

## II

(Non-legislative acts)

## REGULATIONS

## COUNCIL REGULATION (EU) 2018/1877

of 26 November 2018

**on the financial regulation applicable to the 11th European Development Fund, and repealing Regulation (EU) 2015/323**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union and the Treaty on the Functioning of the European Union,

Having regard to the Partnership Agreement between the members of the African, Caribbean and Pacific Group of States of the one part, and the European Community and its Member States, of the other part, <sup>(1)</sup> as last amended ('ACP-EU Partnership Agreement'),

Having regard to the Internal Agreement between the Representatives of the Governments of the Member States of the European Union, meeting within the Council, on the financing of European Union aid under the multiannual financial framework for the period 2014 to 2020, in accordance with the ACP-EU Partnership Agreement, and on the allocation of financial assistance for the Overseas Countries and Territories to which Part Four of the Treaty on the Functioning of the European Union applies <sup>(2)</sup> ('the Internal Agreement'), and in particular Article 10(2) thereof,

Having regard to the proposal from the European Commission,

Having regard to the opinion of the Court of Auditors <sup>(3)</sup>,

Having regard to the opinion of the European Investment Bank,

Whereas:

- (1) Council Regulation (EU) 2015/323 <sup>(4)</sup> determines detailed rules for the financial implementation of the 11th European Development Fund ('11th EDF'). Those rules concern, inter alia: the applicable principles; the constitution of the 11th EDF resources; the financial actors and entities entrusted with budget-implementation tasks; the financing decisions, commitments and payments; the funding instruments, including procurement, grants, financial instruments and Union trust funds; the presentation of the accounts and accounting; the external audit by the Court of Auditors and discharge by the European Parliament; and the Investment Facility managed by the European Investment Bank (EIB).
- (2) For the sake of simplification and coherence, Regulation (EU) 2015/323 was aligned, as much as possible, with Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council <sup>(5)</sup> and Commission Delegated Regulation (EU) No 1268/2012 <sup>(6)</sup>. That alignment was achieved by means of direct references to those Regulations and has, on the one hand, allowed for the easy identification of specificities in the financial implementation of the 11th EDF and, on the other hand, reduced the diversity of Union funding rules in the area of external action that creates an unnecessary burden for the recipients, the Commission and other actors involved.

<sup>(1)</sup> OJ L 317, 15.12.2000, p. 3.

<sup>(2)</sup> OJ L 210, 6.8.2013, p. 1.

<sup>(3)</sup> OJ C 396, 31.10.2018, p. 1.

<sup>(4)</sup> Council Regulation (EU) 2015/323 of 2 March 2015 on the financial regulation applicable to the 11th European Development Fund (OJ L 58, 3.3.2015, p. 17).

<sup>(5)</sup> Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298, 26.10.2012, p. 1).

<sup>(6)</sup> Commission Delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union (OJ L 362, 31.12.2012, p. 1).

- (3) Regulation (EU, Euratom) No 966/2012 and Delegated Regulation (EU) No 1268/2012 have been merged and replaced by a single legal act, Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council <sup>(1)</sup>, which introduced significant changes and improvements and simplified the financial rules applicable to the general budget of the Union. In the interest of simplification, the financial regulation applicable to the 11th EDF should be aligned as much as possible with that Regulation. For reasons of legal clarity and taking into consideration the significant number of amendments required for that alignment, Regulation (EU) 2015/323 should be repealed and replaced by this Regulation.
- (4) It is necessary to recall that the framework for the financial implementation of the 11th EDF is constituted by, in addition to this Regulation, the ACP-EU Partnership Agreement, in particular Annex IV thereto, by the Internal Agreement, by Council Decision 2013/755/EU <sup>(2)</sup> and by Council Regulation (EU) 2015/322 <sup>(3)</sup>.
- (5) The financial implementation of the 11th EDF should be guided by the principles of unity and budgetary accuracy, unit of account, specification, sound financial management and transparency. Having regard to the multiannual set-up of the 11th EDF, the budgetary principle of annuality should not apply to the 11th EDF.
- (6) It is necessary to determine the detailed rules for the payment of the contributions by the Member States to the 11th EDF and for the country allocation of financial assistance for the overseas countries and territories ('OCTs') to which Part IV of the Treaty on the Functioning of the European Union (TFEU) applies.
- (7) The rules concerning the financial actors, i.e. the authorising and accounting officers, the delegation of their tasks as well as their liability should be aligned with Regulation (EU, Euratom) 2018/1046, as those actors act within the framework of the Commission when it implements the 11th EDF under this Regulation.
- (8) It is necessary to establish the detailed rules in accordance with which the authorising officer by delegation establishes the necessary arrangements to ensure the proper execution of operations, in close cooperation with the national, regional, intra-ACP or territorial authorising officer.
- (9) The rules on methods of implementation, i.e. on the entrustment of budget-implementation tasks and on its conditions and limits, should be aligned with Regulation (EU, Euratom) 2018/1046. In addition, a provision on further entrustment of budget-implementation tasks mirroring that in Regulation (EU) No 236/2014 of the European Parliament and of the Council <sup>(4)</sup> should be included in order to ensure the coherent implementation of the funding of external action. This Regulation should nonetheless contain specific provisions on temporary acting in the place of the national authorising officer, on entrustment by the ACP States and OCTs to a service provider and on strengthening the protection of the financial interests of the Union in the case of indirect management with ACP States and OCTs.
- (10) The provisions on financing decisions should be aligned with those of Regulation (EU, Euratom) 2018/1046 where the Commission implements the 11th EDF under this Regulation.
- (11) The rules on commitments should be aligned with those set out in Regulation (EU, Euratom) 2018/1046 with the exception of provisional commitments. In addition, an extension of deadlines should be provided for where it is necessary for actions carried out in indirect management by ACP States or OCTs.
- (12) The time limits for payments should be aligned with those set out in Regulation (EU, Euratom) 2018/1046. Special provisions should be laid down where ACP States and OCTs are not entrusted with carrying out payments under indirect management and where, consequently, the Commission continues to carry out payments to recipients.

<sup>(1)</sup> Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

<sup>(2)</sup> Council Decision 2013/755/EU of 25 November 2013 on the association of the overseas countries and territories with the European Union ('Overseas Association Decision') (OJ L 344, 19.12.2013, p. 1).

<sup>(3)</sup> Council Regulation (EU) 2015/322 of 2 March 2015 on the implementation of the 11th European Development Fund (OJ L 58, 3.3.2015, p. 1).

