

Structural Funds and Cohesion Fund: provisions relating to risk sharing instruments for Member States experiencing or threatened with serious difficulties with respect to their financial stability

2011/0283(COD) - 19/04/2012 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 504 votes to 78, with 79 abstentions, a legislative resolution on the proposal for a regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1083/2006 as regards certain provisions relating to risk-sharing instruments for Member States experiencing or threatened with serious difficulties with respect to their financial stability.

Parliament adopted its position at first reading under the ordinary legislative procedure. The amendments adopted in plenary are the result of a compromise negotiated between the European Parliament and the Council. They amend the Commission proposal as follows:

Definition: Parliament introduced a definition of the “**risk sharing instrument**”, which shall mean a financial instrument (loan, guarantee, as well as other financial facility) which guarantees the total or partial coverage of a defined risk, where appropriate in exchange for an agreed remuneration.

Use of the instrument: risk-sharing instruments should be used for loans and guarantees as well as for other financial facilities in order to finance operations, co-financed by the European Regional Development Fund (ERDF) or the Cohesion Fund (CF), as regards investment costs which cannot be financed as, eligible expenditure pursuant to Article 55 of Regulation (EC) No 1083/2006, or pursuant to the Union rules on State aids.

This instrument may also be used to finance operations, which contribute to the achievement of the objectives of the national strategic reference framework of the requesting Member State and the Community strategic guidelines on cohesion, and bring the greatest added value to the Union strategy for smart, sustainable and inclusive growth (Europe 2020).

Cooperation Agreement with the EIB: the Commission should be able to create in partnership with the EIB risk sharing instruments. As regards the specific crisis management nature of the risk-sharing instrument, envisaged under this Regulation, the specific terms and conditions of each cooperation should be laid down in an individual cooperation agreement, to be concluded between the Commission and the EIB.

The cooperation agreement shall **contain rules in particular on:**

- the total amount of the Union contribution and a schedule on how it will be made available;
- the trust account conditions to be set up by the contracted implementing body;
- the eligibility criteria for the use of the Union contribution;
- the details of the exact risk-sharing (including the leverage ratio) to be covered and the guarantees to be provided by the contracted implementing body;
- the pricing of the risk-sharing instrument based on the risk margin and the coverage of all the administrative costs of the risk-sharing instrument;
- the application and approval procedure for the project proposals covered by the risk-sharing instrument;

- the period of availability of the risk-sharing instrument; and the reporting requirements.

The exact risk sharing (including the leverage ratio), to be undertaken pursuant to the cooperation agreement by the contracted implementing body, shall as an average, aim at being at least 1.5 times the amount of the Union contribution to the risk-sharing instrument.

Written request: a Member State seeking to benefit from a risk-sharing instrument should clearly specify in its written request to the Commission, why it considers that it meets one of the eligibility conditions of Regulation (EC) No 1083/2006 and it should attach to its request all the information, required under this Regulation in order to prove the specified eligibility condition.

Member State seeking to benefit from a risk-sharing instrument shall submit a written request to the Commission by 31 August 2013. In its request, the Member State shall provide all the information necessary to establish the list of programmes (including project proposals and related funding needs) co-financed either by the ERDF or by the Cohesion Fund and the part of the 2012 and 2013 allocations to such programmes that it wants to take out of those programmes in order to reallocate those amounts to the risk-sharing instrument.

Commission verification: after verifying that the Member State request is correct and justified, the Commission shall adopt a decision, within four months of the Member State request, by means of an implementing act, specifying the system established to guarantee that the amount available is used for the exclusive benefit of the Member State which provided it within its cohesion policy financial allocation, as well as setting out the terms and conditions of the participation of the requesting Member State in the risk-sharing instrument.

However, **only projects for which a favourable financing decision is taken** either by the EIB or by the national or international public sector bodies or bodies governed by private law with a public service mission, as the case may be, should be accepted as eligible for financing through an established risk-sharing instrument. In the interests of transparency and legal certainty, the Commission decision should be published in the Official Journal of the European Union.

Financing: the financial allocations to the risk sharing instrument shall be strictly capped and **shall not exceed 10% of the indicative total allocation** for the requesting Member State for the years 2007-2013 regarding ERDF and Cohesion Fund. It is necessary to ensure that the Union financing of the risk-sharing instrument, including management fees and other eligible costs, is **clearly limited** to the above-specified maximum amount of the Union contribution to the risk-sharing instrument and there should be no additional contingent liability for the general budget of the European Union.

Any residual risk inherent in the financed operations under the established risk-sharing instrument therefore be borne either by the EIB or by the national or international public sector body or body governed by private law with a public service mission, together with which the risk-sharing instrument has been established by virtue of a cooperation agreement.

Reuse of reflow or any leftover amount, allocated to the risk-sharing instrument, should be made possible, under this Regulation, for the same Member State, at its request and within the same risk-sharing instrument, provided that it still meets the eligibility conditions.