

**DPE 055/20/2015**

**CIRCULAR 13/2015**

**MANAGEMENT AND CONTROL PROCEDURES FOR THE EUROPEAN STRUCTURAL AND INVESTMENT FUNDS PROGRAMMES 2014-2020**

Secretary General,

1. I am directed by the Minister for Public Expenditure and Reform to advise all Bodies of their management and control responsibilities relating to the implementation of the European Structural and Investment Funds (ESIF) Programmes 2014-2020 under Ireland's Partnership Agreement.
2. The ESIF include the following Funds applicable to Ireland:
  - European Regional Development Fund (ERDF)
  - European Social Fund (ESF) including additional EU funding from the Youth Employment Initiative (YEI)
  - European Maritime and Fisheries Fund (EMFF)
  - European Agricultural Fund for Rural Development (EAFRD)
3. This Circular applies to the ERDF, ESF, and EMFF national programmes. The Department of Agriculture, Food and the Marine will issue a separate Circular in relation to the EAFRD.
4. This Circular sets out how the requirements of the relevant EU funding Regulations are to be implemented in Ireland.
5. It also sets out the roles and responsibilities of Audit Authorities, Certifying Authorities, Managing Authorities, Intermediate Bodies and other Implementing Departments/Bodies involved in the management and control of EU Structural Funds.
6. The Department of Public Expenditure and Reform, as Member State Authority, has overall policy responsibility for the Structural Funds and has primary responsibility for the ERDF. The Department of Education and Skills has primary responsibility for the ESF. The Department of Agriculture, Food and the Marine has primary responsibility for the EMFF.

7. **Failure to comply with the procedures outlined in this Circular may lead to the suspension of financial assistance and/or loss to the Exchequer for which the relevant Bodies in the Management and Control Cascade will be responsible and may be held financially accountable.**
8. Department of Public Expenditure and Reform Circular 08/2015 sets out the eligibility rules in the case of the ERDF, and Department of Education and Skills Certifying Authority Circular 01/2015 does so in the case of the ESF.
9. The Secretaries General of Government Departments involved – either directly or through agencies/bodies under their aegis – in the implementation of projects/operations co-funded by EU Structural and Investment Funds 2014-2020 are required to complete Form A and return it to the Department of Public Expenditure and Reform, by the 30<sup>th</sup> of November in 2015 and 30<sup>th</sup> of September annually thereafter.

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Gearoid O'Keeffe  
Principal  
2<sup>nd</sup> October 2015

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## Section 1 Overview

This Circular follows from the Partnership Agreement detailing the allocation of European Structural and Investment Funds (ESIF). The Partnership Agreement is a detailed narrative document, providing the background, context and objectives of the ESIF in Ireland. It is available at:

<http://per.gov.ie/wp-content/uploads/Partnership-Agreement-Ireland-2014-2020.pdf>

### 1.1 Regulatory Framework

The European Structural and Investment Funds are the instruments to pursue the objectives of [Articles 174 & 175 of the Treaty on the Functioning of the European Union](#)<sup>1</sup> (TFEU). In summary, these principles set out that:

*In order to promote its overall harmonious development, the Union shall develop and pursue its actions leading to the strengthening of its economic and social cohesion.*

...

*Member States shall conduct their economic policies and shall coordinate them in such a way as, in addition, to obtain the objects set out in Article 174.<sup>2</sup>*

For the 2014-2020 period, they have their legal basis in a package of regulations adopted by the Council and the European Parliament in December 2013.

