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Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on the European Social Fund and repealing Regulation (EC) No 1081/2006

{SEC(2011) 1130 final}

{SEC(2011) 1131 final}

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

Unemployment and persistently high rates of poverty call for action at EU and national level. Almost 23 million people are today unemployed and over 113 million are estimated to be living at risk of poverty or exclusion. Social and employment issues are a primary concern of European citizens, and an area where more is expected from the Union. Additional challenges that the Union faces relate to: shortfalls in skill levels, under-performance in active labour market policy and education systems, social exclusion of marginalised groups, and low labour mobility. There is a need both for policy initiatives and for concrete supporting actions.

Many of these problems have been exacerbated by the financial and economic crisis, demographic and migratory trends and the fast pace of technological change. Unless tackled effectively, they constitute a significant challenge for social cohesion and competitiveness. It is therefore essential to accompany growth-enhancing investment in infrastructure, regional competitiveness and business development with measures underpinning sustainable job creation in the areas of labour market policy, education and training, social inclusion, adaptability of workers, enterprises and entrepreneurs, and administrative capacity.

The European Social Fund (ESF) supports policies and priorities aiming to achieve progress towards full employment, enhance quality and productivity at work, increase the geographical and occupational mobility of workers within the Union, improve education and training systems, and promote social inclusion, thereby contributing to economic, social and territorial cohesion.

As the ESF should be fully aligned with the Europe 2020 Strategy and its headline targets, it should support the policies pursued by the Member States under the Integrated Guidelines adopted in accordance with Articles 121 and 148(4) of the Treaty and the Recommendations on the National Reform Programmes. The setting of minimum shares and amounts for the ESF as one of the Structural Funds will ensure that the Union priorities are adequately reflected in the volume of investment that directly targets European citizens.

The ESF will also make a valuable contribution to other important priorities of the Europe 2020 Strategy, such as strengthening our investment in research and innovation, enhancing the accessibility and use of information and communication technologies, increasing the competitiveness of small and medium-sized enterprises, supporting the shift towards a low-carbon economy, protecting the environment, and promoting the sustainable use of resources. The ESF will work in synergy with the new integrated Programme for Social Change and Innovation. Together, they will constitute the comprehensive European Employment and Social Inclusion Initiative.

2. RESULTS OF CONSULTATIONS WITH INTERESTED PARTIES AND IMPACT ASSESSMENTS

The results of the public consultations for the 5th Progress Report on Economic, Social and Territorial Cohesion¹, the EU Budget Review² and the proposals for the multi-annual financial framework³ have all been considered for the present proposal.

The public consultation on the conclusions of the 5th Cohesion Report was held between 12 November 2010 and 31 January 2011 and concluded with the Cohesion Forum. A total of 444 contributions were received. Respondents included Member States, regional and local authorities, social partners, European interest organisations, non-governmental organisations, citizens and other stakeholders. The consultation put forward a series of questions about the future of cohesion policy. A summary of the results was published on 13 May 2011⁴.

In addition, specific conferences and seminars were organised focusing on the future of the ESF. In June 2010 the conference 'ESF and Europe 2020' brought together over 450 high-level representatives from public authorities, social partners and civil society at EU and national level as well as from third countries. In addition, a seminar with NGOs and social partners on the future of the ESF took place in December 2010.

Furthermore, on 7 October 2010, the European Parliament adopted a resolution on the future of cohesion policy and the ESF⁵. The European Commission has also asked for and received exploratory opinions from the Economic and Social Committee⁶ and the Committee of the Regions⁷.

Expert advice was provided through the ESF Committee ad-hoc group on the future of the European Social Fund, an informal group of experts from the Member States and the social partners. The ad hoc group met 7 times between December 2009 and March 2011. In addition, a working group with Member States representatives was set up to discuss common indicators. It met four times and laid the ground for the proposed indicators. The ESF Committee itself issued opinions on the future of the ESF at its meetings of 3 June 2010 and 10 March 2011. Both the Employment Committee (EMCO) and the Social Protection Committee (SPC) also issued specific opinions, in January and March 2011, respectively.

The results of the ex-post evaluations carried out on the 2000-2006 programmes, and a broad range of studies, were used as input. An impact assessment has been specifically conducted for the ESF Regulation, as part of a package of three impact assessments also covering the

¹ 5th Report on Economic, Social and Territorial Cohesion, November 2010.

² Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee, the Committee of the Regions and the national parliaments: The EU Budget Review, COM(2010) 700, 19.10.2010.

³ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: A Budget for Europe 2020, COM(2011) 500, 29.6.2011.

⁴ Commission Staff Working Paper: Results of the public consultation on the conclusions of the fifth report on economic, social and territorial cohesion, SEC(2011) 590 final, 13.5.2011.

