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Proposal for a

COUNCIL REGULATION

on the financial regulation applicable to the 11th European Development Fund

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

The objective of this proposal is to align the financial rules of the European Development Fund ('EDF') with those applicable to the Union budget. Council Regulation (EU) 2015/323 on the financial regulation applicable to the 11th European Development Fund ('11th EDF Financial Regulation') is structured as a set of references to the financial regulation applicable to the general budget of the Union, excluding or supplementing provisions to cater for EDF specificities. Since Regulation No 966/2012, the financial regulation applicable to the general budget of the Union ('the Financial Regulation'), has been recently revised, it is necessary to adapt the 11th EDF Financial Regulation. This is the only way to extend to the EDF the benefit of the simplification achieved through the Financial Regulation, for instance as regards:

- cross reliance on audits and assessments,
- extension of pillar assessment use,
- single set of rules for bodies eligible under indirect management,
- new grounds of exclusion,
- extension of the basic principles of cooperation on good taxation governance (non-cooperative jurisdictions) to all funds under indirect management

Since changes introduced to the Financial Regulation are significant and therefore proposed in the form of a new legal act repealing Regulation (EU, EURATOM) No 966/2012, this proposal follows the same approach: in the interest of legal clarity and readability, and given the significant amendments a new legal act is proposed.

The present alignment only concerns the current 11th EDF which expires in 2020 and is unrelated to the discussions on the 2021-2027 Multiannual Financial Framework.

• Consistency with existing policy provisions in the policy area

The overarching principle of this proposal is to align it as much as possible with the Financial Regulation, which also applies to the other external policy instruments. However, since this 11th EDF expires in December 2020, certain provisions of the Financial Regulation that will enter into force only with the 2021-2027 Multiannual Financial Framework have not been made applicable in the 11th EDF Financial Regulation.

• Consistency with other Union policies

Not applicable.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

• Legal basis

The 11th EDF Financial Regulation is based on Article 10(2) of the Internal Agreement governing the 11th EDF.

• Subsidiarity (for non-exclusive competence)

The adoption of the 11th EDF financial rules falls under the exclusive competence of the EU.

- **Proportionality**

This proposal focuses on alignment and simplification. The amendments are limited to those necessary to allow the simplifications proposed in the Financial Regulation to deploy their full effect on the ground while keeping the necessary specificities of the 11th EDF.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Stakeholder consultations**

The proposal draws on the results of the public consultation in 2016 that preceded the Commission proposal No 2016/0605 of 14 September 2016 for the Financial Regulation.

- **Collection and use of expertise**

Not applicable.

- **Impact assessment**

No impact assessment for the revision of the 11th EDF Financial Regulation has been carried out. The proposed amendments follow the simplifications proposed in the Financial Regulation applicable to the general budget of the Union. Moreover, the 11th EDF Financial Regulation as such has a limited economic, environmental or social impact, since it provides the general rules for the implementation of the 11th EDF.

- **Regulatory fitness and simplification**

The proposal does not fall under the Regulatory Fitness Programme.

- **Fundamental rights**

The proposal has no impact on fundamental rights.

4. BUDGETARY IMPLICATIONS

The proposal has no budgetary implications. The EDF is not included in the EU budget and its financial envelope is determined in the Internal Agreement. While the funds will be implemented according to the 11th EDF Financial Regulation, its adoption has no financial impact.

5. LEGAL ELEMENTS OF THE PROPOSAL

- **Detailed explanation of the specific provisions of the proposal**

As stated above, the overarching principle of this proposal is to align it as much as possible with the Financial Regulation. This is achieved by direct references to that Regulation.

Such references have to be read bearing in mind that:

- Article 2(2) of the proposal excludes the application of provisions which give the Commission the power to adopt delegated acts under Article 290 TFEU.
- Certain provisions of the Financial Regulation apply mutatis mutandis; in such a case, the applicable provisions have to be read and applied in a reasonable context with the EDF as a whole rather than literally.

Where the applicable Financial Regulation provisions contain internal references, the provisions referred to only apply if the 11th EDF Financial Regulation provides that they are

applicable. In other words, it is solely the 11th EDF Financial Regulation that explicitly lays down the provisions of the Financial Regulation that are applicable to the EDF.

The proposal follows as much as possible the structure of the Financial Regulation. It is divided into three Parts: Main Provisions, Investment Facility, and Transitional and Final Provisions.

The recitals of the proposal address the degree of alignment with the Financial Regulation in more detail.

Part One “Main Provisions” is subdivided into 11 Titles: Subject matter, scope and general provisions; Financial principles; EDF resources and implementation; Financial actors; Revenue operations; Expenditure operations; Various implementation provisions; Funding instruments; Annual accounts and other financial reporting; and External audit and discharge.

The self-standing text of the proposal largely falls into one of two categories. Part of the text is aligned on the substance with the Financial Regulation but the terminological differences or the necessity to carry out minor adjustments to the EDF require complementary text. Examples of this are in Title VIII “Funding instruments”. Other self-standing text is specific to the EDF. Examples of this are in Title VI “Revenue operations” which is largely untouched by this revision.

Part Two, on the investment facility managed by the EIB, is specific to the EDF and is largely unchanged by this revision.

As stated above, since this EDF expires in December 2020, certain provisions of the Financial Regulation applicable to the general budget of the Union that will enter into force only during the period of the 2021 - 2027 multiannual financial framework have not been made applicable in the 11th EDF Financial Regulation. As an example, the proposal does not make applicable the provisions related to the Common Provisioning Fund (Title X of the Financial Regulation applicable to the general budget of the Union).

Proposal for a

COUNCIL REGULATION

on the financial regulation applicable to the 11th European Development Fund

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the Partnership Agreement between the members of the African, Caribbean and Pacific Group of States of the one part, and the European Community and its Member States, of the other part, as last amended¹ ('ACP-EU Partnership Agreement'),

Having regard to the Internal Agreement between the Representatives of the Governments of the Member States of the European Union, meeting within the Council, on the financing of European Union aid under the multiannual financial framework for the period 2014 to 2020, in accordance with the ACP-EU Partnership Agreement, and on the allocation of financial assistance for the Overseas Countries and Territories to which Part Four of the Treaty on the Functioning of the European Union applies² ('the Internal Agreement'), and in particular Article 10(2) thereof,

Having regard to the proposal from the European Commission,

Having regard to the opinion of the Court of Auditors³,

Having regard to the opinion of the European Investment Bank on the provisions concerning it⁴,

Acting in accordance with a special legislative procedure,

Whereas:

- (1) Council Regulation (EU) 2015/323 has determined the detailed rules for the financial implementation of the 11th European Development Fund ('11th EDF') concerning, notably the applicable principles; the constitution of the 11th EDF resources; the financial actors and entities entrusted with budget-implementation tasks; the financing decisions, commitments and payments; the funding instruments including procurement, grants, financial instruments and Union trust funds; the presentation of the accounts and accounting; the external audit by the Court of Auditors and discharge by the European Parliament; as well as the Investment Facility managed by the European Investment Bank.
- (2) For the sake of simplification and coherence, Regulation (EU) 2015/323 has been aligned, as much as possible, with Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council and Commission Delegated Regulation (EU) No 1268/2012. This alignment has been achieved by direct references to those

¹ OJ L 317, 15.12.2000, p. 3.

² OJ 210, 6.8.2013, p. 1.

³ OJ C , , p. .

