



EUROPEAN COMMISSION

**DG Regional and Urban Policy
DG Employment, Social Affairs and Inclusion
DG Maritime Affairs and Fisheries**

**JOINT ANTI-FRAUD STRATEGY
2015-2020
ERDF, CF, ESF, FEAD, EGF, EUSF AND
EMFF**

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EXECUTIVE SUMMARY

This document sets out the Joint Anti-Fraud Strategy (JAFS) 2015-2020 of DG Regional and Urban Policy, DG Employment, Social Affairs and Inclusion and DG Maritime Affairs and Fisheries covering the following Funds:

- European Regional Development Fund (ERDF);
- Cohesion Fund (CF);
- European Social Fund (ESF);
- European Maritime and Fisheries Fund (EMFF);
- Fund for European Aid to the Most Deprived (FEAD);
- European Globalisation Adjustment Fund (EGF);
- European Union Solidarity Fund (EUSF).

The JAFS complements the efforts undertaken by the three DGs to protect the financial interests of the Union in the context of the Single Audit Strategy 2014-2020.

The specific characteristic of fraud is the intentional act. Fraud is a deliberately committed irregularity constituting a criminal offence. Whenever fraud and corruption cases are detected¹, Member States have the obligation to reimburse the related EU contributions. The obligation to correct applies equally to non-fraudulent irregularities. **The JAFS motto promoted by the DGs when dealing with the programme authorities is "zero tolerance to fraud and corruption"**. Whereas the best defence against both irregularities, fraud and corruption is the operation of an effective management and control system, due to their specificities, a specific approach is required to tackle fraud and corruption.

The Joint Anti-Fraud Strategy 2015-2020 is the fourth joint anti-fraud strategy since 2008. **It intensifies the anti-fraud efforts of the three DGs through a series of new initiatives:**

- introduction of a specific regulatory anti-fraud requirement for 2014-2020 in the Common Provisions Regulation (Article 125(4).c CPR) and provision of related guidance to managing authorities, including a fraud risk assessment tool;
- the rolling out by the Commission of the ARACHNE risk scoring tool to Member States to be used on a voluntary basis in order to help them better identify risky projects and take appropriate action on these in order to ensure legality and regularity of expenditure;
- the organisation by REGIO's Competence Centre for Administrative Capacity Building of targeted anti-corruption and anti-fraud seminars for Member States with a view to strengthening their capacity to better fight fraud and corruption;
- other actions with the objective of promoting good governance and increasing the administrative capacity of the Member States to protect the EU's and national financial interests.

¹ See definitions of fraud and corruption in Annex 3

The JAFS 2015-2020 will be based on a fraud risk assessment, which takes into account the programme authorities fraud risk assessment and the mitigating measures they have put in place. It also sets out the limited means and resources available to the three DGs in this area. Furthermore, an action plan is annexed to the strategy and which will be updated each year, as necessary.

The Commission's main source when analysing the magnitude of fraud in the Funds is the obligatory regulatory reporting from Member States on detected suspected and established fraud. The JAFS 2015-2020 stresses that although this reporting from Member States seems to suggest a marginal level of fraud in Cohesion Policy, further analysis is merited. The official notification data from Member States through the Irregularity Management System (IMS) indicates that the impact of suspected fraud on payments in the area of Cohesion policy has fluctuated in the range of 0.27% and 0.51% on an annual basis over the last four years (2011-2014). The Commission will continue to treat such data with caution. It is very well aware of certain caveats since the figures calculated at EU level are highly dependent on a number of factors. Other sources point to the fact that the scope of fraud and/or corruption in particular in public procurement in the EU (part of which also involve EU co-financed projects) may be bigger than the reporting from Member States seems to suggest. **It is therefore key for the Commission to continue to analyse and estimate the magnitude of fraud risk levels and fraud suspicions in Member States, regions and programmes, types of fraud (modus operandi) and the mitigating measures adopted by the Member States.**

The results of the Commission's analysis of the Member States' regulatory fraud risk assessments and the related anti-fraud measures will be used to review the action plan of the JAFS 2015-2020. This process will be based on two steps:

- a first step in 2015-2017 dedicated to a risk-based analysis of the Member States' fraud risk assessments and the effective and proportionate anti-fraud measures, which the managing authorities must put in place under the CPR (together with the continuation of anti-fraud and anti-corruption actions already started in the previous years);
- a second step in 2017-2020 building on the planned collection of information on the implementation of Article 125.4 c) from managing authorities not covered by the designation package as well as the planned risk-based thematic anti-fraud audits taking into account the results of the analysis per Member State.

1. BACKGROUND

1.1. The Commission Anti-Fraud Strategy

On 24 June 2011, the Commission adopted its Anti-Fraud Strategy (hereafter called CAFS)² including an action plan addressed to the Commission Directorates-General (DGs).³ In particular, by introducing anti-fraud strategies at Commission services' level, the overall objective of the CAFS is to improve prevention and detection of fraud in the implementation of the Commission's activities and the Union budget. A second objective is to strengthen the DGs' capacity to ensure appropriate financial corrections and deterrence in case of fraud. Moreover, the conditions for investigations of fraud by the European Anti-Fraud Office (OLAF) are to be enhanced.

1.2. The Joint Anti-Fraud Strategies of REGIO, EMPL and MARE

1.2.1 Period 2008-2014

REGIO and EMPL had established a first joint anti-fraud strategy in close cooperation with OLAF already in 2008, before the CAFS made anti-fraud strategies compulsory for each Commission DG and service. The first Joint Fraud Prevention Strategy (2008-2009) for the European Regional Development Fund (ERDF), the Cohesion Fund (CF) and the European Social Fund (ESF) was subsequently reviewed for the period 2010-2011 (and covered henceforth also the European Fisheries Fund (EMFF)). In the beginning of 2014, REGIO, EMPL and MARE, in collaboration with OLAF, decided to extend their Joint Anti-Fraud Strategy 2012-2013 to cover also 2014⁴.

1.2.2 Period 2015-2020

This document sets out the Joint Anti-Fraud Strategy 2015-2020 (hereafter called JAFS) of the three DGs covering the above Funds⁵, as well as the Fund for European Aid to the Most Deprived (FEAD), the European Globalisation Adjustment Fund (EGF) and the European Union Solidarity Fund (EUSF). In order to duly reflect the specificities of the FEAD, the anti-fraud considerations and measures for this fund are set out separately in Annex 1. As regards the anti-fraud measures for EGF and EUSF, see section 2.2.4 below.

² Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions and the Court of Auditors. COM(2011) 376 of 24.6.2011.

³ Commission internal action plan for the implementation of the Commission anti-fraud strategy, SEC(2011) 787.

⁴ Ref. Ares(2014)617440 - 07/03/2014.

⁵ JAFS 2015-2020 also covers IPA-CBC programmes. **The European Agricultural Fund for Rural Development, managed by AGRI, is not part of the JAFS 2015-2020.**

The JAFS will have a six-year period of application (2015-2020) and its action plan will be subject to annual review as necessary⁶, in full alignment with the Single Audit Strategy of the three DGs for 2015-2020.⁷

This strategy has been prepared in close and systematic cooperation by a technical working group composed of the OLAF contact persons of the three DGs. It has been elaborated in accordance with OLAF's *Methodology and guidance for DG's anti-fraud strategies*⁸. The working group has also taken into account the template for anti-fraud strategies issued by OLAF in July 2012⁹. OLAF has been consulted on the JAFS and its comments have been incorporated¹⁰.

The JAFS describes the principles it is based upon and provides the strategy and main anti-fraud objectives and actions to be pursued by REGIO, EMPL and MARE in the period 2015-2020 in relation to the whole anti-fraud cycle comprising fraud prevention, detection and investigation, as well as corrective measures. As regards judicial follow-up of fraud and corruption cases, OLAF as well as the national programme authorities will continue to refer cases to competent national Courts under applicable national criminal law. Section 6 explains which objectives and actions are new to the JAFS and which ones represent continuous actions which were already undertaken in the previous strategies. The latter will be continued under the JAFS 2015-2020 with the objective of seeking to achieve a sufficient degree of fraud prevention, detection and correction.

All the Funds covered by this strategy are subject to shared management with Member States. The specificities of this management mode with regard to the protection of the financial interests of the EU and the fight against fraud have been duly taken into account (see below under section 2.2.2). Under the new and strengthened regulatory anti-fraud requirements of the Common Provisions Regulation (hereafter called the CPR) for Member States in the 2014-2020 programming period¹¹, the main aim of the JAFS 2015-2020 will be to reinforce both the technical knowledge and the administrative capacity of national authorities to better deal with the complex phenomenon of fraud, with a particular focus on the most risky Member States. The three DGs will seek to identify the most risky Member States through the risk assessment methodology presented in section 4 below. Section 4 explains how this analysis by the DGs of the Member States' fraud risk assessments and the related mitigating anti-fraud measures will be the main component of the fraud risk assessment underlying the JAFS itself.

⁶ The first review is foreseen to take place by the end of 2016.

⁷ See the Single Audit Strategy for REGIO, EMPL and MARE funds 2014-2020 (ARES(2015)2600683 of 22/6/2015), which sets out that preventive and corrective actions against fraud, as this is a specific matter, will notably be dealt in the DGs' Joint Anti-Fraud Strategy 2015-2020.

⁸ Ref. Ares(2012)859571 – 13/07/2012

⁹ The template also recommends the DGs to briefly highlight their policy areas (cf. section 1.3 of the JAFS).

¹⁰ Ref. Ares(2015)3704715 – 8/9/2015. OLAF's reply: ref. Ares(2015)3873804 – 18/09/2015.

¹¹ See point c) of Article 125.4 of Regulation (EU) No 1303/2013 of 20.12.2013 laying down Common Provisions on the ERDF, the ESF, the Cohesion Fund, the EGFRD and the EMFFF.

1.3. Policy areas of DG REGIO, EMPL and MARE

The EU Treaty sets as objective for Cohesion Policy to reduce economic, social and territorial disparities, providing particular support to less developed regions. The bulk of financial support has consistently been provided to less developed regions and Member States. There has, however, been a shift of investment away from infrastructure and towards SME support, innovation, more innovative employment and social policies.¹²

1.3.1 Specifics on REGIO

REGIO works in the area of regional and urban policy. Regional and urban policy is delivered through shared management with agreement on multi-annual development and investment programmes between the Commission, Member States and regions every seven years.

REGIO's funds invest in a wide range of economic and social activities ranging from large infrastructure projects and environmental projects to support to research and innovation and small-scale support services for SMEs. The forms of assistance also vary from grants to more sophisticated financial instruments and public-private partnerships. The ERDF and CF, together with the European Social Fund, constitute the Cohesion Policy of the EU.

Under its activities, in the period 2014-2020 period, REGIO

- provides through the **European Regional Development Fund (ERDF)** some EUR 244 billion in funding;
- provides through the **Cohesion Fund (CF)** some EUR 63 billion in funding;
- moreover, provides through the **European Union Solidarity Fund (EUSF)** – which is not subject to the rules governing the ERDF and the CF - assistance to eligible countries in coping with disasters of such size and impact that they have difficulties facing them with their own means alone. For instance, the aid mobilised in 2014, in reply to seven applications received, amounts to EUR 126.7 million. Since its creation in 2002, the EUSF has been mobilised for a total of 63 disasters (as of 17 July 2015). A total of 24 European countries have been supported so far for an amount of over EUR 3.7 billion.

1.3.2 Specifics on EMPL

EMPL works in the area of employment, social affairs and inclusion. Under its shared management activities, in the period 2014-2020 period, it

- provides through the **European Social Fund (ESF)** some EUR 80 billion in funding in order to train people and help them get into work, to promote social inclusion, to improve education & training and the quality of public services.

¹² See the *Sixth report on economic, social and territorial cohesion*, July 2014.

- has earmarked over EUR 3.8 billion for the **Fund for European Aid to the Most Deprived** (FEAD) to support Member States' actions to provide a broad range of non-financial material assistance including food, clothing and other essential goods for personal use to materially-deprived people.
- disposes of a maximum annual budget of EUR 150 million under the **European Globalisation Adjustment Fund** (EGF) to provide measures, delivered in a combination of projects lasting up to two years, to people losing their jobs as a result of major structural changes in world trade patterns due to globalisation.

1.3.3 Specifics on MARE

MARE works in the area of fisheries and maritime policy and handles a budget of around EUR 800 million each year (EUR 5.7 billion for the period 2014-2020) which is implemented through the **European Maritime and Fisheries Fund** (EMFF), it:

- helps fishermen in the transition to sustainable fishing;
- supports coastal communities in diversifying their economies;
- finances projects that create new jobs and improve quality of life along European coasts;
- makes it easier for applicants to access financing.

