



Brussels 07/12/2021

## NOTE FOR THE FILE

**Subject: Note on the internal control setup for the Recovery and Resilience Facility**

## CONTENTS

EXECUTIVE SUMMARY .....	3
1. INTRODUCTION .....	4
2. THE ASSESSMENT PROCESS OF THE RECOVERY AND RESILIENCE PLAN .....	6
2.1. Reasonable assurance over the regularity of commitments during the assessment of the Recovery and Resilience Plan .....	7
2.2. Adequate protection of the financial interests of the Union during the assessment of the Recovery and Resilience Plan .....	8
2.3. Graphical presentation of the assessment of the Recovery and Resilience Plan .....	10
3. THE ASSESSMENT PROCESS OF PAYMENT REQUESTS.....	10
3.1. Reasonable assurance over the regularity of payments during the assessment of the payment requests.....	11
3.2. Adequate protection of the financial interests of the Union during and following the assessment of the payment requests.....	12
3.3. Graphical presentation of the assessment of the payment requests .....	13
4. AUDITS, INVESTIGATIONS AND FINANCIAL CORRECTIONS .....	13
4.1. Audits and investigations.....	13
4.2. Financial corrections .....	15
5. FINANCIAL CIRCUITS .....	15
6. DOCUMENT MANAGEMENT AND THE CORRESPONDING IT SYSTEMS .....	16
6.1. Document transmission.....	16
6.2. Working collaboratively .....	17

6.3.	Document registration and filing must be done in ARES .....	17
6.4.	The rules to be followed for document management .....	18
6.5.	Access to Document requests .....	18
7.	REPORTING AND EVALUATION.....	19
7.1.	Review Reporting.....	19
7.2.	Evaluation Oversight & Planning .....	19
7.3.	Evaluation Timing .....	20
8.	OTHER RISK MITIGATING MEASURES.....	20
8.1.	An anti-fraud strategy tailored to the Recovery and Resilience Plans: .....	21
8.2.	Targeted training and awareness raising.....	21
8.3.	The Internal Control Management Group .....	22
8.4.	Risk management .....	22

## EXECUTIVE SUMMARY

Through the Recovery and Resilience Facility (RRF), the Commission will provide large scale of financing to Member States with loans and non-repayable support. DG ECFIN has been assigned financial responsibility for the implementation of the RRF on behalf of the Commission and, as such, is responsible for the creation of a Relevant Control System (RCS) for the RRF.

Under the RRF (contrary to other Union programmes run in direct management and to the Common Provisions Regulation (CPR) which applies to shared management), there are no direct final beneficiaries for EU funds other than the Member State. The goal of the RRF is to support reforms and investments agreed between Member States and the EU. However, the RRF does not reimburse actual expenses incurred for these reforms and investments; rather pre-defined tranches of funds are paid when pre-defined milestones and targets are satisfactorily achieved. These payments then go to the general budget of the Member State with no direct link to the expenditure to finance the reforms and investments.

The RRF requires a control framework tailored to its unique nature as an EU spending programme; one which should provide adequate financial and reputational protection for the EU budget. In addition, information on control of the RRF will be scrutinised under the annual budgetary discharge procedure. This note provides the main elements that will be used to define the RRF control strategy. Notably, the note provides that the control framework under the RRF be built upon three pillars:

- 1) **Controls to provide reasonable assurance over the regularity and legality of commitments and payments, with specific controls related to the achievement of the agreed milestones and targets** – Under the RRF, the Commission is responsible for the assessment of the Recovery and Resilience plans submitted by Member States, with a focus on Member States' pre-defined milestones and targets. Disbursements then take place upon submission by Member States of evidence that those pre-defined milestones and targets are completed and an assessment by the Commission that they have been satisfactorily fulfilled. A robust control framework is needed to detect irregularities in the evidence that is provided to prove that the milestones and targets are completed.
- 2) **Controls to ensure adequate protection of the financial interests of the Union, in the manner prescribed in the RRF Regulation for non-repayable support and loans** – Under the RRF, as the payment is neither linked to actual cost nor directly fund investment or reforms, it is Member States' own expenditure that finances the reforms and investment. Nonetheless, in line with the RRF Regulation, the Commission should recover funding in case of serious irregularities that have not been corrected by the Member States or in case of serious breach of the financing agreement. It is therefore important to ensure that there are appropriate safeguards, where necessary also through Commission's controls, against serious irregularities and/or serious breaches of obligations laid down in the financing and/or loan agreement when Member States undertake investments and reforms that are ultimately supported by the RRF.
- 3) **The Commission's internal control structure** – Alongside the requirements stemming from the legal base, the control framework for the RRF will include requirements

stemming from the Commission's Internal Control Framework (ICF). This allows the control framework of the RRF to be embedded in a holistic and sound control environment of the Commission and, in particular, of DG ECFIN. The Anti-Fraud Strategy, IT systems and Document Management (DM), Financial Circuits, Communication, Evaluation and Risk Management will be adapted to consider the requirements of sound internal control and audit of the RRF.

## 1. INTRODUCTION

The Financial Regulation<sup>1</sup> provides that internal control shall be designed to provide reasonable assurance regarding the achievement of the following objectives:

- a) effectiveness, efficiency and economy of operations;
- b) reliability of reporting;
- c) safeguarding of assets and information;
- d) prevention, detection, correction and follow-up of fraud and irregularities;
- e) adequate management of the risks relating to the legality and regularity of the underlying transactions, taking into account the multiannual character of programmes as well as the nature of the payments concerned.

Such effective and efficient internal control should be appropriate to each method of implementation, and in accordance with the relevant sector-specific rules<sup>2</sup>.

The RRF Regulation provides for two methods of implementation: non-repayable support and loans.

- **Non-repayable support** is classified by the RRF Regulation as a *sui generis* Union contribution, established in accordance with the sector-specific rules provided for in the Regulation, pursuant to the rules on simplification relating to financing not linked to costs laid down in the Financial Regulation under Article 125(1)<sup>3</sup>. Specific rules and procedure are laid down in the RRF Regulation, subject to the general principles of budgetary management under the Financial Regulation, concerning the allocation, the implementation and the control of non-repayable support<sup>4</sup>.
- **Loans** are based on financing not linked to costs and are to be implemented in line with the requirements of Article 220(5) of the Financial Regulation<sup>5</sup>.