⁵ European Parliament resolution of 7 October 2010 on the future of the European Social Fund, P7_TA(2010)0357

European Parliament resolution of 7 October 2010 on EU cohesion and regional policy after 2013, P7_TA(2010)0356.

⁶ OJ C 132/8, 3/05/2011.

⁷ OJ C 166/08, 7/06/2011.

ERDF and the Cohesion Fund Regulations and the impact assessment for the General Regulation governing the ESF, ERDF and Cohesion Fund.

The impact assessment for the ESF Regulation mainly addressed the scope of the instrument and one specific aspect of simplification. It also discussed the articulation between and complementarity with the financial instruments available to the Commission's Directorate-General for Employment, Social Affairs and Inclusion, notably the ESF, the European Globalisation Adjustment Fund, the PROGRESS programme, EURES and the PROGRESS Microfinance Facility.

There is very broad support for the role of the ESF. The ESF is seen as providing considerable European added value in allowing Member States and regions to address key European priorities through European funding. It is considered an essential building block for addressing the main challenges faced by Europe citizens and for progressing towards the targets set in the Europe 2020 strategy. Concentration on the main challenges and Council Recommendations is widely seen as an important precondition for the effectiveness of support. Reducing the complexity of support and the related audit burden, notably for smaller beneficiaries, is also seen as an important area that needs to be addressed.

3. LEGAL ELEMENTS OF THE PROPOSAL

The European Social Fund (ESF) is established by Article 162 of the Treaty on the Functioning of the European Union (TFEU). The timing of the review of EU funding to promote cohesion is linked to the proposal for a new Multiannual Financial Framework, as contained in the Commission's Work Programme.

The present proposal for a Regulation is based on Article 164 TFEU. Council Regulation (EU) No [...] establishes the framework for action by the Structural Funds and the Cohesion Fund and lays down, in particular, the thematic objectives, the principles and the rules concerning programming, monitoring and evaluation, management and control.

Within this general framework, the present proposal defines the ESF's mission and scope, together with the associated investment priorities addressing the thematic objectives, and lays down specific provisions concerning operational programmes co-financed by the ESF and concerning eligible expenditure.

The ESF will operate within the context of Article 174 TFEU, which calls for action by the European Union to strengthen its economic, social and territorial cohesion and promote overall harmonious development by reducing disparities between the levels of development of the regions and promoting development in the least-favoured regions.

As the EU Budget Review has highlighted, the 'EU budget should be used to finance EU public goods, actions that Member States and regions cannot finance themselves, or where it can secure better results'⁸. The present proposal respects the principle of subsidiarity as the tasks of the ESF are set out in the Treaty and policy is implemented in accordance with the principle of shared management and respecting the institutional competences of the Member States and regions.

⁸ COM(2010) 700, 19.10.2010.

4. BUDGETARY IMPLICATIONS

The Commission's proposal for a Multiannual Financial Framework includes EUR 376bn for cohesion policy for the period 2014-2020.

Proposed budget 2014-2020	EUR bn	Minimum ESF share	Resulting minimum ESF amount EUR bn
Less developed regions	162.6	25 %	40.7
Transition regions	38.9	40 %	15.6
More developed regions	53.1	52 %	27.6
Territorial cooperation	11.7	-	-
Cohesion fund	68.7	-	-
Extra allocation for outermost and sparsely populated regions	0.926	-	-
Connecting Europe Facility for transport, energy and ICT	EUR 40 bn (with an additional EUR 10 bn ring-fenced inside the Cohesion Fund)	-	

**All figures in constant 2011 prices*

With the aim of enhancing the ability of the Funds to deliver on the headline targets of the Europe 2020 strategy, the present proposal establishes minimum shares for the ESF for each category of regions defined in the proposal for a General Regulation. This results in a minimum overall share for the ESF of 25 % of the budget allocated to cohesion policy (excluding the allocation to the Connecting Europe Facility), i.e. EUR 84 billion. The indicated minimum ESF allocation includes the budget (EUR 2.5 billion) for a forthcoming Commission proposal regarding food support for the most deprived persons.

5. SUMMARY OF THE CONTENT OF THE REGULATION

In terms of scope, the draft ESF Regulation for 2014-2020 proposes to target the ESF on four 'thematic objectives' throughout the European Union: (i) promoting employment and labour mobility; (ii) investing in education, skills and lifelong learning; (iii) promoting social inclusion and combating poverty; (iv) enhancing institutional capacity and an efficient public administration. Each thematic objective is translated into intervention categories or 'investment priorities'. In addition, the ESF should contribute also to other thematic objectives such as supporting the shift towards low-carbon, climate resilient and resource efficient economy, enhancing the use of information and communication technologies, strengthening research, technological development and innovation and enhancing the competitiveness of small and medium-sized enterprises.

