

I

(Legislative acts)

REGULATIONS

**REGULATION (EU) No 1310/2011 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 13 December 2011**

amending Council Regulation (EC) No 1083/2006 as regards repayable assistance, financial engineering and certain provisions related to the statement of expenditure

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 177 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⁾,

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure ⁽²⁾,

Whereas:

(1) Member States have had positive experiences with repayable assistance schemes at the level of operations during the programming period 2000 to 2006 and have therefore continued such schemes or have started to implement repayable assistance schemes in the current programming period 2007 to 2013. Some Member States have also included descriptions of those schemes in their programming documents, which were approved by the Commission.

(2) Council Regulation (EC) No 1083/2006 of 11 July 2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund ⁽³⁾ sets out financial engineering instruments with precise areas and scope of intervention. However, the repayable assistance schemes implemented by Member States in the form of reimbursable grants and credit lines managed by managing authorities through intermediate bodies are neither appropriately covered by the provisions on financial engineering instruments, nor by other provisions of Regulation (EC) No 1083/2006. It is therefore necessary, in accordance with Article 11(1) of Regulation (EC) No 1081/2006 of the European Parliament and of the Council of 5 July 2006 on the European Social Fund ⁽⁴⁾, which already provides that assistance can take the form of reimbursable grants, for Regulation (EC) No 1083/2006 to be amended in order to provide that the Structural Funds may co-finance repayable assistance. That amendment should cover reimbursable grants and credit lines managed by managing authorities through intermediate bodies which are financial institutions.

(3) Given that the financial resources used through repayable assistance are totally or partially reimbursed by the beneficiaries, it is necessary to introduce appropriate provisions for the reuse of the repayable assistance reimbursed for the same purpose or in accordance with the objectives of the operational programme in question so as to ensure that the funds that are repaid are properly invested and the support provided by the Union is used as effectively as possible.

(4) It is necessary to clarify that the provisions on major projects, revenue-generating projects and durability of operations should not be applicable as a matter of principle to financial engineering instruments, as those provisions are meant for other types of operation.

⁽¹⁾ Opinion of 27 October 2011 (not yet published in the Official Journal).

⁽²⁾ Position of the European Parliament of 1 December 2011 (not yet published in the Official Journal) and decision of the Council of 12 December 2011.

⁽³⁾ OJ L 210, 31.7.2006, p. 25.

⁽⁴⁾ OJ L 210, 31.7.2006, p. 12.

- (5) There is a need to enhance the transparency of the implementation process and ensure appropriate monitoring, by the Member States and by the Commission, of the implementation of financial engineering instruments, inter alia, in order to allow the Member States to provide appropriate information to the Commission on the type of instruments put in place and on the relevant actions undertaken through such instruments on the ground. It is therefore necessary to introduce a provision for reporting on financial engineering instruments. Such reporting would also allow the Commission to better assess the overall performance of financial engineering instruments and to provide a summary of the progress at the Union and Member State level.
- (6) In order to ensure compliance with Article 61(2) of Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities ⁽¹⁾, the statement of expenditure submitted to the Commission should provide all information necessary for the Commission to produce transparent accounts which give a true image of the Union's assets and of budgetary implementation. To this effect, an attachment to each statement of expenditure should include information on the amount of total expenditure paid in establishing or contributing to financial engineering instruments and on the advances paid to the beneficiaries in the context of State aid. The format of the attachment should be defined in an Annex to Regulation (EC) No 1083/2006 for the purpose of legal certainty and consistency. However, the practical implementation of the collection of data necessary for the attachment should be conducted at national level and, as far as the applicable legal framework allows, it should not result in changes to national computer systems.
- (7) The amendments relating to the forms and reuse of the repayable assistance as well as to the exclusion of the application of the provisions on major projects, revenue-generating projects and durability of operations, to operations falling under Article 44 (financial engineering instruments), aim at providing for greater legal certainty and clarity concerning the application of an existing practice in these fields with effect from the beginning of the eligibility period as set out by Regulation (EC) No 1083/2006. Those amendments should, therefore, have retroactive effect from the beginning of the current programming period 2007 to 2013.
- (8) Regulation (EC) No 1083/2006 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1083/2006 is hereby amended as follows:

⁽¹⁾ OJ L 248, 16.9.2002, p. 1.

