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Audit strategy for the Recovery and Resilience Facility

RRF: Building Audit Assurance

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1 INTRODUCTION

This document (hereafter "Audit Strategy") sets out the audit framework to be applied by the audit unit of ECFIN (hereafter "audit unit") in relation to Funds managed by DG ECFIN under Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021 establishing the Recovery and Resilience Facility¹ ('RRF Regulation').

The document responds to the requirement that the authorising officer by delegation shall, in accordance with Article 36 of the Financial Regulation, the Commission's Internal Control Framework² and having due regard to the risks associated with the management environment and the nature of the measures financed, establish the organisational structure and the internal control systems suited to the performance of her/his duties. The establishment of such structure and systems shall be supported by a comprehensive risk analysis, which takes into account their cost-effectiveness. In the case of multi-annual programmes, the authorising officer by delegation shall establish a multi-annual control strategy, specifying the nature and extent of controls over the period and the manner in which the results are to be measured year-on-year for the annual assurance process.

The overall objective of the audit unit's activity is to obtain reasonable assurance that the Commission has fulfilled its role and responsibilities under the RRF and the Financial Regulation. The Commission has primary responsibility in terms of legality and regularity as regards milestones and targets, where meeting such milestones and targets is exclusively what triggers the payment decision. The primary target of the audit work will, therefore, be aimed at the legality and regularity of RRF payments, by auditing whether the milestones and targets were satisfactorily fulfilled. In addition, to this primary target of the audit work, a number of supplementary targets of audit work have been identified.

- As the satisfactory fulfilment of milestones and targets are reported by the Member States and is based on the due justification, including evidence, that Member States themselves provide, the effective functioning of Member State systems in terms of collecting, storing, verifying and certifying reliable and accurate data on the achievement of milestones and targets will be audited.
- Article 22 of the RRF regulation provides that Member States are responsible for the protection of the financial interests of the EU. The Commission is responsible to reduce and recover or ask for early repayment in cases of fraud, corruption, and conflicts of interests affecting the financial interests of the Union that have not been corrected by the Member State, or a serious breach of an obligation resulting from the Financing Agreement and/or Loan Agreement. Therefore, the internal control systems of Member States will be checked at least once in the lifetime of the instrument to ensure that there are no serious breaches of the Financing Agreement and/or Loan Agreement and that the quality and reliability of the control systems in place are able to prevent, detect and correct cases of corruption, conflict of interest, and fraud.
- In cases of serious doubts or suspicion of fraud, corruption, conflict of interest and/or a serious breach in the conditions of the Financing Agreement (including double funding), the Commission will conduct audits.

In accordance with Article 22 of the RRF Regulation, compliance with national and EU law falls under the responsibility of the Member States and hence, this audit strategy will not cover issues

¹ (OJ L 57, 18.02.2021, p. 17).

² Communication to the Commission on the Revision of the Internal Control Framework, C(2017)2373 final.

related to these matters. Whilst the Commission will not conduct audits of such matters, in case non-compliance with EU law is identified through the implementation of the RRF, the Commission will address such issues through alternative procedures (for example, the infringement procedure).

The audit strategy sets out the actions to achieve the established objectives, taking account of the risks identified by the Audit Unit and, where available, the Operational Directorates (country desks), and of the resources available.

The audit strategy also takes into account discussions and identified risks with the Commission audit units responsible for the audit of the ESIF funds, notably where Member States utilise the same systems at national law, in order to ensure a complete picture of the risk exposure of the RRF. Even though the audit work on the recovery and resilience facility will be fully carried out by ECFIN audit team, procedures will be agreed with other Commission services, such as DG BUDG or the Structural Funds' audit units in DGs EMPL-REGIO to ensure effective coordination in relation to authorities to be audited and sharing of audit results, in order to avoid duplication of work. Although not yet available at the time of the adoption of this audit strategy, account will be taken, once available, of recommendations issued by the IAS and the ECA.

The audit strategy takes into account that certain tasks will need to take base on a continuous basis, such as the analysis of the audit summaries and the management declarations accompanying the payment requests. The determination of priorities for other actions and the planned use of resources must allow for this. The audit approach implemented for audits of the RRF is explained in detail in Annex 1.

Based on the resources of the Audit Unit, the allocation of “auditor days” to implement each action of Section 3 is set out in Annex 2a and 2b. The preliminary schedule of the planned audit missions resulting from the audit strategy will be set out in the audit plan that will be separately submitted bi-annually for approval to the Director General. The strategy provides the basis for the part of the Annual Management Plan of Directorate General for Economic and Financial Affairs relating to control of the RRF. Its implementation is monitored regularly with a quarterly reporting to senior management and a full bi-annual review in the Directorate.

2 GENERAL CONTEXT/BACKGROUND INFORMATION

2.1 Legal framework

Article 22(2) of the RRF Regulation sets out the conditions of the agreement to be concluded between the Commission and the Member State and provides for obligations of the Member State to regularly check that the financing provided has been properly used and that there has been a proper implementation of measures; to take appropriate measures to prevent, detect and correct fraud, corruption, and conflicts of interests and legal actions to recover funds that have been misappropriated; to accompany a request for payment with a management declaration and summary of the audits carried out; to collect and ensure access to the standardised categories of data; to authorise the Commission, OLAF, the Court of Auditors and, where applicable, EPPO to exert their rights; and to keep records.

Article 74(6) and Article 129(1) of the Financial Regulation stipulates that the authorising officer may put in place ex post controls to detect and correct any irregularities of operations after they have been authorised. Such controls may be organised on sample basis following the risk assessment. Moreover, **Article 129(1) of the Financial Regulation** stipulates an obligation for any person or entity receiving Union funds to fully cooperate in the protection of the financial interests of the Union.