2. INTRODUCTION

2.1. Principles of the CAFS

The Commission's Anti-Fraud Strategy (CAFS) is based on zero tolerance to fraud and corruption¹³, which is also the approach followed by the DGs under the JAFS. The CAFS implements principles of ethics, enhanced transparency, fraud prevention, effective investigation capacity, sanctions and good cooperation between internal and external actors¹⁴.

The overall objectives of the CAFS can be broken down into the following elements (covering the whole of the anti-fraud cycle):

- 1) enhancing internal procedures for the purpose of fraud prevention;
- 2) improving the techniques of fraud detection;
- 3) developing a real "anti-fraud culture" in the Commission;
- 4) enhancing relations with implementation partners (e.g. Member States, third countries, international organisations) as regards combating fraud;

¹³ See definitions of suspected fraud, fraud and corruption in Annex 3

¹⁴ See COM(2011)376 of 24 June 2011

- 5) reinforcing cooperation between OLAF and all stakeholders (DGs, national authorities, etc.);
- 6) ensuring efficient corrective actions (sanctions and recovery).

2.2. Principles of the JAFS 2015-2020

The above elements under the CAFS have been reconsidered for the JAFS within the specific shared management context of REGIO, EMPL and MARE.

The legislative and regulatory framework relating to the funds covered by the JAFS (and in particular the obligations of the Member States and the responsible Commission DGs to ensure sound financial management and to counter fraud) has been taken into account. It is determined in particular by:

- Articles 310, 317 and 325 of the TFEU;
- Articles 58 and 59 of the EU Financial Regulation (FR);
- Sector-specific rules¹⁵, in particular in Articles 72, 122 and 125 of the CPR.

2.2.1 *The guiding principle of JAFS is zero tolerance to fraud and corruption*

The JAFS motto promoted by the responsible DGs when dealing with the programme authorities is "zero tolerance to fraud and corruption"¹⁶.

The three DGs strive for legal and regular Cohesion Policy expenditure uncontaminated by irregularities, fraud or corruption. An irregularity is when a beneficiary does not comply with the Union and national rules and requirements linked to the spending of the Funds, with a potentially negative impact on the Union's financial interests. Irregularities are often the result of genuine errors e.g. not respecting the proper tendering procedure or an eligibility rule. **Fraud is a deliberately committed irregularity constituting a criminal offence.** When reporting an irregularity to the Commission, Member States must indicate whether any fraud is suspected or established in each case. **Suspected or established fraud are referred to as "irregularities reported as fraudulent"**¹⁷.

Fraud incidents may have three adverse impacts:

- ✓ they can cause financial damage¹⁸ whilst undermining the effectiveness and efficiency of the Funds and the achievement of objectives;

¹⁵ The legislative and regulatory framework for the purpose of the protection of the Union's financial interests applicable to the FEAD, EGF and EUSF are indicated in Annex 2, in Annex 1 for FEAD and in section 2.2.4 (regarding EGF and EUSF).

¹⁶ See definitions of suspected fraud, fraud and corruption in Annex 3

¹⁷ See http://europa.eu/rapid/press-release_MEMO-13-720_en.htm

¹⁸ Whenever fraud cases are detected, Member States have the obligation to reimburse the related EU contributions to the Commission.

- ✓ they can create reputational damage both to the Union and the Member States' interests, which both may appear to be lax and lacking control;
- ✓ finally, they can also undermine the citizens' trust in European solidarity promoted by Cohesion policy.

Reversely, the development of national anti-fraud and anti-corruption strategies is likely to strengthen the quality of the governance and will therefore contribute to social and economic development and the impact of the policy¹⁹.

Therefore, REGIO, EMPL and MARE DGs are committed and expect likewise their partners (Member States' responsible authorities and beneficiaries) to implement the anti-fraud provisions of the 2014-2020 legislation effectively and to be committed to a zero tolerance to fraud and corruption approach in the implementation of the Funds. This starts with the adoption of the right tone from the top in all bodies managing the Funds.

REGIO, EMPL and MARE seek to take preventive measures and to contribute to promoting the right tone, while giving appropriate and swift follow-up to OLAF's final case reports. The three DGs aim to ensure that OLAF is informed about the follow-up given to OLAF's final case reports within the deadline set by OLAF (the deadline is as a rule 12 months).

2.2.2 The JAFS 2015-2020 builds on the specific roles and responsibilities of the Commission and Member States under shared management.

a) Member States' responsibilities

Under shared management, implementation tasks have been delegated to the Member States. In order to ensure that the funds are used in accordance with all applicable rules and principles, the Member States have to take all the necessary measures, including legislative, regulatory and administrative measures, **to protect the Union's financial interests and in particular to prevent, detect and correct irregularities (by recovering also from the beneficiaries themselves), including fraud**²⁰. This is one of the general principles that Member States' management and control systems have to comply with.

In practical terms, current Cohesion policy control requirements²¹ at Member State and regional level regarding the use of the Funds, already imply that fraud is more difficult to commit. This can be seen to motivate Member State/regions to invest further in anti-fraud administrative capacity.

¹⁹ See Chapter 5 of the *Sixth report on economic, social and territorial cohesion*, July 2014.

²⁰ See Article 72 (f) of the Common Provisions Regulation (EU) No 1303/2013 (CPR).

²¹ E.g. legal requirements on public procurement, auditing standards to be adhered to by national auditors, compulsory publication of the list of beneficiaries, regulatory involvement of civil society in monitoring committees and EU audits of Cohesion Policy Funds allowing the three DGs to have an independent view on the compliance with EU funding conditions.

b) Responsibilities of the European Commission

REGIO, EMPL and MARE have to ensure, via their control and audit obligations that the Member States have set up, and effectively run management and control systems which make sure funds are efficiently and correctly used so as to ensure legality and regularity of expenditure.

Accordingly, the DGs carry out audits in the Member States to verify the effective functioning of national systems in the framework of a multi-annual audit strategy. The audit plan of the single audit strategy for ERDF, ESF, Cohesion Fund and the EMFF²² is revised annually on the basis of updated risk assessment per operational programme. The single audit strategy contributes to the Commission's anti-fraud efforts through the verification of the effectiveness of the management and control systems in Member States since an effective management and control system is the best method for fraud prevention and detection. The JAFS recognises that according to ISA standard 240, auditors need to have sufficient knowledge to identify indicators of fraud although they are not expected to have the expertise of persons whose primary responsibility is detecting and investigating fraud. Therefore, whenever the DGs' auditors encounter a potential case of fraud, the information is transmitted to OLAF for assessment²³.