#### Cohesion Legislative Package 2014-2020

The Cohesion Legislative Package consists of a general set of Regulations applying to some or all of the Funds (the Common Provisions Regulation), and individual sets of regulations specific to each fund. The Regulations are available to download at the following link:

[http://ec.europa.eu/regional\\_policy/en/information/legislation/regulations/](http://ec.europa.eu/regional_policy/en/information/legislation/regulations/)

The Commission also produced Delegated and Implementing Acts setting out further details for Member States implementing ESI funded programmes, which are available to download at the following links:

Delegated Acts	<a href="http://ec.europa.eu/regional_policy/en/information/legislation/delegated-acts/">http://ec.europa.eu/regional_policy/en/information/legislation/delegated-acts/</a>
Implementing Acts	<a href="http://ec.europa.eu/regional_policy/en/information/legislation/implementing-acts/">http://ec.europa.eu/regional_policy/en/information/legislation/implementing-acts/</a>

The regulations set out **mandatory** procedures to be followed in relation to the processing and certification of claims for ESIF co-financing.

### 1.2 Roles and Responsibilities of Departments

The Management and Control system for ESIF co-financed activities in Ireland is based on the principle of shared responsibilities, delegation and Administrative Agreements. Each level of the Management and Control Cascade must therefore take responsibility for ensuring that the

<sup>1</sup> Available at <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12012E/TXT&from=EN#page=81>

<sup>2</sup> The TFEU expands considerably on these principles, excerpts given above are just for reference.

requirements of the management and control system are adhered to at their own levels and that EU and National rules are fully complied with.

However, the day-to-day responsibility for the implementation of co-financed activities rests with the appropriate statutory bodies i.e. Government Departments, Agencies and Authorities. These bodies are also accountable both to the Oireachtas, to the Local Government Audit Service (in the case of Local Authority and Regional Assembly expenditure) and to the Comptroller & Auditor General for the National/Exchequer contribution of the co-financed activities.

The Secretary General of each Department involved in the implementation of EU Structural and Investment Funds excluding the EAFRD, must sign a declaration annually and return it to the Department of Public Expenditure and Reform (Form A in Appendix 1). This confirms that his/her Department and all bodies/agencies under its aegis involved in ESIF co-financed activities are bound by this Circular, [DPER Circular 08/2015](#)<sup>3</sup> detailing ERDF eligibility rules, [DES Certifying Authority Circular 1/2015 detailing ESF eligibility rules](#)<sup>4</sup>, the Administrative Agreement with Managing Authorities, the relevant Statutory Instrument (to be determined) and other relevant EU Regulations (see Section 1.1).

## Section 2 Management and Control Framework

This section sets out the management and control framework that will operate for the 2014-2020 European Structural and Investment Fund programmes. The general principles of the management and control system are set out in [Article 4\(8\)](#) and [Article 72 of the CPR](#).<sup>5</sup>

*Table 2a Authorities for 2014-2020 Programmes*

Fund	Operational Programme	Managing Authority	Certifying Authority	Audit Authority
ESF	Programme for Employability, Inclusion and Learning	Department of Education and Skills	Department of Education and Skills	ESF Financial Control Unit, Department of Education and Skills
ERDF	Border, Midland and Western (BMW)	Northern & Western Regional Assembly	Department of Public Expenditure and Reform (DPER)	Internal and EU Audit Unit, DPER
ERDF	Southern and Eastern (S&E)	Southern Regional Assembly	Department of Public Expenditure and Reform (DPER)	Internal and EU Audit Unit, DPER
EMFF	Seafood Development Programme	Department of Agriculture, Food and the Marine	Department of Agriculture, Food and the Marine	Internal Audit Unit, Department of Agriculture, Food and the Marine

<sup>3</sup> Available at: <http://circulars.gov.ie/pdf/circular/per/2015/08.pdf>

<sup>4</sup> Available at: <http://www.esf.ie/GetAttachment.aspx?id=1b765102-0c09-4512-93cd-2ae3eeef6303>

<sup>5</sup> Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013R1303#page=22> &from and <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013R1303#page=59>

## 2.1 Formal Designation of Managing and Certifying Authorities

The Department of Public Expenditure and Reform is required to notify the European Commission of the Designation of Managing and Certifying Authorities for the ERDF Programmes. The Departments of Education and Skills, and Agriculture, Food and the Marine shall notify the Commission in respect of the ESF and EMFF programmes respectively.

