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**NOTE**

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| From: | General Secretariat of the Council |
| To: | Permanent Representatives Committee |
| No. prev. doc.: | 6816/20 |
| No. Cion doc.: | COM(2020) 113 final |
| Subject: | Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 1303/2013, Regulation (EU) No 1301/2013 and Regulation (EU) No 508/2014 as regards specific measures to mobilise investments in the health care systems of the Member States and in other sectors of their economies in response to the COVID-19 outbreak<br>[Coronavirus Response Investment Initiative]<br>- Mandate for negotiations with the European Parliament |

## I. INTRODUCTION

1. On 13 March 2020, the Commission transmitted to the Council the proposal for a Regulation amending Regulation (EU) No 1303/2013, Regulation (EU) No 1301/2013 and Regulation (EU) No 508/2014 as regards specific measures to mobilise investments in the health care systems of the Member States and in other sectors of their economies in response to the COVID-19 outbreak [Coronavirus Response Investment Initiative] (doc. 6816/20).

2. The Commission proposes a "Coronavirus Response Investment Initiative" directed at promoting investments by mobilising available reserves in the European Structural and Investments Funds. The Commission proposes to relinquish this year's obligation to request refunding of unspent pre-financing for the European Regional Development Fund (ERDF), the European Social Fund (ESF), the Cohesion Fund (CF) and the European Maritime and Fisheries Fund (EMFF) until programme closure. Member States will be able to use the amounts not recovered in 2020 to accelerate investments related to tackling the COVID-19 outbreak under the above-mentioned funds. The proposal is meant to facilitate an acceleration of the programme implementation resulting in a frontloading of payment appropriations.

## II. PRESIDENCY COMPROMISE PROPOSAL

3. On 16 March 2020, the Permanent Representatives Committee held an exchange of views on the Union's coordinated response to the COVID-19 outbreak, including the proposal for a Coronavirus Response Investment Initiative.

4. The Working Party on Structural Measures thoroughly examined the Commission proposal at its meeting on 17 March 2020. The majority of delegations gave support to the proposal, including preference for a speedy adoption of the legal act.

5. The Working Party did not object to the Presidency's approach of proceeding by taking over the Commission's proposal, as set out in the Annex to this note.

## III. SUBMISSION TO COREPER

6. On that basis, the Permanent Representatives Committee is invited to:

- confirm the agreement reached in favour of the compromise package concerning the proposal for a Regulation amending Regulation (EU) No 1303/2013, Regulation (EU) No 1301/2013 and Regulation (EU) No 508/2014 as regards specific measures to mobilise investments in the health care systems of the Member States and in other sectors of their economies in response to the COVID-19 outbreak [Coronavirus Response Investment Initiative], as set out in the Annex to this note.

- authorise the Presidency to send a letter to the Chair of the European Parliament's Committee on Regional Development confirming that, should the European Parliament adopt its position at first reading, in accordance with Article 294 paragraph 3 of the Treaty, in the form set out in the compromise text contained in the Annex (subject to revision by the legal linguists of both institutions), the Council would, in accordance with Article 294, paragraph 4 of the Treaty, approve the European Parliament's position and the act shall be adopted in the wording which corresponds to the European Parliament's position.

**ANNEX**

Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**amending Regulation (EU) No 1303/2013, Regulation (EU) No 1301/2013 and Regulation (EU) No 508/2014 as regards specific measures to mobilise investments in the health care systems of the Member States and in other sectors of their economies in response to the COVID-19 outbreak**

**[Coronavirus Response Investment Initiative]**

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 Articles 43(2), 177 and 178 thereof,

Having regard to the proposal from the European Commission,

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

Having regard to the opinion of the European Economic and Social Committee[1],

Having regard to the opinion of the Committee of the Regions[2],

Acting in accordance with the ordinary legislative procedure,

Whereas:

(1) The Member States have been affected by the consequences of the COVID-19 outbreak crisis in a unique manner. The crisis hampers growth in the Member States, which in turn aggravates the serious liquidity shortages due to the sudden and important increase in public investments needed in their health care systems and other sectors of their economies. This has created an exceptional situation which needs to be addressed with specific measures.

[1] OJ C , , p. .
[2] OJ C , , p. .

(2) It is vital that the lack of liquidity and of public funds in the Member States do not hinder investments under programmes supported by the European Regional Development Fund (the 'ERDF'), the European Social Fund (the 'ESF') and the Cohesion Fund (the 'CF') (the 'Funds') and by the European Maritime and Fisheries Fund (the 'EMFF') needed to fight the COVID-19 outbreak.

(3) In order to respond to the impact of the crisis, the ERDF should support the financing of working capital in SMEs where necessary as a temporary measure to provide an effective response to a public health crisis.

(4) In order to respond to the impact of the crisis, the ERDF investment priority to strengthen research, technological development and innovation should cover investment in products and services necessary for fostering the crisis response capacities in public health services.

(5) In order to provide more flexibility in addressing the COVID-19 outbreak, more flexibility should be provided to Member States in programme implementation and a simplified procedure not requiring a Commission decision should be provided for changes to operational programmes. The information to be submitted to the Commission about such changes should be clarified.

(6) In order to respond to the impact of the crisis, financial instruments financed by the Funds should also provide support in the form of working capital to SMEs if necessary as a temporary measure to provide an effective response to a public health crisis.

(7) In order to provide an immediate response to the impact of the crisis, expenditure for operations for fostering crisis response capacities should be eligible as of 1 February 2020.

(8) In order to ensure that the Member States have sufficient financial means to make the investments needed without delay, it is appropriate for the Commission not to issue recovery orders for amounts recoverable from the Member States for the annual accounts submitted in 2020. Member States should use the amounts not recovered to accelerate investments related to the COVID-19 outbreak crisis and eligible under Regulation (EU) No 1303/2013[3] and the Fund specific rules.

