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2015/0010 (APP)

Proposal for a

COUNCIL REGULATION

**amending Regulation (EU, Euratom) No 1311/2013 laying down the multiannual
financial framework for the years 2014-2020**

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

Article 19 of Council Regulation No 1311/2013 of 2 December laying down the multiannual financial framework for the years 2014-2020¹ (MFF Regulation) provides for a revision of the multiannual financial framework (MFF) in case of late adoption of rules or programmes under shared management:

1. In the event of the adoption after 1 January 2014 of new rules or programmes under shared management for the Structural Funds, the Cohesion Fund, the European Agricultural Fund for Rural Development, the European Maritime and Fisheries Fund, the Asylum and Migration Fund and the Internal Security Fund, the MFF shall be revised in order to transfer to subsequent years, in excess of the corresponding expenditure ceilings, allocations not used in 2014.

2. The revision concerning the transfer of unused allocation for the year 2014 shall be adopted before 1 May 2015.

As a consequence of the late agreement on the MFF 2014-2020, the various legal acts laying down provisions for implementing the funds were adopted in December 2013 for the European Regional Development Fund (ERDF), the European Social Fund (ESF), the Cohesion Fund (CF) and the European Agricultural Fund for Rural Development (EAFRD), and as late as May 2014 for the European Maritime and Fisheries Fund (EMFF), the Asylum, Migration and Integration Fund (AMIF) and the Internal Security Fund (ISF). A range of Implementing Acts and Delegated Acts were subsequently adopted in the course of 2014 for each Fund.

The Commission's strategy to launch an informal dialogue on the programming documents for the European Structural and Investment Funds (ESI Funds, i.e. ERDF, ESF, CF, EAFRD and EMFF) as from 2012 has achieved important results. The adoption of Partnership Agreements with Member States took about four month less than in the previous programming period.

Nevertheless, as a result of the late agreement on legal acts, a significant amount of programmes could not be adopted in 2014 and were not advanced enough either to benefit from the procedure for carry-over of appropriations under Article 13 of the Financial Regulation²: Programmes which are "ready for adoption" at the end of 2014, but cannot be adopted formally due to lack of time, can benefit from the "carry-over" procedure under Article 13(2)(a) of the Financial Regulation as regards the 2014 commitment. In this context "ready for adoption" means that the preparatory stages have been completed and no further actions are required before launching the procedure for the Commission decision to adopt the programme. In such cases, the carry-over procedure allows for the 2014 commitment to be carried over to 2015 provided that 2014 amounts are committed up to 31 March 2015.

Allocations not used in 2014 nor carried over need to be transferred to subsequent years by means of a revision of the MFF in accordance with Article 19 of the MFF Regulation.

¹ OJ L 347, 20.12.2013, p. 884.

² Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298, 26.10.2012, p. 1).

The revision of the MFF ceilings will have to be accompanied by an Amending Budget as far as 2015 commitment appropriations are concerned. Both the revision and the Amending Budget will be a prerequisite for the adoption of programmes which trigger the budgetary commitment and the payment of the initial pre-financing.

2. LEGAL ELEMENTS OF THE PROPOSAL

2.1. Scope of the revision

The revision under Article 19 of the MFF Regulation applies to the adoption after 1 January 2014 of new rules *or* programmes under shared management for the ESI Funds, the AMIF and the ISF. It thus applies to programmes adopted after 1 January 2014 even when the relevant legal act was adopted by that time. Moreover, 'rules' covers not only the basic legislative acts laying down the provisions for implementing the funds concerned, but also implementing and delegated acts, to the extent to which they are a prerequisite for preparing or finalising the programmes.

Consequently, this provision also applies to funds from the specific allocation for the Youth Employment Initiative as the legal basis is the same as for programmes.

It also applies to the Fund for European Aid to the most Deprived (FEAD) as its commitments originate from the Structural Funds and are implemented under shared management.

Finally, Article 19 also covers contributions from the ERDF to the cross-border and sea-basin programmes established under the European Neighbourhood Instrument and the Instrument for Pre-Accession Assistance as those amounts are part of national allocations defined in Article 91(2) of the ESI Funds' Common Provisions Regulation (CPR)³.

Conversely, the provision does neither apply to amounts transferred from the Cohesion Fund to the Connecting Europe Facility, nor to technical assistance at the initiative of the Commission, nor to innovative actions, as these are not part of programmes and are managed by the Commission under direct management. It does not apply either to contributions from Heading 4 of the MFF even when transferred to the ERDF and the European Territorial Cooperation objective.

Article 19 does not impose any constraints as to the profile of the transfer of allocations to subsequent years.

