Procedure file

Basic information

COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	2011/0283(COD)	Procedure completed
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 Amending Regulation (EC) No 1083/2006) 2004/0163(AVC) Subject 4.70.01 Structural funds, investment funds in general, programmes 4.70.02 Cohesion policy, Cohesion Fund (CF) 5.10.01 Convergence of economic policies, public deficit, interest rates 8.70.03 Budgetary control and discharge, implementation of the budget		

Key players

European Parliament	Committee responsible	Rapporteur	Appointed
	REGI Regional Development		14/11/2011
		PPE HÜBNER Danuta Maria	
		Shadow rapporteur	
		S&D KLEVA KEKUŠ Mojca	
		Verts/ALE SCHROEDTER Elisabeth	
		ECR VLASÁK Oldřich	
		NI SZEGEDI Csanád	
	Committee for opinion	Rapporteur for opinion	Appointed
	CONT Budgetary Control		29/11/2011
		PPE RIVELLINI Crescenzio	
	ECON Economic and Monetary Affairs		25/10/2011
		EFD PAKSAS Rolandas	
	EMPL Employment and Social Affairs	The committee decided not to give an opinion.	
Council of the European Union	Council configuration	Meeting	Date
	Education, Youth, Culture and Sport	3164	10/05/2012
European Commission	Commission DG	Commissioner	
	Regional and Urban Policy	HAHN Johannes	
European Economic and Social Committee			
European Committee of the Regions			

Key events

12/10/2011	Legislative proposal published	COM(2011)0655	Summary
25/10/2011	Committee referral announced in Parliament, 1st reading		
20/03/2012	Vote in committee, 1st reading		
22/03/2012	Committee report tabled for plenary, 1st reading	A7-0067/2012	Summary
18/04/2012	Debate in Parliament		
19/04/2012	Results of vote in Parliament		
19/04/2012	Decision by Parliament, 1st reading	T7-0133/2012	Summary
10/05/2012	Act adopted by Council after Parliament's 1st reading		
22/05/2012	Final act signed		
22/05/2012	End of procedure in Parliament		
23/05/2012	Final act published in Official Journal		

Technical information

Procedure reference	2011/0283(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
	Amending Regulation (EC) No 1083/2006) 2004/0163(AVC)
Legal basis	Treaty on the Functioning of the EU TFEU 177-p1
Other legal basis	Rules of Procedure EP 159
Mandatory consultation of other institutions	European Economic and Social Committee European Committee of the Regions
Stage reached in procedure	Procedure completed
Committee dossier	REGI/7/07558

Documentation gateway

Legislative proposal		COM(2011)0655	12/10/2011	EC	Summary
Economic and Social Committee: opinion, report		CES1852/2011	08/12/2011	ESC	
Committee draft report		PE480.899	24/02/2012	EP	
Committee opinion	CONT	PE480.660	01/03/2012	EP	
Amendments tabled in committee		PE483.747	02/03/2012	EP	
Committee opinion	ECON	PE478.650	13/03/2012	EP	
Committee report tabled for plenary, 1st reading/single reading		A7-0067/2012	22/03/2012	EP	Summary

Text adopted by Parliament, 1st reading/single reading		T7-0133/2012	19/04/2012	EP	Summary
Draft final act		00015/2012/LEX	23/05/2012	CSL	
Commission response to text adopted in plenary		SP(2012)388	30/05/2012	EC	

Additional information

National parliaments	IPEX
European Commission	EUR-Lex

Final act

Regulation 2012/423
OJ L 133 23.05.2012, p. 0001 Summary

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

PURPOSE: to help those Member States mostly affected by the financial crisis to be able to continue with the implementation of the Structural Funds and the Cohension Funds, as tool for injecting funds into the economy.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

BACKGROUND: the sustained financial and economic crisis is increasing the pressure on national financial resources as Member States are reducing their budgets.

In this context ensuring a smooth implementation of cohesion policy programmes is of particular importance as a tool for injecting funds into the economy.

Nonetheless, the implementation of the programmes requires significant amounts of funding from public and private stakeholders, who, due to the the liquidity problems faced by financial institutions are not able to provide such funding. This is particularly the case for those Member States which have been most affected by the crisis and have received financial assistance under a programme from the European Financial Stabilisation Mechanism (EFSM) for the EURO countries or from the Balance of Payments (BoP) mechanism for non EURO countries. To date, six countries - including Greece which has received financial assistance outside the EFSM - have requested financial assistance under these mechanisms and have agreed with the Commission a macro-economic adjustment programme. These countries are Hungary, Romania, Latvia, Portugal, Greece and Ireland.

