

4. European Regional Development Fund

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The replies on this website will be updated, where necessary, as soon as possible following the adoption of the amendments as part of the 'CRII Plus' package. Updated replies will be marked.

General, scope

The outbreak of COVID-19 has created an exceptional situation that requires exceptional response, mobilising all available resources. As not all MS currently have TO9 in their programmes, it was decided to expand the scope of TO1 to ensure all MS could benefit from it. The proposed investments necessary for strengthening the crisis response capacities are additional to the current scope of TO1. In accordance with Articles 2(33) and 19(1) CPR, ex ante conditionality shall apply only if it is a prerequisite for and has a direct and genuine link to, and direct impact on, the effective achievement of a specific objective for an investment priority. The ex ante conditionality on smart specialisation strategy is not a prerequisite for an effective response to the public health crisis and therefore it is not applicable to these investments.

It is as well possible to refocus resources to address the public health crisis within existing investment priorities of the other thematic objectives. For example, under TO9 the first investment priority under ERDF already covers investment in health and social infrastructure, which contributes to national, regional and local development, reducing inequalities in terms of health status. It may include as well investments supporting effective response to the public health crisis in the context of the COVID-19 outbreak.

EE	The actions related to the corona virus in the medical field shall be supported under TO1. Why is this the case? Why not TO9? Under TO1 there is an ex ante conditionality in the CPR on having a smart specialization strategy, which applies to all investment priorities under TO1. In addition the whole intervention logic of the relevant priority axis in our OP is based on being in line with the smart specialization framework. The actions addressing strengthening the crisis response capacities in health services does not seem to fall under the scope of PO1. Please explain. Are the actions considered eligible also under TO9?
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For SMEs, it is possible to finance mix of grants and loans, including **repayable assistance**, in line with the proposed Article 3(1) ERDF Regulation which would also allow to finance **working capital** through any form of support. (for definition of working capital: see reply to your other question "Supporting liquidity through reimbursement of interest payable")

It is possible to have separate operations: one to provide loan (or other financial instrument, e.g. guarantee) and the other(s) to provide grants, but if both channels are to be supported by EU funds, such a set up would be more complex than using the 'repayable assistance' model, which is a distinct form of support under Article 66 CPR, which allows to combine repayable and non-repayable form in a flexible manner.

It is up to national authorities to decide the share of repayable and non-repayable component within an operation in the form of repayable assistance, and this mix may depend on a sector and/or on the amount to be repaid, or on a clause that no employees are laid off for those companies receiving the aid. See: [Guidance for Member States on Definition and use of repayable assistance in comparison to financial instruments and grants](#) .

For large enterprises, working capital support to cover such salaries expenditure would be eligible from ERDF only if provided in the form of financial instruments. See: [financial instruments guidance on working capital](#).

EL	Provision of a mix of direct grants and/or financing to companies recording large drops in turnover as a result of the Coronavirus and with large employee bills. We would like to differentiate by sector, and include the proviso that no employees are laid off for those companies receiving the aid.
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This reply was updated on 15 May 2020 to clarify that grant operations can be used for interest rate subsidies also in the case of loans supported by EU budget. The text added or changed during the update is highlighted.

Provision of liquidity to SMEs in the form of a grant used to reimburse interest payable on their banking loans could be supported, [in particular in one of the following ways, not excluding other possible options](#):

- as a grant operation, where these banking loans are not supported by the EU budget [or where these banking loans have been supported by the EU budget \(as the principal of the loans and the interest constitute distinct eligible expenditure, thus double financing is avoided\)](#). Interest rate subsidy is eligible in line with Article 69(3)(a) CPR, which refers to “grants given in the form of an interest rate subsidy or guarantee fee subsidy”. Eligible expenditure would be equal to the interest rate subsidy amounts.
- as part of a combination of a financial instrument with grants within a single financial instrument operation (where both forms of support are financed by ESI Funds or another instrument of the Union budget) and where both target the same final recipients – see [EGESIF_15_0012-02](#) for detailed guidance.

Liquidity is synonymous with working capital, which has already been defined broadly in the financial instrument context, as the difference between current assets and current liabilities of an enterprise. Categories of expenditure for which the working capital could be used may include, amongst others, the funds required to pay for raw materials and other manufacturing inputs, including labour; inventories and overheads; rent, utilities; funding to finance trade receivables and non-consumer sales receivables (see: [EGE SIF 14_0041-1](#)).

Support to **working capital**, can also be used by the recipient SMEs to reimburse interests of loans. This type of support will be allowed in line with the ~~proposed~~ [amended](#) Article 3(1) of ERDF Regulation, if the beneficiary/final recipient is an SME, and if such support is necessary as a temporary measure to provide an effective response to a public health crisis and if such support is covered by the priority axis.

If the support for working capital fits into the scope of the priority axis under the current version of the OP, there would not be any need to modify the OP, but this must be verified in this specific case, as programme-specific conditions might need to be amended in order to cover such new actions. Neither working capital nor the specific cost items have to be explicitly mentioned in the description of the priority axis, but should fit into the scope of priority axes and types of projects. In such a case, expenditure is already eligible from 1 January 2014.

In case the programme needs to be amended to extend eligibility to cover the working capital, expenditure for operations for fostering crisis response capacities in the context of the COVID-19 outbreak is eligible [as of 1 February 2020](#). **This also applies to working capital granted to SMEs to provide an effective response to the public health crisis.** The necessary programme amendment may be adopted later, without delaying deployment of measures.

In order to facilitate access for recipients of such support, the Member State may decide that the beneficiary is the body granting the aid in line with Article 2(10)(a) CPR.

EL	Provision of liquidity to small and medium enterprises in the form of a subsidy of interest payable on their banking loans for a period of three to five months, in sectors that have been significantly affected by the Coronavirus, for those loans that were performing as of end of last year.
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Lump sum grant support for *self-employed individuals* (sole traders) could possibly be supported under proposed Article 3(1) ERDF if such support is necessary as a temporary measure to provide an effective response to a public health crisis, if such scope is included in the OP and if they are SMEs.

Self-employed individuals (sole traders) could be considered SMEs as according to Article 1 of Annex I to [Commission Recommendation 2003/361/EC](#) an enterprise is considered to be any entity engaged in an economic activity, irrespective of its legal form. This includes, in particular, self-employed persons and family businesses engaged in craft or other activities, and partnerships or associations regularly engaged in an economic activity

The CPR provides a flexible framework for how such measure could be implemented, in particular:

- If granted under *de minimis* rules, in line with Article 67(2a), as a general rule, the support based on lump sum as provided by Article 67(1)(c) is to be used, which should minimise the burden for the SMEs receiving support. [Guidance on simplified costs options](#), including lump sums, is available also in Greek; support in the form of a lump sum is also possible under the [Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak](#);
- In order to facilitate access for recipients of such support, the Member State may instead decide that the beneficiary is the ‘body granting the aid’ in line with Article 2(10)(a)CPR: in such a model, the SMEs receive the support, but are not considered beneficiaries which could reduce bureaucratic burden.

Managing authority should choose the method which is the most appropriate given the current situation.

EL	Possibility to finance from ERDF: 400 euro grant for self-employed (sole traders) in sectors that have been significantly affected by the virus for two months.
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With the amendment to Article 3 (1) of ERDF Regulation, the Coronavirus Response Investment Initiative (CRII) proposes to open ERDF support (also in the form of grants and repayable assistance) to working capital in SMEs as a temporary measure to provide an effective response to a public health crisis, with special attention on sectors, which are particularly hard hit. SMEs in the tourism sector are certainly among these. Currently, working capital in enterprises may be eligible under specific circumstances for support through financial instruments only, in accordance with Article 37(4) CPR, not covering emergency intervention, where the working capital would be supported in order to keep the enterprise on the market and maintain jobs.

Working capital could be understood broadly, as the difference between current assets and current liabilities of an enterprise. Categories of expenditure for which the working capital could be used may include, amongst others, the funds required to pay for raw materials and other manufacturing inputs, including labour; inventories and overheads; rent, utilities; funding to finance trade receivables and non-consumer sales receivables (see: [EGESIF 14_0041-1](#)).

If the support for working capital fits into the scope of the priority axis under the current version of the OP, there would not be any need to modify the OP, but this needs to be verified in this specific case, as programme-specific conditions might require extending the scope of support in order to cover such new actions. Neither working capital nor the specific cost items have to be explicitly mentioned in the description of the priority axis, but should fit into the scope of priority axes and types of projects.

In case the programme needs to be amended to extend eligibility to cover the new scope, expenditure for operations for fostering crisis response capacities in the context of the COVID-19 outbreak shall be eligible as of 1 February 2020. **This also applies to working capital granted to SMEs to provide an effective response to a public health crisis.** The necessary programme amendment may be adopted later, without delaying deployment of measures.

In order to facilitate access for recipients of such support, the Member State may decide that the beneficiary is the body granting the aid in line with Article 2(10)(a).

SE	We have a crisis especially in the tourism area, SMEs are facing increasing difficulties, how can we use ERDF for support?
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In this geographical area, transport services are not eligible for CF/ERDF support; only investments in e.g. infrastructure and equipment. The Commission’s proposal of an additional subparagraph in Article 3(1) ERDF Regulation, on supporting the working capital as a temporary measure to provide an effective response to a public health crisis, applies only to SMEs. Tallink, as a large enterprise, would not be eligible for such a support.

The Commission has requested that Member States implement a green lane approach in order to ensure that EU internal borders stay open to freight and that supply chains for essential products are guaranteed. Investment in infrastructure and equipment that facilitate the implementation of green lanes can be eligible for CF or ERDF support.

We highlight also that cohesion policy support remains available e.g. for the purchase and transport of urgent medicine and medical equipment.

As regards State aid, to facilitate MS adoption of adequate and quick measures, the priority of the Commission has been to design a temporary framework allowing different types of support, with lighter requirements to give MS the means to address different types of needs, while ensuring that the EU Internal Market is not fragmented and that the level playing field stays intact. Member States are therefore invited to use the possibilities of this Temporary framework to remedy a disturbance of their economy or to design measures on the basis of Article 107(2)(b) to compensate undertakings in sectors that have been particularly hit by the outbreak (e.g. transport, tourism, culture, hospitality and retail) and/or organisers of cancelled events for damages suffered due to and directly caused by the outbreak. In both cases, measures have to be notified. Notifications of schemes will have a quick and priority treatment, providing Member States use the specific following address to contact DG Competition as early as possible when designing a scheme: COMP-COVID@ec.europa.eu

The link to the Temporary Framework is published on DG Competition constantly updated website, as well as already available templates of the information needed for a quick assessment of notified measures:

https://ec.europa.eu/competition/state_aid/what_is_new/covid_19.html

EE	<p>As reinstatement of border controls has resulted in bottlenecks and blockages at some borders along the TEN-T corridors, it has become necessary to create alternative solutions for maintaining security of supply of essential goods/cargo (incl. food (that would get spoilt fast), medical supplies, etc.) to where needed.</p> <p>As a temporary solution, a vessel connection (Motorways of the Sea) is being established connecting German and Estonian ports that would transport trucks in both directions (and, to a very limited extent, passengers if necessary). Potential duration of this measure is estimated at 30 days. The majority of costs would be covered by transport companies, however, limited state subsidy is required in order to compensate the balance.</p> <p>In our opinion, the need for this measure (and for the public sector subsidy) is clearly related to Covid-19 crises, is temporary and proportional, and should qualify as a crises measure, so it should be considered eligible Cohesion Fund or ERDF. Do you agree with this approach?</p> <p>This is support for Tallink (large enterprise) to operate between Paldiski-Sassnitz (the North Sea – Baltic Sea TEN-T Core Network Corridor) necessary due to cargo blockages (including for critical goods) in the Polish borders. The ticket sales do not cover the costs to operate the temporary line, which is critical to ensure security of supplies and the functioning of the internal market. It may also be relevant for funding from CEF, so please take that option also on the table in cooperation with DG MOVE.</p>
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Costs of the investment/innovation activities, including related remuneration and indirect costs related to the investment have been eligible under Article 3 of ERDF Regulation, e.g. as productive investment in SMEs (Article 3(1)(a) of ERDF Regulation) or investment in business/innovation infrastructure (Article 3(1)(d) ERDF Regulation), since 1 January 2014.

This support could be combined with support in the form of working capital (in addition to categories already included in the investment costs). ‘Working capital’ in this context is synonymous with operating costs. ‘Working capital’ could be understood broadly, as the difference between current assets and current liabilities of an enterprise. Categories of expenditure for which the working capital could be used may include, amongst others, the funds required to pay for raw materials and other manufacturing inputs, including labour (remuneration); inventories and overheads; rent, utilities; funding to finance trade receivables and non-consumer sales receivables (see: [EGESIF 14_0041-1](#)).

Support **in the form of grants or repayable assistance** to cover the costs of working capital, in line with the new sub-paragraph of Article 3(1) of ERDF Regulation, is eligible if the company is an SME, and if such support is necessary **as a temporary measure to provide an effective response to a public health crisis**. The temporary nature means that the period during which such support is provided is to be defined in relation to the crisis, and as a general rule should not extend to the whole durability period. The period in which working capital in these forms is supported may include the implementation phase, as well as the period before and after it, in any combination (including only after implementation, if the project is already implemented). In line with Article 65(1) CPR, the specific modalities should be determined on the basis of national rules and, wherever relevant, in compliance with the applicable State aid rules.

When providing such comprehensive support, please ensure that the same costs are not supported twice, which could be a risk especially when investment support is provided separately from the support for working capital. In order to avoid any audit issues, working capital should exclude any costs already covered by flat-rate financing for indirect costs in line with Article 68 or other investment costs.