Given the nature of RRF support, the RRF Regulation establishes requirements for Member States to put in place appropriate control frameworks at national level. This is to cover

---

<sup>1</sup> FR, Article 36(2)

<sup>2</sup> FR, Article 36(1)

<sup>3</sup> RRF Regulation, Recital 18

<sup>4</sup> Ibid.

<sup>5</sup> RRF Regulation, Article 14

arrangements for the effective monitoring of the RRP and associated evidence for the achievement of milestones and targets<sup>6</sup> and the control framework for the protection of the financial interests of the Union<sup>7</sup>. As such, and as acknowledged by the RRF Regulation<sup>8</sup>, it is the primary responsibility of the Member State to ensure that the RRF is implemented in compliance with relevant Union and national law, in particular regarding the prevention, detection and correction of fraud, corruption and conflict of interests<sup>9</sup>. Furthermore, Member States are additionally primarily responsible for avoiding double-funding.

The Commission is responsible for the assessment of the Recovery and Resilience plans submitted by Member States, the assessment of payment requests, on the basis of information provided by Member States, and ensuring that the financial interests of the Union are effectively protected, on the basis of assurance from Member States. Without prejudice to the right of the Commission to take action in the event of fraud, corruption, conflict of interests, or double funding, payments should not be subject to controls on the costs actually incurred by the beneficiary<sup>10</sup>.

Given the above, the RRF control framework will be built upon three pillars:

- Controls and audits to provide reasonable assurance over the regularity of commitments and payments, with specific controls related to the satisfactory fulfilment of the agreed milestones and targets.
- Controls and audits to verify that Member States have implemented measures to protect the financial interests of the Union, in the manner prescribed in the RRF Regulation for non-repayable support and loans:
  - Avoidance of double funding (Recitals 18, 39, 53, 56, 62 RRF; Art 18(4)(r), 19(3)(j) and 22(2)(c)(i) RRF;)
  - Prevention, detection and correction of fraud, corruption and conflict of interests (Recitals 18, 39, 40, 53, 54, 72 RRF; Article 18(4)(r); Article 19(3)(j); Article 22 RRF, Article 220(5) FR)
- The existing Commission's internal control structure.

Given the *de facto* similarities in terms of control operations for the non-repayable support and loans, and taking into account the efficiency, economy and risks, DG ECFIN will operate a unified control strategy applied to both non-repayable support and loans.

The RRF control set-up will consist of the following building blocks:

- The assessment process of the Recovery and Resilience Plan (section 2)
- The assessment process of payment requests (section 3)
- Audits, investigations and financial corrections (section 4)
- Financial circuits (section 5)
- IT systems and document management (section 6)
- Reporting and evaluation (section 7)

---

<sup>6</sup> RRF Regulation, Article 19(3)(h)

<sup>7</sup> RRF Regulation, Article 19(3)(j) and Article 22

<sup>8</sup> RRF Regulation, Recital 53, Recital 54

<sup>9</sup> RRF Regulation Article 22

<sup>10</sup> RRF Regulation, Recital 18

- Other risk mitigating measures (section 8)

## **2. THE ASSESSMENT PROCESS OF THE RECOVERY AND RESILIENCE PLAN**

A Member State wishing to receive support under the Recovery and Resilience Facility must submit a Recovery and Resilience Plan. This plan is assessed by the Commission, which, if the assessment is positive, results in a Commission proposal for a Council implementing decision. The Council may then approve the assessment of the Recovery and Resilience Plan by Decision, which, once adopted, allows the Commission and Member State to conclude one, perhaps two agreements (a so-called financing agreement and possibly a loan agreement) constituting a legal commitment within the meaning of the Financial Regulation<sup>11</sup>.

Formally speaking, the financial circuit and associated ex-ante and ex-post controls are associated with the signature of the commitment, in the RRF's case the financing agreement or loan agreement. This only occurs after the Council implementing decision is in force. However, given that the critical operational decisions are made at the stage of the Commission proposal for a Council implementing decision approving the assessment of the Recovery and Resilience Plan, in order to provide reasonable assurance over the regularity of commitments, it is appropriate to include the assessment phase of the Recovery and Resilience Plans in the RRF control strategy.

Furthermore, in line with the requirements of Article 18(4)(pr) of the RRF Regulation, Recovery and Resilience Plans must contain:

- the arrangements for the effective monitoring and implementation of the recovery and resilience plan by the Member State concerned, including the proposed milestones and targets, and the related indicators; all these need to be relevant, widely accepted, credible, easily monitored and robust against manipulation;
- an explanation of the Member State's system to prevent, detect and correct corruption, fraud and conflicts of interest, when using the funds provided under the Facility, including arrangements aimed at avoiding double funding from other Union programmes

The Member State frameworks defined at this stage are a critical contribution to the reasonable assurance over payment requests that will materialise in the future. Given that the RRF is a performance tool, this very first line of defence is essential to provide assurance and needs to receive particular focus. Given that the Commission will later rely on these national arrangements and systems for information about the achievement of milestones and targets as well as to ensure the protection of the Union's financial interests, it is critical that the RRF control set-up ensures that deficiencies in the national frameworks are identified and, if necessary, corrected at this stage. This would include ensuring the quality and reliability of Member States' data. Specifically in relation to protecting the financial interest of the Union, the Commission must assess whether arrangements are adequate or insufficient. The RRF cannot be approved if the Commission detects serious deficiencies in the draft plan, in which

---

<sup>11</sup> RRF Regulation, Article 23(1)

case the Commission will require these to be addressed in the final plan. If these deficiencies have not been addressed in a satisfactory manner in the final plan, the Commission's proposal to the Council for the recovery plan approval will signal this and indicate that disbursements will be conditional on the Member State addressing any such deficiencies by a set date; a requirement which will be transposed into milestones/targets in the Council implementing decision.

### **2.1. Reasonable assurance over the regularity of commitments during the assessment of the Recovery and Resilience Plan**

The Commission will assess the Recovery and Resilience Plans in line with Article 19 and Annex V of the RRF Regulation.

The quality and regularity of these assessments will be ensured by the following measures:

- Preparation by the colleagues involved in the assessment (country briefs, etc.);
- Templates, guidance and dialogue with Member States to encourage high quality submissions;
- Guidance and training for staff;
- Expertise from other DG's and agencies;
- Review of the proposal by ECFIN's legal unit in order to ensure the assessment is legally correct and sound; and
- Inter-service consultation of the Commission proposal

The overall assessment contained in a staff-working document will inform the Commission proposal for a Council implementing decision approving the assessment of the Recovery and Resilience Plan submitted by the Member State. Furthermore, the assessment will inform the operational arrangement to be agreed by the Member State concerned and the Commission after the Council implementing decision is adopted.