These Designations are based on a report of an Independent Audit Body (IAB), assessing whether these authorities fulfil the criteria set out in [Art. 124\(2\)](#) and [Annex XIII](#)<sup>6</sup> of the CPR. In carrying out these assessments, Audit Bodies will conform to international auditing standards.

*Table 2b Department and Unit Responsible for Reporting of the IAB Report for each Structural Fund.*

<b>Co-Financing Fund</b>	<b>Reporting Department</b>	<b>Audit Body</b>
ERDF	Public Expenditure and Reform	Internal & EU Audit Unit
ESF	Education and Skills	ESF Financial Control Unit
EMFF	Agriculture, Food & the Marine	Internal Audit Unit

The Commission may request the report and opinion of the IAB and the description of functions and procedures in place in the relevant authority within one month of the designation of authorities concerning Operational Programmes with ERDF and/or ESF contributions exceeding EUR 250 million or EUR 100 million in the case of the EMFF.

## 2.2 General Functions of bodies in Management and Control Cascade

The following section sets out the main responsibilities of the Authorities detailed in Table 2a.

### 2.2.1 Responsibilities of a Managing Authority

The Managing Authority bears the main responsibility for the effective and efficient implementation of co-funded programmes. The Managing Authority shall gain assurance that all bodies involved in the implementation of the Funds under their purview are, where relevant, compliant with this Circular and their regulatory requirements.

Managing Authorities are required to carry out each of the functions set out in [Article 125<sup>7</sup> of the CPR](#).

In accordance with [Article 123\(6\)<sup>8</sup> of the CPR](#), the Managing Authority (or Member State) may delegate certain tasks of the Managing Authority to one or more Intermediate Bodies. These responsibilities will be recorded in Administrative Agreements (see **2.2.2** and **Section 6.1**).

### 2.2.2 Responsibilities of an Intermediate Body

Intermediate Bodies shall be responsible for submitting financial and non-financial data to facilitate the drawdown of EU Funds, and any other responsibilities delegated to them by their Administrative Agreements.

<sup>6</sup> Available at <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013R1303#page=142>

<sup>7</sup> Available at <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013R1303#page=80>

<sup>8</sup> <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013R1303#page=78>

### 2.2.3 Responsibilities of a Beneficiary

A Beneficiary shall ensure that:

- Only eligible expenditure actually incurred and paid under the terms of the project/operations approved is claimed; and that,
- A clear audit trail exists, i.e.:
  - All claims are supported by receipted invoices, or, where this cannot be done, by accounting documents of equivalent probative value;
  - Appropriate data is recorded to allow for compliance with [Article 125\(2\) \(d\) of the CPR](#) and a sufficient accounting code or system is maintained at transaction level to meet the requirements of Article 125(4) (b).

### 2.2.4 Responsibilities of a Certifying Authority

Certifying Authorities are required to carry out the functions set out in [Article 126<sup>9</sup> of the CPR](#).

### 2.2.5 Responsibilities of an Audit Authority

Audit Authorities are required to carry out the functions set out in [Article 127<sup>10</sup> of the CPR](#).

### 2.2.6 National Coordination Committee of the Funds (NCCF) and Partnership Agreement Monitoring Committee (PAMC)

Each Member State is [required by the CPR<sup>11</sup>](#) to set out arrangements for ensuring coordination between the ESI Funds and other Union, EIB, or National funding instruments. For this purpose, two committees are being established at a National level – a Partnership Agreement Monitoring Committee and a National Coordinating Committee of the Funds.