The **Financing Agreement** concluded between the Commission and the Member State foresees the detailed implementing rules for the controls and audits to be carried out by the Commission. It stipulates that:

1. In addition to controls under Article 6(4) and audits under Article 11(4) of this Agreement, the Commission may exert its rights as provided for in Article 129(1) of the Financial Regulation and may carry out verifications, reviews, checks and audits for the implementation of the RRP regarding:
 - a) the prevention, detection and correction of fraud, corruption and conflicts of interests affecting the financial interests of the Union, including the application of Article 11;
 - b) the application of Article 4(2);
 - c) the information and justification regarding the satisfactory fulfilment of milestones and targets in a payment request.

Such verifications, reviews, checks and audits may be carried out during the implementation of the RRP and until five years starting from the date of the final payment and may cover the information system used by Member States to collect and provide data that is used to justify the completion of milestones and targets. These procedures shall be formally notified to the Member State. If needed, the Commission may be assisted by independent outside experts or external audit firms.

2. The Member State shall keep and provide adequate supporting documents proving, in particular, that the RRP has been implemented properly, that its implementation complies with the obligations listed in Article 11(1) of this Agreement and that the milestones and targets specified in the Council Implementing Decision have been satisfactorily fulfilled, if requested to do so in the context of the checks or audits described in this Article.

3. The following bodies may exert their rights as provided for in Article 129(1) of the Financial Regulation and carry out reviews, checks, audits and investigations:
 - the European Anti-Fraud Office (OLAF) under Regulations No 883/2013³ and No 2185/96⁴,
 - the European Public Prosecutor's Office (EPPO) under Regulation 2017/1939, to the extent that the EPPO is competent, and
 - the European Court of Auditors (ECA) under Article 287 of the Treaty on the Functioning of the European Union (TFEU) and Article 257 of the Financial Regulation.
4. The Member State shall agree to and cooperate in view of the above mentioned verifications, reviews, checks, audits and investigations as well as controls under Article 6(4) and audits under Article 11(4) and provide any information and documents as requested for their purpose.
5. The Member State shall grant officials of the Commission, OLAF, the ECA and, to the extent that it is competent, EPPO, and their authorised representatives access to sites and premises at which investments and reforms financed under this Agreement are carried out, and to any documents and computerised data concerning the management of those investments and reforms, and to take every appropriate measure to facilitate their work. Access by authorised agents of the Commission, OLAF, the ECA and, to the extent the Member State is participating enhanced cooperation on its establishment, EPPO shall be granted on conditions of strict confidentiality with regard to third parties, without prejudice to public law obligations to which they are subject.
6. In order to comply with point (e) of Article 22(2) of the RRF Regulation, the Member State shall impose obligations on all final recipients of funds paid for the measures for the implementation of reforms and investment projects included in the RRP, or to all other persons or entities involved in their implementation to expressly authorise the Commission, OLAF, the Court of Auditors and, where applicable, EPPO to exert their rights as provided for in Article 129(1) of the Financial Regulation and to impose similar obligations on all final recipients of funds disbursed, to ensure that any third party involved in the implementation of the RRP grants the rights and access in accordance with paragraphs (1) to (4) above.
7. In case of audits or reviews by the Commission, on the basis of the findings made during the audit or review, a provisional report shall be drawn up. The Commission or the auditors shall formally notify the report to the Member State and an observations procedure shall take place in accordance with Article 15 of the Financing Agreement. The final report must be sent to the Member State within 60 calendar days of expiry of the time limit for submission of observations.
8. On the basis of the final findings, the Commission may take the measures it considers necessary, including, in cases of fraud, corruption, conflict of interest or a serious breach of

³ Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18/09/2013, p. 1).

⁴ Council Regulation (Euratom, EC) No 2185/1996 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (OJ L 292, 15/11/1996, p. 2).

obligations in this Agreement, reduction of the Financial Contribution, as provided for in Article 19 of this Agreement, and recovery of all or part of the payments made by it, as provided for in Article 20 of this Agreement.

Similar provisions are in the Loan Agreement.

2.2 The Audit Strategy and the AAR

2.2.1 *Role of the AOD and AOSDs*

2.2.1.1 Establishment of the organisational structure and the internal control systems

In accordance with the Commission's Internal Control Framework, the authorising officer by delegation shall, in accordance with Article 74 of the Financial Regulation, the Commission's Internal Control Framework and having due regard to the risks associated with the management environment and the nature of the actions financed, put in place the organisational structure and the internal control systems suited to the performance of his or her duties. The establishment of such structure and systems shall be supported by a comprehensive risk analysis, which takes into account their cost-effectiveness and performance considerations. In the case of multi-annual programmes, the authorising officer by delegation shall establish a multi-annual control strategy, specifying the nature and extent of controls over the period and the manner in which the results are to be measured year-on-year for the annual assurance process. In DG ECFIN, the control strategy⁵ is developed to cover the risks and challenges brought about by the implementation of the RRF, implemented through Direct Management and where the Member States are the beneficiaries. Each Member State has appointed a coordinating body and an audit body and the Financing Agreement sets out the key requirements of the national control systems.

In line with the general Commission approach towards control: operations shall be subject at least to an ex ante control relating to the operational and financial aspects of the operation. The extent in terms of frequency and intensity of the ex ante controls will be determined by the authorising officer responsible taking into account the results of prior controls as well as risk-based and cost-effectiveness considerations. In case of doubt, the authorising officer responsible for validating the relevant operation shall, as part of the ex ante control, request additional information or perform an on-the-spot control in order to obtain reasonable assurance. For each operation, the verification will be carried out by staff other than those who initiated the operation. The staff who carry out the verification will not be subordinate to the members of staff who initiated the operation.

