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COVER NOTE

From: Secretary-General of the European Commission,
signed by Mr Jordi AYET PUIGARNAU, Director

date of receipt: 29 April 2014

To: Mr Uwe CORSEPIUS, Secretary-General of the Council of the European
Union

No. Cion doc.: C(2014) 2794 final

Subject: CORRIGENDUM to Commission Delegated Regulation of 3 March 2014
supplementing Regulation (EU) No 1303/2013 of the European Parliament
and of the Council laying down common provisions on the European
Regional Development Fund, the European Social Fund, the Cohesion
Fund, the European Agricultural Fund for Rural Development and the
European Maritime and Fisheries Fund and laying down general provisions
on the European Regional Development Fund, the European Social Fund,
the Cohesion Fund and the European Maritime and Fisheries Fund C(2014)
1207

Delegations will find attached document C(2014) 2794 final.

Encl.: C(2014) 2794 final



Brussels, 29.4.2014
C(2014) 2794 final

CORRIGENDUM

to Commission Delegated Regulation of 3 March 2014 supplementing Regulation (EU) No 1303/2013 of the European Parliament and of the Council laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund

C(2014) 1207

CORRIGENDUM

to Commission Delegated Regulation of 3 March 2014 supplementing Regulation (EU) No 1303/2013 of the European Parliament and of the Council laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund

C(2014) 1207

1. In Recital (28), first sentence

for: ‘The list of data to be recorded and stored should not prejudice the technical characteristics or structure of the computerised systems set up by managing authorities or pre-determine the format of the data recorded and stored, unless these are specifically stated in this Regulation. (...)’

read: ‘The list of data to be recorded and stored should not prejudice the technical characteristics or structure of the computerised systems set up by managing authorities or pre-determine the format of the data recorded and stored, unless these are specifically stated in this Regulation. (...)’;

2. In Recital (34)

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

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

3. In Article 9(1)(c)

for: ‘(c) management verifications are carried out throughout the programming period and during the set-up and implementation of the financial instruments in accordance with Article 125(4) of that Regulation for the ERDF, the ESF, the

Cohesion Fund and the EMFF, and in accordance with Article 58(1) and (2) of Regulation (EU) No 1305/2013 for the EAFRD;’

read: "(c) management verifications are carried out throughout the programming period and during the set-up and implementation of the financial instruments in accordance with Article 125(4) of Regulation (EU) No 1303/2013 for the ERDF, the ESF, the Cohesion Fund and the EMFF, and in accordance with Article 58(1) and (2) of Regulation (EU) No 1305/2013 for the EAFRD;’;

4. In Article 9(1)(e)(ii)

for: ‘(ii) documents identifying the amounts contributed by each programme and under each priority axis to the financial instrument, the expenditure that is eligible under the programmes and the interest and other gains generated by support from the ESI Funds and use of resources attributable to the ESI Funds in accordance with Articles 43 and 44 of Regulation (EU) No 1303/2013;’

read: "(ii) documents identifying the amounts contributed by each programme and under each priority axis to the financial instrument, the expenditure that is eligible under the programmes and the interest and other gains generated by support from the ESI Funds and re-use of resources attributable to the ESI Funds in accordance with Articles 43 and 44 of Regulation (EU) No 1303/2013;’;

5. In the first subparagraph of Article 9(2)

for: ‘2. For operations involving support from programmes to financial instruments under the ERDF, the ESF, the Cohesion Fund and the EMFF, the audit authorities shall ensure that financial instruments are audited throughout the programming period until closure both in the framework of systems audits and audits of operations in accordance with Article 127(1) of that Regulation.’

read: ‘2. For operations involving support from programmes to financial instruments under the ERDF, the ESF, the Cohesion Fund and the EMFF, the audit authorities shall ensure that financial instruments are audited throughout the programming period until closure both in the framework of systems audits and audits of operations in accordance with Article 127(1) of Regulation (EU) No 1303/2013.’;

6. In Article 12(1)(a)

for: ‘(a) the disbursement of contributions provided by ESI Funds programme;’

read: ‘(a) the disbursement of contributions provided by the ESI Funds programme;’;

7. In Article 13(1)(a)

for: ‘(a) 3% for the first 12 months after the signature of the funding agreement, 1% for the next 12 months after the signature of the funding agreement, thereafter 0,5% per annum, of the programme contributions paid to the fund of funds, calculated *pro rata temporis* from the date of effective payment to the

fund of funds until the end of the eligibility period, repayment to the managing authority or the date of winding up, whichever is earlier; and'

read: '(a) 3% for the first 12 months after the signature of the funding agreement, 1% for the next 12 months, thereafter 0,5% per annum, of the programme contributions paid to the fund of funds, calculated *pro rata temporis* from the date of effective payment to the fund of funds until the end of the eligibility period, repayment to the managing authority or the date of winding up, whichever is earlier; and';