2.2.3 The JAFS 2015-2020 builds on solid and well-established cooperation with OLAF.

REGIO, EMPL and MARE are working in close cooperation with OLAF, the EU's fraud investigation body, in all matters relating to prevention, detection and correction of fraud. The JAFS offers a joint framework to continue this close cooperation in 2015-2020.

According to Regulation (EU, EURATOM) No 883/2013 OLAF's main task is to carry out administrative investigations. In addition, the Office also contributes to the design and development of methods for preventing and combating fraud and corruption. This implies also providing support to other Commission services on these matters on the basis of its experience and expertise in the conduct of administrative investigations.

As of February 2015, the modalities of the cooperation between Commission services and OLAF have been laid down in the *"Administrative arrangements on co-operation and timely exchange of information between the European Commission and the European Anti-Fraud Office"*²⁴.

The cooperation/exchange of information with OLAF comprises e.g. the following:

²² Regulation (EU) No 508/2014 of the European Parliament and of the Council of 15 May 2014 on the European Maritime and Fisheries Fund

²³ See section 3.2.4 of the single audit strategy (Ares(2015)2600683 – 22/6/2015).

²⁴ See Ares(2015)402217 – 02/02/2015.

- Annual meetings of the Directors-General to take stock of the cooperation²⁵;
- Swift follow-up of OLAF cases by the DGs;
- Active contributions by the DGs to the Commission's Fraud Prevention and Detection Network (FDP-Net) as well as to COCOLAF (Advisory Committee of the member States for the Coordination of Fraud Prevention, chaired by OLAF);
- With regard to fraud proofing of legislation: DGs involve OLAF, where applicable, at the earliest stage possible in the preparation of any type of draft legislation where appropriate fraud prevention issues can be raised and OLAF provides its support;
- DGs on the one hand and OLAF on the other hand systematically invite each other to any event with Member States where fraud prevention issues are raised. In particular, REGIO, EMPL and MARE are invited to participate in the COCOLAF and OLAF provides presentations in the annual meetings with the MS' control and audit authorities and other fora, as appropriate;
- In the framework of the Annual Report on the Protection of the EU Financial Interests, OLAF produces a Statistical annex containing statistical evaluation of the Member States' reporting on irregularities and suspected fraud cases. The DGs are consulted on these documents through a formal ISC;
- OLAF provides assistance in training events on fraud prevention, detection and investigation matters (such as fraud patterns, trends, risk indicators and methodologies);
- OLAF, on a regular basis, informs REGIO, EMPL and MARE about its decisions regarding opening of investigations, with a view to support and feed into the DGs' fraud prevention measures and audit activities;
- On a case by case basis and depending on requests made by the DGs, OLAF on the basis of the analysis of its cases provides guidance to DGs and Member States, in a collaborative way, regarding ways of improving the systems from a fraud prevention point of view;
- As regards prosecution of cases in national courts, the DGs will continue to be informed by OLAF of subsequent events with respect to cases where OLAF has transmitted the file to a national prosecutor for judicial follow-up.

The DGs and OLAF will seek to further strengthen their cooperation under the JAFS 2015-2020. All of the above activities will be continued, and new activities identified under the JAFS will be jointly implemented and assessed.

2.2.4 The JAFS 2015 – 2020 and its principles apply also to the EGF and the EUSF

The implementation of both the EGF and the EUSF is based on specific requests by national authorities for financial assistance to respond to mass redundancies of workers triggered by shifting world trade patterns or to major natural disasters, respectively. Regulation (EU) No 1309/2013 (EGF) and Regulation (EU) No 2012/2002 (as amended by Regulation (EU) No

²⁵ The last bilateral meeting at DG level was on 16 July 2015 as regards REGIO. In the case of EMPL, a bilateral meeting between the two Directors-General took place on 17 February 2015.

661/2014) of the European Parliament and of the Council (EUSF) provide the legal framework for these two funds.

The legal bases for these two funds do not foresee a fraud risk assessment or any specific anti-fraud measures to be put in place by the responsible national authorities.

Nevertheless, anti-fraud measures for the EGF and the EUSF to which the DGs commit under the JAFS will consist in (re-)communicating (written) anti-fraud awareness-raising measures to the national authorities responsible for implementation of the financial assistance under these two funds.²⁶ These measures will be modelled on the advice and recommendations contained in the guidance note on fraud risk assessment (see below under section 3.1) but will be considerably more limited in scope for the above regulatory reasons.

3. JOINT ANTI-FRAUD STRATEGY 2015-2020

3.1. The JAFS 2015-2020 responds to the new specific anti-fraud requirements for the 2014-2020 programming period

a) Compliance with Article 125.4 c) CPR:

- The regulatory provisions applicable to ERDF, CF, ESF and EMFF²⁷ in the programming period 2014-2020 introduce via Article 125(4) c) of the CPR the obligation for managing authorities to put in place effective and proportionate anti-fraud measures, taking into account the risks identified. This obligation is first of all part of the designation criteria²⁸ (according to the CPR, at designation Member States must have procedures for putting in place effective and proportionate anti-fraud measures).
- Secondly, effective implementation of proportionate anti-fraud measures is key requirement nr 7 of management and control systems²⁹.
- Third, in their management declaration, among other assurance statements, managing authorities will have to confirm that effective and proportionate anti-fraud measures are in place and that the identified fraud risks have been taken into account.

In order to raise awareness about the importance of complying with Article 125(4) c) CPR and to facilitate Member States' compliance with these new obligations, REGIO, EMPL and MARE together with OLAF had started already in 2013 to provide assistance to Member States. In particular, a practical step-by-step guidance note on fraud risk assessment was elaborated³⁰. This guidance note contains a specific tool to assess risks in relation to the

²⁶ For a description of desk review and audit activities by REGIO related to the EUSF, see also Annex 1 of the Single Audit Strategy (ARES(2015)2600683 - 22/6/2015). Equivalent activities for the EGF are set out in the DG's annual audit plan for EGF.

²⁷ Equivalent provisions apply to the FEAD; see annex 1.

²⁸ See point 3 A vi) of Annex XIII to the CPR.

²⁹ See Annex IV of Commission Delegated Regulation (EU) No 480/2014.

³⁰ Ref. EGESIF_14-0021-00 16/06/2014. All official language versions are available on-line:

http://ec.europa.eu/regional_policy/en/information/legislation/guidance/

three key processes considered most vulnerable to fraud risks: (i) project selection, (ii) implementation (including public procurement-related risks) and (iii) certification and payments). It also provides specific advice on effective and proportionate anti-fraud measures for 2014-2020. This guidance was communicated to all Member States and presented on various occasions and for a in 2013-2015: COCOLAF meetings, the COESIF and the EGESIF Committee meetings, the Annual Coordination Meetings and the anti-fraud and anti-corruption conferences and seminars which have taken place in selected Member States in 2014 and 2015³¹.

