Opinion of the European Committee of the Regions — Financial instruments in support of territorial development

(2015/C 423/07)

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I. POLICY RECOMMENDATIONS

THE EUROPEAN COMMITTEE OF THE REGIONS,

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

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

3. recognises that financial instruments can be important tools for territorial development. Repayable financing can ensure greater leverage from invested capital in certain areas where private financing can complement public financing and where returns are attractive enough;

4. underlines that the subsidy system plays an important role in fostering territorial development in particular in areas where the market has failed and where territorial cohesion challenges are a real issue and points at the complementary nature of subsidies and financial instruments as they ought to apply to different situations. Promoting the use of financial instruments must not lead to an excessive curtailment of the subsidy system or to a crowding out effect on the EU's budget allocated to cohesion policy;

5. expresses its support for the Council's conclusions on the challenges of implementing the Cohesion Policy 2014-2020 adopted on 9 June 2015 in Riga; in these conclusions, the Commission is called on 'to provide guidance on the use of financial instruments and on the synergies between different instruments in a timely, coherent, consistent and clear manner and to explore all opportunities to provide more clarity, in no case going beyond the scope of the legal provisions agreed by the co-legislators by creating additional obligations';

6. acknowledges the Court of Auditors' conclusions in Special Report 05/2015 on the use of financial instruments in rural areas ([1]), which highlighted the risk of overcapitalising the guarantee fund relative to private investor demand, and also the consequences associated with a lack of leverage when private funding is needed to top up public funds. Calls therefore on the European Commission to learn lessons from this report;

The European Committee of the Regions wishes to stress that:

Legal environment

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

([1]) http://www.eca.europa.eu/Lists/ECADocuments/SR15_05/SR15_05_EN.pdf

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

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

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

11. notes also that any information on this subject should be transparent, as detailed as possible and communicated in simplified form, so that all parties who might be interested, whether they be natural or legal persons, can have all the background information needed to make a decision on investment or development. This reduces the hidden risks, ensures that administrative procedures can be assessed and planned and, on the whole, increases the interest of investors;

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

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

14. the CoR notes that point 20 of the Guidelines on State aid to promote risk finance investments ([2]) stipulates that 'risk finance aid measures have to be deployed through financial intermediaries or alternative trade platforms, except for fiscal incentives on direct investments in eligible undertakings. Therefore, a measure whereby the Member State or a public entity makes direct investments in companies without the involvement of such intermediary vehicles does not fall under the scope of the risk finance State aid rules of the General Block Exemption Regulation and these Guidelines'. Consequently, when a managing authority makes a direct aid payment to an SME as part of a financial package, the aid in question can only be considered State aid compatible with the Treaty if the amount provided is smaller than the amounts decreed in the *de minimis* regulation, or if the aid is provided in accordance with other horizontal State aid rules (e.g. SMEs, regional cohesion, R&D, etc.). Calls therefore on the Commission to make sure this scheme does not result in the break-up of projects supported by financial instruments, and that the guidelines are not in breach of Article 38 of Regulation (EU) No 1303/2013 on common provisions for Structural Funds with regard to implementing financial instruments;

15. at all levels of implementation, steps should be taken to eliminate unnecessary regulatory constraints, which increase costs and reduce demand for financial instruments;

([2]) OJ C 19, 22.1.2014.

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

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

18. THE evidence of eligibility of expenditure required must be only such that is necessary in order to achieve the objective. Wherever possible, evidence should be permitted which places the least possible burden on beneficiaries and final recipients, such as statements. This does not affect in any way the need to carry out checks to verify the evidence submitted. A proposal should be drawn up on the use of the public registers of Member States. The Committee also proposes that, from the programming phase onwards, the system of evidence and checks should be set up in such a way that it does not have a negative impact on the decisions of beneficiaries or end-users in connection with the raising of funds;

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

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

Financial instruments as tools of regional policy

21. it should be underlined that the decision to use financial instruments must always be based on in-depth analysis and maximising public utility. The Committee of the Regions emphasises therefore that financial instruments must solve specific social, economic or environmental problems. One purpose could be to promote smart, sustainable and inclusive growth;

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

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

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

25. the European Commission and the European Investment Bank should ensure appropriate participation of the regions in the use of financial instruments under the Investment Plan for Europe. Welcomes in that context that Recital 56 of the Regulation on the European Fund for Strategic Investments (EFSI) stipulates that regional and local authorities should be able to contribute to the establishment and management of the European investment project portal;

