



Brussels, 9 June 2021  
(OR. en)

9584/21

COH 15  
FIN 436  
SOC 387  
CADREFIN 285

#### 'I/A' ITEM NOTE

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From: General Secretariat of the Council

To: Permanent Representatives Committee (Part 2)/Council

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No. prev. doc.: 8401/21

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Subject: Draft Council conclusions on Special Report No 6/2021 by the European Court of Auditors: Financial instruments in cohesion policy at closure of the 2007-2013 period: verification work yielded good results overall, but some errors remained

- Approval

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1. On 29 April 2021, the General Secretariat of the Council received the Special Report No 06/2021 "Financial instruments in cohesion policy at closure of the 2007–2013 period: verification work yielded good results overall, but some errors remained".
2. Pursuant to the rules laid down in the Council conclusions on improving the examination of special reports drawn up by the Court of Auditors<sup>1</sup>, the Permanent Representatives Committee, at its meeting on 12 May 2021, instructed the Working Party on Structural Measures to examine this report according to the rules laid down in the above-mentioned conclusions.

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<sup>1</sup> Doc. 7515/00 FIN 127 + COR 1.

3. The Working Party on Structural Measures examined the Special Report on 27 May and 3 June 2021 and an agreement was reached.
  4. The Permanent Representatives Committee is therefore asked to suggest that the Council approve as an 'A' item at a forthcoming meeting the Council conclusions on the European Court of Auditors' Special Report 06/2021 entitled "Financial instruments in cohesion policy at closure of the 2007–2013 period: verification work yielded good results overall, but some errors remained", as set out in the Annex to this document.
  5. At the same time, the Permanent Representatives Committee is invited to decide, in accordance with the first subparagraph of Article 12(1) of the Council's Rules of Procedure and Article 1 of Council Decision (EU) 2021/825, that the Council use the written procedure for the approval of the above-mentioned Council conclusions if, due to the circumstances related to COVID-19, no Council meeting takes place before 23 June 2021.
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**DRAFT**

**Council conclusions on Special Report No 6/2021 by the European Court of Auditors:  
Financial instruments in cohesion policy at closure of the 2007–2013 period:  
verification work yielded good results overall, but some errors remained**

THE COUNCIL OF THE EUROPEAN UNION:

- (1) WELCOMES Special Report No 6/2021 by the European Court of Auditors (hereafter referred to as "the Court") and the Commission's observations to the Report.
- (2) RECALLS its conclusions of 8 November 2016<sup>1</sup> on Court' Special Report No 19/2016 "Implementing the EU budget through financial instruments - lessons to be learnt from the 2007-2013 programme period" and of 25 April 2017<sup>2</sup> on Court' Special Report No 36/2016 "An assessment of the arrangements for closure of the 2007-2013 cohesion and rural development programmes".
- (3) NOTES that the Court's audit described in the Report focused on how the Member States and the Commission verified the eligibility of the declared expenditure with regard to financial instruments under shared management (FISMs) at the closure of operational programmes from the 2007-2013 programming period, as well as on how the Commission evaluated data and analysed data reliability in the final report.
- (4) TAKES NOTE of the findings of the Report for the 2007-2013 programming period, in particular that:
  - The Commission guidance was timely and adequate, but more information was needed on how to assess the medium-sized enterprise (SME) status of final recipients;
  - With regard to EIB Group managed FISMs certain verifications were not able to be performed due to audit mandate restrictions and external auditor's scope limitations;

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<sup>1</sup> Doc. 14127/16.

<sup>2</sup> Doc. 8453/17.

- Extended eligibility period led to additional work for audit authorities and the Commission which delayed and made less efficient the closure process;
- Audit authorities performed the necessary verifications, however certain errors remained undetected due to incomplete eligibility checks;
- The Commission final analysis of the performance assessment of FISMs was incomplete due to limited data on leverage and intra-period reuse of funds;
- Reliability of the data in the final Summary of data report was improved.

(5) TAKES NOTE of the findings of the Report for the 2014-2020 programming period, in particular that:

- The Commission guidance was expanded, including on risk areas, and visibility improved;
- Regulatory limitation of audit authorities' mandate was adequately resolved, including with regard to most of the EIB Group managed FISMs;
- Most weaknesses identified in the audit authorities' work were addressed in the Commission's guidance for 2014-2020 programming period;
- Data reliability has been further improved and data on leverage and reuse of funds are reported, providing better assessment of the performance of FISMs.

(6) NOTES that in general for 2007-2013 programming period the Commission addressed closure-related issues by assessing Member States contributions for appropriate corrections and for 2014-2020 programming period issues on eligibility of instruments for SMEs are less likely to occur as the legislation has introduced financial instruments dedicated solely to SMEs financing.

- (7) UNDERLINES that at the end of the 2007-2013 programming period, there were 1 058 FISMs across 25 Member States and the total value of programme contributions paid to the instruments amounted to €16.4 billion, including EU co-financing of €11.3 billion through the European Regional Development Fund, as well as through the European Social Fund.
- (8) CONSIDERS the Report as a useful contribution to reflections of the Commission and Member States on how to further improve their work on verifying the eligibility of the declared expenditure with regard to FISMs in the current and next programming periods taking into account the lessons learned.
- (9) SHARES in particular the following observations of the Commission to the findings and recommendations included in the Court's Report:
- In order to be optimally prepared for the upcoming closure of the 2014-2020 programming period, the Commission should provide supplementary information in the guidance for FISMs with specific advice targeting risks identified in the Commission and the Court audits;
  - In its updated audit methodology and upcoming closure guidelines, the Commission should provide the necessary instructions on the role and responsibilities of audit authorities when assessing the eligibility of FISMs expenditure at closure.