Council Regulation (EU) 2016/888 of 6 June 2016 amending Regulation (EU) 2015/323 on the financial regulation applicable to the 11th European Development Fund as regards payment of the instalments

COUNCIL REGULATION (EU) 2016/888

of 6 June 2016

amending Regulation (EU) 2015/323 on the financial regulation applicable to the 11th European Development Fund as regards payment of the instalments

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the Internal Agreement between the Representatives of the Governments of the Member States of the European Union, meeting within the Council, on the financing of European Union aid under the multiannual financial framework for the period 2014 to 2020, in accordance with the ACP-EU Partnership Agreement, and on the allocation of financial assistance for the Overseas Countries and Territories to which Part Four of the Treaty on the Functioning of the European Union applies[(1)] ('the Internal Agreement'), and in particular Article 10(2) thereof,

Having regard to the proposal from the European Commission,

Having regard to the opinion of the European Court of Auditors[(2)],

Having regard to the opinion of the European Investment Bank,

Whereas:

(1) On 5 June 2014, the European Central Bank adopted a Decision[(3)] providing for a negative interest rate, which entails a payment obligation on the deposit holder to the relevant national central bank (NCB) including the right of that NCB to debit the relevant government deposit account accordingly. Other NCBs in which European Development Fund (EDF) funds have to be kept in accordance with Article 22 of Council Regulation (EU) 2015/323[(4)] adopted similar decisions.

(2) According to Article 22(3) of Regulation (EU) 2015/323, contributions to the EDF are to be credited by each Member State to a special account entitled 'European Commission — European Development Fund' opened with the central bank of the relevant Member State or the financial institution designated by it.

(3) Those special accounts opened by the Member States in the name of the Commission, for the purpose of depositing EDF contributions, should be kept free of any charge and interest until they need to be used for payments, thereby preventing losses for the EDF budget. The application of charges or negative interest would reduce the EDF budget and lead to unequal treatment of Member States. Therefore, where negative interest is applicable to EDF accounts, the Member States concerned should credit an amount

Changes to legislation: *There are currently no known outstanding effects for the Council Regulation (EU) 2016/888. (See end of Document for details)*

equal to the amount of that negative interest. Given that some Member States do not have the possibility of avoiding the financial impact of the obligation to credit such amounts of negative interest to the EDF accounts, it is appropriate that the Commission, when covering its payment requirements, aims to reduce that impact by drawing with priority on the sums credited to the accounts concerned.

(4) Regulation (EU) 2015/323 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Article 22 of Regulation (EU) 2015/323 is replaced by the following:

Article 22

Payment of the instalments

1 Calls for contributions shall first use up the amounts laid down for previous European Development Funds, one after the other.

2 The contributions of the Member States shall be expressed in euro and shall be paid in euro.

3 The contribution referred to in point (a) of Article 21(7) shall be credited by each Member State to a special account entitled "European Commission — European Development Fund" opened with the central bank of the relevant Member State or the financial institution designated by it. The amount of such contributions shall remain in those special accounts until the payments need to be made.

4 The account referred to in paragraph 3 shall be kept free of any charge and interest.

5 Where negative interest is applied to the account referred to in paragraph 3, the Member State concerned shall, at the latest on the date of payment of each instalment referred to in Article 21, credit the account with an amount corresponding to the amount of such negative interest applied until the first day of the month preceding the payment of the instalment.

6 Without prejudice to paragraph 7, the Commission shall endeavour to make any withdrawals from the special accounts in such a way as to maintain a distribution of assets in those accounts that corresponds to the contribution key pursuant to point (a) of Article 1(2) of the Internal Agreement.

7 When covering the EDF cash resource requirements in accordance with paragraph 3, the Commission shall aim to reduce the impact of the obligation on Member States to credit amounts of negative interest pursuant to paragraph 5 by drawing with priority on the sums credited to the accounts concerned.

8 The contribution referred to in point (b) of Article 21(7) shall be credited by each Member State in accordance with Article 53(1)..

Article 2

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