The details of Ireland's National Committees are laid out in Ireland's Partnership Agreement, pages 160-163.<sup>12</sup>

## Section 3 Eligibility of Expenditure/Declarations

[Article 65 of the CPR<sup>13</sup>](#) of the CPR sets out conditions for determining the eligibility of expenditure. The Department of [Public Expenditure and Reform Circular 08/2015<sup>14</sup>](#) details the 2014-2020 Eligibility Rules for the ERDF in Ireland.

The Department of Education and Skills Circular 1/2015<sup>15</sup> details the 2014-2020 Eligibility Rules for the ESF and YEI

<sup>9</sup> Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013R1303#page=81>

<sup>10</sup> Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013R1303#page=82>

<sup>11</sup> Articles 4(6) & 15(1)(b)(i), <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:347:0320:0469:EN:PDF#page=22>

<sup>12</sup> Partnership Agreement available at <http://per.gov.ie/wp-content/uploads/Partnership-Agreement-Ireland-2014-2020.pdf>

<sup>13</sup> <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013R1303#page=55>

<sup>14</sup> Available at: <http://circulars.gov.ie/pdf/circular/per/2015/08.pdf>

<sup>15</sup> Available at: <http://www.esf.ie/GetAttachment.aspx?id=1b765102-0c09-4512-93cd-2ae3eeef6303>

### 3.1. State Aid

Managing Authorities and Intermediate Bodies should ensure that projects/operations are in conformity with the relevant EU Competition (State Aid) regulations and consistent with the Operational Programmes and Administrative Agreements.

The Department of Jobs, Enterprise and Innovation ensures its compliance with EU State Aid Rules and advises and assists other Departments to achieve the same in relation to their schemes. DJEI has a dedicated webpage on EU State Aid Rules - <https://www.djei.ie/en/What-We-Do/EU-Internal-Market/EU-State-Aid-Rules>.

### 3.2. Public Procurement

Public Procurement is:

- The acquisition, whether under formal contract or not, of works, supplies and services by public bodies.
- A process ranging from the purchase of routine supplies or services to formal tendering and placing contracts for large infrastructural projects by a wide and diverse range of contracting authorities.

Public Procurement within European Union Member-States is regulated by Union-level public procurement directives. The [latest directives](#)<sup>17</sup> were adopted by the European Parliament and Council on 26<sup>th</sup> February 2014. Member-States have a deadline of April 2016 to transpose these into national law.

Additionally, there are [thresholds](#)<sup>18</sup> for the publishing of public procurement competitions in the Official Journal of the European Union/Community. These thresholds are updated on a biennial basis, most recently in January 2014. Research and Development services are exempt, excepting those listed in [Article 14](#)<sup>19</sup> of the public contracts directive.

The May 2009 [Code of Practice for the Governance of State Bodies](#)<sup>20</sup>, published by the Department of Finance, identifies procurement as one of a number of activities requiring special attention in promoting good corporate governance. Audit Authorities, Certifying Authorities, Managing Authorities, Intermediate Bodies and other Implementing Departments/Bodies should refer to the 2004 [Public Procurement Guidelines – Competitive Process updated in 2009](#)<sup>21</sup> and Department of Public Expenditure and Reform Circulars [16/2013](#) and [10/2014](#).

All Irish public bodies are obliged to treat public funds with care, and to ensure that the best possible value-for-money is obtained whenever public money is being spent or invested. The [Public Spending Code](#)<sup>22</sup> is the set of rules and procedures that apply to ensure that these standards are upheld across the entire public service.

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<sup>16</sup> Section Website: <http://www.djei.ie/enterprise/stateaid/>

<sup>17</sup> Available at: [http://ec.europa.eu/growth/single-market/public-procurement/rules-implementation/index\\_en.htm](http://ec.europa.eu/growth/single-market/public-procurement/rules-implementation/index_en.htm), prior to their transposition into Irish law, Directives [17](#) & [18](#) of 2004 apply.