3. TRANSFER OF ALLOCATIONS

Commitment appropriations for programmes under shared management within the meaning of Article 19 of the MFF Regulation lapsed in 2014 for an amount of EUR 21,043,639,478 in current prices. This corresponds to the 2014 tranches of programmes that could neither be committed in 2014 nor carried over to 2015.

³ 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 1081/2006 (OJ L 347, 20.12.2013, p. 320).

The below table shows the distribution by Fund of the 2014 commitments, distinguishing those adopted in 2014 from those carried-over as well as from those to be transferred under Article 19 of the MFF Regulation:

(EUR, current prices)

Fund		2014 allocation	Adopted 2014	Carry-over	To be transferred under Article 19 MFFR
European Social Fund	ESF	11 445 812 597	7 698 837 340	1 981 018 368	1 765 956 889
Youth Employment Initiative	YEI	1 804 053 600	1 574 353 825	132 290 556	97 409 219
Fund for European Aid to the most Deprived	FEAD	512 987 948	500 784 056	12 203 892	0
Cohesion Fund	CF	7 936 079 979	5 348 080 397	761 296 791	1 826 702 791
European Regional Development Fund - less and more developed regions, transition, sparsely populated	ERDF	24 102 682 025	11 387 760 510	5 542 236 124	7 172 685 391
European Regional Development Fund - Territorial Cooperation	ERDF/TC	462 198 719	101 623 065	50 624 280	309 951 374
European Regional Development Fund - Territorial Cooperation contribution to IPA	ERDF/IPA	12 013 672			12 013 672
European Regional Development Fund - Territorial Cooperation contribution to ENI	ERDF/ENI	31 467 990			31 467 990
Sub-total Heading 1b		46 307 296 530	26 611 439 193	8 479 670 011	11 216 187 326
Rural Development	EAFRD	13 970 049 060	3 294 627 697	1 970 095 304	8 705 326 059
European Maritime and Fisheries Fund	EMFF	788 060 689	19 167 006	28 169 090	740 724 593
Sub-total Heading 2		14 758 109 749	3 313 794 703	1 998 264 394	9 446 050 652
Asylum, Migration and Integration Fund	AMIF	357 448 296	0	184 735 438	172 712 858
Internal Security Fund	ISF	331 555 208	0	61 948 970	269 606 238
Sub-total Heading 3		689 003 504	0	246 684 408	442 319 096
Total		61 754 409 783	29 925 233 896	10 724 618 813	21 104 557 074

The Commission proposes to transfer the bulk of the allocations not used in 2014 to year 2015 in order to keep the pace of investments for growth and jobs, minimise differences of treatment with programmes adopted in 2014 and ensure equal treatment with programmes whose 2014 commitment tranche is carried-over in accordance with Article 13 of the Financial Regulation⁴. Hence, all allocations not used in 2014 nor carried over will be transferred to 2015, except in the following cases:

The unused EAFRD allocations are proposed to be transferred in equal parts to 2015 and 2016. This is justified by the cumulative effect of, in particular, the following circumstances:

- The regulatory framework providing the essential elements necessary to Member States for the preparation of their rural development programmes was completed only in the second half of 2014. Furthermore, the latest regulation amending the basic act following Member States' decisions to transfer amounts between direct aids and rural development, and thereby impacting the programming, came into force only at the end of December 2014.
- Because of the transitional rules under Regulation (EU) No 1310/2013 significant amounts spent under the new rural development programmes are still paid under the budget line for the old programmes during the transition between two periods. Therefore, doubling the available commitments on the budget line for the new RDPs would result in additional unused appropriations in 2015 as the total annual payments

⁴ Both in case of a carry-over and in case of a transfer of commitment appropriations from 2014 to 2015 the budgetary commitment will be made in 2015. The n+3 deadline for ESI Funds will thus shift accordingly from end 2017 to end 2018. The n+2 deadline for AMIF and ISF will shift accordingly from end 2016 to end 2017.

would not consume all the available commitments in the budget line for the new RDPs.

- As opposed to the other ESI Funds, programmes financed from the EAFRD will not benefit from annual pre-financing, resulting in a higher amount of interim payments to be claimed within the decommitment deadlines.

For contributions from the ERDF to the cross-border and sea-basin programmes established under the European Neighbourhood Instrument (ENI-CBC programmes) and the Instrument for Pre-Accession Assistance (IPA-CBC programmes) it is proposed to transfer the whole 2014 ERDF allocation to 2017. The set-up of these programmes is more complex and takes longer. This is due to the specific character of those programmes involving Member States and candidate or neighbouring countries.

