Official Journal of the European Union

C 91

English edition

Information and Notices

Volume 60

23 March 2017

Contents

EN

III

(Preparatory Acts)

COURT OF AUDITORS

OPINION No 1/2017

(pursuant to Article 322, TFEU)

concerning the proposal for a Regulation of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union and amending Council Regulation (EC) No 2012/2002, Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1305/2013, (EU) No 1306/2013, (EU) No 1307/2013, (EU) No 1308/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014 and (EU) No 652/2014 of the European Parliament and of the Council and Decision No 541/2014/EU of the European Parliament and of the Council

Revision of the 'Financial Regulation' — 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)

(2017/C 91/01)

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THE COURT OF AUDITORS OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 322 thereof, together with the Treaty establishing the European Atomic Energy Community, and in particular Article 106a thereof,

Having regard to the proposal for a Regulation of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union and amending Council Regulation (EC) No 2012/2002 ([1]), Regulations (EU) No 1296/2013 ([2]), (EU) No 1301/2013 ([3]), (EU) No 1303/2013 ([4]), (EU) No 1304/2013 ([5]), (EU) No 1305/2013 ([6]), (EU) No 1306/2013 ([7]), (EU) No 1307/2013 ([8]), (EU) No 1308/2013 ([9]), (EU) No 1309/2013 ([10]), (EU) No 1316/2013 ([11]), (EU) No 223/2014 ([12]),(EU) No 283/2014 ([13]) and (EU) No 652/2014 ([14]) of the European Parliament and of the Council and Decision No 541/2014/EU ([15]) of the European Parliament and of the Council ([16]),

Having regard to the Council's request for an opinion on the abovementioned proposal of 9 December 2016,

HAS ADOPTED THE FOLLOWING OPINION:

SUMMARY

I. The Financial Regulation (FR) sets out the principles and procedures governing the establishment and spending of the European Union (EU) budget and the control of the EU funds.

II. We consider that the Commission should use the revision of the FR to bring its governance arrangement in line with international best practice. In particular we address the issues of integrated reporting, estimation of the level of error and the Audit Committee (paragraphs 7 to 15).

III. The Commission proposes changing the way we present our special reports in a way we consider likely to make them less reader-friendly. We are concerned at this attempt to regulate an issue that is fundamental to our autonomy (paragraphs 18 to 22).

IV. We support in general the proposed simplifications for recipients of EU funds (paragraphs 28 to 34) and suggest that the Commission clarifies the proposals on combining methods or instruments of budget implementation (paragraphs 35 to 41). We make note that the proposed changes on financial instruments are potentially positive, but require clarification (paragraphs 42 to 50).

V. The Commission proposes detailed changes to the budgetary management operations without questioning whether the existing mechanisms are still appropriate. We consider that there is scope for significant simplification of the budgetary arrangements (paragraphs 51 to 63). We do not support the proposed changes to the use of assigned revenue and consider it unnecessary to maintain the category of internal assigned revenue (paragraphs 69 to 76).

VI. The premature extension of the use of trust funds to internal policies raises issues of administration, cost and accountability (paragraphs 64 to 68).

([1]) OJ L 311, 14.11.2002, p. 3.
([2]) OJ L 347, 20.12.2013, p. 238.
([3]) OJ L 347, 20.12.2013, p. 289.
([4]) OJ L 347, 20.12.2013, p. 320.
([5]) OJ L 347, 20.12.2013, p. 470.
([6]) OJ L 347, 20.12.2013, p. 487.
([7]) OJ L 347, 20.12.2013, p. 549.
([8]) OJ L 347, 20.12.2013, p. 608.
([9]) OJ L 347, 20.12.2013, p. 671.
([10]) OJ L 347, 20.12.2013, p. 855.
([11]) OJ L 348, 20.12.2013, p. 129.
([12]) OJ L 72, 12.3.2014, p. 1.
([13]) OJ L 86, 21.3.2014, p. 14.
([14]) OJ L 189, 27.6.2014, p. 1.
([15]) OJ L 158, 27.5.2014, p. 227.
([16]) COM(2016) 605 final.

VII. We support the wider use of payments based on conditions fulfilled or results achieved and request further clarification of the proposed performance framework (paragraphs 77 to 89).

VIII. While we welcome the prospect of consolidation of the reports prepared by the Commission, we consider that the implications of such changes have not been fully assessed. The 'integrated financial reporting package' put forward by the Commission would run to thousands of pages, and include significant duplication (paragraphs 90 to 99).

IX. We also address other changes proposed but not highlighted in the explanatory memorandum, including points coming from changes to sectoral rules (paragraphs 109 to 148).

INTRODUCTION

1. The Financial Regulation (FR) provides the principles applicable to the general budget of the EU. Its revision will affect the process of establishing the budget and using funds and provides an opportunity to improve the financial management of the EU.

2. Some of the changes the Commission proposes, such as promoting the use of simplified forms of contributions and of payments based on conditions or objectives in all management modes, may lead to simplification in managing and receiving EU funds. Many reflect recommendations of the Court from recent annual reports. However, detailed rules are not a substitute for sound governance and management. In order to be successful these changes will need to be put in practice by responsible staff and monitored by the governing bodies.

3. The Commission describes its proposal as 'an ambitious revision of the general financial rules accompanied by corresponding changes to the sectorial financial rules' ([1]). It also states that it contributes to two of the main objectives of the MFF review: simplification and flexibility. It introduces a large number of detailed changes which concern notably:

— grants (paragraphs 28 to 34 below),

— financial interventions (paragraphs 42 to 50),

— budgetary operations (paragraphs 51 to 63),

— contributions based on results (paragraphs 77 to 84),

— reporting (paragraphs 90 to 99).

4. The first part of our opinion (paragraphs 7 to 27) addresses issues that we consider should have been included in the proposed Financial Regulation (PFR). Paragraphs 28 to 148 below address changes the Commission proposes, and are structured on the lines of the explanatory memorandum.

THE BASIS FOR THE PROPOSAL

Impact Assessment

5. According to the Interinstitutional Agreement on Better Law-Making, the Commission should carry out impact assessments of its legislative and non-legislative initiatives, delegated acts and implementing measures which are expected to have significant economic, environmental or social impacts. We consider that the Commission should have performed an impact assessment before publishing the proposal ([2]).

6. In order to help achieve the objective of the interinstitutional agreement we propose introducing into the FR the requirement to carry out impact assessments for legislative and non-legislative initiatives, delegated acts and implementing measures expected to have a significant economic, environmental or social impact.

([1]) Explanatory memorandum — p. 2.
([2]) We made similar comments on, for example, the mid-term review of the Multiannual Financial Framework, the Regulation (EU) 2015/1017 on the European Fund for Strategic Investments (EFSI), and the proposal COM(2016) 597 to amend the EFSI Regulation.

KEY POINTS NOT INCLUDED IN THE COMMISSION'S PROPOSAL

Governance ([1])

Single accountability report

7. The Commission does not apply any recognised governance framework, nor signal in its annual reports the extent to which such a framework is followed ([2]). While the accounts are prepared in accordance with international public sector accounting standards (IPSAS), there is no accompanying report providing an overall view of the Commission's governance, performance and strategy against the risks to achieving its goals. The Commission provides an estimate of the level of illegal and irregular transactions (see also paragraph 12) in the Annual Management and Performance Report (AMPR) (until the 2015 report, in the 'synthesis report'), but this is only transmitted to stakeholders, including ourselves, after completion of the annual audit. Information is dispersed (and sometimes repeated) in Commission level and Directorate-General (DG) level documents that are presented separately throughout the year (frequently too late for consideration alongside the audit of the annual accounts or to be dealt with in our annual report).

8. We consider that the Commission should use the revision of the FR as an opportunity to update its governance arrangements. The PFR introduces some changes addressing governance; however, these are not always in line with international best practice and the proposal does not address some key elements of governance.

9. The Commission should further streamline reporting, by issuing a single accountability report (preferably) or a suite of reports (alternatively). The discharge authority should have a clear single document where the Commission accounts for its action, its use of the budget and the achieved results. We welcome the move by the Commission to consolidate a number of reports into the 'integrated financial reporting package' (IFRP). However, in order for this package to become a single accountability report (and indeed to represent a genuinely integrated package) it should:

— avoid duplication (for example the IFRP would discuss corrections and recoveries in five different places),

— be presented to the auditors as a single package, and

— provide a comprehensive (but not exhaustive) view of the year's activities.

10. As we recommend in Special Report No 27/2016, such a report would include:

— a President's report,

— information on activities during the year and the achievement of policy objectives,

— a discussion of operational and strategic risks,

— a report on non-financial performance,

— a governance statement,

— a report on the role and conclusions of the Audit Committee, and

— a mid- and long-term fiscal sustainability statement, together with, where appropriate, links to information contained in other reports.

Some of this information is already available. We set out in *Annex II* the existing reports, the Commission proposal and our proposal.

11. The Commission should present this single accountability report or suite of reports in due time for audit of the accounts and checks by the auditor that other information presented within it is consistent with accounting information. We discuss further below potential amendments to the Commission proposals that would move EU reporting to a better (and more integrated) structure.

([1]) This section is based on the observations and recommendations from our Special Report No 27/2016 'Governance at the European Commission — best practice?'

([2]) See also Article 1 of Directive 2014/95/EU of the European Parliament and of the Council of 22 October 2014 amending Directive 2013/34/EU as regards disclosure of non-financial and diversity information by certain large undertakings and groups (OJ L 330, 15.11.2014, p. 1).