<sup>18</sup> Available at: <http://www.ojec.com/threshholds.aspx>

<sup>19</sup> Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014L0024&from=EN#page=40>

<sup>20</sup> <http://www.per.gov.ie/wp-content/uploads/CODE-OF-PRACTICE-FOR-THE-GOVERNANCE-OF-STATE-BODIES-2009.pdf>

<sup>21</sup> <http://www.procurement.ie/sites/default/files/Public%20Procurement%20Guidelines%20-%20Competitive%20Process%202010.pdf>

<sup>22</sup> This Code is maintained at <http://publicspendingcode.per.gov.ie> by the Central Expenditure Evaluation Unit (CEEU)

In the case of works and works related services, the Department of Public Expenditure and Reform has set up a [Capital Works Management Framework](#)<sup>23</sup>. This framework provides guidance for best practice, standard contracts and template documents covering the delivery of public works projects.

Where public bodies award grants to non-public beneficiaries, to the extent of 50% or less in public (including EU) funds, they bear a responsibility to ensure:

- i. Fairness and Transparency in awarding public funds;
- ii. Value for money in works, goods and/or services purchased by beneficiaries using part-financed funds; and
- iii. Compliance with national and EU laws and regulations.

It should be noted that compliance with public procurement provisions will be examined during management verifications and all audits of expenditure co-financed by ESI Funds and that failure to comply with the provisions may lead to financial corrections under Articles 143-145 of the CPR and a loss to the Exchequer.

Those carrying out Public Procurement must ensure the following principles:

- Non-Discrimination
- Transparency
- Mutual Recognition
- Proportionality
- Freedom to Provide Service
- Freedom of Establishment

Public Procurement legislation only applies in cases covered by the [European Communities \(Award of Public Authorities' Contracts\) Regulations 2006](#).

Even where public procurement may not be subject to the full scope of these Directives, the Six Principles above still apply.

**Managing Authorities, Intermediate Bodies and Beneficiaries shall ensure that projects/operations are in compliance with National and EU Public Procurement requirements. Failure to comply with National or EU Public Procurement rules can lead to a financial correction and may make a project ineligible to receive EU Funds.**

National Guidelines are available at:

<http://www.etenders.gov.ie/> | <http://www.procurement.ie/>  
<http://constructionprocurement.gov.ie/>

EU Procurement Directives:

<http://ec.europa.eu/growth/single-market/public-procurement/>

### 3.3. Information and Communication

It is important to bring attention to the achievements of the Funds and the objectives of cohesion policy. Citizens should know how the Union's financial resources are invested. While each level of the Management and Control Cascade must take responsibility for its own compliance, the ERDF and ESF Managing Authorities must ensure that the Information and Communication Requirements of [Articles 115-117](#)<sup>24</sup> and [Annex XII](#)<sup>25</sup> of the Common Provisions Regulation (CPR) are met.

<sup>23</sup> Available at: <http://constructionprocurement.gov.ie/capital-works-management-framework/>

<sup>24</sup> Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013R1303#page=75>

<sup>25</sup> Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013R1303#page=138>

National Guidelines on information and communication are available at:

<http://per.gov.ie/wp-content/uploads/Information-and-communication-guidelines-2014-2020.pdf>

CPR (EU Regulation 1303/2013) is available at:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:347:0320:0469:EN:PDF>

### **3.4. Procedures for the drawdown of ERDF/ESF Funding**

Maximum absorption of EU Cohesion Policy Funding is imperative. In order to comply with the requirements of the [CPR](#)<sup>26</sup> and other regulations, the declaration procedure will be completed electronically on the Data Exchange for European Funds (DEEF) 2014-2020 IT System.

#### **3.4.1. Data Exchange for European Funds 2014-2020 I.T. System (DEEF)**

[Articles 122 and 125](#)<sup>27</sup> of the CPR set out the basic requirement for the IT system for the 2014-2020 period.

The requirements for the records to be kept are set out in Article 24 and Annex III of [Delegated Regulation No. 480/2014](#).