The authorising officer by delegation may put in place ex post controls to detect and correct errors and irregularities of operations after they have been authorised. Such controls may be organised on a sample basis according to risk and shall take account of the results of prior controls as well as cost-effectiveness and performance considerations. The ex ante controls shall be carried out by members of staff other than those responsible for the ex post controls. The members of staff responsible for the ex post controls shall not be subordinate to the members of staff responsible for the ex ante controls.

Where the authorising officer by delegation implements financial audits of beneficiaries as ex post controls, the related audit rules shall be clear, consistent and transparent, and shall respect the rights

⁵ Ares(2021)5673550

of both the Commission and the auditees. The outcomes of ex post controls shall be reviewed by the authorising officer by delegation at least once a year to identify any potential systemic issues. The authorising officer by delegation shall take measures to address such issues. The risk analysis referred to in Article 74 of the Financial Regulation shall be reviewed in the light of the results of controls and other relevant information.

All staff responsible for scrutinising the management of financial operations must have the necessary professional skills. They shall abide by a specific code of professional standards.

Authorising officers by delegation shall take whatever action is required to accomplish their tasks. To this end they shall make the necessary legal and budget commitments.

They shall also put in place procedures and systems for:

- evaluating risks deriving from the management environment and the nature of the operations;
- management and internal control complying with the Internal Control Framework 6 set by the Commission;
- endeavouring to avoid a concentration of budget implementation at the end of the year, this being incompatible with sound financial management and efficient and effective internal control since it would limit the time needed to perform audit work on legality and regularity within the accounting year;
- satisfying the Commission's obligations concerning publicity and transparency;
- checking whether the objectives set have been achieved (evaluation of the relevance and impact of measures), whether the expected outcomes have been obtained (evaluation of the effectiveness of measures), and whether the implementation methods were appropriate (evaluation of efficiency).

For the purposes of the RRF, the authorising officer by delegation shall also put in place procedures and systems for:

- the careful forecasting of budgetary needs for the RRF, given its financing modalities;
- the effective correction of cases of fraud, corruption, and conflict of interest in those cases where the Member States have not applied the correction themselves or a serious breach of an obligation resulting from the Financing Agreement (including double fundin).

The RRF specific implementation is to be found under point 2.2.1.3.

2.2.1.2 Annual activity report

In connection with the powers delegated to her/him by the Commission, each authorising officer by delegation shall report to her/his Institution on the performance of her/his duties in the form of an annual activity report containing financial and management information, including the results of controls. This report shall be drawn up in accordance with Article 74(9) of the Financial Regulation and the standing instructions for the preparation of annual activity reports issued by the Secretariat-General and the Directorate-General for Budget applicable to Commission authorising officers by delegation.

For the purpose of the RRF this report shall include information on:

- the results on the implementation of RRP, operations or measures by reference to the objectives set;
- the risks associated with the implementation of the RRP, operations or measures;
- the use made of the resources allocated;

⁶ Communication to the Commission on the Revision of the Internal Control Framework, C(2017)2373 final.

- the efficiency and effectiveness of the internal control systems;
- an overall assessment of the cost-effectiveness of controls.

The annual report shall also include:

- remarks on the action taken to follow up the observations made in connection with earlier discharges or reports by the Court of Auditors or internal auditors;
- remarks on action taken on any reservations contained in earlier declarations, where such qualifications pointed to measures taken or to be taken to remedy malfunctioning;
- an accounting annex based on the template prepared by the Commission's Accounting Officer and provided as part of the above-mentioned standing instructions.

A specificity of the assurance building of the RRF is that the internal control structures of all Member States have been assessed during the assessment phase of the plans. While this is primarily a Member State responsibility, it has permitted the Commission to review the internal control architecture of all Member States. The arrangements proposed by the Member States in the adopted plans were assessed as adequate, where needed when including the implementation of certain milestones or targets in relation to the audit and control systems.

2.2.1.3 Assurance building process – Role of the Member States

The assurance building process for the authorising officer primarily relies on the actions of the Commission. Nonetheless, in the context of the RRF, that relies on the due justification of Member States to assess the satisfactory fulfilment of milestones and targets, the Member States contribute to the assurance for the authorising officer.

Member States have been encouraged to undertake audits related to the effective functioning of Member State systems in terms of collecting, storing, verifying and certifying reliable and accurate data on the achievement of milestones and targets. These are part of the assurance framework that support the declaration in the management declaration “*that the information submitted with the request for payment is complete, accurate and reliable*”, thereby contributing to the Commission's assurance on the data/information that is provided as part of a payment request. Their content, whilst not necessarily specific to the data/information that underpins the respective payment request, should consider that the information and assurance obtained from such audits will contribute to underpin the management declaration and as such provide assurance to the authority signing off on the management declaration that the applicable rules have been complied with.

