Commission Implementing Regulation (EU) 2019/255 of 13 February 2019 amending Implementing Regulation (EU) No 821/2014 laying down rules for the application of Regulation (EU) No 1303/2013 of the European Parliament and of the Council as regards detailed arrangements for the transfer and management of programme contributions, the reporting on financial instruments, technical characteristics of information and communication measures for operations and the system to record and store data

COMMISSION IMPLEMENTING REGULATION (EU) 2019/255

of 13 February 2019

amending Implementing Regulation (EU) No 821/2014 laying down rules for the application of Regulation (EU) No 1303/2013 of the European Parliament and of the Council as regards detailed arrangements for the transfer and management of programme contributions, the reporting on financial instruments, technical characteristics of information and communication measures for operations and the system to record and store data

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 Articles 46(3) and 115(4) thereof,

Whereas:

(1) Commission Implementing Regulation (EU) No 821/2014[(2)] lays down, among others, technical characteristics of information and communication measures. Due to changes in Chapter II of Title III of Part Three of Regulation (EU) No 1303/2013, as introduced by Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council[(3)], the title of Implementing Regulation (EU) No 821/2014 and the title of Chapter II thereof should be amended accordingly.

(2) In order to avoid unnecessary administrative burden and for reasons of simplification, the requirement that the name of a financial instrument is to include a reference to the fact that it is supported by the European Structural and Investment ('ESI') Funds should be removed. In accordance with Article 6(1)(b) of Commission Delegated Regulation (EU) No 480/2014[(4)], the final recipients of financial instruments are nevertheless to be informed that funding is provided under programmes co-financed by the ESI Funds. The removal of the obligation to indicate the name of a financial instrument does therefore not have an impact on the visibility and communication requirements at the level

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2019/255. (See end of Document for details)*

of support to the final recipients. Article 4(4) of Implementing Regulation (EU) No 821/2014 should be amended accordingly.

(3) Annex I to Commission Implementing Regulation (EU) No 821/2014 sets out the model for reporting on financial instruments governed by Articles 37 to 46 of Regulation (EU) No 1303/2013. A number of those provisions were amended by Regulation (EU, Euratom) 2018/1046.

(4) In Article 38(1) of Regulation (EU) No 1303/2013, a new implementation option for combining ESI Funds with EIB financial products under the European Fund for Strategic Investments was introduced, as further set out in the new Article 39a thereof. It is therefore necessary to include this implementation option in the section on description of the financial instrument and implementation arrangements, and to include new data fields in the section of the model for reporting on financial instruments relating to the progress in achieving expected leverage, in order to capture the contributions of ESI Funds to financial instruments combining such contribution with EIB financial products under the European Fund for Strategic Investments.

(5) In Article 38(4) of Regulation (EU) No 1303/2013, the rules for direct award to publicly-owned banks or institutions were clarified. It is therefore necessary to reflect such clarification by including this type of a body implementing financial instruments in the section of the model for reporting on financial instruments which relates to the identification of bodies implementing financial instruments and of bodies implementing a fund of funds, where applicable.

(6) Subject to active treasury management, Article 44 of Regulation (EU) No 1303/2013 enables the financing of negative interest that has been generated as a result of investments of the ESI Funds pursuant to Article 43 of Regulation (EU) No 1303/2013 from resources paid back into the financial instrument. It is therefore necessary to align reporting requirements with this new provision. Such alignment should take place in the section of the model for reporting on financial instruments regarding the amounts paid back to financial instruments from investments.

(7) The new Article 43a of Regulation (EU) No 1303/2013 clarifies the rules governing the differentiated treatment of investors operating under market economy principle in case of profit and risk sharing. It is therefore necessary to align the wording of the model for reporting on financial instruments with this clarified provision in the section on interest and other gains generated by support from the ESI Funds to the financial instrument, programme resources paid back to financial instruments from investments as referred to in Articles 43 and 44 and amounts used for differentiated treatment as referred to in Article 43a.

(8) In Article 46 of Regulation (EU) No 1303/2013 the reporting obligations with regard to financial instruments were streamlined in order to avoid certain duplications. It is therefore necessary to streamline the information required in the data field 40 with the reporting requirement set out in Article 46(2)(i) of Regulation (EU) No 1303/2013. It is also necessary to move the requirement to report on the value of equity investments with respect to the previous year under title VII of the model for reporting on financial instruments governed by Article 46(2)(i) of Regulation (EU) No 1303/2013. In order

to avoid unnecessary administrative burden and ensure consistency with the reporting systems already established by the managing authorities, the move of the existing data field 40 under Title VII, aiming to ensure consistency with the corresponding reference in Article 46(2)(i) of Regulation (EU) No 1303/2013, should not trigger its renumbering although its title should be aligned to that Article.

(9) To avoid duplication of certain requirements and to align with the reporting requirements of Article 46(2)(h) of Regulation (EU) No 1303/2013, the reference to the value of investments and participations is deleted from the section on progress in achieving the expected leverage of the model of reporting on financial instruments.

(10) As a consequence of the changes in Articles 37 to 46 of Regulation (EU) No 1303/2013 mentioned in recitals 3 to 9, Annex I of Implementing Regulation (EU) No 821/2014 should be amended accordingly.

(11) The measures provided for in this Regulation are in accordance with the opinion of the Coordination Committee for the ESI Funds.

(12) 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*.

(13) Implementing Regulation (EU) No 821/2014 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Implementing Regulation (EU) No 821/2014 is amended as follows:

(1) the title is replaced by the following:
Commission Implementing Regulation (EU) No 821/2014 of 28 July 2014 laying down rules for the application of Regulation (EU) No 1303/2013 of the European Parliament and of the Council as regards detailed arrangements for the transfer and management of programme contributions, the reporting on financial instruments, technical characteristics of information, communication and visibility measures for operations and the system to record and store data;

(2) the title of Chapter II is replaced by the following:
TECHNICAL CHARACTERISTICS OF INFORMATION, COMMUNICATION AND VISIBILITY MEASURES FOR OPERATIONS AND INSTRUCTIONS FOR CREATING THE UNION EMBLEM AND A DEFINITION OF THE STANDARD COLOURS;

(3) Article 4(4) is replaced by the following:

4. The name “European Union” shall always be spelled out in full. The typeface to be used in conjunction with the Union emblem may be any of the following fonts: Arial, Auto, Calibri, Garamond, Trebuchet, Tahoma, Verdana, Ubuntu. Italic, underlined variations or font effects shall not be used. The positioning of the text in relation to the Union emblem shall not interfere with the Union emblem in any way.

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The font size used shall be proportionate to the size of the emblem. The colour of the font shall be reflex blue, black or white depending on the background.;

(4) Annex I to Implementing Regulation (EU) No 821/2014 is amended in accordance with the Annex to this Regulation.

Article 2

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, 13 February 2019.

For the Commission

The President

Jean-Claude JUNCKER