[Articles 6-11](#)<sup>28</sup> of the [Commission Implementing Regulation 821/2014](#) provide technical data for storing and recording data on operations in computerised form.

[Articles 8-10](#)<sup>29</sup> of [Commission Implementing Regulation 1011/2014](#) provide rules and requirements for the exchange of information between Beneficiaries, Managing Authorities, Certifying Authorities, Audit Authorities and Intermediate Bodies.

Guidance and training on the operation of the 2014-2020 IT system will be provided as part of the system's ongoing development and implementation.

### **3.5. N + 3 rule**

[Article 136](#)<sup>30</sup> of the CPR sets out the decommitment rule, known colloquially as the 'N+3 Rule'. This rule requires certain financial targets to be achieved by submitting sufficient payment applications to avoid the loss of EU Funds by Member States.

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<sup>26</sup> Primarily Articles 72-74, 77-79, 123, 125, 129 and 130-132

<sup>27</sup> Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:347:0320:0469:EN:PDF#page=78>

<sup>28</sup> Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014R0821#page=4>

<sup>29</sup> Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014R1011#page=3>

<sup>30</sup> Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013R1303&from=EN#page=85>

## Section 4 Irregularities and Corrections

[Articles 143-145](#)<sup>31</sup> of the CPR provide the legal basis and set out the procedures for making financial corrections to assistance granted under the ERDF, ESF and EMFF Funds. The ultimate sanction that can be applied is the cancellation of all or part of the contribution from these Funds.

The definition of Irregularity is given in [Article 2 \(36\)](#)<sup>32</sup> of the CPR. Systemic irregularity is defined in [Article 2 \(38\)](#).

An irregularity is a quantifiable overstatement of the expenditure certified declared to the Commission of any value. Under Article 122 of the CPR, Member States have a responsibility to prevent, detect and correct irregularities and shall recover amounts unduly paid.

### 4.1 Reporting Irregularities

Where the European co-funded portion exceeds €10,000, [Article 122\(2\)](#)<sup>33</sup> of the CPR sets out additional formal reporting requirements for Member States to the Commission in cases of irregularities.

Expenditure can also be omitted and/or removed on a precautionary basis from a payment application or annual accounts before submission to the European Commission – but this is not considered an irregularity until fully determined as such.

## Section 5 Monitoring and Reporting Arrangements

### 5.1 Annual Implementation Report (AIR)

The procedure and timeline for submitting AIRs is set out in [Article 50](#)<sup>34</sup> and [Article 111](#)<sup>35</sup> of the CPR. The Managing Authority should ensure that all relevant information is provided in sufficient time to meet these deadlines.

The Administration Agreements between Managing Authorities and other bodies in the Management and Control Cascade should detail timetables for these submissions.

The format of these Implementation Reports is laid out in [Article 5](#)<sup>36</sup> and [Annex V](#) of Commission Implementing Regulation 2015/207.

<sup>31</sup> Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013R1303#page=88>

<sup>32</sup> Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013R1303#page=21>

<sup>33</sup> Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013R1303#page=78>

<sup>34</sup> Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013R1303#page=49>

<sup>35</sup> Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013R1303#page=74>

<sup>36</sup> Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32015R0207#page=4>; Ann. V pp. 72

## 5.2 Role of Programme Monitoring Committees

The role and functions of Programme Monitoring Committees is defined in [Article 49](#)<sup>37</sup> and [Article 110](#)<sup>38</sup> of the CPR.

Monitoring Committees may make observations to the Managing Authorities regarding the implementation and evaluation of the programme, including actions for reducing beneficiaries' administrative burden. Committees shall monitor actions arising from these observations.

# Section 6 Management Documents

## 6.1 Systems Description

A description of the functions and procedures in place for the managing authorities, intermediate bodies and certifying authorities is to be prepared in order for the Independent Audit Body to undertake the assessment and designation procedures required under Article 124(2) of the CPR. The model for the description of the functions is provided in [Article 3](#)<sup>39</sup> and Annex III of Commission Implementing Regulation 1011/2014.