Publishing an estimate of the level of error

12. Where there is a high risk of irregularity it is best practice ([1]) both to discuss the risk and to quantify the level and likely impact. The Commission has many staff working in the field of audit and control, and EU legislation also requires extensive checks on spending by bodies managing EU funds. Commission reporting on this subject pays very significant attention to 'corrective capacity' (the possibility to disallow spending claims after initial acceptance by the Commission) rather than to quantifying and analysing the nature of the errors it identifies. The key document on this ('Protection of the EU budget'provides no estimate of the level of irregularity present in initial or in approved claims for reimbursement.

13. We recommend introducing in the PFR the requirement that the Commission ([2]) should publish as part of the annual accounts or accompanying information an estimate of the level of error based on a consistent methodology and present this information to ourselves together with the provisional accounts (i.e. in the draft single accountability report).

Audit Committee

14. Best practice in the area of public sector governing bodies requires establishing an audit committee or an equivalent group or function ([3]). Based on our assessment, the Commission's Audit Progress Committee diverges from best practice in that only a small minority of its membership is independent of the institution ([4]), and its remit does not cover financial reporting, irregularities and risk management ([5]).

15. The Commission should use the opportunity to revise the FR to introduce specific requirements for the creation and functioning of an audit committee within EU institutions with a spending role and to align its composition and scope of work with international best practice.

External audit

Court of Auditors' right of access

16. It is important that the information we need to carry out our audit is made available in a timely and efficient manner. We need direct access to the Commission's data together with the ability to analyse this data at our own premises, with our own data analysis tools, where necessary. The documents we are supposed to examine should be made available early (and in draft) so that we can ensure timely reporting.

17. Article 249 of the PFR includes provisions regarding our access to documents and data stored electronically. We consider that further clarification is necessary, in particular for the provisions concerning the right of access to IT systems. We include our proposal for modifying Article 249 in *Annex I*.

Annual report of the Court of Auditors

18. In Article 250 the Commission proposes to reduce the time available for us to transmit observations that would appear in the annual report by changing the deadline from 30 June to 15 June. However, no corresponding change is proposed for receiving the information from the Commission. In order to maintain the achievement of 2016, when our annual report was published one month earlier than required, the deadlines provided for the Commission and the other institutions to provide their annual accounts and related information should be adjusted accordingly. For example, the deadline for sending the final consolidated accounts (Article 238(5)) should be changed from 31 July to 30 June and the deadline for receiving from the institutions the replies on the observations for the annual report from 15 October to 15 July (Article 250(1)) (see also *Annex II*).

([1]) Examples of best practice include: UK, Department of Work and Pensions annual accounts; Ireland, Department of Social Protection annual accounts.
([2]) See recommendation 2(f) of Special Report No 27/2016. The Commission accepted this recommendation.
([3]) CIPFA, IFAC 'International Framework: Good Governance in the Public Sector', 2014, pp. 29-30. The Commission, the Court of Auditors, the European Economic and Social Committee and the Committee of Regions have audit committees, of varying composition, and with different roles.
([4]) The Commission is currently seeking to add one further independent member.
([5]) Special Report No 27/2016, paragraph 65.

19. To better reflect the purpose and nature of the 'adversarial procedure', we suggest changing the first two sentences of Article 250 as proposed in *Annex I*.

20. In respect of the placing of the institutions' replies within our reports, we consider it intrinsic to the administrative autonomy of the ECA to have the power to decide how to present our reports in accordance with international standards on auditing. We consider that publishing the replies of each institution 'next to' our observations detracts from the fluency and readability of the text, notably when the length of the replies exceeds that of our own text. On this basis we propose to publish the replies for the annual report at the end of our text for each chapter, on a similar basis to current practice for special reports.

Special reports of the Court of Auditors

21. Our comment on the 'adversarial procedure' (see paragraph 19) applies also to the special reports referred in Article 251. As concerns the 6-week deadline for audited institutions to supply their replies, we consider that there is no need to refer to suspending the deadline, or to give a possible reason for it in this level of legislation.

22. As concerns the change proposed in the paragraph on the positioning of the replies in special reports, we reiterate our position stated in paragraph 20 above that this infringes upon the legitimate administrative autonomy of the Court. Furthermore, following our recent move to paperless publishing we are developing new ways to present our findings. This includes exploring the various options afforded by e-publishing, including giving the reader flexibility in how they wish to view the text. We therefore propose to retain the current wording 'are published together with the special report'.

Agencies and public-private partnerships (Union bodies)

23. Article 69(6) of the PFR provides that the accounts of bodies set up under the TFEU and the Euratom Treaty receiving contributions from the EU budget (i.e. agencies) would continue to be audited by independent external auditors before consolidation into the EU accounts. We would thus continue to take their audit results into account for the preparation of our own reports. The arrangement of having not only the accounts but also the legality and regularity of underlying transactions audited by independent external auditors would be a good improvement on previous arrangements.

24. Total budgets of the agencies represent less than 2 % of the EU budget as a whole. Despite their limited spending, agencies play a significant part in developing and implementing EU policies, and more efficient arrangements for the recurrent aspects of the annual audit would allow us to focus more on their performance.

25. Currently we issue a specific annual report on each agency. The reports include a statement of assurance (an opinion on the accounts and on the legality and regularity of transactions) and, if necessary, comments on points of particular importance. In 2016, 41 such reports were published, with 82 opinions and some 90 specific comments. To improve efficiency we propose amending the rules on annual reporting. We propose that in future we could consider issuing a single consolidated audit report covering all agencies.

26. We propose the following arrangement for the audit of these bodies. In addition to the accounts, an independent external auditor should also verify the legality and regularity of underlying transactions, although we would remain responsible for issuing final statements of assurance for all bodies. This model would allow us to rely to the largest extent possible on the work performed by independent external auditors and also on the work performed by the Internal Audit Service. We include our proposal for modifying the related articles in *Annex I*.

27. The solution adopted should also be applied to the public-private partnership bodies dealt with in Article 70.

CHANGES PROPOSED BY THE COMMISSION

Simplification for recipients of EU funds

28. The measures introduced by the Commission relate to grants and simplified forms of EU contribution.

The Commission proposal

29. The main changes proposed concern:

— putting simplified forms of Union contribution on an equal footing with financing based on reimbursement of eligible costs (Article 121(b)-(d)),

— where allowed by the basic act extending the use of simplified forms of grants to indirect management operations and streamlining their authorisation procedure (decided by the authorising officer) and increasing their focus on output (Article 175),

— removing the 'no-profit' principle ([1]) for grant recipients,

— introducing the option to recognise volunteers' work as eligible costs (Articles 175(8), 180(2)(b)),

— exempting grants to natural persons for study, research, training or education support or direct support to unemployed persons or refugees from the principle of non-cumulative award and double funding (Article 185).

Our analysis

30. The PFR does not provide instructions on the design of spending schemes. This makes it difficult to identify which types of projects will benefit from this simplification. Similarly, it is not clear at this stage how the Commission's aspiration to give increased emphasis to the quality of deliverables (outputs) and the quality of the authorising officer's assessment of cost accounting practices will be achieved in practice.

31. Currently there are few cases where the Commission exercises its right to recover profits. The Commission notes ([2]) that the default option for funding revenue generating projects should be the use of financial instruments rather than grants.

32. The recognition of volunteers' work as 'eligible costs' for the purpose of co-financing will encourage beneficiaries to make more use of this input with the effect that they will be fully reimbursed for all other costs incurred, thus the risk of inappropriate spending will be entirely borne by the EU budget. The proposal would complicate the verification of co-financing by the Commission and the calculation of indirect costs. In view of the proposal to increase results based financing rather than reimbursement of eligible costs, we consider this proposal an unnecessary complication that increases the risk of error.

33. The proposal seeks to simplify the management of grants paid to natural persons mentioned in Article 185 by allowing specific types of beneficiaries to receive more than one grant, and the same costs to be funded more than once by the EU budget.

Conclusion

34. In line with our analysis above:

— we do not see the need to remove the 'no-profit' principle,

— while we support the intention to simplify rules, we are unpersuaded of the case for allowing beneficiaries to satisfy the requirement for co-financing solely through placing a value on the unremunerated work of volunteers. This objective would be better addressed by using purely objective-based funding structures,

— the exemption proposed by Article 185 should, in our view, be restricted to the first two paragraphs of the article, i.e. the principle of non-cumulative award.

One single set of rules applied to hybrid actions or combination of measures and instruments

The Commission proposal

35. The Commission proposes to apply a single set of rules:

— when combining methods of implementation or budget implementation instruments (such as grants and financial instruments) (Article 208(2)), or

([1]) Article 125 of the current Financial Regulation (CFR) provides that 'grants shall not have the purpose or effect of producing a profit' (no-profit principle) and 'where a profit is made, the Commission shall be entitled to recover the percentage of the profit corresponding to the Union contribution'.

([2]) Explanatory memorandum — p. 6.

— by promoting a 'combination of resources' (allowing Member States to request that resources under shared implementation are transferred to the Union and implemented by the Commission in direct or indirect implementation (Article 125),

— when working with 'trusted partners' ([1]).

36. The changes to the sectoral regulations include also the possibility to combine the European Structural and Investment (ESI) Funds with a European Fund for Strategic Investments (EFSI) supported instrument.

37. The Commission introduces the financial framework partnership agreements in direct and indirect implementation. These would allow the possibility to conclude audit agreements with persons and entities implementing Union funds or beneficiaries of grants.

Our analysis

38. The Commission has created a new title 'Common Rules' which seeks to group together all the rules applicable to more than one budget implementation method. We support the ambition behind this. However as in the case of other titles (procurement, grants — see paragraphs 120 to 123) these subjects are also treated in other places in the proposal. As a result the desired simplification of the text is not achieved.