Concentration of funding is required to achieve a sufficient and demonstrable impact. In order to ensure this concentration, it is proposed that

- support for administrative capacity should be limited to Member States with less developed regions or eligible to the Cohesion Fund;

- at least 20 % of the ESF allocation should be dedicated to ‘promoting social inclusion and combating poverty’;
- operational programmes should concentrate funding on a limited number of ‘investment priorities’.

Furthermore, the draft Regulation clarifies and strengthens the ESF contribution to the Union's commitment to eliminate inequalities between women and men and prevent discrimination. Member States should combine a robust mainstreaming approach and specific actions to promote gender equality and non-discrimination.

Likewise, the draft Regulation aims to reinforce social innovation and transnational cooperation under the ESF, through an incentive in the form of a higher co-funding rate for priority axes dedicated to them, specific programming and monitoring arrangements, and a stronger role for the Commission in the exchange and dissemination of good practices, joint actions and results across the Union.

Concerning monitoring and evaluation systems, the draft Regulation proposes minimum quality standards and a set of compulsory common indicators. This should ensure that monitoring produces robust and reliable data that can easily be aggregated at EU level and that evaluation focuses on assessing the effectiveness and impact of ESF support.

The draft Regulation attaches great importance to the involvement of social partners and non-governmental organisations in the programming and implementation of ESF priorities and operations.. To this end, for the less-developed regions and countries, the draft Regulation calls for an appropriate amount of ESF resources to be allocated to capacity building actions for social partners and non-governmental organisations. Joint activities undertaken by the social partners will also be supported, considering their vital role in the field of employment, education and social inclusion.

In the same spirit, the draft Regulation proposes a limited number of specific eligibility rules to facilitate access to ESF funding for smaller beneficiaries and operations and to take account of the different nature of ESF operations and the different type of ESF beneficiaries as compared to other Funds. In order to ensure that simplification reaches the beneficiaries, the draft Regulation proposes to extend the use of simplified cost options, including by making their use obligatory for smaller operations. These provisions will reduce the administrative burden on beneficiaries and managing authorities, strengthen the results orientation of the ESF and will contribute to reducing error rates.

Finally, specific provisions are introduced for financial instruments to encourage Member States and regions to leverage the ESF and thus increase its capacity to finance actions supporting employment, education and social inclusion.

Proposal for a

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THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 164 thereof,

Having regard to the proposal from the European Commission⁹,

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

Having regard to the opinion of the European Economic and Social Committee¹⁰,

Having regard to the opinion of the Committee of the Regions¹¹,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Regulation (EU) No [...] establishes the framework for action by the European Social Fund (ESF), the European Regional Development Fund (ERDF), the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and lays down, in particular, the thematic objectives, the principles and the rules concerning programming, monitoring and evaluation, management and control. It is therefore necessary to specify the mission and scope of the European Social Fund, together with the related investment priorities addressing the thematic objectives, and to lay down specific provisions concerning the type of activities which may be financed by the ESF.
- (2) The ESF should improve employment opportunities, promote education and life-long learning and develop active inclusion policies in accordance with the tasks entrusted to the ESF by Article 162 of the Treaty, and thereby contribute to economic, social and territorial cohesion in accordance with Article 174 of the Treaty. In accordance with Article 9 of the Treaty, the ESF should take into account requirements linked to the promotion of a high level of employment, the guarantee of adequate social protection, the fight against social exclusion, and a high level of education, training and protection of human health.

⁹ OJ C , , p. .

¹⁰ OJ C , , p. .

¹¹ OJ C , , p. .

- (3) The European Council of 17 June 2010 called for all common policies, including cohesion policy, to support the Europe 2020 Strategy for smart, sustainable and inclusive growth"¹². In order to ensure the full alignment of the ESF with the objectives of this strategy, particularly as regards employment, education, and the fight against social exclusion, the ESF should support Member States in implementing the Council recommendations on broad guidelines for economic policies of the Member States and the Union and the Council decisions on guidelines for the employment policies of the Member States adopted in accordance with Articles 121 and 148(4) of the Treaty. It should also contribute to the implementation of the flagship initiatives, with special regard to the "Agenda for New Skills and Jobs"¹³, "Youth on the Move"¹⁴, and the "European Platform against Poverty and Social Exclusion"¹⁵. It will also support the activities in the "Digital Agenda"¹⁶ and the "Innovation Union"¹⁷ initiatives.
- (4) The European Union is confronted with structural challenges arising from economic globalisation, technological change and an increasingly ageing workforce and growing skills and labour shortages in some sectors and regions. They have been compounded by the recent economic and financial crisis, which has resulted in increased levels of unemployment, hitting in particular young people and other vulnerable groups, such as migrants. The ESF should aim to promote employment and support labour mobility, invest in education, skills and life-long learning, promote social inclusion and combat poverty. In promoting the better functioning of labour markets by enhancing the transnational geographical mobility of workers, the ESF should, in particular, support European Employment Services (EURES activities) in relation to recruitment and the related information, advice and guidance services at national and cross-border level.
- (5) In addition to these priorities, in the less developed regions and Member States, and with a view to increasing economic growth and employment opportunities, the efficiency of public administration should be improved and the institutional capacity of stakeholders delivering employment, education and social policies should be strengthened.
- (6) At the same time, it is crucial to support the development and competitiveness of European small and medium-sized enterprises and to ensure that people can adapt, through acquiring appropriate skills and through lifelong learning opportunities, to new challenges such as the shift to a knowledge-based economy, the digital agenda, and the transition to a low-carbon and more energy-efficient economy. By pursuing its primary thematic objectives, the ESF should contribute to addressing these challenges. In this context, the ESF should support the labour force transition towards greener skills and jobs, in particular in the energy efficiency, renewable energy and sustainable transport sectors, taking into account the Union's intention to increase the proportion of the EU budget that is related to climate mainstreaming to at least 20%, with contributions from different policy fields.

