Broad Guidelines for the economic	<ul style="list-style-type: none"> <li>– A comprehensive strategy in place which includes: <ul style="list-style-type: none"> <li>– measures to reduce the time to set up businesses to three working days and the cost to EUR 100;</li> <li>– measures to reduce the time needed to get licenses and permits to take up and perform the specific activity of an enterprise business to three months;</li> <li>– actions linking suitable business development services and financial services</li> </ul> </li> </ul>

<sup>55</sup>

Council decision (2010/707/EU) of 21 October 2010, OJ L 308, 24.11.2010, p.46.

<sup>56</sup>

Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Think Small First - A Small Business Act for Europe (COM(2008) 394 of 23.6.2008); Conclusions of the Competitiveness Council: Think Small First – A Small Business Act for Europe (doc. 16788/08, 1.12.2008); Communication from the Commission to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions: Review of the "Small Business Act" for Europe (COM(2008) 78 final, 23.2.2011); Conclusions of the Competitiveness Council: Conclusions on the Review of the "Small Business Act" for Europe (doc. 10975/11 of 30.5.2011).

	policies of the Member States and of the Union <sup>57</sup> , regarding the enabling conditions for job creation.	(access to capital), including the outreach to disadvantaged groups and areas.
	<p>8.3. <i>Modernisation and strengthening of labour market institutions</i>, including actions to enhance transnational labour mobility<sup>58</sup>:</p> <ul style="list-style-type: none"> <li>- Labour market institutions are modernised and strengthened in accordance with the Employment Guidelines;</li> <li>- Reforms of labour market institutions will be preceded by a clear strategy and <i>ex ante</i> assessment including the gender dimension</li> </ul>	<ul style="list-style-type: none"> <li>- Actions to reform employment services, aiming at providing them the capacity to deliver<sup>59</sup>: <ul style="list-style-type: none"> <li>- personalised services and active and preventive labour market measures at an early stage, which are open for all jobseekers;</li> <li>- counselling on long-term employment opportunities created by structural shifts in the labour market such as the shift to the low carbon economy;</li> <li>- transparent and systematic information on new job opening accessible at Union level.</li> </ul> </li> <li>- Reform of employment services will include the creation of networks with employers and education institutes.</li> </ul>
	8.4. <i>Active and healthy ageing</i> : Active ageing policies are designed and delivered in accordance with the Employment Guidelines <sup>60</sup>	<ul style="list-style-type: none"> <li>- Actions to deliver on active and healthy ageing challenges<sup>61</sup>: <ul style="list-style-type: none"> <li>- relevant stakeholders are involved in the design and implementation of active ageing policies;</li> <li>- a Member State has measures in place to promote active ageing and to reduce early retirement.</li> </ul> </li> </ul>

<sup>57</sup> Council Recommendation (2010/410/EU) of 13 July 2010, OJ L 191, 23.07.2010, p. 28.

<sup>58</sup> If a country specific Council Recommendation is in place, directly linked to this conditionality provision, then the assessment of its fulfilment will take account of the assessment of progress made on the country specific Council Recommendation.

<sup>59</sup> Deadlines for delivery on all elements here contained in this section may expire during the programme implementation period.

<sup>60</sup> If a Country Specific Council Recommendation is in place, directly linked to this conditionality provision, then the assessment of its fulfilment will take account of the assessment of progress made on the country specific Council Recommendation.

<sup>61</sup> Deadlines for the achievement of delivery on all the elements contained in this section may expire during the programme implementation period.

	<p>8.5. <i>Adaptation of workers, enterprises and entrepreneurs to change:</i> The existence of policies aimed at favouring anticipation and good management of change and restructuring at all relevant levels (national, regional, local and sectoral)<sup>62</sup>.</p>	<ul style="list-style-type: none"> <li>– Effective instruments are in place to support social partners and public authorities to develop proactive approaches towards change and restructuring.</li> </ul>
<p>9. Investing in skills, education and lifelong learning <b>(Education target)</b> (referred to in Article 9(10))</p>	<p>9.1. <i>Early school leaving:</i> The existence of a comprehensive strategy to reduce early school leaving (ESL) in accordance with Council Recommendation of 28 June 2011 on policies to reduce early school leaving<sup>63</sup>.</p>	<ul style="list-style-type: none"> <li>– A system for collecting and analysing data and information on ESL at national, regional and local level is in place that: <ul style="list-style-type: none"> <li>– provides a sufficient evidence-base to develop targeted policies;</li> <li>– is used systematically to monitor developments at the respective level.</li> </ul> </li> <li>– A strategy on ESL is in place that: <ul style="list-style-type: none"> <li>– is based on evidence;</li> <li>– is comprehensive (e.g. covering all educational sectors including early childhood development) and adequately addresses prevention, intervention and compensation measures;</li> <li>– sets out objectives that are consistent with the Council Recommendation on policies to reduce early school leaving;</li> <li>– cuts across-sectors, and involves and coordinates all policy sectors and stakeholders that are relevant to address ESL.</li> </ul> </li> </ul>

<sup>62</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – A shared commitment for employment – COM(2009)257 Final.

<sup>63</sup> OJ C 191, 1.7.2011, p. 1.

	<p>9.2. <i>Higher education</i>: The existence of national or regional strategies for increasing tertiary education attainment, quality and efficiency in accordance with the Communication of the Commission of 20 September 2011 on the modernisation of Europe's higher education systems<sup>64</sup>.</p>	<ul style="list-style-type: none"> <li>- A national or regional strategy for tertiary education is in place that includes: <ul style="list-style-type: none"> <li>- measures to increase participation and attainment that: <ul style="list-style-type: none"> <li>- improve guidance provided to prospective students;</li> <li>- increase higher education participation among low income groups and other under-represented groups.</li> <li>- increase participation by adult learners;</li> <li>- (where necessary) reduce drop-out rates/improve completion rates;</li> </ul> </li> <li>- measures to increase quality that: <ul style="list-style-type: none"> <li>- encourage innovative content and programme design;</li> <li>- promotes high standards of quality in teaching;</li> </ul> </li> <li>- measures to increase employability and entrepreneurship that: <ul style="list-style-type: none"> <li>- encourage the development of "transversal skills", including entrepreneurship in all higher education programmes;</li> <li>- reduce gender differences in terms of academic and vocational choices and encouraging students to choose careers in sectors were they are under represented in order to reduce the gender segregation of the labour market.</li> <li>- ensure informed teaching using knowledge from research and developments in business practices.</li> </ul> </li> </ul> </li> </ul>
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COM (2011)567 final.

	<p>9.3. <i>Lifelong learning</i>: The existence of a national and/or regional policy framework for lifelong learning in line with Union level policy guidance<sup>65</sup>.</p>	<ul style="list-style-type: none"> <li>- A national or regional policy framework for lifelong learning is in place that contains: <ul style="list-style-type: none"> <li>- measures to support lifelong learning (LLL) implementation and skills upgrading and providing for the involvement of, and partnership with stakeholders, including social partners and civil society associations;</li> <li>- measures for the effective provision of skills development for young people in vocational training, adults, women returning in the labour market, low skilled and older workers, and other disadvantaged groups;</li> <li>- measures to widen access to LLL including through the effective implementation of transparency tools (European Qualifications Framework, National Qualifications Framework, European Credit system for Vocational Education and Training, European Quality Assurance in Vocational Education and Training) and the development and integration of lifelong learning services (education and training, guidance, validation);</li> <li>- measures to improve the relevance of education and training and to adapt it to the needs of identified target groups.</li> </ul> </li> </ul>
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<sup>65</sup> Council conclusions of 12 May 2009 on a strategic framework for European cooperation in education and training ("ET 2020") (OJ C 119, 28.5.2009, p.2)