⁴

regulations and has, on the one hand, allowed for an easy identification of specificities in the financial implementation of the 11th EDF and, on the other hand, reduced the diversity of Union funding rules in the area of external action that creates an unnecessary burden for the recipients, the Commission as well as other actors involved.

- (3) Regulation (EU, Euratom) No 966/2012 and Delegated Regulation (EU) No 1268/2012 have been merged and replaced by a single legal act, Regulation (EU) No [the new Financial Regulation], which introduced significant changes and improvements, and which simplified the financial rules applicable to the general budget of the Union. In the interest of simplification, the financial regulation applicable to the 11th EDF should be aligned as much as possible to that Regulation. For reasons of legal clarity and taking into consideration the significant number of amendments required for that alignment, Regulation (EU) 2015/323 should be repealed and replaced by this Regulation.
- (4) It is necessary to recall that the framework for financial implementation of the 11th EDF is, besides this Regulation, constituted by the Partnership Agreement between the members of the African, Caribbean and Pacific group of States of the one part, and the European Community and its Member States of the other part, signed in Cotonou on 23 June 2000, revised in Luxembourg on 25 June 2005 and revised in Ouagadougou on 22 June 2010 ('the Cotonou Agreement'), in particular by its Annex IV, further by the Internal Agreement, by Council Decision 2013/755/EU of 25 November 2013 on the association of the overseas countries and territories with the European Union ('the Overseas Association Decision') and by Council Regulation (EU) 2015/322.
- (5) The financial implementation of the 11th EDF should be guided by the principles of unity and budgetary accuracy, unit of account, specification, sound financial management and transparency. Having regard to the multiannual set-up of the 11th EDF, the budgetary principle of annuality should not apply to the 11th EDF.
- (6) It is necessary to determine the detailed rules for the payment of the contributions by the Member States to the 11th EDF, set up by the Internal Agreement, and for the country allocation of financial assistance for the Overseas Countries and Territories to which Part IV of the Treaty applies.
- (7) The rules concerning the financial actors, i.e. the authorising and accounting officers, the delegation of their tasks as well as their liability should be aligned with Regulation (EU, Euratom) No [the new Financial Regulation] as these actors act within the framework of the Commission when it implements the EDF under this Regulation.
- (8) It is necessary to establish the detailed rules in accordance with which the authorising officer by delegation establishes the necessary arrangements to ensure the proper execution of operations, in close cooperation with the national, regional, intra-ACP or territorial authorising officer.
- (9) The rules on methods of implementation, i.e. on the entrustment of budget-implementation tasks and on its conditions and limits, should be aligned with Regulation (EU, Euratom) No [the new Financial Regulation]. In addition, a provision on further entrustment of budget-implementation tasks mirroring that in Regulation (EU) No 236/2014 of the European Parliament and of the Council should be inserted in order to ensure a coherent implementation of funding of external action. This Regulation should nonetheless contain specific provisions on temporary acting in the

place of the national authorising officer, on entrustment by the ACP States and Overseas Countries and Territories ('OCTs') to a service provider and on strengthening the protection of EU financial interests in the case of indirect management with ACP States and OCTs.

- (10) The provisions on financing decisions should be aligned with those of Regulation (EU, Euratom) No [the new Financial Regulation] where the Commission implements the 11th EDF under this Regulation.
- (11) The rules on commitments should be aligned with those of Regulation (EU, Euratom) No [the new Financial Regulation] with the exception of provisional commitments. In addition, an extension of deadlines should be provided where it is necessary for actions carried out in indirect management by ACP States or OCTs.
- (12) The time limits for payments should be aligned with those of Regulation (EU, Euratom) No [the new Financial Regulation]. Special provisions should be laid down where ACP States and OCTs are not entrusted with carrying out payments under indirect management and where, consequently, the Commission continues to carry out payments to recipients.
- (13) Various implementation provisions concerning the internal auditor, good administration and redress, the IT system, electronic transmission, e-Government, and the administrative and financial penalties and the use of the central exclusion database should be aligned with those of Regulation (EU, Euratom) No [the new Financial Regulation]. In addition, the protection of EU financial interests through the penalties should be strengthened where the 11th EDF is implemented in indirect management with ACP States and OCTs.
- (14) The rules on procurement, grants, prizes and experts should be aligned with those of Regulation (EU, Euratom) No [the new Financial Regulation]. The rules on financial instruments and EU trust funds should be aligned with adjustments due to the nature of the 11th EDF. Budget support to OCTs should take the institutional links with the Member State concern into account.
- (15) The rules on presentation of the accounts and accounting, and on external audit and discharge should mirror those of Regulation (EU, Euratom) No [the new Financial Regulation].
- (16) It is necessary to lay down the conditions in accordance with which the Court of Auditors must exercise its powers in respect of the 11th EDF.
- (17) It is necessary to lay down the conditions in accordance with which the European Investment Bank (EIB) manages EDF resources.
- (18) The provisions concerning scrutiny by the Court of Auditors of the 11th EDF resources managed by the EIB should comply with the Tripartite Agreement concluded between the Court of Auditors, the EIB and the Commission provided for in Article 248(4) of the Treaty.
- (19) The transitional provisions should lay down the rules on treating balances and revenue from previous EDFs as well as the application of this Regulation to residual operations under these previous EDFs.
- (20) The interpretation of this Regulation should aim to ensure consistency with Regulation (EU, Euratom) No [the new Financial Regulation] unless such an interpretation would be incompatible with the specificities of the 11th EDF as provided for in the ACP-EU

Partnership Agreement, the Internal Agreement, the Overseas Association Decision, or Council Regulation (EU) No 2015/322.

- (21) As the application of different sets of financial rules could lead to an unnecessary burden for the recipients, the Commission and the other actors involved, this Regulation should enter into force as soon as possible and should apply retroactively from the date of entry into force of Regulation (EU, Euratom) No [the new Financial Regulation],

HAS ADOPTED THIS REGULATION:

PART ONE

MAIN PROVISIONS

TITLE I

Subject matter, scope and general provisions

Article 1 *Subject matter*

This Regulation lays down rules on the financial implementation of the resources of the 11th European Development Fund ('11th EDF') and on the presentation and auditing of the accounts.

Article 2 *Relation to Regulation (EU, Euratom) No [the new Financial Regulation] applicable to the general budget of the Union*

1. For the purposes of this Regulation, references to the applicable provisions of Regulation (EU, Euratom) No [the new Financial Regulation] or Annex I to that Regulation shall not include procedural provisions which are not relevant to the 11th EDF.
2. Internal references in Regulation (EU, Euratom) No [the new Financial Regulation] or in Annex I to that Regulation shall not render the provisions referred to indirectly applicable to the 11th EDF.
3. Specific references in this Regulation to the provisions of Regulation (EU, Euratom) No [the new Financial Regulation] are understood as dynamic references, including the subsequent amendments to these provisions.
4. Commission Decision No [XXX/2018]⁵, which establishes the Internal Rules on the implementation of the general budget of the European Union, shall apply to the 11th EDF *mutatis mutandis*.

