

**COMMISSION IMPLEMENTING REGULATION (EU) 2019/1140****of 3 July 2019****establishing models for the control reports and annual audit reports concerning financial instruments implemented by the EIB and other international financial institutions in which a Member State is a shareholder in accordance with Regulation (EU) No 1303/2013 of the European Parliament and of the Council**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006 <sup>(1)</sup>, as amended by Regulation (EU, Euratom) 2018/1046 <sup>(2)</sup>, and in particular the fourth subparagraph of Article 40(1), thereof,

After consulting the Coordination Committee for the European Structural and Investment Funds,

Whereas:

- (1) The third subparagraph of Article 40(1) of Regulation (EU) No 1303/2013, as amended by Regulation (EU, Euratom) 2018/1046, sets out the requirement that the EIB and other international financial institutions in which a Member State is a shareholder are to provide to the authorities designated in accordance with Article 124 of that Regulation and with Article 65 of Regulation (EU) No 1305/2013 of the European Parliament and of the Council <sup>(3)</sup> a control report with each application for payment, on the one hand, and to the Commission and to the designated authorities an annual audit report drawn up by their external auditors, on the other hand.
- (2) In order to ensure consistency, quality and timely submission of the information to be provided by the EIB or other international financial institutions in which a Member State is a shareholder to the designated authorities and to the Commission, especially in view of the deadline for the submission of the report referred to in Article 127(5) of Regulation (EU) No 1303/2013 and in Article 9(2) of Regulation (EU) No 1306/2013 of the European Parliament and of the Council <sup>(4)</sup>, a standard format laying down uniform requirements for the structure, the timing and the content of the information should be established for both the control report and the annual audit report.
- (3) In order to enable the designated authorities to carry out their obligations with regard to verifications, checks and audits, it is appropriate that the EIB or other international financial institutions in which a Member State is a shareholder provide necessary documents to the designated authorities.
- (4) In order to ensure that the designated authorities can effectively make use of the new provisions which apply from 2 August 2018 in accordance with Article 282 of Regulation (EU, Euratom) 2018/1046, this Regulation should enter into force on the day following that of its publication in the *Official Journal of the European Union*,

<sup>(1)</sup> OJ L 347, 20.12.2013, p. 320.

<sup>(2)</sup> Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

<sup>(3)</sup> Regulation (EU) No 1305/2013 of the European Parliament and of the Council of 17 December 2013 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) and repealing Council Regulation (EC) No 1698/2005 (OJ L 347, 20.12.2013, p. 487).

<sup>(4)</sup> Regulation (EU) No 1306/2013 of the European Parliament and of the Council of 17 December 2013 on the financing, management and monitoring of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008 (OJ L 347, 20.12.2013, p. 549).

HAS ADOPTED THIS REGULATION:

*Article 1*

**Model for the control report**

The control report referred to in the third subparagraph of Article 40(1) of Regulation (EU) No 1303/2013 shall be drawn up in accordance with the model set out in Annex I to this Regulation.

*Article 2*

**Model for the annual audit report**

The annual audit report referred to in the third subparagraph of Article 40(1) of Regulation (EU) No 1303/2013 shall be drawn up in accordance with the model set out in Annex II to this Regulation and submitted to the designated authorities and the Commission by 31 December following the end of the reference accounting year.

*Article 3*

**Documents necessary for verifications and audits**

The EIB or other international financial institutions in which a Member State is a shareholder shall provide all available documents to the designated authorities that are necessary for these authorities to carry out the obligations set out in Article 125(5) and Article 127 of Regulation (EU) No 1303/2013 and in Articles 9 and 59(1) of Regulation (EU) No 1306/2013.

*Article 4*

**Entry in force**

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, 3 July 2019.

*For the Commission*  
*The President*  
Jean-Claude JUNCKER

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## ANNEX I

**Model for the control report**

- A. Control report related to application for payment to the Commission: [reference] [planned date]
- B. Date of the Member State's request for control report (at least two months before the planned date in point A. above): [date]
- C. Reference period:
1. Total amount of payments to final recipients and, in the cases referred to in Article 37(7) of Regulation (EU) No 1303/2013, of payments to the benefit of final recipients, indicating separately ESI Funds, national public and private contributions.
  2. Total amount of resources committed for guarantee contracts, whether outstanding or already come to maturity, in order to honour possible guarantee calls for losses, calculated on the basis of a prudent *ex ante* risk assessment, covering a multiple amount of underlying new loans or other risk-bearing instruments for new investments in final recipients, indicating separately ESI Funds, national public and private contributions.
  3. Total amount of management costs incurred and/or management fees paid by the financial instrument, indicating separately ESI Funds, national public and private contributions.
  4. State of implementation of the investment strategy or equivalent documents as defined in the funding agreement.
  5. Progress analysis: volume of committed amounts from the operational programme and disbursements to financial intermediaries.
  6. Monitoring activities and resulting follow-up.
  7. Level of interest and other gains attributable to support from the ESI Funds paid to financial instruments as referred to in Article 43 of Regulation (EU) No 1303/2013.
  8. Level of resources paid back to financial instruments from investments or from the release of resources committed for guarantee contracts including capital repayments and gains and other earnings or yields, such as interest, guarantee fees, dividends, capital gains or any other income generated by investments, which are attributable to the support from the ESI Funds, as referred to in Article 44 of Regulation (EU) No 1303/2013.