<p>10. Promoting social inclusion and combating poverty (<i>poverty target</i>) (referred to in Article 9(9) )</p>	<p>10.1. <i>Active inclusion</i> <i>Integration of marginalised communities such as the Roma :</i></p> <p>- The existence and the implementation of a national strategy for poverty reduction in accordance with Commission Recommendation of 3 October 2008 on the active inclusion of the people excluded from the labour market<sup>66</sup> and the Employment guidelines.</p> <p>- A national Roma inclusion strategy is in place in accordance with the EU Framework for national Roma integration strategies<sup>67</sup></p>	<ul style="list-style-type: none"> <li>- A national strategy for poverty reduction is in place that: <ul style="list-style-type: none"> <li>- is based on evidence. This requires a system for collecting and analysing data and information which provides sufficient evidence to develop policies for poverty reduction. This system is used to monitor developments;</li> <li>- is in accordance with the national poverty and social exclusion target (as defined in the National Reform Programme), which includes the extension of employment opportunities for disadvantaged groups;</li> <li>- contains a mapping of the territorial concentration beyond the regional/on NUTS 3 level of marginalised and disadvantaged groups including the Roma;</li> <li>- demonstrates that social partners and relevant stakeholders are involved in the design of active inclusion;</li> <li>- includes measures for the shift from residential to community based care;</li> <li>- indicates clearly measures to prevent and combat segregation in all fields.</li> </ul> </li>   <li>- A national Roma inclusion strategy is in place that: <ul style="list-style-type: none"> <li>- sets achievable national goals for Roma integration to bridge the gap with the general population. These targets should address, as a minimum, the four EU Roma integration goals relating to access to education, employment, healthcare and housing;</li> </ul> </li> </ul>
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<sup>66</sup> Commission Recommendation of 3 October 2008 on the active inclusion of the people excluded from the labour market (OJ L 307, 18.11.2008, p. 11).

<sup>67</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: An EU framework for National Roma Integration Strategies up to 2020. COM(2011) 173.

	<p>- The provision of support for relevant stakeholders in accessing the Funds.</p>	<ul style="list-style-type: none"> <li>- is coherent with the National Reform Programme;</li> <li>- identifies where relevant those disadvantaged micro-regions or segregated neighbourhoods, where communities are most deprived, using already available socio-economic and territorial indicators (i.e. very low educational level, long-term unemployment, etc).</li> <li>- allocates a sufficient funding from national budgets, which will be complemented, where appropriate, by international and EU funding.</li> <li>- includes strong monitoring methods to evaluate the impact of Roma integration actions and a review mechanism for the adaptation of the strategy.</li> <li>- is designed, implemented and monitored in close cooperation and continuous dialogue with Roma civil society, regional and local authorities.</li> <li>- contains a national contact point for the national Roma integration strategy with the authority to coordinate the development and implementation of the strategy.</li> </ul> <p>- Relevant stakeholders are provided support for submitting project applications and for implementing and managing the selected projects</p>
	<p>10.2. <i>Health</i>: The existence of a national or regional strategy for health ensuring access to quality health services and economic sustainability.</p>	<ul style="list-style-type: none"> <li>- A national or regional strategy for health is in place that: <ul style="list-style-type: none"> <li>- Contains coordinated measures to improve access to quality health services;</li> <li>- contains measures to stimulate efficiency in the health sector, including through deployment of effective innovative technologies, service delivery models and infrastructure;</li> <li>- contains a monitoring and review system.</li> </ul> </li> <li>- A Member State or region has adopted a framework outlining available budgetary</li> </ul>

<p>11. Enhancing institutional capacity and efficient public administration (referred to in Article 9(11))</p>	<p><i>Member States administrative efficiency:</i> - The existence of a strategy for reinforcing the Member States' administrative efficiency including public administration reform<sup>68</sup></p>	<p>resources for health care.</p> <p>– A strategy for reinforcing a Member State's administrative efficiency is in place and in the process of being implemented<sup>69</sup>. The strategy includes:</p> <ul style="list-style-type: none"> <li>– an analysis and strategic planning of legal, organisational and/or procedural reform actions;</li> <li>– the development of quality management systems;</li> <li>– integrated actions for simplification and rationalisation of administrative procedures;</li> <li>– the development and implementation of human resources strategies and policies covering the recruitment plans and career paths of staff, competence building and resourcing;</li> <li>– the development of skills at all levels;</li> <li>– the development of procedures and tools for monitoring and evaluation.</li> </ul>
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<sup>68</sup> If a country specific Council Recommendation is in place, directly linked to this conditionality provision, then the assessment of its fulfilment will take account of the assessment of progress made on the country specific Council Recommendation.

<sup>69</sup> Deadlines for the achievement of all the elements contained in this section may expire during the programme implementation period.

### General ex-ante conditionalities

Area	Ex-ante conditionality	Criteria for fulfilment
1. Anti-discrimination	The existence of a mechanism which ensures effective implementation and application of Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation <sup>70</sup> and Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin <sup>71</sup>	<ul style="list-style-type: none"> <li>– Effective implementation and application of the EU Directive 2000/78/EC and Directive 2000/43/EC on non-discrimination is ensured through:               <ul style="list-style-type: none"> <li>– institutional arrangements for the implementation, application and supervision of the EU directives on non-discrimination;</li> <li>– a strategy for training and dissemination of information for staff involved in the implementation of the funds;</li> <li>– Measures to strengthen administrative capacity for implementation and application of the EU directives on non-discrimination.</li> </ul> </li> </ul>
2. Gender equality	The existence of a strategy for the promotion of gender equality and a mechanism which ensures its effective implementation.	<ul style="list-style-type: none"> <li>– Effective implementation and application of an explicit strategy for the promotion of gender equality is ensured through:               <ul style="list-style-type: none"> <li>– a system for collecting and analyzing data and indicators broken down by sex and to develop evidences-based gender policies;</li> <li>– a plan and ex-ante criteria for the integration of gender equality objectives through gender standards and guidelines;</li> <li>– implementation mechanisms including involvement of a gender body and the relevant expertise to draft monitor and evaluate the interventions.</li> </ul> </li> </ul>

<sup>70</sup> OJ L 303, 2.12.2000, p.16

<sup>71</sup> OJ L 180, 19.07.2000, p. 22

3. Disability	The existence of a mechanism which ensures effective implementation and application of the UN Convention on the rights of persons with disabilities. <sup>72</sup>	<ul style="list-style-type: none"> <li>– Effective implementation and application of the UN Convention on the rights of persons with disabilities is ensured through: <ul style="list-style-type: none"> <li>– Implementation of measures in line with Article 9 of the UN Convention to prevent, identify and eliminate obstacles and barriers to accessibility of persons with disabilities;</li> <li>– institutional arrangements for the implementation and supervision of the UN Convention in line with Article 33 of the Convention;</li> <li>– a plan for training and dissemination of information for staff involved in the implementation of the funds;</li> <li>– measures to strengthen administrative capacity for implementation and application of the UN Convention including appropriate arrangements for monitoring compliance with accessibility requirements.</li> </ul> </li> </ul>
4.. Public procurement	The existence of a mechanism which ensures effective implementation and application of Directives 2004/18/EC and 2004/17/EC and their adequate supervision and surveillance.	<ul style="list-style-type: none"> <li>– Effective implementation and application of Directives 2004/18/EC and 2004/17/EC is ensured through: <ul style="list-style-type: none"> <li>– complete transposition of Directives 2004/18/EC and 2004/17/EC;</li> <li>– institutional arrangements for the implementation, application and supervision of EU public procurement law;</li> <li>– measures which ensure adequate supervision and surveillance of transparent contract award procedures and adequate information thereon;</li> </ul> </li> </ul>

<sup>72</sup>

OJ, L 23, 27.01.2010, p. 35 publication of the Council Decision of 26 November 2009 concerning the conclusion, by the European Community, of the United Nations Convention on the Rights of Persons with Disabilities.

