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EUROPEAN COMMISSION

European Structural and Investment Funds

Guidance for Member States on Article 38(4) CPR - Implementation options for FIs managed by or under the responsibility of the managing authority

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1. REGULATORY REFERENCES AND TEXT

Regulation	Articles
Reg. (EU) N° 1303/2013[1] Common Provisions Regulation *(hereafter CPR)*	Article 38 (1)(b) – Financial instruments (FIs) managed by or under the responsibility of the Managing Authority (MA) Article 38 (4) – Implementation options of the financial instruments managed by or under the responsibility of the MA Articles 38 (5) to (9) – Set-up and functioning of the financial instruments managed by or under the responsibility of the MA Article 123 (6) & (7) – Designation of an intermediate body (IB)
Reg. (EU) N° 1305/2013[2] EAFRD Regulation	Article 65 – Responsibilities of MS Article 66 (2) – Designation of an IB
Reg. (EU) N° 1306/2013[3] EAFRD Control Regulation	Article 7 - Accreditation and withdrawal of accreditation of paying agencies Article 9 – Certification bodies
Reg. (EU) N° 480/2014[4] Commission Delegated Regulation *(hereafter CDR)*	Article 7 – Criteria for the selection of bodies implementing financial instruments Articles 12, 13 and 14 – Management costs and fees
Reg. (EU) N° 821/2014[5] Commission Implementing Regulation *(hereafter CIR)*	Article 1 - Transfer and management of programme contributions Article 2 – Model for reporting on financial instruments

[1] 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.

[2] Regulation (EU) No 1305/2013 of the European Parliament and of the Council of 17 December 2013 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) and repealing Council Regulation (EC) No 1698/2005.

[3] Regulation (EU) No 1306/2013 of the European Parliament and of the Council of 17 December 2013 on the financing, management and monitoring of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008.

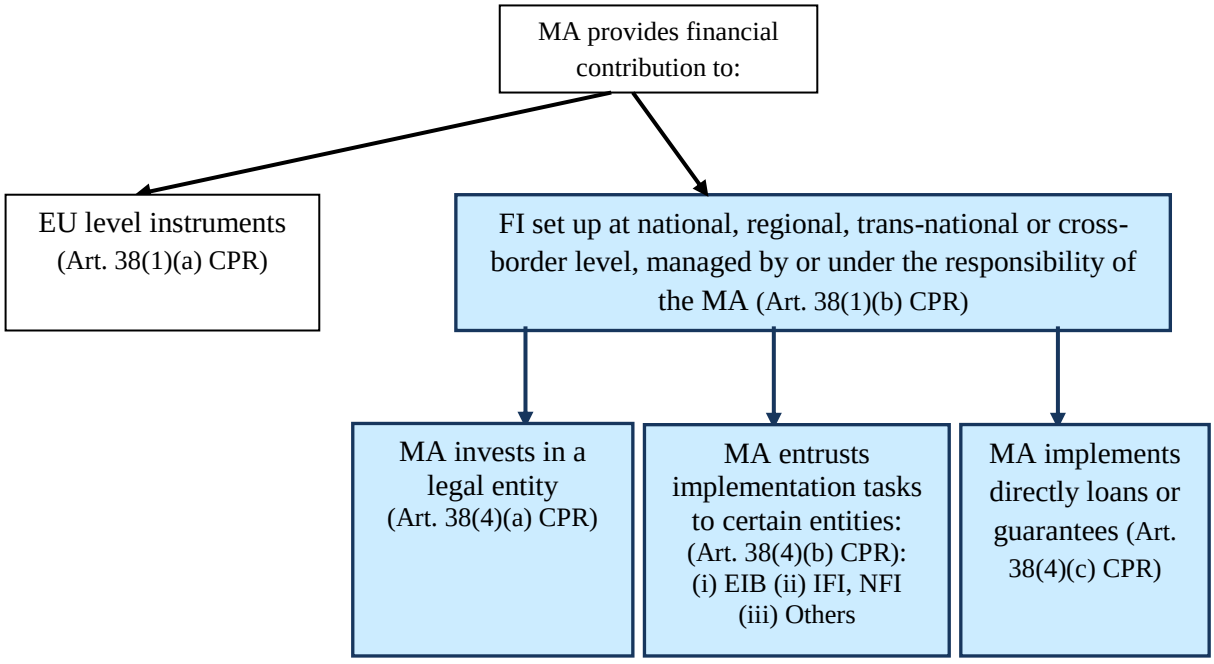
[4] Commission Delegated Regulation (EU) No 480/2014 of 3 March 2014 supplementing Regulation (EU) No 1303/2013 of the European Parliament and of the Council laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural 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 , OJ L 138, 13.5.2014, p. 5.

