

Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012

PART TWO

AMENDMENTS TO SECTOR-SPECIFIC RULES

Article 270

Amendments to Regulation (EU) No 1296/2013

Regulation (EU) No 1296/2013 is amended as follows:

- (1) in Article 5, paragraph 2 is replaced by the following:
2. The following indicative percentages shall apply on average over the whole period of the Programme to the axes set out in Article 3(1):
 - a at least 55 % to the Progress axis;
 - b at least 18 % to the EURES axis;
 - c at least 18 % to the Microfinance and Social Entrepreneurship axis.;
- (2) Article 14 is replaced by the following:

Article 14

Thematic sections and financing

- 1 The Progress axis shall support actions in the thematic sections referred to in points (a), (b) and (c). Over the entire period of the Programme, the indicative breakdown of the overall allocation for the Progress axis between the different thematic sections shall respect the following minimum percentages:
 - a employment, in particular to fight youth unemployment: 20 %;
 - b social protection, social inclusion and the reduction and prevention of poverty: 45 %;
 - c working conditions: 7 %.

Any remainder shall be allocated to one or more of the thematic sections referred to in point (a), (b) or (c) of the first subparagraph, or to a combination of them.
- 2 From the overall allocation for the Progress axis, a significant share shall be allocated to the promotion of social experimentation as a method for testing and evaluating innovative solutions with a view to upscaling them.;
- (3) Article 19 is replaced by the following:

Article 19

Thematic sections and financing

The EURES axis shall support actions in the thematic sections referred to in points (a), (b) and (c). Over the entire period of the Programme, the indicative breakdown of the overall allocation for the EURES axis between the different thematic sections shall respect the following minimum percentages:

- (a) transparency of job vacancies, applications and any related information for applicants and employers: 15 %;
- (b) development of services for the recruitment and placing of workers in employment through the clearance of job vacancies and applications at Union level, in particular targeted mobility schemes: 15 %;
- (c) cross-border partnerships: 18 %.

Any remainder shall be allocated to one or more of the thematic sections referred to in point (a), (b) or (c) of the first paragraph, or to a combination of them.;

- (4) Article 25 is replaced by the following:

Article 25

Thematic sections and financing

The Microfinance and Social Entrepreneurship axis shall support actions in the thematic sections referred to in points (a) and (b). Over the entire period of the Programme, the indicative breakdown of the overall allocation for the Microfinance and Social Entrepreneurship axis between the different thematic sections shall respect the following minimum percentages:

- (a) microfinance for vulnerable groups and micro-enterprises: 35 %;
- (b) social entrepreneurship: 35 %.

Any remainder shall be allocated to the thematic sections referred to in point (a) or (b) of the first paragraph, or to a combination of them.;

- (5) in Article 32, the second paragraph is replaced by the following:

The work programmes shall, where relevant, be for a three-year rolling period and shall contain a description of the actions to be financed, the procedures for selecting actions to be supported by the Union, the geographic coverage, the target audience and an indicative implementation time frame. The work programmes shall also include an indication of the amount allocated to each specific objective. The work programmes shall reinforce the coherence of the Programme by indicating the links between the three axes.;

- (6) Articles 33 and 34 are deleted.

*Article 271***Amendments to Regulation (EU) No 1301/2013**

Regulation (EU) No 1301/2013 is amended as follows:

- (1) Article 3(1) is amended as follows:
- (a) point (e) is replaced by the following:
- (e) investment in the development of endogenous potential through fixed investment in equipment and infrastructure, including cultural and sustainable tourism infrastructure, services to enterprises, support to research and innovation bodies and investment in technology and applied research in enterprises;;
- (b) the following subparagraph is added:
- Investment in cultural and sustainable tourism infrastructure as referred to in point (e) of the first subparagraph of this paragraph shall be considered small-scale and eligible for support, if the ERDF contribution to the operation does not exceed EUR 10 000 000. That ceiling shall be raised to EUR 20 000 000 in the case of infrastructure considered to be cultural heritage within the meaning of Article 1 of the 1972 Unesco Convention Concerning the Protection of the World Cultural and Natural Heritage.;
- (2) in point (9) of Article 5, the following point is added:
- (e) supporting the reception and the social and economic integration of migrants and refugees;;
- (3) in Annex I, the table, the text starting with ‘Social infrastructure’ until the end of the table is replaced by the following:

Social infrastructure		
Childcare and education	persons	Capacity of supported childcare or educational infrastructure
Health	persons	Population covered by improved health services
Housing	housing units	Rehabilitated housing
	housing units	Rehabilitated housing, of which for migrants and refugees (not including reception centres)
Migrants and refugees	persons	Capacity of infrastructure supporting migrants and refugees (other than housing)
Urban Development specific indicators		

Status: This is the original version (as it was originally adopted).

	persons	Population living in areas with integrated urban development strategies
	square metres	Open space created or rehabilitated in urban areas
	square metres	Public or commercial buildings built or renovated in urban areas

Article 272

Amendments to Regulation (EU) No 1303/2013

Regulation (EU) No 1303/2013 is amended as follows:

- (1) in recital 10, the second sentence is replaced by the following:

Those conditions should enable the Commission to obtain assurance that Member States are using the ESI Funds in a legal and regular manner and in accordance with the principle of sound financial management within the meaning of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council⁽¹⁾ (the “Financial Regulation”).;

- (2) Article 2 is amended as follows:

- (a) point (10) is replaced by the following:

(10) “beneficiary” means a public or private body or a natural person, responsible for initiating or both initiating and implementing operations, and:

- (a) in the context of State aid, the body which receives the aid, except where the aid per undertaking is less than EUR 200 000, in which case the Member State concerned may decide that the beneficiary is the body granting the aid, without prejudice to Commission Regulations (EU) No 1407/2013⁽²⁾, (EU) No 1408/2013⁽³⁾ and (EU) No 717/2014⁽⁴⁾; and
- (b) in the context of financial instruments under Title IV of Part Two of this Regulation, the body that implements the financial instrument or the fund of funds as appropriate;;

- (b) point (31) is replaced by the following:

(31) “macroregional strategy” means an integrated framework agreed by the Council and, where appropriate, endorsed by the European Council, which may be supported by the ESI Funds among others, to address common challenges faced by a defined geographical area relating to Member States and third countries located in the same geographical area which thereby benefit from strengthened cooperation contributing to achievement of economic, social and territorial cohesion;;

- (3) Article 4 is amended as follows:
- (a) in paragraph 7, the reference to ‘Article 59 of the Financial Regulation’ is replaced by ‘Article 63 of the Financial Regulation’;
 - (b) paragraph 8 is replaced by the following:

8. The Commission and the Member States shall respect the principle of sound financial management in accordance with Article 33, Article 36(1) and Article 61 of the Financial Regulation.;
- (4) in Article 9, the following paragraph is added:
- The priorities established for each of the ESI Funds in the Fund-specific rules shall in particular cover the appropriate use of each ESI Fund in the areas of migration and asylum. In that context, coordination with the Asylum, Migration and Integration Fund established by Regulation (EU) No 516/2014 of the European Parliament and of the Council⁽⁵⁾ shall be ensured, where appropriate.;
- (5) in Article 16, the following paragraph is inserted:
- 4a. Where applicable, the Member State shall submit each year by 31 January an amended Partnership Agreement following the approval of amendments to one or more programmes by the Commission in the preceding calendar year.
- The Commission shall adopt each year by 31 March a decision confirming that the amendments to the Partnership Agreement reflect one or more programme amendments approved by the Commission in the preceding calendar year.
- That decision may include the amendment of other elements of the Partnership Agreement pursuant to a proposal referred to in paragraph 4, provided that the proposal is submitted to the Commission by 31 December of the preceding calendar year.;
- (6) Article 30 is amended as follows:
- (a) in paragraph 2, the second subparagraph is replaced by the following:

Where the amendment of a programme affects the information provided in the Partnership Agreement, the procedure set out in Article 16(4a) shall apply.;
 - (b) in paragraph 3, the third sentence is deleted;
- (7) in Article 32, paragraph 4 is replaced by the following:
4. Where the selection committee for the community-led local development strategies set up under Article 33(3) determines that the implementation of the community-led local development strategy selected requires support from more than one Fund, it may designate in accordance with national rules and procedures, a lead Fund to support all preparatory, running and animation costs under points (a), (d) and (e) of Article 35(1) for the community-led local development strategy.;
- (8) Article 34(3) is amended as follows:
- (a) points (a) to (d) are replaced by the following:
 - (a) building the capacity of local actors, including potential beneficiaries, to develop and implement operations including by fostering their capacity to prepare and manage their projects;

- (b) drawing up a non-discriminatory and transparent selection procedure which avoids conflicts of interests, ensures that at least 50 % of the votes in selection decisions are cast by partners which are not public authorities, and allows selection by written procedure;
 - (c) drawing up and approving non-discriminatory objective criteria for the selection of operations that ensure coherence with the community-led local development strategy by prioritising those operations according to their contribution to meeting that strategy's objectives and targets;
 - (d) preparing and publishing calls for proposals or an ongoing project submission procedure;;
- (b) the following subparagraph is added:
- Where local action groups carry out tasks not covered by points (a) to (g) of the first subparagraph that fall under the responsibility of the managing or certifying authority or of the paying agency, those local action groups shall be designated as intermediate bodies in accordance with the Fund-specific rules.;
- (9) in Article 36, paragraph 3 is replaced by the following:
3. The Member State or the managing authority may delegate certain tasks in accordance with the Fund-specific rules to one or more intermediate bodies, including local authorities, regional development bodies or non-governmental organisations, linked to the management and implementation of an ITI.;
- (10) Article 37 is amended as follows:
- (a) in paragraph 2, point (c) is replaced by the following:
 - (c) an estimate of additional public and private resources to be potentially raised by the financial instrument down to the level of the final recipient (expected leverage effect), including as appropriate an assessment of the need for, and the extent of, differentiated treatment as referred to in Article 43a to attract counterpart resources from investors operating under the market economy principle and/or a description of the mechanisms which will be used to establish the need for, and extent of, such differentiated treatment, such as a competitive or appropriately independent assessment process;;
 - (b) in paragraph 3, the first subparagraph is replaced by the following:
 - 3. The *ex ante* assessment referred to in paragraph 2 of this Article may take into account the *ex ante* evaluations referred to in point (h) of the first subparagraph and the second subparagraph of Article 209(2) of the Financial Regulation and may be performed in stages. It shall, in any event, be completed before the managing authority decides to make programme contributions to a financial instrument.;
 - (c) paragraph 8 is replaced by the following:

8. Final recipients supported by an ESI Fund financial instrument may also receive assistance from another ESI Funds priority or programme or from another instrument supported by the budget of the Union, including from the European Fund for Strategic Investments (EFSI) established by Regulation (EU) 2015/1017 of the European Parliament and of the Council⁽⁶⁾, in accordance with applicable Union State aid rules, as appropriate. In that case, separate records shall be maintained for each source of assistance and the ESI Funds financial instrument support shall be part of an operation with eligible expenditure distinct from the other sources of assistance.;