The guidance underlines that effectively implemented robust management and control systems can considerably reduce fraud risks although they cannot completely eliminate the risk of fraud occurring (or even less the risk of corruption) or remaining undetected. This is why the Commission also recommends that management and control systems should be complemented with additional fraud detection measures, in particular by using data mining tools such as ARACHNE (see further details in sections 5 and 6 below) that allows managing, certifying and audit authorities to prevent and detect risky operations, beneficiaries and contracts/contractors.

Activities regarding exchange of best practice between Member States and Commission concerning risk assessment, national anti-fraud measures, training and in particular the use of data mining tools such as ARACHNE (see Priority Objective 2 and objectives 4.1 to 4.3 in section 5 below) are essential components of the JAFS.

b) Other anti-fraud innovations to be pursued 2015-2020

A higher degree of public access to data on the funds' beneficiaries contributes to transparency and the control that civil society can exercise on the use of EU funds by Member States. Whenever civil society draws attention to potential wrongdoings, it contributes to the capacity of national authorities to detect potential fraud. Under the rules governing the implementation of the funds 2014-2020, Member States must publish the name of the beneficiary, the activity and the amount of public funding allocated³². Overall, the CPR is more detailed in the requirements regarding open data for 2014-2020 compared to 2007-2013.

Moreover, Member States can go beyond the minimum legal requirements of Article 125.4 c) CPR by developing fully-fledged anti-fraud strategies for ERDF, CF, ESF and EMFF, which is advisable but remains voluntary in order to have a coherent anti-fraud approach. For the purpose of elaborating national anti-fraud strategies, OLAF has provided separate guidelines

³¹ More than 1,500 participants attended these seminars. They took place (as follow-up to the anti-fraud and anti-corruption conference with all Member States in December 2013) in the most risky Member States as follows: 2014: Greece (organised by OLAF), Slovakia, Czech Republic, Bulgaria, Croatia, Romania, Italy, Slovenia and Spain, 2015: Poland, Latvia (covering the 3 Baltic States) and Portugal.

³² Cf. Article 115 CPR.

to Member States³³. REGIO, EMPL and MARE have contributed to the development of these guidelines and have made them available to the Member States³⁴.

3.2. The JAFS 2015-2020 promotes good governance and the fight against corruption

Respect for the principles of good governance by the national bodies implementing Cohesion policy in the Member States is key to efficient and effective delivery of the policy. It is recognised that corruption (abuse of (public) position for personal gain)³⁵ is a type of fraud which is often even more difficult to detect and eradicate than individual fraudulent acts. Also, the cost of corruption in particular in public procurement can be significant³⁶.

The JAFS undertakes a holistic view of the activity of the three DGs against fraud and corruption, therefore covering not only fraud prevention, detection and correction but also one underlying important aspect of it, namely how to tackle corruption.

As regards the funds implemented by REGIO, a Competence Centre for Administrative Capacity Building was established in 2013 in view of strengthening Member States' administrative capacities to manage the ERDF and the CF increasingly better. Among other activities, the Competence Centre also seeks to tackle issues of fraud and corruption in relation to the implementation of Cohesion policy in the Member States. This contributes to a stronger preventive approach.

During the negotiations on 2014-2020 programmes, the Competence Centre examined systematically the actions proposed by Member States to meet the obligations stemming from Art.125 (4) c) CPR. The Commission insisted that Member States' commitment to effectively fight fraud is included in the partnership agreements. It also insisted that technical assistance funds are allocated where appropriate for the implementation of fraud prevention measures such as e.g. data mining tools, training and cooperation with NGOs. As a result, the majority of operational programmes integrate the aforementioned measures under their technical assistance axes.

³³ Guidelines for national anti-fraud strategies for European Structural and Investment Funds. Ref. Ares(2014)4344594 - 23/12/2014 (developed by a Member States' expert group, steered by OLAF).

³⁴ This guidance is also on the anti-fraud platform of SFC2014.

³⁵ This is a classical definition of corruption.

³⁶ In a study from June 2013 by the consultancy PWC, financed by OLAF, a methodology based on an econometric model was developed to estimate the direct costs of corruption in public procurement. This methodology was tested in 5 selected sectors of the economy where EU Funds are spent (road & rail construction, water & waste, urban & utility construction, training and R&D/high tech/medical products). The study estimated that the overall direct costs of corruption in public procurement in 2010 for the five sectors studied in the 8 Member States (part of which are also EU co-financed projects) constituted between 2.9% to 4.4% of the overall value of procurements in the sector published in the Official Journal, or between EUR 1 470 million and EUR 2 247 million. The study indicated that public procurement is an activity in the economy and in the public administration which is at higher risk. Although the research points towards corruption being lower in procurement cases supported by EU Funds, it was not possible to distinguish corruption related to EU Funds from other funds in the eight EU Member States in scope.

The Competence Centre has also launched a series of actions on its own as regards promotion of good governance and prevention of fraud/corruption. Over the period of 2014-2015, an international conference in Brussels and seminars in 11 Member States were organised, focusing on awareness raising and hands-on tools for dealing with the risks of fraud and corruption, including the presentation of the 2014-2020 guidance and the fraud risk assessment tool developed by the Commission (see also section 3.1 above). During these seminars, a separate workshop was also dedicated to promoting the role of civil society in monitoring the use of the Funds.

Safeguarding EU funds through co-operation with civil society organisations and increased transparency is at the heart of another initiative – the pilot project “*Integrity Pacts - Civil Control Mechanisms for Safeguarding EU Funds*” which is being implemented in co-operation between REGIO and the global civil society organisation leading the fight against corruption – Transparency International. Integrity Pact is an agreement between a contracting authority and companies bidding for public contract to abstain from corrupt practices. An external monitor – a civil society organisation - monitors that this process is transparent and credible.³⁷ REGIO has allocated technical assistance budget for piloting Integrity Pact instrument in a number of Structural Funds co-funded projects in different Member States. In 2015, a range of preparatory activities took place, including raising the awareness of the managing authorities about the Integrity Pact instrument and publishing two calls for expression of interest to pilot an Integrity Pact in a Structural Fund co-funded project: one call was addressed to managing authorities, the other – to civil society organisations willing to act as monitors. The preparatory phase will end with a list of shortlisted projects and their monitors. The signature and implementation of Integrity Pacts will take place in the period 2016-2019. One of the key elements in the pilot project “*Integrity Pacts - Civil Control Mechanisms for Safeguarding EU Funds*” is testing innovative ways to increase transparency in the EU co-funded investments and learning from this experience.

