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From: Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director

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To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union

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Subject: COMMISSION DELEGATED REGULATION (EU) .../... of 4.11.2020 amending Delegated Regulations (EU) No 532/2014 and (EU) No 1255/2014 supplementing Regulation (EU) No 223/2014 of the European Parliament and of the Council on the Fund for European Aid to the Most Deprived, as regards the detailed minimum requirements for audit purposes and the data to be recorded and stored

Delegations will find attached document C(2020) 7504 final.

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Brussels, 4.11.2020
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COMMISSION DELEGATED REGULATION (EU) .../...

of 4.11.2020

**amending Delegated Regulations (EU) No 532/2014 and (EU) No 1255/2014
supplementing Regulation (EU) No 223/2014 of the European Parliament and of the
Council on the Fund for European Aid to the Most Deprived, as regards the detailed
minimum requirements for audit purposes and the data to be recorded and stored**

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

On 23 April 2020, the European Parliament and the Council adopted Regulation (EU) 2020/559 of the European Parliament and of the Council¹. Co-legislators decided to introduce specific provisions to allow providing support through cards or vouchers or other instruments of indirect delivery (the ‘indirect delivery mechanisms’). This happened against the backdrop of the COVID-19 pandemic and to ensure continued delivery of aid to the most deprived who are the end recipients of the support through the Fund for European Aid to the Most Deprived (FEAD).

It is essential that the indirect delivery mechanisms provide the necessary data that allows the Commission and Member States to monitor performance of the programme also through these indirect delivery mechanisms. At the same time, certain data required for the normal delivery of the support is not necessary to be provided as it is not applicable for the indirect delivery mechanisms.

Moreover, the indirect delivery mechanisms may entail specific implementation challenges and, when delivered in paper format, a higher risk of irregularities or fraud. In order to ensure that expenditure under these indirect delivery mechanisms can be checked and audited, it is necessary to set out minimum requirements for documentary evidence that is to be kept by Member States for audit purposes (the ‘audit trail’). It is therefore important to clarify these requirements to ensure that the Commission has the necessary assurance in terms of sound financial management.

Member States are in the process of amending their programmes to allow delivery through these indirect mechanisms. The Commission expects substantial amounts to be transferred to the FEAD and that operations will continue to be implemented until the end of 2023. It is therefore necessary to provide for rules with regard to monitoring performance and ensuring minimum requirements for audit trails.

Article 32 (8) and (9) of Regulation No 223/2014 (FEAD Regulation)² empowers the Commission to adopt delegated acts laying down

- rules specifying the information in relation to the data to be recorded and stored in computerised form within the monitoring system, and;
- detailed minimum requirements for the audit trail in respect of the accounting records to be maintained and the supporting documents to be held at the level of the certifying authority, managing authority, intermediate bodies and beneficiaries.

In this context, the present delegated act amends the following Commission Delegated Regulations:

- Commission Delegated Regulation (EU) No 532/2014 of 13 March 2014 as regards the minimum requirements for the audit trail and on the list of data to be recorded

¹ Regulation (EU) 2020/559 of the European Parliament and of the Council of 23 April 2020 amending Regulation (EU) No 223/2014 as regards the introduction of specific measures for addressing the outbreak of COVID-19 (OJ L 130, 24.04.2020, p.7).

² Regulation (EU) No 223/2014 of the European Parliament and of the Council on the Fund for European Aid to the Most Deprived (OJ L 72, 12.03.2014, p.1).

and stored in the system by the Managing Authority on each operation necessary for monitoring, evaluation, financial management, verification and audit;³

- Commission Delegated Regulation (EU) No 1255/2014 of 17 July 2014 as regards the content of the annual and final implementation reports, including the list of common indicators.⁴

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.

All parts of this delegated act have been discussed at an expert group meeting on 13 July 2020 involving experts from all Member States. The European Parliament and the Council were duly notified of the dates of the meetings, agendas and relevant documents to enable requests to attend the meetings. A representative of the European Parliament attended the meeting. Participants were requested to provide their comments by 20 July 2020.