<sup>(4)</sup> Regulation (EU) No 236/2014 of the European Parliament and of the Council of 11 March 2014 laying down common rules and procedures for the implementation of the Union's instruments for financing external action (OJ L 77, 15.3.2014, p. 95).

- (13) Various implementation provisions concerning the internal auditor, good administration and redress, the IT system, electronic transmission, e-government, and the administrative and financial penalties and the use of the central exclusion database should be aligned with those of Regulation (EU, Euratom) 2018/1046. In addition, the protection of the financial interests of the Union through the imposition of penalties should be strengthened where the 11th EDF is implemented in indirect management with ACP States and OCTs.
- (14) The rules on procurement, grants, prizes and experts should be aligned with those set out in Regulation (EU, Euratom) 2018/1046. The rules on financial instruments and Union trust funds should be aligned with adjustments due to the nature of the 11th EDF. Budget support to OCTs should take the institutional links with the Member State concerned into account.
- (15) The rules on the presentation of accounts and accounting and on external audit and discharge should mirror those set out in Regulation (EU, Euratom) 2018/1046.
- (16) It is necessary to lay down the conditions in accordance with which the Court of Auditors should exercise its powers in respect of the 11th EDF.
- (17) It is necessary to lay down the conditions in accordance with which the EIB should manage the 11th EDF resources.
- (18) The provisions concerning scrutiny by the Court of Auditors of the 11th EDF resources managed by the EIB should comply with the tripartite agreement concluded between the Court of Auditors, the EIB and the Commission provided for in Article 287(3) TFEU.
- (19) The transitional provisions should lay down the rules on treating balances and revenue from the 8th, 9th and 10th European Development Funds ('previous EDFs') as well as the application of this Regulation to residual operations under those EDFs.
- (20) The interpretation of this Regulation should aim to ensure consistency with Regulation (EU, Euratom) 2018/1046 unless such an interpretation would be incompatible with the specificities of the 11th EDF as provided for in the ACP-EU Partnership Agreement, the Internal Agreement, Decision 2013/755/EU or Regulation (EU) 2015/322,

HAS ADOPTED THIS REGULATION:

#### PART ONE

### MAIN PROVISIONS

#### TITLE I

### *Subject matter, scope and general provisions*

#### Article 1

### **Subject matter**

This Regulation lays down rules on the financial implementation of the resources of the 11th EDF and on the presentation and auditing of the accounts.

#### Article 2

### **Relation to Regulation (EU, Euratom) 2018/1046**

1. For the purposes of this Regulation, references to the applicable provisions of Regulation (EU, Euratom) 2018/1046 shall not include procedural provisions which are not relevant to the 11th EDF.
2. Internal references in Regulation (EU, Euratom) 2018/1046 shall not render the provisions referred to indirectly applicable to the 11th EDF.
3. Specific references in this Regulation to the provisions of Regulation (EU, Euratom) 2018/1046 are understood to be dynamic references, which include the subsequent amendments to those provisions.
4. The Commission Decision on the Internal Rules on the implementation of the general budget of the European Union (European Commission section) for the attention of the Commission departments shall apply to the 11th EDF *mutatis mutandis*.

*Article 3***General provisions**

1. The definitions set out in Article 2 of Regulation (EU, Euratom) 2018/1046 shall apply.
2. For the purposes of this Regulation, the following terms in Regulation (EU, Euratom) 2018/1046 shall be construed as follows:
  - (a) 'appropriations' or 'operational appropriations' means '11th EDF resources';
  - (b) 'basic act' means, according to the relevant context, the Internal Agreement, Decision 2013/755/EU or Regulation (EU) 2015/322;
  - (c) 'budget' or 'budgetary' means '11th EDF';
  - (d) 'budgetary commitment' means 'financial commitment';
  - (e) 'budget line' means 'allocation';
  - (f) 'third country' means any partner country or territory covered by the geographical scope of the 11th EDF.
3. Articles 4 and 5 of Regulation (EU, Euratom) 2018/1046 shall apply.

*TITLE II***Financial principles***Article 4***Financial principles**

The 11th EDF resources shall be implemented in compliance with the following principles:

- (a) unity and budgetary accuracy;
- (b) unit of account;
- (c) universality;
- (d) specification;
- (e) sound financial management and performance;
- (f) transparency.

The financial year shall run from 1 January to 31 December.

*Article 5***Principles of unity and budgetary accuracy**

No revenue shall be collected and no expenditure shall be effected unless booked to the 11th EDF.

Article 8(2), (3) and (4) of Regulation (EU, Euratom) 2018/1046 shall apply.

*Article 6***Principle of unit of account**

Article 19 of Regulation (EU, Euratom) 2018/1046 shall apply.

*Article 7***Principle of universality**

1. Article 20 of Regulation (EU, Euratom) 2018/1046 shall apply. Without prejudice to Article 8 of this Regulation, total revenue shall cover total estimated payments.
2. The revenue referred to in point (c) of Article 8(2) of this Regulation shall automatically decrease payments made against the commitment from which it was generated.
3. The Union may not raise loans within the framework of the 11th EDF.

*Article 8***Assigned revenue**

1. Assigned revenue shall be earmarked to finance-specific items of expenditure.
2. The following shall constitute assigned revenue:
  - (a) financial contributions from Member States and third countries, including in both cases their public agencies, entities or natural persons, and from international organisations to certain external aid projects or programmes financed by the Union and managed by the Commission or the EIB on their behalf in accordance with Article 10 of Regulation (EU) 2015/322;
  - (b) revenue earmarked for a specific purpose, such as income from foundations, subsidies, gifts and bequests;
  - (c) revenue arising from the repayment, following recovery, of amounts wrongly paid;
  - (d) repayments and revenues generated by financial instruments or budgetary guarantees pursuant to Article 209(3) of Regulation (EU, Euratom) 2018/1046;
  - (e) revenue arising from the subsequent reimbursement of taxes pursuant to point (b) of the first subparagraph of Article 27(3) of Regulation (EU, Euratom) 2018/1046.
3. Assigned revenue referred to in points (a) and (b) of paragraph 2 shall finance such items of expenditure as determined by the donor, provided that it is accepted by the Commission.

Assigned revenue referred to in points (d) and (e) of paragraph 2 shall finance items of expenditure similar to those from which it was generated.

4. Articles 25, 26 and 27 of Regulation (EU, Euratom) 2018/1046 shall apply. Acceptance of a donation shall be subject to the authorisation of the Council.
5. The 11th EDF resources corresponding to assigned revenue shall be made available automatically when that revenue has been received by the Commission. However, an estimate of amounts receivable shall have the effect of making 11th EDF resources available in the case of assigned revenue referred to in point (a) of paragraph 2 where the agreement with the Member State is expressed in euros; in such cases, payments may be carried out against such revenue only when it has been received.

*Article 9***Principle of specification**

1. 11th EDF resources shall be earmarked for specific purposes per ACP State or OCTs and in accordance with the main instruments of cooperation.
2. In respect of the ACP States, the main instruments of cooperation are laid down by the financial protocol set out in Annex Ic to the ACP-EU Partnership Agreement. The earmarking of resources (indicative allocations) shall also be based on the Internal Agreement and Regulation (EU) 2015/322 and shall take account of the resources reserved for support expenditure linked to programming and implementation under Article 6 of the Internal Agreement.
3. In respect of the OCTs, the main instruments of cooperation are laid down in Part Four of Decision 2013/755/EU and Annex II thereto. The earmarking of those resources shall also take into account the non-allocated reserve provided for in Article 3(3) of that Annex and the resources for studies or technical assistance measures under point (c) of Article 1(1) thereof.

*Article 10***Principle of sound financial management and performance, and internal control**

Article 33(1), points (a) and (b) of Article 33(2), Article 33(3), and Articles 34 and 36 of Regulation (EU, Euratom) 2018/1046 shall apply.

*Article 11***Principle of transparency**

1. Article 37(1) and Article 38 of Regulation (EU, Euratom) 2018/1046 shall apply.
2. The annual statement of the commitments, payments and the annual amount of calls for contributions under Article 7 of the Internal Agreement shall be published in the *Official Journal of the European Union*.
3. For the purpose of Article 38(2) of Regulation (EU, Euratom) 2018/1046, the term 'locality' shall mean, where necessary, the equivalent to the region on NUTS 2 level when the recipient is a natural person.

## TITLE III

**11th EDF resources and implementation**

## Article 12

**Sources of 11th EDF resources**

The 11th EDF resources shall consist of the ceiling referred to in Article 1(2), (4) and (6) of the Internal Agreement, the funds referred to in Article 1(9) thereof and other assigned revenue referred to in Article 8 of this Regulation.

## Article 13

**Structure of the 11th EDF**

The 11th EDF revenue and expenditure shall be classified according to their type or the use to which they are assigned.

## Article 14

**Implementation of the 11th EDF in accordance with the principle of sound financial management and performance**

1. Article 57, Article 59(2) and (3) and Articles 60 and 61 of Regulation (EU, Euratom) 2018/1046 shall apply.
2. The Commission shall assume the responsibilities of the Union as referred to in Article 57 of the ACP-EU Partnership Agreement and in Decision 2013/755/EU. To that end, it shall implement the revenue and expenditure of the 11th EDF in accordance with the provisions of this Part and Part Three of this Regulation, under its own responsibility and within the limits of the 11th EDF resources.
3. The Member States shall cooperate with the Commission so that the 11th EDF resources are used in accordance with the principle of sound financial management and performance.

## Article 15

**Methods of implementation**

Points (a) and (c) of the first subparagraph of Article 62(1), the first and third subparagraphs of Article 62(2), and Article 62(3) of Regulation (EU, Euratom) 2018/1046 shall apply.

## TITLE IV

**Financial actors**

## Article 16

**General provisions on financial actors and their liability**

1. Articles 72 to 76 of Regulation (EU, Euratom) 2018/1046 shall apply.
2. Articles 90 to 95 of Regulation (EU, Euratom) 2018/1046 concerning the liability of the financial actors shall apply.

## Article 17

**Authorising officer**

1. The annual activity report referred to in Article 74(9) of Regulation (EU, Euratom) 2018/1046 shall include, in an annex, tables showing by allocation, country, territory, region or sub-region, the total commitments, assigned funds and payments effected during the financial year and aggregate totals since the opening of the respective EDF.
2. Where the responsible authorising officer of the Commission becomes aware of problems in carrying out procedures relating to the management of 11th EDF resources, he or she shall, in conjunction with the appointed national, regional, intra-ACP or territorial authorising officer, make all contacts necessary to remedy the situation and take any steps that are necessary. In cases where the national, regional, intra-ACP or territorial authorising officer does not or is unable to perform the duties incumbent on him or her under the ACP-EU Partnership Agreement or Decision 2013/755/EU, the responsible authorising officer of the Commission may temporarily take the former's place and act in the name and on behalf of the former in indirect management. In such a case, the Commission may receive, from the resources allocated to the ACP State or OCTs in question, financial compensation for the additional administrative workload incurred.

*Article 18***Accounting officer**

1. The accounting officer of the Commission shall be the accounting officer of the 11th EDF.
2. Points (a) and (c) to (f) of the first subparagraph of Article 77(1), Article 78(3) and (4), Article 79, Article 80(1), (2) and (3), Article 81, Article 82(2) to (10), and Articles 84, 85 and 86 of Regulation (EU, Euratom) 2018/1046 shall apply.
3. The accounting rules referred to in Article 80(1), (2) and (3) of Regulation (EU, Euratom) 2018/1046 shall apply to the 11th EDF resources managed by the Commission. Those rules shall be applied to the 11th EDF while taking into account the specific nature of its activities.
4. The accounting officer shall prepare and, after consulting the responsible authorising officer, adopt the chart of accounts to be applied to the 11th EDF's operations.

*TITLE V***Revenue operations***Article 19***Annual contribution and its instalments**

1. In accordance with Article 7 of the Internal Agreement, the ceiling for the annual amount of the contribution for the year  $n + 2$  and the annual amount of the contribution for the year  $n + 1$ , as well as its payment in three instalments, shall be determined in accordance with the procedure set out in paragraphs 2 to 7 of this Article.

The instalments to be paid by each Member State shall be set in such a way as to be in proportion to the Member State's contributions to the 11th EDF as set out in Article 1(2) of the Internal Agreement.

2. The Commission shall present a proposal by 15 October of the year  $n$ , setting out:
  - (a) the ceiling for the annual amount of the contribution for the year  $n + 2$ ;
  - (b) the annual amount of the contribution for the year  $n + 1$ ;
  - (c) the amount of the first instalment of the contribution for the year  $n + 1$ ;
  - (d) an indicative, non-binding forecast based on a statistical approach for the expected annual amounts of contributions for the years  $n + 3$  and  $n + 4$ .

The Council shall decide on that proposal by 15 November of the year  $n$ .

The Member States shall pay the first instalment of the contribution for the year  $n + 1$  at the latest by 21 January of the year  $n + 1$ .