[5] Commission Implementing Regulation (EU) No 821/2014 of 28 July 2014 laying down rules for the application of Regulation (EU) No 1303/2013 of the European Parliament and of the Council as regards detailed arrangements for the transfer and management of programme contributions, the reporting on financial instruments, technical characteristics of information and communication measures for operations and the system to record and store data, OJ L 223, 29.7.2014, p. 7.

2. BACKGROUND

2.1. Scope

In the 2014-2020 legal framework, the MA has the possibility to choose between several implementation options for the set-up of the financial instruments (FIs), as appropriate:



The purpose of the present guidance note is to clarify how to apply the implementation options for the management of financial instruments under Article 38(1)b CPR.

Among those, the entrustment of FI management to bodies such as the EIB, the IFIs or other public or private entities referred to under Article 38(4)(b), has been the most used in 2007-2013. The main changes in the 2014-2020 programming period for this implementation option are already clarified in other guidance notes:

"Guidance for Member States on Article 37(2) CPR – Ex-ante assessment (EGESIF_14_0039-1 of 27/03/2015)",

"Guidance for Member States on Article on Article 41 CPR - Requests for payment (EGESIF_15-0006-01 of 08/06/2015)",

"Guidance for Member States on Article 42(1)(d) CPR – Eligible management costs and fees (EGESIF_15-0021-01 of 26/11/2015)",

"Guidance Note on selection of bodies implementing FIs, including funds of funds (EGESIF_15-0033-01 of 18/02/2016)",

"Guidance for Member States on Interest and Other Gains Generated by ESI Funds support paid to FI - Article 43 CPR (EGESIF_15-0031-01 Final of 17/02/2016)", and

"Guidance for Member States on CPR eligibility rules for ESI Funds Financial Instruments".

In this guidance note, a schematic overview of the main aspects related to the implementation option under Article 38(4)(b) CPR is presented under point 6 below.

The implementation options provided for in the Articles 38(4)(a) and (c) CPR, of investment in a legal entity and direct implementation of loans and guarantees by the MA, entail extensive presentations in this guidance note as they are not very common and raise specific issues which must be taken into account by MA wishing to use them for the implementation of their FIs. In addition, the implementation option 38(4)(c) is a new option introduced in the legal framework 2014-2020.

Please also note that under the implementation options 38(4)(a) and (b), the body implementing financial instruments can implement them through a fund of funds or directly acting as a financial intermediary. As defined in Article 2(27) CPR, a fund of funds "means a fund set up with the objective of contributing support from a programme or programmes to several financial instruments". A fund of funds may further entrust the implementation of FIs to financial intermediaries (Article 38(5) CPR). The financial intermediary thus deploys the financial products (such as loans, guarantees and equity) for concrete investments in the final recipients. In an implementation structure in which no fund of funds is foreseen, the MA will invest in a legal entity or entrust implementation to an entity which acts as a financial intermediary directly.