The meeting allowed for a full presentation of the Commission's draft text and a thorough exchange of views on all relevant elements of the draft amendments. The expert group meeting notably included a discussion as follows:

- The list of data to be maintained by managing authorities in computerised form;
- The rules concerning arrangements for the audit trail for support provided indirectly to the most deprived, such as through vouchers, cards or other instruments;
- The rules on monitoring or/and reporting of indirect distribution of food or basic material assistance through vouchers, cards or other instruments.

On 15 July, the Austrian authorities submitted three written questions, which were answered on 25 August. No further questions or comments from the expert group regarding this delegated act or its annex were received.

The discussions and subsequently received comments allowed the draft text to be clarified, notably regarding (a) the need for additional audit trail requirements for paper vouchers, (b) the eligibility of expenditure based on voucher schemes, (c) the audit trail in relation to documentation at different levels of concerned bodies.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

The content of Commission Delegated Regulation (EU) No 532/2014 is adjusted as follows:

- It specifies that the audit trail shall cover the end recipients (i.e. evidence of receipt of the vouchers/cards by the end recipients, in order to avoid misuse) and should include specific security measures in the case of paper vouchers in order to avoid falsification and to safeguard the stock of such paper vouchers;

³ Commission Delegated Regulation (EU) No 532/2014 of 13 March 2014 supplementing Regulation (EU) No 223/2014 of the European Parliament and of the Council on the Fund for European Aid to the Most Deprived (OJ L 148, 20.05.2014, p.54).

⁴ Commission Delegated Regulation (EU) No 1255/2014 of 17 July 2014 supplementing Regulation (EU) No 223/2014 of the European Parliament and of the Council on the Fund for European Aid to the Most Deprived by laying down the content of the annual and final implementation reports, including the list of common indicators (OJ L 337, 25.11.2014, p.46).

- it modifies Annex I, regarding the data to be recorded and stored in computerised form to ensure the audit trail for support through the indirect delivery mechanisms.

The content of Commission Delegated Regulation (EU) No 1255/2014 is adjusted as follows:

- 1 input indicator is introduced for operations implemented through cards or voucher schemes;
- 1 common result indicator (broken down to identify specific target groups, for example, homeless or young recipients) are introduced for operations implemented through cards or voucher schemes.

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

of 4.11.2020

amending Delegated Regulations (EU) No 532/2014 and (EU) No 1255/2014 supplementing Regulation (EU) No 223/2014 of the European Parliament and of the Council on the Fund for European Aid to the Most Deprived, as regards the detailed minimum requirements for audit purposes and the data to be recorded and stored

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 223/2014 of the European Parliament and of the Council of 11 March 2014 on the Fund for European Aid to the Most Deprived, and in particular Article 13(6) and Article 32(8) and (9) thereof,

Whereas:

- (1) Regulation (EU) No 223/2014 of the European Parliament and of the Council⁵ allows the Commission to adopt delegated acts supplementing its non-essential elements with regard to the Fund for European Aid to the Most Deprived ('FEAD').
- (2) Commission Delegated Regulation (EU) No 532/2014⁶ supplements Regulation (EU) No 223/2014 with regard to the minimum requirements for the audit trail and on the list of data to be recorded and stored in the system by the managing authority on each operation necessary for monitoring, evaluation, financial management, verification and audit.
- (3) Commission Delegated Regulation (EU) No 1255/2014⁷ supplements Regulation (EU) No 223/2014 by laying down the content of the annual and final implementation reports, including the list of common indicators.
- (4) Regulation (EU) 2020/559 of the European Parliament and of the Council⁸ amended Regulation (EU) No 223/2014 as regards the introduction of specific measures for addressing the COVID-19 outbreak. In particular, Regulation (EU) 2020/559 introduced the possibility for Member States to provide food or basic material assistance, or both, to the most deprived indirectly, such as through vouchers, cards or other instruments.

⁵ Regulation (EU) No 223/2014 of the European Parliament and of the Council of 11 March 2014 on the Fund for European Aid to the Most Deprived (OJ L 72, 12.3.2014, p. 1).