In terms of the regularity of the commitment and future payments, a number of elements of the assessment have been identified as of higher risk. Namely:

- whether the justification provided by the Member State on the amount of the estimated total costs of the recovery and resilience plan submitted is reasonable and plausible and is in line with the principle of cost-efficiency and is commensurate to the expected national economic and social impact<sup>12</sup>; and
- whether the arrangements proposed by the Member States concerned are expected to ensure an effective monitoring and implementation of the recovery and resilience plan, including the envisaged timetable, milestones and targets, and the related indicators<sup>13</sup>.

For the assessment of these two parts, in line with the legislation, the Commission shall take into account the following elements:

---

<sup>12</sup> RRF Regulation, Article 19(3)(i)

<sup>13</sup> RRF Regulation, Article 19(3)(h)

- the Member State provided sufficient information and evidence that the amount of the estimated total cost of the recovery and resilience plan is appropriate (“reasonable”); and
- the Member State provided sufficient information and evidence that the amount of the estimated total cost of the recovery and resilience plan is in line with the nature and the type of the envisaged reforms and investments (“plausible”); and
- the Member State provided sufficient information and evidence that the amount of the estimated total cost of the recovery and resilience plan to be financed under the Facility is not covered by existing or planned Union financing; and
- the amount of the estimated total cost of the recovery and resilience plan is commensurate to the expected social and economic impact of the envisaged measures included on the Member State concerned; and
- a structure is tasked within the Member State with: (i) the implementation of the recovery and resilience plan; (ii) the monitoring of progress on milestones and targets; and (iii) the reporting; and
- the proposed milestones and targets are clear and realistic; and the proposed indicators for those milestones and targets are relevant, acceptable and robust; and
- the overall arrangements proposed by the Member States in terms of organisation (including provision to ensure sufficient staff allocation) of the implementation of the reforms and investments, are credible<sup>14</sup>.

The Commission (ECFIN and RECOVER, with input from experts from other DG’s/JASPER) will undertake a desk review of the justification on the amount of the estimated total costs and the arrangements to ensure an effective monitoring and implementation proposed by the Member States as part of the assessment of the Recovery and Resilience Plan. The review of these arrangements will be undertaken on the basis of the Internal Assessment Guidelines for the Recovery and Resilience Facility. As of the higher control risk associated with these elements, in addition to the desk review, specific checklists will be developed for staff as part of the assessment guidelines and the assessment will be subject to a second-layer review within DG ECFIN. Should the Commission have doubts on the justification provided by Member States or evidence, including data provided, the Commission may request further information.

## **2.2. Adequate protection of the financial interests of the Union during the assessment of the Recovery and Resilience Plan**

In addition to the assessment of the Recovery and Resilience Plan being a critical input in the reasonable assurance over the regularity of commitments and payments, it represents a critical input in providing adequate protection of the financial interests of the Union. When assessing the Recovery and Resilience Plans, the Commission shall assess whether the arrangements proposed by the Member State concerned are expected to prevent, detect and avoid double funding from other Union programmes as well as correct corruption, fraud and conflicts of interest when using the funds provided under the Facility<sup>15</sup>. As part of the on-going dialogue

---

<sup>14</sup> RRF Regulation, Annex V Assessment guidelines for the Facility 2.8 and 2.9

<sup>15</sup> RRF Regulation, Article 19(3)(j)



with Member States to prepare Recovery and Resilience Plans, Member States will be encouraged to use arrangements that have already been found to be adequate by the Commission.

In line with the legislation, the Commission shall take into account the following elements for the assessment<sup>16</sup>:

- the internal control system described in the recovery and resilience plan is based on robust processes and structures, and identifies clear actors (bodies/entities) and their roles and responsibilities for the performance of the internal control tasks; it notably ensures appropriate segregation of relevant functions; and
- the control system and other relevant arrangements, including for the collection and making available of data on final recipients described in the recovery and resilience plan, in particular to prevent, detect and correct corruption, fraud and conflicts of interest when using the funds provided under the Facility are adequate; and
- the arrangements described in the recovery and resilience plan to avoid double funding from other Union programmes are adequate; and
- the actors (bodies/entities) responsible for controls have the legal empowerment and administrative capacity to exercise their foreseen roles and tasks.

The Commission (ECFIN and RECOVER, with input from experts from other DG's including DG BUDG, OLAF, EMPL and REGIO) will undertake a desk review of the arrangements to prevent, detect and avoid double funding from other Union programmes as well as correct corruption, fraud and conflicts of interest when using the funds provided under the Facility proposed by the Member States. The review of these arrangements will be undertaken on the basis of the Internal Assessment Guidelines for the Recovery and Resilience Facility as part of the assessment of the Recovery and Resilience Plan. As of the higher control risk associated with these elements, in addition to the desk review, specific checklists will be developed as part of the assessment guidelines. The desk review will be undertaken by the audit unit of the Commission on the basis of a checklist.

For those Member States that will use an existing structure implementing other EU funds (such as in particular the ESIF funds), and where the assessment of the ESIF DGs indicates that the management and control systems in the MSs are affected by serious deficiencies, DG ECFIN and RECOVER will review the impact of these deficiencies on the implementation of the Recovery and Resilience Plans.

This assessment will inform the Commission proposal for a Council implementing decision approving the assessment of the Recovery and Resilience Plan submitted by the Member State.