For **the support in the form of financial instruments**, working capital has already been eligible and continues to be so, also outside of the specific conditions introduced by the new provisions of Article 3(1) ERDF Regulation. In line with Article 37(4) CPR financial instruments may target both implementation of new projects as well as strengthening the general activities of the SMEs, which does not preclude that such support covers both the implementation phase and any part of the durability period.

PL	<p>Are you considering: the inclusion of the possibility of qualifying investment operating costs, remuneration costs, investment / innovation activities at the enterprise level, indirect costs both during the project implementation phase and during the project durability, so as to facilitate the beneficiaries to complete the implementation of the investment, as well as to maintain their effects, including the maintenance of newly created jobs?</p>
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The specific additional allocation for outermost regions is part of the ERDF allocation. Article 12 ERDF regulation specifies for which cases the specific additional allocation can be used. In accordance with Art 12(1)(c) ERDF Regulation, this allocation shall be used to offset the additional costs supporting the operations to address the lack of human capital in the local market. Thereby, working capital in SMEs as laid down in Article 3(1) of ERDF regulation, would be eligible.

As regards investment in health services, in accordance with Article 12(1), specific additional allocation for outermost regions shall be used to offset the additional costs incurred in the outermost regions in supporting any of the thematic objectives set out in Art 9 CPR. Therefore, as laid down in Art 5(1)(b) ERDF Regulation, defining the second investment priority under the TO1 to be supported by the ERDF, also fostering investment necessary for strengthening the crisis response capacities in health services is eligible under the additional allocation for outermost regions.

FR	Is the specific allocation for outermost regions eligible for CRII actions?
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As regards the extended investment priority under TO1 in line with the amended Article 5(1) of the ERDF Regulation, targeting investments necessary for strengthening the crisis response capacities in health services, may cover hospitals, irrespectively of their legal set-up, including in case they are set up as a public sector company or private hospitals. The explanatory memorandum to the amending [Regulation 2020/460](#) and recital (4) of that Regulation provide that “*the ERDF investment priority to strengthen research, technological development and innovation should cover investment in products and services necessary for fostering crisis response capacities in public health services*”. Therefore, Article 3(1) of ERDF Regulation should be, in relation to the specific opening for TO1, interpreted as providing the necessary scope to such investments even if not explicitly covered by the text of the provision.

Companies in the health sector, such as those participating in the supply chains of products and services relevant to combating the pandemic, would primarily benefit indirectly thanks to increased demand and financing provided to purchase their products and services. The costs related to establishment of increased volume of production, including costs of investments and labour costs, would normally be recovered with the profit received from selling the products. Therefore, as a general rule, there should not be any need for public support.

However, support to such companies is not *a priori* excluded if one can demonstrate that it is necessary to provide an effective response to the public health crisis and other applicable conditions (e.g. concerning selection of operations) are satisfied. In such a case, companies in health sector could receive financing for working capital (short-term liquidity) in the form of financial instruments (given profitability of such investments, the recommended form of public support if the support is needed at all), or if they are SMEs, they could receive support for working capital also in the form of repayable assistance or grants, in line with the amended Article 3(1) of ERDF Regulation.

Productive investments of companies in the health sector (e.g. pharmaceutical companies, producers of equipment etc.) are not ‘health services’ referred to in the amended Article 5(1) of ERDF Regulation, but such investments are eligible under TO1, in line with Article 3(1)(b) of ERDF Regulation.

It should be noted that the legislative framework for the implementation of the ESI Funds programmes remains fully applicable even under the current exceptional circumstances. Therefore, the national authorities when adjusting the ongoing operations or launching new calls for proposals, have to ensure compliance with existing rules, including provisions on selection of operations as laid down in Article 125(3) CPR and the scope of support from the ERDF as laid down in Article 3 ERDF Regulation (as modified by [Regulation \(EU\) 2020/460](#)).

DE	The scope of support of ERDF is extended to “a public health crisis” (Article 3(1)) and the investment priorities to “investments necessary for strengthening the crisis response capacities in health services” (Article 5(1)(b)). Is it correct that companies in the health sector can also be supported and if yes, does this also include companies in the public sector like hospitals?
PL	Regarding companies participating in the supply chains of products and services relevant to combating a pandemic (eg. support for mask sewing SMEs) we would like to have your confirmation as far as the scope of eligible expenditure within a grant is concerned – there would be all costs related to establish increased volume of production, including costs of investments and labor costs.

On 1 April 2020, [Regulation \(EU\) 2020/460 of the European Parliament and of the Council as regards specific measures to mobilise investments in the healthcare systems of Member States and in other sectors of their economies in response to the COVID-19 outbreak \(Coronavirus Response Investment Initiative\)](#) entered into force. It amended Regulation (EU) No 1303/2013 (ERDF) insofar that it extended the scope of activities that could benefit from support from ERDF. The amended Article 3(1), last paragraph, provides for the possibility to support through ERDF the financing of working capital in SMEs, where necessary, as a temporary measure to provide an effective response to a public health crisis. In parallel, it amended Regulation 1303/2013 (CPR) including a derogation for expenditure for operations for fostering crisis response capacities in the context of the COVID-19 outbreak that become eligible as of 1 February 2020.

Shortly before, on 19 March 2020, in accordance with Article 107(3)(b) TFEU the Commission adopted the [Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak](#) (the Temporary Framework) with the objective to facilitate public support to undertakings of all kinds that face a severe lack of liquidity. The [amendment to the Temporary Framework](#) was adopted by the Commission on 3 April 2020. The Temporary Framework sets out the compatibility conditions that the Commission will apply to the aid granted by Member States in accordance with Article 107(3)(b) TFEU, to remedy serious disturbance in the economy. Such State aid remains subject to Commission’s clearance in accordance with Article 108(3)(c) TFEU and needs therefore to be notified by Member States. The Temporary Framework states that aid, whether in the form of grant, repayable advance or tax advantages, guarantee or a loan] may be granted to undertakings in difficulty, unless they were already in difficulty (within the meaning of the General Block Exemption Regulation) on 31 December 2019.

Article 3(3)(d) of the ERDF Regulation provide that “*undertakings in difficulty, as defined under Union State aid rules*” are not eligible for support from ERDF. The exclusion in scope laid down in ERDF Regulation was defined in reference to State aid rules with the objective to ensure consistency and alignment between the two set of rules and provide greater simplification for the managing authorities.

Therefore, for aid granted under the Temporary Framework the managing authorities will have to take account the **financial situation of companies on 31 December 2019 based on the GBER definition**. The same logic should apply for aid granted under the *de minimis* rules, where the managing authorities should take account of the financial status of the beneficiary only if required by the relevant *de minimis* rules.

On 2 April 2020, the Commission [proposed to amend Regulation \(EU\) No 1303/2013 and Regulation \(EU\) No 1301/2013 as regards specific measures to provide exceptional flexibility for the use of the ESIF in response to the COVID-19 outbreak](#) to provide more legal certainty for this approach. The proposal includes an amendment to Article 3(3)(d) of the ERDF Regulation as regards undertakings receiving support in compliance with the State aid Temporary Framework or Commission Regulations (EU) No 1407/2013 , (EU) No 1408/2013 and (EU) No 717/2014. It expresses the Commission views that, in these specific circumstances, undertakings in difficulty should not be excluded from the scope of ERDF, if the aid is granted in compliance with the Temporary Framework, the general and the sectoral *de minimis* rules, whichever applicable. Note should be made that Commission Regulations (EU) No 1407/2013, (EU) No 1408/2013 and (EU) No 717/2014 have not been affected by the above legislative amendments or proposal for amendment and remain therefore fully applicable.

The Commission expects the co-legislators to deal swiftly with the file and move to rapid adoption.

EE	Can undertakings in difficulty be supported under the crisis measures? Why do restrictions in the ERDF Regulation as regards undertakings in difficulty remain in force while State aid rules will be relaxed in this respect?
IT	The ERDF Regulation explicitly states that enterprises “in difficulty” are not eligible. The Italians propose that also these enterprises are eligible since 1.2.2020.
EE	The restriction, which excludes support to undertakings in difficulty has not been modified, thereby remains in force. The state aid framework does not exclude all aid to such enterprises (<i>de minimis</i> aid has always been possible), but the ERDF regulation does. According to the draft Commission communication on “Temporary Framework for State Aid measures to support the economy in the current COVID-19 outbreak” the aid may be granted to undertakings which were not in difficulty on 31.12.2019 but entered in difficulty thereafter as a result of the COVID-19 outbreak. Hence, we assume that even if the Commission revises state aid guidelines and adopts a temporary framework on the context of this crisis, this restriction stays in force for ERDF and no aid whatsoever can be granted from the ERDF to undertakings in difficulty – not even guarantees via financial instruments or <i>de minimis</i> aid? Is this correct? If yes, please reconsider.
UK	Article 3(3)(d) ERDF Regulation indicates that the ERDF should not support undertakings in difficulty ‘as defined under Union State Aid rules’. This would be an issue in terms of supporting SMEs under the new Article 37(4) text, and also for our business support projects. This could either be addressed through a change to the General Block Exemption Regulation (most likely) or via a change to the ERDF Regulation. Such a change would mean that businesses that were trading adequately prior to the crisis but are affected by the current circumstances could be offered support to transition through the crisis.
IT	Taking into account the temporary nature of the interventions to be put in place, is it possible to confirm that ERDF support can be directed to ‘undertakings in difficulty’ as defined in the EC Communication on State aid related to the COVID emergency “(C (2020) 1863 final) (point 22.c)”, by way of derogation to Article 3(3)(d) of the ERDF Regulation No. 1301/2013?

SK	The question is if the Commission intends to amend the ERDF Regulation in the area of providing assistance to companies in difficulties, in connection to adoption of the Temporary framework for state aid measures in order to support the economy in the current situation caused by COVID-19 disease and reflect the situation also in providing aid, in 2021, to companies that have become companies in difficulties in 2020 as a result of the crisis caused by the coronavirus.
BE	The feasibility of extending the 1.1.2 financial engineering measure, 'micro-credit' (loans), from the ERDF OP 2014-2020 for Wallonia. The specific aim of this possible enlargement would be to respond directly to the cash-flow difficulties (working capital) for Walloon SMEs due to the binding measures resulting from the health crisis of the coronavirus. Although this measure is not directly included in the new temporary framework for state aid, 'inclusion 19', is it permissible to make use of the flexibility in the case of firms in difficulty (estimate on the basis of figures as at 31/12/2019) that the latter provides for the application of Article 3 (3) of the ERDF Regulation (exclusion from financing of firms in difficulty)? More generally, when ERDF funds of origin are used through financial engineering measures aimed at SMEs/VSEs affected by the health crisis of the health crisis of the inclusion of the 19 budget, can Article 3(3) of the ERDF Regulation (EC) No 1301/2013 (exclusion of firms in difficulty) be applied, taking into account the option given by the new State aid framework (estimate based on figures at 31/12/2019), at least until 31/12/2020?

The question does not specify exactly what operations from the medical field are meant to be financed. In general, for this field, besides the standard codes (codes as referred to in the nomenclature for the categories of intervention set out in Annex I table 1 of the Commission Implementing Regulation (EU) No 215/2014 of 7 March 2014) for TO1 056-065, please use codes 053 and 081 for ERDF. In case of risk prevention and management of non-climate related natural risks, please use code 088.

EE	The Estonian operational programme does not include any indication that actions related to the corona virus in the medical field shall be supported under TO1 and the respective priority axis. There is no respective specific objective, no actions, no indicators. The nomenclature for categories of intervention does not seem to include a suitable category.
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For SMEs which are manufacturers in this sector, the support would normally be considered productive investment already eligible under Article 3(1)(a) ERDF. Large enterprises cooperating with SMEs can already be supported under Article 3(1)(b) ERDF. In addition, the amended Article 5(1)(b) ERDF Regulation makes it possible to finance "investment necessary for strengthening the crisis response capacities in health services". Health services could be understood broadly, and could include, when such support is justified, also manufacturing companies.

The Commission recommends careful assessment of the need to get public support for such manufacturing companies, and if this need is justified, e.g. in case a fast production expansion is needed, which could not be met by private financing, support for such companies in the form of financial instrument or repayable assistance should be preferred so as to ensure that the full ESIF-funded amount provided to such company is repaid back to the managing authority. See reply "Support to companies in the health sector" for details.

For companies which purchase protecting clothing, inhalers and short-term equipment (i.e. equipment, which is expected to be mostly depreciated over the period of the coronavirus crisis), such an expenditure would be eligible as working capital under the amended Article 3(1) ERDF Regulation (for all form of financing) and Article 37(4) CPR (for financial instruments). Equipment which is expected to be used longer than the crisis could usually already be eligible as part of productive investment for SMEs. The eligibility rules are decided at national level, and if in the same call for proposals also equipment is made eligible in all cases (in line with the programme - which can be amended if needed), there might not be any need to establish and verify which equipment is a part of working capital, and which falls outside, but is still needed to provide effective response to the health crisis.

BG	Support for eligible costs/activities for crisis management measures including: equipment; inhalers; protective clothing - can they target not only hospitals, but also the companies that manufacture them and the companies that need to buy them?
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The Commission has proposed a Coronavirus Response Investment Initiative (CRII) to flexibly respond to the rapidly emerging needs. Furthermore, the Commission is open to discuss with Member States the best possible ways to use the European Structural and Investment Funds to mitigate the impact of the coronavirus crisis and intends to assign top priority to adopting all decisions needed for the fast deployment of funds, where needed.

As regards aid to SMEs, it is the new sub-paragraph of Article 3(1) ERDF Regulation, which should be most useful to provide an effective response to a public health crisis. The proposed provision makes it possible to finance working capital, also in the form of grants and repayable assistance.