For programmes financed from the AMIF or the ISF, allocations not used in 2014 shall be transferred to years 2015 to 2017 with a degressive profile. The basic acts for these funds were only adopted in May 2014, with the adoption of a number of implementing and delegated acts still pending. These funds are subject to a stricter decommitment rule than for the ESI Funds i.e. n+2, as from the second year of implementation, instead of n+3. Finally, the Member States' experience in managing these funds under shared management is rather new. The proposed transfer of the 2014 allocations over three years takes account of these particular features.

Consequently, the allocations not used in 2014 are proposed to be transferred to subsequent years as shown in the below table.

FUND		Amount to be transferred	to 2015	to 2016	to 2017	to 2018	to 2019	to 2020
European Social Fund	ESF	1 765 956 889	1 765 956 889					
Youth Employment Initiative	YEI	97 409 219	97 409 219					
Fund for European Aid to the most Deprived	FEAD	0	0					
Cohesion Fund	CF	1 826 702 791	1 826 702 791					
European Regional Development Fund - less land more developed regions, transition, sparsely populated	ERDF	7 172 685 391	7 172 685 391					
European Regional Development Fund - Territorial Cooperation	ERDF/TC	309 951 374	309 951 374					
European Regional Development Fund - Territorial Cooperation contribution to IPA	ERDF/IPA	12 013 672			12 013 672			
European Regional Development Fund - Territorial Cooperation contribution to ENI	ERDF/ENI	31 467 990			31 467 990			
Sub-total Heading 1b		11 216 187 326	11 172 705 664	0	43 481 662	0	0	0
Rural Development	EAFRD	8 705 326 059	4 352 663 052	4 352 663 007				
European Maritime and Fisheries Fund	EMFF	740 724 593	740 724 593					
Sub-total Heading 2		9 446 050 652	5 093 387 645	4 352 663 007	0	0	0	0
Asylum, Migration and Integration Fund	AMIF	172 712 858	69 272 185	66 697 980	36 742 693			
Internal Security Fund	ISF	269 606 238	141 073 125	101 229 143	27 303 970			
Sub-total Heading 3		442 319 096	210 345 310	167 927 123	64 046 663	0	0	0
TOTAL		21 104 557 074	16 476 438 619	4 520 590 130	107 528 325	0	0	0

4. IMPLICATIONS ON PAYMENTS

Concerning the implications on payments in 2015, they will be covered within the voted budget for 2015. The first initial pre-financing that has not been paid in 2014 will have to be paid in 2015 together with the second pre-financing. However, the corresponding unused appropriations in 2014 have been used by transfers to reduce the backlog of unpaid bills from the previous period 2007-2013 and the reverse operation could be done, if need be, in 2015 to cover the pre-financings.

The medium and longer term implications on interim payments of the transfer are more difficult to predict.

The legislative acts laying down the provisions for implementing the funds contain provisions for the automatic decommitment of appropriations not used within a given deadline, which is of n+3 years for the ESI Funds and of n+2 years for the AMIF and the ISF.

The year “n” corresponds to the year of the budgetary commitment. As both in case of a carry-over and in case of a transfer of commitment appropriations from 2014 to 2015 the budgetary commitment will be made in 2015, the n+3 period will start from 2015, with the deadline shifting accordingly from end 2017 to end 2018. In case of n+2, the same applies: the period will start from 2015 and the deadline shift accordingly by one year.

This could in principle result in a shift of payments from one year to another without this lowering the overall needs over the 2014-2020 period. On the other hand, the real pace of implementation will not be pre-determined by the transfer. Under all programmes, regardless of their date of adoption, expenditure is eligible as from 1 January 2014 (and as from 1 September 2013 for the Youth Employment Initiative and 1 December 2013 for the Fund for European Aid to the Most Deprived). This means that implementation could start before the formal adoption of the respective programme and limit the impact of the delay on the submission of interim payment claims.

Both the fact that Member States have n+3 years to spend the funds (n+2 for AMIF and ISF), taking account of initial and annual pre-financing, and the availability of the Global Margin for payments (Article 5 of the MFF Regulation) are expected to further mitigate the impact of the transfer of commitments from 2014 on annual payment ceilings.

For these reasons, the Commission does not propose to revise the payment ceilings. It will review the situation regularly in the light of implementation and make proposals if appropriate in accordance with the relevant provisions of the MFF Regulation.

5. REVISED FINANCIAL FRAMEWORK IN CURRENT PRICES

The proposed transfer of allocations in the below MFF table is expressed in current prices and incorporates the technical adjustment made for 2015⁵.

The Council regulation amending the MFF Regulation must refer to the basic table set out in its Annex, which is expressed in constant 2011 prices. The amounts in current prices are thus to be converted into 2011 prices.