Other capacity-building activities of relevance for the promotion of good governance and prevention of malpractices include an action plan on public procurement and the hands-on guide for practitioners on the avoidance of most common errors in public procurement. The recently established platform for public expert exchanges called REGIO PEER 2 PEER is being used to exchange experience between Member States on their practices, including on fraud prevention. Contacts have been established with other international organisations in order to learn from their initiatives in the field. For example, REGIO is following a World Bank project in Italy “*Reducing Corruption Risk in the Public Administration*” and once it is completed, will draw lessons on its replicability for the Funds. Last, but not the least, contacts have been established with leading academics engaged in the research on corruption (e.g. the

³⁷ The Integrity Pact represents a legally binding agreement between the contracting authority and the companies bidding for public contracts to abstain from corrupt practices and conduct a procurement process with integrity, transparency and efficiency. One of the key elements at the heart of the instrument is the third-party monitoring of the agreement carried-out by a civil society organisation.

ANTICORRP³⁸ project team). All the aforementioned activities fall under a separate working programme of the competence centre for administrative capacity.

EMPL and MARE are associated and actively involved in these good governance and anti-corruption activities.

3.3. The JAFS 2015-2020 is aligned with the 2014-2020 programming period and consolidates the anti-fraud and anti-corruption actions of the three DGs

The JAFS consolidates all the actions which are on-going or which will be carried out in 2015-2020 by the audit and geographical units of DG EMPL, REGIO and MARE and the Competence Centre for Administrative Capacity Building of DG REGIO in the context of fight against fraud and corruption (see the action plan in section 6).

The action plan under the JAFS has been designed within the broader context of the Commission, the EU and Member States actions to promote the effective application of the principle of rule of law in the Member States, including the independence of judicial institutions³⁹ and the effective functioning of Member States' sanctioning systems which can have a direct effect on fraud deterrence.

Therefore, it follows that the JAFS can mainly aim at complementing other activities in that field performed by e g:

- ✓ OLAF under its investigative powers and the possible future strengthening of its actions via the European Public Prosecutor's Office (EPPO) (the proposal for the EPPO Regulation of 2013⁴⁰ is currently subject to negotiations in the Council and the European Parliament) coupled with the proposal for a directive on the fight against fraud to the Union's financial interests by means of criminal law⁴¹;
- ✓ Other JUST or HOME legislative activities and policy initiatives in this field and GROW's overview of the current situation of transparency, efficiency and accountability in public procurement and proposed solutions in its forthcoming Staff Working Document;
- ✓ Member States' use of technical assistance funds allocated to general administrative capacity improvement (Thematic objective 11) having a potential beneficial effect on

³⁸ ANTICORRP (Anticorruption Policies Revisited: Global Trends and European Responses to the Challenge of Corruption) is an interdisciplinary research project funded by the 7th Framework Programme. The main objective of ANTICORRP is to investigate factors that promote or hinder the effectiveness of anti-corruption policies. The project consists of 20 research groups in 16 EU countries. Project implementation period: 2012-2017. (<http://anticorrrp.eu/>)

³⁹ See the findings and recommendations of the first EU anti-corruption report. COM(2014) 38 final of 3.2.2014.

⁴⁰ See COM(2013) 534 final of 17.7.2013. See also COM(2015) 610 final of 27.10.2015: Commission Work Programme 2016. The work programme for 2016 sets out that it will be important that the co-legislators move forward on the European Public Prosecutor's Office

⁴¹ COM(2012) 363 final of 11.7.2012.

the efficiency and effectiveness of its fight against fraud⁴² or via the use of Technical Assistance of their Operational Programmes⁴³;

- ✓ Member States own obligations and competences for fraud prevention, detection and prosecution under shared management.

3.4. The JAFS 2015-2020 will enhance collaboration with academics and NGOs on anti-fraud and anti-corruption

Whereas the long-standing cooperation with OLAF has allowed the three DGs to obtain broad knowledge on potential and real fraudulent activities in Cohesion Policy over the last years at EU level (see section 4 on fraud risk assessment), the three DGs will continue to seek to better identify the scope of fraud and its modus operandi at Member State level. Collaboration with academics (e.g. ANTICORRP research team – see section 3.2.) and NGOs (e.g. Transparency International) active in this area is foreseen under objective 3 of the JAFS as a way to improve place-based knowledge on fraud and corruption. A second feature of this collaboration will be to improve the knowledge of corruption and fraud in public procurement and how to better tackle issues related to potential political or other types of illicit influence in funds allocation and public procurement processes.

4. THE UNDERLYING FRAUD RISK ASSESSMENT FOR JAFS 2015-2020

In accordance with OLAF's methodology and guidance for DG's anti-fraud strategies, the JAFS must be – and has been- based on a fraud risk assessment.

4.1 The magnitude of fraud and corruption risks

The Commission's main source when analysing the magnitude of fraud in the Funds is the obligatory reporting from Member States on detected suspected and established fraud in the Irregularity Management System (IMS) managed by OLAF. This data indicates that the impact of suspected fraud (fraudulent irregularities) on payments in the area of Cohesion policy has fluctuated in the range of 0.27% and 0,51% on an annual basis over the last years (2011-2014⁴⁴).

As an example, in 2014, Member States reported:

- ✓ A total of 4 977 non-fraudulent irregularities involving EUR 1561 million
- ✓ A total of 306 fraudulent irregularities involving EUR 274 million.

⁴² As an illustrative example, Latvia and Slovenia have already dedicated a part of their Funds to finance actions under TO11 dedicated to the improvement of quality, efficiency and effectiveness of the judiciary system in their country.

⁴³ For example, some Operational Programmes could finance some staff costs dedicated to the fight against fraud in the Cohesion Policy expenditure

⁴⁴ 2011 (0.4%), 2012 (0.42%), 2013 (0.27%) and 2014 (0.51%).