If a Member State designates, pursuant to Article 123(6) or (7) of the CPR, an IB to carry out certain tasks of the MA or to manage part of a programme, then the IB must implement the necessary actions as foreseen in the written arrangements/agreement including inter alia selection of operations, including financial instruments operations. The IB, based on the results of the ex-ante assessment, will decide on the implementation option for FIs in accordance with Article 38:

- If the implementation option under Article 38(4)(a) is chosen, the IB will invest in the capital of an existing or newly created legal entity and this entity will become the beneficiary.

- If the option under Article 38(4)(b) is chosen then the IB will entrust implementation to one of the bodies under Article 38(4)(b). Subsequently this body will become the beneficiary.

- If the implementation option under Article 38(4)(c) is chosen, then the IB will implement loans or guarantees directly.

In all other cases where the Member State has not designated an IB to carry out certain tasks of the MA pursuant to Article 123(6) or (7) and the MA wants nevertheless to entrust a body with implementation tasks to implement a financial instrument, the MA must do so in accordance with Article 38(4)(b) applying the relevant selection procedure.

2.2. Difference in scope compared to the 2007-2013 period

	2007-2013	**2014-2020**
38(4)(a) FIs through investment in legal entities	Article 43(2) of the amended (25.06.2010) implementing Regulation 1828/2006: a Financial Engineering Instrument (FEI) receiving financing from Structural Funds programmes can be set up as "*independent legal entities governed by agreements between the co-financing partners or shareholders*". For the EAFRD, Article 51(2) of Regulation (EC) No 1974/2006 defines that "*the funds shall be set up as independent legal entities governed by agreements between the shareholders*".	Article 38(4)(a) CPR stipulates that the MA could "invest in the capital of existing or newly created legal entities".

38(4)(b) FIs implemented by EIB, International Financial Institutions (IFI), etc. or a body governed by public or private law	Article 43(2) of amended implementing Regulation 1828/2006: FEI can be set as a separate block of finance in the financial institutions. Appropriate implementation rules have to be respected, mainly by keeping separate accounts ensuring the adequate audit trail of the resources contributed to the FEI. For the EAFRD, Article 51(2) of Regulation (EC) No 1974/2006 defines that the funds can also be set up as separate block of finance within an existing financial institution. In this case, the fund is subject to specific implementation rules, in particular relating to keeping separate accounts distinguishing the new resources invested in the fund, including those coming from the EAFRD.	Article 38(4)(b) provides the basis for the entrustment of implementation of the FIs to financial institutions, such as the EIB, other IFIs in which a Member State is a shareholder, National Financial Institutions or bodies governed by public or private law. In addition to the separate block of finance set-up within the implementing institution/body, Article 38(6) CPR gives the possibility to open fiduciary accounts in the name of the bodies referred to above and on behalf of the MA.
38(4)(c) FIs implemented directly by the MA	Article 43a(1)(b) of Council Regulation 1083/2006 (as amended by Regulation (EU) No 1310/2011 of 13.12.2011) provides for credit lines managed by the MA through IBs which are financial institutions. Credit lines under Article 43a(1)(b) are classified as repayable assistance and are not financial engineering instruments under 2007-2013 framework. No such possibilities for credit lines (repayable assistance) existed under the EAFRD legislation.	MA can directly implement a financial instrument consisting solely of loans or guarantees.

3. IMPLEMENTATION OPTION 38(4)(A): FIS AS INVESTMENT IN LEGAL ENTITIES

3.1. Aim

The main aim of this implementation option, allowing the MA to invest in the capital of existing or newly created legal entity, is to allow for direct programme contributions to financial instruments that operate as independent legal entities, such as autonomous funds with legal personality, special purpose vehicles (such as SICAVs, etc.), as vehicles to carry out investments consistent with the objectives of the CPR and the priorities of the contributing programmes.

The investment of ESI Funds programme resources in the capital of such entities implies taking up a share in the capital of the legal entity with all associated rights (e.g. voting rights, to receive dividends) and obligations (e.g. proportionate liability up to the amount of the subscribed capital in case of losses of the legal entity). The invested ESI Funds programme resources become part of the capital of the legal entity.