39. Combinations of different funding instruments may entail risks such as double funding or crowding out of private investments, which will need to be managed. Furthermore, the Commission will need to ensure that such combinations respect the co-financing principle and State aid rules. We consider that the combination of funding instruments should be adequately monitored, including in terms of results and objectives achieved, properly booked and reported, to ensure transparency and accountability.

40. We understand that the proposal in Article 126(3) regarding audit agreements concerns the Commission. In the interest of clarity, it should be specified that audit or verification agreements shall not restrict our access to information necessary for the audit of Union funds. Furthermore, we consider that the reference in the last sentence of Article 126(3) to the tripartite agreement between the Court of Auditors, the European Investment Bank (EIB) and the Commission (provided for in Article 287(3) TFEU) is redundant and should be deleted.

Conclusion

41. We recommend:

— requesting that the Commission puts in place adequate safeguards to address the risks linked to combining funding sources, and

— amending Article 126(3) as proposed in *Annex I*.

Financial interventions

The Commission proposal

42. The key changes introduced in this area include:

— creating a single regulatory framework for the different forms of financial operations of the EU (Title X),

— standardising the treatment of internal assigned revenue generated by financial operations (Articles 20 and 202(2)), (see also paragraphs 69 and 76),

— defining the maximum amount of financial liability of the Union (Article 203),

— setting up a common provisioning fund and effective provisioning rate (Article 205 and 206),

— performance-based remuneration for the entities or counterparts involved in the implementation of budgetary guarantees (in addition to those involved in the implementation of financial instruments(Article 202(1)(g)),

— requiring *ex ante* evaluations of financial instruments or budgetary guarantees, either individually or as part of a programme (Article 202(1)(h)),

— creating a single annual reporting document for financial instruments, budgetary guarantees and financial assistance (Articles 207 and 242).

([1]) Entities with which the Commission may build a more trusted relationship based on an *ex ante* assessment or on the requirement to use specific procedures.

43. Article 203 frames the maximum amounts of the financial liability of the EU for the three types of financial operations. We note that budgetary guarantees and financial assistance may also generate contingent liabilities for the EU and that the amount held in financial assets will not necessarily be sufficient to cover the financial liabilities.

44. The financial risks stemming from a budgetary guarantee or financial assistance are covered by a provision representing a percentage (provisioning rate) of the amount of the financial liability authorised. The provisions for financial instruments address the future payments related to the budgetary commitment of the instrument. It is proposed that these provisions will be held in a common provisioning fund directly managed by the Commission (Article 205). The PFR also allows the transfer of surplus of provisions between budgetary guarantees or financial assistance operations (Article 206(3)(a)).

Our analysis

45. We welcome the Commission proposal to include budgetary guarantees and financial assistance under the Financial Regulation and also to group under the same title the different types of financial operations of the EU.

46. The proposal on the creation of the common provisioning fund does not explain the functioning of this fund, the calculation of the effective provisioning rate and the relationships between the provisioning rate set by the basic act and the effective provisioning rate.

47. We consider that performance based fees (Article 202(1)(g)) represent a positive development but note that agreements and performance measures will need to be well-designed and carefully implemented. However, the Commission should not allow the calculation of administrative fees as a percentage of the cumulative EU contribution committed (including uncalled budgetary commitments).

48. We support the requirement for *ex ante* evaluations for financial operations of the EU and consider that provisions should be made to allow for interim evaluations to take account of changing market conditions ([1]).

49. At present the information on the financial operations of the EU can be found in different reports ([2]). We welcome the proposal of the Commission to merge all reporting requirements (other than the requirement for disclosure in the annual accounts and accompanying information) in a single document attached to the draft budget ([3]). We assume that it will provide at least the same level of information as in the current reports and that it will cover the situation as at 30 June of the year of publication.

Conclusion

50. We recommend:

— setting out within the PFR the basis for the operation of the common provisioning fund and calculation of the effective provisioning rate,

— accepting the proposal on payment of performance based fees, taking into account our comments above,

— accepting the introduction of *ex ante* evaluations concerning financial operations,

— clarifying the period covered and the information included in the annual reporting document (Article 207).

([1]) See also recommendation 1 of Special Report No 19/2016 'Implementing the EU budget through financial instruments — lessons to be learned from the 2007-2013 programme period'.

([2]) For example: 'Working document accompanying the Draft Budget 2017'; 'Annex on financial instruments accompanying the Budget 2017'; 'Annual report on the activities relating to financial instruments'; 'Report from the Commission to the European Parliament and the Council on the implementation of macro-financial assistance to third countries in 2015'; 'Report from the Commission to the European Parliament and the Council on guarantees covered by the general budget. Situation at 31 December 2015'; 'Report from the Commission to the European Parliament and the Council on borrowing and lending activities of the European Union on 2015'.

([3]) This has to be submitted to the European Parliament and the Council by 1 September of the year preceding that in which the budget is to be implemented.

Budgetary flexibility

The Commission proposal

51. The Commission has proposed measures to improve budgetary 'flexibility'. These can be summarised as:

— creating a 'flexibility cushion' ([1]) for certain instruments in external action (Article 12(2)(e);

— increasing the 'negative reserve' ([2]) (Article 48),

— relaxing the rules concerning 'special instruments' (Article 28(1)(e) and 30(5)),

— allowing Member States to transfer resources allocated to them under shared management to instruments managed at Union level (Article 125; Article 265(6) — Article 30a of Regulation (EU) No 1303/2013),

— changing the rules on carry-overs (Article 12) and assigned revenue (see paragraphs 69 to 76) so as to increase the funds available and the Commission's scope to decide where and how they are spent,

— increasing the Commission's decision-making powers, in general, with regard to making budget transfers and moving funds between years (Articles 28 to 30).

Our analysis

Flexibility cushion

52. The proposal increases the complexity of the budgetary system by creating one additional reserve and adding one more exception to Article 12(2) dealing with carry-overs (see also paragraphs 57 to 60).

Negative reserve

53. The 'negative reserve' has only been used in 2011. The proposal does not provide a strong justification for the request to double its capacity to 400 million euros.

Transfers from shared management to Union level

54. Without this new provision the resources in question would be returned to the EU budget if they are not used before the due date. Transfers from instruments under shared implementation to instruments under direct or indirect implementation could effectively constitute transfers of appropriations not just between Member States ([3]), but also between titles of the budget and could change the allocation of resources between MFF headings.

55. No provision appears to be made for the involvement of the budgetary authority. As this provision could be seen as a transfer mechanism, it should maintain the same procedures, transparency requirements and opportunities for public scrutiny.

56. The Commission proposes in the same article to enhance the risk-bearing capacity of EFSI. It is not clear how this would be achieved.

Carry-overs, derogations to annuality and specification

57. The current general rule is that appropriations not used by the end of the financial year shall be cancelled. However, there are a number of exceptions to this rule. Further provisions are included for non-differentiated appropriations (NDAs) for building projects and payment appropriations for existing commitments or commitment appropriations carried over, when the relevant lines in the budget for the following year do not cover requirements.

([1]) The 'flexibility cushion' enables the Commission to carry forward to the following year up to 10 % of the annual appropriations of three budgetary instruments (Instrument for Pre-accession Assistance (IPA II), European Neighbourhood Instrument (ENI) and the financing instrument for development cooperation for the period 2014-2020 (DCI)), so that they could be used to respond to unforeseen situations.

([2]) The 'negative reserve' provides a way to transfer appropriations for payment to a budget line before surplus appropriations from another line have been identified.

([3]) The Article 125 states that 'The Commission shall implement these resources […], where possible for the benefit of the Member States concerned.'

58. The PFR removes from Article 12(3) the rule requiring the use of payment appropriations of the current year before those carried over. This means that it would be for the authorising officer to decide which payment appropriations to use first. Based on the information received from the Commission, had this provision been applied for 2014 and 2015 the amounts involved would be insignificant and we see no need for the proposed change.

59. The main change implied in Article 12(2) relates to non-differentiated appropriations, which are mostly for administrative expenditure. According to the current Financial Regulation (CFR) only NDAs for building projects can be carried over by decision of the institution, in certain conditions. The proposal is to enable institutions to carry over by decision any NDAs. If widely applied, this new provision would considerably undermine the annuality of administrative expenditure. It is not clear from the proposal what specific benefits this change would bring and how much spending would most likely be effected. Furthermore, treating differentiated and non-differentiated appropriations, and the specific case of buildings, in the same article complicates the text.

60. The carry-over rules in Article 12 create a complicated and lengthy procedure that may lead to delays in the budgetary procedure. We consider that the PFR should have simplified this procedure by analysing, for example, whether a general (but non-cumulative) right to carry over appropriations could be introduced for non-personnel budget lines (for example of up to 5 % of the budget line concerned). This might be linked to a reduction in budgets for administration, to take account of the extra flexibility granted.

Budgetary transfers

61. The proposed change in Article 27 would put the budgetary decision making powers of the other institutions on a par with those of the Commission in relation to transfers between budget titles or chapters. The amendment to Article 28 would enable the Commission to move funds between budget lines without a request to the budget authority, where the lines relate to the same programme or scheme and are covered by the same basic act (i.e. where more than one DG is involved in operating the scheme). We consider the changes proposed reasonable.

Conclusion

62. The Commission does not quantify the likely budgetary implications of its proposal. In addition, while it aims to improve the flexibility it also introduces risks to the annuality, specification and transparency of the EU budget. The proposal does not sufficiently address these risks. Current reporting on budgetary management does not adequately capture the stocks and flows of reserved funds, carry-overs or assigned revenue, and so would need to be improved.