8. In the introductory sentence of Article 13(2)

for: '2. For bodies implementing financial instruments providing equity, loans, guarantees, as well as micro-credits, including when combined with grants, interest rate subsidies or guarantee fee subsidies in accordance with Article 37(7) of Regulation (EU) No 1303/2013, management costs and fees which can be declared as eligible expenditure pursuant to Article 42(1)(d) of Regulation (EU) No 1303/2013 shall not exceed the sum of:'

read: '2. For bodies implementing financial instruments providing equity, loans, guarantees, as well as micro-credits, including when combined with grants, interest rate subsidies or guarantee fee subsidies in accordance with Article 37(7) of Regulation (EU) No 1303/2013, management costs and fees which can be declared as eligible expenditure pursuant to Article 42(1)(d) of that Regulation shall not exceed the sum of:';

9. In Article 13(2)(a)(i)

for: '(i) for a financial instrument providing equity, 2,5% per annum for the first two years after the signature of the funding agreement, thereafter 1% per annum, of programme contributions committed under the relevant funding agreement to the financial instrument, calculated *pro-rata temporis* from the date of signature of the relevant funding agreement until the end of the eligibility period, repayment of the contributions to the managing authority or to the fund of funds, or the date of winding up, whichever is earlier;'

read: '(i) for a financial instrument providing equity, 2,5% per annum for the first 24 months after the signature of the funding agreement, thereafter 1% per annum, of programme contributions committed under the relevant funding agreement to the financial instrument, calculated *pro-rata temporis* from the date of signature of the relevant funding agreement until the end of the eligibility period, repayment of the contributions to the managing authority or to the fund of funds, or the date of winding up, whichever is earlier;';

10. In Article 13(2)(b)(v)

for: '(v) for a financial instrument providing grants, interest rate subsidies or guarantee fee subsidies in accordance with Article 37(7) of Regulation (EU) No 1303/2013, 0,5% of the grant amount paid within the meaning of Article 42(1)(a) of Regulation (EU) No 1303/2013 for the benefit of final recipients.'

read: '(v) for a financial instrument providing grants, interest rate subsidies or guarantee fee subsidies in accordance with Article 37(7) of Regulation (EU) No 1303/2013, 0,5 % of the grant amount paid within the meaning of Article 42(1)(a) of that Regulation for the benefit of final recipients.';

11. In the second subparagraph of Article 13(2)

for: 'The provisions of this paragraph shall apply to a body implementing financial instrument providing guarantees notwithstanding that the same body is implementing a fund of funds, subject to the provisions of paragraph 4.'

read: 'The provisions of this paragraph shall apply to a body implementing a financial instrument providing guarantees notwithstanding that the same body is implementing a fund of funds, subject to the provisions of paragraph 4.';

12. In Article 13(6)

for: '6. The thresholds laid down in paragraphs 1, 2 and 3 of this Article may be exceeded where they are charged by a body implementing the financial instrument, including, where applicable, when it implements the fund of funds, which has been selected through a competitive tender in accordance with the applicable rules and the competitive tender proved the need for higher management costs and fees.'

read: '6. The thresholds laid down in paragraphs 1, 2 and 3 may be exceeded where they are charged by a body implementing the financial instrument, including, where applicable, when it implements the fund of funds, which has been selected through a competitive tender in accordance with the applicable rules and the competitive tender proved the need for higher management costs and fees.';

13. In Article 14(1)

for: '1. Capitalised management costs and fees to be reimbursed as eligible expenditure in accordance with Article 42(2) of Regulation (EU) No 1303/2013 shall be calculated at the end of the eligibility period as the total of discounted management costs and fees to be paid after the eligibility period for the period laid down in Article 42(2) of Regulation (EU) No 1303/2013, and in accordance with the relevant funding agreements.'

read: '1. Capitalised management costs and fees to be reimbursed as eligible expenditure in accordance with Article 42(2) of Regulation (EU) No 1303/2013 shall be calculated at the end of the eligibility period as the total of discounted management costs and fees to be paid after the eligibility period for the period laid down in Article 42(2) of that Regulation, and in accordance with the relevant funding agreements.';

14. In Article 14(2)

for: '2. Capitalised management costs and fees to be paid after the eligibility period for a financial instrument providing micro-credit shall not exceed 1 % per annum of the programme contributions paid to the final recipients within the

meaning of Article 42(1)(a) of Regulation (EU) No 1303/2013 in the form of loans and still to be paid back to the financial instrument, calculated *pro rata temporis* from the end of the eligibility period until repayment of the investment, the end of the recovery procedure in the case of defaults or the period referred to in Article 42(2) of that Regulation, whichever is earlier.’

read: ‘2. Capitalised management costs and fees to be paid after the eligibility period for a financial instrument providing micro-credit shall not exceed 1% per annum of the programme contributions paid to the final recipients within the meaning of Article 42(1)(a) of Regulation (EU) No 1303/2013 in the form of loans, which have yet to be paid back to the financial instrument, calculated *pro rata temporis* from the end of the eligibility period until repayment of the investment, the end of the recovery procedure in the case of defaults or the period referred to in Article 42(2) of that Regulation, whichever is earlier.’;

15. In Article 14(3)

for: ‘3. Capitalised management costs and fees to be paid after the eligibility period for a financial instrument providing equity shall not exceed 1,5% per annum of the programme contributions paid to the final recipients within the meaning of Article 42(1)(a) of Regulation (EU) No 1303/2013 in the form of equity and still to be paid back to the financial instrument, calculated *pro rata temporis* from the end of the eligibility period until repayment of the investment, the end of the recovery procedure in the case of defaults or the period referred to in Article 42(2) of that Regulation, whichever is earlier.’

read: ‘3. Capitalised management costs and fees to be paid after the eligibility period for a financial instrument providing equity shall not exceed 1,5% per annum of the programme contributions paid to the final recipients within the meaning of Article 42(1)(a) of Regulation (EU) No 1303/2013 in the form of equity, which have yet to be paid back to the financial instrument, calculated *pro rata temporis* from the end of the eligibility period until repayment of the investment, the end of the recovery procedure in the case of defaults or the period referred to in Article 42(2) of that Regulation, whichever is earlier.’;

16. In Article 17(b)

for: ‘(b) fixed operating costs, including maintenance costs, such as staff, maintenance and repair, general management and administration, and insurance; and’

read: ‘(b) fixed operating costs, including maintenance costs, such as staff, maintenance and repair, general management and administration, and insurance;’;

17. In Article 20, introductory sentence, the paragraph number should be deleted

for: ‘1. Indirect costs may be calculated by applying a flat rate established in accordance with Article 29(1) of Regulation (EU) No 1290/2013 for the following types of operations or projects forming part of operations:’

read: ‘Indirect costs may be calculated by applying a flat rate established in accordance with Article 29(1) of Regulation (EU) No 1290/2013 for the following types of operations or projects forming part of operations:’;

18. In Article 20(c)

for: ‘(c) the operations supported by the EAFRD in accordance with Articles 17, 26 or 35 of Regulation (EU) No 1305/2013 which contribute to the Union priority laid down in Article 5 (1) of Regulation (EU) No 1305/2013 of the European Parliament and of the Council. Where the operation is programmed in accordance with Article 17 and 26 of that Regulation (EU) No 1305/2013, only operations implemented by an operational group of the European Innovation Partnership funded under Article 35(1)(c) shall be considered;’

read: ‘(c) the operations supported by the EAFRD in accordance with Articles 17, 26 or 35 of Regulation (EU) No 1305/2013 which contribute to the Union priority laid down in Article 5(1) of that Regulation. Where the operation is programmed in accordance with Articles 17 and 26 of Regulation (EU) No 1305/2013, only operations implemented by an operational group of the European Innovation Partnership funded under Article 35(1)(c) of that Regulation shall be considered;’;

19. In Article 21, introductory sentence

for: ‘1. Indirect costs may be calculated by applying the flat rate established in accordance with Article 124(4) of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council¹ [Financial Regulation] for the following types of operations or projects forming part of an operation:’

read: ‘Indirect costs may be calculated by applying the flat rate established in accordance with Article 124(4) of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council² for the following types of operations or projects forming part of an operation:’;

20. In Article 21(c)

for: ‘(c) the operations supported by the EAFRD in accordance with Article 17 and 25 of Regulation (EU) No 1305/2013 which contribute to the Union priority 4 ‘restoring, preserving and enhancing ecosystems related to agriculture and forestry’ or the Union priority 5 ‘promoting resource efficiency and supporting the shift toward a low carbon and climate resilient economy in agriculture, food and forestry sectors’, in accordance with Article 5(4) and (5) of that Regulation;’

¹ Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298, 26.10.2012, p. 1).

² Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298, 26.10.2012, p. 1).

- read:* ‘(c) the operations supported by the EAFRD in accordance with Articles 17 and 25 of Regulation (EU) No 1305/2013 which contribute to the Union priority laid down in Article 5(4) or (5) of that Regulation;’;
21. In Article 22(1)(f)
- for:* ‘(f) no conflict of interest at any level in relation to a major project;’
- read:* ‘(f) no conflict of interest at any level in relation to the major project;’;
22. In Article 22(1)(g)
- for:* ‘(g) no commercial interest in relation to a major project;’
- read:* ‘(g) no commercial interest in relation to the major project;’;
23. In the first subparagraph of Article 22(2)
- for:* ‘Where a Member State proposes to mandate independent experts other than those supported by technical assistance at the initiative of the Commission in accordance with Article 58 of Regulation (EU) No 1303/2013, it shall in accordance with the third paragraph of Article 101 of that Regulation submit a request for the Commission's agreement. That agreement shall be based on documents demonstrating compliance of the experts with the requirements laid down in paragraph 1.’
- read:* ‘Where a Member State proposes to mandate independent experts other than those supported by technical assistance at the initiative of the Commission in accordance with Article 58 of Regulation (EU) No 1303/2013, it shall in accordance with the third paragraph of Article 101 of that Regulation submit a request for the Commission's agreement. That agreement shall be based on documents demonstrating compliance of the experts with the requirements laid down in paragraph 1 of this Article.’;
24. In Article 23(2)(b)
- for:* ‘the independent experts shall check the completeness, consistency and accuracy of the information under points (a) to (i) of the first subparagraph of Article 101 of Regulation (EU) No 1303/2013 provided for in the format referred to in the fifth subparagraph of Article 101 of Regulation (EU) No 1303/2013;’
- read:* ‘the independent experts shall check the completeness, consistency and accuracy of the information under points (a) to (i) of the first subparagraph of Article 101 of Regulation (EU) No 1303/2013 provided for in the format referred to in the fifth paragraph of Article 101 of Regulation (EU) No 1303/2013;’;
25. In Article 24(2), last sentence
- for:* ‘2. (...). For the ESF, the data shall be recorded and stored in a way that allows the managing authorities to perform the tasks related to monitoring and

evaluation in conformity with the requirements set out in Article 56 of Regulation (EU) No 1303/2013 and Articles 5 and 19 and Annexes I and II of Regulation (EU) No 1304/2013.’

read: ‘2. (...). For the ESF, the data shall be recorded and stored in a way that allows the managing authorities to perform the tasks related to monitoring and evaluation in conformity with the requirements set out in Article 56 of Regulation (EU) No 1303/2013 and Articles 5 and 19 of Regulation (EU) No 1304/2013 and Annexes I and II to that Regulation.’;

26. In Article 25(1)(j)

for: ‘(j) for financial instruments, the audit trail shall include the supporting documents referred to in Article 9(1)(g) of this Regulation.’

read: ‘(j) for financial instruments, the audit trail shall include the supporting documents referred to in Article 9(1)(e) of this Regulation.’;

27. In the second subparagraph of Article 25(1)

for: ‘For costs referred to in points (b) and (c), the audit trail shall allow the calculation method used by the managing authority to be verified for compliance with Articles 67(5) and 68(1) of Regulation (EU) No 1303/2013 and Article 14(3) of Regulation (EU) No 1304/2013.’

read: ‘For costs referred to in points (c) and (d), the audit trail shall allow the calculation method used by the managing authority to be verified for compliance with Articles 67(5) and 68(1) of Regulation (EU) No 1303/2013 and Article 14(3) of Regulation (EU) No 1304/2013.’;

28. In Article 27(2)(c)

for: ‘(c) that for expenditure declared to the Commission determined in accordance with Article 67(1)(b) and (c) and Article 109 of Regulation (EU) No 1303/2013 and Article 14(1) of Regulation (EU) No 1304/2013, outputs and results underpinning payments to the beneficiary have been delivered, participant data or other records related to outputs and results are consistent with the information submitted to the Commission and that the required supporting documentation demonstrates an adequate audit trail as set out in Article 25 of this Regulation.’

read: ‘(c) that for expenditure declared to the Commission determined in accordance with Articles 67(1)(b) and (c) and 109 of Regulation (EU) No 1303/2013 and Article 14(1) of Regulation (EU) No 1304/2013, outputs and results underpinning payments to the beneficiary have been delivered, participant data or other records related to outputs and results are consistent with the information submitted to the Commission and that the required supporting documentation demonstrates an adequate audit trail as set out in Article 25 of this Regulation.’;

29. In Article 29(5)

- for:* ‘5. For the purpose of the audit opinion, in order to conclude that the accounts give a true and fair view, the audit authority shall verify that all elements required by Article 137 of Regulation (EU) No 1303/2013 are correctly included in the accounts and correspond to the supporting accounting records maintained by all relevant authorities or bodies and beneficiaries during the audit work performed by the audit authority. The audit authority shall in particular, on the basis of the accounts to be provided to it by the certifying authority, verify that:’
- read:* ‘5. For the purpose of the audit opinion, in order to conclude that the accounts give a true and fair view, the audit authority shall verify that all elements required by Article 137 of Regulation (EU) No 1303/2013 are correctly included in the accounts and correspond to the supporting accounting records maintained by all relevant authorities or bodies and beneficiaries. The audit authority shall in particular, on the basis of the accounts to be provided to it by the certifying authority, verify that:’;
30. In the title of Section VII
- for:* ‘SECTION VII’
- read:* ‘SECTION IV’;
31. In Article 31(4)
- for:* ‘4. Where the application of a flat rate fixed in accordance with paragraph 4 would be disproportionate, the level of correction shall be reduced.’
- read:* ‘4. Where the application of a flat rate fixed in accordance with paragraph 3 would be disproportionate, the level of correction shall be reduced.’;
32. In the second subparagraph of Article 32
- for:* ‘Article 25 shall apply from 1 December 2014, as regards information on data recorded and stored referred to in Annex III, with the exception of data fields 23 to 40, 71 to 88 and 91 to 105. With regard to these fields of Annex III, Article 25 shall apply from 1 July 2015.’
- read:* ‘Article 24 shall apply from 1 December 2014, as regards information on data recorded and stored referred to in Annex III, with the exception of data fields 23 to 40, 71 to 78 and 91 to 105. With regard to these fields of Annex III, Article 24 shall apply from 1 July 2015.’;
33. In the title of Annex II
- for:* ‘**Criteria for quality review of major projects referred to in Article 24**’
- read:* ‘**Criteria for quality review of major projects referred to in Article 23**’;
34. In point 5.1 of Annex II

for: ‘Cost-benefit analysis correctly followed the required methodology referred to in Article 101 of Regulation (EU) No 1303/2013, and correctly applied the method for calculation of net revenue as referred to in Article 61 of the Regulation (EU) No 1303/2013 and in Articles 15 to 19 of this Regulation.’

read: ‘Cost-benefit analysis correctly followed the required methodology referred to in Article 101 of Regulation (EU) No 1303/2013, and correctly applied the method for calculation of net revenue as referred to in Article 61 of that Regulation and in Articles 15 to 19 of this Regulation.’;

35. In point 6.7 of Annex II

for: ‘In case of non-fulfilment of the general ex-ante conditionality on environmental legislation and of any, as the case may be, relevant thematic ex ante conditionalities for the waste and water sectors, and transport sector (SEA requirements) as set out in Article 19 and Annex XI of Regulation (EU) No 1303/2013, the link to the agreed action plan has to be demonstrated.’

read: ‘In case of non-fulfilment of the general ex-ante conditionality on environmental legislation and of any, as the case may be, relevant thematic ex ante conditionalities for the waste and water sectors, and transport sector (SEA requirements) as set out in Article 19 and Annex XI to Regulation (EU) No 1303/2013, the link to the agreed action plan has to be demonstrated.’;

36. In field 42 of Annex III

for: ‘42 Amount of the total eligible costs constituting public expenditure as defined in Article 2(15) of Regulation (EU) 1303/2013’

read: ‘42 Amount of the total eligible costs constituting public expenditure as defined in Article 2(15) of Regulation (EU) No 1303/2013’;

37. In field 102 of Annex III

for: ‘102 For the operation included in each set of accounts, total eligible amount of expenditure of recoveries effected pursuant to Article 71 of Regulation (EU) No 1303/2013 during the accounting year’

read: ‘102 For the operation included in each set of accounts, total eligible amount of expenditure recovered pursuant to Article 71 of Regulation (EU) No 1303/2013 during the accounting year’;

38. In field 103 of Annex III

for: ‘103 For the operation included in each set of accounts, public expenditure as defined in Article 2 (15) of Regulation (EU) 1303/2013 corresponding to the total eligible amount of expenditure of recoveries effected pursuant to Article 71 of Regulation (EU) No 1303/2013 during the accounting year’

read: ‘103 For the operation included in each set of accounts, public expenditure as defined in Article 2(15) of Regulation (EU) No 1303/2013 corresponding to

the total eligible amount of expenditure recovered pursuant to Article 71 of that Regulation during the accounting year’.