'Working capital' could be understood broadly, as the difference between current assets and current liabilities of an enterprise. Categories of expenditure for which the working capital could be used may include, amongst others, the funds required to pay for raw materials and other manufacturing inputs, including labour; inventories and overheads; rent, utilities; funding to finance trade receivables and non-consumer sales receivables (see: [EGESIF 14_0041-1](#)). Equipment, which is necessary to provide an effective response to a public health crisis and is expected to be mostly depreciated over the period of the health crisis and its aftermath, could also be included in the categories of expenditure for which the working capital could be used.

Support in the form of grants or repayable assistance to cover the costs of working capital, in line with the new sub-paragraph of Article 3(1) of ERDF Regulation, is eligible if the company is an SME, and if such support is necessary as a temporary measure to provide an effective response to a public health crisis and if such support is covered by the priority axis. For the support in the form of financial instruments, working capital has already been eligible and continues to be so, also outside of the specific conditions introduced by the new provisions of Article 3(1) ERDF Regulation.

Please note that you can support projects which combine different categories of expenditure, including those falling under working capital (for example, protective disposable equipment, cleaning of spaces etc.) and those which are investment expenditure (for example, equipment for employees, etc. depreciated over a longer term and needed for the business continuity). Equipment or other investment expenditure **could already be eligible under Article 3 ERDF Regulation**, e.g. as productive investment in SMEs or investment in business infrastructure (Article 3(1)(d) ERDF Regulation).

In addition, following the adoption of Regulation (EU) 2020/460, the investment priority under Article 5(1)(b) of the ERDF Regulation covers also investments necessary for strengthening the crisis response capacities in health services. This would cover any operation that ensures an effective response to a public health crisis in the context of the COVID-19 outbreak. Support to the healthcare system includes, but is not limited to, investments in financing healthcare equipment and medicines, testing and treatment facilities, disease prevention, e-health, the provision of protective equipment (such as respiratory masks, gloves and goggles), medical devices, investments for adapting working environment in the health care sector and for ensuring access to health care.

To facilitate the adoption of adequate and quick measures by Member States, the priority of the Commission has been to design a temporary framework allowing different types of support, including through financial instruments, with lighter requirements to give Member States the means to address different types of needs, while ensuring that the EU Internal Market is not fragmented and that the level playing field stays intact. Member States are therefore invited to use the possibilities of the Temporary framework for State aid measures to support the economy in the current COVID-19 outbreak and Article 107(2)(b) TFEU. Notifications of schemes under this Temporary Framework will have a quick and priority treatment, provided Member States use the specific following address to contact DG Competition as early as possible when designing a scheme: COMP-COVID@ec.europa.eu.

BE	The Member State must be able to implement the measures it deems necessary to combat the coronavirus. It is essential for the Commission to clarify the types of measures envisaged, particularly as regards aid to the SMEs which will be mainly affected.
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Vouchers for customers are **not** eligible for support from ERDF as they do not fall under activities provided for under Article 3(1) ERDF and they would also not be part of working capital of the SMEs, as the cost of such vouchers would not be borne by the SMEs.

This does not preclude direct support for working capital of SMEs, where necessary as a temporary measure to provide an effective response to a public health crisis, in sectors particularly strongly affected, such as the hotel / restaurant / catering/ travel industry. The Commission recommends that alternative approaches and timing of support are considered to ensure that the implemented measures are temporary and indeed timely and effective, and that the selection procedures and criteria ensure transparency and equal access to the support.

RO	<p>We were planning to allocate a share of the amount dedicated to the interventions for the SMEs to the vouchers. The idea behind distributing the vouchers for holidays or for food is that by encouraging the consumption the offer will be stimulated. People will use vouchers to travel inside the country and thought the HORECA industry will develop. The same concept applies for the food vouchers for stimulating the food industry. The companies in both the HORECA and the food industry are mostly small and medium size enterprises.</p> <p>As you are probably aware, the companies in the HORECA and travel industry have been severely hit by the COVID crisis.</p>
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Regulation 360/2012 on *de minimis* aid granted to undertakings providing services of general economic interest excludes from its scope undertakings in difficulty.

The amendment of Article 3(3) of ERDF Regulation 1301/03 simply aligns the ERDF rules with the State aid rules applicable in the current crisis period whether the Temporary Framework or those *de minimis* regulations which allow for support to firms in difficulty (Regulation (EU) No 1407/2013 of 18 December 2013 on *de minimis* aid Regulation (EU) No 1408/2013 of 18 December 2013 on *de minimis* aid in the agriculture sector, Regulation (EU) No 717/2014 of 27 June 2014 on *de minimis* aid in the fishery and aquaculture sector).

EE	Point (d) of Article 3(3) Regulation (EU) No 1301/2013 (undertakings in difficulty) - why is there no reference to Commission Regulation No 360/2012 on <i>de minimis</i> aid granted to undertakings providing services of general economic interest?
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In accordance with Article 125(3)(b) CPR, the managing authority should ensure that selected operations, irrespective of the form of support, fall within the scope of the fund or funds concerned and that they are not concerned by any of the exclusions therein, including those laid down in Article 3(3)(d) of the ERDF Regulation and Article 2(2)(e) of the CF Regulation, applicable to undertakings in difficulty.

Pursuant to Article 125(4)(a) CPR the managing authority should verify, where relevant, compliance with State aid rules, including in relation to undertakings in difficulty.

Article 3(3)(d) of the ERDF Regulation provides that “*undertakings in difficulty, as defined under Union State aid rules*” are not eligible for support from ERDF. The exclusion in scope laid down in ERDF Regulation was defined by reference to State aid rules with the objective to ensure consistency and alignment between the two sets of rules and provide greater simplification for the managing authorities.

Therefore, for aid granted under the Temporary Framework the managing authorities will have to take into account the **financial situation of companies on 31 December 2019 based on the GBER definition (Cf. Article 2(18)(1))**. The same logic should apply for aid granted under the *de minimis* rules, where the managing authorities should take account of the financial status of the beneficiary as / only if required by the relevant *de minimis* rules.

On 2 April 2020, the Commission [proposed to amend Regulation \(EU\) No 1303/2013 and Regulation \(EU\) No 1301/2013 as regards specific measures to provide exceptional flexibility for the use of the ESIF in response to the COVID-19 outbreak](#) to provide more legal certainty for this approach. The related amendments to the regulations entered into force on 24 April. The amendment to Article 3(3)(d) of the ERDF Regulation concerns support to undertakings in compliance with the State aid Temporary Framework or Commission Regulations (EU) No 1407/2013, (EU) No 1408/2013 and (EU) No 717/2014. It expresses the Commission views that, in these specific circumstances, undertakings in difficulty should not be excluded from the scope of ERDF, if the aid is granted in compliance with the Temporary Framework, the general and the sectoral *de minimis* rules, whichever applicable. Note should be made that Commission Regulations (EU) No 1407/2013, (EU) No 1408/2013 and (EU) No 717/2014 have not been affected by the above legislative amendments and remain therefore fully applicable.

In the light of the above, for ERDF support granted under the specific State aid rules or *de minimis* regulations covered by the proposed amendment to the Article 3(3)(d) of the ERDF Regulation, it would be sufficient to verify compliance with those rules. In particular:

- For grants, guarantees, loans and equity under section 3.1 (as well as some other sections, including 3.2 and 3.3) of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, as amended on 3 April 2020, the managing authority would ensure that aid is not granted to undertakings that were already in difficulty (within the meaning of the GBER, or other regulations referred to in the footnote above) on 31 December 2019;
- For loans or guarantees granted in line with the Commission Regulations (EU) 1407/2013, (EU) No 1408/2013 or (EU) No 717/2014, the managing authority would ensure that the applicable provisions are complied with. This includes verifications of the compliance of Article 4(3)(a) and Article 4(6)(a) of each of these acts, requiring that the beneficiary is not subject to collective insolvency proceedings nor fulfils the criteria under its domestic law in force at the moment of granting of the aid for being placed in collective insolvency proceedings at the request of its creditors. Note should be made that the domestic law could have been revised in response to the COVID-19 crisis and that could affect the scope of verifications;
- For grants, equity or quasi equity provided in line with the Commission Regulations (EU) No 1407/2013, (EU) No 1408/2013 or (EU) No 717/2014 the financial status as undertaking in difficulty would not need to be subject to verification by the managing authority.

For support granted under State aid rules, not covered by the proposal for amendment of ERDF, the managing authority should ensure the exclusion of undertakings in difficulty even if the support is allowed under those State aid rules.

[1] in Article 2(18) of Regulation (EU) No 651/2014, also referring to the definitions contained in Article 2(14) of Regulation (EU) No 702/2014 and Article 3(5) of Regulation 1388/2014 respectively.

LT	In implementing the measure " Partial interest compensation ", the interest paid by business entities is compensated under their available financing contracts. The measure is attributed to global grant instruments. Taking into consideration the COVID-19 situation, expanded list of eligible activities (interest on working capital loans will be financed additionally) and additional allocations to master the crisis, the number of applications received significantly increases. In assessing such applications, is it mandatory to ascertain the eligibility of loans in accordance with Article 2(2) of Regulation 1300/2013 and Article 3(3) of Regulation 1301/2013 (what significantly increases the administrative burden of the assessment of applications)? Can all businesses be supported in order to prevent an economic downturn?
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The amended Article 3(3)(d) of the ERDF Regulation does not restrict the ERDF support granted under the *de minimis* regime to projects related to the COVID-19 outbreak. Provided that all conditions of Commission Regulation (EU) 1407/2013, Commission Regulation (EU) 1408/2013 or Commission Regulation (EU) 717/2014 are respectively met, undertakings in difficulty may therefore be eligible to ERDF support, whether or not the project is related to the COVID-19 outbreak.

SK	Will it be possible to grant support from ERDF under the <i>de minimis</i> rules to undertakings in difficulty for any projects or only for projects related to COVID-19 outbreak?
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Firstly, we refer to our reply to the previous question on 'Financial instrument support to large enterprises, including mid-caps', where we concluded that ESIF financial instruments could support enterprises subject to two basic eligibility criteria: the types of enterprises and targeted activities. Article 37(4) CPR does not exclude non-SMEs (notably mid-caps and large enterprises) and sets out the scope of the final recipients' targeted activities that could receive support.

Further, we also confirm that your understanding is correct that as far as non-SMEs are concerned, there may be certain limitations on the possibility of using ESI Funds to provide support, stemming from Fund-specific rules and from the applicable State aid rules[1]. In addition, the relevant programme and priority axis may not allow ERDF contributions to support non-SMEs.

Both the [Regulation \(EU\) 2020/460](#) (CRII) and [Regulation \(EU\) 2020/558](#) (CRII Plus) do not introduce any new restriction as to the eligibility of expenditure in (equity, debt or other) financial instruments supporting non-SMEs.[2]

In the context of thematic objective 1 (TO1), the current legal framework, notably established in Articles 3(1)(b) and 5(1) ERDF Regulation and Article 9(1) CPR, remain valid.[3] We do though recall that the scope of TO1 was extended by CRII Regulation to allow ERDF support to any operation "fostering investment necessary for strengthening the crisis response capacities in health services". See reply on 'Scope of support under ERDF Article 5(1)(b) ERDF Regulation' for details.

Finally, as for providing guidance as to what kind of support is eligible taking into account regulation specific restrictions, you may find practical examples of how ERDF has financed mid-cap companies through financial instruments, considering the restrictions set by the ERDF, and in compliance with usual State aid rules in the following – among others - examples:

- 1) [The CAP Troisième Révolution Industrielle \(CAP TRI\) financial instrument](#), which was supported by the 2014-2020 ERDF OP in the region of Nord-Pas de Calais in France, was developed to help the region become the first carbon-neutral region in France by 2050. CAP TRI's overall objective was to provide equity and quasi-equity, primarily for SMEs but also for **mid-caps** and special purpose vehicles.
- 2) [The 'MIUR' financial instrument](#) provided ERDF resources (EUR 270 million) from the EU funded National OP (2014-2020) for **TO1** Research and Innovation in Italy and managed by the Ministry for Education, University and Research (MIUR). The investment strategy focused on Key Enabling Technologies/KETs and SSI of the private and the public sector in the eight regions of the South of Italy (Cohesion Regions). The eligible final recipients included **medium and large** size companies.

[1] It could be noted though that in the current crisis period, the Temporary Framework rules adopted on 19 March 2020, and amended on 3 April 2020 allows State aid to all types of firms in need of working capital, or to fund COVID-19 related research or production projects, whether by direct grants or through debt related financial instruments.

[2] The CRII Regulation introduces **a new sub-paragraph in Article 3(1) ERDF** which allows MS to provide **working capital support to SMEs (through grants or repayable assistance)** where necessary as a temporary measure to provide an effective response to a public health crisis and a new sub-paragraph in Article 37(4) CPR, which clarifies that "**financial instruments may also provide support in the form of working capital to SMEs if necessary as a temporary measure to provide an effective response to a public health crisis.**"

The CRII Plus Regulation introduced new Article 25a CPR on the basis of which MS providing **working capital support to SMEs through financial instruments** (in line with Article 37(4) CPR) would not require from final recipients new/updated business plans or evidence that the support was used for its intended purpose.

[3] ERDF support under thematic objective 1 (TO1) could be provided to non-SMEs, including large and mid-cap companies via equity or similar (quasi equity, venture, etc.) financial products in line with the first sub-paragraph of Article 37(4). Such support could contribute to the achievement of either/both investment priorities according sub-points (a) and (b) of Article 5(1) ERDF Regulation in line with smart specialisation strategies. All applicable Commission's guidance on the recommended scope of such support remains valid, but such guidance does not exclude other scope of support, which fits under TO1, from being also supported, when justified and in line with the smart specialisation strategies.