26. it is a good thing for financial instruments to attract private capital, and the European Commission must ensure that the level of leverage in instruments financed using European funds is optimal and consistent with the social objective set;

27. the CoR advocates the simplification of the EU's financial instruments and underlines that instruments need to be simple and easy to use with the right amount of checks and balances;

28. the CoR highlights the need to better promote financial instruments amongst potential users in order to increase knowledge of their specific added value and best use;

29. it should be ensured that financial instruments are distributed in accordance with social and economic needs, with a clear awareness of the regional dimension and an approach that takes account of the varying conditions that often prevail in municipalities and rural areas, by for example supporting small-scale projects and small regions' access to such financing opportunities. It is important to draw attention to potential adverse effects that may interfere with the optimal distribution of financial instruments;

30. the CoR points out that many local and regional authorities find it difficult to access the EU Funds as they are unable to co-finance them from their side; underlines that financial instruments need to be developed in order to help overcome this issue;

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

32. allowing — in response to the economic crisis — the financing of working capital in the framework of the 2007-2013 financial perspective, must be regarded as appropriate from the point of view of European economic interests;

The effectiveness of financial instruments

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

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

35. before taking a decision to use instruments, it should be examined whether the financing of investments, e.g. through a debt instrument, will over-burden consumers with the cost of servicing this debt. In addition, it should be borne in mind that the benefits of using publicly-funded financial instruments must not be appropriated or diminished by financial intermediaries (e.g. the guarantee instrument should lower the cost of raising capital). It is also necessary to ensure that financial instruments are not a source of unjustified profit for intermediaries, e.g. through bancassurance or cross selling. The European Commission and national authorities must, in this case, adopt appropriate regulations;

36. the exchange of experience and knowledge between the EC and the EIB and local and regional authorities should be stepped up. In addition, local and regional authorities and the bodies responsible for the financial instruments already in place should carry out a joint analysis to make these instruments as effective as possible. The Committee of the Regions recognises the commitment of the European Commission and the European Investment Bank in this respect, but would like to underline that, in view of the crucial nature of the initial period of implementation, it is vital to step up work on full implementation of solutions, such as the fi-compass platform;

37. in order to promote the use of financial instruments — and not only as regards the implementation of the ESIF — the European Commission and the European Investment Bank should ensure that regions have the possibility of appropriate substantive support. This support should allow for a case-by-case approach to each region, but equally it requires that there is proper comprehensive guidance on how local and regional authorities can apply for financial instruments, EIB credit lines and EFSI loans, so as to ensure that they can make informed decisions on which financial instrument is more relevant for them in terms of size, type of investment and level of risk;

38. the CoR points out that financial instruments must be accessible for possible users on more advantageous terms compared to standard commercial loans;

39. while acknowledging the steps already taken, the Committee of the Regions calls on the European Commission and the European Investment Bank to swiftly implement awareness-raising programmes, including courses and training (at different levels and in regional languages) for the administrations in charge of planning, implementing and clearance of financial instruments, but also for regional financial entities, in particular non-profit organisations, which have limited access to such knowledge. Similarly given that some regions and groups of municipalities have successfully used EU-funded loan instruments in the past, there should be support for transferability of their models and lessons learned to other countries and regions. The Committee emphasises that e-learning must be used to this end;

40. the financing of bodies implementing financial instruments must encourage the efficient management of resources allocated;

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

42. while the process of instrument programming may turn out to be longer than in the case of subsidies, the speed with which financial instruments (loans and guarantees) are distributed should remain, at the start of the financial perspective, their key advantage over subsidies. To boost effectiveness and efficiency in the use of financial instruments, without prejudice to the rigour and quality of the ex-ante analyses required for the programming process, it is important that the time needed for administrative procedures is kept to a minimum;

43. those responsible must take into consideration the possibility of undesirable developments arising in the implementation of financial instruments, especially the crowding-out of private funds from the market as a result of public intervention. It is therefore necessary to adopt appropriate measures to safeguard against such phenomena. There is a need for appropriate cooperation in this area between the European Commission, the European Investment Bank and the regions including comprehensive official guidance of the different financial instruments that are available to local and regional authorities;

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

The institutional system

45. implementation of financial instruments using the ESIF should not focus on the clearance of the support granted, but on achieving long-term positive effects for the European economy;

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

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

48. the CoR highlights that the controls performed at various levels need to be better coordinated in order to remove unnecessary burdens for local and regional authorities; however, the governments of the various Member States should be required to cooperate with local and regional authorities;

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

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

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

Brussels, 14 October 2015.

The President
of the European Committee of the Regions

Markku MARKKULA