¹² COM(2010) 2020 final, 3.3.2010
¹³ COM (2010) 682 final, 23.11.2010
¹⁴ COM(2010) 477 final, 15.09.2010
¹⁵ COM (2010) 758 final, 16.12.2010
¹⁶ COM(2010) 245 final/2, 26.8.2010
¹⁷ COM(2010) 546 final, 6.10.2010

- (7) The ESF should contribute to the Europe 2020 Strategy, ensuring greater concentration of support on the priorities of the European Union. The ESF should in particular increase its support for the fight against social exclusion and poverty, through a minimum ring-fenced allocation. According to the level of development of the supported regions, the choice and number of investment priorities for ESF support should also be limited.
- (8) In order to ensure closer monitoring and improved assessment of the results achieved at European level by actions supported by the ESF, a common set of output and result indicators should be established.
- (9) Efficient and effective implementation of actions supported by the ESF depends on good governance and partnership between all relevant territorial and socio-economic actors, in particular the social partners and non-governmental organisations. It is therefore necessary that Member States encourage the participation of social partners and non-governmental organisations in the implementation of the ESF.
- (10) The Member States and the Commission should ensure that the implementation of the priorities financed by the ESF contribute to the promotion of equality between women and men in accordance with Article 8 of the Treaty. Evaluations have shown the importance of taking the gender aspect into account in all dimensions of programmes, while ensuring that specific actions are taken to promote gender equality.
- (11) In accordance with Article 10 of the Treaty, the implementation of the priorities financed by the ESF should contribute to combating discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation. The ESF should support the fulfilment of the obligation under the UN Convention on the Rights of Persons with Disabilities with regard inter alia to education, work and employment and accessibility. The ESF should also promote the transition from institutional to community-based care.
- (12) Support for social innovation is crucial for making policies more responsive to social change and to encourage and support innovative social enterprises. In particular, testing and evaluating innovative solutions before scaling them up is instrumental in improving the efficiency of the policies and thus justifies specific support from the ESF.
- (13) Transnational cooperation has a significant added value and it is necessary to reinforce the Commission's role in facilitating exchanges of experience and coordinating implementation of relevant initiatives.
- (14) The mobilisation of regional and local stakeholders is necessary to deliver the Europe 2020 Strategy and its headline targets. Territorial pacts, local initiatives for employment and social inclusion, community-led local development strategies and sustainable urban development strategies may be used and supported to involve more actively regional and local authorities, cities, social partners and non-governmental organisations in the implementation of programmes.
- (15) Regulation (EU) No [...] provides that rules on eligibility of expenditure are to be established at national level, with certain exceptions for which it is necessary to lay down specific provisions with regard to the ESF.

- (16) With a view to simplifying the use of the ESF and reducing the risk of errors, and with regard to the specificities of the operations supported by the ESF, it is appropriate to lay down provisions which complement Articles 57 and 58 of Regulation (EU) No [...].
- (17) The Member States and regions should be encouraged to leverage the ESF through financial instruments in order to support for example students, job creation, mobility of workers, social inclusion and social entrepreneurship.
- (18) The power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission for establishing the definition of standard scales of unit costs and lump sums and their maximum amounts according to different types of operations and for defining the specific rules and conditions of policy-based guarantees. It is of particular importance that the Commission carries out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure the simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and the Council.
- (19) This Regulation replaces Regulation (EU) No 1081/2006 of the European Parliament and of the Council of 5 July 2006 on the European Social Fund and repealing Regulation (EC) No 1784/1999¹⁸. That Regulation should therefore be repealed,

HAVE ADOPTED THIS REGULATION:

Chapter I

General provisions

Article 1

Subject matter

This Regulation establishes the mission of the European Social Fund (ESF), the scope of its assistance, specific provisions and the types of expenditure eligible for assistance.

