

STANDARD FORM OF EXPLANATORY MEMORANDUM FOR EUROPEAN UNION LEGISLATION AND DOCUMENTS

COM(2020) 130 final

Communication from the Commission to the European Parliament and the Council on identity of the asset manager for the common provisioning fund in accordance with Article 212 of Financial Regulation 2018/1046

Submitted by HMT

27 July 2020

SUBJECT MATTER

INTRODUCTION

1. This communication presents the conclusions of an independent evaluation to determine whether the management of the new Common Provisioning Fund's (CPF) assets should be carried out by the Commission, the European Investment Bank (EIB) or a combination of the two.
2. The CPF is a proposal for the 2021–2027 Multi-annual Financial Framework (MFF), under which provisioning for budgetary guarantees, financial assistance and financial instruments will be held in one fund (the CPF) in order to deliver efficiency gains and allow more dynamic management of assets. In the current MFF, provisioning for budgetary guarantees is held in several separate funds which correspond to the guarantee they provision.
3. Article 212 of Regulation (EU, Euratom) 2018/1046 ("the Financial Regulation" or "FR") established the CPF and provided for the independent evaluation.

FINDINGS

4. The independent evaluator found that the governance process and technical infrastructure for asset management in both the Commission and EIB are "fit for purpose".
5. However, when evaluating historical performance, the independent evaluator found that Commission-managed portfolios have produced higher returns than EIB-managed portfolios at a lower cost to the EU budget. It also found the Commission was more accountable and transparent to the European Parliament, the European Council, and the European Court of Auditors.

CONCLUSION

6. The communication informs parliament that, following the results of the independent evaluation, the Commission will manage itself the assets of the CPF. This is both due to the independent evaluators findings on cost and returns, but also the Commission's ability to be accountable to the Parliament and the Council for its activities in this role.
7. The communication also notes that the decision should be seen in the wider context of the allocation of responsibilities between the EIB and the Commission in EU public finance. In this regard, the EIB group has a special role for the implementation of budgetary guarantees under InvestEU and as a leading partner for external guarantees.

NEXT STEPS

8. The CPF must be ready to start investing assets once resources are pooled from the contributing policies under the new MFF. Alongside this communication, the Commission is also adopting the asset management guidelines.
9. Later this year, the Commission will adopt a Delegated Act to set the Effective Provisioning Rate for the CPF (in accordance with Article 213(2) of the Financial Regulation).

SCRUTINY HISTORY

10. There is no scrutiny history for this report.
11. An EM on the proposed regulation adopted in 2018 on the financial rules applicable to the general budget¹ was submitted on 17 October 2016. It was cleared by the Lords on 29 November 2016 and cleared following a debate in European Committee B on 7 December 2016.

MINISTERIAL RESPONSIBILITY

12. The Chancellor of the Exchequer has responsibility for United Kingdom policy on European Union monetary and economic issues.

¹ Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the financial rules applicable to the general budget of the Union and amending Regulation (EC) No 2012/2002, Regulations (EU) No 1296/2013, (EU) 1301/2013, (EU) No 1303/2013, EU No 1304/2013, (EU) No 1305/2013, (EU) No 1306/2013, (EU) No 1307/2013, (EU) No 1308/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, (EU) No 652/2014 of the European Parliament and of the Council and Decision No 541/2014/EU of the European Parliament and of the Council.

INTEREST OF THE DEVOLVED ADMINISTRATIONS

13. The EU budget is a reserved matter under the UK's devolution settlements and no devolved administration interests arise. The devolved administrations have therefore not been consulted in the preparation of this EM.

LEGAL AND PROCEDURAL ISSUES

i. Legal basis

14. The Commission is required to submit the results of the independent external evaluation of the advantages and disadvantages of entrusting the financial management of the assets of the CFP to the Commission, to the EIB, or to a combination of the two under article 212 of the Financial Regulation (2018).

ii. European Parliament Procedure

15. Not applicable

iii. Voting procedure

16. Not applicable.

iv. Impact on United Kingdom Law (including the impact on retained law, application of EU law during the transition period and under the Northern Ireland protocol)

17. Not applicable.

v. Application to Gibraltar

18. None

vi. Fundamental rights analysis

19. Not applicable

APPLICATION TO THE EUROPEAN ECONOMIC AREA

20. Not applicable

SUBSIDIARITY

21. This communication is consistent with the principle of subsidiarity.

POLICY IMPLICATIONS (including implications for the application of EU law during the Implementation Period and under the Northern Ireland Protocol)

22. On 31 January 2020, the United Kingdom ceased to be a member of the European Union, and entered the Transition Period, whereby EU law will continue to apply until 30 December 2020.
23. Under the terms of the Withdrawal Agreement the UK will continue to participate in EU programmes under the current Multiannual Financial Framework (2014-2020 MFF) until their closure. The UK is considering participation in certain EU programmes for the next MFF (2021-2027). These programmes are set out in the government policy paper outlining our approach to the Future Relationship with the EU published on the 27 February 2020 and could include programmes, or parts of programmes, which hold assets in the CPF. The Government has been clear that any agreements relating to EU programmes should contain fair terms for UK participation. This should include fair treatment of participants, a fair and appropriate financial contribution, provisions allowing for sound financial management by both parties, and appropriate governance and consultation.
24. Under Articles 143 and 144 of the Withdrawal Agreement, the UK maintains a proportion of provisioning within EU funds for operations agreed before 31st January 2020. While these assets may be moved to the CPF after December 31st 2020, the decision on asset manager for the CPF does not affect the EU's financial obligations to the UK under the Withdrawal Agreement
25. The UK is no longer a member of the EIB.

CONSULTATION

26. None

IMPACT ASSESSMENT

27. Not applicable

FINANCIAL IMPLICATIONS

28. There are no direct financial implications to the UK arising from this communication.

TIMETABLE FOR ADOPTION AND IMPLEMENTATION IN THE UK (WHERE APPROPRIATE)

29. Not applicable.

MINISTERIAL NAME AND SIGNATURE

A handwritten signature in black ink on a light grey background. The signature is written in a cursive style and reads "Steve Barclay".

**Rt Hon Steve Barclay MP
Chief Secretary to the Treasury**