To the extent that the Commission identifies inadequacies in the arrangements to prevent, detect and avoid double funding from other Union programmes as well as prevent, detect and correct corruption, fraud and conflicts of interest when using the funds provided under the Facility proposed by the Member States<sup>17</sup>, the Commission will not be able to give the required A-rating for the internal control system. In those cases, in line with Article 19(1) of the RRF Regulation, the Commission will make observations and seek additional information, allowing the Member State to revise the recovery and resilience plan if needed. Notably here, the Commission will require the Member State to include in the plan the relevant measures and the

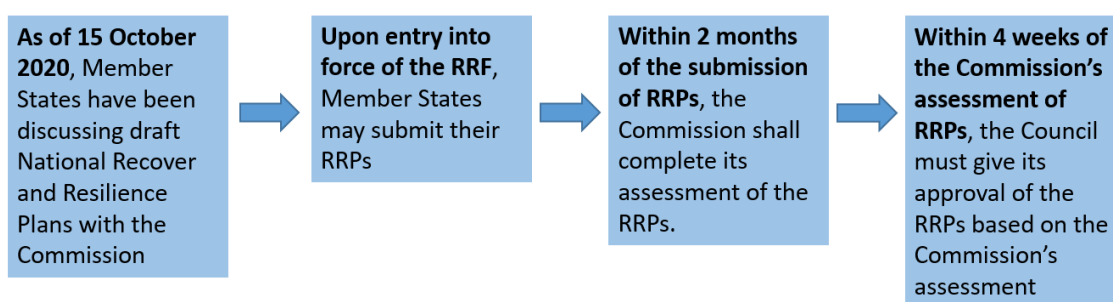
---

<sup>16</sup> RRF Regulation, Annex V Assessment guidelines for the Facility 2.10

<sup>17</sup> See Article 19 (3) j

associated milestones and targets necessary for complying with the requirements of the Regulation on these issues. Provided that these additional milestones and targets adequately address the identified deficiencies, an A-rating would be provided. As per Article 20(5)(e) of the Regulation, the Commission proposal for a Council implementing decision will include these relevant measures and the associated milestones and targets necessary for complying with the requirements of the Regulation on these issues. Nonetheless, if the deficiencies are so serious that they cannot be addressed through additional milestones and targets, the Commission would provide a C-rating and would provide a negative assessment of the plan.

### 2.3. Graphical presentation of the assessment of the Recovery and Resilience Plan



## 3. THE ASSESSMENT PROCESS OF PAYMENT REQUESTS

Upon completion of the relevant agreed milestones and targets indicated in the Recovery and Resilience Plan, a Member State shall submit to the Commission a duly justified request for payment<sup>18</sup>. The Commission shall assess whether the relevant milestones and targets have been satisfactorily fulfilled<sup>19</sup>. Where the Commission makes a positive preliminary assessment, it shall provide its findings to the Economic and Financial Committee and ask for its opinion, which it shall take into account<sup>20</sup>. Where the Commission makes a positive assessment, it shall adopt a decision authorising the disbursement of the financial contribution, in accordance with the examination procedure<sup>21</sup>. As an additional scrutiny, the Commission will also provide to the competent committee of the European Parliament an overview of its preliminary findings concerning the satisfactory fulfilment of the relevant milestones and targets included in the plans of the Member States.

Formally speaking, the financial circuit and associated ex-ante and ex-post controls for the payment come after the adoption of the Commission decision authorising the payment. However, given that the critical operational decisions are made at the stage of preparing the

<sup>18</sup> RRF Regulation, Article 24(2)

<sup>19</sup> RRF Regulation, Article 24(3)

<sup>20</sup> RRF Regulation, Article 24(4)

<sup>21</sup> RRF Regulation, Article 24(5)

Commission decision, in order to provide reasonable assurance over the regularity of payments it is appropriate to include the assessment phase of payment request in the RRF control strategy.

### **3.1. Reasonable assurance over the regularity of payments during the assessment of the payment requests**

The Commission will assess the payment requests in line with Article 24(3) of the RRF Regulation. This assessment shall take into account the data and information provided by the Member State as part of the payment request and available to the Commission in accordance with the Council implementing decision and operational arrangement. The quality and regularity of these assessments will be ensured by the following measures:

- Preparation by the colleagues involved in the assessment (country briefs, etc.);
- Templates, guidance and dialogue with Member States to encourage high quality submissions of payment requests;
- Operational arrangements including agreed evidence to be provided by Member States and agreement on the frequency of the exchange of information;
- Guidance and training for staff;
- Expertise from other DG's and agencies;
- Review of the proposed decision by ECFIN's legal unit in order to ensure the assessment is legally correct and sound;
- Inter-service consultation of the Commission decision; and
- Opinion of the Economic and Finance Committee and the examination procedure.

The overall assessment will inform the Commission preliminary assessment of the satisfactory fulfilment of the relevant milestones and targets provided to the Economic and Financial Committee<sup>22</sup> and the Commission decision authorising the disbursement<sup>23</sup> or, alternatively, the suspension of the payment<sup>24</sup>.

In terms of the regularity of the payment, the element of highest risk from a control perspective is the evidence, including data, that the Member State provides justifying that the milestones and targets are completed.

The Commission (ECFIN and RECOVER, with input from experts from other relevant DG's) will undertake a desk review of the justification and evidence, including data, on the completion of the milestones and targets put forward by the Member States as part of the assessment of the payment request. Data sources and verification mechanism for each milestone and target will be agreed with Member States and included in the operational arrangement. The Commission will verify that the justification provided demonstrates the requirements of the Council Implementing Decision and the operational arrangement are fulfilled. The Commission will,

---

<sup>22</sup> RRF Regulation, Article 24(4)

<sup>23</sup> RRF Regulation, Article 24(5)

<sup>24</sup> RRF Regulation, Article 24(6)

where available and appropriate, also use independent information sources in its assessment to confirm the data that is provided by Member States as evidence.

Should the Commission have doubts on the justification provided by Member States or evidence, including data, provided, the Commission may request further information and/or undertake on the spot controls under the form of fact finding missions. Should the Commission ultimately consider that the milestones and targets have not been satisfactorily fulfilled, the payment shall be suspended partly/fully in line with Article 24(6) of the RRF Regulation.