Outside of the framework of building assurance for the authorising officer linked to the legality and regularity of payments, in the framework of the implementation of the RRF, the Member States primary responsibility lies in ensuring through adequate national control systems that the conditions of the RRF Regulation and the Financing Agreement are respected. Member States are required to submit a summary of audits along with each payment request, including on the protection of the financial interests of the Union. In terms of content to be covered by audits related to the financial protection of the Union, Article 22(2) of the RRF Regulation provides two distinct provisions, both of which should be addressed by audits contained in the audit summary:

- Firstly, Member States are under an obligation to check “*that the financing provided has been properly used in accordance with all applicable rules*”. This is supported by the provision in Article 22(1) that Member States shall “*ensure that the use of funds in*

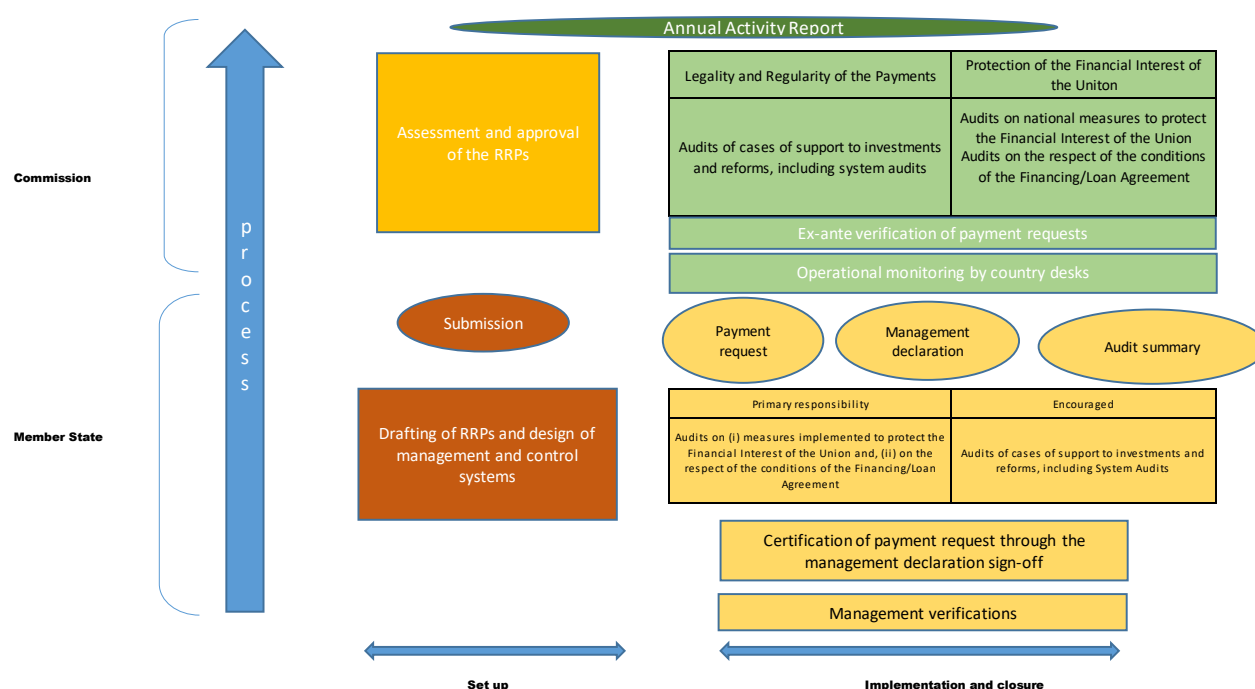
relation to measures supported by the Facility complies with the applicable Union and national law". In this respect, audit authorities should undertake audits targeted to ensure that all applicable rules are complied with, such as State aid, procurement, national eligibility rules. The Commission, from its side, will not address possible breaches or issues in the context of the RRF but will pursue such cases under its normal duties of safeguarding the provisions of the Treaty through, for example, infringement procedures;

- Secondly, Article 22(2) of the RRF Regulation, as well as the Key Requirements of the Member State's control system contained in the RRF Financing, identify as a priority "*the prevention, detection and correction of fraud, corruption and conflicts of interests*". Whilst such issues need to be addressed by measures wider than only audits, audits are a key aspect of providing assurance that the Member State systems to prevent, detect and correct fraud, corruption and conflicts of interests are functioning. Given the prominence of such provisions in the RRF legal framework, such audits should form a key pillar of the audit strategy.

Furthermore in terms of content to be covered by audits related to the protection of the financial interests of the Union, Article 4(2) of the Financing Agreement provides an obligation on Member States to "*ensure that no double funding takes place*". Member States have put in place systems to avoid double funding, where audits to test the functioning of such systems provide assurance that a serious breach of obligation in the RRF Financing Agreement has not occurred related to this provision.

The Commission will also carry out audits in order to ensure that the above-mentioned provisions have been respected. The Commission audits will be defined based on a risk analysis in order to prioritise the most risky countries.

Schematic overview



2.2.1.4 Role of the ECFIN Audit Unit

The ECFIN Audit Unit has the responsibility of contributing to the assurance level of the AOD by carrying out the audit work planned under the audit strategy.

The audit strategy reflects the multi-annual approach for obtaining the assurance required by the Directorate General on the effective set-up and functioning of the control system of the Commission, in particular as regards its role and that of the Member States during the period of implementation of the RRF and until its closure.

Each year the Annual Activity Report (AAR) is supported by detailed assessments per Member State containing a summary of the information accumulated from the DG's own audits, the audits of other bodies, national audit bodies, the Court of Auditors and results of OLAF enquiries. The assessments give rise to a formal opinion on the DG's internal control systems by the Audit Unit. They are supplied to the Heads of Unit of the operational units who use these assessments together with other sources of information at their disposal (such as annual implementation meetings and reports) as a basis for the management opinion which they are required to provide to the Director General.

3 AUDIT OBJECTIVE AND GENERAL RISK ASSESSMENT

3.1 Overall objective

The main objective is to seek reasonable assurance that the payments carried out by the Commission are based on the actual satisfactory fulfilment of milestones and targets. This includes, as relevant, seeking reasonable assurance on the effective functioning of Member State systems in terms of collecting, storing, verifying and certifying reliable and accurate data on the achievement of milestones and targets.