(11) Article 38 is amended as follows:

- (a) in paragraph 1, the following point is added:
 - (c) financial instruments combining such contribution with EIB financial products under the EFSI in accordance with Article 39a.;
- (b) paragraph 4 is amended as follows:
 - (i) points (b) and (c) of the first subparagraph are replaced by the following:
 - (b) entrust implementation tasks, through the direct award of a contract, to:
 - (i) the EIB;
 - (ii) an international financial institution in which a Member State is a shareholder;
 - (iii) a publicly-owned bank or institution, established as a legal entity carrying out financial activities on a professional basis, which fulfils all of the following conditions:
 - there is no direct private capital participation, with the exception of non-controlling and non-blocking forms of private capital participation required by national legislative provisions, in conformity with the Treaties, which do not exert a decisive influence on the relevant bank or institution, and with the exception of forms of private capital participation which confer no influence on decisions regarding the day-to-day management of the financial instrument supported by the ESI Funds;
 - operates under a public policy mandate given by the relevant authority of a Member State at national or regional level, which includes carrying out, as all or

- part of its activities, economic development activities contributing to the objectives of the ESI Funds;
 - carries out, as all or part of its activities, economic development activities contributing to the objectives of the ESI Funds in regions, policy areas or sectors for which access to funding from market sources is not generally available or sufficient;
 - operates without primarily focussing on maximising profits, but ensures a long-term financial sustainability for its activities;
 - ensures that the direct award of a contract referred to in point (b) does not provide any direct or indirect benefit for commercial activities by way of appropriate measures in accordance with applicable law;
 - is subject to the supervision of an independent authority in accordance with applicable law.
- (c) entrust implementation tasks to another body governed by public or private law; or
- (d) undertake implementation tasks directly, in the case of financial instruments consisting solely of loans or guarantees. In that case the managing authority shall be considered to be the beneficiary within the meaning of point (10) of Article 2.;
- (ii) the second subparagraph is replaced by the following:
- When implementing the financial instrument, the bodies referred to in points (a) to (d) of the first subparagraph of this paragraph shall ensure compliance with applicable law and with the requirements laid down in Article 155(2) and (3) of the Financial Regulation.;
- (c) paragraphs 5 and 6 are replaced by the following:
5. The bodies referred to in points (a), (b) and (c) of the first subparagraph of paragraph 4 of this Article may, when implementing funds of funds further entrust part of the implementation to financial intermediaries provided that such bodies ensure under their responsibility that the financial intermediaries satisfy the criteria laid down in Articles 33(1) and 209(2) of the Financial Regulation. Financial intermediaries shall be selected on the basis of open, transparent, proportionate and non-discriminatory procedures, avoiding conflict of interests.

6 The bodies referred to in points (b) and (c) of the first subparagraph of paragraph 4 to which implementation tasks have been entrusted shall open fiduciary accounts in their name and on behalf of the managing authority, or set up the financial instrument as a separate block of finance within the institution. In the case of a separate block of finance, an accounting distinction shall be made between programme resources invested in the financial instrument and the other resources available in the institution. The assets held on fiduciary accounts and such separate blocks of finance shall be managed in accordance with the principle of sound financial management following appropriate prudential rules and shall have appropriate liquidity.;

- (d) in the first subparagraph of paragraph 7, the introductory part is replaced by the following:

7. Where a financial instrument is implemented under points (a), (b) and (c) of the first subparagraph of paragraph 4, subject to the implementation structure of the financial instrument, the terms and conditions for contributions from programmes to financial instruments shall be set out in funding agreements in accordance with Annex IV at the following levels.;

- (e) paragraph 8 is replaced by the following:

8. For financial instruments implemented under point (d) of the first subparagraph of paragraph 4, the terms and conditions for contributions from programmes to financial instruments shall be set out in a strategy document in accordance with Annex IV to be examined by the monitoring committee.;

- (f) paragraph 10 is replaced by the following:

10. The Commission shall adopt implementing acts laying down uniform conditions regarding the detailed arrangements for the transfer and management of programme contributions managed by the bodies referred to in the first subparagraph of paragraph 4 of this Article and in Article 39a(5). Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 150(3).;

- (12) Article 39 is amended as follows:

- (a) in the first subparagraph of paragraph 2, the introductory part is replaced by the following:

2. Member States may use the ERDF and EAFRD during the eligibility period set out in Article 65(2) of this Regulation to provide a financial contribution to financial instruments referred to in point (a) of Article 38(1) of this Regulation, implemented indirectly by the Commission with the EIB pursuant to point (c)(iii) of the first subparagraph of Article 62(1) of the Financial Regulation and Article 208(4) of the Financial Regulation, in respect of the following activities.;

- (b) in the first subparagraph of paragraph 4:

- (i) point (a) is replaced by the following:

- (a) by way of derogation from Article 37(2), it shall be based on an *ex ante* assessment at Union level carried out by

the EIB and the Commission or, where more recent data are available, on an *ex ante* assessment at Union, national or regional level.

On the basis of available data sources on bank debt finance and SMEs, the *ex ante* assessment shall cover, inter alia, an analysis of the SME financing needs at the relevant level, SME financing conditions and needs as well as an indication of the SME financing gap, a profile of the economic and financial situation of the SME sector at the relevant level, minimum critical mass of aggregate contributions, a range of estimated total loan volume generated by such contributions, and the added value;;

(ii) point (b) is replaced by the following:

(b) it shall be provided by each participating Member State as part of a separate priority axis within a programme in the case of ERDF contribution, or a single dedicated national programme per financial contribution by ERDF and EAFRD, supporting the thematic objective set out in point (3) of the first paragraph of Article 9;;

(c) paragraphs 7 and 8 are replaced by the following:

7. By way of derogation from Article 41(1) and (2) as regards the financial contributions referred to in paragraph 2 of this Article, the Member State's payment application to the Commission shall be made on the basis of 100 % of the amounts to be paid by the Member State to the EIB in accordance with the schedule defined in the funding agreement referred to in point (c) of the first subparagraph of paragraph 4 of this Article. Such payment applications shall be based on the amounts requested by the EIB deemed necessary to cover commitments under guarantee agreements or securitisation transactions to be finalised within the three following months. Payments from Member States to the EIB shall be made without delay and in any case before commitments are entered into by the EIB.

8 At closure of the programme, the eligible expenditure as referred to in points (a) and (b) of the first subparagraph of Article 42(1) shall be the total amount of programme contributions paid to the financial instrument, corresponding:

- a for the activities referred to in point (a) of the first subparagraph of paragraph 2 of this Article, to the resources referred to in point (b) of the first subparagraph of Article 42(1);
- b for the activities referred to in point (b) of the first subparagraph of paragraph 2 of this Article, to the aggregate amount of new debt finance resulting from the securitisation transactions, paid to or to the benefit of eligible SMEs within the eligibility period set out in Article 65(2).;

(13) the following article is inserted:

Article 39a

Contribution of ESI Funds to financial instruments combining such contribution with EIB financial products under the European Fund for Strategic Investments

1 In order to attract additional private sector investment managing authorities may use the ESI Funds to provide a contribution to financial instruments referred to in point (c) of Article 38(1) provided that it contributes, inter alia, to the achievement of the objectives of the ESI Funds and to the Union strategy for smart, sustainable and inclusive growth.

2 The contribution referred to in paragraph 1 shall not exceed 25 % of the total support provided to final recipients. In the less developed regions referred to in point (b) of the first subparagraph of Article 120(3), the financial contribution may exceed 25 % where duly justified by the assessments referred to in Article 37(2) or in paragraph 3 of this Article, but shall not exceed 40 %. The total support referred to in this paragraph shall comprise the total amount of new loans and guaranteed loans as well as equity and quasi-equity investments provided to final recipients. The guaranteed loans referred to in this paragraph shall only be taken into account to the extent that the ESI Funds resources are committed for guarantee contracts calculated on the basis of a prudent *ex ante* risk assessment covering a multiple amount of new loans.

3 By way of derogation from Article 37(2), contributions pursuant to paragraph 1 of this Article may be based on the preparatory assessment, including the due diligence, carried out by the EIB for the purposes of its contribution to the financial product under the EFSI.

4 Reporting by managing authorities under Article 46 of this Regulation on operations comprising financial instruments under this Article shall be based on the information kept by the EIB for the purposes of its reporting pursuant to Article 16(1) and (2) of Regulation (EU) 2015/1017, supplemented by the additional information required under Article 46(2) of this Regulation. The requirements set out in this paragraph shall allow for uniform reporting conditions in accordance with Article 46(3) of this Regulation.

5 When contributing to financial instruments referred to in point (c) of Article 38(1) the managing authority may do any of the following:

- a invest in the capital of an existing or newly created legal entity dedicated to implement investments in final recipients consistent with the objectives of the respective ESI Funds which will undertake implementation tasks;
- b entrust implementation tasks in accordance with points (b) and (c) of the first subparagraph of Article 38(4).

The body entrusted with implementation tasks as referred to in point (b) of the first subparagraph of this paragraph shall either open a fiduciary account in its name and on behalf of the managing authority or set up a separate block of finance within the institution for programme contribution. In the case of a separate block of finance, an accounting distinction shall be made between programme resources invested in the financial instrument and the other resources available in the institution. The assets held on fiduciary accounts and such separate blocks of finance shall be managed in

accordance with the principle of sound financial management following appropriate prudential rules and shall have appropriate liquidity.

For the purposes of this Article, a financial instrument may also take the form or be part of an investment platform in line with Article 2(4) of Regulation (EU) 2015/1017, provided that the investment platform takes the form of a special purpose vehicle or a managed account.

6 When implementing financial instruments under point (c) of Article 38(1) of this Regulation, the bodies referred to in paragraph 5 of this Article shall ensure compliance with applicable law and with the requirements laid down in Article 155(2) and (3) of the Financial Regulation.

7 By 3 November 2018, the Commission shall adopt delegated acts in accordance with Article 149 supplementing this Regulation by laying down additional specific rules on the role, liabilities and responsibility of bodies implementing financial instruments, related selection criteria and products that may be delivered through financial instruments in accordance with point (c) of Article 38(1).

8 The bodies referred to in paragraph 5 of this Article, when implementing funds of funds may further entrust part of the implementation to financial intermediaries provided that such bodies ensure under their responsibility that the financial intermediaries satisfy the criteria laid down in Articles 33(1) and 209(2) of the Financial Regulation. Financial intermediaries shall be selected on the basis of open, transparent, proportionate and non-discriminatory procedures, avoiding conflict of interests.

9 Where, for the purposes of implementing financial instruments referred to in point (c) of Article 38(1), managing authorities contribute the ESI Funds programme resources to an existing instrument, the fund manager of which has already been selected by the EIB, an international financial institution in which a Member State is a shareholder, or a publicly-owned bank or institution, established as a legal entity carrying out financial activities on a professional basis and fulfilling the conditions set out in point (b)(iii) of the first subparagraph of Article 38(4), they shall entrust implementation tasks to that fund manager through the award of a direct contract.