(9) In order to respond to the impact of the crisis, the EMFF should support mutual funds and stock insurance to safeguard the income of fishermen and aquaculture farmers affected by a public health crisis.

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[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 1083/2006 (OJ L 347, 20.12.2013, p. 320).

(10) The amounts not recovered in 2020 should be cleared or subject to recovery orders at the closure of programmes.

(11) Given the urgency of the support needed, this Regulation should enter into force as a matter of urgency.

(12) Regulations (EU) 1301/2013,[4] (EU) No 1303/2013 and Regulation (EU) No 508/2014[5] should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

*Article 1*
*Amendments to Regulation (EU) No 1301/2013*

Regulation (EU) No 1301/2013 is amended as follows:

(1) In Article 3 (1) the following sub-paragraph is added:

"In addition, the ERDF may support the financing of working capital in SMEs where necessary as a temporary measure to provide an effective response to a public health crisis."

(2) Article 5 (1) (b) is replaced by the following :

(b) promoting business investment in R&I, developing links and synergies between enterprises, research and development centres and the higher education sector, in particular promoting investment in product and service development, technology transfer, social innovation, eco-innovation, public service applications, demand stimulation, networking, clusters and open innovation through smart specialisation, and supporting technological and applied research, pilot lines, early product validation actions, advanced manufacturing capabilities and first production, in particular in key enabling technologies and diffusion of general purpose technologies as well as fostering investment necessary for strengthening the crisis response capacities in health services.

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[4] Regulation (EU) No 1301/2013 of the European Parliament and of the Council of 17 December 2013 on the European Regional Development Fund and on specific provisions concerning the Investment for growth and jobs goal and repealing Regulation (EC) No 1080/2006 (OJ L 347, 20.12.2013, p. 289)

[5] Regulation (EU) No 508/2014 of the European Parliament and of the Council of 15 May 2014 on the European Maritime and Fisheries Fund and repealing Council Regulations (EC) No 2328/2003, (EC) No 861/2006, (EC) No 1198/2006 and (EC) No 791/2007 and Regulation (EU) No 1255/2011 of the European Parliament and of the Council

*Article 2*
*Amendments to Regulation (EU) No 1303/2013*

Regulation (EU) No 1303/2013 is amended as follows:

(1) In Article 30, the following paragraph 5 is added:

5. By way of derogation from paragraphs 1 and 2, for the programmes supported by the ERDF, Cohesion Fund and ESF, the Member State may transfer during the programming period an amount of up to 8% of the allocation as of 1 February 2020 of a priority and no more than 4% of the programme budget to another priority of the same Fund of the same programme.

Such transfers shall not affect previous years. They shall be considered to be not substantial and shall not require a decision of the Commission amending the programme. They shall however comply with all regulatory requirements and shall be approved by the monitoring committee in advance. The Member State shall notify the revised financial tables to the Commission."

(2) In Article 37(4), the following subparagraph is added:

"Financial instruments may also provide support in the form of working capital to SMEs if necessary as a temporary measure to provide an effective response to a public health crisis."

(3) In Article 65(10), the following subparagraph is added:

"By way of derogation from paragraph (9), expenditure for operations for fostering crisis response capacities in the context of the COVID-19 outbreak shall be eligible as of 1 February 2020."

(4) Article 96(10) is replaced by:

"10. Without prejudice to Article 30 (5), the Commission shall adopt a decision, by means of implementing acts, approving all the elements, including any of its future amendments, of the operational programme falling under this Article, except those falling under points (b)(vi), (c)(v) and (e) of the first subparagraph of paragraph 2, paragraphs 4 and 5, points (a) and (c) of paragraph 6 and paragraph 7, which remain under the responsibility of the Member States".

(5) In Article 139 (7), the following subparagraphs are added:

"By way of derogation from the first subparagraph, the Commission shall not issue a recovery order for amounts recoverable from the Member State for the accounts submitted in 2020. Amounts not recovered shall be used to accelerate investments related to the COVID-19 outbreak and eligible under this Regulation and Fund specific rules.

The amounts not recovered shall be cleared or recovered at closure."

*Article 3*
*Amendments to Regulation (EU) No 508/2014*

Regulation (EU) No 508/2014 is amended as follows:

(1) In Article 35, paragraphs 1, 5, 6 and 8 are replaced by the following :

"1. The EMFF may contribute to mutual funds which pay financial compensation to fishermen for economic losses caused by a public health crisis, adverse climatic events or by environmental incidents or for the rescue costs for fishermen or fishing vessels in the case of accidents at sea during their fishing activities."

…

"5. Member States shall define the rules for the establishment and management of the mutual funds, in particular for the granting of compensation payments and the eligibility of fishermen for such compensation in the event of a public health crisis, adverse climatic events, environmental incidents or accidents at sea referred to in paragraph 1, as well as for the administration and monitoring of compliance with those rules. Member States shall ensure that the fund arrangements provide for penalties in the case of negligence on the part of the fisherman."

"6. Public health crises, adverse climatic events, environmental incidents or accidents at sea referred to in paragraph 1 shall be those that are formally recognised by the competent authority of the Member State concerned as having occurred."

…

"8 The contributions referred to in paragraph 1 shall only be granted to cover losses caused by public health crises, adverse climatic events, environmental incidents or accidents at sea which amount to more than 30 % of the annual turnover of the business concerned, calculated on the basis of the average turnover of that business over the preceding three calendar years."

(2) In Article 57(1) the following point (e) is added :

"(e) a public health crisis".

*Article 4*

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,

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| *For the European Parliament* | *For the Council* |
| *The President* | *The President* |