3.2. Main concepts

a) Equity investment

As defined in Article 2(m) of the Financial Regulation No 966/2012[6] the "equity investment means the provision of capital to a firm, invested directly or indirectly in return for total or partial ownership of that firm and where the equity investor may assume some management control of the firm and may share the firm's profits".

b) Legal entities

There is no definition of the legal entity in the CPR. Therefore, the definition of legal entity existing in the national law will apply. Generally speaking, the legal person created and recognised as legal entity under national law, Union law or international law, has a legal personality and may, acting in its own name, exercise rights and be subject to obligations.

Some considerations have to be taken into account by the MA when analysing the results of the ex-ante assessment and deciding to invest in the capital of a legal entity:

- The legal entity, receiving the ESIF programme resources, is a beneficiary as defined in Article 2(10) of the CPR.

- The legal form of the legal entity has to be a public or private body with limited liabilities (e.g. joint stock company or limited liabilities company) in order to limit the legal obligations of the MAs to the amount of the subscribed share capital of this legal entity as required under Article 6(2) CDR.

3.3. Implementation modalities

Article 38(4)(a) provides for conditions to the direct investments of the ESI Funds programme resources by the MA in the capital of an existing or newly created legal entity, namely:

- The ESI Funds programme resources should contribute to setting-up new entities or contribute to expanding the activities of already existing entities, which must be dedicated to implementing of financial instruments consistent with the objectives of the ESI Funds. For example, the MA can invest in the capital of a legal entity already implementing financial instruments financed by national or private sources to support research and innovation for companies in expansion phase. These financial instruments already implemented by the legal entity are in line with the objectives of the ESI Funds.
- In order to become eligible expenditure at closure as provided for under Article 42 CPR, the capital corresponding to the invested ESI Funds programme resources must be fully used to deliver support to final recipients in the form of equity or quasi-equity investments, loans or guarantees and not as capital reserves to cover already existing activities of the legal entity.

The following general conditions apply for the ESI Funds programme resources under Article 38(4)(a):

- The MAs' support from ESI Funds programme resources is limited to the amounts necessary to implement new investments. Consequently, the support from ESI Funds programme resources must not serve to simply recapitalise existing legal entities. The new or additional investment activity could be measured with accounting and/or management control tools showing, for example, an increase of the turnover or deployment of new financial products on existing/new markets. The ESI Funds programme resources should not be used to provide constitutive share

[6] See http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32012R0966&from=EN

capital to legal entities that have been set up with a broader scope, i.e. that are investing in areas going beyond the objectives of the respective ESI Funds.

- This form of support, its amount and purpose must be in line with the findings and conclusions of the ex-ante assessment, comply with State aid rules and target investments and recipients in line with the provisions of the ESI funds regulations, national eligibility rules and programme provisions.

There are different possible governance arrangements for the set-up and functioning of the legal entity, for example as an investment company with a board of directors and the investors as shareholders, or as a contractual agreement between the investors and a management company. Based on the governance set-up, the fund manager may be or not part of the legal entity in which the ESIF programme investment in the capital was done. The legal entity may:

- have internal management arrangements to implement the financial instrument by itself, i.e. the function of the fund manager is fulfilled by the legal entity itself, or

- be managed by another entity, the fund manager which represents the legal entity.

In both cases, the legal entity is the beneficiary of the ESI Funds as defined in Article 2(10) CPR.

The amount to be invested in the legal entity must correspond to the amount necessary to implement new investments in accordance with Article 37 CPR and the appropriate amount of estimated management costs and fees. At closure, the management costs and fees are considered eligible in line with the provisions of Article 42(1)(d), (2), (5) CPR and the relevant provisions of the CDR. The eligibility rules and all the other rules regarding the criteria for determining performance based management costs and fees or their thresholds are explained in detail in the *EC Guidance Note on eligible management costs and fees*[7].