		<ul style="list-style-type: none"> <li>– a strategy for training and dissemination of information for staff involved in the implementation of the funds;</li> <li>– Measures to strengthen administrative capacity for implementation and application of EU public procurement law.</li> </ul>
5. State aid	The existence of a mechanism which ensures effective implementation and application of EU State aid law	<ul style="list-style-type: none"> <li>– Effective implementation and application of EU State aid law is ensured through: <ul style="list-style-type: none"> <li>– institutional arrangements for the implementation, application and supervision of EU State aid law;</li> <li>– a strategy for training and dissemination of information for staff involved in the implementation of the funds;</li> <li>– measures to strengthen administrative capacity for implementation and application of EU State aid rules.</li> </ul> </li> </ul>
6. Environmental legislation relating to Environmental Impact Assessment (EIA) and Strategic Environmental Assessment (SEA)	The existence of a mechanism which ensures the effective implementation and application of Union environmental legislation related to EIA and SEA in accordance with Directive (85/337/EEC) of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment <sup>73</sup> and with Directive (2001/42/EC) of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment <sup>74</sup> .	<ul style="list-style-type: none"> <li>– Effective implementation and application of Union environmental legislation is ensured through: <ul style="list-style-type: none"> <li>– complete and correct transposition of EIA and SEA directives;</li> <li>– institutional arrangements for the implementation, application and supervision of EIA and SEA Directives;</li> <li>– a strategy for training and dissemination of information for staff involved in the implementation of EIA and SEA Directives;</li> </ul> </li> </ul>

<sup>73</sup> OJ L 175, 5.7.1985, p. 40.

<sup>74</sup> OJ L 197, 21.7.2001, p. 30.

		<ul style="list-style-type: none"> <li>– measures to ensure sufficient administrative capacity.</li> </ul>
7. Statistical systems and result indicators	<p>The existence of a statistical system necessary to undertake evaluations to assess the effectiveness and impact of the programmes.</p> <p>The existence of an effective system of result indicators necessary to monitor progress towards results and to undertake impact evaluation.</p>	<ul style="list-style-type: none"> <li>– A multi-annual plan for timely collection and aggregation of data is in place that includes: <ul style="list-style-type: none"> <li>– the identification of sources and mechanisms to ensure statistical validation;</li> <li>– arrangements for publication and public availability.</li> <li>– an effective system of results indicators including: <ul style="list-style-type: none"> <li>– the selection of result indicators for each programme providing information on those aspects of the well-being and progress of people that motivate policy actions financed by the programme;</li> <li>– the establishment of targets for these indicators;</li> <li>– the respect for each indicator of the following requisites: robustness and statistical validation, clarity of normative interpretation, responsiveness to policy, timely collection and public availability of data;</li> <li>– adequate procedures in place to ensure that all operations financed by the programme adopt an effective system of indicators.</li> </ul> </li> </ul> </li> </ul>

## **ANNEX V**

### **Information and communication on support from the Funds**

#### **1. LIST OF OPERATIONS**

The list of operations referred to Article 105(2) shall contain, in at least one of the official languages of the Member State, the following data fields:

- Beneficiary name (only legal entities; no natural persons shall be named);
- Operation name;
- Operation summary;
- Operation start date;
- Operation end date (expected date for physical completion or full implementation of the operation);
- Total eligible expenditure allocated to the operation;
- EU co-financing rate (as per priority axis);
- Operation postcode;
- Country;
- Name of category of intervention for the operation;
- Date of last update of the list of operations.

The headings of the data fields and the names of the operations shall be also provided in at least one other official language of the European Union.

#### **2. INFORMATION AND PUBLICITY MEASURES FOR THE PUBLIC**

The Member State, the managing authority and the beneficiaries shall take the steps necessary to provide information and publicity to the public on operations supported by an operational programme in accordance with this Regulation.

##### **2.1. Responsibilities of the Member State and the managing authority**

1. The Member State and the managing authority shall ensure that the information and publicity measures are implemented in accordance with the communication strategy and that these measures aim at the widest possible media coverage using various forms and methods of communication at the appropriate level.
2. The Member State or the managing authority shall be responsible for organising at least the following information and publicity measures:

- (a) a major information activity publicising the launch of the operational programme;
  - (b) at least one major information activity a year which promotes the funding opportunities and the strategies pursued and presents the achievements of the operational programme, including, where relevant, major projects, joint action plans and other project examples;
  - (c) displaying the flag of the European Union in front of, or at a place visible to the public, at the premises of each managing authority;
  - (d) publishing electronically the list of operations in accordance with section 1;
  - (e) giving examples of operations, by operational programme, on the single website or on the operational programme's website that is accessible through the single website portal; the examples should be in a widely spoken official language of the European Union other than the official language or languages of the Member State concerned;
  - (f) updating information about the operational programme's implementation, including its main achievements, on the single website or on the operational programme's website that is accessible through the single website portal.
3. The managing authority shall involve in information and publicity measures, in accordance with national laws and practices, the following bodies:
- (a) the partners referred to in Article 5;
  - (b) information centres on Europe, as well as Commission representation offices in the Member States;
  - (c) educational and research institutions.

These bodies shall widely disseminate the information described in Article 105(1)(a) and (b).

## **2.2. Responsibilities of the beneficiaries**

1. All information and communication measures provided by the beneficiary shall acknowledge support from the Funds to the operation by displaying:
- (a) the EU emblem in accordance with the technical characteristics laid down in the implementing act adopted by the Commission under Article 105(4), together with a reference to the European Union;
  - (b) a reference to the Fund or Funds supporting the operation.
2. During implementation of an operation, the beneficiary shall inform the public about the support obtained from the Funds by:
- (a) providing on the beneficiary's website, where such a website exists, a short description of the operation, including its aims and results, and highlighting the financial support from the European Union;

- (b) placing at least one poster with information about the project (minimum size A3), including the financial support from the European Union, at a location readily visible to the public, such as the entrance area of a building.
3. For operations supported by the ESF, and in appropriate cases for operations supported by the ERDF or Cohesion Fund, the beneficiary shall ensure that those taking part in an operation have been informed of this funding.

Any document, including any attendance or other certificate, concerning such an operation shall include a statement to the effect that the operational programme was supported by the Fund or Funds.

4. During implementation of an ERDF or Cohesion Fund operation, the beneficiary shall put up, at a location readily visible to the public, a temporary billboard of a significant size for each operation consisting in the financing of infrastructure or construction operations for which the total public support to the operation exceeds EUR 500 000.
5. No later than three months after completion of an operation, the beneficiary shall put up a permanent plaque or billboard of significant size at a location readily visible to the public for each operation that fulfils the following criteria:
- (a) the total public support to the operation exceeds EUR 500 000;
  - (b) the operation consists in the purchase of a physical object or in the financing of infrastructure or of construction operations.

The plaque or billboard shall state the type, name and purpose of the operation and shall be prepared in accordance with the technical characteristics adopted by the Commission in accordance with Article 105(4).

### **3. INFORMATION MEASURES FOR POTENTIAL BENEFICIARIES AND BENEFICIARIES**

#### **3.1. Information measures for potential beneficiaries**

1. The managing authority shall ensure, in accordance with the communication strategy, that the operational programme's strategy, objectives and funding opportunities offered by joint support from the European Union and the Member State, are disseminated widely to potential beneficiaries and all interested parties, with details of the financial support from the Funds concerned.
2. The managing authority shall ensure that potential beneficiaries are informed on at least the following:
- (a) the conditions of eligibility of expenditure to be met in order to qualify for support under an operational programme;
  - (b) a description of the procedures for examining applications for funding and of the time periods involved;
  - (c) the criteria for selecting the operations to be supported;

- (d) the contacts at national, regional or local level that are able to provide information on the operational programmes;
- (e) that applications should propose communication activities, proportional to the size of the operation, in order to inform the public about the operation's aims and the EU support to the operation.

### **3.2. Information measures for beneficiaries**

1. The managing authority shall inform beneficiaries that acceptance of funding constitutes an acceptance of their inclusion in the list of operations published in accordance with Article 105(2).
2. The managing authority shall provide information and publicity kits, including templates in electronic format, to help beneficiaries to meet their obligations set out in section 2.2.