### **3.2. Adequate protection of the financial interests of the Union during and following the assessment of the payment requests**

When conducting its assessment, the Commission shall consider two elements that are required to accompany any payment request:

- a management declaration that the funds were used for their intended purpose, that the information submitted with the request for payment is complete, accurate and reliable and that the control systems put in place gives the necessary assurances that the funds were managed in accordance with all applicable rules, in particular rules on avoidance of conflict of interest, fraud prevention, corruption and double funding in accordance with the principle of sound financial management; and
- a summary of the audits carried out, including weaknesses identified and any corrective actions taken;

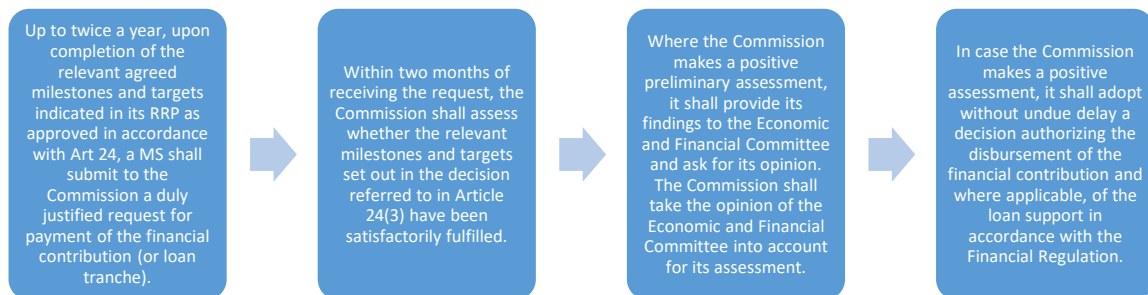
The Commission (ECFIN and RECOVER) will carry out a desk review of the Management Declaration and of the summary of the audits. The audit unit of DG ECFIN will lead ECFIN's work on these two documents. The review will first aim to identify any issues that put in doubt the justification provided on the fulfilment of milestones and targets that form part of the payment request.

- After this desk review, the audit unit will transmit the results of its review to the country desks, with indication of any reservation to be considered in the AOD's acceptance of the payment request if the analysis reveals possible doubts on the achievement of the agreed milestones and targets underlying the payment request , and

Second, during and beyond the payment request assessment period, the review will focus also on the adequacy of the audits carried out in support of the management declaration, particularly on the assessment of the impact of the identified weaknesses and the adequacy of the corrective action taken. DG ECFIN audit unit will use its review to guide its audit strategy.

Should the Commission have doubts on the management declaration and/or summary of the audits provided by Member States, the Commission may request further information and/or undertake on the spot controls. Should the Commission ultimately consider that there are cases of fraud, corruption, and conflict of interests affecting the financial interests of the Union that have not been corrected by the Member State, the Commission shall reduce proportionally the support under the Facility and recover any amount due to the Union budget or ask for early repayment of the loan, in line with Article 24(6) of the RRF Regulation.

### 3.3. Graphical presentation of the assessment of the payment requests



## 4. AUDITS, INVESTIGATIONS AND FINANCIAL CORRECTIONS

### 4.1. Audits and investigations

In accordance with the Financing Agreement, ex-post audits can be carried out up to [five] years starting from the date of the final payment. As Article 24(1) of the RRF Regulation stipulates that payments of financial contributions to the Member States shall be made by 31 December 2026, the five year rule ex-post controls may be possible until 31 December [2031] at the latest.

The main objective of the audit work is to seek reasonable assurance that the payments carried out by the Commission are based on the actual satisfactory fulfilment of milestones and targets. As an instrument based on financing not linked to costs, where the evidence provided by Member States on the satisfactory fulfilment of milestones and targets is the basis for making payments, the Commission has the power of audit over the evidence, including data, provided by Member States signalling the achievement of milestones and targets.

It is the primary responsibility of Member States to ensure that the RRF is implemented in compliance with relevant Union and national law. Article 22 of the RRF regulation provides that Member States are responsible for the protection of the financial interests of the EU, including the check of compliance with applicable EU and national law. Although Member States are in the lead in this area, the Commission has a residual responsibility 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. Except in the case of serious breach of contractual obligations, the Commission can only recover/reduce/ask for early repayment in case the Member States would not have corrected these serious irregularities itself. In line with the requirement that the Commission should

ensure that the financial interests of the Union are effectively protected<sup>25</sup>, the Commission's own controls will assess the fulfilment of milestones and targets, as well as absence of serious irregularities and/or serious breaches of obligations laid down in the financing and/or loan agreement, in line with the requirements of the Regulation. In this context, the Commission has the power of audit to ensure that there are measures in place, at national level, to adequately protect the financial interests of the Union.

More concretely, audits by the Commission will primarily focus on audits of specific data or transactions regarding the achievement of milestones and targets. This substantive audit on some milestones and targets may also be accompanied by a check that the national systems required to collect and store adequate and reliable information are in place and are operational.

In supplement, the systems used to collect, aggregate and store the data related to the Milestones and Targets of each Member State will be audited at least once in the lifetime of the RRF instrument. The purpose of such system audits shall be to provide an audit opinion on whether the monitoring and control frameworks defined in the Recovery and Resilience Plan and Council implementing decision are being implemented and utilised in line with the commitments of Member States.

Secondly, the Commission will carry out – at least one per Member State – system audits on the measures implemented by the Member States to protect the financial interest of the Union, more particularly the measures to prevent, detect and correct cases of fraud, corruption, conflict of interest and/or double funding. This will also cover systems to collect and store data concerning beneficiaries, contractors, subcontractors and beneficial owners.

Commission audits may also focus on cases where there is a suspicion of fraud, corruption and/or conflict of interest. This type of audit work will be determined on a case-by-case basis and on the assessment of information/evidence related to the specific case.

In line with Article 74(6) of the Financial Regulation, the rules and modalities for carrying out audits by the authorising officer shall be clear, consistent and transparent and be made available to the beneficiaries when signing, in the case of the RRF, the financing or loan agreements. For simplicity, such rules have been integrated into the RRF financing and loan agreements.

The selection of work undertaken by the audit unit will be risk based and may focus on particular data points or transactions. The work may include the review of the audits and checks carried out by the Member States. In accordance with the spirit of Article 74(6) of the Financial Regulation, the audits shall be carried out by staff other than those that were responsible for the assessment and the approval of the payment request.

The risk assessment to be concluded by DG ECFIN each year for the selection of work subject to audits will consider among other factors:

- the results of the assessment of the management declaration and the summary of audits;
- the OLAF assessed national anti-fraud strategy;
- the assessment of the ESIF DGs for Member States;
- the audit and control work on RRF done by other bodies (ECA, IAS, OLAF); and

---

<sup>25</sup> RRF Regulation, Recital 54

- the assessment of the remaining risks in the payment requests of the accounting year under analysis.

The result of an audit will be a verification report expressing the auditor's opinion about the verified operations. It can include findings, recommendations, and comments from the operational unit.

Given the single audit approach and the relatively short running period of the RRF, some coordination with ECA and IAS would be preferable in order to maximise the ground covered by audits.

The European Anti-fraud Office (OLAF) may carry out administrative investigations, including on-the-spot checks and inspections, with a view to establishing whether there has been fraud, corruption, conflict of interests or any other illegal activity affecting the financial interests of the Union. OLAF shall act in accordance with the procedures laid down in Council Regulation (Euratom, EC) No 2185/96.