4. IMPLEMENTATION OPTION 38(4)(C): FIS IMPLEMENTED DIRECTLY BY THE MANAGING AUTHORITY

4.1. Aim

For this 2014-2020 newly introduced option for implementation of financial instrument providing loans or guarantees, requires special attention to specific conditions, such as on payments and management costs. This option will normally imply that the financial instrument is implemented by the MA, which should have the adequate market and financial knowledge to be able to run such a financial instrument. Special attention should also be paid to the due diligence in the selection of investments.

This implementation option might be interesting for cases where there are a limited number of interventions - not enough to justify the establishment of a stand-alone fund or where the IB has the competence and the legal basis to successfully implement loans and guarantees (e.g. the IB is a regional financial institution).

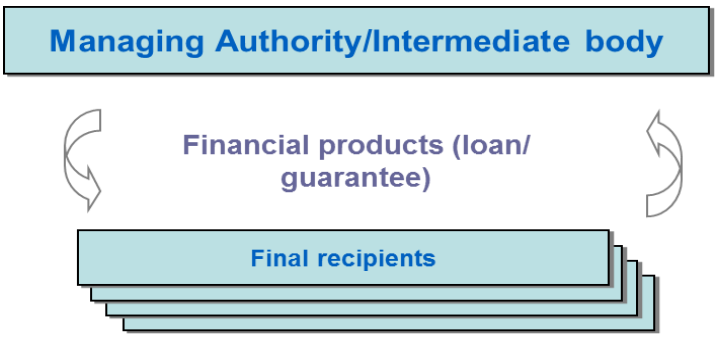
It should be noted that this option of FI implementation may not be possible in all Member States. It is subject to national law which will need to explicitly allow for the MA/IB to issue loans and guarantees

[7] https://www.fi-compass.eu/sites/default/files/publications/GN_Management_costs_fees.pdf

(in certain cases there may be national legislation prohibiting public institutions to deploy banking activities).

4.2. Main concepts

Under Article 38(4)(c), the operation is constituted by the programme contribution made by the MA (or by an IB) in line with the strategy document for investments in final recipients in a form of the loans or guarantees.



4.3. Implementation modalities under Article 38(4)(c) CPR

4.3.1. Implementation of loans and guarantees instruments directly

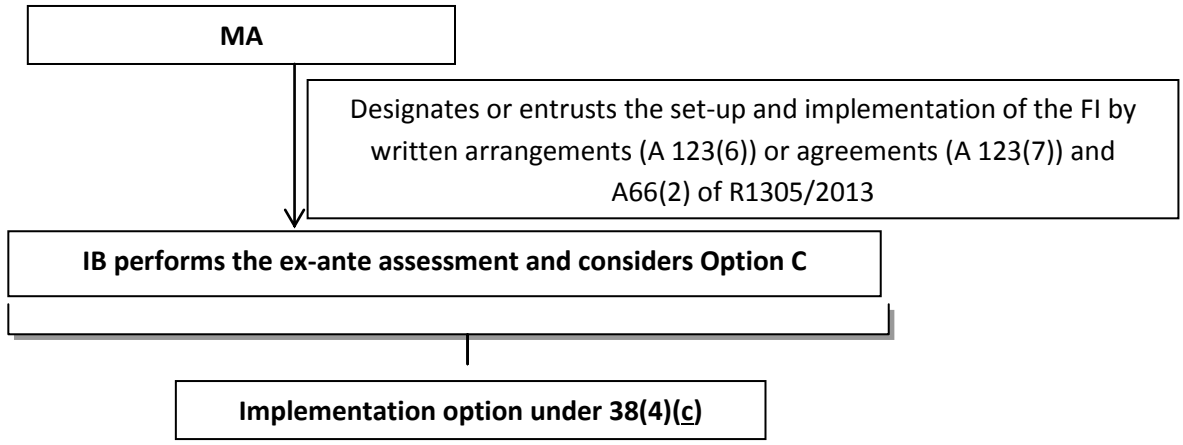
Implementation tasks in financial instruments under Article 38(4)(c) can be carried out:

1. by the MA, or
2. by an IB if the MA designated an IB in accordance with Article 123(6) to carry out tasks related to FIs under the responsibility of the MA, or
3. by the IB if the MA entrusted the management of part of an operational programme (containing FI operations) to this IB ("global grant") in accordance with Article 123(7).