10 By way of derogation from Article 41(1) and (2), for contributions to financial instruments under paragraph 9 of this Article, applications for interim payment shall be phased in line with the payment schedule set out in the funding agreement. The payment schedule referred to in the first sentence of this paragraph shall correspond to the payment schedule agreed for other investors in the same financial instrument.

11 The terms and conditions for contributions pursuant to point (c) of Article 38(1) shall be set out in funding agreements in accordance with Annex IV at the following levels:

- a where applicable, between the duly mandated representatives of the managing authority and the body that implements the fund of funds;
- b between the duly mandated representatives of the managing authority, or where applicable, between the body that implements the fund of funds, and the body that implements the financial instrument.

12 For contributions pursuant to paragraph 1 of this Article to investment platforms which receive contributions from instruments set up at Union level,

consistency with State aid rules shall be ensured in accordance with point (c) of the first subparagraph of Article 209(2) of the Financial Regulation.

13 In the case of financial instruments referred to in point (c) of Article 38(1) which take the form of a guarantee instrument, Member States may decide that the ESI Funds contribute, as appropriate, to different tranches of portfolios of loans covered also under the EU guarantee pursuant to Regulation (EU) 2015/1017.

14 For the ERDF, the ESF, the Cohesion Fund and the EMFF, a separate priority, and for the EAFRD, a separate type of operation, with a co-financing rate of up to 100 % may be established within a programme to support operations implemented through financial instruments referred to in point (c) of Article 38(1).

15 Notwithstanding Article 70 and Article 93(1), contributions pursuant to paragraph 1 of this Article may be used for the purpose of giving rise to new debt and equity finance in the entire territory of the Member State without regard to the categories of region, unless otherwise provided in the funding agreement.

16 By 31 December 2019, the Commission shall carry out a review of the application of this Article and shall where appropriate submit to the European Parliament and Council a legislative proposal.;

(14) Article 40 is amended as follows:

(a) paragraphs 1 and 2 are replaced by the following:

1. The authorities designated in accordance with Article 124 of this Regulation and with Article 65 of the EAFRD Regulation shall not carry out on-the-spot verifications at the level of the EIB or other international financial institutions in which a Member State is a shareholder, for financial instruments implemented by them.

However, the designated authorities shall carry out verifications in accordance with Article 125(5) of this Regulation and checks in accordance with Article 59(1) of Regulation (EU) No 1306/2013 at the level of other bodies implementing the financial instruments in the jurisdiction of their respective Member State.

The EIB and other international financial institutions in which a Member State is a shareholder shall provide to the designated authorities a control report with each application for payment. They shall also provide to the Commission and to the designated authorities an annual audit report drawn up by their external auditors. Those reporting obligations are without prejudice to the reporting obligations, including as regards the performance of the financial instruments, as set out in Article 46(1) and (2) of this Regulation.

The Commission shall be empowered to adopt an implementing act concerning the models for the control reports and the annual audit reports referred to in the third subparagraph of this paragraph.

That implementing act shall be adopted in accordance with the advisory procedure referred to in Article 150(2).

2 Without prejudice to Article 127 of this Regulation and Article 9 of Regulation (EU) No 1306/2013, the bodies responsible for the audit of the programmes shall not carry out audits at the level of the EIB or other

international financial institutions in which a Member State is a shareholder, for financial instruments implemented by them.

The bodies responsible for the audit of the programmes shall carry out audits of operations and of management and control systems at the level of other bodies implementing the financial instruments in their respective Member States and at the level of the final recipients provided that the conditions set out in paragraph 3 are fulfilled.

The Commission may carry out audits at the level of the bodies referred to in paragraph 1, where it concludes that this is necessary to obtain reasonable assurance given the risks identified.

2a As regards financial instruments referred to in point (a) of Article 38(1) and Article 39 which were established by a funding agreement signed before 2 August 2018, the rules set out in this Article applicable at the moment of the signature of the funding agreement shall apply, by way of derogation from paragraphs 1 and 2 of this Article.;

(b) paragraph 4 is replaced by the following:

4. By 3 November 2018, the Commission shall adopt delegated acts in accordance with Article 149 supplementing this Regulation by laying down additional specific rules on the management and control of financial instruments referred to in points (b) and (c) of Article 38(1), the types of controls to be performed by managing and audit authorities, the arrangements for keeping supporting documents and the elements to be evidenced by supporting documents.;

(c) the following paragraph is inserted:

5a. By way of derogation from Article 143(4) of this Regulation and from the second paragraph of Article 56 of Regulation (EU) No 1306/2013, in operations comprising financial instruments, a contribution cancelled in accordance with Article 143(2) of this Regulation or in accordance with the first paragraph of Article 56 of Regulation (EU) No 1306/2013, as a result of an individual irregularity, may be reused within the same operation under the following conditions:

- a where the irregularity that gives rise to the cancellation of the contribution is detected at the level of the final recipient, the contribution cancelled may be reused only for other final recipients within the same financial instrument;
- b where the irregularity that gives rise to the cancellation of the contribution is detected at the level of the financial intermediary within a fund of funds, the contribution cancelled may be reused only for other financial intermediaries.

Where the irregularity that gives rise to the cancellation of the contribution is detected at the level of the body implementing funds of funds, or at the level of the body implementing financial instruments where a financial instrument is implemented through a structure without a fund of funds, the contribution cancelled may not be reused within the same operation.

Where a financial correction is made for a systemic irregularity, the contribution cancelled may not be reused for any operation affected by the systemic irregularity.;

(15) Article 41 is amended as follows:

(a) in the first subparagraph of paragraph 1, the introductory part is replaced by the following:

1. As regards financial instruments referred to in points (a) and (c) of Article 38(1), and as regards financial instruments referred to in point (b) of Article 38(1) implemented in accordance with points (a), (b) and (c) of the first subparagraph of Article 38(4), phased applications for interim payment shall be made for programme contributions paid to the financial instrument during the eligibility period laid down in Article 65(2) (the “eligibility period”) in accordance with the following conditions.;

(b) paragraph 2 is replaced by the following:

2. As regards financial instruments referred to in point (b) of Article 38(1) implemented in accordance with point (d) of the first subparagraph of Article 38(4), the applications for interim payment and for payment of the final balance shall include the total amount of the payments effected by the managing authority for investments in final recipients as referred to in points (a) and (b) of the first subparagraph of Article 42(1).;

(16) Article 42 is amended as follows:

(a) in paragraph 3, the first subparagraph is replaced by the following:

3. In the case of equity-based instruments targeting enterprises referred to in Article 37(4) for which the funding agreement referred to in point (b) of Article 38(7) was signed before 31 December 2018, which by the end of the eligibility period invested at least 55 % of the programme resources committed in the relevant funding agreement, a limited amount of payments for investments in final recipients to be made for a period not exceeding four years after the end of the eligibility period may be considered as eligible expenditure, when paid into an escrow account specifically set up for that purpose, provided that State aid rules are complied with and that all of the conditions set out below are fulfilled.;

(b) in paragraph 5, the first subparagraph is replaced by the following:

5. Where management costs and fees as referred to in point (d) of the first subparagraph of paragraph 1 of this Article and in paragraph 2 of this Article are charged by the body implementing the fund of funds or bodies implementing financial instruments pursuant to point (c) of Article 38(1) and points (a), (b) and (c) of the first subparagraph of Article 38(4), they shall not exceed the thresholds defined in the delegated act referred to in paragraph 6 of this Article. Whereas management costs shall comprise direct or indirect cost items reimbursed against evidence of expenditure, management fees shall refer to an agreed price for services rendered established via a competitive market process, where applicable. Management costs and fees shall be based on a performance-based calculation methodology.;

(17) The following article is inserted:

Article 43a

Differentiated treatment of investors

1 Support from the ESI Funds to financial instruments invested in final recipients and gains and other earnings or yields, such as interest, guarantee fees, dividends, capital gains or any other income generated by those investments, which are attributable to the support from the ESI Funds, may be used for differentiated treatment of investors operating under the market economy principle, as well as of the EIB when using the EU guarantee pursuant to Regulation (EU) 2015/1017. Such differentiated treatment shall be justified by the need to attract private counterpart resources and to leverage public funding.

2 The assessments referred to in Articles 37(2) and 39a(3) shall include, as appropriate, an assessment of the need for, and the extent of, differentiated treatment as referred to in paragraph 1 of this Article and/or a description of the mechanisms which will be used to establish the need for, and extent of, such differentiated treatment.

3 The differentiated treatment shall not exceed what is necessary to create the incentives for attracting private counterpart resources. It shall not over-compensate investors operating under the market economy principle, or the EIB when using the EU guarantee pursuant to Regulation (EU) 2015/1017. The alignment of interest shall be ensured through an appropriate sharing of risk and profit.

4 Differentiated treatment of investors operating under the market economy principle shall be without prejudice to the Union State aid rules.;

(18) in Article 44, paragraph 1 is replaced by the following:

1. Without prejudice to Article 43a, resources paid back to financial instruments from investments or from the release of resources committed for guarantee contracts, including capital repayments and gains and other earnings or yields, such as interest, guarantee fees, dividends, capital gains or any other income generated by investments, which are attributable to the support from the ESI Funds, shall be re-used for the following purposes, up to the amounts necessary and in the order agreed in the relevant funding agreements:

- a further investments through the same or other financial instruments, in accordance with the specific objectives set out under a priority;
- b where applicable, to cover the losses in the nominal amount of the ESI Funds contribution to the financial instrument resulting from negative interest, if such losses occur despite active treasury management by the bodies implementing financial instruments;
- c where applicable, reimbursement of management costs incurred and payment of management fees of the financial instrument.;

(19) in Article 46(2), the first subparagraph is amended as follows:

- (a) point (c) is replaced by the following:
 - (c) identification of the bodies implementing financial instruments, and the bodies implementing funds of funds where applicable, as referred to under points (a), (b) and (c) of Article 38(1);;
- (b) points (g) and (h) are replaced by the following:

- (g) interest and other gains generated by support from the ESI Funds to the financial instrument and 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;
 - (h) progress in achieving the expected leverage effect of investments made by the financial instrument;;
- (20) in Article 49, paragraph 4 is replaced by the following:
 - 4. The monitoring committee may make observations to the managing authority regarding implementation and evaluation of the programme including actions related to the reduction of the administrative burden on beneficiaries. It may also make observations on the visibility of support from the ESI Funds and on raising awareness about the results of such support. It shall monitor actions taken as a result of its observations.;
- (21) in Article 51, paragraph 1 is replaced by the following:
 - 1. An annual review meeting shall be organised every year from 2016 until and including 2023 between the Commission and each Member State to examine the performance of each programme, taking account of the annual implementation report and the Commission's observations where applicable. The meeting shall also review the programme's communication and information activities, in particular the results and effectiveness of measures taken to inform the public about the results and added value of support from the ESI Funds.;
- (22) in Article 56, paragraph 5 is deleted;
- (23) in Article 57, paragraph 3 is replaced by the following:
 - 3. Paragraph 1 and 2 of this Article shall also apply to the contributions from the ERDF or the EAFRD to the dedicated programmes referred to in point (b) of the first subparagraph of Article 39(4).;
- (24) Article 58(1) is amended as follows:
 - (a) in the second subparagraph, the reference to 'Article 60 of the Financial Regulation' is replaced by 'Article 154 of the Financial Regulation';
 - (b) in the third subparagraph, point (f) is replaced by the following:
 - (f) actions to disseminate information, support networking, carry out communication activities with particular attention to the results and added value of support from the ESI Funds, raise awareness and promote cooperation and exchange of experience, including with third countries;;
 - (c) the fourth subparagraph is replaced by the following:

The Commission shall dedicate at least 15 % of the resources referred to in this Article to bring about greater efficiency in communication to the public and stronger synergies between the communication activities undertaken at the initiative of the Commission, by extending the knowledge base on results, in particular through more effective data collection and dissemination, evaluations and reporting, and especially

by highlighting the contribution of the ESI Funds to improving people's lives, and by increasing the visibility of support from the ESI Funds as well as by raising awareness about the results and the added value of such support. Information, communication and visibility measures on results and added value of support from the ESI Funds, with particular focus on operations, shall be continued after the closure of the programmes, where appropriate. Such measures shall also contribute to the corporate communication of the political priorities of the Union as far as they are related to the general objectives of this Regulation.;

(d) the following subparagraph is added:

Depending on their purpose, the measures referred to in this Article can be financed either as operational or administrative expenditure.;

(25) Article 59 is amended as follows:

(a) the following paragraph is inserted:

1a. Each ESI Fund may support technical assistance operations eligible under any of the other ESI Funds.;

(b) the following paragraph is added:

3. Without prejudice to paragraph 2, Member States may implement actions referred to in paragraph 1 through the direct award of a contract to:

- a the EIB;
- b an international financial institution in which a Member State is a shareholder;
- c a publicly-owned bank or institution, as referred to in point (b)(iii) of the first subparagraph of Article 38(4).;

(26) Article 61 is amended as follows:

(a) in paragraph 1, the first subparagraph is replaced by the following:

1. This Article shall apply to operations which generate net revenue after their completion. For the purposes of this Article, "net revenue" means cash in-flows directly paid by users for the goods or services provided by the operation, such as charges borne directly by users for the use of infrastructure, sale or rent of land or buildings, or payments for services less any operating costs and replacement costs of short-life equipment incurred during the corresponding period. Operating cost-savings generated by the operation, with the exception of cost-savings resulting from the implementation of energy efficiency measures, shall be treated as net revenue unless they are offset by an equal reduction in operating subsidies.;

(b) in the first subparagraph of paragraph 3, the following point is inserted:

(aa) application of a flat rate net revenue percentage established by a Member State for a sector or subsector not covered by point (a). Before the application of the flat rate the responsible audit authority shall verify that the flat rate has been established according to a fair, equitable and verifiable method based on historical data or objective criteria.;

(c) paragraph 5 is replaced by the following:

5. As an alternative to the application of the methods laid down in paragraph 3 of this Article, the maximum co-financing rate referred to in Article 60(1) may, at the request of a Member State, be decreased for a priority or measure under which all supported operations could apply a uniform flat rate in accordance with point (a) of the first subparagraph of paragraph 3 of this Article. The decrease shall be not less than the amount calculated by multiplying the maximum Union co-financing rate applicable under the Fund-specific rules by the relevant flat rate referred to in that point.;

(d) in the first subparagraph of paragraph 7, point (h) is replaced by the following:

(h) operations for which amounts or rates of support are defined in Annex II to the EAFRD Regulation or in the EMFF Regulation.;

(e) paragraph 8 is replaced by the following:

8. In addition, paragraphs 1 to 6 shall not apply to operations for which support under the programme constitutes State aid.;

(27) Article 65 is amended as follows:

(a) the third subparagraph of paragraph 8 is amended as follows:

(i) Point (h) is replaced by the following:

(h) operations for which amounts or rates of support are defined in Annex II to the EAFRD Regulation or in the EMFF Regulation with the exception of those operations for which reference is made to this paragraph in the EMFF Regulation; or;

(ii) Point (i) is replaced by the following:

(i) operations for which the total eligible cost does not exceed EUR 100 000.;

(b) paragraph 11 is replaced by the following:

11. An operation may receive support from one or more ESI Funds or from one or more programmes and from other Union instruments, provided that the expenditure declared in a payment application for one of the ESI Funds is not declared for support from another Fund or Union instrument, or for support from the same Fund under another programme. The amount of expenditure to be entered into a payment application of an ESI Fund may be calculated for each ESI Fund and for the programme or programmes concerned on a pro rata basis in accordance with the document setting out the conditions for support.;

(28) Article 67 is amended as follows:

(a) paragraph 1 is amended as follows:

(i) point (c) is replaced by the following:

(c) lump sums;;

- (ii) the following point is added:
 - (e) financing which is not linked to costs of the relevant operations but is based on the fulfilment of conditions related to the realisation of progress in implementation or the achievement of objectives of programmes as set out in the delegated act adopted in accordance with paragraph 5a.;
- (iii) the following subparagraph is added:

For the form of financing referred to in point (e) of the first subparagraph, the audit shall exclusively aim at verifying that the conditions for reimbursement have been fulfilled.;
- (b) the following paragraph is inserted:

2a. For an operation or a project not covered by the first sentence of paragraph 4 and which receive support from the ERDF and the ESF, grants and repayable assistance for which the public support does not exceed EUR 100 000 shall take the form of standard scales of unit costs, lump sums or flat rates, except for operations receiving support within the framework of State aid that does not constitute *de minimis* aid.

Where flat-rate financing is used, the categories of costs to which the flat rate is applied may be reimbursed in accordance with point (a) of the first subparagraph of paragraph 1.

For operations supported by the EAFRD, ERDF or the ESF, where the flat rate referred to in Article 68b(1) is used, the allowances and the salaries paid to participants may be reimbursed in accordance with point (a) of the first subparagraph of paragraph 1 of this Article.

This paragraph shall be subject to the transitional provisions set out in Article 152(7).;
- (c) paragraph 4 is replaced by the following:

4. Where an operation or a project forming a part of an operation is implemented exclusively through the public procurement of works, goods or services, only points (a) and (e) of the first subparagraph of paragraph 1 shall apply. Where the public procurement within an operation or project forming part of an operation is limited to certain categories of costs, all the options referred to in paragraph 1 may be applied for the whole operation or project forming a part of an operation.;
- (d) paragraph 5 is amended as follows:
 - (i) point (a) is replaced by the following:
 - (a) a fair, equitable and verifiable calculation method based on any of the following:
 - (i) statistical data, other objective information or an expert judgement;

- (ii) the verified historical data of individual beneficiaries;
- (iii) the application of the usual cost accounting practices of individual beneficiaries;;
- (ii) the following point is inserted:
 - (aa) a draft budget established on a case-by-case basis and agreed *ex ante* by the managing authority, or in the case of EAFRD the authority responsible for the selection of operations, where the public support does not exceed EUR 100 000;;
- (e) the following paragraph is inserted:

5a. The Commission is empowered to adopt delegated acts in accordance with Article 149 supplementing this Regulation with regard to the definition of the standard scales of unit costs or the flat-rate financing referred to in points (b) and (d) of the first subparagraph of paragraph 1 of this Article, the related methods referred to in point (a) of paragraph 5 of this Article and the form of support referred to in point (e) of the first subparagraph of paragraph 1 of this Article, by specifying detailed modalities concerning the financing conditions and their application.;
- (29) Article 68 is replaced by the following:

Article 68

**Flat-rate financing for indirect costs
concerning grants and repayable assistance**

Where the implementation of an operation gives rise to indirect costs, they may be calculated at a flat rate in one of the following ways:

- (a) a flat rate of up to 25 % of eligible direct costs, provided that the rate is calculated on the basis of a fair, equitable and verifiable calculation method or a method applied under schemes for grants funded entirely by the Member State for a similar type of operation and beneficiary;
- (b) a flat rate of up to 15 % of eligible direct staff costs without there being a requirement for the Member State to perform a calculation to determine the applicable rate;
- (c) a flat rate applied to eligible direct costs based on existing methods and corresponding rates, applicable in Union policies for a similar type of operation and beneficiary.

The Commission is empowered to adopt delegated acts in accordance with Article 149 to supplement the provisions on the flat rate and the related methods referred to in point (c) of the first subparagraph of this paragraph.;

- (30) the following articles are inserted:

Article 68a

Staff costs concerning grants and repayable assistance

1 Direct staff costs of an operation may be calculated at a flat rate of up to 20 % of the direct costs other than the staff costs of that operation. Member States shall not be required to perform a calculation to determine the applicable rate provided that the direct costs of the operation do not include public works contracts which exceed in value the threshold set out in point (a) of Article 4 of Directive 2014/24/EU.

2 For the purposes of determining staff costs, an hourly rate may be calculated by dividing the latest documented annual gross employment costs by 1 720 hours for persons working full time, or by a corresponding pro-rata of 1 720 hours, for persons working part-time.

3 When applying the hourly rate calculated in accordance with paragraph 2, the total number of hours declared per person for a given year shall not exceed the number of hours used for the calculations of that hourly rate.

The first subparagraph shall not apply to programmes under the European territorial cooperation goal for staff costs related to individuals who work on a part-time assignment on the operation.

4 Where annual gross employment costs are not available, they may be derived from the available documented gross employment costs or from the contract for employment, duly adjusted for a 12-month period.

5 Staff costs related to individuals who work on part-time assignment on the operation may be calculated as a fixed percentage of the gross employment costs, in line with a fixed percentage of time worked on the operation per month, with no obligation to establish a separate working time registration system. The employer shall issue a document for employees setting out that fixed percentage.

Article 68b

Flat-rate financing for costs other than staff costs

1 A flat rate of up to 40 % of eligible direct staff costs may be used in order to cover the remaining eligible costs of an operation without a requirement for the Member State to execute any calculation to determine the applicable rate.

For operations supported by the ESF, the ERDF or the EAFRD, salaries and allowances paid to participants shall be considered additional eligible costs not included in the flat rate.

2 The flat rate referred to in paragraph 1 shall not be applied to staff costs calculated on the basis of a flat rate.;

(31) Article 70 is replaced by the following:

Article 70

Eligibility of operations depending on location

1 Subject to the derogations referred to in paragraph 2 and the Fund-specific rules, operations supported by the ESI Funds shall be located in the programme area.

Operations concerning the provision of services to citizens or businesses which cover the whole territory of a Member State shall be considered as being located in all programme areas within a Member State. In such cases, expenditure shall be allocated to the concerned programme areas on a pro-rata basis, based on objective criteria.