63. We recommend:

— rejecting the change proposed for the 'flexibility cushion', 'negative reserve' and carry-overs as it introduces further complexity. We consider that budgetary flexibility should not be achieved by holding more funds in reserve and that a new approach to the carry-over procedure would be simpler, more flexible and promote efficiency,

— rejecting the changes described in paragraphs 54 to 56 above,

— accepting the Commission proposal regarding budgetary transfers.

Trust funds

The Commission proposal

64. The proposal would enable trust funds to operate within the EU funded through internal policy instruments. This extension in the use of trust funds would be achieved by transferring the article referring to trust funds (Article 227) from the title dedicated exclusively to external actions to Title XII 'Other budget implementation instruments' which has general application.

Our analysis

65. Our Opinion No 6/2010 raised issues of administration, cost, audit and accountability in relation to the creation of trust funds for external actions. These issues are still valid. There are currently only three trust funds and these have been operating for a limited period. Therefore, in our view, it is premature to consider their use a success.

66. Due care is needed to ensure sufficient provision for public reporting, oversight and audit of their activities and performance, as they operate outside the budget. We welcome the reporting requirements under Article 244 and the new requirement under Article 39(6) for information on the activities and performance of trust funds to be provided in the budget adoption procedure. However, the extensive use of trust funds would undermine the concept of the unity of the EU budget.

67. Article 227 also states that trust funds may be created also for thematic actions. It is not clear what thematic actions means in the context of internal policies.

Conclusion

68. We do not support the proposal to extend the use of trust funds.

Assigned revenue

The Commission proposal

69. In line with the principle of universality, budget revenue may not be assigned to specific items of expenditure, and revenue and expenditure may not be set off against each other. As a result, the revenue is used without distinction to finance all expenditure.

70. By exception, the CFR allows for certain types of revenues to be assigned. They give rise to new payment appropriations in the same budget line ([1]) and, in general, can be carried forward for one year only ([2]). The CFR makes a distinction between 'external assigned revenue' (from Member States, third countries, etc.) and 'internal assigned revenue' arising from for example proceeds from the sale of vehicles, equipment, insurance payouts, repayments to financial instruments.

71. In the PFR the Commission seeks to expand the use of such reflows and to allow them to be used to create payment appropriations in different budget lines (Article 30).

72. Proceeds from the sale of buildings are also included under internal assigned revenue (Article 20) and such revenue is to be carried over automatically until it is fully used (Article 12(3)).

73. Revenue and repayments arising from financial operations are also included under internal assigned revenues and the Commission proposes that such revenue will be used for the same financial instrument or budgetary guarantee during the entire period of its implementation and at the end of this period any outstanding amount originating from the EU budget shall be returned to the budget (Article 202).

Our analysis

74. Assigned revenue represents an exception from the principle of universality. As we concluded in 2010 ([3]) external assigned revenue serves a useful role, but it is unnecessary to maintain a category of internal assigned revenue. Internally generated receipts could be dealt with through the normal budgetary process. The current proposal provides for much wider exceptions to universality, by allowing the use of internal assigned revenue for other purposes than those initially assigned.

75. It would be a significant simplification if internal assigned revenues were abolished and thus all such reflows were treated as general revenue. The use of such resources would then be decided by the budgetary authority in line with the current priorities.

Conclusion

76. We recommend that there should be no expansion in the use of internal assigned revenue and that all internally generated revenue should be accounted for as general revenue.

([1]) They may be transferred to a different budget line only if used for the purpose for which they are assigned.
([2]) With the exception of revenue from lettings which shall be carried over automatically.
([3]) Opinion No 6/2010 — paragraphs 7 and 8.

Payment based on conditions fulfilled or results achieved

The Commission proposal

77. The Commission proposes in Article 121(1)(e) the introduction of a new form of financing based on conditions fulfilled or results achieved without requiring cost statements, for programmes under direct, indirect and shared implementation in addition to the reimbursement of costs and the simplified costs options already available.

78. The achievement of concrete outputs will be the default condition triggering the payment of simplified forms of grants awarded under direct (Articles 175(4)(f)) and indirect implementation (Article 150(3)), except for cases not suited to such an approach for which a justification will be required. Controls and checks on beneficiaries related to simplified grant forms must be focused on output (Article 177) and the *ex post* checks can no longer challenge the payment when the authorising officer assessed compliance *ex ante* and allowed recourse to usual cost accounting practices in their decision (Article 179).

79. The Commission outlines in Article 176 the single lump sum as a new option for financing simplified forms of grants under direct and indirect implementation based on an estimated budget covering all eligible costs assessed *ex ante* for compliance with the principles of economy, efficiency and effectiveness.

80. The newly introduced Article 219(1)(e) extends also to contributions to European political parties the possibility of using forms of financing not linked to costs of the relevant operations based on the fulfilment of certain conditions *ex ante* or on achievement of results.

Our analysis

81. Our audit results ([1]) have shown that reimbursement spending, where the EU reimburses eligible costs for eligible activities, is affected by much higher levels of error than spending on an entitlement basis, where payment is based on meeting certain conditions.

82. The default option of financing projects using grants provided they fulfil conditions or achieve results established beforehand, therefore delinked from the costs incurred by beneficiaries is a positive development.

83. We support this move in line with paragraph 78 above and consider that Article 121 should be amended to reflect the priority of contributions based on results.

Conclusion

84. Taking into account our observations above, we recommend that payments based on conditions fulfilled or results achieved become the preferred option across the EU budget.

Performance framework

The Commission proposal

85. The Commission inter alia proposes the following changes to the articles on sound financial management:

— introducing the concept of performance (Article 31),

— specifying that appropriations shall focus on performance and therefore objectives should be established *ex ante*, progress in the achievement of objectives should be monitored with performance indicators, and achievements should be reported upon through the programme statements and the AMPR which includes an evaluation of the Union's finances based on the results achieved, as referred to under Article 318 of the TFEU (Article 31(2)),

— stipulating that programmes and activities which entail significant spending shall be subject to evaluation (Article 32(1)),

— defining a number of criteria that need to be covered by *ex ante* evaluations (Article 32(2)).

([1]) Paragraph 1.61 and figure 1.6 of the 2014 annual report and paragraph 1.47, figures 1.5 and 1.6 of the 2015 annual report.

Our analysis

86. The proposal introduces the concept of performance but does not define it and leaves ambiguity as to whether or not it is to be considered identical to sound financial management.

87. The terminology used on evaluation is not fully aligned with the 2016 Interinstitutional Agreement on Better Law-Making or the Better Regulation Guidelines.

88. Article 32 introduces more flexibility for carrying out evaluations offering the Commission the opportunity to make better choices regarding the scope and timing of evaluations. In some respects, however, this does not contribute to the declared goal of achieving a budget focused on results:

(a) Article 32(1) gives more flexibility in deciding when to carry out evaluations on 'significant spending' whereas Article 18 of the current rules of application (RAP) ([1]) specifically provides for *ex ante* evaluation of 'all proposals for programmes and activities occasioning budget expenditure' and interim and/or *ex post* evaluation of 'all programmes and activities […] where the resources mobilised exceed EUR 5 000 000';

(b) it significantly reduces the criteria to be covered by *ex ante* evaluations as compared to the current Article 18(1) of the RAP — the inclusion of policy options and risks, expected impacts, coherence with other instruments, resources, cost-effectiveness, and lessons learned is no longer required;

(c) it does not require retrospective evaluations to cover economy.

Conclusion

89. We recommend:

— clearly defining performance in relation to sound financial management,

— aligning the terminology on evaluation with that used in the Interinstitutional Agreement on Better Law-Making and the Better Regulation Guidelines,

— defining in a quantified manner when evaluations need to be carried out,

— not reducing the number of criteria that need to be covered by *ex ante* evaluations,

— requiring that retrospective evaluations also cover economy.

Streamlining of reporting

The Commission proposal

90. Programme statements accompany the draft budget and contain performance information to justify operational expenditure. Article 39(3)(h) puts forward formal updates (replacing 'activity' with 'programme' statements) as well as changes to the content of programme statements: they should provide information on the contribution of the programme to Union policies and objectives as well as report the achievement of programme objectives. The requirement to include a summary of evaluation results is deleted.

91. The Commission proposal to modify Article 73(9) follows the approach it has already started implementing by introducing strategic plans for each DG and updating the role of the annual activity report ([2]) (AAR) to include information on the operations carried out.

([1]) 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).

([2]) Strategic Plans describe 5-year objectives of the Commission and the DGs, which are often under the influence of external factors, while management plans and AARs are planned to define and report inputs, main actions and their outputs which are under the control of the Commission.

92. Article 239(1)(b) introduces the AMPR in the PFR as part of the 'integrated financial and accountability reporting' to the European Parliament and the Council. The AMPR will consist of:

— a summary of the AARs for the preceding year,

— AARs of each authorising officer by delegation, and

— an evaluation of the Union's finances based on the results achieved as required by Article 318 TFEU.

Our analysis

93. In principle it is unnecessary to cover the AAR in the FR. The AAR is essentially an internal document, and as such it can be produced and amended as desired by the Commission, in accordance with the principle of administrative autonomy. It is undesirable for the production of this document to slow down production of Commission-wide reports.

94. The PFR removes from Article 73(9) the obligation to report 'the results of the operations by reference to the objectives set' and 'information on the overall performance of those operations' in the AAR, as required by Article 66(9) of the CFR. Instead, it refers to 'information on the operations carried out', which is less specific and can be understood as allowing more limited reporting on performance in the AARs.