Article 3 *General provisions*

1. The definitions in Article 2 of Regulation (EU, Euratom) No [the new Financial Regulation] shall apply.
2. For the purposes of this Regulation:
 - (a) references to 'appropriations' or 'operational appropriations' in Regulation (EU, Euratom) No [the new Financial Regulation] shall be construed as references to '11th EDF resources' in this Regulation;
 - (b) references to 'basic act' in Regulation (EU, Euratom) No [the new Financial Regulation] shall be construed as references to, according to the relevant

⁵ Commission Decision No [XXX/2018] on the Internal Rules on the implementation of the general budget of the European Union (European Commission section) for the attention of the Commission departments.

context, the Internal Agreement, the Overseas Association Decision, or Council Regulation (EU) No 2015/322

- (c) references to ‘budget’ or ‘budgetary’ in Regulation (EU, Euratom) No [the new Financial Regulation] shall be construed as references to ‘11th EDF’ in this Regulation;
 - (d) references to ‘budgetary commitment’ in Regulation (EU, Euratom) No [the new Financial Regulation] shall be construed as references to ‘financial commitment’ in this Regulation;
 - (e) references to ‘budget line’ or ‘line in the budget’ in Regulation (EU, Euratom) No [the new Financial Regulation] shall be construed as references to ‘allocation’ in this Regulation;
 - (f) references to ‘third country’ in Regulation (EU, Euratom) No [the new Financial Regulation] shall be construed as references to any partner country or territory covered by the geographical scope of the 11th EDF in this Regulation.
- (2) Articles 4 and 5 of Regulation (EU, Euratom) No [the new Financial Regulation] shall apply.

TITLE II

Financial principles

Article 4 *Financial principles*

The 11th EDF resources shall be implemented in compliance with the following principles:

- (a) unity and budgetary accuracy;
- (b) unit of account;
- (c) universality;
- (d) specification;
- (e) sound financial management and performance;
- (f) transparency.

The financial year shall run from 1 January to 31 December.

Article 5 *Principles of unity and budgetary accuracy*

No revenue shall be collected and no expenditure shall be effected unless booked to the EDF.

Article 8(2) to (4) of Regulation (EU, Euratom) No [the new Financial Regulation] shall apply.

Article 6 *Principle of unit of account*

Article 19 of Regulation (EU, Euratom) No [the new Financial Regulation] shall apply *mutatis mutandis*.

Article 7
Principle of universality

Article 20 of Regulation (EU, Euratom) No [the new Financial Regulation] shall apply. Without prejudice to Article 8 of this Regulation, total revenue shall cover total estimated payments.

The revenue referred to in point (c) of Article 8(2) of this Regulation shall automatically decrease payments made against the commitment from which it was generated.

The Union may not raise loans within the framework of the 11th EDF.

Article 8
Assigned revenue

1. Assigned revenue shall be earmarked to finance specific items of expenditure.
2. The following shall constitute assigned revenue:
 - (a) financial contributions from Member States and third countries, including in both cases their public agencies, entities or natural persons, and from international organisations to certain external aid projects or programmes financed by the Union and managed by the Commission or the EIB on their behalf in accordance with Article 10 of Council Regulation (EU) No 2015/322;
 - (b) revenue earmarked for a specific purpose, such as income from foundations, subsidies, gifts and bequests;
 - (c) revenue arising from the repayment, following recovery, of amounts wrongly paid;
 - (d) repayments and revenues generated by financial instruments and budgetary guarantees pursuant to Article 209(3) of Regulation (EU, Euratom) No [the new Financial Regulation];
 - (e) revenue arising from the subsequent reimbursement of taxes pursuant to point (b) of Article 27(3) of Regulation (EU, Euratom) No [the new Financial Regulation].
3. Assigned revenue referred to in points (a) and (b) of paragraph 2 shall finance such items of expenditure as determined by the donor, provided that it is accepted by the Commission.

Assigned revenue referred to in points (d) and (e) of paragraph 2 shall finance items of expenditure similar to those from which it was generated.
4. Articles 25 to 27 of Regulation (EU, Euratom) No [the new Financial Regulation] concerning donations shall apply. Acceptance of a donation shall be subject to the authorisation of the Council.
5. The 11th EDF resources corresponding to assigned revenue shall be made available automatically when that revenue has been received by the Commission. However, an estimate of amounts receivable shall have the effect of making 11th EDF resources available in the case of assigned revenue referred to in point (a) of paragraph 2 where the agreement with the Member State is expressed in euro, payments may be carried out against such revenue only when it has been received.

Article 9
Principle of specification

11th EDF resources shall be earmarked for specific purposes per the ACP States or OCTs and in accordance with the main instruments of cooperation.

In respect of the ACP States, those instruments are laid down by the financial protocol set out in Annex Ic to the ACP- EU Partnership Agreement. The earmarking of resources (indicative allocations) shall also be based on the provisions of the Internal Agreement and of Council Regulation (EU) No 2015/322 and shall take account of the resources reserved for support expenditure linked to programming and implementation under Article 6 of the Internal Agreement.

In respect of the OCTs, those instruments are laid down in Part Four of the Overseas Association Decision and Annex II thereto. The earmarking of those resources shall also take into account the non-allocated reserve provided for in Article 3(3) of that Annex and the resources for studies or technical assistance measures under point (c) of Article 1(1) thereof.

Article 10
Principle of sound financial management and performance and Internal control

Article 33(1), (2)(a) and (b), and (3), Articles 34 and 36 of Regulation (EU, Euratom) No [the new Financial Regulation] shall apply.

Article 11
Principle of transparency

1. Article 37(1) and Article 38 of Regulation (EU, Euratom) No [the new Financial Regulation] shall apply.
2. The annual statement of the commitments, payments and the annual amount of calls for contributions under Article 7 of the Internal Agreement shall be published in the *Official Journal of the European Union*.
3. For the purpose of Article 38(2) of Regulation (EU, Euratom) No [the new Financial Regulation], the term ‘locality’ shall mean, where necessary, the equivalent to the region at NUTS 2 level when the recipient is a natural person.

TITLE III

11th EDF resources and implementation

Article 12
Sources of 11th EDF resources

The 11th EDF resources shall consist of the ceiling referred to in Article 1(2), (4) and (6) of the Internal Agreement, the funds referred to in Article 1(9) of the Internal Agreement and other assigned revenue referred to in Article 8 of this Regulation.

Article 13
Structure of the 11th EDF

The 11th EDF revenue and expenditure shall be classified according to their type or the use to which they are assigned.

Article 14

11th EDF implementation in accordance with the principle of sound financial management and performance

1. Article 57, Article 59(2) and (3), Articles 60 and 61 of Regulation (EU, Euratom) No [the new Financial Regulation] shall apply.
2. The Commission shall assume the responsibilities of the Union as defined in Article 57 of the ACP-EU Partnership Agreement and in the Overseas Association Decision. To that end, it shall implement the revenue and expenditure of the 11th EDF in accordance with the provisions of this Part and Part Three of this Regulation, under its own responsibility and within the limits of the 11th EDF resources.
3. The Member States shall cooperate with the Commission so that the 11th EDF resources are used in accordance with the principle of sound financial management and performance.

Article 15

Methods of implementation

Article 62(1)(a) and (c), the first and third subparagraph of paragraph 2, and paragraph (3) of Regulation (EU, Euratom) No [the new Financial Regulation] shall apply.

TITLE IV

Financial actors

Article 16

General provisions on financial actors and their liability

1. Articles 72, 73, 74, 75 and 76 of Regulation (EU, Euratom) No [the new Financial Regulation] shall apply.
2. Articles 90, 91, 92, 93, 94 and 95 of Regulation (EU, Euratom) No [the new Financial Regulation] concerning the liability of the financial actors shall apply *mutatis mutandis*.