In accordance with and in respect of those Member States participating in enhanced cooperation pursuant to Regulation (EU) 2017/1939, the European Public Prosecutor's Office (EPPO) may investigate and prosecute fraud, corruption, conflict of interests and other criminal offences affecting the financial interests of the Union as provided for in Directive (EU) 2017/1371.

#### **4.2. Financial corrections**

Should the Commission ultimately consider that there are cases of fraud, corruption, and conflict of interests affecting the financial interests of the Union that have not been corrected by the Member State or that there is a serious breach of obligations from the Financing or Loan Agreement, the Commission shall reduce proportionally the support under the Facility and recover any amount due to the Union budget or ask for early repayment of the loan, in line with Article 22(5) and 24(6) of the RRF Regulation.

According to article 19(2) of the Financing Agreement, the amount of the reduction shall correspond to the amount affected in case of fraud, corruption or conflict of interest not corrected by the Member State, a serious breach of article 4(2) of the financing agreement or the information and justification underlying the payment request is found to be incorrect. In case of a serious breach of obligation of the financing agreement, other than article 4(2), the amount of the reduction shall be established taking into account the frequency and the extent of the breach. Finally for the specific case of a deficiency in the Member State control system that leads to a serious breach of article 11(1), specific reduction levels are foreseen. The Member State shall be given the opportunity to present its observations before the reduction is made or early repayment is requested.

### **5. FINANCIAL CIRCUITS**

The Director-General for ECFIN is the authorising officer by delegation (AOD) for the RRF. This means that the financial implementation of the RRF takes place in DG ECFIN.

One of the particularities of RRF financial transactions is that all the preparatory operational work has been done well before the financial circuit starts (contrary to most traditional financial

transactions). The operational work results either in a Council decision (for commitments and resulting pre-financings) or a Commission Decision (for payments linked to achieved targets and milestones), both adopted before a formal commitment/payment request can be submitted to the ECFIN finance unit. The adoption of these decisions presupposes that all important operational tasks and verifications have been finalised. Consequently, the interventions of the operational initiator (OAI) and operational verifier (OVA) in the financial circuit are rather limited and of an administrative nature (completeness of files, mathematical checks, correct beneficiaries, etc.).

For the RRF, a partially decentralised financial circuit will be put in place. Operational initiation and verification will take place in Unit A1 with properly trained staff. ECFIN's finance unit (ECFIN R2) will undertake financial initiation and verification. For both the operational and the financial side of the transactions, the 4-eyes principle will be complied with.

A financial transaction is as the final step validated by the Authorising Officer by Delegation (AOD, the Director-General) or by an appointed Authorising Officer by Sub-delegation (AOSD).

Notwithstanding the above, the financial circuit on the expense side controlled by DG ECFIN interacts with the financial circuit on the revenue side controlled by DG BUDG. For the financial transaction initiated by DG ECFIN to be completed it is necessary that the funds within the EU budget are made available in due time. Funding foreseen by NGEU is not readily available within the budget and needs to be raised on the capital markets. In order to ensure coordination between both financial circuits, DG ECFIN will signal to DG BUDG sufficiently upfront the actual payment needs. The financial circuit in DG ECFIN cannot be finalised before the revenue side has been secured.

During the assessment of each national plan, DG ECFIN and SG RECOVER will be in close contact with concerned services of DG BUDG, in order to evaluate whether the proposed payment needs linked to the plan are realistic seen from the perspective of the financial market.

## **6. DOCUMENT MANAGEMENT AND THE CORRESPONDING IT SYSTEMS**

Activities and decisions produced by work on the RRF will lead to the production of records (legislative, political, administrative, technical and financial). These records, regardless of format or the technological environment in which they are collected, created or generated, form the basis of the Commission's operations and daily work and are part of its assets. They facilitate the exchange of information, provide evidence of action taken, meet the institution's legal obligations and preserve its memory.

Effective and proper records management and archiving helps meet the Commission's transparency obligations, in particular by facilitating public access to documents and implementing the principle of accountability of public actions. This also ensures that data and information on RRF work is available and is shared as widely as possible within the Commission in order to facilitate the collaborative working of its staff. All records generated in the course of RRF work, as for all other Commission work, must therefore be managed in accordance with effective rules applicable to all directorates-general and equivalent departments.

### **6.1. Document transmission**



CircaBC is used as the tool for Member States initial submission of their recovery and resilience plans as it is based on standard European Commission components and fully aligned with the Commission's Digital Strategy. In particular, it reduces the risk of document loss between Member States and the Commission, is fit for auditing by the ECA or other instances and allows the upload of very large documents, up to 300MB.

For the RRF, dedicated CircaBC groups per Member State have been created, accessible only to individuals designated by the relevant Member State and a limited number of Commission staff in charge. After each submission by the Member States, a copy of the CircaBC documents is registered by Commission officials in the Commission's record keeping system (ARES). The handling, registration and filing in ARES of incoming Recovery and Resilience Facility (RRF) submissions via CircaBC was further detailed in a note ([Ares\(2021\)3154072](#)).

In addition, the Commission has established a dedicated IT tool for reporting by the Member States. This tool, 'FENIX', is principally used for legally required biannual reporting and the provision of information and upload of documents in the course of payment requests. The tool assures a thorough and structured document provision by Member States and automates registration of provided documents in the Commission's record keeping system (ARES).

## **6.2. Working collaboratively**

The MS Teams collaborative platform will be used for interaction between DGs on the RRF as well as for the private space for the joint work of SG-RECOVER/ECFIN. In particular, it has been used for the assessment of the RRF plans. However, it must be stressed that it is to be used as the working space for colleagues to share documents received by the Member States and to jointly draft or review draft documents. It is not as a repository for finalised Commission documents. Backups and versioning of working documents in MS Teams will rely only on standard MS Teams functionalities.

However, sensitive non-classified documents may not be shared through MS Teams due to the current network Net1. It should be feasible as soon as all stakeholders change to Welcome (more secure network). SECEM has to be used for the exchange of sensitive non-classified documents and a regular network drive for their storage (O-drive).

The preparation of answers to questions raised by Member States is also being handled through MS Teams. In addition, a Confluence Wiki has been set up to make answers provided to one Member State available to all Member States as well as within the Commission. The Wiki's target audience is composed of a limited number of nominated Member State officials working on the RRF. Its content is anonymised and generally in English.

