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Subject:	Special Report No 19/2016 by the European Court of Auditors "Implementing the EU budget through financial instruments - lessons to be learnt from the 2007-2013 programme period" - Council conclusions (8 November 2016)

Delegations will find in the annex the Council conclusions on Special Report No 19/2016 by the European Court of Auditors: "Implementing the EU budget through financial instruments - lessons to be learnt from the 2007-2013 programme period", adopted by the Council at its 3495th meeting held on 8 November 2016.

ANNEX

Council conclusions on Special Report No 19/2016 by the European Court of Auditors: "Implementing the EU budget through financial instruments - lessons to be learnt from the 2007-2013 programme period"

THE COUNCIL OF THE EUROPEAN UNION:

(1) WELCOMES the Special Report No 19/2016 by the European Court of Auditors (hereafter referred to as "the Court"), in particular the methodology used which allows for a comparison of financial instruments under shared and central management;

(2) TAKES NOTE that the Report is based on data reflecting the situation at the end of 2014; more complete data, which might relativize some of the findings set out in the Report, should be available at the closure of the 2007-2013 programme period on 31 March 2017;

(3) WELCOMES the Commission's detailed replies to the Report;

(4) RECALLS that financial instruments are a delivery tool to provide financial support from the EU budget in the form of equity or quasi-equity investments, loans or guarantees, or other risk-sharing instruments, for achieving policy objectives of the Union;

(5) ENCOURAGES the use of financial instruments, as a delivery tool, for investing in growth and jobs in areas where investments are expected to be financially viable;

(6) RECOGNIZES that financial instruments offer the possibility to leverage the contribution of the EU budget by mobilizing additional private and public funds and providing support in a sustainable revolving manner ("do more with less"); NOTES, however, that financial instruments necessarily involve management and other costs which have to be taken into account when assessing their efficiency;

(7) REITERATES its position set out in its conclusions from June 2015[1], that grants within cohesion policy are an effective form of support for many types of projects and programmes on their own and in combination with financial instruments, and INVITES the Commission and the Member States to further explore the possibilities to combine grants with financial instruments, while taking into account different situations and contexts in the Member States and regions;

(8) TAKES NOTE of the findings of the Court regarding financial instruments as an implementation tool of the EU budget during the 2007-2013 period namely:

- The oversizing of the instruments in a significant number of cases;
- The lack of success in attracting private capital in a number of cases;
- Limited success in providing revolving financial support; and
- High levels of management costs and fees compared to the actual financial support to final recipients for financial instruments under the European Regional Development Fund (ERDF) and the European Social Fund (ESF);

(9) HIGHLIGHTS, as far as these findings are concerned, that financial instruments are a relatively new delivery tool in the cohesion policy and UNDERLINES that the lessons learnt during the 2007-2013 period resulted in improvements in the legislative framework for the 2014-2020 period, which address most of the issues raised by the Court;

(10) CONSIDERS that several findings and recommendations of the Court support the relevance and urgency of simplification efforts to facilitate the set-up and implementation of financial instruments; in this context, TAKES NOTE of the legislative proposals for the current programme period recently submitted by the Commission, aimed at simplifying the use of financial instruments and facilitating the combination of the European Structural and Investments Funds and the European Fund for Strategic Investment (EFSI);

[1] Doc. 9622/1/15 REV 1, paragraph 14.

Size of the financial instruments

(11) RECOGNIZES that according to the Court's findings, a certain number of financial instruments in the period 2007-2013 had excessive capital endowments, which led, in combination with other factors, to difficulties in fully disbursing the funds concerned; NOTES however that conclusions on the disbursement rates can be fully drawn only at the closure;

(12) SHARES the consideration of the Court and the Commission that the introduction of mandatory ex-ante assessments for financial instruments in the legislative framework of the 2014-2020 period should contribute to a better consideration of the capacity and demand conditions in the markets, and prevention of an oversizing of financial instruments;

(13) CALLS on the Commission, regarding centrally managed instruments,

a) to systematically include in its ex-ante assessments an analysis of the lessons learnt and assess in the context of the mid-term reviews for the respective instrument the effect of major socio-economic changes on the rationale of the instrument and the corresponding contribution to the instrument from the EU budget;

b) to include an analysis of the geographical impact of centrally managed instruments in its annual reporting to the European Parliament and the Council on the activities related to centrally managed financial instruments;

(14) ENCOURAGES Member States and the Commission to continue in their efforts to carefully consider the appropriate size of financial instruments with a view of improving their effectiveness; and RECALLS that the main responsibility and control over the set-up and implementation of financial instruments under cohesion policy should remain with the Member States' managing authorities;

Attracting private capital

(15) NOTES that the Commission and Member States faced in the 2007-2013 period difficulties in attracting private capital for financial instruments under both central and shared management;

(16) CONSIDERS however, that the amount of private capital attracted should not be seen as a sole measurement for the success of a financial instrument when other important policy objectives are to be achieved (e.g. establishing investment in markets with strong EU added value at a time of economic recession);

(17) NOTES that the Commission and the EIB report annually on the expected leverage effect of centrally managed financial instruments and EFSI; REGRETS, however, the lack of data regarding the actual leverage effect of all financial instruments using a single and clear definition of the leverage effect across the EU budget; and CALLS on the Commission to ensure the provision of such comparable data, using the existing reporting requirements;

Revolving financial support

(18) REGRETS that according to the findings of the Court, and also due to implementation delays, the revolving effect of the financial instruments' funds has been rather limited in the 2007-2013 period;

(19) SHARES the consideration of the Commission that the revolving effect depends on the setup date of the financial instrument, the type of financial product, the grace period, the maturity and the default rates of the financing provided to final recipients;

(20) CALLS on the Commission and Member States to support the revolving effect of the financial instruments' funds during a period of at least eight years after the end of the eligibility period, for example by foreseeing an explicit clause in the funding agreements;

Cost-efficiency of financial instruments as delivery tool of the EU's budget

(21) TAKES NOTE of the high level of management costs observed by the Court for ERDF and ESF financial instruments, especially when compared to the level of disbursements to the final beneficiaries at the end of 2014; EXPECTS, however, that this ratio will decrease with the availability of new data provided by Member States at the closure of the 2007-2013 programme period;

(22) CONSIDERS that significant improvements have been made in the 2014-2020 period through the introduction of aggregate ceilings over the eligibility period and performance-based elements for management costs; RECOGNIZES, however, that the actual management costs needed to achieve the objectives set in the Operational Programmes may differ considerably among Member States due to national or regional market specificities;

(23) CALLS on

a) the Commission to avoid retroactive interpretation of the legislative framework regarding the concepts of management costs and performance-based remuneration, as well as regarding the calculation of the leverage effect and ceilings for eligible expenditure;

b) the Commission to assess existing information on the management costs of financial instruments under both central and shared management in time to be used in the preparation of legislative proposals for the post-2020 period;

c) Member States' managing authorities to make, when negotiating funding agreements in the current 2014-2020 period, extensive use of the performance-based elements of the remuneration for fund managers in a view of improving the cost effectiveness of financial instruments.