Article 17

Authorising officer

1. The annual activity report referred to in Article 74(9) of Regulation (EU, Euratom) No [the new Financial Regulation] shall include, as an annex, tables showing by allocation, country, territory, region or sub-region, the total commitments, assigned funds and payments effected during the financial year and aggregate totals since the opening of the respective EDF.
2. Where the responsible authorising officer of the Commission becomes aware of problems in carrying out procedures relating to the management of 11th EDF resources, he or she shall, in conjunction with the appointed national, regional, intra-ACP or territorial authorising officer, make all contacts necessary to remedy the situation and take any steps that are necessary. In case the national, regional, intra-ACP or territorial authorising officer does not or is unable to perform the duties incumbent on him or her under the ACP-EU Partnership Agreement or the Overseas Association Decision, the responsible authorising officer of the Commission may temporarily take the former's place and act in the name and on behalf of the former in

indirect management. In such a case, the Commission may receive, from the resources allocated to the ACP State or OCTs in question, financial compensation for the additional administrative workload incurred.

Article 18
Accounting officer

1. The accounting officer of the Commission shall be the accounting officer of the 11th EDF.
2. Article 77(1)(a), (c) to (f), Article 78(3) and (4), Article 79, Article 80(1) to (3), Article 81, Article 82(2) to (10), Articles 84, 85, and 86 of Regulation (EU, Euratom) No [the new Financial Regulation] shall apply.
3. The accounting rules referred to in Article 80(1) to (3) of Regulation (EU, Euratom) No [the new Financial Regulation] shall apply to the 11th EDF resources managed by the Commission. Those rules shall be applied to the 11th EDF while taking into account the specific nature of its activities.
4. The accounting officer shall prepare and, after consulting the responsible authorising officer, adopt the chart of accounts to be applied to the 11th EDF's operations.

TITLE V
Revenue operations

Article 19
Annual contribution and its instalments

1. In accordance with Article 7 of the Internal Agreement, the ceiling for the annual amount of the contribution for the year $n + 2$ and the annual amount of the contribution for the year $n + 1$, as well as its payment in three instalments, shall be determined in accordance with the procedure set out in paragraphs 2 to 7 of this Article.

The instalments to be paid by each Member State shall be set in such a way as to be in proportion to that Member State's contributions to the 11th EDF as fixed in Article 1(2) of the Internal Agreement.

2. The Commission shall present a proposal by 15 October of the year n , setting out:
 - (a) the ceiling for the annual amount of the contribution for the year $n + 2$;
 - (b) the annual amount of the contribution for the year $n + 1$;
 - (c) the amount of the first instalment of the contribution for the year $n + 1$;
 - (d) an indicative, non-binding forecast based on a statistical approach for the expected annual amounts of contributions for the years $n + 3$ and $n + 4$.

The Council shall decide on that proposal by 15 November of the year n .

The Member States shall pay the first instalment of the contribution for the year $n + 1$ at the latest by 21 January of the year $n + 1$.

3. The Commission shall present a proposal by 15 June of the year $n + 1$, setting out:
 - (a) the amount of the second instalment of the contribution for the year $n + 1$;

- (b) a revised annual amount of the contribution for the year $n + 1$ in line with actual needs, in cases where, in accordance with Article 7(3) of the Internal Agreement, the annual amount deviates from actual needs.

The Council shall decide on the proposal at the latest 21 calendar days following the presentation by the Commission of its proposal.

The Member States shall pay the second instalment at the latest 21 calendar days following the adoption of the Council decision.

- 4. By 15 June of the year $n + 1$, the Commission, taking into account the EIB's forecasts concerning the management and operation of the Investment Facility, including those interest rates subsidies which are implemented by the EIB, shall establish and communicate to the Council a statement of the commitments, payments, and the annual amount of the calls for contributions made in the year n and to be made in the years $n + 1$ and $n + 2$. The Commission shall provide the annual amounts of the contributions by Member State, as well as the amount still to be paid by the EDF, distinguishing between the shares of the EIB and of the Commission. The amounts for the years $n + 1$ and $n + 2$ shall be based on the capacity to deliver effectively the proposed level of resources while endeavouring to avoid significant variations between the different years, as well as significant end-of-year balances.
- 5. The Commission shall present a proposal by 10 October of the year $n + 1$, setting out:
 - (a) the amount of the third instalment of the contribution for the year $n + 1$;
 - (b) a revised annual amount of the contribution for the year $n + 1$ in line with actual needs, in cases where in accordance with Article 7(3) of the Internal Agreement the annual amount deviates from actual needs.

The Council shall decide on the proposal at the latest 21 calendar days following the presentation by the Commission of its proposal.

The Member States shall pay the third instalment at the latest 21 calendar days following the adoption of the Council decision.

- 6. The sum of the instalments relating to a certain year shall not exceed the annual amount of the contribution determined for that year. The annual amount of the contribution shall not exceed the ceiling determined for that year. The ceiling shall not be increased except in accordance with Article 7(4) of the Internal Agreement. A possible increase of the ceiling shall be made part of the proposals referred to in paragraphs 2, 3 and 5 of this Article.
- 7. The ceiling for the annual amount of the contribution to be paid by each Member State for the year $n + 2$, the annual amount of the contribution for the year $n + 1$ and the instalments of the contributions shall specify:
 - (a) the amount managed by the Commission; and
 - (b) the amount managed by the EIB, including the interest rates subsidies managed by it.

Article 20

Payment of the instalments

- 1. Calls for contributions shall first use up the amounts laid down for previous European Development Funds, one after the other.

2. The contributions of the Member States shall be expressed in euro and shall be paid in euro.
3. The contribution referred to in point (a) of Article 19(7) shall be credited by each Member State to a special account entitled ‘European Commission — European Development Fund’ opened with the central bank of the relevant Member State or the financial institution designated by it. The amount of such contributions shall remain in those special accounts until the payments need to be made. The Commission shall endeavour to make any withdrawals from the special accounts in such a way as to maintain a distribution of assets in those accounts corresponding to the contribution key pursuant to point (a) of Article 1(2) of the Internal Agreement.

The contribution referred to in point (b) of Article 19(7) of this Regulation shall be credited by each Member State in accordance with Article 47(1) of this Regulation.

Article 21

Interest for unpaid contribution amounts

1. On the expiry of the time limits laid down in Article 19(2), Article 19(3) and Article 19(5), the Member State concerned shall be obliged to pay interest in accordance with the following conditions:
 - (a) the interest rate shall be the rate applied by the European Central Bank to its principal refinancing operations, as published in the C series of the Official Journal of the European Union, in force on the first calendar day of the month in which the time limit expires, increased by two percentage points. That rate shall be increased by a quarter of a percentage point for each month of delay;
 - (b) the interest shall be payable for the period elapsing from the calendar day following expiry of the time limit for payment up to the day of payment.
2. In respect of the contribution referred to in point (a) of Article 19(7), the interest shall be credited to one of the accounts provided for in Article 1(6) of the Internal Agreement

In respect of the contribution referred to in point (b) of Article 19(7) of this Regulation, the interest shall be credited to the Investment Facility in accordance with Article 47(1) of this Regulation.

Article 22

Calling on unpaid contributions

Upon expiry of the financial protocol set out in Annex Ic to the ACP-EU Partnership Agreement, the part of the contributions which the Member States remain obliged to pay in accordance with Article 19 of this Regulation shall be called on by the Commission and the EIB, as required, in accordance with the conditions laid down in this Regulation.

Article 23

Other revenue operations

1. Articles 97 to 99, 100(1) and the first subparagraph of paragraph 2, Article 101(1) to (6), Articles 102 to 107, and Article 109 of Regulation (EU, Euratom) No [the new

Financial Regulation] shall apply. Recovery may be done by way of a Commission decision enforceable pursuant to Article 299 TFEU.