## **4. ELEMENTS OF THE COMMUNICATION STRATEGY**

The communication strategy drawn up by the managing authority shall include at least the following elements:

- (a) a description of the approach taken, including the main information and publicity measures to be taken by the Member State or the managing authority aimed at potential beneficiaries, beneficiaries, multipliers and the wider public, having regard to the aims described in Article 105;
- (b) a description of materials that will be made available in formats accessible for people with disabilities;
- (c) a description of how beneficiaries will be supported in their communication activities;
- (d) the indicative budget for implementation of the strategy;
- (e) a description of the administrative bodies, including the staff resources, responsible for implementing the information and publicity measures;
- (f) the arrangements for the information and publicity measures referred to in section 2, including the website or website portal at which such data may be found;
- (g) an indication of how the information and publicity measures shall be assessed in terms of visibility and awareness of policy, operational programmes and operations, and of the role played by the Funds and the European Union;
- (h) where appropriate, a description of the use of the main results of the previous operational programme;
- (i) an annual update setting out the information and communication activities to be carried out.

## LEGISLATIVE FINANCIAL STATEMENT

### **1. FRAMEWORK OF THE PROPOSAL/INITIATIVE**

- 1.1. Title of the proposal/initiative
- 1.2. Policy area(s) concerned in the ABM/ABB structure
- 1.3. Nature of the proposal/initiative
- 1.4. Objective(s)
- 1.5. Grounds for the proposal/initiative
- 1.6. Duration and financial impact
- 1.7. Management method(s) envisaged

### **2. MANAGEMENT MEASURES**

- 2.1. Monitoring and reporting rules
- 2.2. Management and control system
- 2.3. Measures to prevent fraud and irregularities

### **3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE**

- 3.1. Heading(s) of the multiannual financial framework and expenditure budget line(s) affected
- 3.2. Estimated impact on expenditure
  - 3.2.1. Summary of estimated impact on expenditure
  - 3.2.2. Estimated impact on operational appropriations
  - 3.2.3. Estimated impact on appropriations of an administrative nature
  - 3.2.4. Compatibility with the current multiannual financial framework
  - 3.2.5. Third-party participation in financing
- 3.3. Estimated impact on revenue

## LEGISLATIVE FINANCIAL STATEMENT

### 1. FRAMEWORK OF THE PROPOSAL/INITIATIVE

#### 1.1. Title of the proposal/initiative

Proposal for a Regulation of the European Parliament and of the Council laying down certain common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural and Rural Development Fund and the European Maritime and Fisheries Fund covered by the Common Strategic Framework and laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Regulation (EC) No 1083/2006

#### 1.2. Policy area(s) concerned in the ABM/ABB structure<sup>75</sup>

13.Regional policy, ABB activities 13 03 (European Regional Development Fund and other regional operations); 13 04 Cohesion Fund

4. Employment and social affairs, ABB activity 04 02 (European Social Fund)

#### 1.3. Nature of the proposal/initiative

- The proposal/initiative relates to **a new action**
- The proposal/initiative relates to **a new action following a pilot project/preparatory action**<sup>76</sup>
- The proposal/initiative relates to **the extension of an existing action**
- The proposal/initiative relates to **an action redirected towards a new action**

#### 1.4. Objectives

##### 1.4.1. *The Commission's multiannual strategic objective(s) targeted by the proposal/initiative*

The objective of Cohesion Policy is to reduce disparities between the levels of development of the various regions, in particular for rural areas, areas affected by industrial transition, and regions which suffer from severe and permanent natural or demographic handicaps and to contribute to achieving the targets set out in the Europe 2020 strategy of smart, sustainable and inclusive growth, and in particular towards the achievement of quantitative headline targets identified in that strategy.

##### 1.4.2. *Specific objective(s) and ABM/ABB activity(ies) concerned*

The ERDF aims to strengthen economic, social and territorial cohesion in the European Union by co-financing investments in Member States, while the ESF promotes employment, education and social inclusion.

<sup>75</sup> ABM: Activity-Based Management – ABB: Activity-Based Budgeting.  
<sup>76</sup> As referred to in Article 49(6)(a) or (b) of the Financial Regulation.

The Cohesion Fund helps Member States to make investments in transport networks and the environment.

The specific objectives of intervention by the Funds are as follows:

- strengthening research, technological development and innovation
- enhancing accessibility to and use and quality of information and communication technologies
- enhancing the competitiveness of small and medium-sized enterprises and the agricultural sector (for EAFRD) and fisheries and aquaculture sector (for the EMFF)
- supporting the shift towards a low-carbon economy in all sectors;
- promoting climate change adaptation and risk prevention and management;
- protecting the environment and promoting resource efficiency;
- promoting sustainable transport and removing bottlenecks in key network infrastructures
- promoting employment and supporting labour mobility
- promoting social inclusion and combating poverty
- investing in education, skills and lifelong learning
- enhancing institutional capacity and an efficient public administration

ABM/ABB activities concerned:

13 03: European Regional Development Fund and other regional interventions

13 04: Cohesion Fund

04 02: European Social Fund

#### 1.4.3. *Expected result(s) and impact*

*Specify the effects which the proposal/initiative should have on the beneficiaries/groups targeted.*

Cohesion Policy makes a significant contribution to spreading growth and prosperity across the Union delivering European policy objectives, while reducing economic, social and territorial disparities.

#### 1.4.4. *Indicators of results and impact*

*Specify the indicators for monitoring implementation of the proposal/initiative.*

The Commission proposes a common set of output indicators which can be aggregated at the EU level. The common output indicators are contained in Annexes to the Fund-specific regulations. Result indicators will be compulsory for all programmes and all priorities. The impacts of the programmes will be evaluated against the objectives and targets of the Europe 2020 strategy, and GDP and unemployment indicators where appropriate.

### 1.5. **Grounds for the proposal/initiative**

#### 1.5.1. *Requirement(s) to be met in the short or long term*

The Union shall promote economic, social and territorial cohesion and solidarity among Member States. The proposal sets the frame for cohesion policy in the next funding period 2014-2020.

#### 1.5.2. *Added value of EU involvement*

EU action is justified both on the grounds of the objectives laid out in Article 174 of the Treaty and on the **subsidiarity principle**. The right to act is constituted by Article 3 of the Treaty on European Union, which states that "[the Union] shall promote economic, social and territorial cohesion and solidarity among Member States", as well as by Article 175 of the TFEU which explicitly requests the Union to implement this policy by means of Structural Funds, and Article 177 which defines the role of the Cohesion Fund. The aims of European Social Fund (ESF), European Regional Development Fund (ERDF) and Cohesion Fund (CF) are defined in Articles 162, 176 and 177. More details on the added value of EU involvement can be found in the related Impact Assessment.

As the EU Budget Review has highlighted, the "EU budget should be used to finance EU public goods, actions that Member States and regions cannot finance themselves, or where it can secure better results".<sup>77</sup> The legal proposal will respect the principle of subsidiarity as the tasks of the Funds are set out in the Treaty and the policy is implemented in accordance with the principle of shared management and respecting the institutional competencies of Member States and regions.

#### 1.5.3. *Lessons learned from similar experiences in the past*

A summary can be found in the Impact Assessment accompanying the proposal.

<sup>77</sup>

COM(2010) 700, 19.10.2010.

#### 1.5.4. Coherence and possible synergy with other relevant instruments

A Common Strategic Framework will be established. This will translate the objectives and priorities of Europe 2020 into investment priorities for the ERDF, CF, ESF, EAFRD and the EMFF which will ensure an integrated use of the funds to deliver common objectives. The common strategic framework will also set out coordination mechanisms with other relevant Union policies and instruments.

#### 1.6. Duration and financial impact

- Proposal/initiative of **limited duration**
  - Proposal/initiative in effect from 01/01/2014 to 31/12/2020
  - Financial impact from 2014 to 2023
- Proposal/initiative of **unlimited duration**
  - Implementation with a start-up period from YYYY to YYYY,
  - followed by full-scale operation.