Article 2

Mission

1. The ESF shall promote high levels of employment and job quality, support the geographical and occupational mobility of workers, facilitate their adaptation to change, encourage a high level of education and training, promote gender equality, equal opportunities and non-discrimination, enhance social inclusion and combat poverty, thereby contributing to the priorities of the European Union as regards strengthening economic, social and territorial cohesion.

¹⁸ OJ L 210, 31.7.2006, p. 12.

2. It shall do so by supporting Member States in pursuing the priorities and headline targets of the Europe 2020 strategy for smart, sustainable and inclusive growth. The ESF shall support the design and implementation of policies and actions, taking account of the integrated guidelines for the economic and employment policies of Member States¹⁹ and the Council Recommendations on the National Reform Programmes.
3. The ESF shall benefit people, including disadvantaged groups such as the long-term unemployed, people with disabilities, migrants, ethnic minorities, marginalised communities and people facing social exclusion. The ESF shall also provide support to enterprises, systems and structures with a view to facilitating their adaptation to new challenges and promoting good governance and the implementation of reforms, in particular in the fields of employment, education and social policies.

Article 3

Scope of support

1. Under the thematic objectives listed below, and in accordance with Article 9 of Regulation (EU) No [...], the ESF shall support the following investment priorities:
 - (a) Promoting employment and supporting labour mobility through:
 - (i) Access to employment for job-seekers and inactive people, including local employment initiatives and support for labour mobility;
 - (ii) Sustainable integration of young people not in employment, education or training into the labour market;
 - (iii) Self-employment, entrepreneurship and business creation;
 - (iv) Equality between men and women and reconciliation between work and private life;
 - (v) Adaptation of workers, enterprises and entrepreneurs to change;
 - (vi) Active and healthy ageing;
 - (vii) Modernisation and strengthening of labour market institutions, including actions to enhance transnational labour mobility;
 - (b) Investing in education, skills and life-long learning through:
 - (i) Reducing early school-leaving and promoting equal access to good-quality early-childhood, primary and secondary education;

¹⁹ Council recommendation of 13 July 2010 on broad guidelines for economic policies of the Member States and the Union (OJ L 191, 23.7.2010, p. 28–34) and Council decision of 21 October 2010 on guidelines for the employment policies of the Member States (OJ L 308, 24.11.2010, p. 46–51).

- (ii) Improving the quality, efficiency and openness of tertiary and equivalent education with a view to increasing participation and attainment levels;
 - (iii) Enhancing access to lifelong learning, upgrading the skills and competences of the workforce and increasing the labour market relevance of education and training systems;
- (c) Promoting social inclusion and combating poverty through:
 - (i) Active inclusion;
 - (ii) Integration of marginalised communities such as the Roma;
 - (iii) Combating discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation;
 - (iv) Enhancing access to affordable, sustainable and high-quality services, including health care and social services of general interest;
 - (v) Promoting the social economy and social enterprises;
 - (vi) Community-led local development strategies;
- (d) Enhancing institutional capacity and efficient public administration through:
 - (i) Investment in institutional capacity and in the efficiency of public administrations and public services with a view to reforms, better regulation and good governance;

This investment priority is only applicable throughout the territory of the Member States which have at least one NUTS level 2 region as defined in Article 82(2)(a) of Regulation (EU) No [...] or in Member States eligible for Cohesion Fund support.
 - (ii) Capacity building for stakeholders delivering employment, education and social policies and sectoral and territorial pacts to mobilise for reform at national, regional and local level.

2. Through the investment priorities listed in paragraph 1, the ESF shall also contribute to the other thematic objectives listed in Article 9 of Regulation (EU) No [...], primarily by:

- (a) Supporting the shift towards a low-carbon, climate-resilient, resource-efficient and environmentally sustainable economy, through reform of education and training systems, adaptation of skills and qualifications, up-skilling of the labour force, and the creation of new jobs in sectors related to the environment and energy;

- (b) Enhancing the accessibility, use and quality of information and communication technologies, through the development of digital literacy, investment in e-inclusion, e-skills and related entrepreneurial skills;
- (c) Strengthening research, technological development and innovation, through the development of post-graduate studies, the training of researchers, networking activities and partnerships between higher education institutions, research and technological centres and enterprises;
- (d) Enhancing the competitiveness of small and medium-sized enterprises, through promoting the adaptability of enterprises and workers and increased investment in human capital.