95. In spite of revising the role of the AAR and declaring that 'the oversight (for the work of its services) takes place […] by a clear reporting from the authorising officers to the Commission through the AARs and the declaration of assurance by the authorising officers' ([1]), Article 73(1) of the revised Financial Regulation does not extend the responsibility of authorising officers to cover the reliability, completeness and correctness of the reported information on performance.

96. In the proposed form, the requirements to include performance information in the programme statements are not sufficiently specific as:

— they should contain only an indication of the Union policies and objectives which the programme supports,

— the quality, coverage and frequency of information on the achievement of programme objectives is not stated,

— reporting on performance is incomplete without evaluation results.

97. By publishing the 'integrated financial reporting package' by 31 July of the following year (Article 239), the Commission will delay the publication of:

— AARs from 1 July to 31 July,

— the AMPR from 15 June to 31 July.

The Court considers the proposals on reporting to be inappropriate. The 'integrated financial reporting package' would run to thousands of pages, and include significant duplication.

Conclusion

98. We recommend that the FR should require that:

— the provisional annual accounts presented for audit on 31 March should be accompanied by the information set out in paragraphs 8 to 12 (above), thus providing accounting information, information on the key governance systems, a broad overview of the spending and activities of the EU, and an assessment of the extent to which spending is affected by irregularities, as well as the report required under Article 243 of the PFR,

— to the extent that separate reports are still required, those set out in PFR Article 239(1)(c)(d) and (e) (the reports on 'preventive and corrective actions covering the EU Budget', the 'fight against fraud' report, and the report on internal audits should be presented at the same time (allowing checks on consistency with the consolidated annual accounts),

— the consolidated accounts should contain a long-term cash flow forecast (in line with international recommended practice), and consolidated statements of the income and expenditure of agencies, joint undertakings and trust funds (replacing the separate reports proposed in Article 244),

([1]) Special Report No 27/2016, Commission's reply to paragraph 21.

— the Commission should present separately, by 1 May, an Article 318 TFEU report with an explanation of the extent and findings of evaluations across EU spending and other policies, an insight into key performance measures for all significant spending areas and DGs, and a balanced presentation of programmes that are assessed as operating well, or are assessed as requiring adjustment or other corrective action,

— in September of each year the Commission should present a combined report meeting the requirements of the Articles 242 and 243 of the PFR.

99. If these changes were made, they would constitute a complete reporting package, and include the information from AARs that is significant to external stakeholders. In this way, a significant simplification in reporting would be achieved.

Audit arrangements

Cross–reliance on audits

The Commission proposal

100. Article 123 proposes that the Commission should rely on previous audits when this:

— was conducted by independent auditors,

— was based on internationally accepted standards,

— provides reasonable assurance, and

— has been performed on the financial statements and reports setting out the use of the EU contribution.

Our analysis

101. The main argument presented by the Commission for introducing this change is to avoid multiple audits of the entities receiving EU contributions, in particular international organisations which are audited by independent external auditors. We agree that the Commission should simplify its relationship with international organisations by relying upon their existing audit arrangements wherever possible. This could avoid a multiplication of audit examination of the same projects and allow for a more adequate use of financial and human resources.

102. Priority should be given to having a performance based relationship with the international organisations and agreements linking the Commission's financial contribution to the performance of a completed activity. We support the objective of simplifying verifications to the extent possible and the Commission making use of the other body's internal control mechanisms. This might also require aligning Commission eligibility conditions to the general conditions of the international organisation concerned.

103. We consider that the provisions of Article 123 are not clear enough. It could be interpreted as if where the four requirements are met, cross-reliance is compulsory ('that audit shall form the basis of the overall assurance') and the possibility to further audit the project is excluded, independently from the outcome of the initial audit.

104. We note however that the article does not ensure access to the auditors' working papers to allow assessment of the extent to which the requirements were met, and whether the audit work was sufficient to cover all the aspects usually covered.

Conclusion

105. We recommend:

— requesting the Commission to clarify that payments based on results will apply to all organisations implementing EU funds in line with page 12 of the explanatory memorandum,

— changing the text as proposed in Annex I, in order to clarify that cross-reliance is a possibility and not a mandatory solution; and ensure that auditors are able to review audit documentation on which they place reliance.

Rules and procedures on audit

The Commission proposal

106. A new sentence introduced at the end of Article 247(1) states that the examination by the Court of Auditors of whether all revenue has been received and all expenditure incurred in a lawful and proper manner 'shall take account of the multiannual character of programmes and related supervisory and control systems'.

Our analysis

107. The audit approach and the audit evidence used to achieve a reasonable level of assurance are elements to be decided by the independent auditor. The suggestion made by the Commission touches upon our audit methodology which, in accordance with international standards on auditing, is the sole responsibility of the Court. The Commission is currently reporting information on financial corrections and recoveries in five different reports: the report on the preventive and corrective actions covering the EU budget, the Financial Statements Discussion and Analysis (FSDA), AARs, the notes to the financial statements and the AMPR, which are made available at different dates ([1]).

Conclusion

108. The possible impact of the multiannual character of programmes and related supervisory and control systems on our audit has to be assessed by us in our role of independent external auditor and should not be included in the Financial Regulation. We recommend requiring the Commission to consolidate all information concerning recoveries and corrections into one document presented to us together with the provisional accounts (Article 237).

OTHER POINTS CONSIDERED

Annual accounts

The Commission proposal

109. The Commission proposes changing Article 234, which would in future define the annual accounts as comprised of the financial statements, the budget accounts and the consolidated annual accounts. It also introduces a reference to the materiality principle in relation to the consolidation process.

Our analysis

110. We consider that the new structure is not clear.

111. As already mentioned in our annual reports ([2]), a long-range cash flow forecast would assist stakeholders in assessing future payment requirements and budgetary priorities. It would also assist the Commission to take the decisions needed to ensure that essential payments can be met from approved annual budgets. In addition, a specific consolidated statement for agencies could be introduced, with the prospect of both improving transparency and rationalising audit effort. In addition, similar specific statements could cover joint undertakings and trust funds.

Conclusion

112. We recommend:

— retaining the existing definition of the annual accounts (Article 141 CFR),

— introducing in the PFR the requirement that the Commission should prepare and publish annually within the FSDA a long range cash flow forecast ([3]) spanning a 7- to 10-year time horizon and covering budgetary ceilings, payment needs, capacity constraints and potential decommitments.

Corporate sponsoring

The Commission proposal

113. The Commission has introduced under the chapter on the budgetary principle of universality the new Article 24 providing a new type of agreement that can be concluded between a legal entity and the institutions which would consist of an agreement by which a legal person supports in-kind an event or an activity for promotional or corporate social responsibility purposes.

([1]) All of these would continue to exist within the 'integrated financial reporting package'.
([2]) 2015 annual report, paragraph 2.10, 2014 annual report, paragraph 2.22, 2013 annual report, paragraph 1.50, and 2012 annual report, paragraph 1.59.
([3]) See also IPSAS Recommended Practice Guideline 1, Reporting on the Long-Term Sustainability of an Entity's Finances.

Our analysis

114. We consider that the legal framework governing corporate sponsoring should be reinforced and offer more safeguards. Ethical guidelines are not sufficient in this respect. Potential safeguards could include:

— the use of corporate sponsoring being limited to a maximum ceiling in terms of the estimated value of the support in-kind in order to avoid any risk of appearance of dependence on an economic operator,

— the award of such sponsorship contracts being subject to a prior call for interests, unless in exceptional circumstances and to a prior conformity check to ensure the absence of conflict of interests, conflict between the Union's policies and actions and damage to the Union's image,

— the institutions and the bodies concerned reporting on their websites the list of their sponsors (with the object of sponsorship, the estimated value, the specific contractual conditions, etc.).

115. It should be also provided that the sponsorship agreement cannot have any negative current or future financial impact for the institution or the bodies receiving sponsorship. Even though, such contributions in-kind will not be considered as revenue for budgetary purposes, the Commission should take into consideration:

— the accounting treatment of such agreements, and

— provisions that they might be audited by the Court of Auditors.

Conclusion

116. We consider it unlikely that corporate sponsoring represents a cost-effective mechanism and do not support the proposals made.

Service-level agreements

The Commission proposal

117. Article 57 introduces the legal basis for the service-level agreements between the EU institutions or other bodies, and states that they shall enable the recovery of costs incurred as a result of their implementation.

Our analysis

118. Service-level agreements are related to the internal functioning of the EU institutions and bodies. Therefore, it is questionable whether they should be included in the Financial Regulation. It might be envisaged to consider them separately and provide additional guidance on technical details of their implementation. Furthermore, we consider that their main purpose should be to promote sound financial management by generating economies of scale, not just enabling the recovery of costs.

Conclusion

119. We recommend accepting the Commission proposal taking into account our observations above.

Public procurement rules

The Commission proposal

120. The PFR does not achieve the announced objectives of clarification and simplification. The main provisions are not consolidated into Title VII 'Public procurement and concessions' but spread between different titles, within Part One of the proposal and in the Annex I. Certain subjects are treated in several places in the text without any cross-reference to each other.

121. The division between the PFR and Annex I further complicates the presentation of public procurement rules.

Our analysis

122. In our Special Report No 17/2016 we pointed out that the current division of public procurement rules between the FR and the RAP makes understanding of already complicated rules even more difficult. As we pointed out in Opinion No 1/2015 ([1]), pursuant to Article 290 TFEU, only non-essential elements of the financial rules can be the subject of a delegated act. Thus certain key terms and concepts in Annex I (a delegated act) should be introduced in the FR. We further consider that all the rules resulting from an alignment to the Public Procurement Directives are essential elements of the financial rules. ([2])

Conclusion

123. We reiterate the recommendations from our Special Report No 17/2016, in particular recommendation 2, requesting:

— a single rulebook for public procurement,

— encouraging the participation of small and medium-sized enterprises,

— including rules on market prospection prior to building contracts and on the language regime for procurement procedures.