⁶ Commission Delegated Regulation (EU) No 532/2014 of 13 March 2014 supplementing Regulation (EU) No 223/2014 of the European Parliament and of the Council on the Fund for European Aid to the Most Deprived (OJ L 148, 20.5.2014, p. 54).

⁷ Commission Delegated Regulation (EU) No 1255/2014 of 17 July 2014 supplementing Regulation (EU) No 223/2014 of the European Parliament and of the Council on the Fund for European Aid to the Most Deprived by laying down the content of the annual and final implementation reports, including the list of common indicators (OJ L 337, 25.11.2014, p. 46).

⁸ Regulation (EU) 2020/559 of the European Parliament and of the Council of 23 April 2020 amending Regulation (EU) No 223/2014 as regards the introduction of specific measures for addressing the outbreak of COVID-19 (OJ L 130, 24.4.2020, p.7).

- (5) The indirect provision of food and basic material assistance through vouchers, cards or other instruments entails specific challenges for implementation compared to situations where this assistance is provided directly to the most deprived. It is thus appropriate to provide for specific provisions for the schemes providing assistance directly with regard to the minimum requirements for the audit trail, in order to adjust the list of data to be recorded and stored in the system by the managing authority on each operation for monitoring, evaluation, financial management, verification and audit and to adjust the list of indicators to be reported by the managing authority.
- (6) In order to mitigate the higher risks of irregularities and fraud where the provision of food or basic material assistance, or both, is carried out through vouchers or cards in a paper format, it is appropriate to provide for additional minimum requirements for the audit trail in such cases.
- (7) In order to allow for the prompt application of the measures provided for in this Regulation aiming at preventing irregularities and fraud, this Regulation should enter into force on the day following that of its publication in the *Official Journal of the European Union*.
- (8) Delegated Regulations (EU) No 532/2014 and (EU) No 1255/2014 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Delegated Regulation (EU) No 532/2014 is amended as follows:

- (1) The following Article is inserted:

“Article 3a

Detailed minimum requirements for the audit trail for support provided indirectly to the most deprived, such as through vouchers, cards or other instruments

(Article 32(9) of Regulation (EU) No 223/2014)

1. In addition to the detailed minimum requirements for the audit trail set out in Article 3, the audit trail for operations providing food or basic material assistance, or both, to the most deprived, through vouchers, cards or other instruments in accordance with Article 23(4a) of Regulation (EU) No 223/2014 shall:
 - (a) allow to reconcile the total number of vouchers, cards or other instruments issued with the total number of vouchers, cards or other instruments delivered to end recipients and used based on accounting records and supporting documents held by the certifying authority, managing authority, intermediate bodies and beneficiaries;
 - (b) allow, with regard to the eligible costs set out in Article 26(2), point (a), to reconcile the aggregate amounts certified to the Commission with the value of vouchers, cards or other instruments used by end recipients;
 - (c) include documents concerning the granting of vouchers, cards or other instruments to end recipients, their distribution to end recipients and their use.

For the use of cards, vouchers, or other instruments, the audit trail shall demonstrate that the vouchers, cards or other instruments are used only for the purchase of food or basic material assistance, or both.

2. Where food and/or basic material assistance is provided to the most deprived through vouchers, cards or other instruments in a paper format, the audit trail shall also include the following:
 - (a) security measures avoiding falsification taken by the managing authority, intermediate bodies and beneficiaries;
 - (b) measures to safeguard the stock of vouchers;
 - (c) identification of the bodies identifying end recipients and the bodies distributing the vouchers, cards or other instruments to end recipients;
 - (d) documentation that the vouchers, cards or other instruments have been received by end recipients.”;
- (2) Annex I is replaced by the text set out Annex I to this Regulation.

Article 2

The Annex to Delegated Regulation (EU) No 1255/2014 is replaced by the text set out in Annex II to this Regulation.

Article 3

This Regulation shall enter into force on the 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, 4.11.2020

For the Commission
The President
Ursula VON DER LEYEN