LV In line with **Article 37(4) CPR**, all types of enterprises are potentially eligible for working capital support through financial instruments.

But if we look at **ERDF Regulation Article 3**, the ERDF shall support the following activities in order to contribute to the investment priorities set out in **Article 5**:

(a) productive investment which contributes to creating and safeguarding sustainable jobs, through direct aid for investment in **SMEs**;

(b) **productive investment, irrespective of the size of the enterprise concerned**, which **contributes** to the investment priorities set out in **points (1) and (4) of Article 5**, and, where that investment involves **cooperation between large enterprises and SMEs, in point (2) of Article 5**.

As we have identified the need to finance operations for the **mid-caps in the form of equity** type products (equity investment, quasi-equity investment, venture debt etc.), we guess support for **large enterprises** through **financial instruments** is **possible** within priority "**Strengthening research, technological development and innovation**".

In 2015 European Commission gave an explanation that **under the TO1 the ERDF support is envisaged for the development of endogenous potential in research and innovation** i.e. projects consisting of operations pertinent to Technology Readiness Level (TRL) stages 2-8 (inclusive). Investments into large enterprises under TO 1 need to focus on a clear R&D effort associated with high risk/low profitability (since the investments should relate to early stages of the value chain) or into projects of a unique character that cannot be otherwise delivered via SMEs. Investments into large enterprises should not be a mere substitution of corporate investments into RDI activities but bring evident added value for the local research and SME communities.

As we understand correctly, before mentioned restrictions are still applicable. If so, could you give us a guidance what kind of support is eligible taking into account regulation specific restrictions.

As a general rule, where staff costs **are part of an operation** falling within the scope of the ERDF, as defined in Article 3(1) ERDF Regulation, and contributing to one of the investment priorities, as set out in Article 5 ERDF Regulation, and thematic objectives, these staff costs could be eligible under the ERDF, if provided so in the national eligibility rules, in accordance with Article 65(1) CPR. The operation concerned cannot comprise only of staff costs and it has to be in line with the overall intervention logic of a given programme and with the investment logic of the specific priority axis. For example in case of Article 5 (3) (b) ERDF Regulation "developing and implementing new business models for SMEs, in particular with regard to internationalisation", it may be possible to support the wage costs of a newly hired expert for internationalisation, who develops a new business model for an SME.

The same approach applies to the extended investment priority under TO1 in line with Article 5(1) of the ERDF Regulation as amended by [the Regulation \(EU\) 2020/460](#). The explanatory memorandum and recital (4) of that Regulation provide that "the ERDF investment priority to strengthen research, technological development and innovation should cover investment in products and services necessary for fostering crisis response capacities in public health services". These investments could also cover staff costs that are necessary in response to the COVID-19 outbreak, as long as they form a part of an operation that falls within the ERDF scope of support as defined in Article 3(1) ERDF Regulation. The final assessment will depend on the concrete design of the operation.

Such support can, however, be supported by the ESF as set out in the replies under the ESF section of the CRII website. Moreover, following the adoption of [the Regulation \(EU\) 2020/558](#) under the CRII Plus package, Member States have full flexibility for transferring the 2020 resources for the Investment for Growth and Jobs goal between the ESF, the ERDF and the Cohesion Fund in order to respond to the COVID-19 outbreak (see Article 25a(2) CPR).

ES	Regulation (EU) No 1301/2013 has been amended in Article 5(1)(b) to include "promoting investment to strengthen the capabilities for responding to public health crises" as an objective to be financed by the ERDF. In this respect, clarification is requested as to whether staff costs derived from the hiring of additional means to attend to the needs derived from the COVID 19 outbreak (medical staff, deployment of law enforcement personnel, etc.) can be financed?
CY	Can ERDF co-finance investments related to recruitment of additional medical staff to hospitals and other treatment facilities?

As regards supporting staff costs under the ERDF, please consult the reply "Supporting staff costs under TO1(b) ERDF" under the ERDF tab of the CRII Q&A website. Under the premises set out in the reply mentioned above, i.e. the staff costs must be **part of an operation falling within the scope of the ERDF** as defined in Article 3(1) ERDF Regulation, **and contributing to one of the investment priorities**, as set out in Article 5 ERDF Regulation, and thematic objectives, additional compensation to the medical staff linked to working in hazardous conditions, may be eligible for the ERDF as the CPR or the ERDF Regulation does not set out a definition of "staff costs". This means that the eligibility of the additional compensation to the medical staff for and operations described above should be determined under the national eligibility rules, in accordance with Article 65(1) CPR. Such costs may be eligible as long as they are borne by the employer.

An operation that is limited to co-finance investments related to additional compensation to the medical staff, because of working under unhealthy and risky conditions is not eligible for support by the ERDF.

CY	Can ERDF co-finance investments related to additional compensation to the medical staff, because of working under unhealthy and risky conditions?
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In accordance with Article 3(3)(d) of the ERDF Regulation, as last amended by the [CRII+ Regulation](#), ERDF does not support undertakings in difficulty as defined in the Union State aid rules. This exclusion does not apply to undertakings receiving support complying with the Temporary Framework for State aid measures or any of the *de minimis* rules with the exceptions of those *de minimis* rules, applicable to the services of general economic interest.

The amended provision was defined in reference to State aid rules with the objective to ensure consistency and alignment between the two set of rules and provide greater simplification for the managing authorities. This principle has the following implications in the context of hospitals.

First, the State aid rules only apply where the beneficiary of a measure is an 'undertaking'. In line with the well-established case law, undertakings are entities engaged in an economic activity, regardless of their legal status and their financing. The classification of an entity as an undertaking is always relative to a specific activity. An entity that carries out both economic and non-economic activities is to be regarded as an undertaking only with regard to the economic activities. Following the same reasoning, the exclusion laid down in the ERDF Regulation, applies only to the extent that the beneficiary is an undertaking. Therefore, if the co-financed activity is not of economic nature, the exclusion of ERDF does not apply. Consequently, **when ERDF is granted to a hospital in support of non-economic activities, the financial status of the hospital does not need to be verified.**

Although the health care systems differ significantly across the Union, the [Commission Notice of 2016 on the notion of State aid](#) (NoA) has summarised the common principles that govern the categorisation of the health care activities under Article 107(1) TFEU (see points 6-16 and 23-27 of the NoA). Medical activities carried out in the state of emergency aimed to control the pandemic and stem the spread of the COVID-19 outbreak, connected with the exercise of public powers and implying a high degree of involvement of the public authorities are in principle of non-economic nature.

SK	Some hospitals dedicated as focal points for COVID-19 treatment fall under the conditions of enterprise in difficulties. We need an exception for these hospitals as they are designed for carrying out activities under the state of emergency. How can we achieve exceptions for them?
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Article 25a(5) CPR provides, when reallocating the resources, a derogation from the requirements on thematic concentration set out in Article 18 CPR and the Fund-specific Regulations. This derogation, in case of ERDF resources, covers both provisions – neither the thematic concentration requirements laid down in Article 4, nor the minimum allocation requirement in Art 7(4) of the ERDF Regulation has to be complied with.

This interpretation is also consistent with the Commission proposal REACT-EU (COM(2020) 451), amending the CPR, stating that the requirements on thematic concentration do not apply to the additional allocations, “including thresholds established for sustainable urban development as set out in this Regulation or the Fund-specific rules, by way of derogation from Article 18”.

Nevertheless, cities are heavily affected by COVID-19 and they should be given the possibility to make use of their SUD dedicated ERDF allocation to respond to the COVID 19 outbreak. Reduction of the allocation to cities should take into account the performance in the implementation of the SUD and should be discussed with urban authorities.

DK	<p>It appears from Article 25a(5) CPR that transfers shall not be subject to the requirements on thematic concentration set out in CPR or the Fund-specific Regulations. It appears from Article 7(4) in the ERDF-regulation, that at least 5 % of the ERDF resources allocated at national level under the Investment for growth and jobs goal shall be allocated to integrated actions for sustainable urban development. However, this provision on sustainable urban development is not part of the thematic concentration provision in Article 4 of the ERDF-regulation like e.g. the 20 pct. binding on thematic objective 4 (low carbon emission).</p> <p>Thus, is sustainable urban development included or excluded from the derogation set out in Article 25a paragraph 5?</p>
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Investments supported under ERDF must fall under its scope, as defined in Article 3 ERDF Regulation, contribute to one of the investment priorities, as defined in Article 5 ERDF Regulation, and to the achievement of the strategy of the programme. In accordance with Article 65(1) CPR, the eligibility of expenditure shall be defined in the national eligibility rules, except where specific rules are laid down in the CPR or in the Fund-specific rules.

The specific additional allocation for outermost regions is part of the ERDF allocation. Article 12 ERDF Regulation specifies for which cases the specific additional allocation can be used. In accordance with Art 12(1)(c) ERDF Regulation, this allocation shall be used to offset the additional costs supporting the operations to address the lack of human capital in the local market. Thereby, the ERDF may support working capital in SMEs as laid down in Article 3(1) of ERDF regulation following the amendment by Regulation (EU) 2020/460, where necessary as a temporary measure to provide an effective response to a public health crisis.

Moreover, in line with Article 12(2) ERDF Regulation, the specific additional allocation for the outermost regions may also be used to help finance operating aid and expenditure covering public service obligations and contracts in the outermost regions. Some Outermost Regions already use the additional allocation to support such public service obligations.

This specific provision aims at offsetting additional costs resulting from the specific permanent constraints referred to in Article 349 TFEU that are specific to these regions, namely remoteness, insularity, small size, difficult topography and climate, economic dependence on a few products, the permanence and combination of which severely restrain their development. It shall be implemented in full compliance with the State aid rules applicable in the current crisis period as specifically recalled in the “Overview of the State aid rules and Public Service rules applicable to the maritime sector during the COVID-19 pandemic”, published on [DG COMP website](#). In conclusion, such costs can be supported by the ERDF within the above described applicable rules for the ERDF and for the State aid.

FR	<p>Dans le cadre des mesures de confinement, les liaisons maritimes commerciales entre la Guadeloupe et les îles de St Martin et de St Barthélemy ont été suspendues. Certaines rotations sont maintenues afin d'assurer la continuité territoriale entre ces îles et permettre aux malades et plus généralement à toute personne nécessitant un suivi médical comme les femmes enceintes, de se rendre au centre hospitalier universitaire de la Guadeloupe. Ces rotations créent toutes un déficit d'exploitation directement lié à la crise du coronavirus et à la charge de l'Etat pour la partie des recettes normalement générées par la vente de billets aux passagers.</p> <p style="text-align: right;">Ce coût peut-il être couvert par le FEDER ou le FEDER RUP dans le cadre de la CRU ?</p> <p>Within the framework of containment measures, commercial maritime links between Guadeloupe and the islands of St Martin and St Barthélemy have been suspended. Some rotations are maintained in order to ensure territorial continuity between these islands and allow the sick and more generally anyone requiring medical follow-up such as pregnant women to go to the University hospital of Guadeloupe. These rotations all create an operating deficit directly linked to the coronavirus crisis and to the State's responsibility for the revenue part normally generated by the sale of tickets to passengers. Can this cost be covered by the ERDF or the outermost regions' ERDF within the framework of the CRII?</p>
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In accordance with Article 65(1) CPR, expenditure related to participation of SMEs in such online events may be eligible, if provided so in the national eligibility rules. ERDF may support activities that fall within the scope of Article 3 ERDF Regulation and contribute to the investment priorities set out in Article 5 ERDF Regulation.

Please note that, based on the description of activities provided in the question, such operations should not be considered as fostering crisis response capacities in the context of the COVID-19 outbreak. Therefore, the derogations from Article 65(9) CPR introduced in Article 65(10) CPR and in Article 25a(7) CPR would not apply to them.

CZ	<p>We support participation of SMEs in foreign fairs and exhibitions (or conferences) through the program Marketing (OP EIC). Eligible expenses are normally considered to be rental of space and stand, transport and promotional materials. Regarding the situation with COVID-19 some of the trade fairs are moving into virtual (digital) mode. We think this might be the trend also for the future. As we are operating the program for expansion of SMEs to the foreign markets, we would like to confirm that we can support SMEs also in online events. Given the condition that outcomes of the program are met, SMEs can present (exhibit) their products fully virtually, further develop their business, we believe this solution could solve the current situation. We assume that the eligible expenses will be the participation fee and expenses for the production of promotional materials that would be sent to other participants electronically; participation will be demonstrated through online list of exhibitors and website screenshots. Regarding the publicity (logo of EU should be placed on stand, website and promotional materials), we hope this could be possible also in a virtually form. Please, could you comment on this?</p>
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In line with Article 3(3)(d) of ERDF Regulation undertakings in difficulty, as defined in Union State aid rules, are excluded from ERDF support. This provision (as amended through CRII Plus) has made it possible that:

- for aid granted under the Temporary Framework the managing authority takes account of the financial situation of companies on 31 December 2019;
- for aid granted under the de minimis rules, the managing authority takes account of the financial status of the beneficiary only if required by the relevant *de minimis*

For any other State aid regime, including GBER, undertakings in difficulty are not eligible without any exceptions.

[Commission Regulation 2020/972](#) amended Article 1(4)(c) of GBER in order to make it possible to support “*undertakings which were not in difficulty on 31 December 2019 but became undertakings in difficulty in the period from 1 January 2020 to 30 June 2021.*” However, it has not changed the GBER definition of ‘undertaking in difficulty’.

The restriction on support to undertakings in difficulty under ERDF is intended to restrict support beyond what is possible under State aid rules, given that the objectives of the two set of rules are different. The objective of cohesion policy is to support the long-term development. Thus, unless the ERDF Regulation is further amended, undertakings in difficulty remain not eligible for support from ERDF, unless it falls under one of the exceptions of Article 3(3)(d) of ERDF Regulation.

