Commission Implementing Regulation (EU) 2019/256 of 13 February 2019 amending Implementing Regulation (EU) 2015/207 with regard to changes to the models for submission of the information on a major project, for the joint action plan, for the implementation reports for the Investment for growth and jobs goal and for the European territorial cooperation goal and correcting that Regulation with regard to data for the purpose of the performance review and performance framework

COMMISSION IMPLEMENTING REGULATION (EU) 2019/256

of 13 February 2019

amending Implementing Regulation (EU) 2015/207 with regard to changes to the models for submission of the information on a major project, for the joint action plan, for the implementation reports for the Investment for growth and jobs goal and for the European territorial cooperation goal and correcting that Regulation with regard to data for the purpose of the performance review and performance framework

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 the fifth paragraph of Article 101, the second paragraph of Article 106, and Article 111(5), thereof,

Having regard to Regulation (EU) No 1299/2013 of 17 December 2013 of the European Parliament and of the Council on specific provisions for the support from the European Regional Development Fund to the European territorial cooperation goal[(2)], and in particular Article 14(5) thereof,

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

Whereas:

(1) Annex II to Commission Implementing Regulation (EU) 2015/207[(3)] sets out the format for submission of the information on a major project in accordance with Article 101 of Regulation (EU) No 1303/2013. Due to the amendments to Article 61 of Regulation (EU) No 1303/2013 as regards operations generating net revenue after completion, introduced by Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council[(4)], and due to the adoption by the Commission of a Notice on the notion of State aid[(5)], Annex II should be amended accordingly.

(2) Annex IV to Implementing Regulation (EU) 2015/207 sets out the format of the model for the joint action plan in accordance with Article 106 of Regulation (EU) No 1303/2013. Due to the amendments to Articles 104 to 109 of Regulation (EU) No 1303/2013 as regards first Joint Action Plans and the content of Joint Action Plans, introduced by Regulation (EU, Euratom) 2018/1046, Annex IV should be amended accordingly.

(3) Annex V to Implementing Regulation (EU) 2015/207 sets out the model for the implementation reports for the Investment for growth and jobs goal in accordance with Article 111 of Regulation (EU) No 1303/2013. Due to the amendments to Article 70(2) of Regulation (EU) No 1303/2013, as regards the eligibility of expenditure of operations implemented outside the programme area, and to Article 104(2) and (3) of that Regulation, as regards the thresholds for a first Joint Action Plan, as introduced by Regulation (EU, Euratom) 2018/1046, Annex V should be amended accordingly.

(4) Table 4A of Annex V to Implementing Regulation (EU) 2015/207 includes the common output indicators for the European Social Fund ('ESF') and the Youth Employment Initiative ('YEI'). Due to changes in Annex I to Regulation (EU) No 1304/2013 of the European Parliament and of the Council[(6)] setting out common output and result indicators for ESF investments, as introduced by Regulation (EU, Euratom) 2018/1046, Table 4A in Part A, point 3.2 of Annex V should be amended accordingly. As the changes in Annex I to Regulation (EU) No 1304/2013 apply from 1 January 2014, the amendments to Table 4A in Part A, point 3.2 of Annex V should also apply from 1 January 2014.

(5) Annex X to Implementing Regulation (EU) 2015/207 sets out the model for the implementation reports for the European territorial cooperation goal in accordance with Article 14 of Regulation (EU) No 1299/2013. Due to the amendments to Article 104(2) and (3) of Regulation (EU) No 1303/2013, as regards the thresholds for a first Joint Action Plan, as introduced by Regulation (EU, Euratom) 2018/1046, Annex X should be amended accordingly.

(6) The table in Part C, point 15 of Annex V to Implementing Regulation (EU) 2015/207 and the table in Part B, point 12 of Annex X to that Regulation, both with regard to financial information for the purpose of assessing progress towards the achievements of milestones and targets refer to expenditure 'incurred and paid by beneficiaries and certified to the Commission by 31 December 2018' and 'incurred and paid by beneficiaries by 31 December 2023 and certified to the Commission'. Neither Regulation (EU) No 1303/2013 nor Commission Implementing Regulation (EU) No 215/2014[(7)] include such a cut-off date for the certification of eligible expenditure with regard to the achievement of milestones and targets for financial indicators. Those tables should be corrected accordingly. In order to provide legal certainty as regards the requirements for reporting on the progress towards the achievement of milestones for financial indicators, to be included for the first time in the annual implementation report in 2019, it is necessary for that correction to apply retroactively with effect from the date of entry into force of this Regulation as first adopted.

***Changes to legislation:** There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2019/256. (See end of Document for details)*

(7) In order to ensure legal certainty and to limit discrepancies between the amended provisions of Regulation (EU) No 1303/2013 which apply from 2 August 2018 or earlier in accordance with Article 282 of Regulation (EU, Euratom) 2018/1046 and the provisions of this Regulation to a minimum, this Regulation should enter into force on the day following that of its publication in the *Official Journal of the European Union*.

(8) Implementing Regulation (EU) 2015/207 should therefore be amended and corrected accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Implementing Regulation (EU) 2015/207 is amended as follows:

(1) Annex II to Implementing Regulation (EU) 2015/207 is amended in accordance with Annex I to this Regulation.

(2) Annex IV to Implementing Regulation (EU) 2015/207 is amended in accordance with Annex II to this Regulation.

(3) Annex V to Implementing Regulation (EU) 2015/207 is amended in accordance with Annex III to this Regulation.

(4) Annex X to Implementing Regulation (EU) 2015/207 is amended in accordance with Annex IV to this Regulation.

Article 2

Implementing Regulation (EU) 2015/207 is corrected as follows:

(1) Annex V to Implementing Regulation (EU) 2015/207 is corrected in accordance with Annex V to this Regulation.

(2) Annex X to Implementing Regulation (EU) 2015/207 is corrected in accordance with Annex VI to this Regulation.

Article 3

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

Article 2 shall apply from 14 February 2015.

Point (1) of Annex III shall apply from 1 January 2014.

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

Done at Brussels, 13 February 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) 2019/256. (See end of Document for details)*

***Changes to legislation:** There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2019/256. (See end of Document for details)*

ANNEX I

Annex II to Implementing Regulation (EU) 2015/207 is amended as follows:

(1) in point C.2, footnote 1 is replaced by the following:

([1]) The Commission services provided guidance to Member States to facilitate the assessment when infrastructure investments involve State aid. In particular, the Commission services have prepared analytical grids. Commission Notice on the notion of State aid as referred to in Article 107(1) of the Treaty on the Functioning of the European Union has been published (C/2016/2946) (OJ C 262, 19.7.2016, p. 1). The Commission invites Member States to make use of the analytical grids or of other methods for explaining why it is considered that the support does not involve the granting of State aid.;

(2) in point C.3, the title of the last table is replaced by the following:
Flat rate method or decreased co-financing rate method (Article 61(3)(a), Article 61(3)(aa) and Article 61(5) of Regulation (EU) No 1303/2013);

(3) in point C.3, the last table is replaced by the following:

		'Value
1.	Total eligible cost before taking into account the requirements set out in Article 61 of Regulation (EU) No 1303/2013 (in EUR, not discounted) (Section C.1.12(C))	*<type='N' input='G'>*
2.	Net revenue flat rate as defined in Annex V to Regulation (EU) No 1303/2013 or delegated acts or established on the basis of Article 61(3)(aa) (FR) (%)	*<type='N' input='M'>*
3.	Total eligible cost after taking into account the requirements set out in Article 61 of Regulation (EU) No 1303/2013 (in EUR, not discounted) = (1) × (1 – FR)[a] *The maximum public contribution must respect the State aid rules and the amount of total aid granted reported above (if applicable)*	*<type='N' input='M'>*

a In case of decreased co-financing rate method, this formula is not applicable (flat rate is reflected in the co-financing rate of the priority axis, resulting in lower ERDF/CF financing) and the total eligible cost is equal to the amount mentioned in point 1.'