Merging the 'Financial Irregularities' Panel with the 'Early Detection and Exclusion System' Panel

The Commission proposal

124. The proposal aims at merging the panel dedicated to the early detection and exclusion system (Article 108 CFR) with the panel dealing with financial irregularities (Article 73(6) CFR), i.e. any infringement of a provision of the FR or of a provision relating to financial management or the checking of operations resulting from an act or omission of a member of staff. This is explained, in the proposal, as being done in order to improve efficiency.

Our analysis

125. While it is justified to have a common approach among EU institutions for the suspension and debarment system as well as for assessment of financial irregularities, we do not see any reason for merging the two panels, which have different objectives.

126. We recommend putting in place a specific separate joint panel, as already foreseen in Article 73(6) of the CFR. Since the matter of financial irregularities is linked to the institution's disciplinary powers and therefore intrinsically connected with the institution's administrative autonomy, the interinstitutional character of the panel should be reinforced, via its composition.

127. We would note if the two panels are merged, the workflow proposed in Article 90 PFR is not compliant with the provisions on disciplinary proceedings as laid down in Annex IX of the Staff Regulations. No disciplinary proceedings can be initiated without either an OLAF report having been drawn up or an administrative inquiry having taken place. However, in the workflow proposed, the institution shall decide whether to initiate proceedings for disciplinary action on the basis of the opinion of the panel. With this system, the Disciplinary Board shall be consulted in all cases of irregularities whereas in accordance with Articles 11 and 12 of Annex IX, depending on the nature of the sanction, the appointing authority can decide whether to consult the Disciplinary Board.

Conclusion

128. We do not support the proposal to merge the panels.

([1]) Opinion No 1/2015 concerning the proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU, Euratom) No 966/2012 on the financial rules applicable to the general budget of the Union (OJ C 52, 13.2.2015, p. 1).

([2]) Dividing the topic of public procurement between, on the one hand, the FR and, on the other, Annex I infringes the rules on procedures for decision-making as set out in the Treaties and clarified by the case-law of the Court of Justice.

Differentiated treatment of investors

The Commission proposal

129. The new Article 43a of Regulation (EU) No 1303/2013 (Article 265 of the proposal) introduces the concept of differentiated treatment of investors. This allows under specific conditions that ESI funds can take a subordinated position to a private investor and EIB financial products under EFSI's EU Guarantee ([1]).

Our analysis

130. This can be understood as providing an incentive for private investors and the EIB, by allowing the ESI funds to bear any losses before affecting the private investors and EIB.

Conclusion

131. We consider that the proposal should include a clear definition of the differentiated treatment, and ensure that a balance is achieved between encouraging investment and the risk of over-compensating investors.

Change of eligibility period for financial instruments under shared management

132. In April 2015 the Commission decided to extend the eligibility period of payments for financial instruments under shared management through a Commission decision instead of asking the Parliament and the Council to amend the relevant regulation ([2]).

133. The amendments to the Regulation (EU) No 1303/2013 introduced in the current proposal do not address the issue of the change of the eligibility period.

Recovery rules

The Commission proposal

134. Under the current provisions of the Regulation (EU) No 1306/2013, if recovery of undue payments has not taken place within specific deadlines, these amounts would be equally split between the Union's budget and the Member State concerned (the so-called '50/50 rule'). In the change to Article 54, paragraph 2 (Article 268 of COM(2016) 605), the Commission reiterates its proposal ([3]) that the financial consequences of the non-recovery shall be borne entirely by the Member State concerned.

Our analysis

135. As mentioned in our Opinion No 1/2012 ([4]) such a change presents the risk that Member States would manage the reporting and writing-off process so as to avoid financial charges to the national budget.

Conclusion

136. In order to minimise the administrative burden the Commission could define a '*de minimis*' threshold to avoid the need to follow-up numerous smaller debts.

'Active farmer' status

The Commission proposal

137. The changes to Article 9 of the Regulation (EU) No 1307/2013 (Article 269 of COM(2016) 605) allow the Member States:

— to reduce the criteria available to applicants to demonstrate the active farmer status, or

— to stop applying the provisions requiring the beneficiaries to be 'active farmers' from 2018.

([1]) COM(2016) 605, recital 188.
([2]) 2014 annual report, paragraph 6.52, 2015 annual report, paragraph 6.45.
([3]) A similar proposal had been made in COM(2011) 628 which gave rise to Regulation (EU) No 1306/2013. That proposal was not accepted by the legislator.
([4]) Opinion No 1/2012 on certain proposals for regulations relating to the common agricultural policy for the period 2014-2020, paragraphs 43 and 44.

Our analysis

138. In our Opinion No 1/2012 we observed that the measures proposed by the Commission for determining the 'active farmer' status risked imposing excessive administrative burden on managing authorities and farmers. The reduction of the criteria demonstrating the quality of 'active farmer' responds, to a certain extent, to our concern. However, the proposal to allow the Member States not to apply the provisions requiring the beneficiaries to be 'active farmers' is not in line with our recommendation in Special Report No 5/2011 ([1]).

Conclusion

139. We consider reasonable the proposal to simplify the implementation of the criteria to demonstrate the 'active farmer' status, but do not support the proposal to completely stop applying the provisions requiring the beneficiaries to be 'active farmers'.

Payment for young farmers

The Commission proposal

140. The Commission proposes to remove from Article 50 of Regulation (EU) No 1307/2013 (Article 269 of the COM(2016) 605) the limit of 90 hectares or payment entitlements for payments to young farmers. The specific maximum limits in terms of hectares and payment entitlements should be set and applied only by the Member States where the funds available do not allow satisfying all aid applications.

Our analysis

141. Such payments are intended to facilitate the initial establishment of young farmers and the structural adjustment of their holding after the initial setting-up. We consider that in general a farm holding comprising more than 90 hectares is no longer in a setting-up or structural adjustment process. Such farm holdings should be financially sufficiently viable to bear the cost of any remaining structural adjustment.

Conclusion

142. We recommend maintaining a maximum limit of hectares or payment entitlements.

Definitions

The Commission proposal

143. In the PFR the Commission introduces some new definitions and changes some existing ones.

Our analysis

144. Some of these definitions are incomplete or are inconsistent with other Commission documents or with generally accepted best practice.

145. For example, the definition of the 'budgetary guarantee' (Article 2(9)) does not appear to reflect the fact that a potential financial obligation will last until the maturity of the last agreement signed with the final recipient of the Union guarantee.

146. As already mentioned in our Special Report No 19/2016 ([2]) the definition of the 'leverage effect' is not clear and does not follow the internationally accepted guidelines. The PFR Article 2(33) does not provide such a clarification. In addition, a new definition of the 'multiplier effect' is introduced that is close to the definition of leverage. (In Article 202(1)(d) the two terms are used interchangeably making the concept even less clear.)

([1]) Special Report No 5/2011 — Single Payment Scheme (SPS): issues to be addressed to improve its sound financial management.

([2]) Special Report No 19/2016 — Implementing the EU budget through financial instruments — lessons to be learnt from the 2007-2013 programme period, we recommend that 'the Commission should provide in the Financial Regulation (and subsequently in sectorial regulations) a definition for the leverage of financial instruments applicable across all areas of the EU budget, which clearly distinguishes between the leverage of private and national public contributions under the OP and/or of additional private or public capital contributions, and takes into account the type of the instrument involved. This definition should clearly indicate how the amounts mobilised by the EU and national public contributions are determined, possibly following the OECD's guidelines on the subject'.

147. Both the FR and the sectoral regulations propose a series of measures aimed at putting a stronger focus on results and outputs. Recent audit results [1] however highlighted that there are significant differences in the use of these terms between the Commission's activities.

Conclusion

148. We recommend:

— aligning the definitions proposed in the PFR with existing best practice,

— including the definitions for 'output' and 'result' in the FR. The sectoral regulations should also follow these definitions.

This Opinion was adopted by the Court of Auditors in Luxembourg at its meeting of 26 January 2017.

For the Court of Auditors
Klaus-Heiner LEHNE
President

[1] 2015 annual report, paragraphs 3.54 to 3.59; 2014 annual report, paragraphs 3.52 and 3.92.