3. The Commission shall present a proposal by 15 June of the year  $n + 1$ , setting out:
  - (a) the amount of the second instalment of the contribution for the year  $n + 1$ ;
  - (b) a revised annual amount of the contribution for the year  $n + 1$  in line with actual needs, in cases where, in accordance with Article 7(3) of the Internal Agreement, the annual amount deviates from actual needs.

The Council shall decide on that proposal at the latest 21 calendar days following the presentation by the Commission of its proposal.

The Member States shall pay the second instalment at the latest 21 calendar days following the adoption of the Council decision.

4. By 15 June of the year  $n + 1$ , the Commission, taking into account the EIB's forecasts concerning the management and operation of the Investment Facility, including those interest rates subsidies which are implemented by the EIB, shall establish and communicate to the Council a statement of the commitments, payments, and the annual amount of the calls for contributions made in the year  $n$  and to be made in the years  $n + 1$  and  $n + 2$ . The Commission shall provide the annual amounts of the contributions by Member State, as well as the amount still to be paid by the EDF, distinguishing between the shares of the EIB and of the Commission. The amounts for the years  $n + 1$  and  $n + 2$  shall be based on the capacity to deliver effectively the proposed level of resources while endeavouring to avoid significant variations between the different years, as well as significant end-of-year balances.

5. The Commission shall present a proposal by 10 October of the year  $n + 1$ , setting out:
  - (a) the amount of the third instalment of the contribution for the year  $n + 1$ ;

- (b) a revised annual amount of the contribution for the year  $n + 1$  in line with actual needs, in cases where in accordance with Article 7(3) of the Internal Agreement the annual amount deviates from actual needs.

The Council shall decide on that proposal at the latest 21 calendar days following the presentation by the Commission of its proposal.

The Member States shall pay the third instalment at the latest 21 calendar days following the adoption of the Council decision.

6. The sum of the instalments relating to a certain year shall not exceed the annual amount of the contribution determined for that year. The annual amount of the contribution shall not exceed the ceiling determined for that year. The ceiling shall not be increased except in accordance with Article 7(4) of the Internal Agreement. A possible increase of the ceiling shall be made part of the proposals referred to in paragraphs 2, 3 and 5 of this Article.

7. The ceiling for the annual amount of the contribution to be paid by each Member State for the year  $n + 2$ , the annual amount of the contribution for the year  $n + 1$  and the instalments of the contributions shall specify:

- (a) the amount managed by the Commission; and
- (b) the amount managed by the EIB, including the interest rates subsidies managed by it.

#### Article 20

##### Payment of the instalments

1. Calls for contributions shall first use up the amounts laid down for previous EDFs, one after the other.
2. The contributions of the Member States shall be expressed in euros and shall be paid in euros.
3. The contribution referred to in point (a) of Article 19(7) shall be credited by each Member State to a special account entitled 'European Commission — European Development Fund' opened with the central bank of the relevant Member State or the financial institution designated by it. The amount of such contributions shall remain in those special accounts until the payments need to be made.
4. The account referred to in paragraph 3 shall be kept free of any charge and interest.
5. Where negative interest is applied to the account referred to in paragraph 3 of this Article, the Member State concerned shall, at the latest on the date of payment of each instalment referred to in Article 19, credit the account with an amount corresponding to the amount of such negative interest applied until the first day of the month preceding the payment of the instalment.
6. Without prejudice to paragraph 7 of this Article, the Commission shall endeavour to make any withdrawals from the special accounts in such a way as to maintain a distribution of assets in those accounts that corresponds to the contribution key pursuant to point (a) of Article 1(2) of the Internal Agreement.
7. When covering the 11th EDF cash resource requirements in accordance with paragraph 3, the Commission shall aim to reduce the impact of the obligation on Member States to credit amounts of negative interest pursuant to paragraph 5 by drawing with priority on the sums credited to the accounts concerned.
8. The contribution referred to in point (b) of Article 19(7) shall be credited by each Member State in accordance with Article 47(1).

#### Article 21

##### Interest for unpaid contribution amounts

1. On the expiry of the time limits laid down in Article 19(2), (3) and (5), the Member State concerned shall be obliged to pay interest in accordance with the following conditions:
  - (a) the interest rate shall be the rate applied by the European Central Bank to its principal refinancing operations, as published in the C series of the *Official Journal of the European Union*, in force on the first calendar day of the month in which the time limit expires, increased by two percentage points. That rate shall be increased by a quarter of a percentage point for each month of delay;
  - (b) the interest shall be payable for the period elapsing from the calendar day following expiry of the time limit for payment up to the day of payment.
2. In respect of the contribution referred to in point (a) of Article 19(7) of this Regulation, the interest shall be credited to one of the accounts provided for in Article 1(6) of the Internal Agreement

In respect of the contribution referred to in point (b) of Article 19(7) of this Regulation, the interest shall be credited to the Investment Facility in accordance with Article 47(1) of this Regulation.



*Article 22***Calling on unpaid contributions**

Upon expiry of the financial protocol set out in Annex Ic to the ACP-EU Partnership Agreement, the part of the contributions which the Member States remain obliged to pay in accordance with Article 19 of this Regulation shall be called on by the Commission and the EIB, as required, in accordance with the conditions laid down in this Regulation.

*Article 23***Other revenue operations**

1. Articles 97, 98 and 99, Article 100(1), the first subparagraph of Article 100(2), Article 101(1) to (6), and Articles 102 to 107 and 109 of Regulation (EU, Euratom) 2018/1046 shall apply. Recovery may be done by way of a Commission decision enforceable pursuant to Article 299 TFEU.
2. With regard to Article 97(3) of Regulation (EU, Euratom) 2018/1046, the reference to own resources shall be understood as reference to the Member States' contributions referred to in Article 19 of this Regulation.
3. Article 99(2) of Regulation (EU, Euratom) 2018/1046 shall apply to recoveries established in euro. For recoveries in local currency, it shall apply using the rate of the central bank of the country issuing the currency in force on the first calendar day of the month in which the recovery order is established.