## **6.3. Document registration and filing must be done in ARES**

Part of a complete control strategy is to establish document management (DM) rules to ensure the fullest possible transparency in working methods as well as to ensure complete audit-trails. The European Court of Auditors has demanded significant documentation about the decision-making processes for the country programmes. Proper documentation is therefore essential also for the Commission's reasoning underpinning its assessments of Plans, the achievement of targets and milestones or requests for Plan revisions. The use of Ares is, therefore, mandatory

for the registration of formal documents under the corporate Document management governance rules.

All formal interactions (final exchanges) between the Member States and the Commission or with other institutions (Council, Parliament), prior and in relation to the submission of the Recovery and Resilience Plans, to its assessment and to payments as well as records linked to the monitoring of the process and every key decision will be registered in ARES. Minutes of formal conference calls and meetings, reports of fact-finding missions, inter-service consultations, templates, annual and evaluation reports, and ex post checks should also be captured in the appropriate tools. For the majority of the payment processes, FENIX has been developed to allow Member States to send their documented evidence. FENIX has a functionality to automatically register and file these types of documents into ARES. All other formal exchanges must be registered manually into ARES in the respective Member States files.

#### **6.4. The rules to be followed for document management**

SG RECOVER and ECFIN have together agreed the following basic rules on how to handle document management (ARES) (cf. [Ares\(2021\)291420](#)), based on the [COMMISSION DECISION on records management and archives](#):

- SG RECOVER is the owner of the files and thus will create records in ARES (Nomcom) as lead department and ECFIN as associated lead department. Staff in both services will be able to read and file documents in each shared Member State file. A desk officer in SG RECOVER will be assigned to each Member State file to regularly monitor its logical coherence and completeness.
- Staff members in SG RECOVER and ECFIN are equally responsible for a) verifying whether the documents exchanged with the Member State fall within the registration criteria; b) checking if they contain SENSITIVE information and adding the corresponding marking; and c) ensuring that the document is registered and filed in ARES and assigned to ECFIN/RECOVER staff who “need to know”.
- The senders/originators/recipients in SG RECOVER and ECFIN will register and file documents in the respective Member State file. If the documents are received by both services in parallel, the first recipient in the TO field will register and file the document.

These are guiding principles; any further detailed rules will be set down in writing and endorsed by both DGs. Appropriate importance should be given to these matters by the teams in charge of the RRF. The ECFIN Document Management team will provide ECFIN staff with statistics on the RRF filing activities (e.g. number of documents by Member State, etc.)

#### **6.5. Access to Document requests**

As access of documents requests for anything related to the RRF will be numerous and politically sensitive, it is crucial to ensure consistency of administrative treatment in-house of replies, notably with a view to liaising with Cabinets, the Secretary-General and the President.

Politically, consistency will also be crucial with regard to the outward reception of our transparency policy vis-à-vis the applicants (among these journalists, NGO's and lobby-organisations), other EU-institutions (General Court, ECJ, EP and European Ombudsman) and the general public.

It is equally important to build up a track-record for replies given, in order to ensure consistency of replies (for different Member States, policy fields and types of documents), including a common Ares/Gestdem-file.

In light of this:

- SG-Recover and DG ECFIN issued a guidance note for country desks, listing established which types of documents generally can be disclosed or not (however, a case by case analysis remains mandatory).
- Political oversight for the RRF access of documents file is with SG-RECOVER; however, both services liaise on working level on the rules, jurisprudence and practices applicable on access to documents requests.
- As appropriate DG ECFIN shares the burden of processing access to document requests.
- For requests of a general or wider scope, both services agree on a case-by-case basis, whether the initial replies are sent by SG-RECOVER or DG ECFIN.
- In those cases where the documents referred to by the request originate from DG ECFIN, the replies should be sent by DG ECFIN (after a thorough prior consultation of SG-RECOVER);
- Both services consult each other of all incoming requests at an early stage; they mutually help each other, if necessary, identifying the documents asked for and assessing the exceptions of disclosure (the [SG Corporate Website on access to documents](#) provides further detailed guidance, particularly on Multi DG requests)

## **7. REPORTING AND EVALUATION**

### **7.1. Review Reporting**

Standard reporting lines of the Commission, such as the AAR, remain applicable (see also chapter 8).

In line with Article 16(1) of the Regulation, the Commission will present a review report on the implementation of the Facility to the European Parliament and the Council by 31 July 2022.

### **7.2. Evaluation Oversight & Planning**

In line with Article 29(4) of the Regulation, the Commission will set out the common indicators to be used for reporting on progress and for the purpose of monitoring and evaluation of the Facility and define a methodology for reporting social expenditure, including on children and youth, under the Facility. Member States shall report to the Commission on the common indicators.

The aim of the ECFIN evaluation function is to ensure evidence based policy, support organisational learning, improve the effectiveness of activities and to increase accountability

and transparency through the promotion of high quality and timely evaluation. The evaluation function will lead on planning and oversight of all evaluation activities as provided for in the RRF Regulation.

The ECFIN evaluation function will ensure that the quality standards for RRF evaluation activities meet the principles established in the Commission's Better Regulation Guidelines and will liaise closely with the SG on the application of Better Regulation. Full details on roles, responsibilities and procedural steps are contained in the DG ECFIN Internal Charter for the Evaluation Function.

The interim and ex-post evaluations detailed in Article 32 of the Regulation have been included in the ECFIN 5 year multi-annual evaluation plan approved by Directors in November 2020. Methodological support will be provided to operational units across the DG who are responsible for conducting the individual evaluations. The Inter-institutional Database of EU Studies includes the evaluations of the RRF and will continue to be updated in line with the requirements for transmission of the ECFIN Annual Management Plan.

An ECFIN evaluation framework contract is in place to support the completion of RRF evaluations as necessary, taking into account available resources within the Commission and possible information gaps.

### **7.3. Evaluation Timing**

Under Article 32 of the RRF Regulation, the Commission will undertake two evaluations of the Facility – an interim evaluation and an ex post evaluation. The Commission will report on the evaluations to the European Parliament, the Council, and the European Economic and Social Committee and the Committee of the Regions. The evaluations will follow the Better Regulation principles.

