EUROPEAN UNION

Committee of the Regions

COTER-VI/005

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DRAFT OPINION

Commission for Territorial Cohesion Policy and EU Budget

Financial instruments in support of territorial development

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This document will be discussed at the meeting of the **Commission for Territorial Cohesion Policy and EU Budget** to be held **from 11 a.m. to 5.30 p.m. on Monday, 13 July 2015**. To allow time for translation, any amendments must be submitted through the online tool for tabling amendments (available on the Members' Portal: http://cor.europa.eu/members) **no later than 3 p.m. (Brussels time) on Tuesday, 30 June 2015**. A user guide is available on http://toad.cor.europa.eu/CORHelp.aspx.

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Reference document

Draft opinion of the Commission for Territorial Cohesion Policy and EU Budget – Financial Instruments in support of territorial development

I. POLICY RECOMMENDATIONS

THE EUROPEAN COMMITTEE OF THE REGIONS,

1. sets forth its recommendations on the use of financial instruments in territorial development, taking as a basis an analysis of the legal environment, the question of usefulness in territorial development policy, and measures to ensure effectiveness and provide an institutional framework for the use of financial instruments.

2. stresses that, in view of the importance of the use of financial instruments in territorial development, the process of preparing this opinion has entailed gathering the experiences of the COTER commission and BUDG group members and carrying out consultations with the European Commission, the European Investment Bank (EIB) and other stakeholders with knowledge and experience of the use of financial instruments.

3. recognises that financial instruments can be an important tool in territorial development. Given that they interfere with natural market mechanisms less than subsidies, repayable financing in certain areas can ensure more effective public intervention than traditional subsidy mechanisms.

4. underlines, however, that the subsidy system plays an important role in fostering territorial development. Promoting the use of financial instruments must not lead to an excessive curtailment of the subsidy system.

The European Committee of the Regions wishes to stress that:

Legal environment

5. The goal of public intervention using the Structural Funds is to ensure the implementation of Article 174 of the Treaty on the Functioning of the European Union. The competent EU and national authorities should always, whenever setting out their positions or taking decisions regarding financial instruments, assess their impact on efforts to meet this objective.

6. Under-regulating the use of financial instruments is as harmful as over-regulating it. It is important, particularly at the start of the 2014-2020 financial perspective, to adopt without delay all necessary legal solutions to avoid repeating the mistakes that occurred at the beginning of the 2007-2013 financial perspective.

7. Once Member States have started to implement instruments financed using the European Fund for Structural Investment (EFSI), regulation at EU level should be introduced only in exceptional circumstances. It should be ensured that the authorities and the institutions of the European Union, particularly the European Commission (EC), consult with representatives of the regions on any regulatory changes having an impact on the programming, implementation and clearance of financial instruments of importance for territorial development.

8. Permanent dialogue should be set up between representatives of regions, the EC and the EIB on the interpretation of the binding legal provisions, the effects of implementation, or emerging problems, so as to maximise the benefits of implementing instruments financed from the EFSI. The Committee of the Regions calls on the European Commission to provide an institutional framework for this cooperation as a matter of urgency.

9. It should be ensured that the problems currently faced by regional and local authorities which opted to implement and use repayable instruments in the 2007-2013 financial perspective do not discourage them from choosing precisely this form of financing in the 2014-2020 programming period. Steps must also be taken to ensure that the risk created by under-regulating financial instruments in the 2007-2013 financial perspective does not act as a burden on managing authorities, financial intermediaries and, in particular, final recipients.

10. At all levels of implementation, steps should be taken to eliminate unnecessary regulatory constraints, which increase costs and reduce demand for financial instruments. Financial instruments are different from other instruments and therefore subsidy regulations should not be applied to them.

11. In the process of making possible corrections within the framework of the 2007-2013 financial perspective, it should be borne in mind that, under Article 98 of Council Regulation (EC) No 1083/2006 of 11 July 2006, account was taken of the nature and gravity of the irregularities and the financial loss to the Funds. The European Commission should take steps to ensure that the provision in question is observed both at EU level and in the individual Member States.

12. In the event of irregularities in the implementation of the Structural Funds under the 2007-2013 financial perspective, it is necessary to ensure that the expenditure in question is not presented for clearance with the Commission. However, it should be underlined that the withdrawal of funds from the intermediary or from the fund of funds in the event of irregularities being detected should only occur when it is not possible to ensure continued effective use. The Committee highlights, among other things, the intention of the second subparagraph of Article 78(6) of Council Regulation (EC) No 1083/2006 of 11 July 2006, which stipulates that eligible expenditure shall be determined at the partial or final closure of the operational programme. The Committee of the Regions calls on the European Commission to guarantee the above and, if necessary, to carry out all necessary regulatory changes in this respect.