<p>SK</p>	<p>Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (hereinafter referred to as the "GBER") was recently amended allowing for support of those undertakings which were not in difficulty on 31 December 2019 but became undertakings in difficulty in the period from 1 January 2020 to 30 June 2021.</p> <p>Would it be possible to grant support from ERDF to those undertakings that became undertakings in difficulty in the period from 1 January 2020 to 30 June 2021, provided such support complies with the GBER?</p>
<p>PL</p>	<p>According to Art. 3 (3)(d) of the Regulation (EU) No 1301/2013, the ERDF shall not support undertakings in difficulty as defined in Union State aid rules, while undertakings receiving support <u>complying with Temporary Framework for State aid measures or Commission Regulations (EU) No 1407/2013, (EU) No 1408/2013 and (EU) No 717/2014</u> shall not be regarded as undertakings in difficulty.</p> <p>On the other hand, according to recently amended Art. 1 (4)(c) of the Regulation (EU) No 651/2014, the Regulation shall apply by derogation to undertakings which were not in difficulty on 31 December 2019 but became undertakings in difficulty in the period from 1 January 2020 to 30 June 2021. (Similarly, according to Art. 1 (2)(a) of the Regulation (EU) No 360/2012, the Regulation shall apply to undertakings which were not in difficulty on 31 December 2019 but became undertakings in difficulty in the period from 1 January 2020 to 30 June 2021.) It is clear that both amendments were introduced in order to combat the aftermath of the COVID-19 outbreak.</p> <p>However the abovementioned Regulations are not covered by the derogation included in Art. 3 (3)(d) of the Regulation (EU) No 1301/2013, which seems to mean that it is not possible to grant state aid based on Regulation (EU) No 651/2014 (No 360/2012) and co-financed from ERDF in the case of undertakings which were not in difficulty on 31 December 2019 but became undertakings in difficulty in the period from 1 January 2020 to 30 June 2021, even though it would be in line with competition law.</p> <p>Having considered the above, the Polish authorities would like to inquire whether the Commission finds it possible under the present provision of Art. 3 (3)(d) of the Regulation (EU) No 1301/2013 to support from the ERDF undertakings which were not in difficulty on 31 December 2019 but became undertakings in difficulty in the period from 1 January 2020 to 30 June 2021 also on the basis of the Regulations (EU) No 651/2014 or 360/2012?</p>
<p>EE</p>	<p>How does DG REGIO interpret the application of the amendment to Article 1(4)(c) of Commission Regulation (EU) No 651 /2014 (GBER) (which added: "(...) <i>However, this Regulation shall apply by derogation to undertakings which were not in difficulty on 31 December 2019 but became undertakings in difficulty in the period from 1 January 2020 to 30 June 2021.</i>") in relation to Article 3 (3)(d) of the ERDF Regulation 1301/2013?</p> <p>Whereas Regulation (EU) 2020/558 (CRII+), in the light of the amendment to Article 3(3)(d) ERDF Regulation (EU) No 1301 /2013, the first sentence ("<i>undertakings in difficulty as defined in Union State aid rules; (...)</i>") has not changed and that the sentence is general:</p> <ul style="list-style-type: none"> • do we conclude correctly that ERDF support can be granted to undertakings in difficulty also if such support is granted on the basis of GBER? This interpretation is also supported by the change in the wording of the draft ERDF Regulation for the period 2021-27 (which provides also for derogation "<i>under a temporary derogation to address exceptional circumstances under State aid rules</i>"?), or • it must be interpreted as meaning that the amendment of Article 1(4)(c) GBER does not apply to ERDF support?

In accordance with Article 5 ERDF Regulation, costs of COVID-19 tests can be eligible for the ERDF as a **self-standing operation**, provided this fosters the "investment necessary for strengthening the crisis response capacities in health services" (see TO1(b)) or this can be defined as "investing in health and social infrastructure "(see TO9(a)).

Outside of this context, such expenditure may be eligible under certain conditions, as long as it plays a secondary but at the same time a necessary role in delivering operations that fall within the scope of support of ERDF as defined in Article 7 ETC Regulation.

When such expenditure is incurred and paid in relation to the staff of project partners, it can be covered by the respective priority axis.

When such expenditure is incurred and paid in relation to the staff of programme authorities, it can be covered by technical assistance.

In both cases, such expenditure must be necessary to deliver actions defined in Article 59(1) CPR. The project partners (or in the case of TA the MA) shall demonstrate that such costs

- are directly linked to, and necessary for implementation of the operations that contribute to achievement of the specific objectives and results of the priority axis concerned;
- comply with the relevant eligibility rules, the scope of programme, and the other applicable law, e.g. relevant public procurement rules.

In the ETC context, pursuant to Article 18 ETC Regulation, establishing such costs as eligible requires a decision of Member States in the monitoring committee, as such costs are not covered by the relevant provisions of the CPR, the ERDF Regulation, the ETC Regulation or the Delegated Regulation 481/2014.

It should be noted that during the pandemic the restrictions set out by the relevant authorities should be observed. The authorities should consider possibilities of organising virtual meetings or trainings as well as the cost and reliability of the different COVID-19 tests.

DE & CZ (Saxony - Czech Republic (ETC))	Are the expenses for Covid 19 tests (rapid antigen test, PCR test) for project staff and for external participants (e.g. associations, schools) taking part in joint cross-border events (e.g. workshops, educational events) under the INTERREG A programmes eligible, if the presence of a Covid 19 test is a precondition for participation in the events and is therefore mandatory for project implementation?
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Working capital

This reply has been updated on 11 June 2020 to reflect the changes following from the adoption of the amendments as part of the 'CRII Plus' package (Regulation (EU) 2020/558) and to remove the reference to State aid compensation schemes which is not relevant in the working capital context. The text added or changed during the update is highlighted.

The term 'working capital' used in the proposed new sub-paragraph of Article 3(1) ERDF Regulation and of Article 37(4) CPR could be understood broadly, as the difference between current assets and current liabilities of an enterprise. Categories of expenditure for which the working capital could be used may include, amongst others, the funds required to pay for raw materials and other manufacturing inputs, including labour; inventories and overheads; rent, utilities; funding to finance trade receivables and non-consumer sales receivables (see: [EGESIF 14_0041-1](#)). This includes crisis-related costs such as **cleaning of spaces, protective measures and adaptation of workplaces**. Equipment, which is necessary to provide an effective response to a public health crisis and is expected to be mostly depreciated over the period of the health crisis and its aftermath, could also be included in the categories of expenditure for which the working capital could be used.

Support in the form of grants or repayable assistance to cover the costs of working capital, in line with the ~~proposed~~ [amended](#) new sub-paragraph of Article 3(1) of ERDF Regulation, is eligible if the company is an SME, and if such support is necessary as a temporary measure to provide an effective response to a public health crisis and if such support is covered by the priority axis. For the support in the form of financial instruments, working capital has already been eligible and continues to be so, also outside of the specific conditions introduced by the ~~proposed~~ [amended](#) provisions of Article 3(1) ERDF Regulation.

Please note that you can support project which combine different categories of expenditure, including those falling under working capital (for example, protective disposable equipment, cleaning of spaces etc.) and those which are investment expenditure (for example, equipment for employees, etc. depreciated over a longer term and needed for the business continuity). Equipment or other investment expenditure **could already be eligible under Article 3 ERDF Regulation**, e.g. as productive investment in SMEs or investment in business infrastructure (Article 3(d) ERDF Regulation). Hence, there is no need to create any precise demarcation line between what constitutes working capital, and what not, if the latter is also eligible.

Member States can set up compensation schemes for COVID-19 related damages. Such schemes, upon notification to the Commission, can be approved as compatible with the internal market on the basis of Article 107(2)(b) TFEU if the granting authorities establish the link between the COVID-19 outbreak and its consequences and the scheme. There is no obligation to have a business plan. Member States may usefully go to DG COMP's website to find a template of the information needed in a notification: https://ec.europa.eu/competition/state_aid/what_is_new/covid_19.html.

~~To facilitate a quick and priority treatment of such notifications, Member States are invited to use the specific following address to contact DG Competition as early as possible when designing a scheme: COMP-COVID@ec.europa.eu.~~

The requirements in the context of working capital under the ~~proposed new~~ amended sub-paragraphs of Article 3(1) ERDF Regulation (for all forms of finance) and Article 37(4) CPR (for financial instruments) indeed should be fit for purpose and simple.

(i) Business plans

There is no requirement for a business plan for grants and repayable assistance. In line with Article 25a(11) CPR, where financial instruments provide support in the form of working capital to SMEs pursuant to the second subparagraph of Article 37(4), new or updated business plans or equivalent documents and evidence allowing verification that the support provided through the financial instruments was used for its intended purpose as part of the supporting documents are not required. Such documents are also not required under the Temporary framework for State aid .

For financial instruments, ~~under the current regulatory framework (Article 9(2)(e)(vii) [CDR 480/2014](#))~~ which include also support other than for working capital, or where the support for working capital is not limited to the response to the current crisis, there is a need for some document from a final recipient which can be considered as a business plan which is part of application for support.

The EU level rules do not define the contents of such a document and in the context of working capital could be very general e.g. summary information on current working capital expenditure and on planned actions of the applicant which could affect the working capital needs (e.g. if they plan to reduce the number of staff, or reduce salaries, this would affect the working capital needs).

There is no need to call such a document/information a 'business plan' and it can be incorporated into the application used by the body granting the aid. ~~At the same time, such minimum information is needed to ensure that funds (and the right amount of them) are channelled to SMEs which indeed need them as the result to the public health crisis.~~

Given the uncertainty about the future developments and constantly changing situation, avoiding too detailed description of cost categories in the document setting up conditions of support (even if more information was provided in the application or the business plan) and envisaging from the very beginning flexible but transparent procedures for adjusting the document would be recommended, so that the support could best fit the evolving needs of the SMEs.

(ii) Ex ante assessment

For **new** financial instruments to be set up now and to provide working capital as a temporary measure to provide an effective response to a public health crisis, the managing authority would need to comply with the CPR provisions relating to the set-up of a financial instrument, including the need to conduct an ex-ante assessment.

However, such requirement should not delay deployment. An ex-ante assessment should be very focused and brief (by referring to the national and EU documents already being published in a broader context, which already provide key elements to justify market failure and the current COVID-19 crisis); and would not need to be outsourced (a competent public body/fund manager could do it). The same approach should be followed for the drafting of an investment strategy, business plan and funding agreement.

For **existing** financial instruments, there is no need to review or update the ex ante assessment where the changes in financial instruments are necessary to provide an effective response to the COVID-19 outbreak. requirements depend on the current scope of the financial instrument to be deployed for providing working capital to SMEs. If working capital is already covered by the scope of the financial instrument, there may be no need for changes in the ex-ante assessment. However, if it is outside the current scope, the ex-ante assessment may need to be updated in line with Article 37(2)(g) CPR.

For new or existing financial instruments in either case, a new or an updated ex ante assessment should be short and focused on addressing the urgent needs related to the crisis and it can be prepared without outsourcing by a public body or by a fund manager. funding agreements/investment strategies may also need to be adjusted to allow a potential re-focus of the existing FI to address the investments needed to respond to the crisis.

For more, see sections 3 and 4 of the reply ' [Ex ante assessment and need for programme amendments when working capital is added](#) ' with specific advice on practical steps to be taken.

(iii) Reporting

The reporting on financial instruments is a part of the annual implementation reports referred to in Article 50(1) CPR. The deadline for submission of the annual report for the year 2019 has been extended, in line with Article 25a(9) CPR, to 30 September 2020.

EU-level reporting requirements for financial instruments relate to key financial information which financial intermediaries would collect anyway and should not have impact on final recipient beyond what is already normal market practice.

IT	Support to business sector: the proposed Article 3(1) of ERDF Regulation allows for the financing of working capital also via grants. The Italian side to include also the extraordinary (health crisis related) costs such as cleaning of spaces, protective measures and equipment for employees, adaptation of workplaces etc.
IT	Given the coronavirus, many SMEs will record significant net losses, at least in 2020. At present, various managing authorities of Northern Italy raised the issue of compensation, in application of Article 107(2)(b) of the Treaty. Under this scenario, the grant would be provided as compensation, with no obligation to show any business plan;
IT	As for the support of working capital with financial instruments (already possible), it is asked to allow for softened conditions, i.e. without a business plan related to an expansion, without a new ex ante assessment and with easier reporting procedures.
SI	European Structural and Investment Funds are to be covering also working capital according to CPR modification. It is necessary and also adequate to the situation, if working capital would be as much opened, managing to cover all business related needs.

ERDF grants and repayable assistance could be used for working capital in SMEs where necessary as a temporary measure to provide an effective response to the public health crisis. Such a possibility is introduced by the proposed new subparagraph in Article 3(1) of ERDF Regulation.

In addition, all ESI Funds can provide such support in the form of financial instruments in line with the proposed Article 37(4) CPR. For EAFRD working capital remains eligible only in relation to investments supported by the rural development programmes, in accordance with Article 45(5) of Regulation 1305/2013.

EE	Does working capital refer only to financial instruments or also non-refundable grants?
EE	Can working capital loans be provided only as financial instrument or also grants?
DE	Does the financing of working capital include both financial instruments and grants?
PL	To alleviate the consequences of the coronavirus crisis, the proposed changes to the legal framework allow for supporting SMEs working capital with grants. Is our understanding correct that loans are equally accepted to that end?
RO	We are planning to allocate a share of the amount dedicated to the interventions for the SMEs (...) for the working capital for the SMEs for restarting their business. Just let us know if there is any possibility to move forward with our initiatives on SMEs interventions.

