# Commission Delegated Regulation (EU) No 480/2014 of 3 March 2014 supplementing Regulation (EU) No 1303/2013 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

## COMMISSION DELEGATED REGULATION (EU) No 480/2014

## of 3 March 2014

## supplementing Regulation (EU) No 1303/2013 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

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)], and in particular Articles 22(7), 37(13), 38(4), 40(4), 41(3), 42(1), 42(6), 61(3), 68(1), 101, 125(8), 125(9), 127(7), 127(8) and 144(6) thereof,

Whereas:

(1) Regulation (EU) No 1303/2013, in Part Two, lays down common provisions applicable to the European Regional Development Fund (ERDF), the European Social Fund (ESF), the Cohesion Fund, the European Agricultural Fund for Rural Development (EAFRD) and the European Maritime and Fisheries Fund (EMFF), which now operate under a common framework (the 'European Structural and Investment Funds' or 'ESI Funds'). In addition, Part Three of that Regulation contains general provisions that apply to the ERDF, the ESF and the Cohesion Fund, but do not apply to the EAFRD and the EMFF, and Part Four of that Regulation contains general provisions which apply to the ERDF, the ESF, the Cohesion Fund and the EMFF, but do not apply to the EAFRD. This Regulation therefore lays down provisions which are applicable to all ESI Funds, as well as provisions applicable only to the ERDF and the Cohesion Fund or to the ERDF, the ESF, the Cohesion Fund and the EMFF.

**Changes to legislation:** *There are outstanding changes not yet made to Commission Delegated Regulation (EU) No 480/2014. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(2) It is necessary to establish detailed rules on criteria for determining the level of financial correction which the Commission may apply under the performance framework for each priority included in the programmes supported by the ESI Funds.

(3) Such financial corrections may be applied only if several conditions are jointly met. The level of financial correction should be set on the basis of flat rates related to a coefficient, calculated with reference to the level of physical completion and financial absorption. External factors contributing to a serious failure to achieve targets set under the performance framework by 2023, other than factors excluding the financial correction, should be considered on a case-by-case basis and could be grounds for a lower rate of correction than would otherwise apply on the basis of the coefficient.

(4) In the provisions on criteria for determining the level of financial corrections to be applied under the performance framework, a special allocation for the Youth Employment Initiative should be treated separately.

(5) Specific rules should clarify the provisions on the purchase of land with support provided by financial instruments.

(6) A coherent framework for combining grants for technical support and a financial instrument in a single operation requires that this is only allowed for the purpose of technical preparation of the prospective investment for the benefit of the final recipient.

(7) To ensure that implementation of financial instruments is entrusted to bodies which have appropriate capacity to implement them in line with the objectives and priorities of the ESI Funds and in the most efficient manner, the criteria for selecting such bodies should be set out together with their role, liability and responsibilities.

(8) To ensure sound financial management of financial instruments providing guarantees, the contributions from programmes should be based on a prudent *ex ante* risk assessment, taking into account an appropriate multiplier ratio.

(9) To ensure that financial instruments are implemented in compliance with applicable law, specific provisions should be made for their management and control, including audit.

(10) To ensure sound financial management of programme contributions to financial instruments, any withdrawal of such contributions should be appropriately reflected in the relevant payment applications.

(11) To ensure consistent calculation of eligible capitalised interest rate subsidies and guarantee fee subsidies, specific rules for their calculation should be set out.

(12) To promote rapid and efficient deployment of funds to the real economy and sound financial management, while assuring reasonable remuneration for bodies implementing financial instruments, criteria for determining management costs and fees on the basis of performance, applicable thresholds, and rules on reimbursement of capitalised management costs and fees for equity-based instruments and micro-credit should be set out.

(13) In line with the principle of sound financial management, revenues generated by operations should be taken into account when the public contribution is calculated.

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(14) It is necessary to determine the method for calculating an operation's discounted net revenue, taking into account the reference periods applicable to the sector of that operation, the profitability normally expected of the type of investment concerned, the application of the polluter pays principle and, if appropriate, considerations of equity linked to the relative prosperity of the Member State or region concerned.

(15) The reference periods applicable to sectors based on historical data recorded and stored for revenue-generating projects of the 2007-2013 programming period should be set out.

(16) It is necessary to define the costs and revenues to be taken into account in the calculation of the discounted net revenues as well as the conditions for the determination of a residual value and the financial discount rate.

(17) The 4 % discount rate proposed as an indicative benchmark should be based on the current long-term rate of return from an international portfolio of investments calculated as a mean return of 3 % from the assets adjusted upwards by 1 %, which is the percentage by which the average long-term government bond yield in the Union area has fallen since the financial discount rate for the 2007-2013 programming period was set.

(18) The polluter-pays principle requires that the environmental costs of pollution and prevention be borne by those who cause pollution and that charging systems reflect the full costs, including capital costs, of environmental services, the environmental costs of pollution and of the preventive measures implemented and the costs linked to the scarcity of the resources used.

(19) To reduce administrative burdens, beneficiaries should be allowed to use existing methods and corresponding rates set out under other Union policies in order to calculate indirect costs, if the operations and beneficiaries are of a similar type.