13. Steps should be taken to ensure that, as part of the process of clearing expenditure, reliable documents are submitted by the beneficiaries. The Committee of the Regions stresses, however, that most of the financial instruments used were developed on the commercial market. Therefore, in the clearing process, account should be taken of their nature and structure of implementation.

14. The evidence of eligibility of expenditure required must be only such that is necessary in order to achieve the objective. Wherever possible, evidence should be permitted which places the least possible burden on beneficiaries and final recipients, such as statements. This does not affect in any way the need to carry out checks to verify the evidence submitted.

15. In any market and in the case of financial instruments, a balance is established on the basis of supply and demand. The factor which affects the amount of supply and demand is price. The Committee of the Regions emphasises that, in the case of public financial instruments, natural market mechanisms should be used as much as possible.

16. In this context, it should be underlined that, in the case of collection of fees and commissions from SMEs by intermediaries, reducing the size of the eligible expenditure funded under the 2007-2013 perspective may act as a disincentive to sound management of public resources and lead to excessive distortion of natural market mechanisms. The Committee of the Regions calls on the Commission to take steps, together with the regions, to identify inefficient areas and to prepare appropriate remedial measures without delay.

Financial instruments as tools of regional policy

17. It should be underlined that the decision to use financial instruments must always be based on in-depth analysis and maximising public utility. The Committee of the Regions emphasises therefore that financial instruments must solve specific social and economic problems.

18. The European Commission and the EIB should promote, within the framework of available solutions, the exchange of good practices in research, as referred to in Article 37 of the Regulation of the European Parliament and of the Council (EU) No 1303/2013 of 17 December 2013.

19. The decision to introduce financial instruments should always take into account the analysis of the impact that such an instrument will have on the other available forms of support, including the possible synergies obtainable by combining different forms of assistance and possible overlapping of instruments. Competent authorities should ensure coherence between instruments implemented at EU level (e.g. COSME and Horizon 2020) and other sources of support, in particular resources from the EIB, the EFSI and those financed with the help of national/local development banks and promotional banks. Taking into account the benefits of synergies, the Committee of the Regions calls on the European Commission and the European Investment Bank to ensure permanent dialogue with local and regional partners in this area.

20. It is important to stress the need to introduce solutions that enable different forms of funding and financing from different sources to be combined in a more flexible way. In the case of the EFSI, an overlap of eligible expenditure should be allowed with a view to combining subsidies and financial instruments. This is particularly important for entities excluded from the banking sector. The Committee of the Regions therefore calls on the European Commission, together with representatives of the regions, to draw up proposals for regulatory changes that take account of the interests of the weakest economic entities.

21. It is essential to avoid using territorial development instruments to stabilise the financial system and for counter-cyclical measures. These measures should be financed using other sources. The Committee of the Regions calls on the authorities and the institutions of the European Union to ensure that development resources are used in accordance with their objective.

22. The European Commission and the European Investment Bank should ensure appropriate participation of the regions in the use of financial instruments under the Investment Plan for Europe.

23. Financial instruments should not be allowed to become excessively commercialised in order to attract private capital. The European Commission must ensure that the level of leverage in instruments financed using European funds is optimal and consistent with the social objective set, not the maximum level.

24. The competent authorities should ensure that, with a view to increasing interest in financial instruments, their use does not affect levels of public debt.

25. It should be ensured that financial instruments are distributed in accordance with social and economic needs, taking particular account of their accessibility for small-scale projects and small regions. It is important to draw attention to potential adverse effects that may interfere with the optimal distribution of financial instruments.

26. Given the limited availability of external financing, particularly for small and micro-enterprises in the European Union, more flexible options for financing working capital are needed. In view of payment difficulties and the seasonal nature of production, working capital should be financed without unnecessary restrictions. To this end, the Commission should take appropriate steps to ensure such solutions, together with representatives of the regions.

27. Allowing - in response to the economic crisis - the financing of working capital in the framework of the 2007-2013 financial perspective prior to the introduction of appropriate regulatory changes, must be regarded as appropriate from the point of view of European economic interests.

The effectiveness of financial instruments

28. It should be underlined that sound cooperation by the EC, EIB and local and regional authorities is a key element in ensuring the successful use of financial instruments in territorial development and across the cohesion policy.

29. Taking into account the experience of the crisis, it must be borne in mind that public financial instruments must not lead to the excessive growth of risk in the financial system and in the banking system in particular.

30. Before taking a decision to use instruments, it should be examined whether the financing of investments, e.g. through a debt instrument, will over-burden consumers with the cost of servicing this debt. In addition, it should be borne in mind that the benefits of using publicly-funded financial instruments must not be appropriated or diminished by financial intermediaries (e.g. the guarantee instrument should lower the cost of raising capital). It is also necessary to ensure that financial instruments are not a source of unjustified profit for intermediaries, e.g.

through bancassurance or cross selling. The European Commission and national authorities must, in this case, adopt appropriate regulations.