No, there are no time-related limits. The CPR does not define any specific time limit in relation to working capital. What constitutes working capital should be therefore defined by national eligibility rules, and given dynamic nature of the current situation could be revised in line with future developments. In those Member States or regions which already use financial instruments supporting working capital, consistency would be useful to avoid artificial gaps between the already available working capital support and its extension to short-term support in this specific context (unless the public health crisis justifies an inconsistent approach). The Commission's guidance recommended a benchmark of 2 years maturity, but given the fact that there is no specific parameter defined in the CPR, other justified arrangements were not excluded – see reply no. 7 in the [QA document](#) for the guidance note on working capital. The same benchmark, or the common 1-year assumption used in accounting, could be used also for other forms of support.

In addition, the proposed sub-paragraph of Article 37(4)CPR does not apply only to the EIB. It applies generally.

EE	Are there any time limits on working capital transactions (e.g.: up to 12 months - does it apply only to the EIB or does it apply generally)?
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The proposed provisions of Article 37(4) CPR and Article 3(1) ERDF Regulation do not define what the temporary measure is so this could be defined in national eligibility rules or introduced through contractual arrangements. Given still very high uncertainty about future developments of the crisis, the arrangements should be done at present in such a way as to make it possible to adjust them when needed. It is not impossible that such temporary arrangements could be justified even until the end of this programming period, but it is not possible to determine at this moment.

EE	What is a temporary instrument (does the duration extend also transactions)?
EE	Access to working capital is proposed as a “temporary measure”. It is difficult to predict how long the need for such products will last and how long “temporary” will be. Is it fully up to the Member State to determine when to wind up the instruments? Is the intention to keep this possibility until the end of the programming period i.e. theoretically until 2023?

Support in the form of grants to cover the costs of wages and rent **could be supported as part of working capital**, in line with the proposed Article 3(1) of ERDF Regulation, if the employer is an SME, and if such support is necessary as a temporary measure to provide an effective response to a public health crisis and if such support is covered by the priority axis.

Working capital could be understood broadly, as the difference between current assets and current liabilities of an enterprise. The level of need for working capital varies with the macroeconomic situation and is strongly affected by the crisis. Categories of expenditure for which the working capital could be used may include, amongst others, the funds required to pay for raw materials and other manufacturing inputs, including **labour**; inventories and overheads; **rent**, utilities; funding to finance trade receivables and non-consumer sales receivables (see: [EGESIF 14_0041-1](#)). This could also include obligations towards national or regional authorities, healthcare and social security systems, overdue payments to suppliers and service providers.

If the support for working capital fits into the scope of the priority axis under the current version of the OP, there would not be any need to modify the OP, but this must be verified in this specific case, as programme-specific conditions might require extending the scope of support in order to cover such new actions. Neither working capital nor the specific cost items have to be explicitly mentioned in the description of the priority axis, but should fit into the scope of priority axes and types of projects.

In case the programme needs to be amended to extend eligibility to cover the new scope, expenditure for operations fostering crisis response capacities in the context of the COVID-19 outbreak shall be eligible as of 1 February 2020. **This also applies to working capital granted to SMEs to provide an effective response to a public health crisis**. The necessary programme amendment may be adopted later, without delaying deployment of measures.

In order to facilitate access for recipients of such support, the Member State may decide that the beneficiary is the body granting the aid in line with Article 2(10)(a). Furthermore, the support based on simplified costs options, e.g. lump sums, as provided by Article 67(1)(c), could be used, which should minimise the burden for the SMEs receiving support. Support in the form of a lump sum is also possible under the [Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak](#).

HU	CCHOP Priority 1, SMEs, I would like to ask for your feedback- in line with the ongoing amendments to the ERDF and CPR Regulations- on whether you would consider acceptable a simplified SME call for SME support up to a minimum grant amount to finance wage costs and rent. Wage costs are strongly ESF-type, so we consider our proposal debateable, but it would be unreasonable to burden the call and consume its resources with additional ERDF-type mandatory activities (such as asset procurement) as currently there would be no need to meet asset procurement needs?
PL	As far as the support for SMEs, especially micro and small companies, affected by the effects of a pandemic we think about shielding measures just to help them to avoid bankruptcy or dismiss of their workers - temporary financing of salary and wages or financing the working capital to some limit would this be possible under TO3?

Liquidity in this context is synonymous with the term working capital and it could be understood broadly, as the difference between current assets and current liabilities of an enterprise. Categories of expenditure for which the working capital could be used may include, amongst others, the funds required to pay for raw materials and other manufacturing inputs, including labour; inventories and overheads; rent, utilities; funding to finance trade receivables and non-consumer sales receivables (see: [EGESIF 14_0041-1](#)).

Equipment purchase, which is expected to be mostly depreciated over the period of the current crisis and its aftermath, could also be financed by the amount provided as working capital under the proposed Article 3(1) ERDF, or included as eligible expenditure under existing provisions e.g. under Article 3(1)(e) ERDF.

Please note that you can support project which combine different categories of expenditure, including those falling under working capital (for example, protective disposable equipment, cleaning of spaces etc.) and those which are investment expenditure (for example, equipment for employees, etc. depreciated over a longer term and needed for the business continuity). Equipment or other investment expenditure **could already be eligible under Article 3 ERDF Regulation**, e.g. as productive investment in SMEs (Article 3(1)(a)) or investment in business infrastructure (Article 3(1)(d)). Hence, there is no need to create any precise demarcation line between what constitutes working capital, and what not, if the latter is also eligible.

DE	Does the proposed amendment to Article 3(1) ERDF Regulation concern liquidity support to SMEs or assets (in German “Liquiditätshilfen für Unternehmen oder Betriebsmittel”)? I.e. what exactly is meant with support for financing of working capital in SMEs.
DE	Article 1(1) of the “Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 1303/2013, Regulation (EU) No 1301/2013 and Regulation (EU) No 508/2014 as regards specific measures to mobilise investments in the health care systems of the Member States and in other sectors of their economies in response to the COVID-19 outbreak” reads: „In addition, the ERDF may support the financing of working capital in SMEs where necessary as a temporary measure to provide an effective response to a public health crisis.“ Does this concern liquidity support to SMEs or assets?

This reply has been updated 9 April 2020 to include a reference to the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak. The added paragraph is in blue.

The scheme described in the questions concerns a short-time work scheme, which is eligible for support by the ESF (see: reply to the question on short-time work). Such a scheme allows firms experiencing economic difficulties to temporarily reduce the working hours of their employees. The employees in turn receive income support from the State for the hours not worked. The employees are therefore the ones who are supported in a short-time work scheme.

A short-time work scheme is different from the support which can be provided by the ERDF to SMEs. In line with the additional paragraph in the amended Article 3(1) of ERDF Regulation, the ERDF may support financing, also in the form of grants and repayable assistance, of working capital. Working capital could be understood broadly, as the difference between current assets and current liabilities of an enterprise. Categories of expenditure for which the working capital could be used may include, amongst others, the funds required to pay for raw materials and other manufacturing inputs, including labour; inventories and overheads; rent, utilities; funding to finance trade receivables and non-consumer sales receivables (see: (see: [EGESIF 14_0041-1](#)).

The labour-related costs forming a part of working capital eligible under the amended Article 3(1) of ERDF Regulation do not exclude costs of wages or wage-related charges. However:

- those costs would have to be borne by the employer receiving such a support. It is our understanding from the description of the proposed scheme, that 40% of the salary is to be paid by employer, while 60% is to be paid by public employment services. If this is the case, only those 40% paid by the employer is covered by working capital. ESF support for payments provided to the employee by the employment services would not be part of working capital of the supported company and would not be eligible for ERDF support (but it is eligible for ESF support as mentioned above).
- in addition, under the amended Article 3(1) ERDF Regulation the support in the form of grants or repayable assistance is eligible only if the supported enterprises are SMEs. This excludes other enterprises, but also employers which are not enterprises, e.g. universities.

As a general rule, where ESF measures already exist or are planned, the Commission recommends taking opportunity of the transfer between the funds. This should make implementation faster and make support easier for recipients of such support and better coordinated thanks to already existing capacities of ESF authorities.

This recommendation is without prejudice to the possibility to use ERDF to finance working capital of SMEs under different arrangements, either through schemes covering all working capital needs (including labour costs), or those focused on the labour component of such costs.

When assessing which Fund can provide support, it is therefore important to make a clear distinction as to whom will ultimately receive the support: the employees or the firm. Short-time work schemes support the employees, while working capital under the amended Article 3(1) ERDF Regulation supports the SME.

[On 3 April 2020 the Commission amended the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak. It comprises a section on short-time work schemes \(see section 3.10 on ‘aid in form of wage subsidies for employees to avoid lay-offs during the COVID-19 outbreak’\).](#)

LT	Is there a possibility to finance ESF types of measures from the ERDF, e.g. wage subsidies for the downtime during an emergency to protect employees from unemployment and help to retain jobs?
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LT	Employers are obliged to pay a certain amount (app. 40 percent) of the average wage for the employee, who is in a downtime situation. Employers will apply to Public Employment Service (PES) for a subsidy per employee in this situation. The subsidy will cover 60 percent of the wage that is paid under this situation (or 90 percent in the sectors which are highly affected by the crisis), but not higher than the minimum wage. The advance payment will go to the employer who will pay the total wage and report to the PES. The support is limited to 3 months per employee, but not longer than the extreme situation continues. Is such expenditures eligible form the ERDF?
LT	Are the costs for project staff eligible when they are paid for downtime (during a national quarantine; quarantine came into effect in Lithuania since March 16th) - i.e. at a time when project staff are temporarily unable to carry out project activities due to national constraints (national legislation requires the employer to pay average wages). Situation 3: The project activities include mobile doctors teams that go to patients' homes to provide dental services to patients with severe disabilities. Since 16 March , a quarantine order has been introduced in Lithuania, during which the provision of dental services is suspended. According to Labor code, if the employer is unable to provide the contracted work for an employee for objective reasons not attributable to the employee, provision should be made for downtime for which the employee is paid average wages. Please explain whether this average salary is an eligible cost.

In line with the amended Article 3(1) of the ERDF Regulation, the support for working capital (which provides much needed liquidity in the Covid-19 context) in SMEs is not limited to any sector when it is necessary to provide an effective response to the public health crisis.

This does not preclude Member States from using measures targeting specific sector, which are particularly strongly affected by the crisis. The managing authorities could also use sector-specific criteria to simplify access to the funds, e.g. not requiring detailed justification of the needs from each applicant in the sectors where the effects of the coronavirus crisis are horizontal and well established at macro level, while only in sectors less affected by the crisis (like IT) requiring more detailed justification.

The support for SMEs is primarily delivered under TO3, but the proposed Article 3(1) of the ERDF Regulation applies horizontally, and it is not precluded that support for the working capital is granted under the other thematic objectives when SMEs are supported there, e.g. TO1, TO4, TO8, TO9.

See the other replies concerning working capital to learn about categories of expenditure it could cover, complementarities with the ESF support, different forms of support for working capital (grants, repayable assistance and financial instruments) and steps needed to adjust OPs when needed to make such support possible.

DE	Is this support limited to certain sectors or could all SME be supported that need liquidity due to the COVID-19 crises?
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No, the amended Article 3(1) of ERDF Regulation is not limited to the amounts not recovered under amended Article 139(7) CPR. Support for working capital under the new provision in ERDF Regulation, indeed should be considered as contributing towards acceleration of investments related to the response to the COVID-19 outbreak, but such support could also be financed from other ERDF resources still available. In line with the amended Article 139(7) CPR, other measures, outside of working capital under the proposed Article 3(1) ERDF Regulation, or, in the case of financial instruments, Article 37(4) CPR, could be also covered.

DE	Is it correct that this form of support is not limited to projects financed by amounts not recovered according to the new Article 139(7) CPR?
DE	Can the ERDF also support the new crisis-related initiatives (Article 3(1) and Article 5(1)(b) ERDF and Article 37(4) CPR) using existing (allocated) programme funding outside financial instruments that are not related to unspent pre-financing respectively not related to unrecovered amounts?

For the support in the form of grants and repayable assistance, working capital may be supported in line with the amended Article 3 (1) ERDF only “*where necessary [...] to provide an effective response to a public health crisis*”. Not all SMEs are negatively affected by the crisis, and some e.g. in the IT sector, might have even benefitted from the increased demand for their services or products, and therefore normally would not need public support. It would be also difficult to justify such unnecessary public support as being in line with the objectives of the programme. Thus, the Member States must not presume that there is a “general right” to support in the form of working capital and they need to draw up and apply procedures which should ensure that the selected operation is in line with the requirements of the ERDF Regulation.

For the support in the form of financial instruments, working capital has been eligible already from the beginning of the 2014-2020 period. Hence, when the proposed measures support both working capital needed to provide such effective response to the public health crisis and other eligible working capital, there might be no need to include any specific checks concerning the crisis. When the financial instruments are already in place, there might be even no need to change the underlying funding agreements.

Under EAFRD stand-alone working capital became eligible only in relation to the COVID crisis, therefore the link to the crisis needs to be verified (there is no “general sectoral eligibility”).

Key elements related to management and control of operations supported by ERDF, which include working capital, both during the selection and implementation, are summarised below.

1. Selection of investments / setting out the conditions for support

As with any other operations, when selecting operations that would receive ERDF support for working capital, the managing authority should comply with the provisions of Article 125(3) CPR concerning the selection of operations. The selection procedures and criteria should be appropriate for the objective of the support, which in the context of working capital is support for liquidity of the affected SMEs, and the Member States should try to avoid unnecessary burden for the applicants. They should be decided at national level, taking into account specific circumstances in a given Member State or region. They could be based for example on simple financial thresholds, such as drop in sales above a certain percent, or could be differentiated based on a sector, where, for SMEs in a certain sectors, the need for such support is established at the programme/measure level without any additional requirements from applicants. The Commission would be ready to provide advice in the programme-specific context of assessment by the monitoring committee which should examine and approve the methodology and criteria used for selection of operations in line with Fund-specific rules.