Article 4

Consistency and thematic concentration

1. Member States shall ensure that the strategy and actions set out in the Operational Programmes are consistent and focused on addressing the challenges identified in the National Reform Programmes and the relevant Council Recommendations made under Article 148(4) of the Treaty, in order to contribute to achieving the headline targets of the Europe 2020 strategy on employment, education and poverty reduction.
2. At least 20 % of the total ESF resources in each Member State shall be allocated to the thematic objective "promoting social inclusion and combating poverty" set out in Article 9(9) of Regulation (EU) No [...].
3. Member States shall pursue thematic concentration according to the following modalities:
 - (a) For more developed regions, Member States shall concentrate 80 % of the allocation to each operational programme on up to four of the investment priorities set out in Article 3(1).
 - (b) For transition regions, Member States shall concentrate 70 % of the allocation to each operational programme on up to four of the investment priorities set out in Article 3(1).
 - (c) For less developed regions, Member States shall concentrate 60 % of the allocation to each operational programme on up to four of the investment priorities set out in Article 3(1).

Article 5

Indicators

1. Common indicators as set out in the Annex to this Regulation and programme specific indicators shall be used in accordance with Article 24(3) and 87(2)(b)(ii) of Regulation (EU) No [...]. All indicators shall be expressed in absolute numbers.

Common and programme specific output indicators relate to partially or fully implemented operations. Where relevant to the nature of the operations supported,

cumulative quantified target values shall be fixed for 2022. Baseline indicators shall be set at zero.

Common and programme specific result indicators relate to the priority axes or the sub-priorities established under a priority axis. Baseline indicators shall use the latest available data. Cumulative quantified target values shall be fixed for 2022.

2. At the same time as the annual implementation reports, the managing authority shall transmit electronically structured data for each investment priority. The data shall cover the categorisation and the output and result indicators.

Chapter II

Specific provisions for programming and implementation

Article 6

Involvement of partners

1. The involvement of the social partners and other stakeholders, in particular non-governmental organisations, in the implementation of operational programmes, as referred to in Article 5 of Regulation (EU) No [...], may take the form of global grants as defined in Article 112(7) of Regulation (EU) No [...]. In such a case, the operational programme shall identify the part of the programme concerned by the global grant, including an indicative financial allocation from each priority axis to it.
2. To encourage adequate participation of the social partners in actions supported by the ESF, managing authorities of an operational programme in a region as defined in Article 82(2)(a) of Regulation (EU) No [...] or in Member States eligible for Cohesion Fund support shall ensure that an appropriate amount of ESF resources is allocated to capacity-building activities, in the form of training, networking measures, and strengthening of the social dialogue, and to activities jointly undertaken by the social partners.
3. To encourage adequate participation of and access by non-governmental organisations to actions supported by the ESF, notably in the fields of social inclusion, gender equality and equal opportunities, the managing authorities of an operational programme in a region as defined in Article 82(2)(a) of Regulation (EU) No [...] or in Member States eligible for Cohesion Fund support shall ensure that an appropriate amount of ESF resources is allocated to capacity-building for non-governmental organisations.

Article 7

Promotion of equality between men and women

The Member States and the Commission shall promote equality between men and women through mainstreaming as referred to in Article 7 of Regulation (EU) No [...] and specific targeted actions as referred to in Article 3(1)(a)(iv), in particular with the aim of increasing the sustainable participation and progress of women in employment, reducing gender-based

segregation in the labour market, combating gender stereotypes in education and training and promoting reconciliation of work and personal life for men and women.

Article 8

Promotion of equal opportunities and non-discrimination

The Member States and the Commission shall promote equal opportunities for all, including accessibility for disabled persons through mainstreaming the principle of non-discrimination, as referred to in Article 7 of Regulation (EU) No [...], and through specific actions within the investment priorities as defined in Article 3, and in particular Article 3(1)(c)(iii). Such actions shall target people at risk of discrimination and people with disabilities, with a view to increasing their labour market participation, enhancing their social inclusion, reducing inequalities in terms of educational attainment and health status and facilitating the transition from institutional to community-based care.

Article 9

Social innovation

1. The ESF shall promote social innovation within all areas falling under the scope of the ESF, as defined in Article 3 of this Regulation, in particular with the aim of testing and scaling up innovative solutions to address social needs.
2. Member States shall identify themes for social innovation, corresponding to their specific needs in their operational programmes.
3. The Commission shall facilitate capacity building for social innovation, in particular through supporting mutual learning, establishing networks, and disseminating good practices and methodologies.

Article 10

Transnational cooperation

1. Member States shall support transnational cooperation with the aim of promoting mutual learning and thereby increasing the effectiveness of policies supported by the ESF. Transnational cooperation shall involve partners from at least two Member States.
2. Member States may select themes for transnational co-operation from a list proposed by the Commission and endorsed by the ESF Committee.
3. The Commission shall facilitate transnational cooperation on the themes referred to in paragraph 2 through mutual learning and coordinated or joint action. In particular, the Commission shall operate an EU-level platform to facilitate the exchange of experience, capacity building and networking, as well as dissemination of the relevant outcomes. In addition, the Commission shall develop a coordinated implementation framework, including common eligibility criteria, types and timing of actions, and common methodological approaches for monitoring and evaluation, with a view to facilitating transnational cooperation.

