Commission Delegated Regulation (EU) 2019/694 of 15 February 2019 supplementing Regulation (EU) No 1303/2013 of the European Parliament and of the Council with regard to the form of financing which is not linked to costs of the relevant operations

COMMISSION DELEGATED REGULATION (EU) 2019/694

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supplementing Regulation (EU) No 1303/2013 of the European Parliament and of the Council with regard to the form of financing which is not linked to costs of the relevant operations

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1303/2013 of 17 December 2013 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 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)], and in particular Article 67(5a) thereof,

Whereas:

(1) Point (e) of the first subparagraph of Article 67(1) of Regulation (EU) No 1303/2013 was inserted by Regulation (EU, Euratom) 2018/1046[(2)] and introduced a form of financing which is not linked to costs of the relevant operations but is based on the fulfilment of conditions (‘financing conditions’) related to the realisation of progress in implementation or the achievement of objectives of the programmes.

(2) Taking into account the current stage of the programming period 2014-2020, different thematic areas in which this form of financing could be effectively used and could demonstrate its benefits in terms of simplification and reduction of administrative burden for beneficiaries and managing authorities while not triggering significant changes to existing programmes were examined. Energy efficiency measures and energy from renewable sources have been extensively supported from the European Regional Development Fund (‘ERDF’) and the Cohesion Fund in the 2014-2020 and preceding budgetary periods. Those measures constitute an area of support including relatively homogeneous types of interventions (such as insulation measures, change of heating system or electronic appliances with enhanced efficiency), where beneficiaries or the final recipients of support in practice are often natural persons or SMEs.

(3) As a result, it is appropriate to establish detailed modalities for financing conditions for energy efficiency measures and energy from renewable sources and for their application within the existing legal framework, including the methodology to determine the amount corresponding to the applicable financing conditions and the arrangements for

Changes to legislation: *There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2019/694. (See end of Document for details)*

the operation subject to the reimbursement based on financing conditions. The detailed methodology should determine the link between the amount and the fulfilment of the final financing conditions, while the amount should be independent of the cost of the activities within the operation that will contribute to the final financing conditions.

(4) In particular, in order to ensure that the calculation method used for the purposes of establishing the amount related to the fulfilment of the financing conditions takes due account of reasonable assumptions based on foreseeable trends in technological development and related changes in investment costs for different types of interventions contributing to the overall fulfilment of the financing conditions, the reference period applied should relate to the last years where data is available for similar investments.

(5) It should be specified how existing provisions on payment applications should be implemented in this context in accordance with Article 131(1), second subparagraph, of Regulation (EU) No 1303/2013.

(6) In addition, it should be recalled that specific requirements linked to management verifications and audits for operations subject to reimbursement based on financing conditions are set out in Regulation (EU) No 1303/2013, notably in Article 67(1) and Article 125(4)(a) thereof. These should be reflected in the provisions on the set-up of this type of operations as specified in point 4 of the Annex. In particular, verifications and audits should not happen at the level of individual investments given that it is the beneficiary who reports fulfilment of the financing conditions to the managing authority. Furthermore, supporting documents relating to the underlying expenditure should be neither subject to audit, nor to management verifications given that amounts linked to the operation are pre-defined.

(7) The measures provided for in this Regulation have been subject to consultation of experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making[(3)], in accordance with Article 149(3a) of Regulation (EU) No 1303/2013.

(8) 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

Subject matter and scope

1 This Regulation establishes detailed modalities for financing conditions that may be used for the reimbursement of expenditure by the managing authority to beneficiaries under the financing which is not linked to costs of the relevant operations referred to in point (e) of the first subparagraph of Article 67(1) of Regulation (EU) No 1303/2013 and for their application.

2 The areas of expenditure that may be subject to financing which is not linked to costs shall be energy efficiency measures and energy from renewable sources as detailed in the Annex.

Article 2

Definitions

For the purpose of this Regulation, the following definitions apply:

(1) 'financing conditions' means the conditions to be fulfilled for the reimbursement of expenditure under the financing which is not linked to costs, consisting of a series of intermediate and final financing conditions undertaken to contribute towards the fulfilment of a pre-defined objective;

(2) 'operation subject to reimbursement based on financing conditions' means a single operation within the meaning of Article 2(9) of Regulation (EU) No 1303/2013, consisting of all the tasks implemented to fulfil intermediate and the final financing conditions.

Article 3

Modalities for the financing conditions and their application

1 Final financing conditions shall be determined in accordance with the Annex.

2 Modalities for the application of the financing conditions as regards the methodology for the establishment of the related pre-defined amount of expenditure to be reimbursed and the submission of information to the Commission for the set up of the operation subject to reimbursement based on financing conditions shall be determined in accordance with the Annex.

Article 4

Elements for payment applications

1 The costs calculated on the applicable basis to be included in a payment application in accordance with Article 131(2) of Regulation (EU) No 1303/2013 shall be the pre-defined amount corresponding to each fulfilled financing condition. That amount shall be included in payment applications together with the reference of the concerned operation, in accordance with the model for payment applications set out in Commission Implementing Regulation (EU) No 1011/2014[(4)].

2 The total eligible expenditure for an operation subject to reimbursement based on financing conditions shall not exceed the pre-defined amount of expenditure corresponding to the final financing condition calculated on the basis of the methodologies set out in the Annex.

Article 5

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.

Changes to legislation: *There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2019/694. (See end of Document for details)*

Done at Brussels, 15 February 2019.

For the Commission

The President

Jean-Claude JUNCKER