## 6.2 The role of Administrative Agreements

[Article 123](#) of the CPR allows that certain tasks of the Managing or Certifying Authorities may be delegated to intermediate bodies.<sup>40</sup> The arrangements for the designation of these tasks shall be formally recorded in an Administrative Agreement. The Department of Public Expenditure and Reform shall be party to agreements regarding the ERDF.

Where a similar delegation occurs between Intermediate Bodies, the delegated function shall also be set out in an Administrative Agreement, to which the Managing Authority shall be party.

In some cases, the Intermediate Body may be required to enter into Administrative Agreements with another Intermediate Body in the Management and Control Cascade or ensure that all of their responsibilities are recorded in the terms of grant agreements or binding Circulars issued between the two parties. The Managing Authority shall be party to these agreements.

## 6.3 Procedures Manual

To overcome any weakness in the area of management and control of the Structural Funds and ensure compliance with the requirements of [Article 72](#)<sup>41</sup> of the CPR, detailed Procedures Manuals shall be prepared for Managing Authorities, Certifying Authorities and Intermediate Bodies, for carrying out specified functions.

The Procedures Manual shall provide guidance and give details of responsibilities, tasks and procedures for personnel involved in the implementation of EU co-financed activity.

<sup>37</sup> Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013R1303#page=49>

<sup>38</sup> Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013R1303#page=73>

<sup>39</sup> Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014R1011#page=3>

<sup>40</sup> Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013R1303#page=79>

<sup>41</sup> Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013R1303#page=59>

These Manuals should be reviewed regularly and shall be made available for inspection as part of management verifications and audits. The European Commission and/or the European Court of Auditors may also request access, if necessary.

## 6.4 Training

Managing Authorities, Intermediate Bodies, and other Implementing Departments/Bodies shall ensure the proper training of staff in all responsibilities arising from this Circular.

# Section 7 Retention of Records and Audit Trail

## 7.1 Retention of Records and ensuring an adequate Audit Trail

Managing Authorities are required by [Article 140](#)<sup>42</sup> of the CPR to maintain the availability of all supporting documents regarding expenditure supported by the Funds.

[Article 125\(2\) \(d\)](#)<sup>43</sup> contains the requirements of Managing Authorities in relation to establishing a system of recording related data in a computerised form. Further detail in relation to this requirement is set out in [Article 24](#) and [Annex III](#) of Delegated Regulation EC 480/2014.<sup>44</sup>

[Article 25 of 480/2014](#)<sup>45</sup> details the minimum requirement for the audit trail.

Under the [Electronic Commerce Act, 2000 \(as amended\)](#)<sup>46</sup>, Sections 17: Electronic Originals and 18: Retention and Production, electronic originals or electronic copies of original documents are acceptable when retained in electronic form in accordance with the provisions of the Act. The procedures for certification of conformity of documents with the original document should comply with national legal requirements. Where both of these requirements are met, these electronic documents, original or in copy, can be relied upon for audit purposes.

# Section 8 Conclusion

## Organisations in the Management and Control Cascade

Each organisation in the Management and Control Cascade must take responsibility for ensuring that the requirements for implementation are adhered to in their own organisations.

## Managing Authorities

Managing Authorities for each Operational Programme must gain assurance that Intermediate and all other bodies under their direction implementing co-financed projects/operations in that Programme, comply with this Circular.

<sup>42</sup> Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013R1303#page=87>

<sup>43</sup> Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013R1303#page=80>

<sup>44</sup> Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014R0480&from=EN#page=18>

<sup>45</sup> Ibid

<sup>46</sup> Available at: <http://www.irishstatutebook.ie/2000/en/act/pub/0027/sec0017.html#sec17>

## Government Departments

Government Departments, responsible for the use of the ESI Funds, should ensure that the introduction of procedures necessary to conform to the terms of this Circular and the relevant EU Regulations are addressed by both the Departments and Agencies/Bodies under their aegis.