Article 11

Fund-specific provisions for operational programmes

1. By way of derogation from Article 87(1) of Regulation (EU) No [...], operational programmes may set out priority axes for the implementation of social innovation and transnational cooperation as referred to in Articles 9 and 10.
2. By way of derogation from Article 109(3) of Regulation (EU) No [...], the maximum co-financing rate for a priority axis shall be increased by ten percentage points, but not exceeding 100%, where the whole of a priority axis is dedicated to social innovation or to transnational cooperation, or a combination of both.
3. In addition to the provision made in Article 87(3) of Regulation (EU) No [...], operational programmes shall also set out the contribution of planned ESF-supported actions:
 - (a) to the thematic objectives listed under Article 9(1) to (7) of Regulation (EU) No [...] by priority axis, as appropriate;
 - (b) to social innovation and transnational cooperation, as referred to in Articles 9 and 10, where they are not covered by a dedicated priority axis.

Article 12

Specific provisions on the treatment of particular territorial features

1. The ESF may support community-led local development strategies, as referred to in Article 28 of Regulation (EU) No [...], territorial pacts and local initiatives for employment, education and social inclusion, as well as Integrated Territorial Investments (ITI) as referred to in Article 99 of Regulation (EU) No [...].
2. Complementing ERDF interventions as referred to in Article 7 of Regulation (EU) No [ERDF], the ESF may support sustainable urban development through strategies setting out integrated actions to tackle the economic, environmental and social challenges affecting urban areas of cities which are listed in the partnership contract.

Chapter III

Specific provisions for financial management

Article 13

Eligibility of expenditure

1. The ESF shall provide support for eligible expenditure, which, notwithstanding Article 109(2)(b) of Regulation (EU) No [...], may include any financial resources collectively constituted by employers and workers.
2. By derogation to Article 60(2) of Regulation (EU) No [...], the ESF may provide support for expenditure incurred for operations which take place outside the

programme area, but within the Union, provided that the two following conditions are satisfied:

- (a) the operation is for the benefit of the programme area;
 - (b) the obligations of the authorities for the programme in relation to management, control and audit concerning the operation are fulfilled by the authorities responsible for the programme under which that operation is supported or they enter into agreements with authorities in the Member State in which the operation is implemented provided that the conditions set out in paragraph 2 (a) and the obligations in relation to management, control and audit concerning the operation are fulfilled.
3. In addition to the expenditure referred to in Article 59(3) of Regulation (EU) No [...], the purchase of infrastructure, land and real estate shall not be eligible for a contribution from the ESF.
4. Contributions in kind in the form of allowances or salaries disbursed by a third party for the benefit of the participants in an operation may be eligible for a contribution from the ESF provided that its value does not exceed the cost borne by the third party and that it is incurred in accordance with national rules, including accountancy rules.

Article 14 **Simplified cost options**

1. In addition to the methods referred to in Article 57 of Regulation (EU) No [...], the Commission may reimburse expenditure paid by Member States on the basis of standard scales of unit costs and lump sums defined by the Commission. The amounts calculated on this basis shall be regarded as public support paid to beneficiaries and as eligible expenditure for the purpose of applying Regulation (EU) No [...].

For this purpose the Commission shall be empowered to adopt delegated acts in accordance with Article 16 concerning the type of operations covered, the definitions of the standard scales of unit costs and lump sums and their maximum amounts, which may be adjusted according to the applicable commonly agreed methods.

Financial audit shall exclusively aim at verifying that the conditions for reimbursements by the Commission on the basis of standard scales of unit costs and lump sums have been fulfilled.

Where these forms of funding are used, the Member State may apply its accounting practices to support operations. For the purpose of this regulation and Regulation (EU) No [...] these accounting practices and the resulting amounts shall not be subject to audit by the audit authority or by the Commission.

2. In accordance with Article 57(1)(d) and (4)(d) of Regulation (EU) No [...], a flat rate of up to 40% of the eligible direct staff costs may be used in order to cover the remaining eligible costs of an operation.

3. Grants reimbursed on the basis of the eligible cost of operations, determined in the way of flat-rate financing, standard scales of unit costs and lump sums as referred to in Article 57(1) of Regulation (EU) No [...] may be calculated on a case-by-case basis by reference to a draft budget agreed ex ante by the Managing Authority, where the public support does not exceed EUR 100 000.
4. Grants for which the public support does not exceed EUR 50 000 shall take the form of lump sums or standard scales of unit costs, except for operations receiving support within the framework of a state aid scheme.