Article 125(3)(c) CPR requires that the beneficiary is provided with a document setting out the conditions for support for each operation including the specific requirements concerning in particular the products or services to be delivered under the operation, the financing plan, the time limit for execution.

When deciding on the templates of such documents and specific requirements for a particular SME under measures intended to provide response to the public health crisis, the Member States should carefully assess if any additional requirements imposed do not undermine efficiency of the measures. In particular, the following approaches are recommended in the context of working capital:

Avoiding unnecessary restrictions on the scope of working capital:

- working capital is the difference between current assets and current liabilities, and can be used to fund many categories of expenditure (see replies on specific questions concerning ERDF and working capital for more specific explanation); the relative importance of each of the categories within the overall capital requirements may vary over time, especially in the current economic environment;
- general support, allowing for shifts within categories of working capital, would be normally considered more effective in addressing liquidity issues;
- even if more detailed information is requested or provided by applicants in the applications for support, the managing authorities have no obligation to include all the details in the document setting out the conditions of support.

Flexibility to adjust the timeline:

- as the economic situation is unstable and at this stage it is difficult to estimate how long the support might be needed in a given Member State, a sector or for a specific SME supported, it would be a good practice to include review clauses or provide for other arrangements so that future developments could be accommodated;
- where the support is provided under specific State aid rules linked to the coronavirus crisis, in particular the Temporary Framework, conditions included there should as a general rule be sufficient.

Management verifications and audits

For financial instruments, the Commission [proposed](#) on 2 April 2020 that it would no longer be required that final recipients submit a new or updated business plans or equivalent documents and evidence allowing verification that the support provided through the financial instruments was used for its intended purpose as part of the supporting documents. This derogation would apply where financial instruments provide support in the form of working capital to SMEs pursuant to the second subparagraph of Article 37(4), i. e. only to COVID-related support from the moment the derogation enters into force.

For the working capital not covered by the derogation, following the principles described in point 1 should help Member States to minimise the burden.

For grants and repayable assistance:

- Simplified costs options could be used; under *de minimis*, the use of simplified costs options will be required in accordance with Article 67(2a) CPR when the public support does not exceed EUR 100 000 and no use was made of the transitional provision set out in Article 152(7) CPR;
- If financing is based on real costs, documents demonstrating that the amount granted has been incurred in relation to working capital needs to be provided. It is recommended, however, that the document setting out the conditions of support allows for a broad category of costs to be declared giving the recipients of such support the flexibility to choose those items of expenditure which are easier to be demonstrated (see recommendations on documents setting out conditions of support above).

For financial instruments, verification of financial statements for a company at the moment of investment selection for funding should usually be sufficient, without any need to provide specific proof of expenditure incurred. The loan is given based on an analysis of the balance sheet and the foreseen evolution of short term financing needs. Requesting invoices to justify the use of the working capital financing would not be normal banking practice.

The management verifications should check if the selection is in line with the applicable EU and national rules. In the context of working capital, they should focus on:

- whether the company indeed had been affected by the public health crisis, as defined in national rules, when a given measure targets exclusively such expenditure in line with the amended Article 3(1) of the ERDF Regulation; (as described above, this might not be needed for financial instruments which support working capital also outside of the coronavirus crisis); and
- ensuring that no double financing is provided in case the SMEs are or have been supported also by other operations.

HU	Based on the amendment of Regulation (EU) No 1303/2013, and Regulation (EU) No 1301/2013, Member States will have the opportunity to support the financing of working capital in SMEs where necessary, as a temporary measure to provide an effective response to the public health crisis. The question arises, in what way should the Member State prove that these measures have been adopted in response to crisis, or are relevant to the crisis. Or can we presume that this general right of access to working capital is for each SME, given that means working capital can be provided to each SME, naturally observing ERDF, and OP compatibility.
HU	Can we provide separate working capital loan scheme under EDIOP Priority 8 - based on the amendment of Regulation (EU) No 1303/2013 - without demonstrating that the working capital loan is linked to an investment / related to the crisis. Or can we presume, that this general right of access to working capital for each SME is given, that means working capital can be provided to each SME, naturally observing ERDF, and OP compatibility.

IT	<p>In the framework of an ERDF Program with an existing financial instrument, and given the macroeconomic nature of the crisis, could you confirm the eligibility of a support action for access to liquidity offered in a generalised manner to the entire SME system, without distinguishing the sectors and / or the companies most affected?</p> <p>Come è noto, il Regolamento 460/2020 ha previsto che il FESR debba sostenere il finanziamento del capitale circolante delle PMI ove necessario come misura temporanea, al fine di rispondere in modo efficace alla crisi sanitaria pubblica.</p> <p>Il Regolamento 558/2030 ha poi precisato che nei casi in cui gli strumenti finanziari forniscono sostegno alle PMI sotto forma di capitale circolante a norma dell'articolo 37, paragrafo 4, secondo comma, del presente regolamento, non sono richiesti, nel contesto dei documenti giustificativi, piani aziendali nuovi o aggiornati o documenti equivalenti, né prove che consentano di verificare che il sostegno fornito tramite lo strumento finanziario è stato utilizzato agli scopi previsti.</p> <p>Tutte le analisi macroeconomiche hanno riconosciuto che gli effetti recessivi della pandemia, indotti dal blocco delle attività e dal generale calo della domanda, hanno interessato l'intero sistema produttivo.</p> <p>Per quanto riguarda in particolare l'Italia, secondo l'Istituto nazionale di statistica (Istat), nel secondo trimestre 2020 si è determinata una contrazione stimata del prodotto interno lordo (Pil) del 12,4% rispetto al trimestre precedente e del 17,3% in termini tendenziali, con una variazione acquisita per il 2020 pari a meno 14,3%, causata da una diminuzione del valore aggiunto riguardante tutti i comparti produttivi.</p> <p>La stessa Commissione, nell'approvare la Comunicazione sul quadro temporaneo per le misure di aiuto a sostegno dell'economia nell'attuale emergenza del Covid-19, ha riconosciuto che la situazione attuale configura un "grave turbamento dell'economia", ai sensi dell'art. 107, par. 3, lett. b), del TFUE, che interessa tutti gli Stati membri.</p> <p>Le misure di sostegno volte a contrastare la crisi di liquidità, devono, pertanto, avere una portata generalizzata, non dovendosi confondere con misure compensative volte a ristorare il danno subito da ciascuna singola impresa.</p> <p>Alla luce di quanto sopra, si chiede conferma della piena ammissibilità, nell'ambito di un Programma FESR e di uno strumento finanziario esistente, di un'azione di supporto per l'accesso alla liquidità offerta in maniera generalizzata a tutto il sistema delle PMI, senza distinguere i settori e/ o le imprese maggiormente colpiti, vista la natura macroeconomica della crisi.</p>
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The proposed definition of the working capital has been in place since 2014 and is already used for support in the form of financial instruments, see: [EGESIF_14_0041-1](#). The same definition is proposed to be used for the support in the form of grants and repayable assistance introduced in response to the public health crisis.

Member States may provide, in the national eligibility rules, for a more detailed definition operationalised to fit the specific programme context and such a national approach could be reflected in the description of the relevant priority axis which is approved by the Commission.

Working capital is understood to be the difference between the current assets and current liabilities of an enterprise. This difference measures the organisation's operational liquidity (in other words, its ability to pay its debts as they fall due). Operating costs merely represent expenses incurred by an organisation in its day-to-day activities. 'Working capital' and 'operating costs' are therefore entirely separate concepts, and the terms should not be used interchangeably.

CZ	<p>We would appreciate a formal (binding) confirmation made by the Commission that "working capital" in this case really means operating costs. This might have the form of a statement issued by the end of the negotiation process.</p>
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We understand that the proposed scheme offers grant support for working capital in SMEs (as introduced by amended Article 3(1) of the ERDF Regulation) in which the grant amount has to be repaid if certain additional conditions either related to the intended use of the working capital (e.g. to cover labour costs) or some other policy considerations (e.g. maintaining jobs) are not met and the conditions are to be verified later.

In line with Article 67(6) CPR, the document setting out the conditions for support for each operation should set out the method to be applied for determining the costs of the operation and the conditions for payment of the grant. In Article 125(3)(c) CPR it is specified that the managing authority should include specific requirements concerning the products or services to be delivered under the operation. Finally, in line with Article 125(4)(a) CPR verifications by managing authority should include, among others, also the conditions for support of the operation as set out in the document. Hence, as a general rule any expenditure which does not meet the conditions, would not be eligible and, if already included in the payment applications, would have to be deducted, reducing the amount of eligible expenditure.

PL Taking into account specific aspects of working capital and difficulty to make any collateral on working capital as well as the actual conditions of COVID-19 crisis which in worse scenario may lead to closure or suspension of certain economic activities for longer period of time it is necessary in our view to allow for certain level of losses also in grant schemes which aim is to mitigate possible negative economic consequences of COVID-19.

We plan to set within the grant instrument for working capital for SMEs the level of losses at 25%. We hope it is acceptable for the European Commission to incorporate the level of possible losses in grant schemes for SMEs similar as it is within financial instruments (in case of FIs the acceptable level of losses is up to 25%).

Could you please confirm that it is possible?

The amended Article 3(1) of the ERDF Regulation targets economic operators. The level of need for working capital varies with the macro economic situation and the SMEs in many sectors have been particularly strongly directly affected by the current crisis.

If an NGO is engaged in economic activities, it could be considered an SME, as according to Article 1 of Annex I to [Commission Recommendation 2003/361/EC](#) an enterprise is considered to be any entity engaged in an economic activity, irrespective of its legal form. NGOs engaged in economic activities could potentially benefit from ERDF support to their working capital if this is necessary as an effective response to the public health crisis.

While support for working capital is restricted to entities engaged in economic activities, NGOs may potentially benefit from other support from ESI Funds. In particular, NGOs engaged in health services may potentially benefit from ERDF support when implementing projects necessary for fostering the crisis response capacities under the amended Article 5(1)(b) of the ERDF Regulation provided these projects fall within the scope of the ERDF as set out in Article 3(1) ERDF Regulation. They can also receive support [from ESF](#) in particular for short-time work schemes and support to employers and workers for setting up telework arrangements (see also the general Q&A on the support that can be provided by cohesion policy to address the COVID-19 outbreak).

In addition, NGOs acting as partners involved in implementation of programmes may also continue to receive technical assistance from the ESI Funds in line with Articles 59(1) and 5(3)(e) CPR.

SK It is not clear to us why the added possibility of reimbursement of the operating capital in the draft amendment to the ERDF Regulation only applies to SMEs and not also to NGOs.

We understand that by liquidity support you mean working capital support to SMEs.

The possibility for ERDF support to working capital in SMEs as a temporary measure to provide an effective response to a public health crisis introduced by the amended Article 3(1) of the ERDF Regulation is not linked to any specific thematic objective. However, indeed it would be usually most appropriate to implement such support under thematic objective 3. If such support is granted under thematic objective 1, in accordance with the introductory sentence of Article 5(1) ERDF Regulation, the support would have to contribute to strengthening research, technological development and innovation.

In addition, the amendment of Art 5(1)(b) ERDF Regulation by the Regulation (EU) 2020/460 extended the investment priority 1b, by allowing to finance under TO1 investments in products and services fostering the crisis response capacities in [health services](#). SMEs that are providing health services, may be supported under this investment priority.

FI Since the investment priority 3d Supporting the capacity of SMEs seems to be the most appropriate my question is. **Is it possible to use the liquidity support under the thematic objective 3** or is it only possibly under the thematic objective 1 (Letter from COM Brussels, 18 March 2020 Ares (2020) 1847818)? Is there a restriction concerning this in the proposals for amending the ERDF regulation 1301/2013 or the Common regulation 1303/2013?

Applicability of durability provisions would depend on: (i) the form of financing, (ii) whether the working capital is used to finance productive investment or infrastructure and (iii) the State aid regime under which the support is granted. The size of the undertaking – SME or non-SME – is relevant only for establishing the duration of the obligation laid down in Article 71 CPR.

- **Financial instruments**

In accordance with Article 71(4) CPR, the durability obligation, laid down in Article 71(1)-(3) CPR, **does not apply to contribution to or by financial instruments**. Working capital support provided under Article 37(4) CPR is therefore not subject to the durability provision of Article 71(1)-(3) CPR, whether or not it involves State aid.

- **Grants and repayable assistance**

Article 3(1) ERDF as amended by the CRII Regulation provides that: “In addition, the ERDF may support the financing of working capital in SMEs where necessary as a temporary measure to provide an effective response to a public health crisis”. Therefore, in addition to the possibility already provided for in Article 37(4) CPR as regards support in working capital through financial instruments, working capital support can be provided also in the form of a grant or repayable assistance.

1. **Grants/repayable assistance for working capital support for operations comprising productive investment or infrastructure**

The durability obligation of Article 71(1) CPR applies to operations comprising investment in infrastructure or productive investment. Productive investments are investments in fixed capital (e.g. purchase of equipment) or immaterial assets (e.g. purchase of software) of enterprises to be used for the production of goods and services, thereby contributing to gross capital formation and employment. Working capital support may finance operations comprising productive investment or infrastructure.

Where the aid to an ESIF operation is granted under the Temporary Framework (which to this date does not include any obligation for maintenance of investment), the grant or repayable assistance working capital support that is expressly used for infrastructure or productive investment would be subject to durability requirements in line with Article 71(1) CPR.