ANNEX I

COMMISSION'S MODIFIED TEXT AND COURT'S SUGGESTIONS

Text in the proposal	Court's suggestion
Article 69 Bodies set up under the TFEU and the Euratom Treaty 6. An independent external auditor shall verify that the annual accounts of each of the bodies referred to in paragraph 1 of this Article properly present the income, expenditure and financial position of the relevant body prior to the consolidation in the Commission's final accounts. Unless otherwise provided in the basic act referred to in paragraph 1 of this Article, the Court of Auditors shall prepare a specific annual report on each body in line with the requirements of Article 287(1) TFEU. In preparing this report, the Court shall consider the audit work performed by the independent external auditor and the action taken in response to the auditor's findings.	*Article 69 Bodies set up under the TFEU and the Euratom Treaty* 6. An independent external auditor shall verify that the annual accounts of each of the bodies referred to in paragraph 1 of this Article properly present the income, expenditure and financial position of the relevant body prior to the consolidation in the Commission's final accounts. **The independent external auditor shall also verify that all revenue has been received and all expenditure incurred in a lawful and regular manner.** Unless otherwise provided in the basic act referred to in paragraph 1 of this Article, the Court of Auditors shall **annually report on the audit results** ~~a Specific Annual Report on each body~~ **for the bodies falling within this article** in line with the requirements of Article 287(1) TFEU. In preparing ~~this report~~ **such reporting**, the Court shall consider the audit work performed by the independent external auditor and the action taken in response to the auditor's findings.
Article 70 Public-private partnership bodies The bodies having legal personality set up by a basic act and entrusted with the implementation of a public-private partnership shall adopt their financial rules. Those rules shall include a set of principles necessary to ensure sound financial management of Union funds. The Commission is empowered to adopt delegated acts in accordance with Article 261 to supplement the Financial Regulation with a model financial regulation laying down the principles necessary to ensure sound financial management of Union funds and which shall be based on Article 149. The financial rules of those bodies shall not depart from the model financial regulation except where their specific needs so require and with the Commission's prior consent. Paragraphs 2, 3 and 4 of Article 69 shall apply to public-private partnership bodies.	*Article 70 Public-private partnership bodies* The bodies having legal personality set up by a basic act and entrusted with the implementation of a public-private partnership shall adopt their financial rules. Those rules shall include a set of principles necessary to ensure sound financial management of Union funds. The Commission is empowered to adopt delegated acts in accordance with Article 261 to supplement the Financial Regulation with a model financial regulation laying down the principles necessary to ensure sound financial management of Union funds and which shall be based on Article 149. The financial rules of those bodies shall not depart from the model financial regulation except where their specific needs so require and with the Commission's prior consent. Paragraphs 2~~, 3, and 4~~ **to 6** of Article 69 shall apply to public-private partnership bodies.
Article 123 Cross-reliance on audits Where an audit based on internationally accepted standards providing reasonable assurance has been conducted by an independent auditor on the financial statements and reports setting out the use of the Union contribution, that audit shall form the basis of the overall assurance, as futher specified, where appropriate, in sector specific rules.	*Article 123 Cross-reliance on audits* Where an audit based on internationally accepted standards providing reasonable assurance has been conducted by an independent auditor on the financial statements and reports setting out the use of the Union contribution, that audit ~~shall form the basis of the overall assurance~~ **may be taken into account in the context of the audit of the Union expenditure**, as further specified, where appropriate, in sector specific rules. **To this end, the report of the independent auditor and the related audit documentation shall be made available to the Commission and the Court of Auditors at their request.**

Text in the proposal	Court's suggestion
Article 126 Financial framework partnerships 3. With a view to optimise costs and benefits of audits and facilitate coordination, audit or verification agreements may be concluded with persons and entities implementing funds pursuant to point (c) of Article 61(1) or beneficiaries of grants. In the case of the European Investment Bank the tripartite agreement concluded with the Commission and the European Court of Auditors shall apply.	*Article 126 Financial framework partnerships* 3. With a view to optimise costs and benefits of audits and facilitate coordination, audit or verification agreements may be concluded with persons and entities implementing funds pursuant to point (c) of Article 61(1) or beneficiaries of grants. ~~In the case of the European Investment Bank the tripartite agreement concluded with the Commission and the European Court of Auditors shall apply.~~ **Such agreements shall not restrict the access of the Court of Auditors to information necessary for the audit of Union funds.**
Article 211 Rules for budgetary guarantees 2. Contributions from Member States to budgetary guarantees pursuant to Article 201(2) may be provided in the form of guarantees or cash. An amount exceeding the amount indicated in point (a) of paragraph 1 shall be granted on behalf of the Union. Payments for guarantee calls shall be made, where necessary, by the contributing Member States or third parties on a pari passu basis. The Commission shall sign an agreement with the contributors that shall contain, in particular, provisions concerning the payment conditions.	*Article 211 Rules for budgetary guarantees* 2. Contributions from Member States to budgetary guarantees pursuant to Article 201(2) may be provided in the form of guarantees or cash. An amount exceeding the amount indicated in point (a) of paragraph 1 shall be granted on behalf of the Union. Payments for guarantee calls shall be made, ~~where necessary~~ **in principle,** by the contributing Member States or third parties on a pari passu basis. The Commission shall sign an agreement with the contributors that shall contain, in particular, provisions concerning the payment conditions.
Article 247 Rules and procedure on the audit 1. The examination by the Court of Auditors of whether all revenue has been received and all expenditure incurred in a lawful and proper manner shall have regard to the Treaties, the budget, this Regulation, the delegated acts adopted pursuant to this Regulation and all other acts adopted pursuant to the Treaties. This examination shall take account of the multiannual character of programmes and related supervisory and control systems.	*Article 247 Rules and procedure on the audit* 1. The examination by the Court of Auditors of whether all revenue has been received and all expenditure incurred in a lawful and proper manner shall have regard to the Treaties, the budget, this Regulation, the delegated acts adopted pursuant to this Regulation and all other acts adopted pursuant to the Treaties. ~~This examination shall take account of the multiannual character of programmes and related supervisory and control systems.~~
Article 249 Court of Auditors' right of access 1. The Commission, the other institutions, the bodies administering revenue or expenditure on the Union's behalf and recipients shall afford the Court of Auditors all the facilities and give it all the information which the Court of Auditors considers necessary for the performance of its task. They shall place at the disposal of the Court of Auditors all documents concerning the award and performance of contracts financed by the budget and all accounts of cash or materials, all accounting records or supporting documents, and also administrative documents relating thereto, all documents relating to revenue and expenditure, all inventories, all organisation charts of departments, which the Court of Auditors considers necessary for auditing the budgetary and financial outturn report on the basis of records or on-the-spot auditing and, for the same purposes, all documents and data created or stored electronically.	*Article 249 Court of Auditors' right of access* 1. The Commission, the other institutions, the bodies administering revenue or expenditure on the Union's behalf and recipients shall afford the Court of Auditors all the facilities and give it all the information which the Court of Auditors considers necessary for the performance of its task. They shall place at the disposal of the Court of Auditors, **at its request,** all documents concerning the award and performance of contracts financed by the budget and all accounts of cash or materials, all accounting records or supporting documents, and also administrative documents relating thereto, all documents relating to revenue and expenditure, all inventories, all organisation charts of departments, which the Court of Auditors considers necessary for auditing the budgetary and financial outturn report on the basis of records or on-the-spot auditing and, for the same purposes, all documents and data created or stored electronically. **The Court's right of access shall include the access to the IT system used for the management of the revenue or expenditure subject to its audit.**

Text in the proposal	Court's suggestion
The internal audit bodies and other services of the national administrations concerned shall afford the Court of Auditors all the facilities which it considers necessary for the performance of its task.	The internal audit bodies and other services of the national administrations concerned shall afford the Court of Auditors all the facilities which it considers necessary for the performance of its task.
2. The officials whose operations are checked by the Court of Auditors shall:	2. The officials whose operations are checked by the Court of Auditors shall:
(a) show their records of cash in hand, any other cash, securities and materials of all kinds, and also the supporting documents in respect of their stewardship of the funds with which they are entrusted, and also any books, registers and other documents relating thereto;	(a) show their records of cash in hand, any other cash, securities and materials of all kinds, and also the supporting documents in respect of their stewardship of the funds with which they are entrusted, and also any books, registers and other documents relating thereto;
(b) present the correspondence and any other documents required for the full implementation of the audit referred to in Article 247.	(b) present the correspondence and any other documents required for the full implementation of the audit referred to in Article 247.
The information supplied under point (b) of the first subparagraph may be requested only by the Court of Auditors.	The information supplied under point (b) of the first subparagraph may be requested only by the Court of Auditors.
3. The Court of Auditors shall be empowered to audit the documents in respect of the revenue and expenditure of the Union which are held by the departments of the institutions and, in particular, by the departments responsible for decisions in respect of such revenue and expenditure, the bodies administering revenue or expenditure on the Union's behalf and the natural or legal persons receiving payments from the budget.	3. The Court of Auditors shall be empowered to audit the documents in respect of the revenue and expenditure of the Union which are held by the departments of the institutions and, in particular, by the departments responsible for decisions in respect of such revenue and expenditure, the bodies administering revenue or expenditure on the Union's behalf and the natural or legal persons receiving payments from the budget.
4. The task of establishing that the revenue has been received and the expenditure incurred in a lawful and proper manner and that the financial management has been sound shall extend to the utilisation, by bodies outside the institutions, of Union funds received by way of contributions.	4. The task of establishing that the revenue has been received and the expenditure incurred in a lawful and proper manner and that the financial management has been sound shall extend to the utilisation, by bodies outside the institutions, of Union funds received by way of contributions.
5. Union financing paid to recipients outside the institutions shall be subject to the agreement in writing by those recipients or, failing agreement on their part, by contractors or subcontractors, to an audit by the Court of Auditors into the use made of the financing granted.	5. Union financing paid to recipients outside the institutions shall be subject to the agreement in writing by those recipients or, failing agreement on their part, by contractors or subcontractors, to an audit by the Court of Auditors into the use made of the financing granted.
6. The Commission shall provide the Court of Auditors, at its request, with any information on borrowing-and-lending operations.	6. The Commission shall provide the Court of Auditors, at its request, with any information on borrowing-and-lending operations.
7. Use of integrated computer systems shall not have the effect of reducing access by the Court of Auditors to the supporting documents.	7. Use of integrated computer systems shall not have the effect of reducing access by the Court of Auditors to the supporting documents. **Whenever technically possible, electronic access to data and documents necessary for the audit shall be given to the Court of Auditors in its own premises.**
Article 250 Annual report of the Court of Auditors	*Article 250 Annual report of the Court of Auditors*
1. The Court of Auditors shall transmit to the Commission and the institutions concerned, by 15 June, any observations which are, in its opinion, such that they should appear in the annual report. Those observations shall remain confidential and shall be subject to an adversarial procedure. Each institution shall address its reply to the Court of Auditors by 15 October. The replies of institutions other than the Commission shall be sent to the Commission at the same time.	1. The Court of Auditors shall transmit to the Commission and the institutions concerned, by ~~15~~ **30** June, any observations which are, in its opinion, such that they should appear in the annual report **to enable the institution concerned to comment upon them**. Those observations shall remain confidential ~~and shall be subject to an adversarial procedure~~. Each institution shall address its reply to the Court of Auditors by 15 ~~October~~**July**. The replies of institutions other than the Commission shall be sent to the Commission at the same time.