A further important objective of the activity of the Commission is to assess whether **the control systems** established and implemented by Member States **comply with requirements of the RRF Regulation and Financing Agreement and are functioning effectively** to prevent, detect and correct serious irregularities and in particular cases of fraud, corruption, conflict of interest and double funding and to seek reasonable assurance that the implementation of Article 22(5) of the RRF Regulation has correctly taken place.

In the event that serious breaches are identified in the conditions applicable to the Financing Agreement, actions will be taken to monitor and verify the implementation of corrective measures, or, where necessary to undertake procedures for application of financial corrections to safeguard the Community budget.

3.2 Overall risks

3.2.1 Introduction

The main risk to the AOD is that the Commission, based on the file prepared by DG ECFIN and SG-RECOVER⁷, will authorise payments that it considers are justified on the basis of the evidence provided by Member States, where subsequently it is identified that there are

⁷ SG RECOVER is, together with ECFIN, responsible for the implementation of the RRF.

irregularities in the evidence, thereby the AOD will not have the reasonable assurance on the satisfactory fulfilment of the underlying milestones and targets. This risk is directly linked to the legality and regularity of the payments made by the Commission and would affect directly on the AOD's overall assurance and hence the Commission's ability to obtain the annual discharge. The audit strategy will endeavour to address this risk with additional mitigating measures.

3.2.2 *Inherent risk*

The management of actions proposed under the RRP carries an inherent risk since they are to be delivered by a multiplicity of organisations and systems, and may involve an important number of diverse operations.

The instrument is a performance instrument where the amount of payments is not linked to the actual costs incurred to implement one measure. As a result, the Commission will have to verify that milestones and targets have been satisfactorily fulfilled. Furthermore, given the scope and the multi-annual nature of the actions, the number of systems, and the audit resources available to the Directorate General, it may not be possible to audit all significant areas each year.

Secondly, the funds originating from the RRF will be made available at the same time as those coming from the ESIF funds. Member States will face higher amounts of EU funds to absorb, which might create operational, financial and administrative challenges for some Member States.

3.2.3 *Control risk*

The main control risk is that internal controls at Member State level either are not implemented in practice, or are not systematically effective over time, to prevent, detect and correct in a timely manner material errors in terms of reported milestones and targets prior to submission of the payment requests. Furthermore, there is a risk that such internal controls at Member State level are not effective in areas related to sound financial management.

The main control risks for the RRF are:

- Risks linked to specific phases of implementation: for example, but not exclusively, risks related to the designation of authorities at the beginning of the period; numerous intervention levels (national, local and municipal). Specific risks to address before the payment request for milestones and targets, and before the end of the period for the retention of documents supporting the payment requests.
- Unreliable audit bodies: the Commission has to assess whether it can principally rely on the information contained in the audit summaries from the audit bodies. If the audit bodies cannot be relied upon, this would signify a major risk to the proper use of the Facility.

In addition, the Commission has to take into consideration the following risks:

- Risks related to the monitoring of performance: the risk exists that reported indicators, milestones and targets are incorrect or inflated to trigger the release of a payment. Consequently, deficiencies in the quality and reliability of the monitoring system relating to indicators are to be taken into account in the ex ante controls.

A second area of risk relates to the absence of control measures ensuring sound financial management and measures to prevent, detect and correct cases related to conflict of interest,

corruption and fraud as well as serious breaches in the conditions of the Financing Agreement (including double funding) at the level of the Member States.

The risks presented are a function of:

- the reliance which can be placed on the Member States' control systems;
- the quality and quantity of audits undertaken by the Member States' audit bodies;
- the sensitivity of the sector concerned for the reputation of the DG/Commission;
- the complexity and nature of operations financed.

These risks are mitigated by:

- adequate training and capacity building activities for Member States' authorities;
- the sound financial management and control systems of both the Member States and the Commission;
- the verification mechanisms set out in the Operational Arrangements for each RRP;
- the declaration in the management declaration by the responsible authority in the Member State that the information submitted with the request for payment is complete, accurate and reliable; duly justifying that the milestones and/or targets concerned have been satisfactorily fulfilled and that the audit trail demonstrating the achievement of these milestones and targets is in place;
- the content of the audit summary providing information on the quality of the national control systems and, where applicable, on the milestones and targets declared;
- the process applied by the DG for treating payment claims which includes checking all milestones and targets declared in any given payment request⁸;
- the involvement of other Commission DGs in the verification process, in particular to rely on their specific areas of expertise
- the involvement and consultation of the Economic and Financial Committee (EFC) and the comitology process prior to issuing the Commission Decision authorising the payment;
- exercise of the power of the Commission to make financial corrections in the light of audit findings if the Member State has not corrected the error itself;

In general, risk is minimized by the implementation of a sound audit strategy, which takes account of the risks identified. The audit strategy takes account of the high priority accorded by senior management to the overall risks.

3.2.4 Detection risks

The risk is that the audit unit's activities fail to reveal weaknesses in the Member States' control systems related to the Milestones and Targets declared by Member States but also that the Member State has not corrected or recovered detected cases of fraud, corruption, conflict of interest and/or double funding. This may happen in cases of insufficient verification and audit coverage; increased quantity of time and resources spent in non-auditing tasks or insufficient quality of work (lack of guidance/training for auditors, including for Member States' auditors).