**Conformity with this Circular and with the relevant EU Regulations is obligatory.**

**Failure to abide by any of the management and control procedures outlined in this Circular may lead to the suspension or cancellation of EU Funds assistance and result in a loss to the Exchequer, for which the relevant body will be responsible and may be held financially accountable.**

### Contact Points:

Further information on this Circular and how it applies to each Fund is available from the contact points listed below.

Fund	Body/Department	Contact Details
ERDF	Northern and Western Regional Assembly	<a href="http://nwra.ie/contact-us/">http://nwra.ie/contact-us/</a>
ERDF	Southern Regional Assembly	<a href="http://www.southernassembly.ie/en/about/contact_us">http://www.southernassembly.ie/en/about/contact_us</a>
ESF	Department of Education and Skills	<a href="http://www.esf.ie/en/contact.aspx">http://www.esf.ie/en/contact.aspx</a>
EMFF	Department of Agriculture, Food and the Marine	<a href="http://www.agriculture.gov.ie/fisheries/marineagenciesprogrammesdivision/contact/">http://www.agriculture.gov.ie/fisheries/marineagenciesprogrammesdivision/contact/</a>

Gearoid O'Keeffe  
Principal  
2<sup>nd</sup> October 2015

# Appendix 1: Form A to be signed by Secretaries General

**Form A - Compliance with European Structural and Investment Funds Regulations and Associated European Commission Decisions to be signed annually by the Secretary General of Government Departments involved in the implementation of EU co-funded projects/operations 2014-2020 covered by DPER Circular 08/2015.**

I confirm that my Department and all Agencies/Bodies involved in the implementation of EU Structural and Investment Funds co-funded projects/operations have been informed of, and are bound by, Department of Public Expenditure and Reform Circular 13/2015. I also confirm that they have been informed of, and are bound by, the terms of the following **relevant** Regulations, Decisions etc., governing the administration of the European Regional Development Fund (ERDF), the European Social Fund (ESF), and the European Maritime and Fisheries Fund (EMFF), including;

- **Common provisions Regulation (CPR) *(Applies to all projects / operations)***  
REGULATION (EU) No 1303/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006
- **ERDF Regulation *(Applies to ERDF co-financed projects/operations only)***  
REGULATION (EU) No 1301/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 17 December 2013 on the European Regional Development Fund and on specific provisions concerning the Investment for growth and jobs goal and repealing Regulation (EC) No 1080/2006
- **ESF Regulation *(Applies to ESF co-financed projects/operations only)***  
REGULATION (EU) No 1304/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 17 December 2013 on the European Social Fund and repealing Council Regulation (EC) No 1081/2006
- **EMFF Regulation *(Applies to EMFF co-financed projects/operations only)***  
REGULATION (EU) No 508/2014 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 15 May 2014 on the European Maritime and Fisheries Fund and repealing Council Regulations (EC) No 2328/2003, (EC) No 861/2006, (EC) No 1198/2006 and (EC) No 791/2007 and Regulation (EU) No 1255/2011 of the European Parliament and of the Council on the European Social Fund and repealing Council Regulation (EC) No 1081/2006
- European Commission Decision(s) in respect of the Operational Programme(s) for which your Department has responsibility
- Associated delegated and implementing Acts, as appropriate
- Partnership Agreement 2014-2020
- ERDF BMW Operational Programme, S&E Operational Programme, ESF Programme for Employability, Inclusion and Learning and EMFF Seafood Development Programme 2014-2020, as appropriate
- Communications Plan for ESF/ERDF/EMFF, as appropriate
- Eligibility Rules for ESF/ERDF, where relevant.

Secretary General \_\_\_\_\_

Department of \_\_\_\_\_

Date \_\_\_\_\_