The second subparagraph of this paragraph does not apply to the national programme referred to in Article 6(2) of Regulation (EU) No 1305/2013 or to the specific programme for the establishment and the operation of the national rural network referred to in Article 54(1) of that Regulation.

2 The managing authority may accept that an operation is implemented outside the programme area but within the Union, provided that all the following conditions are satisfied:

- a the operation is for the benefit of the programme area;
- b the total amount from the ERDF, Cohesion Fund, EAFRD or EMFF allocated under the programme to operations located outside the programme area does not exceed 15 % of the support from the ERDF, Cohesion Fund, EAFRD or EMFF at the level of the priority at the time of adoption of the programme;
- c the monitoring committee has given its agreement to the operation or types of operations concerned;
- d the obligations of the authorities for the programme in relation to management, control and audit concerning the operation are fulfilled by the authorities responsible for the programme under which that operation is supported or they enter into agreements with authorities in the area in which the operation is implemented.

Where operations financed from the Funds and the EMFF are implemented outside the programme area in accordance with this paragraph and have benefits both outside and within the programme area, such expenditure shall be allocated to those areas on a pro rata basis based on objective criteria.

Where operations concern the thematic objective referred to in point (1) of the first paragraph of Article 9 and are implemented outside the Member State but within the Union, only points (b) and (d) of the first subparagraph of this paragraph shall apply.

3 For operations concerning technical assistance or information, communication and visibility measures and promotional activities, and for operations concerning the thematic objective referred to in point (1) of the first paragraph of Article 9, expenditure may be incurred outside the Union provided that the expenditure is necessary for the satisfactory implementation of the operation.

4 Paragraphs 1, 2 and 3 shall not apply to programmes under the European territorial cooperation goal. Paragraphs 2 and 3 shall not apply to operations supported by the ESF;

(32) in Article 71, paragraph 4 is replaced by the following:

4. Paragraphs 1, 2 and 3 of this Article shall not apply to contributions to or by financial instruments or for lease purchase under point (b) of Article 45(2) of Regulation (EU) No 1305/2013 nor to any operation which undergoes cessation of a productive activity due to a non-fraudulent bankruptcy.;

(33) Article 75 is amended as follows:

(a) in paragraph 1, the reference to ‘Article 59(5) of the Financial Regulation’ is replaced by ‘Article 63(5), (6) and (7) of the Financial Regulation’;

(b) the following paragraph is inserted:

2a. The Commission shall provide the competent national authority with:

- a the draft audit report from the on-the-spot audit or check within three months of the end of that audit or check;
- b the final audit report within three months of the receipt of a complete reply from the competent national authority to the draft audit report from the on-the-spot audit or check concerned.

The reports referred to in points (a) and (b) of the first subparagraph shall be made available within the time limits set out in those points in at least one of the official languages of the institutions of the Union.

The time limit set out in point (a) of the first subparagraph shall not include the period which starts on the date following the date on which the Commission sends its request for additional information to the Member State and lasts until the Member State responds to that request.

This paragraph shall not be applicable to the EAFRD.;

(34) in the second paragraph of Article 76, the reference to ‘Article 84(2) of the Financial Regulation’ is replaced by ‘Article 110(1) of the Financial Regulation’;

(35) in Article 79(2), the reference to ‘Article 68(3) of the Financial Regulation’ is replaced by ‘Article 82(2) of the Financial Regulation’;

(36) in point (c) of the first subparagraph of Article 83(1), the reference to ‘Article 59(5) of the Financial Regulation’ is replaced by ‘Article 63(5), (6) and (7) of the Financial Regulation’;

(37) in Article 84, the reference to ‘Article 59(6) of the Financial Regulation’ is replaced by ‘Article 63(8) of the Financial Regulation’;

(38) in Article 98, paragraph 2 is replaced by the following:

2. The ERDF and the ESF may finance, in a complementary manner and subject to a limit of 10 % of Union funding for each priority axis of an operational programme, a part of an operation for which the costs are eligible for support from the other Fund on the basis of rules applied to that Fund, provided that such costs are necessary for the satisfactory implementation of the operation and are directly linked to it.;

(39) Article 102 is amended as follows:

(a) paragraph 6 is replaced by the following:

6. Expenditure relating to a major project may be included in a payment application after the submission for approval referred to in paragraph 2. Where the Commission does not approve the major project selected by the managing authority, the declaration of expenditure following the withdrawal of the application by the Member State or the adoption of the Commission decision shall be rectified accordingly.;

(b) the following paragraph is added:

7. Where the major project is appraised by independent experts pursuant to paragraph 1 of this Article, expenditure relating to that major project may be included in a payment application after the managing authority has informed the Commission of the submission to the independent experts of the information required under Article 101.

An independent quality review shall be delivered within six months of the submission of that information to the independent experts.

The corresponding expenditure shall be withdrawn and the declaration of expenditure shall be rectified accordingly in the following cases:

- a where the independent quality review has not been notified to the Commission within three months of the expiry of the deadline referred to in the second subparagraph;
- b where the submission of the information is withdrawn by the Member State; or
- c where the relevant appraisal is negative.;

(40) in Article 104, paragraphs 2 and 3 are replaced by the following:

2. The public expenditure allocated to a joint action plan shall be a minimum of EUR 5 000 000 or 5 % of the public support of the operational programme or one of the contributing programmes, whichever is lower.

3 Paragraph 2 shall not apply to operations supported under the YEI, to the first joint action plan submitted by a Member State under the Investment for growth and jobs goal or the first joint action plan submitted by a programme under the European territorial cooperation goal.;

(41) in Article 105(2), the second sentence is deleted;

(42) in Article 106, the first paragraph is amended as follows:

(a) point (1) is replaced by the following:

(1) a description of the objectives of the joint action plan and how it contributes to the objectives of the programme or to the relevant country-specific recommendations and the broad guidelines of the economic policies of the Member States and of the Union under Article 121(2) TFEU and the relevant Council recommendations which the Member States are to take into account in their employment policies under Article 148(4) TFEU.;

(b) point (2) is deleted;

(c) point (3) is replaced by the following:

- (3) a description of the projects or types of projects envisaged, together with the milestones, where relevant, and the targets for outputs and results linked to the common indicators by priority axis, where relevant;;
- (d) points (6), (7) and (8) are replaced by the following:
 - (6) confirmation that it will contribute to the approach to promoting equality between men and women, as set out in the relevant programme or Partnership Agreement;
 - (7) confirmation that it will contribute to the approach on sustainable development, as set out in the relevant programme or Partnership Agreement;
 - (8) its implementing provisions, including the following:
 - (a) information on the selection of the joint action plan by the managing authority in accordance with Article 125(3);
 - (b) the arrangements for steering the joint action plan, in accordance with Article 108;
 - (c) the arrangements for monitoring and evaluating the joint action plan including arrangements ensuring the quality, collection and storage of data on the achievement of milestones, outputs and results;;
- (e) point (9) is amended as follows:
 - (i) point (a) is replaced by the following:
 - (a) the costs of achieving milestones, and targets for outputs and results, based, in the case of standard scales of unit costs and lump sums, on the methods set out in Article 67(5) of this Regulation and in Article 14 of the ESF Regulation;;
 - (ii) point (b) is deleted;
- (43) in Article 107, paragraph 3 is replaced by the following:
 3. The decision referred to in paragraph 2 shall indicate the beneficiary and the objectives of the joint action plan, the milestones, where relevant, and targets for outputs and results, the costs of achieving those milestones and targets for outputs and result, and the financing plan by operational programme and priority axis, including the total eligible amount and the amount of public expenditure, the implementation period of the joint action plan and, where relevant, the geographical coverage and target groups of the joint action plan.;
- (44) in Article 108(1), the first subparagraph is replaced by the following:
 1. The Member State or the managing authority shall set up a steering committee for the joint action plan, which may be distinct from the monitoring committee of the relevant operational programmes. The steering committee shall meet at least twice a year and shall report to the managing authority. Where relevant, the managing authority shall inform the relevant monitoring committee of the results of

the work carried out by the steering committee and the progress of the implementation of the joint action plan in accordance with point (e) of Article 110(1) and point (a) of Article 125(2).;

- (45) in Article 109(1), the second sentence is deleted;
- (46) Article 110 is amended as follows:
- (a) in paragraph 1, point (c) is replaced by the following:
 - (c) implementation of the communication strategy, including information and communication measures, and of measures to enhance the visibility of the Funds;;
 - (b) in paragraph 2, point (a) is replaced by the following:
 - (a) the methodology and criteria used for selection of operations, except where those criteria are approved by local action groups in accordance with point (c) of Article 34(3);;
- (47) Article 114 is amended as follows:
- (a) paragraph 1 is replaced by the following:
 1. An evaluation plan shall be drawn up by the managing authority or a Member State for one or more operational programmes. The evaluation plan shall be submitted to the monitoring committee no later than one year after the adoption of the operational programme. In the cases of dedicated programmes referred to in point (b) of the first subparagraph of Article 39(4) adopted before 2 August 2018, the evaluation plan shall be submitted to the monitoring committee no later than one year after that date.;
 - (b) paragraph 4 is deleted;
- (48) the heading of Chapter II of Title III of Part Three is replaced by the following:
- Information, communication and visibility;
- (49) Article 115 is amended as follows:
- (a) the heading is replaced by the following:

Information, communication and visibility;
 - (b) in paragraph 1, point (d) is replaced by the following:
 - (d) publicising to Union citizens the role and achievements of cohesion policy and of the Funds through measures to enhance the visibility of the results and impact of Partnership Agreements, operational programmes and operations.;
 - (c) paragraph 3 is replaced by the following:
 3. Detailed rules concerning information, communication and visibility for the public and information measures for potential beneficiaries and for beneficiaries are laid down in Annex XII.;
- (50) in Article 116, paragraph 3 is replaced by the following:

3. By way of derogation from the third subparagraph of paragraph 2 of this Article, the managing authority shall inform the monitoring committee or committees responsible at least once a year on the progress in the implementation of the communication strategy as referred to in point (c) of Article 110(1) and on its analysis of the results of that implementation as well as on the information and communication activities and measures to enhance visibility of the Funds that are planned for the following year. The monitoring committee shall give an opinion on the activities and measures planned for the following year, including on ways to increase the effectiveness of communication activities aimed at the public.;
- (51) in Article 117, paragraph 4 is replaced by the following:
4. Union networks comprising the members designated by Member States shall be set up by the Commission to ensure exchange of information on the results of the implementation of the communication strategies, the exchange of experience in implementing the information and communication measures, the exchange of good practices, and to enable joint planning or coordination of communication activities between the Member States and with the Commission where appropriate. The networks shall at least once a year debate and assess the effectiveness of the information and communication measures, and propose recommendations to enhance the outreach and impact of communication activities and to raise awareness about the results and added value of those activities.;
- (52) Article 119 is amended as follows:
- (a) in paragraph 1, the first subparagraph is replaced by the following:
1. The amount of the Funds allocated to technical assistance in a Member State shall be limited to 4 % of the total amount of the Funds allocated to operational programmes under the Investment for growth and jobs goal.;
- (b) in paragraph 2, the first sentence is deleted;
- (c) paragraph 4 is replaced by the following:
4. In the case of the Structural Funds, where the allocations referred to in paragraph 1 are used to support technical assistance operations altogether relating to more than one category of region, the expenditure relating to the operations may be implemented under a priority axis combining different categories of region and attributed on a pro rata basis taking into account either the respective allocations to the different categories of regions of the operational programme or the allocation under each category of region as a share of the total allocation to the Member State.;
- (d) the following paragraph is inserted:
- 5a. The assessment of the respect of the percentages shall be carried out at the time of adoption of the operational programme.;
- (53) in Article 122(2), the fourth subparagraph is replaced by the following:
- When amounts unduly paid to a beneficiary for an operation cannot be recovered and this is as a result of fault or negligence on the part of a Member State, that Member State shall be responsible for reimbursing the amounts concerned to the budget of the Union. Member States may decide not to recover an amount unduly

paid if the amount to be recovered from the beneficiary, not including interest, does not exceed EUR 250 in contribution from the Funds to an operation in an accounting year.;

(54) in Article 123(5), the first subparagraph is replaced by the following:

5. In the case of the Funds and in the case of the EMFF, provided that the principle of separation of functions is respected, the managing authority, the certifying authority, where applicable, and the audit authority may be part of the same public authority or body.;

(55) Article 125 is amended as follows:

(a) in paragraph 3, point (c) is replaced by the following:

(c) ensure that the beneficiary is provided with a document setting out the conditions for support for each operation including the specific requirements concerning the products or services to be delivered under the operation, the financing plan, the time limit for execution, as well as the requirements regarding information, communication and visibility.;

(b) the first subparagraph of paragraph 4 is amended as follows:

(i) point (a) is replaced by the following:

(a) verify that the co-financed products and services have been delivered, that the operation complies with applicable law, the operational programme and the conditions for support of the operation and:

(i) where costs are to be reimbursed pursuant to point (a) of the first subparagraph of Article 67(1), that the amount of expenditure declared by the beneficiaries in relation to those costs has been paid;

(ii) in the case of costs reimbursed pursuant to points (b) to (e) of the first subparagraph of Article 67(1), that the conditions for reimbursement of expenditure to the beneficiary have been met.;

(ii) in point (e), the reference to ‘points (a) and (b) of Article 59(5) of the Financial Regulation’ is replaced by ‘points (a) and (b) of Article 63(5) and Article 63(6) and (7) of the Financial Regulation’;

(56) in point (b) of Article 126, the reference to ‘point (a) of Article 59(5) of the Financial Regulation’ is replaced by ‘point (a) of Article 63(5) and Article 63(6) of the Financial Regulation’;

(57) Article 127 is amended as follows:

(a) in the third subparagraph of paragraph 1, the reference to ‘the second subparagraph of Article 59(5) of the Financial Regulation’ is replaced by ‘Article 63(7) of the Financial Regulation’;

- (b) in point (a) of the first subparagraph of paragraph 5, the reference to ‘the second subparagraph of Article 59(5) of the Financial Regulation’ is replaced by ‘Article 63(7) of the Financial Regulation’;
- (58) Article 131 is replaced by the following:

Article 131

Payment applications

- 1 Payment applications shall include, for each priority:
- a the total amount of eligible expenditure incurred by beneficiaries and paid in implementing operations, as entered in the accounting system of the certifying authority;
 - b the total amount of public expenditure incurred in implementing operations, as entered in the accounting system of the certifying authority.

With regard to the amounts to be included in payment applications for the form of support referred to in point (e) of the first subparagraph of Article 67(1), the payment applications shall include the elements set out in the delegated acts adopted in accordance with Article 67(5a) and shall use the model for payment applications set out in the implementing acts adopted in accordance with paragraph 6 of this Article.

- 2 Eligible expenditure included in a payment application shall be supported by receipted invoices or accounting documents of equivalent probative value, except for the forms of support referred to in points (b) to (e) of the first subparagraph of Article 67(1) of this Regulation, Articles 68, 68a and 68b of this Regulation, Article 69(1) of this Regulation and Article 109 of this Regulation and in Article 14 of the ESF Regulation. For those forms of support, the amounts included in a payment application shall be the costs calculated on the applicable basis.

- 3 In the case of State aid, the public contribution corresponding to the expenditure included in a payment application shall have been paid to the beneficiaries by the body granting the aid or, where Member States have decided that the beneficiary is the body granting the aid pursuant to point (10)(a) of Article 2, paid by the beneficiary to the body receiving the aid.

- 4 By way of derogation from paragraph 1 of this Article, in the case of State aid, the payment application may include advances paid to the beneficiary by the body granting the aid or, where Member States have decided that the beneficiary is the body granting the aid pursuant to point (10)(a) of Article 2, paid by the beneficiary to the body receiving the aid, under the following cumulative conditions:

- a those advances are subject to a guarantee provided by a bank or other financial institution established in the Member State or are covered by a facility provided as a guarantee by a public entity or by the Member State;
- b those advances do not exceed 40 % of the total amount of the aid to be granted to a beneficiary for a given operation or, where Member States have decided that the beneficiary is the body granting the aid pursuant to point (10)(a) of Article 2, of the total amount of the aid to be granted to the body receiving the aid as part of a given operation;
- c those advances are covered by expenditure paid by the beneficiary or, where Member States have decided that the beneficiary is the body granting the aid

pursuant to point (10)(a) of Article 2, expenditure paid by the body receiving the aid in implementing the operation, and supported by receipted invoices or accounting documents of equivalent probative value within three years of the year of the payment of the advance or on 31 December 2023, whichever is earlier.

Where the conditions set out in point (c) of the first subparagraph are not met, the next payment application shall be corrected accordingly.

- 5 Each payment application which includes advances of the type referred to in paragraph 4 of this Article shall separately disclose:
- a the total amount paid from the operational programme as advances;
 - b the amount which, within three years of the payment of the advance in accordance with point (c) of the first subparagraph of paragraph 4, has been covered by expenditure paid by the beneficiary or, where Member States have decided that the beneficiary is the body granting the aid pursuant to point (10) (a) of Article 2, by the body receiving the aid; and
 - c the amount which has not been covered by expenditure paid by the beneficiary or, where Member States have decided that the beneficiary is the body granting the aid pursuant to point (10)(a) of Article 2, by the body receiving the aid, and for which the three year period has not yet elapsed.
- 6 The Commission shall, in order to ensure uniform conditions for the implementation of this Article, adopt implementing acts laying down the model for payment applications. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 150(3).;
- (59) in Article 137(1), the reference to ‘point (a) of Article 59(5) of the Financial Regulation’ is replaced by ‘point (a) of Article 63(5) and Article 63(6) of the Financial Regulation’;
- (60) in Article 138, the reference to ‘Article 59(5) of the Financial Regulation’ is replaced by ‘Article 63(5), and the second subparagraph of Article 63(7), of the Financial Regulation’;
- (61) in Article 140(3), the following sentence is added:
- Where documents are kept on commonly accepted data carriers in accordance with the procedure laid down in paragraph 5, no originals shall be required.;
- (62) in point (a) of the second subparagraph of Article 145(7), the reference to ‘Article 59(5) of the Financial Regulation’ is replaced by ‘Article 63(5), (6) and (7) of the Financial Regulation’;
- (63) in Article 147(1), the reference to ‘Article 78 of the Financial Regulation’ is replaced by ‘Article 98 of the Financial Regulation’;
- (64) in Article 148, paragraph 1 is replaced by the following:
1. Operations for which the total eligible expenditure does not exceed EUR 400 000 for the ERDF and the Cohesion Fund, EUR 300 000 for the ESF or EUR 200 000 for the EMFF shall not be subject to more than one audit by either the audit authority or the Commission prior to the submission of the accounts for the accounting year in which the operation is completed. Other operations shall not be subject to more than one audit per accounting year by either the audit authority or the Commission prior to the submission of the accounts for the accounting year in which the operation

is completed. Operations shall not be subject to an audit by the Commission or the audit authority in any year if there has already been an audit in that year by the European Court of Auditors, provided that the results of the audit work performed by the European Court of Auditors for such operations can be used by the audit authority or the Commission for the purpose of fulfilling their respective tasks.

By derogation from the first subparagraph, operations for which the total eligible expenditure is between EUR 200 000 and EUR 400 000 for the ERDF and the Cohesion Fund, between EUR 150 000 and EUR 300 000 for the ESF and between EUR 100 000 and EUR 200 000 for the EMFF may be subject to more than one audit, if the audit authority concludes, based on its professional judgment, that it is not possible to issue or draw up an audit opinion on the basis of statistical or non-statistical sampling methods referred to in Article 127(1) without carrying out more than one audit of the respective operation.;

(65) Article 149 is amended as follows:

(a) paragraphs 2 and 3 are replaced by the following:

2. The power to adopt delegated acts referred to in Article 5(3), the second paragraph of Article 12, the fourth subparagraph of Article 22(7), Article 37(13), the third subparagraph of Article 38(4), Article 39a(7), Article 40(4), Article 41(3), the second subparagraph of Article 42(1), Article 42(6), the second, third, fourth and seventh subparagraphs of Article 61(3), Articles 63(4), 64(4) and 67(5a), the second paragraph of Article 68, the fourth paragraph of Article 101, the fifth subparagraph of Article 122(2), the first subparagraph of Article 125(8), Article 125(9), Article 127(7) and (8), and Article 144(6) shall be conferred on the Commission from 21 December 2013 until 31 December 2020.

3 The delegation of power referred to in Article 5(3), the second paragraph of Article 12, the fourth subparagraph of Article 22(7), Article 37(13), the third subparagraph of Article 38(4), Article 39a(7), Article 40(4), Article 41(3), the second subparagraph of Article 42(1), Article 42(6), the second, third, fourth and seventh subparagraphs of Article 61(3), Articles 63(4), 64(4) and 67(5a), the second paragraph of Article 68, the fourth paragraph of Article 101, the fifth subparagraph of Article 122(2), the first subparagraph of Article 125(8), Article 125(9), Article 127(7) and (8), and Article 144(6) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.;

(b) the following paragraph is inserted:

3a. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.;

(c) paragraphs 5 is replaced by the following:

5. A delegated act adopted pursuant to Article 5(3), the second paragraph of Article 12, the fourth subparagraph of Article 22(7), Article

37(13), the third subparagraph of Article 38(4), Articles 39a(7), 40(4) and 41(3), the second subparagraph of Article 42(1), Article 42(6), the second, third, fourth and seventh subparagraphs of Article 61(3), Articles 63(4), 64(4) and 67(5a), the second paragraph of Article 68, the fourth paragraph of Article 101, the fifth subparagraph of Article 122(2), the first subparagraph of Article 125(8), Article 125(9), Article 127(7) and (8), and Article 144(6) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and to the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.;

(66) In Article 152, the following paragraph is added:

7. The managing authority, or the monitoring committee for the programmes under the European territorial cooperation goal, may decide not to apply Article 67(2a) for a maximum period of 12 months starting from 2 August 2018.

