



**COUNCIL OF
THE EUROPEAN UNION**

**Brussels, 7 April 2014
(OR. en)**

8163/14

**FSTR 16
FC 10
REGIO 43
SOC 221
AGRISTR 18
PECHE 157
CADREFIN 57
DELECT 96**

"I/A" ITEM NOTE

From: General Secretariat of the Council

To: Permanent Representatives Committee (Part 2)/Council

No. prev. doc.: 7331/14 + ADD 1

No. Cion doc.: C(2014) 1207 final

Subject: COMMISSION DELEGATED REGULATION (EU) No .../.. of 3.3.2014 supplementing Regulation (EU) No 1303/2013 of the European Parliament and of the Council laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund

- Intention not to raise objections to Commission Delegated Act

1. The Commission has submitted the above delegated act¹ to the Council in accordance with the procedure set out in Article 290 TFEU and based on the following articles of Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006²: Article 22(7); Article 37(13); Article 38(4); Article 40(4); Article 41(3); Article 42(1); Article 42(6); Article 61(3); Article 68(1); Article 101; Article 125(8); Article 125(9); Article 127(7); Article 127(8); Article 144(6).

The Commission is thus empowered to adopt the delegated act as regards the following:

- to establish detailed rules on criteria for determining the level of financial correction to be applied for the purposes of the performance framework (Article 22(7));
- laying down additional specific rules on purchasing land and on combining technical support with financial instruments (Article 37(13));
- 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 (Article 38(4));
- on the management and control of financial instruments referred to in Article 38(1)(b), including controls to be performed by managing and audit authorities, arrangements for keeping supporting documents, elements to be evidenced by supporting documents, and management and control and audit arrangements (Article 40(4));
- setting out the rules for the withdrawal of payments to financial instruments and consequent adjustments to applications for payment (Article 41(3));

¹ Doc. 7331/14 FSTR 10 FC 9 REGIO 30 SOC 180 AGRISTR 11 PECHE 113
CADREFIN 41 DELACT 46.

² OJ L 347, 20.12.2013, p. 320.

- laying down the specific rules for setting up a system of capitalisation of annual instalments for interest rate subsidies and guarantee fee subsidies (Article 42(1));
- specific rules setting out the criteria for determining management costs and fees on the basis of performance and the applicable thresholds for and rules on reimbursing capitalised management costs and fees for equity-based instruments and micro-credit (Article 42(6));
- laying down the method for the calculation of discounted net revenue referred to in Article 61(3)(b) (Article 61(3));
- concerning the setting of the flat rate and related methods referred to in Article 68(1)(c) (Article 68(1));
- laying down the methodology to be used for the quality review of major projects (Article 101);
- laying down requirements for the data to be recorded and stored in computerised form in the monitoring system set up under point of Article 125(2)(d) (Article 125(8));
- laying down the detailed minimum requirements for the audit trail in respect of the accounting records to be maintained and supporting documents to be held by the certifying authority, managing authority, intermediate bodies and beneficiaries (Article 125(9));
- to set out the scope and content of audits of operations and audits of the accounts and the methodology for the selection of the sample of operations referred to in Article 127(1) (Article 127(7));
- laying down detailed rules on the use of data collected during audits carried out by Commission officials or authorised Commission representatives (Article 127(8));

- laying down detailed rules concerning the criteria for determining whether there are serious deficiencies in the functioning of management and control systems, and what kind of deficiencies, criteria for establishing the level of financial correction to be applied and the criteria for applying flat rates or extrapolated financial corrections (Article 144(6)).

As the Commission notified the delegated act supplementing the Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund - on 3 March 2014, the Council may object to that delegated act within a period of two months.

2. Within the framework of the Structural Actions Working Party and following an informal silence procedure, no objections were raised by delegations by the deadline of Thursday, 3 April 2014.
3. It is therefore suggested to record the lack of a qualified majority supporting an objection to the delegated act and that the Commission and the European Parliament are to be informed thereof. This implies that, unless the European Parliament objects to it³, the delegated act shall be published and enter into force in accordance with Article 149(5) of Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006.

³ On 21 March 2014 the European Parliament (at REGI Committee level) already decided **not** to object.