Nevertheless, the three DGs acknowledge that this figure of reported fraudulent activity is not a sign of low risk in the area of Cohesion Policy⁴⁵. Indeed, the European Commission treats these figures with caution and is aware of the caveats surrounding them:⁴⁶

- ✓ The figure calculated at EU level is highly dependent of the accuracy and completeness of reporting made by Member State and the risk of under-reporting may not be excluded;
- ✓ The three DGs note (as above) that other sources point to the fact that the scope of fraud and/or corruption in particular in public procurement in the EU (part of which are also EU co-financed projects) may be bigger than the reporting from Member States seems to suggest;
- ✓ Much of the spending by Member States is discretionary public spending (involving high value public tenders in sectors such as e.g. road & rail construction, water & waste, urban & utility construction). According to recent research, such a financing involves a high risk of wrongdoings such as corruption⁴⁷;
- ✓ Fraudulent activity is highly dependent on place-based factors (see below). Therefore an average figure at EU-level may hide striking differences between Member States and regions;
- ✓ Performance measured in the past does not necessarily determine performance for the future. In particular:
 - the additional pressure on 2007-2013 closure during the years 2015 to 2017 may reduce the vigilance of Member States management and control systems in their fight against fraud for 2014-2020 period;
 - moreover, an increased awareness in Member States on already existing fraud and corruption schemes and obligations to report on them may have the unintended effect to raise the figures of fraudulent irregularities reported by Member States. Therefore the evolution of the figure of reported fraudulent activities over years cannot be seen as an indicator of performance of JAFS.

Additional data on corruption is available in the Sixth report on economic, social and territorial cohesion⁴⁸. Moreover (see section 3.2), some research points towards corruption being lower in procurement cases supported by EU Funds, but there is at this stage no conclusive evidence for this.

⁴⁵ Another source of information is obviously the type of irregularities and fraud suspicions detected through OLAF's investigative activity. This information is transmitted to the three DGs in OLAF's final case reports together with recommendations, which show the estimated financial impact.

⁴⁶ See the Report from the European Commission to the European Parliament, Protection of the European Union's Financial Interests – Fight Against Fraud 2014 – Annual Report. COM(2015) 386 final of 31.7.2015.

⁴⁷ See the preliminary findings of the ANTICORRP project: <http://anticorrrp.eu>. See also section 3.2.

⁴⁸ See Chapter 5: e.g. map 5.1, table 5.2 and figure 5.5.

4.2 The sources of fraud risks

The Commission takes into account the overall fraud risks inherent to the management of the Funds:

- projects are delivered by a multiplicity of organisations and systems in 28 Member States and involve hundreds of thousands of diverse operations and beneficiaries;
- in addition, there are a wide range of national and programme eligibility rules which condition the regularity of expenditure.

Examples of recurrent modus operandi in Cohesion policy⁴⁹ are false or falsified supporting documents, various types of public procurement fraud, intentionally claimed ineligible expenditure and undisclosed conflict of interest in the implementation of the funds.

REGIO, EMPL and MARE have also considered the Member States' specific situation determined (inter alia):

- by the general level of fraud risk regarding disbursement of public funds in a given Member State;
- by the amounts managed by Member States and the potential incentive to try to capture part of these amounts for vested political and private economic interests;
- by the degree of prevalence of corruption (e.g. bribes, kickbacks and absence of measures to prevent, detect and remedy situations of conflict of interests) in a given Member State (in terms of Transparency International's Corruption Perceptions Index (CPI). The CPI roughly correlates with the volume of OLAF investigations in a given Member State which seems to indicate that the risk of fraud is higher in Member States scoring worst in terms of corruption risks. The three DGs used the CPI when selecting the Member States in which anti-corruption and anti-fraud seminars in the Member States were organised in 2014-2015, with the assistance from OLAF and Transparency International and in view of helping them to prepare for the start of the financial period 2014-2020.
- on the basis of their knowledge of the risk of fraud (re-)occurring in certain Member States as evidenced e.g. through OLAF's and national investigations (where the operations are typically selected, expenditure claimed by beneficiaries and paid by managing authorities).
- by the results of the verifications carried out by national and Commission auditors on the extent to which effective internal controls are present and function reliably (the effectiveness of the management and control systems and the reliability of the systems for certification of expenditure in the Member States).

However, further analysis, taking into account the anti-fraud measures 2014-2020 to be implemented by Member States is required so that the fraud risk assessment carried out by the

⁴⁹ See also *Information note on fraud indicators for ERDF, ESF and CF, COCOF 09/0003/00-EN* of 18.2.2009.

DGs for their shared management area will enable them to identify the Member States, regions or programmes which are particularly vulnerable to fraud and/or where national authorities are not taking sufficient action to mitigate the risks through reinforced management and control systems. Moreover, the potential transnational aspects of fraud and corruption in Cohesion policy need to be fully analysed. Objectives and actions under the JAFS should be orientated accordingly but must also take into account resource limitations and cost-effectiveness.

4.3 Member States' capacity to assess fraud risks and detect fraud

4.3.1 Quantitative analysis of the Member States' authorities detection capacity and reporting of irregularities

The magnitude of the fraudulent irregularities reported by the Member States was set out in section 4.1 above.

Most of the fraudulent irregularities reported in Cohesion Policy in 2014 ⁵⁰ (64%) were detected by the management and control systems provided for in EU legislation (i.e. first level management checks including on-the-spot checks by programme managing authorities and audits of operations by audit authorities) and the remainder, or 36%, by specialist anti-fraud bodies. This continued the trend already highlighted for 2012 and 2013, but represents a striking change from previous programming period : during the 2000-2006 period, fraudulent irregularities were almost exclusively detected during anti-fraud and criminal investigations (during that period, less than 20% of fraudulent irregularities were detected by the aforementioned administrative controls). **This may therefore provide evidence that the Commission's work in recent years on raising awareness of all programme authorities about fraud and providing targeted anti-fraud and anti-corruption seminars has had an impact.**

4.3.2 Qualitative analysis of the Member States' fraud risk assessments

The statistical approach above to the analysis of reported fraudulent irregularities in Cohesion Policy based on data notified by the Member States in the IMS system⁵¹ should be complemented by a qualitative analysis of the risk of fraud and the mitigating measures taken by the managing authorities.

As indicated above under section 3.1, managing authorities must carry out a fraud risk assessment as a basis for putting in place effective and proportionate anti-fraud measures in accordance with Article 125.4 c) CPR. Section 3.2 above also explained that during the negotiations on 2014-2020 programmes, the Competence Centre examined systematically the actions proposed by Member States to meet the obligations stemming from Art.125 (4) c)

⁵⁰ "Fraudulent irregularities" means that the Member States have classified the irregularities in the IMS reporting system as either relating to a fraud suspicion or to established fraud.

⁵¹ Ref. Report from the European Commission to the European Parliament, Protection of the European Union's Financial Interests – Fight Against Fraud 2014 – Annual Report. COM(2015) 386 final of 31.7.2015.

