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Amendment 477

Ivars Godmanis

on behalf of the ALDE Group

Report

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Lambert van Nistelrooij, Constanze Angela Krehl

Common provisions on European Funds

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Proposal for a regulation

Article 33 a (new)

Text proposed by the Commission

Amendment

Article 33a

Contribution of ERDF and EAFRD to joint uncapped guarantee and securitization financial instruments in favour of SMEs, implemented by the EIB

1. For the purposes of this article, 'debt finance' means loans, leasing or guarantees.

2. Member States may use the ERDF and EAFRD to provide a financial contribution to financial instruments referred to in Article 33(1)(a), managed indirectly by the Commission with implementation tasks entrusted to the EIB pursuant to Article 58(1)(c)(iii) and Article 139(4) of the Financial Regulation, in respect of the following activities:

(a) uncapped guarantees providing capital relief to financial intermediaries for new portfolios of debt finance to eligible SMEs in accordance with Article 32(3);

(b) securitisation, as defined in Article 4 of Directive 2006/48/EC of the European Parliament and of the Council, of any of the following:

(i) existing portfolios of debt finance to SMEs and other enterprises with less than 500 employees;

(ii) new portfolios of debt finance to SMEs.

The financial contribution referred to in points (a) and (b) of the first subparagraph shall contribute to junior and/or mezzanine tranches of portfolios mentioned therein provided that the relevant financial intermediary retains a sufficient part of the risk of the portfolios at least equal to the risk retention requirement set out in Directive 2013/36/EU and Regulation (EU) No 575/2013 to ensure adequate alignment of interest. In the case of securitisation under point (b), the financial intermediary is obliged to originate new debt finance to eligible SMEs in accordance with Article 32(3).

Each Member State intending to participate in such financial instruments shall contribute an amount which is in line with SMEs' debt financing needs in that Member State and the estimated demand for such SME debt finance, taking into account the ex-ante assessment referred to in paragraph 4(a) and in any case which is not higher than [7] % of the allocation from the ERDF and EAFRD to the Member State. The aggregate ERDF and EAFRD contribution by all participating Member States shall be subject to a global ceiling of EUR 10 billion (2011 prices).

Where it is considered by the Commission in consultation with the EIB that the aggregate minimum contribution to the instrument representing the sum of the contributions of all participating Member States is insufficient taking due account of the minimum critical mass defined in the ex-ante assessment referred to in paragraph 4(a), implementation of the financial instrument shall be discontinued and the contributions returned to the Member States.

Where the Member State and the EIB are

not able to agree the conditions of the funding agreement referred to in paragraph 4(c) of this Article the Member State shall submit a request for amendment of the programme referred to in paragraph 4(b) and reallocate the contribution to other programmes and priorities in accordance with requirements for thematic concentration.

Where the conditions for the termination of the Member State's contribution to the instrument established in the funding agreement between the Member State concerned and the EIB referred to in paragraph 4(c) have been satisfied, the Member State shall submit a request for amendment of the programme referred to in paragraph 4(b) and reallocate the remaining contribution to other programmes and priorities in accordance with requirements for thematic concentration.

Where the participation of a Member State in the financial instrument is discontinued, the Member State shall submit a request for amendment of the programme and the unused appropriations shall be de-committed and the decommitted appropriations shall be made available again to the Member State concerned in order to be re-programmed for other programmes and priorities in accordance with requirements for thematic concentration.

3. The SMEs which receive new debt finance, as a result of the new portfolio built up by the financial intermediary in the context of the financial instrument referred to in paragraph 1 shall be considered the final recipients of the contribution of the ERDF and EAFRD to the financial instrument concerned.

4. The financial contribution referred to in paragraph 1 shall comply with the following conditions:

(a) by derogation from Article 32(2), it shall be based on one ex ante assessment at Union level carried out by the EIB and the Commission;

On the basis of available data sources on bank debt finance and SMEs, the ex-ante assessment will cover, inter alia, an analysis of the SME financing needs at Union level, SME financing conditions and needs as well as an indication of the SME financing gap in each Member State, profile of the economic and financial situation of the SME sector at Member State level, minimum critical mass of aggregate contributions, a range of estimated total loan volume generated by such contributions and the value added.

