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COVER NOTE

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

date of receipt: 10 June 2015

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

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Subject: COMMISSION DELEGATED REGULATION (EU) .../... of 10.6.2015
establishing, pursuant to Regulation (EU) No 1303/2013 of the European
Parliament and of the Council, a flat rate for operations funded by the
European Structural and Investment Funds in the Research, Development
and Innovation sector

Delegations will find attached document C(2015) 3759 final.

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COMMISSION DELEGATED REGULATION (EU) .../...

of 10.6.2015

establishing, pursuant to Regulation (EU) No 1303/2013 of the European Parliament and of the Council, a flat rate for operations funded by the European Structural and Investment Funds in the Research, Development and Innovation sector

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

One of the key aims for the European Structural and Investment Funds for 2014-20 is to simplify day-to-day management through simpler and clearer rules. In certain cases, this requires detailed rules in the form of delegated acts supplementing Regulation (EU) No 1303/2013 of the European Parliament and of the Council¹ and the Fund-specific Regulations².

Support for revenue-generating operations is a complex area. It calls for rules that ensure sound, efficient and effective management of the European Structural and Investment Funds. The basic rules applicable to revenue generating operations are set out in Articles 61 and 65 of Regulation (EU) No 1303/2013. This Regulation has greatly simplified the management of revenue generating operations by enabling the application of sector-specific flat-rate revenue percentages to operations without having to calculate the discounted net revenue in every case. In that respect Annex V of Regulation (EU) No 1303/2013 defines specific flat rates for net revenue-generating projects for the road, rail, urban transport, water and solid waste sectors.

However, the lack of available data in other sectors did not allow the legislator to get sufficient assurance to provide flat rates for other sectors. To address this issue, the legislator empowered the Commission to adopt delegated acts to establish flat rates for other sectors or subsectors. In particular, for sectors and subsectors in the field of Research, Development and Innovation (RDI), Information and Communication Technologies (ICT) and energy efficiency the legislator set out that the Commission shall notify a delegated act establishing flat rates for these sectors or subsectors to the European Parliament and Council not later than 30 June 2015.

In order to fulfil this obligation and to simplify the management of revenue generating projects in these sectors, the Commission engaged an external consultant to investigate all accessible sources of information both at EU and at Member State level to collect relevant historical data. Such data are to provide a reliable basis and reasonable assurance so as to establish flat rates for sectors or subsectors within the fields of ICT, RDI and energy efficiency. However, the results of the study³ show that large variations in financial profitability both across and within countries; in conjunction with limitations of available data, the Commission is therefore unable to establish reliable flat rates for the sectors or subsectors in the field of ICT and energy efficiency.

¹ 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 (OJ L 347, 20.12.2013, p. 320).

² Regulation (EU) No 1299/2013 (OJ L 347, 20.12.2013, p. 259), Regulation (EU) No 1300/2013 (OJ L 347, 20.12.2013, p. 281), Regulation (EU) No 1301/2013 (OJ L 347, 20.12.2013, p. 289), Regulation (EU) No 1304/2013 (OJ L 347, 20.12.2013, p. 470), Regulation (EU) No 1305/2013 (OJ L 347, 20.12.2013, p. 487) and Regulation (EU) No 508/2014 (OJ L 149, 20.5.2014, p. 1).

³ The study is publicly available on the Inforegio website:
http://ec.europa.eu/regional_policy/en/information/publications/studies

It needs to be recalled that inadequate flat-rates could contribute to significant over-financing of operations; this would harm the EU budget. Moreover, an over-financing of certain operations could also lead to market distortions within the Single Market. Therefore, the Commission proposes at the present point in time not to establish flat rates for the ICT and energy efficiency sectors. This proposal is based on the lack of available historical data; new data could become available during the implementation of the 2014-2020 programming period, in which case, the Commission would be able to establish flat rates for other sectors at a later stage.

With regard to flat rates for the RDI sector, the results of the study show that the available relevant historical data is sufficient to build a reliable basis and reasonable assurance in order to establish a flat rate of 20% for this sector.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

Consultations have been carried out in line with paragraph 4 of the Common Understanding on delegated acts between the European Parliament, the Council and the European Commission.

An expert group meeting in the presence of experts of the European Parliament took place on 13 March 2015. At this meeting the results of the study to determine flat-rate revenue percentages to apply to net revenue-generating operations in sectors or subsectors within the field of ICT, RDI and energy efficiency co-financed by the European Structural and Investment Funds (ESI Funds) in 2014-20 were presented and discussed.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

The third subparagraph of Article 61(3) of Regulation (EU) No 1303/2013 empowers the Commission to adopt delegated acts as regards the following:

Establish flat rates for sectors or subsectors within the fields of ICT, RDI and energy efficiency. The Commission shall notify the delegated acts to the European Parliament and the Council not later than 30 June 2015.

COMMISSION DELEGATED REGULATION (EU) .../...

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establishing, pursuant to Regulation (EU) No 1303/2013 of the European Parliament and of the Council, a flat rate for operations funded by the European Structural and Investment Funds in the Research, Development and Innovation sector

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006⁴, and in particular the third subparagraph of Article 61(3) thereof,

Whereas:

- (1) In accordance with Article 61 of Regulation (EU) No 1303/2013 revenues generated by operations are to be taken into account when the public contribution is calculated.
- (2) Regulation (EU) No 1303/2013 provides for the application of flat-rate revenue percentages to operations in the sector of research, development and innovation without calculating the discounted net revenue.
- (3) Based on historical data flat rate for net revenues generated in the sector of research, development and innovation should be set at 20% in order to avoid over-financing and market distortion,

HAS ADOPTED THIS REGULATION:

Article 1

This Regulation sets out a flat rate applicable to operations in the sector of Research Development and Innovation for the purpose of determining in advance the potential net revenues of such operations and allowing for the establishment of the eligible expenditure of operations in accordance with Article 61(2) of Regulation (EU) No 1303/2013.

⁴ OJ L 347, 20.12.2013, p. 320.

Article 2

For the purpose of the application of the flat rate net revenue percentage referred to in Article 61(3)(a) of Regulation (EU) No 1303/2013, a flat rate of 20% is established for operations in the sector of research, development and innovation.

Article 3

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 10.6.2015

For the Commission
The President
Jean-Claude JUNCKER