## TITLE VI

**Expenditure operations***Article 24***Rules applicable to commitments and financing decisions**

1. The commitment of expenditure shall be preceded by a financing decision adopted by the Commission.
2. Article 110(2) to (5), Article 111, points (a) and (b) of the first subparagraph of Article 112(1), Article 112(2) to (5), and Articles 114, 115 and 116 of Regulation (EU, Euratom) 2018/1046 shall apply.
3. With regard to the application of the third and fourth subparagraphs of Article 114(2) of Regulation (EU, Euratom) 2018/1046, the period within which to enter into legal commitments which implement the action may be extended beyond three years following the date of the conclusion of the financing agreement with ACP States and OCTs.
4. Where the 11th EDF resources are implemented in indirect management with ACP States or OCTs, the responsible authorising officer may, upon accepting justification, extend the two-year period referred to in Article 114(6) of Regulation (EU, Euratom) 2018/1046 and the three-year period referred to in the third subparagraph of Article 114(2) thereof.
5. At the end of the extended periods referred to in paragraph 3 and 4, the unused balances shall be, as applicable, decommitted.
6. Where measures are adopted under Articles 96 and 97 of the ACP-EU Partnership Agreement, the running of the periods referred to in this Article may be suspended.
7. For the purposes of the third subparagraph of paragraph 1 of Article 111 of Regulation (EU, Euratom) 2018/1046, compliance shall be assessed against the relevant provisions, in particular the Treaties, the ACP-EU Partnership Agreement, Decision 2013/755/EU, the Internal Agreement, this Regulation, and all acts adopted in implementation of those provisions.

*Article 25***Time limits for payment**

1. Subject to the conditions set out in paragraph 2 of this Article, Article 116 of Regulation (EU, Euratom) 2018/1046 shall apply to payments carried out by the Commission.
2. Where 11th EDF resources are applied under indirect management with ACP States or OCTs and the Commission executes payments on their behalf, the time limit referred to in point (b) of Article 116(1) of Regulation (EU, Euratom) 2018/1046 shall apply to all payments not referred to in point (a) thereof. The financing agreement shall contain the necessary provisions to ensure the timely collaboration of the contracting authority.

3. With regard to Article 116(5) of Regulation (EU, Euratom) 2018/1046, payments for which the Commission is responsible shall be charged to the same allocation as the corresponding contract. If the remaining funds are not sufficient, it will be charged to the account or accounts provided for in Article 1(6) of the Internal Agreement.

#### TITLE VII

### **Internal auditor**

#### Article 26

### **Internal auditor**

The internal auditor of the Commission shall be the internal auditor of the 11th EDF, and the internal audit progress committee of the Commission referred to in Article 123 of Regulation (EU, Euratom) 2018/1046 shall also carry out its role with regard to EDF resources managed by the Commission. Articles 118 to 122 of Regulation (EU, Euratom) 2018/1046 shall apply.

#### TITLE VIII

### **Various implementation provisions**

#### Article 27

### **Common rules**

Articles 124 to 146, Article 147(1), Article 148, Article 149(1) and (3) to(7), and Articles 150 to 153 of Regulation (EU, Euratom) 2018/1046 shall apply.

#### Article 28

### **Administrative arrangements with the European External Action Service**

Detailed arrangements may be agreed between the European External Action Service and the Commission services in order to facilitate the implementation by Union delegations of the resources foreseen for support expenditure linked to the 11th EDF under Article 6 of the Internal Agreement.

#### TITLE IX

### **Funding instruments**

#### Article 29

### **General provisions on funding instruments**

1. For the purpose of providing financial assistance under this Title, cooperation between the Union, the ACP States and OCTs may take the form, inter alia, of:

- (a) triangular arrangements by which the Union coordinates with any third country its assistance to an ACP State, OCTs or region;
- (b) administrative cooperation measures such as twinning between the public institutions, local authorities, national public bodies or private law entities entrusted with public service tasks of a Member State or an outermost region, and those of an ACP State or OCTs or their region, as well as cooperation measures involving public-sector experts dispatched from the Member States and their regional and local authorities;
- (c) expert facilities for targeted capacity building in the ACP State, OCTs or their region and short-term technical assistance and advice to them, as well as support of sustainable centres of knowledge and excellence on governance and reform in the public sector;
- (d) contributions to the costs necessary to set up and administer a public-private partnership;
- (e) sector policy support programmes, by which the Union provides support to an ACP State's or OCTs' sector programme;
- (f) interest rate subsidies.

2. In addition to the types of financing provided for in Articles 30 to 37, financial assistance may also be provided through the following:

- (a) debt relief, under internationally agreed debt relief programmes;
- (b) in exceptional cases, sectoral and general import programmes, which may take the form of:
  - (i) sectoral import programmes in kind,

- (ii) sectoral import programmes providing foreign exchange to finance imports for the sector in question, or
- (iii) general import programmes providing foreign exchange to finance general imports of a wide range of products.

3. Financial assistance may also be provided through contributions to international, regional or national funds, such as those established or managed by the EIB, Member States or by ACP States or OCTs and regions or by international organisations, for attracting joint financing from a number of donors, or to funds set up by one or more donors for the purpose of the joint implementation of projects.

Reciprocal access by Union financial institutions to financial instruments set up by other organisations shall be promoted, as appropriate.

4. Actions financed under the 11th EDF may be implemented with parallel or joint co-financing.

In the case of parallel co-financing, an action is to be split into a number of clearly identifiable components which are each financed by the different partners providing co-financing in such a way that the end-use of the financing can always be identified.

In the case of joint co-financing, the total cost of an action is to be shared between the partners providing the co-financing and the resources are to be pooled in such a way that it is no longer possible to identify the source of financing for any given activity undertaken as part of the action.

5. In implementing its support to transition and reform in ACP States and OCTs, the Union shall draw on and share the experiences of Member States and lessons learned.

#### Article 30

#### Indirect management

1. Subject to the conditions set out in paragraphs 2 and 3 of this Article, Articles 154 to 159 of Regulation (EU, Euratom) 2018/1046 shall apply. For the purposes of Article 158 of that Regulation, indirect management with third countries may also take the form of a financing agreement concluded with the relevant organisation or body at regional or intra-ACP level.

2. Entities implementing 11th EDF funds shall ensure consistency with the Union's external policy and may entrust budget-implementation tasks to other entities under conditions equivalent to those applying to the Commission. They shall fulfil their obligations under Article 155(1) of Regulation (EU, Euratom) 2018/1046 annually. The audit opinion shall be submitted within one month of the report and management declaration, to be taken into account in providing assurance for the Commission.

International organisations as referred to in point (c)(ii) of the first subparagraph of Article 62(1) of Regulation (EU, Euratom) 2018/1046 and bodies of the Member States as referred to in points (c)(v) and (vi) of the first subparagraph of Article 62(1) of that Regulation which have been entrusted budget-implementation tasks by the Commission may also entrust budget-implementation tasks to non-profit organisations possessing the appropriate operational and financial capacity, under conditions equivalent to those applying to the Commission.

ACP States and OCTs may implement the 11th EDF funds through their departments and bodies governed by private law on the basis of a service contract. Those bodies shall be selected on the basis of open, transparent, proportionate and non-discriminatory procedures, avoiding conflict of interests. The financing agreement shall stipulate the terms of the service contract.