Text in the proposal	Court's suggestion
2. The annual report shall contain an assessment of the soundness of financial management.	2. The annual report shall contain an assessment of the soundness of financial management.
3. The annual report shall contain a section for each institution. The Court of Auditors may add any summary report or general observations which it sees fit to make.	3. The annual report shall contain a section for each institution. The Court of Auditors may add any summary report or general observations which it sees fit to make.
The Court of Auditors shall take all necessary steps to ensure that the replies of each institution to its observations are published next to or after each observation to which they relate.	The Court of Auditors shall take all necessary steps to ensure that the replies of each institution to its observations are published ~~next to or after each observation to which they relate~~ **together with the annual report**.
4. The Court of Auditors shall transmit to the authorities responsible for giving discharge and to the other institutions, by 15 November, its annual report accompanied by the replies of the institutions and shall ensure publication thereof in the *Official Journal of the European Union*.	4. The Court of Auditors shall transmit to the authorities responsible for giving discharge and to the other institutions, by 15 November, its annual report accompanied by the replies of the institutions and shall ensure publication thereof in the *Official Journal of the European Union*.
Article 251 Special reports of the Court of Auditors	*Article 251 Special reports of the Court of Auditors*
1. The Court of Auditors shall transmit to the institution or the body concerned any observations which are, in its opinion, such that they should appear in a special report. Those observations shall remain confidential and shall be subject to an adversarial procedure.	1. The Court of Auditors shall transmit to the institution or the body concerned any observations which are, in its opinion, such that they should appear in a special report **to enable the institution concerned to comment upon them**. Those observations shall remain confidential ~~and shall be subject to an adversarial procedure~~.
The institution or the body concerned shall inform the Court of Auditors, in general, within six weeks of transmission of those observations, of any replies it wishes to make in relation to those observations. That period shall be suspended in duly justified cases, in particular where, during the adversarial procedure, it is necessary for the institution or body concerned to obtain feedback from Member States in order to finalise its reply.	The institution or the body concerned shall inform the Court of Auditors, in general, within six weeks of transmission of those observations, of any replies it wishes to make in relation to those observations. ~~That period shall be suspended in duly justified cases, in particular where, during the adversarial procedure, it is necessary for the institution or body concerned to obtain feedback from Member States in order to finalise its reply.~~
The replies of the institution or the body concerned shall directly and exclusively address the observations of the Court of Auditors.	The replies of the institution or the body concerned shall directly and exclusively address the observations of the Court of Auditors.
The Court of Auditors shall ensure that special reports are drawn up and adopted within an appropriate period of time, which shall, in general, not exceed 13 months.	The Court of Auditors shall ensure that special reports are drawn up and adopted within an appropriate period of time, which shall, in general, not exceed 13 months.
The special reports, together with the replies of the institutions or bodies concerned, shall be transmitted without delay to the European Parliament and to the Council, each of which shall decide, where appropriate in conjunction with the Commission, what action is to be taken in response.	The special reports, together with the replies of the institutions or bodies concerned, shall be transmitted without delay to the European Parliament and to the Council, each of which shall decide, where appropriate in conjunction with the Commission, what action is to be taken in response.
The Court of Auditors shall take all necessary steps to ensure that the replies to its observations from each institution or body concerned are published next to or after each observation to which they relate, and publish the timeline for the drawing up of the special report.	The Court of Auditors shall take all necessary steps to ensure that the replies to its observations from each institution or body concerned are published ~~next to or after each observation to which they relate, and publish the timeline for the drawing up of~~ **together with** the special report.

ANNEX II

REPORTING

	Commission periodic reporting (based on CFR)		Proposed Commission periodic reporting (PFR)		ECA proposed change	
	Date	Report	Date	Report	Presented for audit	Report
1	1 March 'n+1'	Provisional accounts of other institutions and bodies for the year 'n'	1 March 'n+1'	Provisional accounts of other institutions and bodies for the year 'n'	1 March 'n+1'	Provisional accounts of **all** institutions and bodies for the year 'n'
2	31 March 'n+1'	Provisional accounts of the Commission and the consolidated provisional accounts of the Union for the year 'n'	31 March 'n+1'	Provisional accounts of the Commission and the consolidated provisional accounts of the Union for the year 'n'	31 March 'n+1'	'Provisional consolidated accounts of the Union for the year 'n'
3	31 March 'n+1'	Report on Budgetary and Financial Management Year 'n' (Article 142 CFR)	31 March 'n+1'	Report on Budgetary and Financial Management Year 'n' (Article 241 PFR)	1 March 'n+1'	Report on Budgetary and Financial Management Year 'n' (Article 241 PFR)
4	15 June 'n+1'	Summary of the annual activity reports (Article 66(9) CFR)	31 July 'n+1'	Included in the AMPR (as part of IFRP) (Article 239 PFR)	31 March 'n+1'	Single Accountability Report (SAR)
5		Evaluation of the Union's finances based on the results achieved (Article 318 TFEU)	31 July 'n+1'	Included in the AMPR (as part of IFRP) (Article 239 PFR)	1 May 'n+1'	Separate report with an explanation of the extent and findings of evaluations across EU spending and other policies
6	1 July 'n+1'	Annual activity reports for the year 'n'	31 July 'n+1'	Included in the AMPR (as part of IFRP) (Article 239 PFR). Performance information would be reported through the programme statements attached to the draft budget		Internal documents of the Commission. There is no need to cover them in the FR. Key performance information could be included in the evaluation report
7	1 July 'n+1'	Final accounts of other institutions and bodies for the year 'n' (Article 148 CFR)	1 July 'n+1'	Final accounts of other institutions and bodies for the year 'n' (Article 238 PFR)	15 June 'n+1'	Final accounts of **all** institutions and bodies for the year 'n'

	Commission periodic reporting (based on CFR)		Proposed Commission periodic reporting (PFR)		ECA proposed change	
	Date	Report	Date	Report	Presented for audit	Report
8	31 July 'n+1'	Final consolidated accounts and accounts of the Commission for the year 'n' (Article 148 CFR)	31 July 'n+1'	Consolidated annual accounts (as part of IFRP) (Articles 238(5) and 239 PFR)	30 June 'n+1'	Consolidated annual accounts
9	31 July 'n+1'	Communication from the Commission to the European Parliament, the Council and the Court of Auditors Protection of the EU budget to end of year 'n'	31 July 'n+1'	Report on preventive and corrective actions covering the EU budget (as part of the IFRP) (Article 239 PFR)	31 March 'n+1'	Report on preventive and corrective actions covering the EU budget (as part of the IFRP) (Article 239 PFR)
10		Report on the protection of the European Union's financial interest (fight against fraud) (as part of the IFRP) (Article 325 TFEU)	31 July 'n+1'	Report on the protection of the European Union's financial interest (fight against fraud) (as part of the IFRP) (Article 325 TFEU)	31 March 'n+1'	Report on the protection of the European Union's financial interest (fight against fraud) (as part of the IFRP) (Article 325 TFEU)
11		Report on the internal audits (Article 99(5) CFR)	31 July 'n+1'	Report on the internal audits (Article 116(8) PFR)	31 March 'n+1'	Included in the Single Accountability Report
12		Report on the follow-up to the discharge (Article 165(3) CFR)	31 July 'n+2'	Report on the follow-up to the discharge (Article 253(3) PFR)		
13	15 June 'n+1'	Report on Trust Funds		Report on Trust Funds (Article 244 PFR)	30 June 'n+1'	Included as a consolidated statement in the consolidated annual accounts
14	1 September 'n+1'	Draft budget for year 'n+2'	1 September 'n+1'	Draft budget — Including also information on financial instruments, budgetary guarantees and financial assistance — Programme statements		

	Commission periodic reporting (based on CFR)		Proposed Commission periodic reporting (PFR)		ECA proposed change	
	Date	Report	Date	Report	Presented for audit	Report
15	15 September	Report on current risks noted, general trends observed, new accounting issues and information on recoveries (Article 150(4) CFR)	15 September	Report on current risks noted, general trends observed, new accounting issues and information on recoveries (Article 243 PFR)	1 September	Report on current risks noted, general trends observed, new accounting issues and information on recoveries (Article 243 PFR)
16		Report on budgetary guarantees and risks (Article 149)		Merged with report on financial instruments attached to the draft budget		
17	Oct/Nov 'n+1'	Report from the Commission to the European Parliament and Council on financial instruments supported by the general budget (Article 140(8) CFR)	1 September 'n+1'	Report on financial instruments, budgetary guarantees, financial assistance, contingent liabilities and the common provisioning fund (Article 39(4) and (5), 50(1)(d), 242 PFR). Presented together with the draft budget for year 'n+2'		

ISSN 1977-091X (electronic edition)
ISSN 1725-2423 (paper edition)

Publications Office of the European Union
2985 Luxembourg
LUXEMBOURG

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