The Commission will submit its report on the interim evaluation no later than three years after the entry into force of the Regulation. The interim evaluation shall, in particular, assess the effectiveness with which the objectives have been achieved, the efficiency of the use of resources and the European added-value. It will also analyse the continued relevance of all objectives and actions and coherence of the regulation. Where appropriate, the evaluation shall be accompanied by a proposal for an amendment to the RRF Regulation, according to the Better Regulation principles.

An ex post evaluation will be completed by 31 December 2028. The ex-post evaluation report shall analyse the impact on the long-term, based on all evidence available at that moment.

## **8. OTHER RISK MITIGATING MEASURES**

The previous sections elaborated the control systems specific to the Recovery and Resilience Plans and their assessments, focusing on control and audit to ensure reliable financial reporting, an audit trail and compliance with all applicable laws and policies. However, it is important to go beyond that and ensure that this control set up is nested in an appropriate environment that supports the organisational effectiveness and efficiency of the RRF control set up. The

Commission must ensure flanking policies that reduce risk on top of the control set up for the Recovery and Resilience Plans. To that end, DG ECFIN will develop:

### **8.1. An anti-fraud strategy tailored to the Recovery and Resilience Plans:**

The current ECFIN anti-fraud strategy and action plan covers the 2017-2020 period and was established under the 2011 Commission Anti-Fraud Strategy (CAFS). ECFIN's 2020 work-plan provides for an update of the ECFIN AFS taking account of the 2019 CAFS. It will be completed by the end of 2021.

The 2019 Commission Anti Fraud Strategy (CAFS)<sup>26</sup> contains the objectives that that DG's should consider in defining their (local) anti-fraud strategy. Next to these, the additional vulnerabilities and challenges following DG ECFIN's responsibility for the NextGeneration EU (NGEU) measures following the COVID-19 outbreak<sup>27</sup>.

This Strategy will cover proactive cooperation with DGs engaged in Structural Funds expenditure as well as co-operation with Member States implementing authorities. A key partner will be OLAF to benefit from its understanding of fraud patterns, fraudsters profiles and identification of systemic vulnerabilities to fraud affecting the EU budget.

Standard Operating Procedures will be reviewed for the internal procedures within DG ECFIN and RECOVER for the handling of allegations of fraud, corruption, conflict of interests or any other illegal activity affecting the financial interests of the Union, notably on the cooperation with OLAF. DG ECFIN and RECOVER whistleblowing rules will be reviewed.

The Commission will step up its work on fraud awareness, ethics and integrity with its staff, in particular by providing training (see section 8.2)

### **8.2. Targeted training and awareness raising**

It is essential for the success of the implementation of the Recovery and Resilience Plans that the staffing involved in the work associated with implementing the RRF on the side of the Commission is both adequate in number and well-trained for this challenging task. To that end:

- Guidance and training on conducting assessments will be provided to all involved staff to ensure high quality assessments of the National Recovery and Resilience Plans as well as the associated payment requests;
- Training on the purely operational financial controls will also be provided to operational staff. These are a precondition for the financial commitments and payments and will be delivered using training organised in-house by DG ECFIN and SG-RECOVER which specific to the needs of the RRF;
- Training on the organisation of financial management within the Commission will be provided to operational staff to give them a good foundation of basic knowledge. This will be provided via the general financial training offered by DG BUDG, supplemented by more focused training / coaching delivered by Directorate R.

---

<sup>26</sup> SWD(2019)170 of 29.04.2019; COM(2019)196

<sup>27</sup> OLAF Note on COVID-19 related fraud risks in EU spending (ARES(2020)5992502 of 27/10/2020)

- There will be general ethics and integrity training for all staff called upon to work on the implementation of the RRF. It will be supplemented by adequate managerial supervision to ensure that the highest ethical standards are met.
- There will also be specific fraud awareness training provided to staff involved in implementing the RRF. For this stream of training and the one on ethics and integrity, issues covered will include conflicts of interest, whistleblowing and the handling of indications of fraud and irregularities;
- Training on evaluations will be made available to operational units responsible for undertaking RRF evaluations; it will cover evaluation within the Commission as well as Better Regulation.

### **8.3. The Internal Control Management Group**

To improve its internal control processes, DG ECFIN created its Internal Control Management Group in 2003. The ICMG's prime objective was to ensure the proper functioning of ECFIN's financial circuits and guarantee the appropriate segregation of duties. Its purpose is to assist the Director General in his capacity as Authorising Officer by Delegation and the Resource Director in her capacity as Director of Risk Management and Internal Control in DG ECFIN. It does that by overseeing the proper functioning of DG ECFIN's internal control system and its delivery of the Strategic Planning and Programming (SPP) cycle. To that end, it looks at all the activities underpinning internal control (including financial management and financial circuits) and strategic planning in DG ECFIN in order to take a view about their efficacy and, if necessary, propose changes to improve those activities.

By including representatives from Directorates across DG ECFIN, it ensures that internal control is a matter for the entire DG. Furthermore, in the context of the RRF, it ensures that all Directorates are included in discussions covering issues that form part of their new responsibilities under the Facility; in turn, the Group should help diffuse the knowledge and understanding of issues that arise out of the implementation of the Recovery and Resilience Plans.

### **8.4. Risk management**

Financial responsibility for the RRF will in large parts be taken over by DG ECFIN and it would be reputationally important to ensure appropriate safeguards against any irregularities and/or fraud including not just in the Member States, but also within the Commission. The risk associated with the RRF is considered critical given the scale of disbursements involved and the reputational damage possible. Risk mitigation is therefore essential which is made more difficult by the practical difficulties produced by the pandemic such as the difficulties of going on missions to assess Member States' implementation of the RRF. To that end, DG ECFIN has been:

- Implementing a vigorous internal communication campaign to maximise transparency about the state of play with the RRF;
- Related to the previous point, has taken deliberate steps to ensure that the tone from the top on the RRF is appropriate;

- Allocating resources proactively to ensure an organisation well-adapted to the new work driven by the RRF;
- Proactively preparing for ECFIN's role as Authorising Officer of the RRF;
- Takes joint lead within the Commission for elements of the implementation of the RRF with the SG-RECOVER that although not formally included in the financial circuit have significant implications on the assurance of the Authorising Officer within ECFIN;
- Cooperates actively with BUDG, REGIO, EMPL, OLAF to benefit from their experience;
- Will conduct regular special reviews of posts involved in implementing the RRF to ensure that they are not sensitive – i.e., subject to the possibility of misuse for financial gain.