#### 1.7. Management mode(s) envisaged<sup>78</sup>

- Centralised direct management** by the Commission
- Centralised indirect management** with the delegation of implementation tasks to:
  - executive agencies
  - bodies set up by the Communities<sup>79</sup>
  - national public-sector bodies/bodies with public-service mission
  - persons entrusted with the implementation of specific actions pursuant to Title V of the Treaty on European Union and identified in the relevant basic act within the meaning of Article 49 of the Financial Regulation
- **Shared management** with the Member States
- Decentralised management** with third countries
- Joint management** with international organisations (*to be specified*)

*If more than one management mode is indicated, please provide details in the "Comments" section.*

#### Comments

<sup>78</sup> Details of management modes and references to the Financial Regulation may be found on the BudgWeb site: [http://www.cc.cec/budg/man/budgmanag/budgmanag\\_en.html](http://www.cc.cec/budg/man/budgmanag/budgmanag_en.html)

<sup>79</sup> As referred to in Article 185 of the Financial Regulation.



## **2. MANAGEMENT MEASURES**

### **2.1. Monitoring and reporting rules**

*Specify frequency and conditions.*

The monitoring system will be based on a system of shared management. Monitoring Committees set up for each operational programme and annual implementation reports for each operational programme will be at the heart of the approach. Monitoring Committees will meet at least once per year. Annual review meetings between the Commission and Member States complement the system.

In addition to the implementation reports for each operational programme progress reports in 2017 and 2019 will focus on strategic issues at Member State level. Based on this, the Commission will prepare strategic reports in 2017 and 2019.

The monitoring and reporting system will be based on output and result indicators. The proposals set out a set of common indicators that will be used for the aggregation of information at an EU level. At key points of the implementation period (2017 and 2019), additional analytical requirements on the progress of programmes are part of the annual implementation reports. The monitoring and reporting system fully uses the potential of electronic data transfers.

Evaluation arrangements shall be put in place to evaluate the effectiveness, efficiency and the impact of the policy, especially with regard to the EU2020 headline targets and other relevant impact indicators.

### **2.2. Management and control system**

#### **2.2.1. Risk(s) identified**

Since 2007 the European Court of Auditors ('the Court') has reported in its annual report an estimated error rate for Cohesion Policy as a whole for each budget year (2006-2009) based on an independent, annual, random sample of transactions.

The Court's estimated level of error for Cohesion Policy has been high compared to other policy groups of the EU budget in these years, and has varied around 5%-10% of expenditure for the current programming period. However the error rate provided by the Court applies to interim payments submitted by Member States which are reimbursed by the Commission before all controls foreseen for 2007-2013 programmes have been carried out at national and Community level.

Under current rules, interim payments are certified by the Certifying Authority to the Commission after management desk checks on all expenditure claimed by beneficiaries have been carried out, but frequently before on the spot in-depth management checks or subsequent audit activities. Therefore the multiannual financing arrangements mean that controls are carried out before but also after the audit work is done by the European Court of Auditors, and the residual error after all controls have been completed can be significantly lower than the error rate detected by the Court. On the basis of past experience, the residual error at the end of the programming once all controls have been completed is estimated to be in the range of 2-5%.

A number of measures have been foreseen in the proposals to reduce the error rate linked to the interim payments made by Commission (the error rate reported by the European Court of Auditors):

1) **Interim payments by the Commission will be capped at 90% of the amount due to Member States, as at this point only part of the national controls have been carried out.** The remaining balance will be paid following the annual clearance of accounts once audit evidence and reasonable assurance has been provided by the managing authority and the audit authority. Any irregularities detected by the Commission or the European Court of Auditors after the transmission of annual certified accounts by the managing/certifying authority will lead to a net correction. This will provide greater incentives to Member States to ensure the regularity of expenditure certified to the Commission compared to the present approach which allows for more extensive recycling of recovered funds throughout the lifetime of programmes.

2) **Introduction of an annual clearance of accounts and of an annual closure of completed operations or expenditure,** which will create additional incentives for national and regional authorities to undertake quality controls in a timely manner in view of the annual certification of accounts to the Commission. This constitutes a reinforcement of present financial management arrangements and offers better assurance that irregular expenditure is excluded from the accounts on annual basis rather than at the end of the programming period.

It is expected that the measures outlined above (the new reimbursement system, annual clearance and closure and definitive net corrections by the Commission) will reduce the error rate below 5%, and that the final residual error rate at closure of programmes will be closer to the 2% materiality threshold applied by the European Court of Auditors.

This estimation is nevertheless subject to the capacity of the Commission and Member States to address the principal risks outlined below.

An analysis of errors reported by the Court and the Commission in the last five years shows that the **principal errors found are concentrated in a limited number of programmes in some Member States.** The error rates based on statistical samples reported by audit authorities also demonstrate substantial variation between different programmes and thus support this analysis. The proposal to focus audit activities and resources to high risk programmes, and to allow proportionate control measures for programmes with effective control systems, would address the principal risks in a more effective manner and lead to a more efficient use of existing audit resources both at national and Commission level. The possibility to benefit from proportionate arrangements in relation to the situation of each programme can in itself introduce incentives for more effective control measures.

The analysis of errors that have remained undetected by the national management and control systems and thus have been identified by the Court in its 2006-2009 audits also shows a concentration of risks in the following categories:

**For ERDF and the Cohesion Fund, public procurement errors** have contributed approximately to 41% of the cumulative quantifiable errors found. Errors related to **eligibility** accounted for 39% and included various types of errors such as errors in project selection, funding of ineligible categories of costs, costs falling outside the eligibility period or eligible area, miscalculation of co-financing rates, financing of ineligible VAT etc. Weaknesses in the **audit trail** accounted for 11% of quantifiable errors (with the

proportion decreasing over time due to reinforced management controls), and errors linked to the complex issue of **revenue generating projects** (revenues not deducted or calculated incorrectly and thus the co-financing rate was too high) accounted for 6% of quantifiable errors reported over the period.

**For the ESF, eligibility issues** have contributed approximately to 58% of the cumulative quantifiable errors found and encompassed in particular non-eligible participants, non-eligible direct and indirect costs, payments after or before the eligibility period, ineligible expenditure declared on a flat-rate basis, ineligible costs of scholarship and public allowances, revenues not deducted when calculating eligible expenditure or calculated incorrectly, services paid but not delivered and ineligible VAT. **Accuracy issues**, that represented 7% of quantifiable errors reported, concerned incorrect allocation of direct and indirect costs, unduly justified overhead allocation method, mistakes in calculation of expenses, non-respect of the real cost principle, over-declaration of costs, incorrect calculation of co-financing rates and finally multiple declaration of staff costs. **Audit trail issues** contributed to 35% of errors and referred to the absence of essential supporting documents, in particular at the level of beneficiaries.

Although the Commission is undertaking a number of actions with the Member States to reduce these errors, it is anticipated that, pending adoption of the current proposal and their proper implementation in the Member States, these errors could remain potential risk areas in the next programming period 2014-2020.

Errors related to public procurement in particular are a major source of errors that may be estimated to an error rate of approximately 2%-4% each year on average for the current programming period. Proposals put forward under Cohesion Policy will ensure more effective controls, however to achieve a substantial reduction in the error rate under Cohesion Policy, it is important that these actions are complemented by a clarification and simplification of public procurement rules. In the absence of streamlined public procurement procedures, and if public administrations and beneficiaries in the Member States are unable to improve the implementation of these rules, Cohesion Policy would continue to be systematically affected by this part of the current error rate. The current revision of the Directive on public procurement should therefore provide an opportunity to contribute to a reduction of errors in Cohesion Policy along the lines indicated above.

### 2.2.2. *Control method(s) envisaged*

The proposed architecture of the management and control systems represents an evolution of the set-up in place in 2007-2013 and preserves most of the functions carried out in the current period including administrative and on-the spot verifications, audits of management and control systems and audits of operations. It also maintains the role of the Commission, along with the possibility for interruptions, suspensions and financial corrections by the Commission.