When the implementation tasks are carried out by the MA, the MA is responsible for performing the ex-ante assessment, directly or indirectly on behalf of the MA, which should contain all the elements under Article 37(2).

If an IB was designated by the MA to carry out the tasks related to a FI or to manage part of the programme (containing FI operations), then this IB performs the tasks of the MA under the responsibility of the latter in relation to FI, including performing ex-ante assessment directly or indirectly on behalf of the IB.

A schematic presentation of this implementation modality is presented below:



4.3.2 The agreement between MA and IB

The delegation of tasks or entrustment of management of part of a programme containing the relevant financial instruments operations to IB takes place in the form of a written arrangement or agreement as envisaged under Article 123 CPR for the ERDF/CF/ESF and Article 65 of Regulation 1305/2013 for EAFRD and not by a Funding Agreement as it is the case in all other implementation options.

4.3.3 Strategy document

According to Article 38(8) of the CPR, the terms and conditions for contribution from the programme to a financial instrument have to be set out in a Strategy Document.

In accordance with Point 2 of Annex IV of the CPR, the Strategy Document has to contain at least the following elements:

- the investment strategy or policy of the financial instrument, general terms and conditions of envisaged debt products (loan or guarantee), target recipients and actions to be supported;

- a business plan or equivalent documents for the financial instrument to be implemented, including the expected leverage effect referred to in Article 37(2);

- the use and re-use of resources attributable to the support of the ESI Funds in accordance with Articles 44 and 45;

- monitoring and reporting of the implementation of the financial instrument to ensure compliance with Article 46.

The Strategy Document has to be examined by the Monitoring Committee. The role of the Monitoring Committee in this case is not only "to be informed" (as it is required for ex-ante assessment) but "to examine" the Strategy Document. It is therefore important that the content and the quality of the Strategy Document allow for an informed discussion within the Monitoring Committee.

4.4. Relevant considerations on financing investments through FIs under Article 38(4)(c)

CPR opens the possibility for the MAs to support projects under all thematic objectives, including big infrastructure projects.

The following considerations should be made when proposing FI under Article 38(4)(c):

1. *Selection of final recipients:* The requirement on a transparent selection of final recipients justified on objective grounds applies in accordance with Article 6(1)(a) of CDR. Moreover, in accordance with Article 37(2) of the CPR the investment to be selected must be always expected to be financially viable. It is recommended that in the Strategy document the selection procedure of final recipient is presented and examined by the Monitoring Committee.

2. *Leverage:* Since the leverage effect of Union funds has to be equal to the amount of finance to eligible final recipients divided by the amount of the Union contribution[8], for loans managed directly by the MA the leverage will be limited in general only to the national co-financing of ESI Funds. However if the IB is a financing institution it can provide its own additional funding to reinforce the programme support and also private contributions can be done at the level of final recipients.

3. *Advantages*:

- FI under Article 38(4) (c) are relatively easy to be set up. There is no formal establishment of a Fund of funds and there are no financial intermediaries.

- FI can be cost efficient and the financial management is simple as there are no tranche payments to the fund. There is no risk of "parking" money as expenditure that can be declared to the Commission according to Article 41 (3) of the CPR is payments from MA/IB for investments in final recipients.

4. *Risks*:

- *Economic and financial viability of investment*: MA or the IB will be in most cases a public body investing solely public funds. This may have impact on the selection of projects and final recipients (e.g. risk of not market-driven selection).