Where the managing authority, or the monitoring committee for the programmes under the European territorial cooperation goal, considers that Article 67(2a) creates a disproportionate administrative burden, it may decide to extend the transitional period referred to in the first subparagraph of this paragraph for a period it considers appropriate. It shall notify the Commission of such decision before the expiration of the initial transitional period.

The first and second subparagraphs do not apply to grants and repayable assistance supported by the ESF for which the public support does not exceed EUR 50 000.;

(67) Annex IV is amended as follows:

(a) Section 1 is amended as follows:

(i) the introductory part is replaced by the following:

1. Where a financial instrument is implemented under Article 39a and points (a), (b) and (c) of the first subparagraph of Article 38(4), the funding agreement shall include the terms and conditions for making contributions from the programme to the financial instrument and shall include at least the following elements.;

(ii) point (f) is replaced by the following:

(f) requirements and procedures for managing the phased contribution provided by the programme in accordance with Article 41 and for the forecast of deal flows, including requirements for fiduciary/separate accounting as set out in Article 38(6) and the second subparagraph of Article 39a(5).;

(iii) point (i) is replaced by the following:

(i) provisions regarding the re-use of resources attributable to the support from the ESI Funds until the end of the

eligibility period in compliance with Article 44 and, where applicable, provisions regarding differentiated treatment as referred to in Article 43a;;

- (b) Section 2 is amended as follows:
 - (i) the introductory part is replaced by the following:
 - 2. Strategy documents referred to under Article 38(8) for financial instruments implemented under point (d) of the first subparagraph of Article 38(4) shall include at least the following elements;;
 - (ii) point (c) is replaced by the following:
 - (c) the use and re-use of resources attributable to the support of the ESI Funds in accordance with Articles 43, 44 and 45, and, where applicable, provisions regarding differentiated treatment as referred to in Article 43a;;

(68) Annex XII is amended as follows:

- (a) the heading of Annex XII is replaced by the following:
INFORMATION, COMMUNICATION AND VISIBILITY OF SUPPORT FROM THE FUNDS;
- (b) The heading of section 2 is replaced by the following:
2.INFORMATION AND COMMUNICATION MEASURES AND MEASURES TO ENHANCE VISIBILITY FOR THE PUBLIC;
- (c) subsection 2.1 is amended as follows:
 - (i) point 1 is replaced by the following:
 - 1. The Member State and the managing authority shall ensure that the information and communication measures are implemented in accordance with the communication strategy, in order to improve visibility and interaction with citizens, and that those measures aim for the widest possible media coverage using various forms and methods of communication at the appropriate level and adapted, as appropriate, to technological innovation.;
 - (ii) in point 2, points (e) and (f) are replaced by the following:
 - (e) giving examples of operations, in particular of operations where the added value of the intervention of the Funds is particularly visible, by operational programme, on the single website or on the operational programme's website that is accessible through the single website portal; the examples shall be in a widely spoken official language of the Union other than the official language or languages of the Member State concerned;
 - (f) updating information about the operational programme's implementation, including its main achievements and results, on the single website or on the operational

programme's website that is accessible through the single website portal.;

- (d) subsection 2.2 is amended as follows:
- (i) in point 1, the introductory part is replaced by the following:
 - 1. All information and communication measures and measures to enhance visibility of the Funds provided by the beneficiary shall acknowledge support from the Funds to the operation by displaying.;
 - (ii) the following point is added:
 - 6. The responsibilities laid down in this subsection shall apply as from the time the beneficiary is provided with the document setting out the conditions for support to the operation referred to in point (c) of Article 125(3).;
- (e) in point 2 of subsection 3.1, point (f) is replaced by the following:
- (f) the responsibility of beneficiaries to inform the public about the aim of the operation and the support from the Funds to the operation in accordance with subsection 2.2 as from the time the beneficiary is provided with the document setting out the conditions for support to the operation referred to in point (c) of Article 125(3). The managing authority may request that potential beneficiaries propose indicative communication activities to enhance the visibility of the Funds, proportional to the size of the operation, in the applications.;
- (f) in subsection 4, point (i) is replaced by the following:
- (i) an annual update setting out the information and communication activities, including measures to enhance visibility of the Funds, to be carried out in the following year, based on, inter alia, lessons learnt on the effectiveness of such measures..

Article 273

Amendments to Regulation (EU) No 1304/2013

Regulation (EU) No 1304/2013 is amended as follows:

- (1) in Article 13(2), the following subparagraph is added:
- Where operations falling under point (a) of the first subparagraph also have a benefit for the programme area in which they are implemented, expenditure shall be allocated to those programme areas on a pro rata basis based on objective criteria.;
- (2) Article 14 is amended as follows:
- (a) the following paragraph is inserted:
 - 1. The general rules applicable to simplified cost options under the ESF are set out in Articles 67, 68, 68a and 68b of Regulation (EU) No 1303/2013.;

- (b) paragraphs 2, 3 and 4 are deleted;
- (3) in Annex I, point 1 is replaced by the following:

(1) Common output indicators for participants

“Participants”⁽⁷⁾ refers to persons benefiting directly from an ESF intervention who can be identified and asked for their characteristics, and for whom specific expenditure is earmarked. Other persons shall not be classified as participants. All data shall be broken down by gender.

The common output indicators for participants are:

- unemployed, including long-term unemployed*,
- long-term unemployed*,
- inactive*,
- inactive, not in education or training*,
- employed, including self-employed*,
- below 25 years of age*
- above 54 years of age*,
- above 54 years of age who are unemployed, including long-term unemployed, or inactive not in education or training*,
- with primary (ISCED 1) or lower secondary education (ISCED 2)*,
- with upper secondary (ISCED 3) or post-secondary education (ISCED 4)*,
- with tertiary education (ISCED 5 to 8)*,
- migrants, participants with a foreign background, minorities (including marginalised communities such as the Roma)**,
- participants with disabilities**,
- other disadvantaged**.

The total number of participants will be calculated automatically on the basis of the output indicators.

These data on participants entering an ESF supported operation shall be provided in the annual implementation reports as specified in Article 50(1) and (2) and Article 111(1) of Regulation (EU) No 1303/2013.

The following data on participants will be provided in the annual implementation reports as specified in Article 50 of Regulation (EU) No 1303/2013:

- homeless or affected by housing exclusion*,
- from rural areas*⁽⁸⁾

The data of those two indicators shall be collected based on a representative sample of participants within each investment priority. Internal validity shall be ensured in such a way that the data can be generalised at the level of the investment priority..

*Article 274***Amendments to Regulation (EU) No 1309/2013**

Regulation (EU) No 1309/2013 is amended as follows:

(1) in recital 24, the first sentence is replaced by the following:

The Member States should remain responsible for the implementation of the financial contribution and for the management and control of the actions supported by Union funding, in accordance with the relevant provisions of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council⁽⁹⁾ (the “Financial Regulation”).;

(2) in Article 4, paragraph 2 is replaced by the following:

2. In small labour markets or in exceptional circumstances, in particular with regard to collective applications involving SMEs, where duly substantiated by the applicant Member State, an application for a financial contribution under this Article may be considered admissible even if the criteria laid down in point (a) or (b) of paragraph 1 are not entirely met, when the redundancies have a serious impact on employment and the local, regional or national economy. The applicant Member State shall specify which of the intervention criteria set out in points (a) and (b) of paragraph 1 are not entirely met. For collective applications involving SMEs located in one region, where the applicant Member State demonstrates that SMEs are the main or the only type of business in that region, the application may exceptionally cover SMEs operating in different economic sectors defined at NACE Revision 2 division level. The aggregated amount of contributions in exceptional circumstances may not exceed 15 % of the annual maximum amount of the EGF.;

(3) in Article 6, paragraph 2 is replaced by the following:

2. By way of derogation from Article 2, applicant Member States may provide personalised services co-financed by the EGF to up to a number of NEETs under the age of 25, or where Member States so decide under the age of 30, on the date of submission of the application, equal to the number of targeted beneficiaries, as a priority to persons made redundant or whose activity has ceased, provided that at least some of the redundancies within the meaning of Article 3 occur in NUTS 2 level regions that had youth unemployment rates for young persons aged 15 to 24 of at least 20 % based on the latest annual data available. The support may be rendered to NEETs under the age of 25, or where Member States so decide under the age of 30, in those NUTS 2 level regions.;

(4) in Article 11, paragraph 3 is replaced by the following:

3. The tasks set out in paragraph 1 shall be performed in accordance with the Financial Regulation.;

(5) in Article 15, paragraph 4 is replaced by the following:

4. Where the Commission has concluded that the conditions for providing a financial contribution from the EGF are met, it shall submit a proposal to mobilise it. The decision to mobilise the EGF shall be taken jointly by the European Parliament and by the Council within one month of the referral to the European Parliament and to

the Council. The Council shall act by a qualified majority and the European Parliament shall act by a majority of its component members and three fifths of the votes cast.

Transfers related to the EGF shall be made in accordance with Article 31 of the Financial Regulation, in principle within a period of no more than seven days from the date of adoption of the relevant decision by the European Parliament and by the Council.;

- (6) in Article 16(2), the reference to ‘Article 59 of the Financial Regulation’ is replaced by ‘Article 63 of the Financial Regulation’;
- (7) in Article 21(2), the reference to ‘Article 59(3) of the Financial Regulation’ is replaced by ‘Article 63(3) of the Financial Regulation’ and the reference to ‘Article 59(5) of the Financial Regulation’ is replaced by ‘Article 63(5) of the Financial Regulation’.

Article 275

Amendments to Regulation (EU) No 1316/2013

Regulation (EU) No 1316/2013 is amended as follows:

- (1) the following chapter is inserted:

CHAPTER Va

Blending

Article 16a

CEF blending facilities

1 CEF blending facilities in accordance with Article 159 of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council⁽¹⁰⁾ may be established under this Regulation for one or more of the CEF sectors. All actions contributing to projects of common interest shall be eligible to receive financial assistance through blending operations.

2 CEF blending facilities shall be implemented in accordance with Article 6(3).

3 The overall contribution from the Union budget to CEF blending facilities shall not exceed 10 % of the overall financial envelope of the CEF as referred to in Article 5(1).

In addition to the threshold set out in the first subparagraph, in the transport sector the overall contribution from the Union budget to CEF blending facilities shall not exceed EUR 500 000 000.

If 10 % of the overall financial envelope for the implementation of the CEF referred to in Article 5(1) is not fully used for CEF blending facilities and/or financial instruments, the remaining amount shall be made available for and redistributed to that financial envelope.