- (1) in Article 2, the following points are added:

- (8) "reimbursable grant": a direct financial contribution by way of a donation, which can be totally or partially reimbursable, without interest.
- (9) "credit line": a financial facility allowing the beneficiary to draw down the financial contribution, which can be totally or partially reimbursable, in relation to the expenditure paid by the beneficiary and supported by receipted invoices or accounting documents of equivalent probative value.;

- (2) in Title III, Chapter II, the following section is inserted:

'SECTION 3A

Repayable assistance

Article 43a

Forms of repayable assistance

1. As part of an operational programme, the Structural Funds may co-finance repayable assistance in the form of:

- (a) reimbursable grants; or
- (b) credit lines managed by the managing authority through intermediate bodies which are financial institutions.

2. The statement of expenditure concerning repayable assistance shall be submitted in accordance with Article 78(1) to (5).

Article 43b

Reuse of repayable assistance

Repayable assistance, repaid to the body that provided that assistance or to another competent authority of the Member State, shall be reused for the same purpose or in line with the objectives of the relevant operational programme. Member States shall ensure that an adequate record of the repayable assistance repaid is shown in the accounting system of the appropriate body or authority.;

- (3) the following article is inserted:

'Article 44a

Non-application of certain provisions

Articles 39, 55 and 57 shall not apply to operations falling under Article 44.;

(4) Article 67 is amended as follows:

(a) in the first subparagraph of paragraph 2, the following point is added:

(j) the progress made in financing and implementing the financial engineering instruments as defined in Article 44, namely:

(i) a description of the financial engineering instrument and implementation arrangements;

(ii) identification of the entities which implement the financial engineering instrument, including those acting through holding funds;

(iii) amounts of assistance from the Structural Funds and national co-financing paid to the financial engineering instrument;

(iv) amounts of assistance from the Structural Funds and national co-financing paid by the financial engineering instrument.;

(b) the following paragraph is added:

‘5. By 1 October each year, the Commission shall provide a summary of the data, on the progress made in financing and implementing the financial engineering instruments, sent by the managing authorities in accordance with Article 67(2)(j).’;

(5) the following article is inserted:

‘Article 78a

Requirement to provide additional information in the statement of expenditure regarding financial engineering instruments and advances paid to the beneficiaries in the context of State aid

An attachment to each statement of expenditure to be submitted to the Commission, in the format set out in Annex V, shall indicate the following information in relation to the total expenditure included in the statement of expenditure:

(a) as regards financial engineering instruments as defined in Article 44, and set out in Article 78(6), the total expenditure paid in establishing or contributing to such funds or holding funds and the corresponding public contribution;

(b) as regards advances paid in the context of State aid in accordance with Article 78(2), the total expenditure paid as an advance to the beneficiaries by the body granting the aid and the corresponding public contribution.’;

(6) the text set out in the Annex to this Regulation shall be added as Annex V to Regulation (EC) No 1083/2006.

Article 2

This Regulation shall enter into force on the third day following its publication in the *Official Journal of the European Union*.

Points (1), (2) and (3) of Article 1 shall apply retroactively from 1 January 2007.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Strasbourg, 13 December 2011.

For the European Parliament

The President

J. BUZEK

For the Council

The President

M. SZPUNAR

ANNEX

'ANNEX V

Attachment to the statement of expenditure referred to in Article 78a

Operational programme reference (CCI No):

Name of operational programme:

Date of provisional closure of accounts:

Date of submission to the Commission:

Financial engineering instruments (Article 78(6)) (cumulative amounts):

Priority Axis	Basis for calculating Community contribution (public or total)	2007-2015	
		Total amount of eligible expenditure declared in accordance with Article 78(6)	Corresponding public contribution
Priority Axis 1			
Priority Axis 2			
Priority Axis 3			
Total			

Advances paid in the context of State aid (Article 78(2)) (cumulative amounts):

Priority Axis	Basis for calculating Community contribution (public or total)	2007-2015	
		Total amount of eligible expenditure declared in accordance with Article 78(2)	Corresponding public contribution
Priority Axis 1			
Priority Axis 2			
Priority Axis 3			
Total			

NB: If an operational programme is multi-objective or multi-Fund, the priority axis shall indicate the objective(s) and Fund(s) concerned.'