- *Capacity of the MA or the IB in implementing FI operation*: When assessing this option as part of the ex-ante assessment a thorough assessment of the administrative capacity of the MA (or IB) should be made. Since there is no fund manager who is selected to implement FI and who has to comply with the requirements stipulated in Article 7 of CDR, in the ex-ante assessment the MA (or IB) adequate capacity to implement the financial instrument, including technical skills and organisational structure and governance framework should be analysed. MA (or IB) should ensure "transparent and justified on objective grounds selection of final recipients which will not give rise to a conflict of interest" (Article 6(a) CDR).

[8] Article 223 of Commission Delegated Regulation (EU) No 1238/2012.

5. MAIN CONSIDERATIONS AND SPECIFIC POINTS TO LOOK OUT

Articles	Article 38(4)(a)	Article 38(4)(b)	Article 38(4)(c)
Equity account or Art. 38(4)(6) CPR Fiduciary accounts or separate block of finance	The invested ESI Funds programme resources are part of the capital of the legal entity (an equity account "on balance sheet" with all the associated rights and obligations).	The MA has to select a body which will open a fiduciary account (or set up a separate block of finance within its accounts) to manage the funds in line with the funding agreement, acting as a fund of funds or a financial intermediary depending on the chosen implementation structure. The ESI Funds will thus constitute an account "off balance sheet" for this body. The management of the programme contribution should be done in line with the principles of economy, efficiency and effectiveness. The adequate level of liquidity should be maintained and the appropriate prudential rules have to be respected.	The financial instrument consisting only of loans or guarantees is set up in the accounts of the MA.
Selection of bodies implementing FIs	The selection of bodies implementing FIs should comply with the existing national and EU rules on public procurement[9] and State aid[10] and fulfil the minimum requirements as indicated in the Article 7 of the CDR.		The IB should be selected in compliance with applicable rules including those on public procurement.

[9] See details in EC "Guidance Note on the selection of bodies implementing FIs, including funds of funds"
[10] See EC "Brochure on State aid in financial instruments supported with ESIF"

37(1) to (3) CPR Ex-ante assessment	For programme contribution to any financial instrument an ex-ante assessment containing all the elements under Article 37(2) is required. The ex-ante assessment should also justify the choice of the implementation option (e.g. possibility to raise more private resources, take advantage of a certain experience of the legal entity, etc.).	
41 CPR Payments	The rules of phasing as referred to in Article 41 CPR[11] have to be respected. The use of accounts like "capital subscribed, non-called up", "capital subscribed, called, unpaid" or "paid-in capital" can contribute to ensure a clear audit trail of the payments related to the investment in the capital.	Interim payment and payment of the final balance applications are based on the payments disbursed to the final recipients (or to the benefit of final recipients) and on the resources committed for guarantee contracts. There is no payment of initial pre-financing like for grants and no phasing of payments like for the FIs under the other implementation options. The appendix 1 of the Annex VI and appendix 6 of the Annex VII of the CIR no. 1011/2014 are not applicable under this implementation option.
42 CPR Eligible expenditure	All the provisions of Article 42 CPR are applicable. The programme contributions are eligible at closure based on the payments to (or to the benefit) of final recipients, resources committed for guarantee contracts and reimbursement/payment of management costs and fees[12]. In case of equity-based instruments, the escrow accounts can be set-up by the body implementing the FIs or the MA for the purposes defined under Article 42(2) and (3) CPR.	The categories defined under Article 42 CPR can be considered eligible expenditure at closure, except the following categories which are not considered as eligible expenditure as resulting from Article 41(2) CPR: - capitalised interest rate subsidies or guarantee fee subsidies in accordance with Article 42(1)(c) CPR because these are not covered by this implementation option;

[11] See details in the EC Guidance Note "Requests for payment" - https://www.fi-compass.eu/sites/default/files/publications/EC_Guidance-Member-States-Request-for-payment.pdf