In order to reinforce accountability, programme authorities would be accredited by a national accrediting body in charge of their ongoing supervision. The proposal offers the flexibility to keep the current architecture of three key authorities by programme in cases where the current system has been proven to be effective. However it also offers the possibility to merge the managing and certifying authority and thus decrease the number of involved authorities in the Member States. A smaller number of bodies in place would reduce the administrative burden and enhance the possibility for building stronger administrative capacity, but also permit a clearer distribution of responsibilities.

The costs of tasks related to control (at national and regional level, excluding the costs of the Commission) are estimated around 2% of the total funding administered in the period 2007-2013<sup>80</sup>. These costs are related to the following areas of control: 1% is derived from national coordination and programme preparation, 82% relate to programme management, 4% to certification and 13% to audit.

**The following proposals will increase the costs of control:**

-the creation and functioning of an accrediting body (the costs of which may be offset by the merger of the managing and certifying authorities, if this option is selected by the Member State);

- the submission of certified annual accounts and an annual management declaration, which implies having carried out all necessary controls within the accounting year (which may require additional administrative effort);

- the need for additional audit activity by the audit authorities to audit the management declaration or the need to finish its audits and express an audit opinion in a shorter period of time compared to the current obligations.

**There are however also proposals which will reduce the costs of control:**

- the option to merge the managing and certifying authorities, which could allow the Member State to save a substantial part of the 4% of the current costs relating to certification due to better administrative efficiency, reduced need for coordination and reduction of the scope of audits;

-the use of simplified costs and Joint Action Plans, which reduces administrative costs and burdens at all levels, for both administrations and beneficiaries;

-proportionate control arrangements for management verifications and for audits;

-annual closure, which will reduce the cost of retention of documents for control purposes for public administrations and beneficiaries.

**Therefore overall it is expected that proposals will lead to a redistribution of control costs (remaining around 2% of the total funding managed), rather than an increase or a reduction.** It is however anticipated that this redistribution of costs (across functions and due to the proportionate control arrangements, also across Member States and programmes) will enable more effective mitigation of risks and thus will lead to an error rate below 5%.

**In addition to changes in the financial management and control arrangement which contribute to the effective detection and early exclusion of errors from the accounts, the proposal foresees simplification in several areas that contributes to the prevention of errors.** As indicated above, measures proposed in these areas would address 55% of the error rates reported for the current period.

These measures include:

80

Study "**Regional governance in the context of globalisation:** reviewing governance mechanisms & administrative costs. Administrative workload and costs for Member State public authorities of the implementation of ERDF and Cohesion Fund", 2010

- A more extensive use of simplified costs which reduces errors related to financial management, eligibility rules and audit trail, and reorients both implementation and control towards the performance of operations.
- A greater thematic concentration of funding, which can entail a reduction of errors stemming from the wide variety of interventions and thus a variety of eligibility rules applied.
- Clarified rules for the selection of projects.
- A simpler, flat rate based, approach to revenue-generating operations which will reduce the risk of errors in determining and deducting the revenue generated by operations.
- Harmonisation, clarification and simplification of eligibility rules with other EU financial support instruments which will reduce mistakes made by beneficiaries who use assistance from different sources.
- A mandatory setup of electronic data management and electronic data exchange between the administration and beneficiaries which has the potential to curtail the error rate arising from inadequate document retention and simplifying the administrative burden on beneficiaries.
- Annual closure of operations or expenditure, which decreases audit trail errors by shortening the time period for document retention and avoids the substantial build-up of administrative workload linked to the one-off closure at the end of the programming period.

Most of the simplifications listed above also contribute to the reduction of administrative burden for beneficiaries and thus represent a **simultaneous reduction of risks of error and of administrative burden**.

### 2.3. Measures to prevent fraud and irregularities

*Specify existing or envisaged prevention and protection measures.*

The Structural Funds services together with OLAF have put in place a Joint Fraud Prevention Strategy which foresees a series of actions to be carried out by the Commission and the Member States to prevent fraud in structural actions under shared management.

Both DGs are currently developing a fraud risk scoring model which will be used by the concerned managing authorities on 116 ESF and 60 ERDF programmes.

The recent Commission Communication on an anti-fraud strategy (COM(2011)376 final of 24.6.2011) welcomes the existing strategy as a best practice initiative and envisages complementary actions to it, the most important being that the Commission proposal for 2014-2020 regulations request Member States to put in place fraud prevention measures which are effective and proportionate to the identified fraud risks.

The current Commission proposal includes an explicit requirement to put in place such measures under Article 86(4)(c). This should reinforce fraud awareness in Member States among all bodies involved in the management and control of funds and thus reduce the risk of fraud.

### 3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE

#### 3.1. Heading(s) of the multiannual financial framework and expenditure budget line(s) affected

- Existing expenditure budget lines

In order of multiannual financial framework headings and budget lines.

Heading of multiannual financial framework	Budget line	Type of expenditure	Contribution			
	Number	Diff. <sup>(81)</sup>	from EFTA <sup>82</sup> countries	from candidate countries <sup>83</sup>	from third countries	within the meaning of Article 18(1)(aa) of the Financial Regulation
1 Smart and Inclusive Growth New Headings for 2014-2020	04021700 ESF Convergence	Diff	NO	NO	NO	NO
	04021900 ESF Compétitivité Régionale					
	13031600 FEDER Convergence					
	13031800 FEDER Compétitivité Régionale					
	13031900 FEDER Coopération territoriale européenne					
	13040200 Fonds de cohésion					

- New budget lines requested : No

In order of multiannual financial framework headings and budget lines.

Heading of multiannual financial framework	Budget line	Type of expenditure	Contribution			
	Number [Heading.....]	Diff./non-diff.	from EFTA countries	from candidate countries	from third countries	within the meaning of Article 18(1)(aa) of the Financial Regulation
[...]	[XX.YY.YY.YY] [...]	[...]	YES/NO	YES/NO	YES/NO	YES/NO

<sup>81</sup> Diff. = Differentiated appropriations / Non-Diff. = Non-differentiated appropriations

<sup>82</sup> EFTA: European Free Trade Association.

<sup>83</sup> Candidate countries and, where applicable, potential candidate countries from the Western Balkans.

### 3.2. Estimated impact on expenditure

#### 3.2.1. Summary of estimated impact on expenditure

EUR million (to 3 decimal places)

<b>Heading of multiannual financial framework:</b>	Number 1	Smart and Inclusive growth
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DG: REGIO and EMPL			Year N <sup>84</sup>	Year N+1	Year N+2	Year N+3	Year N+4	Year N+5	Year N+6	TOTAL
<b>• Operational appropriations (2011 prices)</b>			2014	2015	2016	2017	2018	2019	2020	
New ERDF and ESF budget lines	Commitments	(1)	36.94 2,785	37.375 ,939	37.758 ,354	38.153 ,836	38.562 ,407	38.948 ,791	39.333 ,716	<b>267.075,828</b>
	Payments	(2)	<b>5.648, 1</b>	<b>11.254 ,375</b>	<b>21.778 ,321</b>	<b>28.448 ,469</b>	<b>31.612 ,19</b>	<b>36.502 ,392</b>	<b>34.602 ,638</b>	<b>169.846,485</b>
New CF Budget line before transfer to new Connecting Europe Facility budget line	Commitments	(1a)	9.572, 122	9.614, 264	9.631, 037	9.702, 463	9.883, 112	10.053 ,301	10.217 ,011	<b>68.673,310</b>
	Payments	(2a)	<b>1.455, 451</b>	<b>2.825, 665</b>	<b>4.862, 238</b>	<b>6.017, 686</b>	<b>7.248, 39</b>	<b>9.845, 352</b>	<b>9.299, 137</b>	<b>41.553,920</b>
Transfer to the new Connecting Europe facility budget line	Commitments	(1b)	<b>1397,5</b>	<b>1401,8</b>	<b>1403,8</b>	<b>1414,8</b>	<b>1440,9</b>	<b>1451,3</b>	<b>1489,9</b>	10 000,0
	Payments	(2b)	<b>4,8</b>	<b>903,8</b>	<b>1003,8</b>	<b>1103,2</b>	<b>1129,9</b>	<b>1177,6</b>	<b>1303,6</b>	6 626,7
<b>Appropriations of an administrative nature</b> financed from the envelope for specific programmes <sup>85</sup>			<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

<sup>84</sup> Year N is the year in which implementation of the proposal/initiative starts.