- 4 The amount of EUR 11 305 500 000 transferred from the Cohesion Fund, referred to in point (a) of Article 5(1), shall not be used to commit budgetary resources to CEF blending facilities.
- 5 Support provided under a CEF blending facility in the form of grants and financial instruments shall comply with the eligibility and conditions for financial assistance set out in Article 7. The amount of financial assistance to be granted to the blending operations supported by means of a CEF blending facility shall be modulated on the basis of a cost-benefit analysis, the availability of Union budget resources and the need to maximise the leverage of Union funding. No grant awarded shall exceed the funding rates laid down in Article 10.
- 6 The Commission shall, in cooperation with the European Investment Bank (EIB), study the possibility for the EIB to systematically provide first loss guarantees within CEF blending facilities in order to allow and facilitate additionality and the participation of private co-investors in the transport sector.
- 7 The Union, Member States and other investors may contribute to CEF blending facilities, provided that the Commission agrees to the specifications of the eligibility criteria of blending operations and/or the investment strategy of the CEF blending facility which may be necessary due to the additional contribution and in order to meet the requirements of this Regulation when carrying out projects of common interest. Those additional resources shall be implemented by the Commission in accordance with Article 6(3).
- 8 Blending operations supported by means of a CEF blending facility shall be selected on the basis of maturity and shall seek sectoral diversification in accordance with Articles 3 and 4 as well as geographical balance across the Member States. They shall:
- a represent European added value;
 - b respond to the objectives of the Europe 2020 Strategy;
 - c contribute, where possible, to climate change mitigation and adaptation.
- 9 CEF blending facilities shall be made available and blending operations shall be selected based on the selection and award criteria established in the multiannual and the annual work programmes adopted pursuant to Article 17.
- 10 Blending operations in third countries may be supported by means of a CEF blending facility if those actions are necessary for the implementation of a project of common interest.;
- (2) in Article 17(3), the second subparagraph is replaced by the following:
- The amount of the financial envelope shall lie within a range of 80 % to 95 % of the budgetary resources referred to in point (a) of Article 5(1).;
- (3) in Article 22, the fourth paragraph is replaced by the following:
- The certification of the expenditure referred to in the second paragraph of this Article is not mandatory for grants awarded on the basis of Regulation (EU) No 283/2014..

*Article 276***Amendments to Regulation (EU) No 223/2014**

Regulation (EU) No 223/2014 is amended as follows:

- (1) in Article 9, the following paragraph is added:
 4. Paragraphs 1, 2 and 3 do not apply for the purposes of modifying elements of an operational programme falling under sub-sections 3.5 and 3.6 and section 4, respectively, of the operational programme templates set out in Annex I.

A Member State shall notify the Commission of any decision to modify the elements referred to in the first subparagraph within one month of the date of that decision. The decision shall specify the date of its entry into force, which shall not be earlier than the date of its adoption.;
- (2) in Article 23, paragraph 6 is replaced by the following:
 6. An operation may receive support from one or more operational programmes co-financed by the Fund and from other Union instruments, provided that the expenditure declared in a payment application for the Fund is not declared for support from another Union instrument, or support from the same Fund under another programme. The amount of expenditure to be entered into a payment application of the Fund may be calculated for the programme or programmes concerned on a pro rata basis in accordance with the document setting out the conditions for support.;
- (3) in Article 25(3), the following point is added:
 - (e) rules for the application of corresponding unit costs, lump sums and flat rates applicable under Union policies for a similar type of operation and beneficiary.;
- (4) Article 26 is amended as follows:
 - (a) in paragraph 2, points (d) and (e) are replaced by the following:
 - (d) the costs of partner organisations for collection, transport, storage and distribution of food donations and directly related awareness raising activities;
 - (e) the costs of accompanying measures undertaken and declared by the partner organisations delivering directly or under cooperation agreements the food and/or basic material assistance to the most deprived persons at a flat-rate of 5 % of the costs referred to in point (a) of this paragraph; or 5 % of the value of the food products disposed of in accordance with Article 16 of Regulation (EU) No 1308/2013.;
 - (b) the following paragraph is inserted:
 - 3a. Notwithstanding paragraph 2, a reduction of the eligible costs referred to in point (a) of paragraph 2 due to non-compliance with applicable law by the body responsible for the purchase of food and/or basic material assistance shall not lead to a reduction of the eligible costs of other bodies as set out in points (c) and (e) of paragraph 2.;

(5) in Article 27, paragraph 4 is replaced by the following:

4. At the initiative of the Member States, and subject to a ceiling of 5 % of the Fund allocation at the time of the adoption of the operational programme, the operational programme may finance preparation, management, monitoring, administrative and technical assistance, audit, information, control and evaluation measures necessary for implementing this Regulation. It may also finance technical assistance and capacity building of partner organisations.;

(6) in Article 30(2), the fourth subparagraph is replaced by the following:

When amounts unduly paid to a beneficiary for an operation cannot be recovered and this is as a result of fault or negligence on the part of a Member State, that Member State shall be responsible for reimbursing the amounts concerned to the budget of the Union. Member States may decide not to recover an amount unduly paid if the amount to be recovered from the beneficiary, not including interest, does not exceed EUR 250 in contribution from the Fund to an operation in an accounting year.;

(7) in Article 32(4), point (a) is replaced by the following:

- (a) verify that the co-financed products and services have been delivered, that the operation complies with applicable law, the operational programme and the conditions for support of the operation and,
- (i) where costs are to be reimbursed pursuant to point (a) of Article 25(1), that the amount of expenditure declared by the beneficiaries in relation to those costs has been paid;
 - (ii) where costs are to be reimbursed pursuant to points (b), (c) and (d) of Article 25(1), that the conditions for reimbursement of expenditure to the beneficiary have been met.;

(8) in Article 42, paragraph 3 is replaced by the following:

3. The payment deadline referred to in paragraph 2 may be suspended by the managing authority in either of the following duly justified cases:
- a the amount of the payment claim is not due or the appropriate supporting documents, including the documents necessary for management verifications under point (a) of Article 32(4), have not been provided;
 - b an investigation has been initiated in relation to a possible irregularity affecting the expenditure concerned.

The beneficiary concerned shall be informed in writing of the suspension and the reasons for it. The remaining time allowed for payment shall begin to run again from the date on which the requested information or documents are received or the investigation has been carried out.;

(9) in Article 51, paragraph 3 is replaced by the following:

3. The documents shall be kept either in the form of the originals, or certified true copies of the originals, or on commonly accepted data carriers including electronic versions of original documents or documents existing in electronic version only. Where documents are kept on commonly accepted data carriers in accordance with the procedure laid down in paragraph 5, no originals shall be required..

*Article 277***Amendments to Regulation (EU) No 283/2014**

Regulation (EU) No 283/2014 is amended as follows:

- (1) in Article 2(2), point (e) is replaced by the following:
 - (e) “generic services” means gateway services linking one or more national infrastructures to core service platforms as well as services increasing the capacity of a digital service infrastructure by providing access to high performance computing, storage and data management facilities;
- (2) Article 5 is amended as follows:
 - (a) paragraph 4 is replaced by the following:
 4. Actions contributing to projects of common interest in the field of digital service infrastructures shall be supported by:
 - a procurement;
 - b grants; and/or
 - c financial instruments as provided for in paragraph 5.;
 - (b) the following paragraph is inserted:
 - 4a. The overall contribution from the Union budget to financial instruments for digital service infrastructures referred to in point (c) of paragraph 4 of this Article shall not exceed 10 % of the financial envelope for the telecommunications sector referred to in point (b) of Article 5(1) of Regulation (EU) No 1316/2013.;
- (3) in Article 8, paragraph 1 is replaced by the following:
 1. On the basis of information received under the third paragraph of Article 22 of Regulation (EU) No 1316/2013, Member States and the Commission shall exchange information and best practices about the progress made in the implementation of this Regulation, including the use of financial instruments. Where appropriate, Member States shall involve local and regional authorities in the process. The Commission shall publish a yearly overview of that information and submit it to the European Parliament and to the Council..

*Article 278***Amendment to Decision No 541/2014/EU**

In Article 4 of Decision No 541/2014/EU of the European Parliament and of the Council, the following paragraph is added:

3. Funding programmes established by Regulations (EU) No 377/2014 and (EU) No 1285/2013 and by Decision 2013/743/EU may contribute to the financing of the actions referred to in paragraph 1 of this Article, within the scope of those programmes and in conformity with their aims and objectives. Such contributions shall be spent in compliance with Regulation (EU) No 377/2014. The Commission shall before the end of the Multiannual Financial Framework

2014-2020 assess the new simplified financial rules pursuant to this paragraph and their contribution to the objectives of the SST support framework..

- (1) Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).⁷;
- (2) Commission Regulation (EU) No 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid (OJ L 352, 24.12.2013, p. 1).
- (3) Commission Regulation (EU) No 1408/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid in the agriculture sector (OJ L 352, 24.12.2013, p. 9).
- (4) Commission Regulation (EU) No 717/2014 of 27 June 2014 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid in the fishery and aquaculture sector (OJ L 190, 28.6.2014, p. 45).⁷;
- (5) Regulation (EU) No 516/2014 of the European Parliament and of the Council of 16 April 2014 establishing the Asylum, Migration and Integration Fund, amending Council Decision 2008/381/EC and repealing Decisions No 573/2007/EC and No 575/2007/EC of the European Parliament and of the Council and Council Decision 2007/435/EC (OJ L 150, 20.5.2014, p. 168).⁷;
- (6) Regulation (EU) 2015/1017 of the European Parliament and of the Council of 25 June 2015 on the European Fund for Strategic Investments, the European Investment Advisory Hub and the European Investment Project Portal and amending Regulations (EU) No 1291/2013 and (EU) No 1316/2013 — the European Fund for Strategic Investments (OJ L 169, 1.7.2015, p. 1).⁷;
- (7)
 - ([†]) Managing authorities shall establish a system that records and stores individual participant data in computerised form as set out in Article 125(2)(d) of Regulation (EU) No 1303/2013. The data processing arrangements put in place by the Member States shall be in line with Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ L 281, 23.11.1995, p. 31), in particular Articles 7 and 8 thereof.
Data reported under the indicators marked with* are personal data according to Article 7 of Directive 95/46/EC. Their processing is necessary for compliance with the legal obligation to which the controller is subject (Article 7(c) of Directive 95/46/EC). For the definition of controller, see Article 2 of Directive 95/46/EC.
Data reported under the indicators marked with** are a special category of data according to Article 8 of Directive 95/46/EC. Subject to the provision of suitable safeguards, Member States may, for reasons of substantial public interest, lay down exemptions in addition to those laid down in Article 8(2) of Directive 95/46/EC, either by national law or by decision of the supervisory authority (Article 8(4) of Directive 95/46/EC).
- (8)
 - (⁺⁺) The data shall be collected at the level of smaller administrative units (local administrative units 2), in accordance with Regulation (EC) No 1059/2003 of the European Parliament and of the Council of 26 May 2003 on the establishment of a common classification of territorial units for statistics (NUTS) (OJ L 154, 21.6.2003, p. 1).⁷
- (9) Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).⁷;
- (10) Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).⁷;