2. With regard to Article 97(3) of Regulation (EU, Euratom) No [the new Financial Regulation], the reference to own resources shall be understood as reference to the Member States' contributions defined in Article 19 of this Regulation.
3. Article 99(2) of Regulation (EU, Euratom) No [the new Financial Regulation] shall apply to recoveries established in euro. For recoveries in local currency, it shall apply using the rate of the central bank of the country issuing the currency in force on the first calendar day of the month in which the recovery order is established.

TITLE VI

Expenditure operations

Article 24

Rules applicable to commitments and financing decisions

1. The commitment of expenditure shall be preceded by a financing decision adopted by the Commission.
2. Article 110(2) to (5), Article 111, Article 112(1)(a) and (b), (2) to (5), and Articles 114 to 116 of Regulation (EU, Euratom) No [the new Financial Regulation] shall apply.
3. With regard to the application of the third and fourth subparagraphs of Article 114(2) of Regulation (EU, Euratom) No [the new Financial Regulation], the period to conclude legal commitments which implement the action may be extended beyond three years following the date of the conclusion of the financing agreement with ACP States and OCTs.
4. Where the 11th EDF resources are implemented in indirect management with ACP States or OCTs, the responsible authorising officer may, upon accepting justification, extend the two-year period referred to in Article 114(6) of Regulation (EU, Euratom) No [the new Financial Regulation] and the three-year period referred to in the third subparagraph of Article 114(2) thereof.
5. At the end of the extended periods referred to in paragraph 3 and 4 of this Article the unused balances shall be, as applicable, decommitted.
6. Where measures are adopted under Articles 96 and 97 of the ACP-EU Partnership Agreement, the running of the periods referred to in this Article may be suspended.
7. For the purposes of the third subparagraph of paragraph 1 of Article 111 of Regulation (EU, Euratom) No [the new Financial Regulation], compliance and regularity shall be assessed against the relevant provisions, in particular the Treaties, the ACP-EU Partnership Agreement, the Overseas Association Decision, the Internal Agreement, this Regulation, and all acts adopted in implementation of those provisions.

Article 25
Time limits for payment

1. Subject to the conditions set out in paragraph 2 of this Article, Article 116 of Regulation (EU, Euratom) No [the new Financial Regulation] shall apply to payments carried out by the Commission.
2. Where 11th EDF resources are applied under indirect management with ACP States or OCTs and the Commission executes payments on their behalf, the time limit referred to in point (b) of Article 116(1) of Regulation (EU, Euratom) No [the new Financial Regulation] shall apply to all payments not referred to in point (a) thereof. The financing agreement shall contain the necessary provisions to ensure the timely collaboration of the contracting authority.
3. With regard to Article 116(5) of Regulation (EU, Euratom) No [the new Financial Regulation], payments for which the Commission is responsible shall be charged to the same allocation as the corresponding contract. If the remaining funds are not sufficient, it will be charged to the account or accounts provided for in Article 1(6) of the Internal Agreement.

TITLE VII **INTERNAL AUDITOR**

Article 26
Internal auditor

The internal auditor of the Commission shall be the internal auditor of the 11th EDF and the internal audit progress committee referred to in Article 123 of Regulation (EU, Euratom) No [the new Financial Regulation] shall also carry out its role in regard to EDF resources managed by the Commission. Articles 118 to 122 of Regulation (EU, Euratom) No 996/2012 shall apply.

TITLE VIII **VARIOUS IMPLEMENTATION PROVISIONS**

Article 27
Common rules

Articles 124 to 146, Article 147(1), Article 148, Article 149(1) and (3)-(7), and Articles 150 to 153 of Regulation (EU, Euratom) No [the new Financial Regulation] shall apply *mutatis mutandis*.

Article 28
Administrative arrangements with the EEAS

Detailed arrangements may be agreed between the European External Action Service and the Commission services in order to facilitate the implementation by Union Delegations of the resources foreseen for support expenditure linked to the 11th EDF under Article 6 of the Internal Agreement.

TITLE IX FUNDING INSTRUMENTS

Article 29

General provisions on funding instruments

1. For the purpose of providing financial assistance under this Title, cooperation between the Union, the ACP States and OCTs may take the form, inter alia, of:
 - (a) triangular arrangements by which the Union coordinates with any third country its assistance to an ACP State, OCTs or region;
 - (b) administrative cooperation measures such as twinning between the public institutions, local authorities, national public bodies or private law entities entrusted with public service tasks of a Member State or an outermost region, and those of an ACP State or OCTs or their region, as well as cooperation measures involving public-sector experts dispatched from the Member States and their regional and local authorities;
 - (c) expert facilities for targeted capacity building in the ACP State, OCTs or their region and short-term technical assistance and advice to them, as well as support of sustainable centres of knowledge and excellence on governance and reform in the public sector;
 - (d) contributions to the costs necessary to set up and administer a public-private partnership;
 - (e) sector policy support programmes, by which the Union provides support to an ACP State's or OCTs' sector programme; or
 - (f) interest rate subsidies.
2. In addition to the types of financing provided for in Articles 30 to 37, financial assistance may also be provided through the following:
 - (a) debt relief, under internationally agreed debt relief programmes;
 - (b) in exceptional cases, sectoral and general import programmes, which may take the form of:
 - (i) sectoral import programmes in kind,
 - (ii) sectoral import programmes providing foreign exchange to finance imports for the sector in question, or
 - (iii) general import programmes providing foreign exchange to finance general imports of a wide range of products.
3. Financial assistance may also be provided through contributions to international, regional or national funds, such as those established or managed by the EIB, Member States or by ACP States or OCTs and regions or by international organisations, for attracting joint financing from a number of donors, or to funds set up by one or more donors for the purpose of the joint implementation of projects.

Reciprocal access by Union financial institutions to financial instruments set up by other organisations shall be promoted, as appropriate.
4. Actions financed under the 11th EDF may be implemented with parallel or joint co-financing.

In the case of parallel co-financing, an action is to be split into a number of clearly identifiable components which are each financed by the different partners providing co-financing in such a way that the end-use of the financing can always be identified.

In the case of joint co-financing, the total cost of an action is to be shared between the partners providing the co-financing and the resources are to be pooled in such a way that it is no longer possible to identify the source of financing for any given activity undertaken as part of the action.

5. In implementing its support to transition and reform in ACP States and OCTs, the Union shall draw on and share the experiences of Member States and lessons learned.

CHAPTER 1

INDIRECT MANAGEMENT

Article 30 *Indirect Management*

1. Subject to the conditions set out in paragraphs 2 and 3 of this Article, Articles 154 to 159 of Regulation (EU, Euratom) No [the new Financial Regulation] shall apply. For the purposes of Article 158 of Regulation (EU, Euratom) No [the new Financial Regulation], indirect management with third countries may also take the form of a financing agreement concluded with the relevant organisation or body at regional or intra-ACP level.
2. Entities implementing EDF funds shall ensure consistency with the Union's external policy and may entrust budget-implementation tasks to other entities under conditions equivalent to those applying to the Commission. They shall fulfil their obligations under Article 155(1) of Regulation (EU, Euratom) No [the new Financial Regulation] annually. The audit opinion shall be submitted within one month of the report and management declaration, to be taken into account in the assurance of the Commission.

