Commission Implementing Regulation (EU) 2019/1140 of 3 July 2019 establishing models for the control reports and annual audit reports concerning financial instruments implemented by the EIB and other international financial institutions in which a Member State is a shareholder in accordance with Regulation (EU) No 1303/2013 of the European Parliament and of the Council

COMMISSION IMPLEMENTING REGULATION (EU) 2019/1140

of 3 July 2019

establishing models for the control reports and annual audit reports concerning financial instruments implemented by the EIB and other international financial institutions in which a Member State is a shareholder in accordance with Regulation (EU) No 1303/2013 of the European Parliament and of the Council

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 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 and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006[(1)], as amended by Regulation (EU, Euratom) 2018/1046[(2)], and in particular the fourth subparagraph of Article 40(1), thereof,

After consulting the Coordination Committee for the European Structural and Investment Funds,

Whereas:

(1) The third subparagraph of Article 40(1) of Regulation (EU) No 1303/2013, as amended by Regulation (EU, Euratom) 2018/1046, sets out the requirement that the EIB and other international financial institutions in which a Member State is a shareholder are to provide to the authorities designated in accordance with Article 124 of that Regulation and with Article 65 of Regulation (EU) No 1305/2013 of the European Parliament and of the Council[(3)] a control report with each application for payment, on the one hand, and to the Commission and to the designated authorities an annual audit report drawn up by their external auditors, on the other hand.

(2) In order to ensure consistency, quality and timely submission of the information to be provided by the EIB or other international financial institutions in which a Member State is a shareholder to the designated authorities and to the Commission, especially in view of the deadline for the submission of the report referred to in Article 127(5) of Regulation (EU) No 1303/2013 and in Article 9(2) of Regulation (EU) No 1306/2013 of the European Parliament and of the Council[(4)], a standard format laying down uniform

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2019/1140. (See end of Document for details)*

requirements for the structure, the timing and the content of the information should be established for both the control report and the annual audit report.

(3) In order to enable the designated authorities to carry out their obligations with regard to verifications, checks and audits, it is appropriate that the EIB or other international financial institutions in which a Member State is a shareholder provide necessary documents to the designated authorities.

(4) In order to ensure that the designated authorities can effectively make use of the new provisions which apply from 2 August 2018 in accordance with Article 282 of Regulation (EU, Euratom) 2018/1046, this Regulation should enter into force on the day following that of its publication in the *Official Journal of the European Union*,

HAS ADOPTED THIS REGULATION:

Article 1

Model for the control report

The control report referred to in the third subparagraph of Article 40(1) of Regulation (EU) No 1303/2013 shall be drawn up in accordance with the model set out in Annex I to this Regulation.

Article 2

Model for the annual audit report

The annual audit report referred to in the third subparagraph of Article 40(1) of Regulation (EU) No 1303/2013 shall be drawn up in accordance with the model set out in Annex II to this Regulation and submitted to the designated authorities and the Commission by 31 December following the end of the reference accounting year.

Article 3

Documents necessary for verifications and audits

The EIB or other international financial institutions in which a Member State is a shareholder shall provide all available documents to the designated authorities that are necessary for these authorities to carry out the obligations set out in Article 125(5) and Article 127 of Regulation (EU) No 1303/2013 and in Articles 9 and 59(1) of Regulation (EU) No 1306/2013.

Article 4

Entry in 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, 3 July 2019.

For the Commission

The President

Jean-Claude JUNCKER

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2019/1140. (See end of Document for details)*

ANNEX I

Model for the control report

A.

Control report related to application for payment to the Commission: [reference] [planned date]

B. Date of the Member State's request for control report (at least two months before the planned date in point A. above): [date]

C. Reference period:

1. Total amount of payments to final recipients and, in the cases referred to in Article 37(7) of Regulation (EU) No 1303/2013, of payments to the benefit of final recipients, indicating separately ESI Funds, national public and private contributions.

2. Total amount of resources committed for guarantee contracts, whether outstanding or already come to maturity, in order to honour possible guarantee calls for losses, calculated on the basis of 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, indicating separately ESI Funds, national public and private contributions.

3. Total amount of management costs incurred and/or management fees paid by the financial instrument, indicating separately ESI Funds, national public and private contributions.

4. State of implementation of the investment strategy or equivalent documents as defined in the funding agreement.

5. Progress analysis: volume of committed amounts from the operational programme and disbursements to financial intermediaries.

6. Monitoring activities and resulting follow-up.

7. Level of interest and other gains attributable to support from the ESI Funds paid to financial instruments as referred to in Article 43 of Regulation (EU) No 1303/2013.

8. Level of resources paid back to financial instruments from investments or from the release of resources committed for guarantee contracts including capital repayments and gains and other earnings or yields, such as interest, guarantee fees, dividends, capital gains or any other income generated by investments, which are attributable to the support from the ESI Funds, as referred to in Article 44 of Regulation (EU) No 1303/2013.

Attachment: list of transactions to final recipients who received support by the financial instrument, the sum of which should correspond to the amounts referred to in points 1 and 2 above, and detailed breakdown by financial instrument of the amounts referred to in point 3 above.

ANNEX II

Model for the annual audit report

1. INTRODUCTION