⁸ Refer to the note on sampling here once the note is final

3.2.5 Risk Criteria

The risk assessment will be carried out annually and will take account of inherent and control risks. The input in the risk analysis will take account of the following elements:

- The complexity of the national control systems;
- Whether the Member State audit authorities are conducting audits concerning (i) the satisfactory fulfilment of milestones and targets, (ii) the prevention, detection and correction of cases of fraud, corruption, conflict of interest and/or double funding, (iii) the respect for the conditions of the Financing Agreement, and including such information in the summary of audits;
- Financial absorption capacity of the Member State – For this risk, input will be sought from the Cohesion DGs in terms of their experience with the Member States related to the N+3 risk;
- Information from Arachne;
- Quality of control in control systems;
- Elements derived from the Rule of Law Report, notably concerning the effectiveness of justice systems and the anti-corruption framework;
- Risks identified by the Olaf and/or Europol and, where relevant, the EPPO;
- Proportion of GDP of the RRF for the Member State;
- Reliance on Authorities implementing the RRF – the risk related to authorities also active under the Cohesion policy will be assessed on the basis of the ESIF DGs categorisation of the control systems;
- Number of authorities involved in the implementation of the RRF and their administrative capacity
- RRP measures co-financed by other EU funds;
- CSR pointing at weaknesses that are relevant to the control system of a Member State, such as on the effectiveness of the public administration.

3.3 Actions 2021-2026

3.3.1 Introduction

The audit activities listed in this chapter form a coherent package and are interlinked in terms of providing assurance. They take account of the inherent and control risks identified for the RRF and would hence reduce the detection risk when implemented as planned.

The audit activities are carried out along three main steps: during the assessment of the national plans by the Commission; during the assessment by the Commission of the requests for payments submitted by the Member States and during the overall implementation of the plans and up to five years after the last payment has been submitted.

The audit activities below do not take account of the evaluation work. The evaluations are, however, to be seen as a means to assess the correct implementation of the policy and would hence serve as confirmation that policy objectives have been reached or, alternatively, the evaluations would issue recommendations on how to achieve the policy objectives. Both situations will help the DG in the contradictory procedure with the European Court of

Auditors in the framework of their performance audits. The evaluation strategy will be presented to the Coordination Meeting as a separate document.

3.3.2 Assessment of Control Systems in the Recovery and Resilience Plans

The assessment of Recovery and Resilience Plans is conducted jointly by ECFIN and RECOVER, while relying on other DGs expertise as necessary.

Sub-criterion 10a considers the description of the control structures. Sub-criteria 10b, 10c and 10d consider at plan level respectively whether the control systems are adequate to prevent serious irregularities, whether the arrangements to avoid double funding are sufficient, and the administrative capacity of the involved actors.

The Commission has assessed the criterion 10 for all submitted plans. For all adopted plans, the Commission concluded its assessment with an A rating, meaning that the arrangements were adequate. In some instances, the Member States have introduced additional milestones on audit and controls that should be met before the first payment request. As for any other assessment criterion, the Commission ensures a proper documentation to demonstrate the work done.

3.3.3 Analysis of the Audit Summaries and Management Declarations submitted with payment requests + fact finding missions where relevant

The national audit bodies are responsible for submitting to the Commission, with every payment request the information necessary for Article 22(2)(c)(i) and (ii), i.e. the information on the audits of systems and operations and the corresponding management declaration. Such summaries of audits are required to contain the audits that Member State audit authorities have undertaken related to the protection of the financial interest of the Union. As the satisfactory fulfilment of milestones and targets are reported by the Member States and is based on the due justification, including evidence, that Member States themselves provide, the Commission has encouraged that Member States also include audits related to the satisfactory fulfilment of milestones and targets.

The ECFIN audit unit will analyze the content, the consistency and the coherence of the data submitted in both documents and may, where required, carry out fact-finding missions to confirm the accuracy of the information submitted.

3.3.4 Audits on milestones and targets

The objective of these audits is to check ex-post the legality and regularity of payments done by the Commission by verifying the achievement of the milestones and targets included in a payment request (see article 74(6) of FR).

The specific objectives of these audits are to answer the question if the Commission decision to pay for the fulfilment of the milestones and targets was the right one. This presupposes that the milestones and targets were satisfactorily met. Should such audits identify an error, the

audits will also explore where such error materialised, including, if necessary, auditing the Member State's system to collect and store adequate and reliable information.

Where during the ex ante checks performed by the country desks, the Commission has used a sampling approach (for example for an investments involving a significant number of final beneficiaries), as in such cases the Commission relies on the Member State's system to collect and store adequate and reliable information, the audit opinion may be based on a system audit approach including the audit of a sample of final beneficiaries.

In such case it also:

- verifies the evidence of reported data on the milestones and targets being audited, as well as, where relevant, their aggregation at national level, and
- where relevant, assess the quality, integrity and ability of the underlying data management and IT systems to store, collect, aggregate and report for the milestones and targets being audited.

3.3.5 System audits as regards Milestones and Targets

In line with Article 12(1) of the Financing Agreement, the main objective of these audits is to ensure that the national systems required to collect and store adequate and reliable information are in place and are operational. These audits will also serve as capacity building exercise since the recommendations issued will aim at increasing authorities' awareness of risks and shortcomings in their control systems. The audit may cover areas such as:

- Structure, functions and capabilities of the authorit(y)(ies) entrusted with the implementation of the RRP;
- Milestones and targets' definitions and reporting guidelines to the lower levels of implementation;
- Data collection and reporting forms/tools;
- Data management process;
- Aggregation of data at national level (link between national reporting systems and lower implementing levels).