International organisations as referred to in in point (c)(ii) of Article 62(1) of Regulation (EU, Euratom) No [the new Financial Regulation] and bodies of the Member States as referred to in points (c)(v) and (vi) of Article 62(1) of Regulation (EU, Euratom) No [the new Financial Regulation] which have been entrusted by the Commission may also entrust budget-implementation tasks to non- profit organisations possessing the appropriate operational and financial capacity, under conditions equivalent to those applying to the Commission.

ACP States and OCTs may implement the 11th EDF funds through their departments and bodies governed by private law on the basis of a service contract. Those bodies shall be selected on the basis of open, transparent, proportionate and non-discriminatory procedures, avoiding conflict of interests. The financing agreement shall stipulate the terms of the service contract.

3. Where the 11th EDF is applied in indirect management with ACP States, OCTs or their regional organisations, without prejudice to the responsibilities of the contracting authorities, the Commission:

- (a) shall, where necessary, recover amounts due from the contracting authorities' recipients according to Articles 101 to 104 of Regulation (EU, Euratom) No [the new Financial Regulation], including by means of a decision which shall be enforceable under the same conditions as those laid down in Article 299 TFEU;
- (b) may, where the circumstances so require, impose administrative or financial penalties, or both, upon the contracting authority's participants or recipients, as well as upon other entities or persons who are vis-à-vis the contracting authority in one of the situations of Article 135(1) of Regulation (EU, Euratom) No [the new Financial Regulation], under the same conditions as those laid down in Articles 135 to 143 of that Regulation.

The financing agreement shall contain provisions to this end.

CHAPTER 2 PROCUREMENT

Article 31 Procurement

Articles 160 to 172, Article 173(1), the first and second subparagraph of paragraph 2, paragraphs 3 and 4, and Articles 174 to 179 of Regulation (EU, Euratom) No [the new Financial Regulation] shall apply.

CHAPTER 3 GRANTS

Article 32 Grants

Articles 180 to 205 of Regulation (EU, Euratom) No [the new Financial Regulation] shall apply.

CHAPTER 4 PRIZES

Article 33 Prizes

Articles 206 and 207 of Regulation (EU, Euratom) No [the new Financial Regulation] shall apply.

CHAPTER 5

FINANCIAL INSTRUMENTS, BUDGETARY GUARANTEES AND FINANCIAL ASSISTANCE

Article 34 *Financial instruments*

1. Article 208(4) and (5), Article 209(1), (2) and (4), Article 210(1) and Article 214 of Regulation (EU, Euratom) No [the new Financial Regulation] shall apply.

Financial instruments may be established under the 11th EDF, to which Member States or other parties may also contribute.

The EDF shall be authorised to contribute to financial instruments or to the provisioning of budgetary guarantees set up by the Union budget.

2. Article 215(2) to (7) and Article 216 of Regulation (EU, Euratom) No [the new Financial Regulation] shall apply.

3. Financial instruments may be established in the financing decisions referred to in Article 24. They shall be, whenever possible, under the lead of the EIB, a multilateral European financial institution, such as the European Bank for Reconstruction and Development, or a bilateral European financial institution, such as bilateral development banks, possibly pooled with additional grants from other sources.

CHAPTER 6

OTHER FUNDING INSTRUMENTS

Article 35 *Union trust funds*

Articles 234, 235 and 252 of Regulation (EU, Euratom) No [the new Financial Regulation] shall apply.

With regard to Article 234(2) of Regulation (EU, Euratom) No [the new Financial Regulation], references to the competent committee shall be understood as to the committee referred to in Article 8 of the Internal Agreement.

Article 36 *Budget support*

Article 236 of Regulation (EU, Euratom) No [the new Financial Regulation] shall apply.

Union general or sector budget support shall be based on mutual accountability and shared commitments to universal values, and shall aim at strengthening contractual partnerships between Union and ACP States or OCTs in order to promote democracy, human rights and the rule of law, to support sustainable and inclusive economic growth and to eradicate poverty.

Any decision to provide budget support shall be based on budget support policies agreed by the Union, a clear set of eligibility criteria and a careful assessment of the risks and benefits.

One of the key determinants of such a decision shall be an assessment of the commitment, record and progress of ACP States and OCTs with regard to democracy, human rights and the rule of law. Budget support shall be differentiated to better respond to the political, economic and social context of the ACP States and OCTs, taking into account situations of fragility.

When providing budget support, the Commission shall clearly define and monitor its conditionality, and shall also support the development of parliamentary control and audit capacities and increase transparency and public access to information.

Disbursement of budget support shall be conditional on satisfactory progress towards achieving the objectives agreed with the ACP States and OCTs.

When providing budget support to OCTs, their institutional links to the Member State concerned shall be taken into account.

Article 37 *Experts*

Article 237(1) to (4), and Articles 238 and 239 of Regulation (EU, Euratom) No [the new Financial Regulation] shall apply.

TITLE X **ANNUAL ACCOUNTS AND OTHER FINANCIAL** **REPORTING**

Article 38 *11th EDF accounts*

1. The annual accounts of the 11th EDF shall be prepared for each financial year which shall run from 1 January to 31 December. These accounts shall comprise:
 - (a) the financial statements;
 - (b) the report on financial implementation.The financial statements shall be accompanied by the information supplied by the EIB in accordance with Article 51 .
2. Article 243 of Regulation (EU, Euratom) No [the new Financial Regulation] shall apply.
3. The accounting officer shall send, via electronic means, the provisional accounts to the Court of Auditors by 31 March of the following year.
4. The Court of Auditors shall, by 15 June of the following year, make its observations on the provisional accounts as regards the part of the 11th EDF resources for the financial management of which the Commission is responsible, so that the Commission can make the corrections deemed necessary for drawing up the final accounts

5. The Commission shall approve the final accounts and send them, via electronic means, to the European Parliament, to the Council and to the Court of Auditors by 31 July of the following year at the latest.

By the same date, the accounting officer shall transmit a representation letter covering the final accounts to the Court of Auditors.
6. The second subparagraph of Article 246(3) of Regulation (EU, Euratom) No [the new Financial Regulation] shall apply.
7. The final accounts shall be published in the *Official Journal of the European Union* together with the statement of assurance given by the Court of Auditors in accordance with Article 43 of this Regulation by 15 November of the following year.

Article 39

Financial statements and the report on financial implementation

1. The report on financial implementation shall be prepared by the responsible authorising officer and transmitted to the accounting officer by 15 March for inclusion in the 11th EDF accounts. It shall present a true and fair view of the revenue and expenditure operations from 11th EDF resources. It shall be presented in millions of euro and shall comprise:
 - (a) the financial outturn account, which sets out all financial operations for the year in terms of revenue and expenditure;
 - (b) the annex to the financial outturn account, which shall supplement and comment on the information given in that account.
2. The financial outturn account shall contain the following:
 - (a) a table describing changes over the preceding financial year in the allocations;
 - (b) a table showing by allocation the total commitments, assigned funds and payments effected during the financial year and aggregate totals since the opening of the 11th EDF.

Article 40

Monitoring and reporting by the Commission and the EIB

1. The Commission and the EIB shall monitor, each to the extent to which it is concerned, the use of 11th EDF assistance by the ACP States, the OCTs or any other beneficiary, and the implementation of projects financed by the 11th EDF, having particular regard to the objectives referred to in Articles 55 and 56 of the ACP-EU Partnership Agreement and in the corresponding provisions of the Overseas Association Decision.
2. The EIB shall periodically inform the Commission regarding the implementation of projects financed by the 11th EDF resources it administers, following the procedures set out in the operational guidelines of the Investment Facility.
3. The Commission and the EIB shall provide the Member States with information on the operational implementation of 11th EDF resources as foreseen in Article 18 of Council Regulation (EU)) No 2015/322. The Commission shall send that information to the Court of Auditors in accordance with Article 11(6) of the Internal Agreement.