3. Where the 11th EDF is applied in indirect management with ACP States, OCTs or their regional organisations, without prejudice to the responsibilities of the contracting authorities, the Commission:

- (a) shall, where necessary, recover amounts due from the contracting authorities' recipients in accordance with Articles 101 to 106 of Regulation (EU, Euratom) 2018/1046, with the exception of Article 101(7) to (9) thereof, including by means of a decision enforceable under the same conditions as those laid down in Article 299 TFEU;
- (b) may, where the circumstances so require, impose administrative or financial penalties, or both, upon the contracting authority's participants or recipients, as well as upon other entities or persons who are, vis-à-vis the contracting authority, in one of the situations referred to in Article 136(1) of Regulation (EU, Euratom) 2018/1046, under the same conditions as those laid down in Articles 135 to 143 of that Regulation.

The financing agreement shall contain provisions to that end.

*Article 31***Procurement**

Articles 160 to 172, Article 173(1), the first and second subparagraphs of Article 173(2), Article 173(3) and (4), and Articles 174 to 179 of Regulation (EU, Euratom) 2018/1046 shall apply.

*Article 32***Grants**

Articles 180 to 205 of Regulation (EU, Euratom) 2018/1046 shall apply.

*Article 33***Prizes**

Articles 206 and 207 of Regulation (EU, Euratom) 2018/1046 shall apply.

*Article 34***Financial instruments**

1. Article 208(4) and (5), Article 209(1), (2) and (4), Article 210(1), Article 214, Article 215(2) to (7) and Article 216 of Regulation (EU, Euratom) 2018/1046 shall apply.
2. Financial instruments may be established under the 11th EDF. Member States or other parties may contribute to such instruments.
3. The 11th EDF shall be authorised to contribute to financial instruments or to the provisioning of budgetary guarantees set up by the Union budget.
4. Financial instruments may be established in the financing decisions referred to in Article 24. They shall be, whenever possible, under the lead of the EIB, a multilateral European financial institution such as the European Bank for Reconstruction and Development, or a bilateral European financial institution such as a bilateral development bank, and may be pooled with additional grants from other sources.

*Article 35***Union trust funds**

1. Articles 234, 235 and 252 of Regulation (EU, Euratom) 2018/1046 shall apply.
2. With regard to Article 234(2) of Regulation (EU, Euratom) 2018/1046, references to the competent committee shall be understood as to the European Development Fund Committee referred to in Article 8 of the Internal Agreement.

*Article 36***Budget support**

1. Article 236 of Regulation (EU, Euratom) 2018/1046 shall apply.
2. Union general or sector budget support shall be based on mutual accountability and shared commitments to universal values, and shall aim at strengthening contractual partnerships between Union and ACP States or OCTs in order to promote democracy, human rights and the rule of law, to support sustainable and inclusive economic growth and to eradicate poverty.
3. Any decision to provide budget support shall be based on budget support policies agreed by the Union, a clear set of eligibility criteria and a careful assessment of the risks and benefits.

One of the key determinants of such a decision shall be an assessment of the commitment, record and progress of ACP States and OCTs with regard to democracy, human rights and the rule of law. Budget support shall be differentiated to better respond to the political, economic and social context of the ACP States and OCTs, taking into account situations of fragility.

4. When providing budget support, the Commission shall clearly define and monitor its conditionality, and shall also support the development of parliamentary control and audit capacities and increase transparency and public access to information.

5. Disbursement of budget support shall be conditional on satisfactory progress towards achieving the objectives agreed with the ACP States and OCTs.
6. When providing budget support to OCTs, their institutional links to the Member State concerned shall be taken into account.

*Article 37*

**Experts and payment of subscriptions**

Article 237(1) to (4), and Articles 238 and 239 of Regulation (EU, Euratom) 2018/1046 shall apply.

TITLE X

**Annual accounts and other financial reporting**

*Article 38*

**11th EDF accounts**

1. The annual accounts of the 11th EDF shall be prepared for each financial year, which shall run from 1 January to 31 December. Those accounts shall comprise:
  - (a) the financial statements;
  - (b) the report on financial implementation.

The financial statements shall be accompanied by the information supplied by the EIB in accordance with Article 51 of this Regulation.

Article 243 of Regulation (EU, Euratom) 2018/1046 shall apply.

2. The accounting officer shall send, via electronic means, the provisional accounts to the Court of Auditors by 31 March of the following year.

The Court of Auditors shall, by 15 June of the following year, make its observations on the provisional accounts as regards the part of the 11th EDF resources for the financial management of which the Commission is responsible, so that the Commission can make the corrections deemed necessary for drawing up the final accounts

3. The Commission shall approve the final accounts and send them, via electronic means, to the European Parliament, to the Council and to the Court of Auditors by 31 July of the following year.

By the same date, the accounting officer shall transmit a representation letter covering the final accounts to the Court of Auditors.

The second subparagraph of Article 246(3) of Regulation (EU, Euratom) 2018/1046 shall apply.

The final accounts shall be published in the *Official Journal of the European Union* together with the statement of assurance given by the Court of Auditors in accordance with Article 43 of this Regulation by 15 November of the following year.

*Article 39*

**Report on financial implementation**

1. The report on financial implementation shall be prepared by the responsible authorising officer and transmitted to the accounting officer by 15 March for inclusion in the 11th EDF accounts. It shall present a true and fair view of the revenue and expenditure operations from 11th EDF resources. It shall be presented in millions of euros and shall comprise:

- (a) the financial outturn account, which sets out all financial operations for the year in terms of revenue and expenditure;
- (b) the annex to the financial outturn account, which shall supplement and comment on the information given in that account.

2. The financial outturn account shall contain the following:

- (a) a table describing changes over the preceding financial year in the allocations;
- (b) a table showing by allocation the total commitments, assigned funds and payments effected during the financial year and aggregate totals since the opening of the 11th EDF.

*Article 40***Monitoring and reporting by the Commission and the EIB**

1. The Commission and the EIB shall monitor, each to the extent to which it is concerned, the use of 11th EDF assistance by the ACP States, the OCTs or any other beneficiary, and the implementation of projects financed by the 11th EDF, having particular regard to the objectives referred to in Articles 55 and 56 of the ACP-EU Partnership Agreement and in the corresponding provisions of Decision 2013/755/EU.
2. The EIB shall periodically inform the Commission regarding the implementation of projects financed by the 11th EDF resources it administers, following the procedures set out in the operational guidelines of the Investment Facility.
3. The Commission and the EIB shall provide the Member States with information on the operational implementation of 11th EDF resources as foreseen in Article 18 of Regulation (EU) 2015/322. The Commission shall send that information to the Court of Auditors.

*Article 41***Budgetary accounting**

1. The budgetary accounts shall provide a detailed record of the financial implementation of the 11th EDF resources.
2. The budgetary accounts shall show all:
  - (a) allocations and the corresponding 11th EDF resources;
  - (b) financial commitments;
  - (c) payments; and
  - (d) established debts and collection operations for the financial year, in full and without any adjustment against each other.
3. When commitments, payments and debts are expressed in national currencies, the accounting system shall make it possible, where necessary, for them to be recorded in national currencies as well as in euros.
4. Global financial commitments shall be recorded in euros for the value of the financing decisions taken by the Commission. Individual financial commitments shall be recorded in euros at the equivalent of the value of the legal commitments. That value shall include, where appropriate:
  - (a) provision for the payment of reimbursable expenses on presentation of supporting documents;
  - (b) provision for the revision of prices, for the increase in quantities, and for contingencies as defined in contracts funded by the 11th EDF;
  - (c) financial provision for exchange rate fluctuations.
5. All accounting records referring to the fulfilment of a commitment shall be kept for a period of five years from the date of the decision giving discharge in respect of the financial implementation of 11th EDF resources, referred to in Article 44, concerning the financial year during which the commitment was closed for accounting purposes.

*TITLE XI***External audit and discharge***Article 42***External audit of and discharge to the Commission**

1. Regarding the operations financed from 11th EDF resources managed by the Commission in accordance with Article 14, the Court of Auditors shall exercise its powers in accordance with this Article and Article 43.
2. Articles 255, 256 and 257, Article 258(1) and (2), the second sentence of Article 258(3), Article 258(4) and Article 259 of Regulation (EU, Euratom) 2018/1046 shall apply.
3. For the purposes of this Title, the Court of Auditors shall have regard to the Treaties, the ACP-EU Partnership Agreement, Decision 2013/755/EU, the Internal Agreement, this Regulation and all other acts adopted pursuant to those instruments.
4. The Court of Auditors shall be informed of the internal rules referred to in Article 60(1) of Regulation (EU, Euratom) 2018/1046, including the appointment of authorising officers, as well as of the instrument of delegation referred to in Article 79 of that Regulation.

5. The national audit authorities of the ACP States and the OCTs shall be encouraged to cooperate with the Court of Auditors at its invitation.
6. The Court of Auditors may, at the request of one of the Union institutions, issue opinions on matters relating to the 11th EDF.

#### Article 43

#### Statement of assurance

At the same time as the annual report referred to in Article 258 of Regulation (EU, Euratom) 2018/1046, the Court of Auditors shall provide the European Parliament and the Council with a statement of assurance as to the reliability of the accounts and the legality and regularity of the underlying transactions, which shall be published in the *Official Journal of the European Union*.

#### Article 44

#### Discharge

1. Subject to paragraph 2 of this Article, Articles 260 to 263 of Regulation (EU, Euratom) 2018/1046 shall apply.
2. The discharge decision shall cover the accounts referred to in Article 38 of this Regulation, except the part thereof provided by the EIB in accordance with Article 51 thereof. The discharge referred to in Article 260(1) of Regulation (EU, Euratom) 2018/1046 shall be given in respect of those 11th EDF resources that are managed by the Commission in accordance with Article 14(2) of this Regulation for year n.
3. The discharge decision shall be published in the *Official Journal of the European Union*.

#### PART TWO

#### INVESTMENT FACILITY

#### Article 45

#### Role of the EIB

1. The EIB shall manage the Investment Facility and conduct operations thereunder, including interest rate subsidies and technical assistance, on behalf of the Union in accordance with this Part.
2. In addition, the EIB shall undertake the financial implementation of other operations carried out by means of financing from its own resources in accordance with Article 4 of the Internal Agreement, where applicable combined with interest rate subsidies drawn from the 11th EDF resources.
3. The implementation of this Part shall not give rise to any obligations or liabilities on the part of the Commission.

#### Article 46

#### Estimates of commitments and payments of the Investment Facility

Before 1 September of each year, the EIB shall send, in accordance with the Internal Agreement, the Commission its estimates of commitments and payments, which are necessary for drawing up the statement referred to in Article 7(1) of the Internal Agreement, in respect of the operations of the Investment Facility, including those interest rate subsidies that it implements. The EIB shall send the Commission updated estimates of commitments and payments when deemed necessary. Modalities for those estimates shall be laid down in the management agreement referred to in Article 49(4) of this Regulation.

#### Article 47

#### Management of contributions to the Investment Facility

1. The contributions referred to in point (b) of Article 19(7) and adopted by the Council shall be paid without cost for the beneficiary by the Member States to the EIB via a special account opened by the EIB in the name of the Investment Facility in accordance with detailed rules laid down in the management agreement referred to in Article 49(4).
2. The date referred to in Article 1(5) of the Internal Agreement shall be 31 December 2030.
3. Save where the Council decides otherwise regarding the remuneration of the EIB, in accordance with Article 5 of the Internal Agreement, proceeds received by the EIB via the credit balance of the special accounts referred to in paragraph 1 of this Article shall supplement the Investment Facility and shall be taken into consideration for the calls for contribution referred to in Article 19 of this Regulation and shall be used to meet any financial obligation after 31 December 2030.

4. The EIB shall undertake the treasury management of the amounts referred to in paragraph 1 of this Article in accordance with the detailed rules laid down in the management agreement referred to in Article 49(4).
5. The Investment Facility shall be managed in accordance with the conditions laid down in the ACP-EU Partnership Agreement, Decision 2013/755/EU, the Internal Agreement and this Part.

#### *Article 48*

### **Remuneration of the EIB**

The EIB shall be remunerated on a full indemnity basis for the management of the Investment Facility operations. The Council shall decide on the resources and mechanisms for remuneration of the EIB in accordance with Article 5(4) of the Internal Agreement. The measures implementing that decision shall be incorporated in the management agreement referred to in Article 49(4) of this Regulation.

#### *Article 49*

### **Implementation of the Investment Facility**

1. The EIB's own rules shall apply to instruments financed by the 11th EDF resources which it manages.
2. Where programmes or projects are co-financed by the Member States or their implementing bodies, and correspond to the priorities which are laid down in the Country Cooperation Strategies and Programming Documents provided for in Regulation (EU) 2015/322 and laid down in the second and third subparagraphs of Article 10(1) of the Internal Agreement and in Article 74 of Decision 2013/755/EU, the EIB may entrust tasks relating to the implementation of the Investment Facility to Member States or their implementing bodies.
3. The names of the recipients of financial support under the Investment Facility shall be published by the EIB, unless such disclosure risks harming the commercial interests of the recipients, while duly observing of the requirements of confidentiality and security, in particular the protection of personal data. The criteria for disclosure and the level of detail published shall take into account specificities of the sector and the nature of the Investment Facility.
4. The detailed rules for implementing this Part shall be the subject of a management agreement between the Commission, acting on behalf of the Union, and the EIB.

#### *Article 50*

### **Reporting under the Investment Facility**

The EIB shall regularly inform the Commission of the operations carried out under the Investment Facility, including interest rate subsidies, the use made of each call for contributions paid to the EIB, and, in particular, of the total quarterly amounts of commitments, contracts and payments, in accordance with the detailed rules laid down in the management agreement referred to in Article 49(4).

#### *Article 51*

### **Accounting and financial statements of the Investment Facility**

1. The EIB shall keep the accounts of the Investment Facility, including those interest rate subsidies that are implemented by it and financed by the 11th EDF, to provide a trail for the full circuit of the funds, from receipt to disbursement and then to the revenue to which they give rise and any subsequent recoveries. The EIB shall draw up the relevant accounting rules and methods which are guided by international accounting standards and inform the Commission and the Member States accordingly.
2. Each year the EIB shall send the Council and the Commission a report on the implementation of operations financed from 11th EDF resources under its management, including the financial statements drawn up in accordance with the rules and methods referred to in paragraph 1 of this Article and the information referred to in Article 39(2).
3. Those documents shall be submitted in draft form no later than 28 February and in their final version no later than 30 June of the financial year following the financial year which they concern, so that they can be used by the Commission in preparing the accounts referred to in Article 38 of this Regulation in accordance with Article 11(4) of the Internal Agreement. The report on the financial management of the resources managed by the EIB shall be submitted by the latter to the Commission by 31 March.



*Article 52***External audit and discharge relating to EIB operations**

The operations financed from 11th EDF resources managed by the EIB in accordance with this Part shall be subject to the audit and discharge procedures that the EIB applies for third party mandate accounts. Detailed rules for auditing by the Court of Auditors shall be set out in a tripartite agreement between the EIB, the Commission and the Court of Auditors.

## PART THREE

**TRANSITIONAL AND FINAL PROVISIONS**

## TITLE I

***Transitional provisions****Article 53***Transfer of balances remaining from previous EDFs**

Transfers to the 11th EDF of the balances remaining from resources constituted under the Internal Agreements relating to the previous EDFs shall be made in accordance with point (b) of Article 1(2), (3) and (4) of the Internal Agreement.

*Article 54***Revenue from interest on resources of previous EDFs**

The balance of revenue accruing from interest on the resources of previous EDFs shall be transferred to the 11th EDF and allocated for the same purposes as the revenue provided for in Article 1(6) of the Internal Agreement. The same shall apply to miscellaneous revenue of previous EDFs comprising, for example, default interest received in the event of late payment of contributions to those EDFs by Member States. The interest generated by the previous EDF resources managed by the EIB shall supplement the Investment Facility.

*Article 55***Reduction of contributions by remaining balances**

The amounts from projects under the 10th EDF or from other previous EDFs not committed according to Article 1(3) of the Internal Agreement, or decommitted according to Article 1(4) of the Internal Agreement, unless decided otherwise by the Council unanimously, shall reduce that part of Member States' contributions stated in point (a) of Article 1(2) of the Internal Agreement.

The impact on the contribution of each Member State shall be calculated in proportion to the contribution of each Member State to the 9th and 10th EDF. The impact shall be calculated annually.

*Article 56***Application of this Regulation to operations under previous EDFs**

This Regulation shall apply to operations financed from previous EDFs without prejudice to existing legal commitments. This Regulation shall not apply to the Investment Facility under previous EDFs.

*Article 57***Commencement of contribution procedures**

The procedure concerning Member States' contributions laid down in Articles 19 to 22 shall apply for the first time with regard to the contributions of the year  $n + 2$ , provided that the Internal Agreement enters into force between 1 October of year  $n$  and 30 September of year  $n + 1$ .

## TITLE II

**Final provisions***Article 58***Repeal**

Regulation (EU) 2015/323 is hereby repealed.

References to the repealed Regulation shall be construed as references to this Regulation and shall be read in accordance with the correlation table in the Annex.

*Article 59***Entry into force and application**

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

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

Done at Brussels, 26 November 2018.

*For the Council*

*The President*

F. MOGHERINI

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## ANNEX

## CORRELATION TABLE

Regulation (EU) 2015/323	This Regulation
Article 1	Article 1
Article 2(1)	—
Article 2(2)	Article 2(1)
Article 2(3)	Article 2(2)
Article 2(4)	Article 3(1) and (2)
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Article 3	Article 3(2)
Article 4	Article 3(2)
Article 5	Article 4
Article 6	Article 5
Article 7	Article 6
Article 8	Article 7
Article 9(1)	Article 8(1)
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Article 9(2)(a)	Article 8(2)(a)
Article 9(2)(b)	Article 8(2)(b)
Article 9(2)(c)	Article 8(2)(c)
Article 9(2)(d)	—
Article 9(2)(e)	Article 8(2)(d)
Article 9(2)(f)	Article 8(2)(e)
Article 9(3)	Article 8(3)
Article 9(4)	—
Article 9(5)	Article 8(4)
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Article 11(3)	—
Article 11(4)	—
Article 12	—
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Article 17(3)	Article 30(2)

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Article 17(5)	Article 29(3)
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Article 19(1), first subparagraph	Article 18(2)
Article 19(1), second subparagraph	Article 17(1)
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Article 25(2)	Article 23(2)
Article 25(3)	Article 23(3)
Article 25(4)	—
Article 25(5)	—
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Article 27(1)	Article 24(2)
Article 27(2)	Article 24(3)
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Article 27(4)	Article 24(5)
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Article 27(6)	Article 24(7)
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Article 35(4)	Article 29(5)
—	Article 30(1)
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Regulation (EU) 2015/323	This Regulation
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Article 43(4)	Article 38(3), first and second subparagraphs
Article 43(5)	Article 38(3), third subparagraph
Article 43(6)	Article 38(3), fourth subparagraph
Article 43(7)	Article 38(2), first subparagraph, and Article 38(3), first and second subparagraphs
Article 44(1)	Article 38(1), third subparagraph
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Article 48(4)	Article 42(2)
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Article 48(6)	Article 42(5)
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