Article 15

Financial instruments

1. Pursuant to Article 32 of Regulation (EU) No [...], the ESF may support actions and policies falling within its scope through financial instruments, such as risk-sharing schemes, equity and debt, guarantee funds, holding funds, and loan funds.
2. ESF may be used to enhance access to capital markets for public and private bodies at national and regional levels implementing actions and policies falling within the scope of the ESF and the operational programme through 'ESF policy-based guarantees' subject to Commission approval.

The Commission shall be empowered to adopt delegated acts in accordance with Article 16 to define the specific rules and conditions for the applications of Member States, including ceilings, for policy-based guarantees, ensuring in particular that their use does not lead to excessive levels of debt of public bodies.

Each application shall be assessed by the Commission and the Commission shall approve each 'ESF policy-based guarantee' provided it falls within the remit of the Operational Programme referred to in Article 87 of Regulation (EU) No [...] and provided it is in accordance with the established specific rules and conditions.

Chapter IV

Delegations of power and final provisions

Article 16

Exercise of delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The delegation of power referred to in Article 14(1) and 15(2) shall be conferred for an indeterminate period of time from 1 January 2014.

3. The delegation of powers referred to in the first subparagraph of Article 14(1) and the second subparagraph of Article 15(2) may be revoked at any time by the European Parliament or by the Council. A revocation decision shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
5. A delegated act adopted pursuant to the first subparagraph of Article 14(1) and the second subparagraph of Article 15(2) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of 2 months of notification of that act to the European Parliament and the Council, or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by 2 months at the initiative of the European Parliament or the Council.

Article 17

Repeal

Regulation (EC) No 1081/2006 is hereby repealed with effect from 1 January 2014.

References to the repealed Regulation shall be construed as references to this Regulation.

Article 18

Review clause

The European Parliament and the Council shall review this Regulation by 31 December 2020 in accordance with Article 164 of the Treaty.

Article 19

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,

For the European Parliament
The President

For the Council
The President

ANNEX
Common output and result indicators for ESF investments

(1) Common output indicators on participants

Participants²⁰ refer to persons benefiting directly from an ESF investment and who can be identified and asked for their characteristics, and for whom specific expenditure is earmarked. Other beneficiaries should not be counted as participants.

- unemployed, including long-term unemployed*
- long-term unemployed*
- inactive*
- inactive, not in education or training*
- employed, including self-employed*
- below 25 years*
- above 54 years*
- with primary (ISCED 1) or lower secondary education (ISCED 2)*
- with upper secondary (ISCED 3) or post-secondary education (ISCED 4)*
- with tertiary education (ISCED 5 to 8)*
- migrants, people with a foreign background, minorities (including marginalised communities such as the Roma)**
- disabled**
- other disadvantaged**

The total number of participants is calculated automatically on the basis of the output indicators.

²⁰ The data processing arrangements put in place by the Member States must be in line with the provisions of Directive 95/46 of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data, in particular Articles 7 and 8 thereof.
Data reported under the indicators marked with * are personal data according to Article 7 of the above Directive. Their processing is necessary for compliance with the legal obligation to which the controller is subject (Article 7(c)). For the definition of controller, see Article 2 of the above Directive.
Data reported under the indicators marked with ** are a special category of data according to Article 8 of the above Directive. Subject to the provision of suitable safeguards, Member States may, for reasons of substantial public interest, lay down exemptions in addition to those laid down in Article 8(2), either by national law or by decision of the supervisory authority (Article 8(4)).

These data on participants entering an ESF supported operation are to be provided in the annual implementation reports as specified in Article 44(1) and (2) and Article 101(1) of Regulation (EU) No [...]. All data are to be broken down by gender.

(2) Common output indicators for entities

- number of projects fully or partially implemented by social partners or non-governmental organisations
- number of projects targeting public administrations or public services
- number of micro, small and medium-sized enterprises supported

These data are to be provided in the annual implementation reports as specified in Article 44(1) and (2) and Article 101(1) of Regulation (EU) No [...].

(3) Common immediate result indicators on participants

- inactive participants newly engaged in job searching upon leaving
- participants in education/training upon leaving
- participants gaining a qualification upon leaving
- participants in employment upon leaving

These data are to be provided in the annual implementation reports as specified in Article 44(1) and (2) and Article 101(1) of Regulation (EU) No [...]. All data are to be broken down by gender.

(4) Common longer-term result indicators on participants

- participants in employment 6 months after leaving
- participants in self-employment 6 months after leaving
- participants with an improved labour market situation 6 months after leaving

These data are to be provided in the annual implementation reports as specified in Article 44(4) of Regulation (EU) No [...]. They are to be collected based on a representative sample of participants within each priority axis or sub-priority. Internal validity of the sample should be ensured in such a way that the data can be generalised at the level of priority axis or sub-priority. All data are to be broken down by gender.