Article 41
Budgetary accounting

1. The budgetary accounts shall provide a detailed record of the financial implementation of the 11th EDF resources.
2. The budgetary accounts shall show all:
 - (a) allocations and the corresponding 11th EDF resources;
 - (b) financial commitments;
 - (c) payments; and
 - (d) established debts and collection operations for the financial year, in full and without any adjustment against each other.
3. When commitments, payments and debts are expressed in national currencies, the accounting system shall make it possible, where necessary, for them to be recorded in national currencies as well as in euro.
4. Global financial commitments shall be recorded in euro for the value of the financing decisions taken by the Commission. Individual financial commitments shall be recorded in euro at the equivalent of the value of the legal commitments. That value shall include, where appropriate:
 - (a) provision for the payment of reimbursable expenses on presentation of supporting documents;
 - (b) provision for the revision of prices, for the increase in quantities, and for contingencies as defined in 11th EDF- funded contracts;
 - (c) financial provision for exchange rate fluctuations.
5. All accounting records referring to the fulfilment of a commitment shall be kept for a period of five years from the date of the decision giving discharge in respect of the financial implementation of 11th EDF resources, referred to in Article 44, concerning the financial year during which the commitment was closed for accounting purposes.

TITLE XI
EXTERNAL AUDIT AND DISCHARGE

Article 42
External audit and discharge regarding the Commission

1. Regarding the operations financed from 11th EDF resources managed by the Commission in accordance with Article 14, the Court of Auditors shall exercise its powers in accordance with this Article and Article 43.
2. Articles 255 to 257, Article 258(1) and (2), the second sentence of paragraph 3 and paragraph 4, and Article 259 of Regulation (EU, Euratom) No [the new Financial Regulation] shall apply.
3. For the purposes of this Title, the Court of Auditors shall have regard to the Treaties, the ACP-EU Partnership Agreement, the Overseas Association Decision, the Internal Agreement, this Regulation and all other acts adopted pursuant to those instruments.

4. The Court of Auditors shall be informed of the internal rules referred to in Article 60(1) of Regulation (EU, Euratom) No [the new Financial Regulation], including the appointment of authorising officers, as well as of the instrument of delegation referred to in Article 79 of Regulation (EU, Euratom) No [the new Financial Regulation].
5. The national audit authorities of the ACP States and the OCTs shall be encouraged to cooperate with the Court of Auditors at its invitation.
6. The Court of Auditors may, at the request of one of the other Union institutions, issue opinions on matters relating to the 11th EDF.

Article 43

Statement of assurance

At the same time as the annual report referred to in Article 258 of Regulation (EU, Euratom) No [the new Financial Regulation], the Court of Auditors shall provide the European Parliament and the Council with a statement of assurance as to the reliability of the accounts and the legality and regularity of the underlying transactions, which shall be published in the Official Journal of the European Union.

Article 44

Discharge

1. Subject to paragraph 2 of this Article, Articles 260 to 263 of Regulation (EU, Euratom) No [the new Financial Regulation] shall apply.
2. The discharge decision shall cover the accounts referred to in Article 38, except the part thereof provided by the EIB in accordance with Article 51. The discharge referred to in Article 260(1) of Regulation (EU, Euratom) No [the new Financial Regulation] shall be given in respect of those 11th EDF resources that are managed by the Commission in accordance with Article 14(2) of this Regulation for year n.
3. The discharge decision shall be published in the *Official Journal of the European Union*.

PART TWO

INVESTMENT FACILITY

Article 45

Role of the European Investment Bank

The EIB shall manage the Investment Facility and conduct operations thereunder, including interest rate subsidies and technical assistance, on behalf of the Union in accordance with Part Two of this Regulation.

In addition, the EIB shall undertake the financial implementation of other operations carried out by means of financing from its own resources in accordance with Article 4 of the Internal Agreement, where applicable combined with interest rate subsidies drawn from the 11th EDF resources.

The implementation of Part Two of this Regulation shall not give rise to any obligations or liabilities on the part of the Commission.

Article 46

Estimates of commitments and payments of the Investment Facility

Before 1 September of each year, the EIB shall send the Commission its estimates of commitments and payments, which are necessary for drawing up the statement referred to in Article 7(1) of the Internal Agreement, in respect of the operations of the Investment Facility, including those interest rate subsidies that it implements, in accordance with the Internal Agreement. The EIB shall send the Commission updated estimates of commitments and payments when deemed necessary. Modalities shall be defined in the management agreement provided for in Article 49(4) of this Regulation.

Article 47

Management of contributions to the Investment Facility

1. The contributions referred to in point (b) of Article 19(7) and adopted by the Council shall be paid without cost for the beneficiary by the Member States to the EIB via a special account opened by the EIB in the name of the Investment Facility in accordance with detailed rules laid down in the management agreement provided for in Article 49(4).
2. The date referred to in Article 1(5) of the Internal Agreement shall be 31 December 2030.
3. Save where the Council decides otherwise regarding the remuneration of the EIB, in accordance with Article 5 of the Internal Agreement, proceeds received by the EIB via the credit balance of the special accounts referred to in paragraph 1 of this Article shall supplement the Investment Facility and shall be taken into consideration for the calls for contribution referred to in Article 19 of this Regulation and shall be used to meet any financial obligation after 31 December 2030.
4. The EIB shall undertake the treasury management of the amounts referred to in paragraph 1 in accordance with the detailed rules laid down in the management agreement provided for in Article 49(4).

5. The Investment Facility shall be managed in accordance with the conditions laid down in the ACP-EU Partnership Agreement, the Overseas Association Decision, the Internal Agreement and Part Two of this Regulation.

Article 48 *Remuneration of the EIB*

The EIB shall be remunerated on a full indemnity basis for the management of the Investment Facility operations. The Council shall decide on the resources and mechanisms for remuneration of the EIB in accordance with Article 5(4) of the Internal Agreement. The measures implementing that decision shall be incorporated in the management agreement provided for in Article 49(4) of this Regulation.

Article 49 *Implementation of the Investment Facility*

1. The EIB's own rules shall apply to instruments financed by the 11th EDF resources which it manages.
2. Where programmes or projects are co-financed by the Member States or their implementing bodies, and correspond to the priorities which are laid down in the Country Cooperation Strategies and Programming Documents provided for in Council Regulation (EU) No 2015/322 and laid down in the second and third subparagraphs of Article 10(1) of the Internal Agreement and in Article 74 of the Overseas Association Decision, the EIB may entrust tasks relating to the implementation of the Investment Facility to Member States or their implementing bodies.
3. The names of the recipients of financial support under the Investment Facility shall be published by the EIB, unless such disclosure risks harming the commercial interests of the recipients, while duly observing of the requirements of confidentiality and security, in particular the protection of personal data. The criteria for disclosure and the level of detail published shall take into account specificities of the sector and the nature of the Investment Facility.
4. The detailed rules for implementing this Part shall be the subject of a management agreement between the Commission, acting on behalf of the Union, and the EIB.

Article 50 *Reporting under the Investment Facility*

The EIB shall regularly inform the Commission of the operations carried out under the Investment Facility, including interest rate subsidies, the use made of each call for contributions paid to the EIB, and, in particular, of the total quarterly amounts of commitments, contracts and payments, in accordance with the detailed rules laid down in the management agreement provided for in Article 49(4).