[12] See details in EC Guidance Note on eligibility of expenditure and EC guidance on "Eligible management costs and fees" https://www.fi-compass.eu/sites/default/files/publications/GN_Management_costs_fees.pdf

		- management costs and fees in accordance with Article 42(1)(d) CPR and capitalised management costs and fees under Article 42(2) because these can be charged only by the bodies implementing financial instruments covered by the other implementation options; - payments for investments in final recipients paid into an escrow account in line with Article 42(3) as this type of investment is not allowed under this implementation option. If the management of the FI creates costs in the MA, or such costs are charged by the IB to the MA, they may be covered: - from the ESI Funds programme technical assistance envelope. In this case the management costs will be part of a different operation. Even if the thresholds for eligible management costs and fees under Article 13 of CDR formally do not apply, the sound financial management and the equal treatment principles would require that these thresholds are not exceeded under this implementation option either.

		- from resources attributable to ESI Funds paid back, in accordance with Article 44 of CPR. As defined in Article 42(5), the management fees represent "an agreed price for services rendered". Under this implementation option, as the MA/IB implements itself the financial instrument, there is no service rendered by a third party, therefore no management fees should be charged.
43 CPR Interest and other gains	The use of other gains attributable to support from ESI Funds, including the eventual dividends paid to the MA following the investment in the capital before investments in final recipients, should follow the rules as indicated in Article 43 CPR[13].	Not applicable, as there is no flow of ESI Funds programme resources which can generate interest or other gains.
44 and 45 Re-use of resources before and after the end of the eligibility period	The resources paid back from investments or from release of resources committed for guarantee contracts must be used in accordance with Article 44 and 45 of CPR.	
46 CPR Reporting	The FIs have to be reported as required in Article 46 CPR as an annex to the annual implementation report. The MA has to foresee in the funding agreement that all the necessary elements are reported in due time by the body implementing the FIs. In case of direct implementation, the strategy document should include all the necessary elements to ensure a monitoring and reporting of FIs compliant with the Article 46 CPR.	
40(5) CPR and 9	The management and control of financial instruments have to take into account the Article 40(5) CPR and Article 9 CDR in	

[13] For further details, please see EC "Guidance for Member States on Article 43 CPR – interest generated by ESIF support paid to FI" https://www.fi-compass.eu/sites/default/files/publications/GN-Interest-and-other-gains-generated-from-ESIF.pdf

CDR Management and control system	order to allow the MA and the audit authority (paying agency in the case of EAFRD) to perform their tasks and responsibilities in line with Articles 125 CPR and respectively 127 CPR (respectively Articles 65 and 66 of the Regulation 1305/2013 and Article 7 of the Regulation 1306/2013 for the EAFRD).	
1 and 2 of (CIR) no. 821/2014	The arrangements for the transfer and management of programme contributions and reporting as detailed in the Article 1 and 2 of CIR no. 821/2014 have to be respected by the bodies implementing the FIs. A clear separation of the ESI Funds from other resources used in the FIs has to be ensured. The adequate accounting and audit trail of the ESI funds by programme and by priority axis or measure should be ensured down to the level of final recipient[14].	
38(7) and Annex IV of the CPR Funding agreements, mainly articles (j), (k) & (m)	The MA should in particular analyse and define carefully in the funding agreement, depending also on the applicable national legislation, the following aspects: - the conditions for partial or total withdrawals of the programme contribution to the FI during the eligibility period (e.g. for implementation option under Article 38(4)(a): conditions for selling the shares to the other shareholders or to liquidate the legal company); - the use of resources after the end of the eligibility period and the exit policy, if there is not a complete loss of resources, in accordance with Article 45 CPR; - the provisions for the winding-up of the financial instrument (e.g. liquidation of the legal company) or provisions that no winding-up is foreseen (like an "Evergreen fund").	Not applicable – for the strategy document, please refer to point 4.3.3 above

[14] Cf. Article 9(1)(e)(xii) of Delegated Regulation 480/2014

6. QUESTIONS AND ANSWERS