⁵ Communication from the Commission to the Council and the European Parliament: Technical adjustment of the financial framework for 2015 in line with movements in GNI (Article 6 of Council Regulation No 1311/2013 laying down the multiannual financial framework for the years 2014-2020), COM(2014) 307 final, 28.5.2014.

**MULTIANNUAL FINANCIAL FRAMEWORK (EU-28) ADJUSTED for Art. 19 MFFR
adjustment for delayed adoption of programmes in shared management**

(EUR million - current prices)

COMMITMENT APPROPRIATIONS	2014	2015	2016	2017	2018	2019	2020	Total 2014-2020
1. Smart and Inclusive Growth	52 756	77 986	69 304	72 386	75 271	78 752	82 466	508 921
1a: Competitiveness for growth and jobs	16 560	17 666	18 467	19 925	21 239	23 082	25 191	142 130
1b: Economic, social and territorial cohesion	36 196	60 320	50 837	52 461	54 032	55 670	57 275	366 791
2. Sustainable Growth: Natural Resources	49 857	64 692	64 262	60 191	60 267	60 344	60 421	420 034
of which: Market related expenditure and direct payments	43 779	44 313	44 624	44 859	44 885	44 912	44 937	312 309
3. Security and citizenship	1 737	2 456	2 546	2 578	2 656	2 801	2 951	17 725
4. Global Europe	8 335	8 749	9 143	9 432	9 825	10 268	10 510	66 262
5. Administration	8 721	9 076	9 483	9 918	10 346	10 786	11 254	69 584
of which: Administrative expenditure of the institutions	7 056	7 351	7 679	8 007	8 360	8 700	9 071	56 224
6. Compensations	29	0	0	0	0	0	0	29
TOTAL COMMITMENT APPROPRIATIONS	121 435	162 959	154 738	154 505	158 365	162 951	167 602	1 082 555
as a percentage of GNI	0.90%	1.17%	1.08%	1.04%	1.03%	1.03%	1.03%	1.04%
TOTAL PAYMENT APPROPRIATIONS	135 866	141 901	144 685	142 771	149 074	153 362	156 295	1 023 954
as a percentage of GNI	1.01%	1.02%	1.01%	0.96%	0.97%	0.97%	0.96%	0.99%
Margin available	0.22%	0.21%	0.22%	0.27%	0.26%	0.26%	0.27%	0.24%
Own Resources Ceiling as a percentage of GNI	1.23%	1.23%	1.23%	1.23%	1.23%	1.23%	1.23%	1.23%

Proposal for a

COUNCIL REGULATION

amending Regulation (EU, Euratom) No 1311/2013 laying down the multiannual financial framework for the years 2014-2020

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 312 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 106a thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament,

After transmission of the draft legislative act to the national Parliaments,

Acting in accordance with a special legislative procedure,

Whereas:

- (1) Article 19 of Council Regulation (EU, Euratom) No 1311/2013⁶ provides that in the event of the adoption after 1 January 2014 of new rules or programmes under shared management for the Structural Funds, the Cohesion Fund, the European Agricultural Fund for Rural Development, the European Maritime and Fisheries Fund, the Asylum, Migration and Integration Fund and the Internal Security Fund, the multiannual financial framework is to be revised in order to transfer to subsequent years, in excess of the corresponding expenditure ceilings, allocations not used in 2014. The revision concerning the transfer of unused allocations for the year 2014 shall be adopted before 1 May 2015.
- (2) As a result of such late adoption, EUR 11 216 187 326 in current prices of the allocation provided for the Structural Funds and the Cohesion Fund, EUR 9 446 050 652 in current prices of the allocation provided for the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund, and EUR 442 319 096 of the allocation provided for the Asylum, Migration and Integration Fund and the Internal Security Fund could not be committed in 2014 nor carried over to 2015.
- (3) Annex to Regulation (EU, Euratom) No 1311/2013 should therefore be revised by transferring the commitment appropriations not used in 2014 to subsequent years for sub-heading 1b, heading 2 and heading 3. For that purpose, the figures in current prices should be converted into 2011 prices.
- (4) Regulation (EU, Euratom) No 1311/2013 should therefore be amended accordingly,

⁶ Council Regulation (EU, Euratom) No 1311/2013 of 2 December 2013 laying down the multiannual financial framework for the years 2014-2020 (OJ L 347, 20.12.2013, p. 884).

HAS ADOPTED THIS REGULATION:

Article 1

Annex to Regulation (EU, Euratom) No 1311/2013 is replaced by the text set out in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the third 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,

*For the Council
The President*