<sup>85</sup> Technical and/or administrative assistance and expenditure in support of the implementation of EU programmes and/or actions (former "BA" lines), indirect research, direct research.

13.01.04.01 – External Staff ERDF		(3)	3,060	3,060	3,060	3,060	3,060	3,060	3060	21,420
13.01.04.03 – External Staff CF			1,340	1,340	1,340	1,340	1,340	1,340	1,340	9,380
04.01.04.01 - External Staff ESF			5,000	5,000	5,000	5,000	5,000	5,000	5,000	35,000
<b>Total external staff on former BA lines</b>			<b>9,400</b>	<b>65,800</b>						
OTHER ADMIN APPROPRIATIONS FROM REGIO			<b>13,365</b>	<b>93,555</b>						
OTHER ADMIN APPROPRIATIONS FROM EMPL			<b>16,000</b>	<b>112,000</b>						
<b>TOTAL appropriations for DG REGIO, EMPL and MOVE</b>	Commitments	=1+1a +3	46.55 3,672	47.028 ,968	47.428 ,155	47.895 ,064	48.484 ,284	49.040 ,857	49.589 ,492	336.020,493
	Payments	=2+2a +3	7.142, 316	14.118, 805	26.679, 324	34.504, 920	38.899, 345	46.386, 509	43.940, 540	<b>211.671,759</b>

• TOTAL operational appropriations	Commitments	(4)	46.514, 907	46.990, 203	47.389, 390	47.856, 299	48.445, 519	49.002, 092	49.550, 727	<b>335.749,138</b>
	Payments	(5)								
• TOTAL appropriations of an administrative nature financed from the envelope for specific programmes		(6)	38,765	38,765	38,765	38,765	38,765	38,765	38,765	<b>271,355</b>
<b>TOTAL appropriations under HEADING 1 of the multiannual financial framework</b>	Commitments	=4+ 6	46.553, 672	47.028, 968	47.428, 155	47.895, 064	48.484, 284	49.040, 857	49.589, 492	<b>336.020,493</b>
	Payments	=5+ 6								

**If more than one heading is affected by the proposal / initiative: N/A**

• TOTAL operational appropriations	Commitments	(4)								
------------------------------------	-------------	-----	--	--	--	--	--	--	--	--

	Payments	(5)								
• TOTAL appropriations of an administrative nature financed from the envelope for specific programmes		(6)								
<b>TOTAL appropriations under HEADINGS 1 to 4</b> of the multiannual financial framework (Reference amount)	Commitments	=4+ 6								
	Payments	=5+ 6								

<b>Heading of multiannual financial framework:</b>	<b>5</b>	" Administrative expenditure "
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EUR million (to 3 decimal places)

		Year N	Year N+1	Year N+2	Year N+3	Year N+4	Year N+5	Year N+6	TOTAL
DG: REGIO									
• Human resources		80,187	80,187	80,187	80,187	80,187	80,187	80,187	<b>561,309</b>
• Other administrative expenditure		3,800	3,800	3,800	3,800	3,800	3,800	3,800	<b>26,600</b>
<b>TOTAL DG REGIO</b>	Appropriations	<b>83,987</b>	<b>587,909</b>						

		Year N	Year N+1	Year N+2	Year N+3	Year N+4	Year N+5	Year N+6	TOTAL
739109									
DG: EMPL									
• Human resources		25,400	25,400	25,400	25,400	25,400	25,400	25,400	<b>177,800</b>
• Other administrative expenditure									
<b>TOTAL DG EMPL</b>	Appropriations	<b>25,400</b>	<b>177,800</b>						

<b>TOTAL appropriations under HEADING 5</b> of the multiannual financial framework	(Total commitments = Total payments)	<b>109,387</b>	<b>765,709</b>						

EUR million (to 3 decimal places)

		Year N <sup>86</sup>	Year N+1	Year N+2	Year N+3	... enter as many years as necessary to show the duration of the impact (see point 1.6)			TOTAL
<b>TOTAL appropriations under HEADINGS 1 to 5</b> of the multiannual financial framework	Commitments	46.663 ,059	47.138 ,355	47.537 ,542	48.004 ,451	48.593 ,671	49.150 ,244	49.698 ,879	336.786,202
	Payments								

<sup>86</sup>

Year N is the year in which implementation of the proposal/initiative starts.

3.2.2. *Estimated impact on operational appropriations*

- The proposal/initiative does not require the use of operational appropriations
- The proposal requires the use of operational appropriations, as explained below. Cohesion policy is run by shared management. While strategic priorities are set at the EU level, actual day-to-day management is vested in managing authorities at national, regional and local level. While common output indicators are proposed by the Commission, the actual output targets are proposed by these managing authorities as part of their operational programmes, and agreed by the Commission. It is therefore difficult to indicate targets for outputs until the programmes are drafted, negotiated and agreed in 2013/14.

Commitment appropriations in EUR million (to 3 decimal places)

Indicate objectives and outputs  ↓			Year N	Year N+1	Year N+2	Year N+3	... enter as many years as necessary to show the duration of the impact (see point 1.6)								TOTAL		
	OUTPUTS																
	Type of output <sup>87</sup>	Average cost of the output	Number of outputs	Cost	Number of outputs	Cost	Number of outputs	Cost	Number of outputs	Cost	Number of outputs	Cost	Number of outputs	Cost	Number of outputs	Cost	Total number of outputs
SPECIFIC OBJECTIVE No 1 <sup>88</sup> ...																	
- Output																	
- Output																	
- Output																	
Sub-total for specific objective N°1																	
SPECIFIC OBJECTIVE No 2...																	
- Output																	

<sup>87</sup> Outputs are products and services to be supplied (e.g.: number of student exchanges financed, number of km of roads built, etc.).

<sup>88</sup> As described in Section 1.4.2. "Specific objective(s)..."

Sub-total for specific objective N°2																
<b>TOTAL COST</b>																

### 3.2.3. Estimated impact on appropriations of an administrative nature

#### 3.2.3.1. Summary

- The proposal/initiative does not require the use of administrative appropriations
- The proposal requires the use of administrative appropriations, as explained below:

#### **DG REGIO**

EUR million (to 3 decimal places)

	Year N <sup>89</sup>	Year N+1	Year N+2	Year N+3	Year N+4	Year N+5	Year N+6	TOTAL
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<b>HEADING 5 of the multiannual financial framework</b>								
Human resources REGIO	80,187	80,187	80,187	80,187	80,187	80,187	80,187	<b>561,309</b>
Other administrative expenditure	3,800	3,800	3,800	3,800	3,800	3,800	3,800	<b>26,600</b>
<b>Subtotal HEADING 5 of the multiannual financial framework</b>	<b>83,741</b>	<b>586,187</b>						

<b>Outside HEADING 5<sup>90</sup> of the multiannual financial framework<sup>91</sup></b>								
Human resources REGIO	4,4	4,4	4,4	4,4	4,4	4,4	4,4	<b>30,8</b>
Other expenditure of an administrative nature	13,365	13,365	13,365	13,365	13,365	13,365	13,365	<b>93,555</b>
<b>Subtotal outside HEADING 5 of the multiannual financial framework</b>	<b>17,765</b>	<b>124,355</b>						

<b>TOTAL</b>	<b>101,506</b>	<b>710,542</b>						
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<sup>89</sup> Year N is the year in which implementation of the proposal/initiative starts.

<sup>90</sup> Technical and/or administrative assistance and expenditure in support of the implementation of EU programmes and/or actions (former "BA" lines), indirect research, direct research.