(20) To ensure that operations supported under the ESI Funds which might use a flat rate for indirect costs set under other Union policies are similar to operations financed under those other policies, it is necessary to define the intervention categories and investment priorities or measures under which they fall.

(21) The methodology to be used for carrying out the quality review of major projects should be established. The quality review by independent experts is a prerequisite for submission of a major project to the Commission by a Member State using the notification procedure provided for in Regulation (EU) No 1303/2013.

(22) If a Member State chooses to use the notification procedure, it should decide whether the major project is to be assessed by independent experts supported by technical assistance of the Commission or, in agreement with the Commission, by other independent experts.

(23) The capacity, competence and impartiality of independent experts carrying out the quality review of major projects are among the main factors determining whether the outcome of the review is of good quality and reliable. Therefore, certain requirements should be set out for independent experts to ensure that their work on the quality review is reliable and of high quality. All independent experts should meet these requirements, regardless if their work is supported by technical assistance at the initiative of the

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Commission or by a Member State. It should be the responsibility of the Member State to verify that the independent experts meet the requirements before seeking the Commission's agreement with a selection of independent experts.

(24) Since only major projects that have been appraised positively by the independent experts can be selected for submission to the Commission using the notification procedure, it is necessary to set out clear criteria for this purpose. It is also necessary to set out the steps of this review process and the parameters for the appraisal of quality to be used in the review, in order to ensure that the quality review of each major project is based on the same methodological approach and that the quality review is carried out in a manner which contributes to improving the quality of the major projects reviewed.

(25) Regulation (EU) No 1303/2013 requires the managing authority to establish a system to record and store, in computerised form, data on each operation necessary for monitoring, evaluation, financial management, verification and audit, including data on individual participants. It is therefore necessary to set out a list of data to be recorded and stored in that system.

(26) Certain data is relevant for particular types of operations or for some of the ESI Funds only; the applicability of data requirements should therefore be specified. Regulation (EU) No 1303/2013 and Regulation (EU) No 1304/2013 of the European Parliament and of the Council[(2)] set out specific requirements for the recording and storage of data on individual participants in operations supported by the ESF, which need to be taken into account.

(27) The list of data should take into account the reporting requirements set out under Regulation (EU) No 1303/2013 and the Fund-specific Regulations in order to ensure that the data necessary for financial management and monitoring, including data needed to prepare payment applications, accounts and implementation reports exists for every operation in a form in which it can be easily aggregated and reconciled. The list should take into account that certain basic data on operations in computerised form is necessary for effective financial management of operations and to fulfil the requirement to publish basic information on operations. Certain other data is necessary to effectively plan and carry out verifications and audit work.

(28) The list of data to be recorded and stored should not prejudge the technical characteristics or structure of the computerised systems set up by managing authorities or pre-determine the format of the data recorded and stored, unless these are specifically stated in this Regulation. Nor should it prejudge the means by which data is entered or generated within the system; in some cases, the data included in the list may require the entry of multiple values. Nevertheless, it is necessary to set out certain rules on the nature of this data, to ensure that the managing authority can fulfil its responsibility for monitoring, evaluation, financial management, verification and audit, including where this requires processing of data on individual participants.

(29) In order to ensure that expenditure under operational programmes can be checked and audited, it is necessary to set out the criteria with which an audit trail should comply to be considered adequate.

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(30) It is necessary to provide, in relation to the audit work pursuant to Regulation (EU) No 1303/2013, that the Commission and the Member States should prevent any unauthorised disclosure of or access to personal data, and to specify the purposes for which the Commission and the Member States can process such data.

(31) The audit authority is responsible for audits of operations. To ensure that the scope and effectiveness of such audits are adequate and that they are carried out to the same standards in all Member States, it is necessary to set out the conditions that they should meet.

(32) It is necessary to set out in detail the sampling basis for operations to be audited, which the audit authority should observe in establishing or approving the sampling method, including the determination of the sampling unit, certain technical criteria to be used for the sample and where necessary factors to be taken into account in taking additional samples.

(33) The audit authority should draw up an audit opinion covering the accounts referred to in Regulation (EU) No 1303/2013. To ensure that the scope and the content of audits on accounts are adequate and that they are carried out to the same standards in all Member States, it is necessary to set out the conditions that they should meet.

(34) To ensure legal certainty and equal treatment of all Member States in making financial corrections, consistent with the principle of proportionality, it is necessary to set out the criteria for determining serious deficiencies in the effective functioning of management and control systems, define the main types of such deficiencies and set out the criteria for establishing the level of financial correction to be applied and criteria for applying flat rates or extrapolated financial corrections.

(35) In order to allow for the prompt application of the measures provided for in this Regulation, 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:

## CHAPTER I

## GENERAL PROVISIONS

### *Article 1*

### Subject matter

This Regulation lays down the following provisions supplementing Regulation (EU) No 1303/2013:

(a) provisions supplementing Part Two of that Regulation applicable to the ERDF, the ESF, the Cohesion Fund, the EAFRD and the EMFF (hereinafter referred to as the 'ESI Funds') as regards the following: