BACKGROUND FICHE FOR EGESIF: LESSONS LEARNED FROM THE IMPLEMENTATION OF 2014-2020 FINANCIAL INSTRUMENTS

Introduction

Financial instruments are an increasingly important delivery mechanism for cohesion, agricultural, rural development and other policies. Building on the experience of 2007-2013, the legal and policy framework for 2014-2020 was therefore designed with a view to boosting their role in delivering cohesion policy in areas where investments produce financial returns and allow recipients to pay back received assistance.

Key features of this framework include: expansion of scale and scope (all five ESI Funds and all eleven thematic objectives); requirement of a solid evidence base for contributions to financial instruments (compulsory ex-ante assessment); system of payments linked to disbursement to final recipients; improved monitoring and reporting; rules on combination of FIs and other forms of support such as grants; and a range of implementation options including 'off-the-shelf instruments' and the possibility to contribute resources to EU-level instruments such as the SME initiative. Changes to the state aid framework were also designed to facilitate state aid compliance for financial instruments.

However, feedback from stakeholders through both multilateral (Council, EP, ECA, CoR, EGESIF, HLG on simplification, conferences and seminars) and bilateral fora has been mixed. Notwithstanding the original intention to provide nothing more than a comprehensive legal framework and a short 'plain language' guide for managing authorities, the EC came very quickly under pressure to produce extensive guidance as well as written answers to complex questions from individual MS. The content of such guidance and answers then in turn raised further questions. Finally, motivated by ongoing calls for simplification and a desire to improve the regulatory framework without unduly rocking the boat, the mid-term review through the 'Omnibus' will introduce an additional ESIF-EFSI combination option, as well as extension of SMEI, simplification of eligibility rules in rural development FIs, provisions relating to direct award and improvement of the audit framework, meaning further changes to the framework for which production of further guidance has already been requested and scheduled.

I. Planning/preparation (ex-ante evaluation, programming, ex-ante assessment) and set-up (implementation options, selection of financial intermediaries, state aid)

Lessons learned

Annual reporting by managing authorities shows significant progress by Member States in rolling out the FIs initially planned in the OPs and RDPs. As at 31 December 2016, ex-ante assessments had been completed for 221 financial instruments, 181 funding agreements had been signed and the total programme contribution committed to FIs was nearly EUR 12.8

billion (of which EUR 9.9 billion ERDF and CF). The three mainstream implementation options (investment in capital, entrustment, and direct management by MA) were all being used and five Member States were contributing to EU level instruments (through SMEI). FIs were being successfully used together with grants in several Member States.

From this overall picture, FIs seem to be a well-accepted delivery tool and progress towards the IPE targets on track. However, the feedback from stakeholders is mixed. On the one hand, there is clear recognition of the need for better evidenced-based decision making and acknowledgement of the support that MAs can derive from having access to a well-prepared ex-ante assessment. On the other hand, concerns have been expressed about timing and length of this ex-ante procedure, as well as the capacity of managing authorities and monitoring committees to handle and engage in this process. The large range of implementation options including the possibility to contribute to EU level instruments has provided choice for managing authorities on the one hand, but also led to complexity and different sets of rules. Finally, many stakeholders have pointed to problems as regards selection of financial intermediaries and state aid, as well as criticising the 'lack of a level playing field' between ESIF and EU-level financial instruments in these two key areas.

Questions for discussion

- What is your experience of the planning/preparatory stage for financial instruments (ex-ante evaluation, programming and ex-ante assessment? What could be improved?
- When considering financial instruments as a delivery tool for your ESIF programmes did you come across any particular issues or challenges in terms of eligibility?
- What influenced your decision on which implementation option to choose? What is your experience so far?
- What is your experience of the selection process and how could it be improved? Were there any specific products for which you encountered difficulties in the open selection of financial intermediaries?
- What is your experience of the application of the state aid framework to 2014-2020 financial instruments? Did you encounter any specific difficulties? Did you use "*de minimis*" or one of the exceptions under ABER/GBER (which one?) for your financial instruments?
- What is your experience of setting up schemes designed to provide a combination of support (e.g. financial instruments and grants)? Did you encounter any specific difficulties? What could be improved?

II. Implementation (MCF, payments and financial management of ESIF contributions), monitoring and reporting, control

Lessons learned

Notwithstanding the relatively early stage of implementation covered by the last annual reporting (end 2016), there is already quite some information available. By end 2016, 150 FIs had already received payments from the managing authorities totalling EUR 3.4 billion (including EUR 3 billion ERDF and CF), confirming that an increasing number of FIs became operational by the end of 2016. Excluding the SME Initiative data, the programme contribution paid into FIs was on average 25% of the committed amount. Furthermore, 17 Member States had paid EUR 39.8 million of management costs and fees, of which EUR 3.9 million already as performance based remuneration. By end 2016 EUR 1.1 billion of OP contributions had been disbursed to final recipients, and there were also some encouraging results in terms of expected leverage, reaching 7.5 for loans, 25 for guarantees and 9.6 for equity.

From this overall picture, it is clear that there has been considerable progress in the implementation of FI in many Member States. The overall selection of FI operations, which stands at 50% of the planned allocations in the OPs, is better than for the ERDF&CF total at 28.4%. However, as for the planning/preparation and set-up stages, feedback from stakeholders is mixed. It is generally accepted that the legislative and policy framework for 2014-2020 was intended to address problems encountered during 2007-2013 such as over-dimensioning of financial instruments, 'parking' of funding, management costs and fees not linked to performance, inadequate reporting, and difficulties with control and audit. However, while on the one hand some stakeholders have criticised the resulting framework as too complicated and extensive, with over-restrictive rules, other stakeholders have expressed concerns that the framework is not strict enough to prevent abuse and to properly safeguard public funding. It would appear that further consideration is still needed as to how to achieve an adequate balance between public and private interests in the use of this delivery tool to achieve policy objectives linked to ESI Funds.

Questions for discussion

- To what extent are the provisions governing EC-MA/PA payments mirrored in your funding agreements? What are the benefits and drawbacks of the current system in your view?
- What is your experience of applying the rules on management costs and fees during 2014-2020? Do you consider that their design and the criteria for performance-based remuneration are adequate to incentivise fund managers for the best implementation of FIs?
- When negotiating, signing and following up on the funding agreements, how are you applying the various rules on management of resources (treasury management, resources returned during the eligibility period, resources returned after the eligibility period)?
- What is your experience of the 2014-2020 monitoring and reporting obligations? How do you think they could be improved?
- Considering that financial instruments are a delivery tool for cohesion and other policies under shared management, are the current control and audit requirements in your view adequate, not strict enough or too strict? Why? What could be improved?