<sup>91</sup> External staff financed from former BA lines, based on the 2011 Final Allocation for Human Resources, including external staff at Headquarters and in Delegations

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## DG EMPL

EUR million (to 3 decimal places)

	Year N <sup>92</sup>	Year N+1	Year N+2	Year N+3	Year N+4	Year N+5	Year N+6	TOTAL
--	-------------------------	-------------	-------------	-------------	-------------	-------------	-------------	-------

<b>HEADING 5 of the multiannual financial framework</b>								
Human resources	25,400	25,400	25,400	25,400	25,400	25,400	25,400	<b>177,800</b>
Other administrative expenditure								
<b>Subtotal HEADING 5 of the multiannual financial framework</b>	<b>25,400</b>	<b>177,800</b>						

<b>Outside HEADING 5<sup>93</sup> of the multiannual financial framework</b>								
Human resources	5,000	5,000	5,000	5,000	5,000	5,000	5,000	<b>35,000</b>
Other expenditure of an administrative nature	16,000	16,000	16,000	16,000	16,000	16,000	16,000	<b>112,000</b>
<b>Subtotal outside HEADING 5 of the multiannual financial framework</b>	<b>21,000</b>	<b>147,000</b>						

<b>TOTAL</b>	<b>46,400</b>	<b>324,800</b>						
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<b>TOTAL</b>	<b>148,933</b>	<b>1.042,531</b>						
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<sup>92</sup> Year N is the year in which implementation of the proposal/initiative starts.

<sup>93</sup> Technical and/or administrative assistance and expenditure in support of the implementation of EU programmes and/or actions (former "BA" lines), indirect research, direct research.

### 3.2.3.2. Estimated requirements of human resources

- The proposal/initiative does not require the use of human resources
- The proposal/initiative requires the use of human resources, as explained below: Figures used for the year n are the ones for 2011.

#### **DG REGIO:**

*Estimate to be expressed in full amounts (or at most to one decimal place)*

	Year N	Year N+1	Year N+2	Year N+3	Year N+4	Year N+5	Year N+6
<b>• Establishment plan posts (officials and temporary agents) REGIO</b>							
13 01 01 01 (Headquarters and Commission's Representation Offices)	606	606	606	606	606	606	606
13 01 01 02 (Delegations)							
13 01 05 01 (Indirect research)							
10 01 05 01 (Direct research)							
<b>• External personnel (in Full Time Equivalent unit: FTE)<sup>94</sup> REGIO</b>							
13 01 02 01 (CA, INT, SNE from the "global envelope")	48	48	48	48	48	48	48
13 02 02 (CA, INT, JED, LA and SNE in the delegations)							
<b>13 01 04 01</b> <small><sup>95</sup></small>	- at Headquarters <sup>96</sup>	56	56	56	56	56	56
	- in delegations						

<sup>94</sup> CA= Contract Agent; INT= agency staff ("Intérimaire"); JED= "Jeune Expert en Délégation" (Young Experts in Delegations); LA= Local Agent; SNE= Seconded National Expert;

<sup>95</sup> Under the ceiling for external personnel from operational appropriations (former "BA" lines).

<sup>96</sup> Essentially for Structural Funds, European Agricultural Fund for Rural Development (EAFRD) and European Fisheries Fund (EFF).

13 01 04 03 <sup>97</sup>	- at Headquarters <sup>98</sup>	25	25	25	25	25	25	25
	- in delegations							
XX 01 05 02 (CA, INT, SNE - Indirect research)								
10 01 05 02 (CA, INT, SNE - Direct research)								
Other								
<b>TOTAL</b>		<b>735</b>						

XX is the policy area or budget title concerned.

The human resources required will be met by staff from the DG who are already assigned to management of the action and/or have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints.

Description of tasks to be carried out:

Officials and temporary agents	To contribute to the analysis, negotiation, modification and/or preparation for approval proposals for programmes and/or projects in Member State XXX. To contribute to manage, monitor and evaluate the implementation of programmes/projects approved. To ensure compliance with the rules governing programme XXX.
External personnel	Idem and /or administrative support

<sup>97</sup>

Under the ceiling for external personnel from operational appropriations (former "BA" lines).

<sup>98</sup>

Essentially for Structural Funds, European Agricultural Fund for Rural Development (EAFRD) and European Fisheries Fund (EFF).

## **DG EMPL**

Estimate to be expressed in full time equivalent units without decimals

	Year N	Year N+1	Year N+2	Year N+3	Year N+4	Year N+5	Year N+6
<b>• Establishment plan posts (officials and temporary agents)</b>							
04 01 01 (Headquarters and Commission's Representation Offices) (200 posts, unit cost 127.000 €)	200	200	200	200	200	200	200
(Delegations)							
(Indirect research)							
(Direct research)							
<b>• External personnel (in Full Time Equivalent unit: FTE)<sup>99</sup></b>							
(CA, INT, SNE from the "global envelope")							
(CA, INT, JED, LA and SNE in the delegations)							
<b>04</b> <b>01</b> 04 01 <i>100</i>	- at Hea dqu arter s <sup>101</sup>	93	93	93	93	93	93
	- in dele						

<sup>99</sup> CA= Contract Agent; INT= agency staff ("Intérimaire"); JED= "Jeune Expert en Délégation" (Young Experts in Delegations); LA= Local Agent; SNE= Seconded National Expert;

<sup>100</sup> Under the ceiling for external personnel from operational appropriations (former "BA" lines).

<sup>101</sup> Essentially for Structural Funds, European Agricultural Fund for Rural Development (EAFRD) and European Fisheries Fund (EFF).

	gati ons							
<b>XX</b> 01 05 02 (CA, INT, SNE - Indirect research)								
xx 01 05 02 (CA, INT, SNE - Direct research)								
Other xx 01 04 02)								
<b>TOTAL</b>		293	293	293	293	293	293	293

**XX** is the policy area or budget title concerned.

The human resources required will be met by staff from the DG who are already assigned to management of the action and/or have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints.

### 3.2.4. Compatibility with the current multiannual financial framework

- Proposal/initiative is compatible the **next** multiannual financial framework.
- Proposal/initiative will entail reprogramming of the relevant heading in the multiannual financial framework.

Explain what reprogramming is required, specifying the budget lines concerned and the corresponding amounts.  
[...]

- Proposal/initiative requires application of the flexibility instrument or revision of the multiannual financial framework<sup>102</sup>.

Explain what is required, specifying the headings and budget lines concerned and the corresponding amounts.  
[...]

### 3.2.5. Third-party contributions

- The proposal/initiative does not provide for co-financing by third parties
- The proposal provides that European funding needs to be co-financed. The exact amount cannot be quantified. The regulation establishes maximum co-financing rates differentiated in line with the level of regional development (cf. Art. 73 of proposed regulation):

Appropriations in EUR million (to 3 decimal places)

	Year N	Year N+1	Year N+2	Year N+3	Year N+4	Year N+5	Year N+6	Total
Specify the co-financing body	MS	MS	MS	MS	MS	MS	MS	
TOTAL appropriations cofinanced	tbd	tbd	tbd	tbd	tbd	tbd	Tbc	

<sup>102</sup> See points 19 and 24 of the Interinstitutional Agreement.

### 3.3. Estimated impact on revenue

- Proposal/initiative has no financial impact on revenue.
- Proposal/initiative has the following financial impact:
  - on own resources
  - on miscellaneous revenue

EUR million (to 3 decimal places)

Budget revenue line:	Appropriations available for the ongoing budget year	Impact of the proposal/initiative <sup>103</sup>						
		Year N	Year N+1	Year N+2	Year N+3	... insert as many columns as necessary in order to reflect the duration of the impact (see point 1.6)		
Article .....								

For miscellaneous assigned revenue, specify the budget expenditure line(s) affected.

[...]

Specify the method for calculating the impact on revenue.

[...]

<sup>103</sup>

As regards traditional own resources (customs duties, sugar levies), the amounts indicated must be net amounts, i.e. gross amounts after deduction of 25% for collection costs.