Attachment: list of transactions to final recipients who received support by the financial instrument, the sum of which should correspond to the amounts referred to in points 1 and 2 above, and detailed breakdown by financial instrument of the amounts referred to in point 3 above.

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## ANNEX II

**Model for the annual audit report**

## 1. INTRODUCTION

- 1.1. Identification of the external audit firm that has been involved in preparing the report.
- 1.2. Reference period (e.g. 01 July N-1 to 30 June N).
- 1.3. Identification of the financial instrument(s)/mandate(s) and operational programme(s) or rural development programme(s) covered by the audit report. Identification of the funding agreement to which the report relates to (the 'Funding agreement').

## 2. AUDIT OF INTERNAL CONTROL SYSTEMS APPLIED BY THE EIB/EIF OR OTHER INTERNATIONAL FINANCIAL INSTITUTIONS

Results of the external audit of the internal control system of the EIB or other international financial institutions (IFIs), in which a Member State is a shareholder, assessing the set-up and effectiveness of this internal control system and covering the following elements:

- 2.1. Mandate acceptance process.
- 2.2. Process for the appraisal and selection of financial intermediaries: formal and quality assessment.
- 2.3. Process for the approval of transactions with financial intermediaries and signature of relevant funding agreements.
- 2.4. In case of financial contribution to financial instruments set up at Union level, including SME Initiative instruments and in case of ESI Funds/EFSI combination under Article 39a of Regulation (EU) No 1303/2013, process for the set-up of the instrument in line with the rules defined in the relevant Articles (e.g. Article 39, Article 39a of Regulation (EU) No 1303/2013).
- 2.5. Processes for the monitoring of financial intermediaries relating to:
  - 2.5.1. reporting by financial intermediaries;
  - 2.5.2. maintenance of records;
  - 2.5.3. disbursements to final recipients;
  - 2.5.4. eligibility of support to final recipients;
  - 2.5.5. management fees and costs charged by the financial intermediaries;
  - 2.5.6. visibility requirements;
  - 2.5.7. implementation of State aid requirements by the financial intermediaries, and in the case of EAFRD (partly exempted from State aid rules) the implementation of Fund-specific requirements, including rules on cumulation of aid, when applicable;
  - 2.5.8. differentiated treatment of investors, where relevant;
  - 2.5.9. compliance with tax-related requirements of Article 38 of Regulation (EU) No 1303/2013 as updated in Regulation (EU, Euratom) 2018/1046.
- 2.6. Systems for the processing of payments received from the managing authority.
- 2.7. Systems for the calculation and payment of amounts related to management costs and fees.
- 2.8. Systems for the processing of payments to financial intermediaries.

- 2.9. Systems for the processing of interest and other gains generated by support from the ESI Funds to financial instruments.

In relation to points 2.1 to 2.4 above following the submission of the first annual audit report: information only on the updates or changes to the procedures or arrangements in place and their assessment for subsequent annual reports.

In relation to points 2.5 to 2.9 above: results of the audit testing covering the relevant internal applicable systems and processes.

- 2.10. At closure, the following elements shall be covered in the last annual audit report in addition to the elements mentioned in points 2.1 to 2.9 above:

2.10.1. Use of differentiated treatment of investors.

2.10.2. Achieved multiplier ratio compared to the agreed multiplier ratio in the guarantee agreements for financial instruments delivering guarantees.

2.10.3. Amount of capitalised interest rate subsidies or guarantee fee subsidies in line with Article 42(1)(c) of Regulation (EU) No 1303/2013.

2.10.4. Amount of capitalised management costs and fees in line with Article 42(2) of Regulation (EU) No 1303/2013.

2.10.5. Amount of programme contribution paid into an escrow account in line with Article 42(3) of Regulation (EU) No 1303/2013.

2.10.6. Use of interest and other gains attributable to the support from the ESI Funds paid to financial instruments in line with Article 43 of Regulation (EU) No 1303/2013.

2.10.7. Use of resources paid back to financial instruments, which are attributable to the support from the ESI Funds, until the end of the eligibility period and arrangements put in place for the use of those resources after the end of the eligibility period in line with Articles 44 and 45 of Regulation (EU) No 1303/2013.

### 3. AUDIT CONCLUSIONS

3.1. Conclusion as to whether the external audit firm can provide reasonable assurance on the set-up and effectiveness of the internal control system put in place by the EIB or other IFIs, in which a Member State is a shareholder, in accordance with the applicable rules, as per the elements referred to in section 2.

3.2. Findings and recommendations resulting from the audit work carried out

Points 3.1 and 3.2 shall be based on the results of the audit work referred to in section 2 and where relevant, take account of the results of other national or Union audit work carried out in relation to the same body implementing financial instruments and/or to the same mandate for financial instruments.

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