31. The exchange of experience and knowledge between the EC and the EIB and local and regional authorities should be stepped up. The Committee of the Regions recognises the commitment of the European Commission and the European Investment Bank in this respect, but would like to underline that, in view of the crucial nature of the initial period of implementation, it is vital to step up work on full implementation of solutions, such as the fi-compass platform.

32. In order to promote the use of financial instruments - and not only as regards the implementation of the EFSI - the European Commission and the European Investment Bank should ensure that regions have the possibility of appropriate substantive support. This support should allow for a case-by-case approach to each region.

33. While acknowledging the steps already taken, the Committee of the Regions calls on the European Commission and the European Investment Bank to swiftly implement awareness-raising programmes, including courses and training (at different levels and in regional languages) for the administrations in charge of planning, implementing and clearance of financial instruments, but also for regional financial entities, in particular non-profit organisations, which have limited access to such knowledge. The Committee emphasises that e-learning must be used to this end.

34. The financing of bodies implementing financial instruments must encourage the efficient management of resources allocated.

35. When examining the need for standardisation of financial instruments (at regional, Member State and EU level) the chief guiding principle should be effectiveness with regard to the objectives set and the diversity of regions. Standardisation should not be based solely on the desire to reduce the management costs incurred by intermediaries.

36. While the process of instrument programming may turn out to be longer than in the case of subsidies, the speed with which financial instruments (loans and guarantees) are distributed should remain, at the start of the financial perspective, their key advantage over subsidies.

37. Those responsible must take into consideration the possibility of undesirable developments arising in the implementation of financial instruments, especially the crowding-out of private funds from the market as a result of public intervention. It is therefore necessary to adopt appropriate measures to safeguard against such phenomena. There is a need for appropriate cooperation in this area between the European Commission, the European Investment Bank and the regions.

38. It should be stressed that the use of financial instruments, particularly in the case of entities excluded from the banking system, should ultimately lead to them obtaining access to banking services and long-term financing on the commercial market.

The institutional system

39. Implementation of financial instruments using the EFSI should not focus on the clearance of the support granted, but on achieving long-term positive effects for the European economy.

40. Financial instruments should be implemented both by large financial institutions (particularly in the case of large and complex products) and, for simpler instruments, by smaller intermediaries, especially by non-profit institutions implementing products from the area of micro-finance.

41. Whereas there is a need to ensure an effective internal financing structure following public intervention, the European Commission, together with representatives of the regions, should develop appropriate solutions to ensure that, as a result of intervention in the 2014-2020 period, business environment institutions will be strengthened.

42. In so far as it does not conflict with other objectives, financial instruments should also be used to develop financial products, e.g. they should be used to promote public-private partnerships and energy service companies (ESCOs). To this end, the European Commission and the European Investment Bank would need to ensure the possibility of support for regions.

43. It should be borne in mind that changes to regulation or the additional burdens or risks associated with the distribution of instruments should not weaken financial intermediaries by causing them financial difficulties or damaging their market standing.

44. Efforts to internationalise financial instruments (the institutions' activities, the flow of private funds, etc.) must be supported. This will make them more effective and efficient and thus help increase the competitiveness of the European economy.

Brussels,

II. PROCEDURE

Title	Financial instruments in support of territorial development
Reference(s)	N/A
Legal basis	Article 307 TFEU Rule 41 (b)(ii) of the CoR's Rules of Procedure
Procedural basis	Own-initiative opinion
Date of Council/EP referral/Date of Commission letter	N/A
Date of Bureau/President's decision	18 March 2015
Commission responsible	Commission for Territorial Cohesion Policy and EU Budget (COTER)
Rapporteur	Adam Struzik (PL/EPP) Marshal of the Mazovia region
Analysis	30 March 2015
Discussed in commission	12 May and 13 July 2015
Date adopted by commission	Scheduled for 13 July 2015
Result of the vote in commission (majority, unanimity)	
Date adopted in plenary	Scheduled for 12-14 October 2015
Previous Committee opinions	• Opinion on Recommendations on Better Spending (CDR3609-2013_00_00_TRA_AC[1]) • Opinion on the Execution of the EU Budget (COR-2013-08129-00-00-AC-TRA[2]) • Opinion on Sixth Cohesion Report (COR-2014-04896-00-01-AC-TRA[3]) • Opinion on Investment Plan and European Fund for Strategic Investments (COR-2015-00943-00-03-AC-TRA) • Opinion on the outcome of the negotiation on the partnership agreements and operational programmes (COR-2014-06248-00-00-PAC-TRA)
Date of subsidiarity monitoring consultation	N/A

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1 OJ C 356, 5.12.2013, p. 3.

2 OJ C 271, 19.8.2014, p. 53

3 OJ C 19, 25.1.2015, p. 9