In order to mitigate last minute obstacles in terms of reliability of the Member States' control systems in place, the ECFIN audit unit will develop, starting in 2024, a RRP component(s) completion strategy that takes identified areas of risk into account and that will seek to issue recommendations in order to arrange for a smooth completion that will mitigate the risk of having open issues beyond completion. This strategy will focus on the administrative arrangements and obligations required to adequately demonstrate the achievement of the target.

It is anticipated that this type of audit work will be carried out principally at the start of the implementation period and that Member States will be audited at least once during the implementation period.

3.3.6 *System audits on (i) measures implemented to protect the financial interest of the union (fraud, corruption, conflict of interest, double funding) and (ii) serious breaches of the Financing Agreement*

The RRF regulation (Article 24) and Article 6 of the Financing Agreement unambiguously link legality and regularity of the payments to the achievement of milestones and targets.

Member States have the first responsibility and obligation to respect sound financial management and to protect the Financial Interest of the Union. This is specified under Article 22(2)(b) which states the following:

“... the obligations of the Member States: to take appropriate measures to prevent, detect and correct fraud, corruption, and conflicts of interests as defined in Article 61(2) and (3) of the Financial Regulation affecting the financial interests of the Union and to take legal actions to recover funds that have been misappropriated, including in relation to any measure for the implementation of reforms and investment projects under the recovery and resilience plan”

Although the RRF Regulation foresees a role for the national audit bodies and place, to a certain extent, reliance on the work of the national auditors, it cannot be excluded that some Member States or components of the RRP will show high risks. For these Member States or components, the ECFIN audit unit will carry out system audits to assess whether any gaps of compliance exist but also to identify the measures needed to counter weaknesses. This will however be determined on the basis of the risk-analysis at Member State or component level in combination with an evaluation of national audit activities foreseen for the implementing bodies involved in the delivery of these components. It is anticipated that at least one system audit of this type will be carried out in per Member State over the lifetime of the instrument.

In line with the provisions of the RRF Regulation, the scope and objective of these audits will be to provide assurance that the control systems are able to prevent, detect and correct cases of fraud, corruption conflict of interest, and double funding.

In line with the provisions of Article 19 of the Financing Agreement, the Commission has the right to reduce the support in cases of serious breach of the conditions of the Financing Agreement.

In order to obtain assurance that the conditions of the Financing Agreement are respected, the R4 unit will carry out system audit work to test compliance of the control systems with the criteria set out in Annex 1 of the Financing Agreement.

3.3.7 *Audits carried out in case of suspicion of serious irregularities*

Considering that audits may also be targeted at a specific fraud suspicion, this audit strategy does not rule out ad-hoc audits on specific individual cases for which a dedicated work programme will be developed on a case-by-case basis.

3.3.8 *Coordination with Member States' Audit bodies*

Cooperation between the Commission and the Member States in relation to audit activities is not regulated by the RRF Regulation. Effective cooperation is, however, a condition for the application of the single audit model and the creation of an integrated internal control framework, as proposed by the Court of Auditors in its Opinion No 2/2004.

One of the main conditions for this framework to be effective is for all audit bodies to follow, to the extent possible, common standards in order to be able to place reliance on each other's work. The ECFIN audit unit foresees to have (at least) annual bilateral coordination meetings in order to provide the opportunity to share information on specific audit issues with each Member State individually. The meetings with the national Audit Authorities, which may include other Commission DGs where relevant, will be organised in a way to allow discussion on the implementation of the audit strategy and on the topics that may be raised in the framework of their audit activities. During these meetings, further guidance and capacity building can be provided by the ECFIN auditors and other staff. Secondly, the meetings will also involve, as a minimum, a review of the audit summaries accompanying the payment requests, especially where the riskiest Member States are concerned.

3.3.9 Schematic overview of audits and timing

The table below provides an indicative overview of the Audit Unit's activities broken down by year of planned execution.

	2021	2022	2023	2024	2025	2026	Closure 2027/2028
Assessment of Management and Control Systems in the Recovery and Resilience Plans							
System Audits as regards on Milestones and Targets based on FA							
Analysis of the Audit Summaries submitted with payment requests + fact finding missions where relevant							
Audits on milestones and targets							
<i>System audits on serious irregularities or serious breaches of FA (at least 1 per MS)</i>							
System audits on sound financial management (double funding, conflict of interest, corruption and fraud)							
Audits in case of suspicion of serious irregularities							
Preparation for closure							
Closure audits							
Coordination with Member States' Audit bodies							

4 COORDINATION INSIDE THE COMMISSION AND RELATIONSHIP WITH THE ECA

4.1 Coordination with other Structural Funds services

The Directorates General who implement (part of) their policy through shared management have created a coordination group, called Auditnet, which meets on a regular basis. During these meetings, issues of common interest are discussed and working groups created to develop a Commission position on matters of common interest.

The ECFIN audit unit will explore whether participation in the auditnet would be beneficial or whether a specific coordination structure is required. Furthermore in case of particular audit findings on bodies also used in the context of structural funds the EMPL / REGIO joint audit directorate JAD will be consulted;

4.2 Cooperation with the European Court of Auditors

DG ECFIN will run a pro-active policy of cooperation with ECA. ECA has announced clearly its intention to intensively audit the RRF. As the RRF is a new instrument ECA is reflecting on the best audit methodology; ECFIN, in coordination with SG and DG BUDG, is committed to actively interact with ECA so that the best methodology is used, that the specificity of the instrument is catered for and that the audits are useful in terms of protection of the Commission's reputation and financial risk. To this effect the main coordinating unit in DG ECFIN is the audit team of ECFIN R 4. However, for all country specific meetings with ECA the desks will be actively involved. ECFIN R 4 will also coordinate ECFIN's contribution in the context of the DAS.