Article 51 *Accounting and financial statements of the Investment Facility*

1. The EIB shall keep the accounts of the Investment Facility, including those interest rate subsidies that are implemented by it and financed by the EDF, to provide a trail for the full circuit of the funds, from receipt to disbursement and then to the revenue

to which they give rise and any subsequent recoveries. The EIB shall draw up the relevant accounting rules and methods which are guided by international accounting standards and inform the Commission and the Member States accordingly.

2. Each year the EIB shall send the Council and the Commission a report on the implementation of operations financed from 11th EDF resources under its management, including the financial statements drawn up in accordance with the rules and methods referred to in paragraph 1 and the information referred to in Article 39(2).
3. Those documents shall be submitted in draft form no later than 28 February and in their final version no later than 30 June of the financial year following the financial year which they concern, so that they can be used by the Commission in preparing the accounts referred to in Article 43 of this Regulation in accordance with Article 11(6) of the Internal Agreement. The report on the financial management of the resources managed by the EIB shall be submitted by the latter to the Commission by 31 March.

Article 52

External audit and discharge relating to EIB operations

The operations financed from 11th EDF resources managed by the EIB in accordance with this Part shall be subject to the audit and discharge procedures that the EIB applies for third party mandate accounts. Detailed rules for auditing by the Court of Auditors are set out in a Tripartite Agreement between the EIB, the Commission and the Court of Auditors.

PART THREE

TRANSITIONAL AND FINAL PROVISIONS

TITLE I

Transitional provisions

Article 53

Transfer of balances remaining from previous European Development Funds

Transfers to the 11th EDF of the balances remaining from resources constituted under the Internal Agreements relating to the Eighth, Ninth and Tenth European Development Funds ('previous EDFs') shall be made in accordance with point (b) of Article 1(2), Article 1(3) and Article 1(4) of the Internal Agreement.

Article 54

Revenue from interest on resources of previous EDFs

The balance of revenue accruing from interest on the resources of previous EDFs shall be transferred to the 11th EDF and allocated for the same purposes as the revenue provided for in Article 1(6) of the Internal Agreement. The same shall apply to miscellaneous revenue of previous EDFs comprising, for example, default interest received in the event of late payment of contributions to those EDFs by Member States. The interest generated by the EDF resources managed by the EIB shall supplement the Investment Facility.

Article 55

Reduction of contributions by remaining balances

The amounts from projects under the 10th EDF or from previous EDFs not committed according to Article 1(3) of the Internal Agreement, or decommitted according to Article 1(4) of the Internal Agreement, unless decided otherwise by the Council unanimously, shall reduce that part of Member States' contributions stated in point (a) of Article 1(2) of the Internal Agreement.

The impact on the contribution of each Member State shall be calculated in proportion to the contribution of each Member State to the 9th and 10th EDF. The impact shall be calculated annually.

Article 56

Application of this Regulation to operations under previous EDFs

The provisions of this Regulation shall apply to operations financed from previous EDFs without prejudice to existing legal commitments. Those provisions shall not apply to the Investment Facility.

Article 57

Commencement of contribution procedures

The procedure concerning Member States' contributions laid down in Articles 19 to 22 of this Regulation shall apply for the first time with regard to the contributions of the year N + 2,

provided that the Internal Agreement enters into force between 1 October of year N and 30 September of year N + 1.

TITLE II

Final provisions

Article 58

Repeal

Council Regulation (EU) 2015/323 is repealed with effect from [20/23] July 2018.

References to the repealed Regulation shall be construed as references to this Regulation and shall be read in accordance with the correlation table in the Annex.

Article 59

Entry into force and application

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

Without prejudice to legal commitments entered into before the entry into force of this Regulation, it shall apply from [20/23] July 2018.

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

Done at Brussels,

For the Council
The President



EUROPEAN
COMMISSION

Brussels, 22.6.2018
COM(2018) 485 final

ANNEX

ANNEX

to the Proposal for a

COUNCIL REGULATION

on the financial regulation applicable to the 11th European Development Fund

ANNEX
CORRELATION TABLE

Council Regulation (EU) 2015/323	This Regulation
Article 1	Article 1
Article 2(1)	-
Article 2(2)	Article 2(1)
Article 2(3)	Article 2(2)
Article 2(4)	Article 3(1) and (2)
Article 2(5)	Article 2(4)
Article 3	Article 3(2)
Article 4	Article 3(2)
Article 5	Article 4
Article 6	Article 5
Article 7	Article 6
Article 8	Article 7
Article 9(1)	Article 8(1)
Article 9(2)	Article 8(2)
Article 9(2)(a)	Article 8(2)(a)
Article 9(2)(b)	Article 8(2)(b)
Article 9(2)(c)	Article 8(2)(c)
Article 9(2)(d)	-
Article 9(2)(e)	Article 8(2)(d)
Article 9(2)(f)	Article 8(2)(e)
Article 9(3)	Article 8 (3)
Article 9(4)	-
Article 9(5)	Article 8(4)
Article 9(6)	Article 8(5)

Article 10	Article 9
Article 11(1)	Article 10
Article 11(2)	-
Article 11(3)	-
Article 11(4)	-
Article 12	-
Article 13(1)	Article 11(1)
Article 13(2)	Article 11(2)
Article 13(3)	Article 11(3)
Article 13(4)	Article 29(4)
Article 13(5)	Article 30
Article 14	Article 12
Article 15	Article 13
Article 16	Article 14
Article 17(1)	Article 14(1)
Article 17(2)	Article 15(1)
Article 17(3)	Article 30(2)
Article 17(4)	Article 30(3)
Article 17(5)	Article 29(3)
Article 18(1)	-
Article 18(2)	Article 16(1)
Article 18(3)	Article 16(2)
Article 19(1) 1 st subparagraph	Article 18(2)
Article 19(1) 2 nd subparagraph	Article 17(1)
Article 19(2)	Article 17(2)
Article 20(1)	Article 18(1)
Article 20(2)	Article 18(2)

Article 21	Article 19
Article 22	Article 20
Article 23	Article 21
Article 24	Article 22
Article 25(1)	Article 23(1)
Article 25(2)	Article 23(2)
Article 25(3)	Article 23(3)
Article 25(4)	-
Article 25(5)	-
Article 26	Article 24(1)(2)
Article 27(1)	Article 24(2)
Article 27(2)	Article 24(3)
Article 27(3)	Article 24(4)
Article 27(4)	Article 24(5)
Article 27(5)	Article 24(6)
Article 27(6)	Article 24(7)
Article 27(7)	Articles 27, 42
Article 28	Article 26
Article 29	Article 25
Article 30	Article 26
Article 31	Article 27
Article 32	Article 27
Article 33	Article 27
Article 34	Article 28
Article 35(1)	Article 29(1)
Article 35(2)	Article 29(2)
Article 35(3)	Article 29(3)

Article 35(4)
-
Article 36
Article 37
Article 38
Article 39
Article 40
Article 41
Article 42
Article 43(1)
Article 43(2)
Article 43(3)
Article 43(4)
Article 43(5)
Article 43(6)
Article 43(7)
Article 44(1)
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Article 48(1)
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Article 48(5)

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Article 38(7)
Article 38(3) and (5)
Article 38(2)
Article 39(1)
Article 39(2)
Article 40
Article 18(3) and (4)
Article 41
Article 42(1)
Article 42(2)
Article 42(3)
Article 42(2)
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