In order to alleviate those problems and to speed up the implementation of the operational programmes and projects, as well as to strengthen the economic recovery, it is appropriate that the managing authorities of the Member States having experienced serious difficulties with respect to financial stability and which have been granted financial assistance according to one of the financial assistance mechanisms set out above may contribute financial resources from operational programmes to the establishment of risk sharing instruments providing loans or guarantees or other financial facilities, in support of projects and operations foreseen under an operational programme.

It should be noted that the Commission also adopted in August 2011 a proposal for an amendment to Regulation (EC) No 1083/2006 with a view to increase the amount of community contribution reimbursed through interim payments and payments of the final balance by up to 10 percentage points above the current limits.

IMPACT ASSESSMENT: the proposal would allow the Commission to implement under indirect centralised management risk sharing instrument to cover risks related to loans and guarantees to be given to project promoters and other public or private partners. This will not impose additional financial requirements to the overall budget since the total financial allocation for the period from the Funds to the Member States in question will not change.

LEGAL BASIS: Article 177 of the Treaty on the Functioning of the European Union (TFEU).

CONTENT: the Commission proposes to amend 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 with a view to:

- allow for risk sharing instrument to be managed under indirect centralised management;
- allow Member States experiencing or threatened with serious difficulties with respect to their financial stability, to contribute part of their allocations under the "Convergence" and "Regional competitiveness and employment" objectives of cohesion policy to the provisioning and capital allocations to loans or guarantees issued to project promoters and other public or private partners directly or indirectly by the EIB or other international financial institutions.

The terms and conditions applicable to such risk sharing instrument should be decided by the Commission, upon request from the Member State concerned. The Commission upon request of the Member States concerned should adopt ad hoc decisions to set the terms and conditions applicable to such instrument, on the basis of allocations to be transferred from the Structural Funds and Cohesion Fund allocations from the Member State concerned.

BUDGETARY IMPLICATION: there is no impact on commitment appropriations since no modification is proposed to the maximum amounts of

Structural Funds and Cohesion Fund financing provided for in the operational programmes for the programming period 2007-2013.

The Commission will in 2012 review the need for additional payment credits and if necessary propose the necessary actions to the Budgetary Authority.

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

The Committee on Regional Development adopted the report by Danuta Maria HÜBNER (EPP, PL) 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.

The Committee recommends that the European Parliaments position, at first reading under the ordinary legislative procedure, should be to amend the Commission proposal as follows:

Definition: Members propose to introduce 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; the application and approval procedure of the project proposals, covered by the risk-sharing instrument; the availability duration 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.

When deciding on the Member State request, the Commission shall ensure that only projects, for which a favourable financing decision is taken either by the EIB or by a national or international public-sector body or body governed by private law with a public-service mission, shall be accepted as eligible for financing through an established risk-sharing instrument.

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.

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

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.

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

PURPOSE: to help those Member States mostly affected by the financial crisis to be able to continue with the implementation of the Structural Funds and the Cohension Funds, as tool for injecting funds into the economy.

LEGISLATIVE ACT: Regulation (EU) No 423/2012 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.

CONTENT: following an agreement reached with the European Parliament at first reading, the Council adopted a regulation amending Council regulation 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.

The unprecedented global financial crisis and economic downturn have seriously damaged economic growth and financial stability and provoked a strong deterioration in financial, economic and social conditions in several Member States.

These provisions cover five Member States which have been most affected by the crisis and have received financial assistance under a programme from the balance of payments mechanism for non-euro countries (Romania and Latvia) or from the European financial stabilisation mechanism (EFSM) for the euro countries (Portugal, Greece and Ireland).

Risk-sharing instruments: in order to speed up the implementation of operational programmes and projects, as well as to strengthen the economic recovery, the Regulation provides that the Member States, which have experienced or have been threatened with serious difficulties with respect to their financial stability and which have been granted financial assistance under one of the financial assistance mechanisms, may contribute a part of the overall resources distributed to a risk-sharing instrument which shall be established by means of a cooperation agreement to be concluded by the Commission either with the EIB or with national or international public sector bodies or bodies governed by private law with a public service mission providing adequate guarantees.

By way of definition, a risk-sharing instrument means a financial instrument which guarantees the total or partial coverage of a defined risk, where appropriate in exchange for an agreed remuneration.

Cooperation agreement: 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.

Justification for benefitting from a risk-sharing instrument: a Member State seeking to benefit from a risk-sharing instrument should clearly specify, in its written request to the Commission by 31 August 2013, 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.

Verification by the Commisson: the Commission should verify that the information submitted by the requesting Member State is correct and that the Member State request is justified, and should be empowered to adopt, by means of an implementing act, within four months of the Member State request, a decision on 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.

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 2007-13 regarding the ERDF and the Cohesion Fund.

Any reflow or amount left over after the completion of an operation covered by the risk-sharing instrument may be reused, at the request of the Member State concerned, within the risk-sharing instrument, provided that the Member State still meets one of the conditions set out in the Regulation.

ENTRY INTO FORCE: 23/05/2012.