5 FRAUD PREVENTION STRATEGY

Considering the specific implementation architecture of the RRF, a distinct anti-fraud strategy will be developed, taking into account the risks related to fraud, corruption, conflict of interest and double funding. This anti-fraud strategy will be based upon the Commission's anti-fraud strategy (CAFS) and will be agreed with the Olaf.

Annex 1

Audit process

The audits by the ECFIN Audit Units are carried out in accordance with the International Standards on Auditing. Audit work is carried out in accordance with ISSAI standards of the INTOSAI⁹ and in particular ISSAI 4100.

Audit work is carried out in the framework of audit enquiries. An **Enquiry Planning Memorandum** (EPM) sets out the objectives of the enquiry and a detailed audit methodology for their achievement; for each individual audit there is a **Mission Planning Memorandum** (MPM) which sets out the detailed audit programme.

An audit enquiry is generally carried out over a period of more than one year as the execution and follow up of the audit work cannot be completed in all countries concerned in a 12-month period. It typically lasts for at least 2 to 3 years. The risk assessment for each country, which determines what work is done under a particular enquiry, is reviewed and updated each year. This process provides the basis for planning the audit missions for the coming year and these are included as targets in the Annual Management Plan. The EPMs, the detailed risk assessment analysis by country and the resulting audit mission schedule are the documents which underpin the multi-annual audit strategy.

Communication of the results of the audit work of the ECFIN Audit Unit is done through various means to the interested parties. Audit reports are the main output. The audit report includes the findings of an audit mission and the possible corrective actions recommended by the DG. It will generally contain an audit opinion or a disclaimer. The operational units are consulted on the draft before it is sent to the Member State. The deadlines are standard and will respect the provisions of the Financing Agreement. Immediate flash reports upon return (normally within one week) are also sent to the operational units and to Unit ECFIN/A/2 to provide early information about the results of audit missions and to announce any immediate actions proposed, where relevant. The follow-up to the audit report is carried out mainly through correspondence and leads to recommendations of specific action to correct deficiencies, in some cases comprehensive action plans, or financial corrections. The Member States also receive timely feedback on the quality of the control systems and regular information on planned audit missions. The European Court of Auditors is always put in copy of the audit reports sent to Member States.

Quality review is a process of management supervision of the audit work at different levels. The chain of supervision (audit team, deputy head of unit, and head of unit) must ensure and provide evidence that the audit work is completed according to international audit standards, and to the objectives and procedures defined.

⁹ International Organisation of Supreme Audit Institutions

Contribution of the ECFIN Audit Unit to the AMP and the AAR

Internal reporting consists of the ECFIN Audit Unit's contribution to the reports underpinning the review of the Annual Management Plan, and its annual report for the purposes of the Annual Activity Report. The Director General is informed quarterly through reports and meetings with the Resource Director.

For this purpose the ECFIN Audit Unit prepares in December each year a **report** on the audit work carried out in the year, with an assessment **by country** of the effective functioning of the systems. This assessment is based on the audit work of the Unit, the results of the analysis of the audit summaries of the Member States, information from audit reports received from the national audit bodies, and from audits of the European Court of Auditors and, where relevant, from Structural Funds DGs reports. It will also take account of information obtained from the bilateral meetings with national audit bodies, and in certain cases the follow-up of action plans agreed with Member States. The assessment will indicate any limitations resulting from, for example, the uncompleted (planned) audit work or the lack of information from the national audit summaries. The assessments provide an essential input to the assurance of AOSDs on the systems and for the decision whether to propose reservations to the Director General's annual declaration.

The individual assessments by country provide an overall opinion on the set up and effectiveness of the systems with reference to the key elements listed in the Financing Agreement. It will also point out the existence of deficiencies affecting key elements of the systems and issues which could be considered as '*serious deficiencies*'. The potential financial risk arising from any significant deficiencies identified will be quantified.

The RRF audit work of the Directorate follows the approach to **materiality agreed by the Directorate General for the purposes of the AAR**. The concept of materiality is vital to identifying deficiencies to be disclosed in the AAR and determining which ones are significant enough to warrant a reservation. Reservations should be made in respect of reputational and/or significant deficiencies in the systems in the Member States. Significant deficiencies are identified on the basis of a quantitative and qualitative assessment taking account of relevant factors such as whether the deficiency relates to a key control element, the number and duration of deficiencies, the importance of the systems affected, compensatory measures, the underlying cause of the deficiencies and corrective and timely action taken by the Member State.

OTHER ACTIVITIES PERFORMED BY AUDIT DIRECTORATES

Quality assurance and monitoring

The audit unit of the Directorate General will continue to implement a quality assurance programme and monitor their audit work in order to mitigate any detection risks linked to their activity. This includes internal procedures to ensure continuous quality review and consistent approach between audit engagements.

Monitoring and indicators

In line with the objectives and risks identified, and keeping a pragmatic perspective in the definition of key performance indicators, the following core indicators will be used to monitor the implementation of the audit strategy:

- Coverage of system audits for the RRP – this can be partial if only certain components are selected for audit.

- Number of payment requests audited.
- Monitoring of reporting deadlines.
- Monitoring of acceptance/rejection of recommendations

More detailed indicators may be used in the framework of the implementation of audit plans, along with the indicators defined in the Annual Management Plans, and detailed key performance indicators used by the audit unit for the monitoring of the audit work.

Available resources for the implementation of the Audit Strategy

See Annex 1 and 2