If the operation does not specify categories of costs for which the working capital is used or if such support is used only to finance operating costs (e.g. rents, personnel costs), the durability requirements need to be verified as outlined in point b) below.

Finally, if the liquidity problems of the SME ultimately leads to its bankruptcy, which all measures for the support of the economy aim at avoiding, but which is not always avoidable, it can be recalled that the durability provision does not apply in case of non-fraudulent bankruptcy (Article 71(4) CPR).

1. **Grants/repayable assistance for working capital support for operations other than productive investment and infrastructure**

In line with Article 71(3) CPR, the scope of the durability requirement with regard to operations comprising other than infrastructure or productive investments is more limited. In this CPR provision, such operations are to comply with the durability requirement only if they are subject to an obligation for maintenance of investment under applicable State aid rules and in case a cessation or relocation of a productive activity occurs within the period laid down therein.

Under the Temporary framework, there is no such requirement, and under regional aid rules (RAG or GBER) the 5/3 years rules maintenance period apply only for investment aid and not operating aid.

PL Does the durability provision apply to the financing of working capital in SMEs with liquidity problems?
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Working capital could be used to finance different categories of costs, including:

- productive investments, i.e. investments in fixed capital (e.g. purchase of equipment) or immaterial assets (e.g. purchase of software);
- infrastructure costs (e.g. investments in health infrastructure);
- expenditure which is neither productive investment, nor investment in infrastructure, in particular operating costs (e.g. energy and rental costs, personal costs).

In accordance with the new third sub-paragraph of the amended Article 3(1) of the ERDF Regulation, working capital, supported by ERDF, could be used to finance all activities mentioned in points (a) – (f) of Article 3(1) ERDF Regulation, through grants, repayable assistance and financial instruments, provided that such support is necessary as a temporary measure to provide an effective response to a public health crisis and is provided to SMEs.

Further, not only SMEs, but also non-SMEs would receive working capital support, financed by ERDF, if they target one of the activities mentioned in Article 37(4) CPR.

The Fund-specific rules would still apply. In the ERDF context, the support would need to be used to support **one of the investment priorities defined in Article 5** of the ERDF Regulation.

Except for EAFRD, the ESIF regulatory framework does not establish specific threshold as regards the amount and proportion of working capital within the overall support. This should be justified in business and economic terms and be in line with the investment priorities to which the working capital support would contribute, the form of financing and applicable State aid rules. For example, while in the context of strengthening of the general activities of an enterprise supported through financial instruments or supporting the capacity of SMEs to grow in regional, national and international markets, and to engage in innovation processes one could justify that the majority of the total amount or even the total amount of the eligible support to respond to the COVID-19 crisis is delivered through working capital, on the other hand, e.g. when enhancing R&I infrastructure is concerned, the working capital would normally still be supplementary to the support focused on infrastructure.

SK Article 3(1) ERDF on scope of support from ERDF does not mention the “working capital” specifically (except for amendment of the new subparagraph by CRII Regulation). Thus, according to our opinion, the most probable possibility to support working capital of large enterprises, through financial instruments, would fall under the scope of letter (b) productive investment, irrespective of the size of the enterprise concerned, which contributes to the investment priorities set out in points (1) and (4) of Article 5, and, where that investment involves cooperation between large enterprises and SMEs, in point (2) of Article 5, while the definition of “working capital” and its relation to “productive investment” remains unclear.

Is this understanding correct? Does the term “productive investment” as defined under Article 3(1) b) also include the “working capital” according to the Article 37(4) CPR (e.g. capital for the strengthening of the general activities of an enterprise (such as activities aimed at stabilising and defending the existing market position, strengthening of capacity utilisation)?

What types of costs would be eligible as working capital within the above meaning? The Guidance provides some examples: the funds required to pay for raw materials and other manufacturing inputs, labour; inventories and overheads, funding to finance trade receivables and non-consumer sales receivables. Is it possible to include operating costs (e.g. energy and rental costs)?

The Guidance also states that no specific threshold for working capital has been established apart from EAFRD. Nevertheless, the amount and proportion of working capital should be justified in business and economic terms. Is it possible that working capital expenditure will represent the majority of the total amount or even the total amount of the eligible expenditure for the productive investment? Is it justified by the COVID-19 outbreak?

The questions concern the timing of the verifications under Article 125(5) CPR as regards operations which support working capital in the form of grants based on real costs (i.e. in line with Article 124(4)(a)(i) CPR). In addition, confirmation is requested that administrative verifications on how the working capital has been used could be done on the sample basis.

For grant support in the form of working capital it is possible that all the requirements of management verifications elements are fulfilled before the application for reimbursement is submitted. As a general rule, additional verifications after the payment application is made would be needed only if the conditions for support of the operations concern events which could be verified only later, such as requirements to demonstrate how the working capital is used, or to safeguard jobs.

More detailed explanation on the requirements of the verification process in the specific context of the proposed scheme is presented below.

Amended Article 3(1) ERDF allows the support of working capital of SMEs in the form of grants. Working capital is defined as the difference between the current assets and current liabilities of an enterprise. The term 'working capital' should not be confused with another term “operating expenditure”. The working capital supported is to be used to fund operational costs, but the terms are not to be used interchangeably.

The objective of working capital support is to provide liquidity. As in the context of financial instruments (where working capital has been eligible from the beginning of the 2014-2020 period), in case of the grant support for working capital the eligible expenditure is constituted by financing provided, rather than specific costs for which the financing is used, to be reimbursed later. Therefore, applications for reimbursement may include the working capital support paid before the amounts are used and this should not to be considered as an advance, but as an intrinsic feature of the support for working capital.

For this type of support, the beneficiaries should submit supporting documents that include financial information to justify the requested amount of working capital and demonstrating that any other conditions for support, if applicable, are met. As these documents are the basis for the payment claim to be submitted for reimbursement, they would need to be subject to management verifications, including administrative checks with respect to each payment application.

The necessary elements of management verifications are defined in Article 125(4)(a) CPR. They comprise the following elements:

- verification that the **products and services have been delivered**: the objective of the operation is to provide liquidity; the liquidity is provided when financing is paid to the beneficiary; this element is fully covered at the stage before the payment claims are submitted and no further checks are needed after the full amount has been paid to the beneficiary;
- verification that **the operation complies with applicable law**: for working capital support, this includes in particular compliance with State aid. Under section 3.1 of the [Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak \(OJ C 91I, 20.3.2020, p. 1-9\), as amended](#)), all the required checks would need to be done before the application are submitted and no further checks are required later. In addition, as State aid provided on the basis of section 3.1 of the Temporary Framework is not subject to an obligation for maintenance of investment under the applicable State aid rules, no further durability checks would be required in line with Article 71(3) CPR (see detailed reply on '[Durability requirements for working capital](#)'). As a general rule, it should be also possible to cover verification of compliance with other applicable law already at the earlier stage, before the payment claims are submitted;
- verification that the operation **complies with the operational programme**: unless programme-specific eligibility conditions are included which make eligibility dependent on other factors, this check should be completed before the application for reimbursement is submitted;
- verification that the operation complies with **conditions for support of the operation**: if there are specific conditions for the support, they might require also verifications after the payment claims have been submitted;
- verification that **the amount of expenditure declared by the beneficiaries in relation to those costs** has been paid: in line with Article 131(1) CPR this element is to be fulfilled before submission of application of payments. Hence, no further management verifications are required.

When needed, additional management verifications, unrelated to applications for reimbursement, **could be carried-out on the sample basis**, proportionally to the amount of public support to an operation and to the level of risk identified.

BG	<p>We would like to present to you all verification process that we envisage under this COVID-19 related scheme for working capital for micro and small businesses:</p> <ul style="list-style-type: none"> • After listing of approved project proposals that satisfy the eligibility criteria (including a series of administrative checks) and signing of contracts, within 15-working days the managing authority will transfer/provide the total grant amount required by the beneficiaries for working capital. • The project implementation is 3 months. • After the amount is received by the beneficiary and the activities under the grant contract completed, the beneficiary is obliged to prepare and submit to the managing authority final technical and financial reports (through the Electronic Information System) containing information on the overall implementation of the activities and the results achieved (primary accounting documents, invoices, proof of payments, etc.). All costs should be related to overcoming the funding shortage or lack of liquidity resulting from the COVID-19 epidemic. <p>Therefore, the managing authority will do additional administrative verifications of the abovementioned reports <u>but there are no applications for reimbursement to be checked as the full payment is done up-front based on the signature of the grant contract</u>. The managing authority will do administrative verifications of compliance with the eligibility of the supporting documents and costs for working capital.</p> <p>Should the managing authority verify 100% of all contracts signed under the above-mentioned procedure or is an alternative approach possible, for instance on a sample basis?</p>
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The Commission's services understand that the proposed scheme could be characterised as follows:

- The ERDF support would be provided for general activities (i.e. working capital / liquidity needs) of SMEs, without specifying specific categories of costs for which it is to be used, in line with the amended Article 3(1) ERDF Regulation;
- Only SMEs, as defined in Commission Recommendation 2003/361/EC on the definition of SMEs, would be eligible;
- Only SMEs active in certain sectors, more affected by the crisis, would be eligible (the other sectors would be excluded)
- State aid would be granted on the basis of a scheme notified and approved under Temporary Framework
- The amount of aid would be estimated on the basis of a specific tax which the authorities consider as proportional to the working capital needs of the companies supported.

The Commission considers that the proposed approach, as outlined above, could provide a basis for support from ERDF in a transparent way which is simple for the SMEs benefiting from such support.

Under amended Article 3(1) ERDF, support could be granted for working capital needs if such support is necessary as a temporary measure to provide an effective response to a public health crisis and if the supported entity is an SME. In the reply '*Verification that working capital is linked to crisis*' the Commission has already confirmed that selection could be differentiated based on a sector, where, for SMEs in a certain sectors, the need for such support is established at the programme/measure level without any additional requirements from applicants. Hence, provided that the sectors where such aid is to be granted indeed are properly chosen, and the SME status is verified, the proposed approach to selection could be used. In case the OP needs to be amended to extend eligibility to cover the new scope, the necessary programme amendment may be adopted later, without delaying deployment of measures and the related expenditure would be eligible as of 1 February 2020.

The responsibilities of drawing up and applying appropriate selection criteria as well as the decision on granting the support rest with the managing authority which is responsible for ensuring that the proposed scheme is in line with applicable law. This entails that only those sectors are chosen which ensure that only companies affected by the crisis will benefit from such support, in accordance with requirements of the ERDF Regulation.

It should be noted that the beneficiary should be informed that they receive ERDF support and should fulfil all obligations linked to the EU support, including on communication.

IT	<p>The objective of Lazio Region is to give a grant contribution to all SMEs for the losses incurred due to the COVID crisis. The managing authority needs an objective way to allocate grants and wants to deliver in a quick manner (with no calls or other bureaucratic procedures).</p> <p>The regions in IT do collect a regional tax on the production (IRAP). This means that there are relevant databases allowing easily to identify the companies that pay this tax (and excluding the bigger enterprises not eligible to ERDF support). Therefore, it has been proposed to give to all SMEs present in the territory a grant amount equal to one of the yearly instalments of this tax. This means also that the procedure is not selective and that the amount per SME will vary (proportionally to the IRAP they were due to pay) and will be small.</p> <p>This intervention would be supported in line with the Temporary Framework for State aid, being limited to companies covered by the Community definition of SMEs (given the regulatory constraint for TO 3) and excluding a number of actors and sectors less exposed to the crisis.</p> <p>The SME, which is subject to the IRAP tax, would submit an electronic application using the existing IT channels. The regional intervention, which is disconnected from the tax compliance, is aimed at giving a contribution to the SME, commensurate with its tax capacity for the IRAP tax purposes.</p> <p>The operation is entirely comparable to the provision of subsidies for working capital (and are therefore not linked to business development plans or other documents of the SMEs). Please confirm the possibility to support the measure through the ERDF, eligibility which does not seem to be precluded by the recent openings, in order to respond to the crisis arising from the pandemic.</p>
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As already explained in the reply *Management verifications for working capital grants*, the objective of working capital support is to provide liquidity. As in the context of financial instruments (where working capital has been eligible from the beginning of the 2014-2020 period), in case of the grant support for working capital the eligible expenditure is constituted by financing provided, rather than specific costs for which the financing is used, to be reimbursed later. Therefore, applications for reimbursement may include the working capital support paid before the amounts are used and this should not to be considered as an advance, but as an intrinsic feature of the support for working capital. Thus, provided that the working capital support is in line with the programme, State aid and the other applicable Fund-specific rules, the managing authority and consequently the certifying authority can claim these amounts from the Commission right after the payments are made to the beneficiary.

However, if the managing authority decides to apply specific conditions to the working capital support which can be verified only later (such as requirements to demonstrate how the working capital is used, or to safeguard jobs), they might require also management verifications and audits after the payment claims have been submitted. This may require adjustment to eligible expenditure in case at any stage later the breach of the conditions for support of the operation is detected. This does not preclude that the working capital expenditure is included in the payment claims right after the payments are made to the beneficiary.

EL All our regional operational programmes have made calls for supporting SMEs with working capital grants. Eligible SMEs receive their support right after the approval of their application and the managing authorities verifies in 2022 that the grant was spent as provided in the application by checking the firms' tax declaration for working capital (specific codes).

Grants are provided right after the selection of the beneficiary on the basis of the eligibility criteria set, as the objective is the provision of liquidity. Can you please confirm (1) that the managing authority and consequently the certifying authority can claim these amounts from the Commission right after the payments are made to the beneficiary and (2) that the submission of such payment claim to the European Commission isn't related to management verifications regarding the use of the grant provided, which will be conducted later on?