(b) it shall be provided by each participating Member State as part of a single dedicated national programme per financial contribution by ERDF and EAFRD supporting the thematic objective set out in Article 9 (3);

(c) it shall be subject to the conditions set out in a funding agreement concluded between each participating Member State and the EIB including, inter alia:

(i) tasks and obligations of the EIB including remuneration;

(ii) minimum leverage to be achieved at clearly defined milestones within the eligibility period indicated in Article 55(2);

(iii) conditions for the new debt finance;

(iv) provisions relating to non-eligible activities and exclusion criteria;

(v) schedule of payments;

(vi) penalties in case of non-performance by financial intermediaries;

(vii) selection of financial intermediaries;

(viii) monitoring, reporting and auditing;

(ix) visibility;

(x) the conditions for termination of the agreement.

For the purposes of implementation of the instrument, the EIB will enter into contractual arrangements with selected financial intermediaries;

(d) in case the funding agreement referred to in point (c) is not concluded within six months of the adoption of the programme referred to in point (b) the Member State shall have the right to reallocate such contribution to other programmes and priorities in accordance with requirements for thematic concentration.

The Commission shall adopt by means of an implementing act a model of the funding agreement referred to in point (c). That implementing act shall be adopted in accordance with the examination procedure referred to in Article 143.

5. A minimum leverage must be achieved in each participating Member State at the milestones set out in the funding agreement referred to in paragraph 4(c), calculated as the ratio between the new debt finance to eligible SMEs to be originated by the financial intermediaries and the corresponding contribution of the ERDF and EAFRD from the relevant Member State to the financial instruments. Such minimum leverage may vary between participating Member States.

In case the financial intermediary does not achieve the minimum leverage set out in the funding agreement referred to in paragraph 4(c) it shall be contractually bound to pay penalties for the benefit of the participating Member State, in accordance with the terms and conditions set out in the funding agreement.

Neither the guarantees issued nor the relevant securitisation transactions shall be affected by a failure by the financial intermediary to reach the minimum leverage set out in the funding agreement.

6. By derogation from the first sentence of Article 33(2), financial contributions referred to in paragraph 2 of this Article may be placed in separate accounts per Member State or, if two or more participating Member States give their consent, in a single account covering all such Member States and used in accordance with the specific objectives of the programmes from which the contributions are made.

7. By derogation from Article 35(1) and (2) as regards the financial contributions referred to in paragraph 1 of this Article, the Member State's request for payment to the Commission shall be made on the basis of 100% of the amounts to be paid by the Member State to the EIB in accordance with the schedule defined in the funding agreement referred to in paragraph 4(c) of this Article. Such requests for payment shall be based on the amounts requested by the EIB deemed necessary to cover commitments for guarantee contracts or securitisation transactions to be finalised within the three following months. Payments from Member States to the EIB shall be made without delay and in any case before commitments are entered into by the EIB.

8. At closure of the programme, the eligible expenditure shall be the total amount of programme contributions paid to the financial instrument, corresponding:

(a) for the activities referred to in paragraph 2(a), to the resources referred to in Article 36(1)b;

(b) for the activities referred to in paragraph 2(b), to the aggregate amount of new debt finance resulting from the

securitisation transactions, paid to or to the benefit of eligible SMEs within the eligibility period indicated in Article 55(2).

9. For the purpose of Articles 38 and 39, the uncalled guarantees and the amounts recovered in relation to, respectively, the uncapped guarantees and the securitisation transactions, shall be deemed to be resources paid back to the financial instruments. At the winding up of the financial instruments, the net liquidation proceeds, after deduction of costs, fees and payment of amounts due to creditors ranking senior to those contributed by the ERDF and EAFRD, shall be returned to the relevant Member States pro rata to their contributions to the financial instrument.

10. The report referred to in Article 40(1) shall include the following additional elements:

(a) the total amount of ERDF and EAFRD support paid to the financial instrument in relation to uncapped guarantees or securitisation transactions, by programme and priority or measure;

(b) progress in creating the new debt finance in accordance with Article 32(3), for eligible SMEs.

11. Notwithstanding Article 85 (1), the resources allocated to instruments under paragraph 1 of this Article may be used for the purpose of giving rise to new SME debt finance in the entire territory of the Member State without regard to the categories of region, unless otherwise provided for in the funding agreement referred to in paragraph 4(c).

12. Article 60 shall not apply to programmes set up to implement financial instruments under this Article.

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