CPR. In 2015 and 2016 the Commission will verify Member States' compliance with these regulatory obligations using a four-step approach:

1. Risk-based review of the designation package

First, as part of the auditors' risk-based desk review of the designation package, any information related to the implementation of Article 125.4 c) CPR will be reviewed: in the guidance note on designation of authorities it is set out that the procedures for putting in place effective and proportionate anti-fraud measures (which are subject to verification in the context of designation) should include "the timing of the fraud risk assessment, who will be responsible for carrying out the risk assessment, who will be responsible for subsequently developing the necessary anti-fraud measures". The review of the designation related to the implementation of Article 125.4 c) CPR is foreseen in the Enquiry Planning Memorandum on Designation and the related check-list.

2. Collection of information on managing authorities' fraud risk assessments not covered by the designation package sample

Second, after designation is completed, REGIO, EMPL and MARE⁵² will collect and assess (using a common template to be developed) information related to the implementation of Article 125.4 c) CPR in selected Member States and OPs for which the designation package will not have been reviewed by the Commission. The plan is to outsource this data collection and assessment that will feed into the Commission services assessment of risks.

3. Fact-finding missions and early preventive system audits (EPSA)

Third, under the Single Audit Strategy, fact-finding missions (before any payment claim has been submitted) and on-the-spot early preventive system audits (for OPs selected via a risk assessment and when a payment claim has been submitted) focusing on the functioning of the management and control systems will be carried out. As regards fact-finding missions, these will also cover Article 125.4 c) CPR. In relation to EPSA, aspects linked to the implementation of Article 125.4 c) will mainly be assessed through desk reviews based on information collected during the audit missions.

Effective implementation of proportionate anti-fraud measures constitutes key requirement No 7 for management and control systems with regard to their functioning, listed in table 1 of Annex IV of Commission Delegated Regulation (EU) No 480/2014⁵³ (see also section 3.1

⁵³ COMMISSION DELEGATED REGULATION (EU) No 480/2014 of 3 March 2014 supplementing Regulation (EU) No 1303/2013 of the European Parliament and of the Council laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and

above). In accordance with Article 30 of this regulation, if key requirement No 7, in combination with one or more of the other key requirements, is assessed as falling into category 3 (works partially, substantial improvements are needed) or into category 4 (essentially does not work)⁵⁴, a serious deficiency in the effective functioning of the management and control is considered to be given. The identification of (a) serious deficiency/ies in the functioning of the Member States' management and control system leads to the application of financial corrections and the application of remedial action in order to improve the management and control system.

4. Thematic audits on the fraud risk assessments and the anti-fraud measures

The Single Audit Strategy foresees audits covering (among other subjects) both the implementation of the procedures put in place by the managing authorities on effective and proportionate anti-fraud measures as well as the effectiveness as such of the anti-fraud measures and strategies. Such audits are in the first instance to be carried out by audit authorities. The Commission services intend to assess the available results and carry out complementary audits where necessary.

Under the four steps, the main purpose is to verify to what extent

- the managing authorities' fraud risk assessments under point c) of Article 125(4) of the CPR are reliable, complete and effective;
- sufficient mitigating measures have been taken by the managing authorities to address the identified residual risks.

Managing authorities which do not comply will be requested to implement the necessary improvements in the management and control systems.

The first results of the fraud risk assessments carried out by the Member States were expected to be available late 2014. However, the designation process of national authorities has turned out to be later and therefore data related to Member States' fraud risk assessments will become available mainly late 2015 and in 2016 (first half of 2016 for EMFF). Therefore, the assessment by the Commission of Member States' fraud risk assessments could not be carried out before this strategy was drawn up; it constitutes Priority Objective 1 in the action plan under the JAFS.

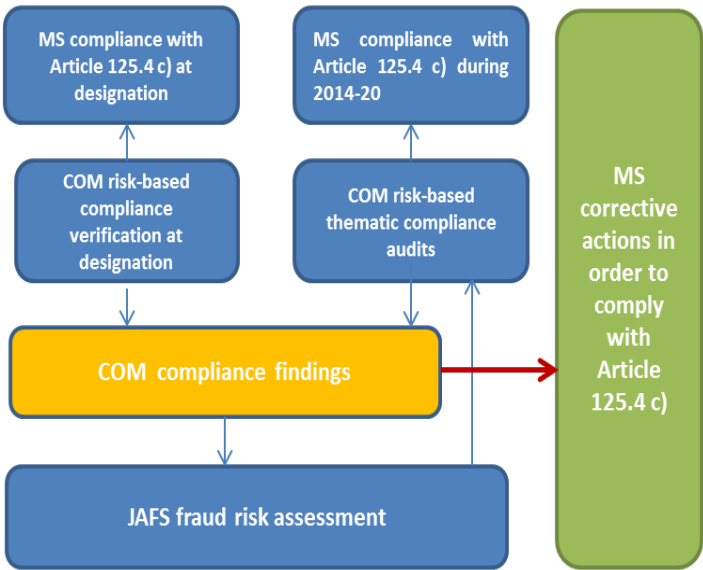
laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund. OJ L 138 of 13.05.2014, p. 5.

⁵⁴ These categories are set out in Table 2 of Annex IV of Regulation No 480/2014 under the "Classification of key requirements for management and control systems with regard to their functioning".

Auditors of REGIO, EMPL and MARE, together with audit authorities in the Member States will carry out risk-based fraud-related checks in the context of the above audit work through appropriate audit procedures whilst being recognised as not being primarily responsible for detecting and investigating fraud. The designated body to investigate fraud against the EU budget remains OLAF. It works in cooperation with the national specialised services/authorities in the Member States in this respect.

The results of the aforementioned verifications will be used by REGIO, EMPL and MARE as a basis for their fraud risk assessment for the JAFS, which in turn will underpin the review of the action plan of the JAFS. In other words: the three DGs will use the results of the fraud risk assessment that Member States have carried out in accordance with Article 125.4 c) CPR and its verification to further underpin and update the action plan of the JAFS 2015-2020, as necessary, as from 2017.

The relationship between the implementation of point c) of Article 125(4) CPR by the Member States, the compliance verification by the DGs at designation, the Commission's compliance and thematic audits during 2014-2020, the revision of the JAFS' fraud risk assessment and the corrective actions which must be undertaken by Member States in case of non-compliance is illustrated in the figure below.



5. MEANS AND RESOURCES

REGIO, EMPL and MARE have at their disposal only limited means and resources to tackle fraud in the shared management area and actions should respect the principle of cost-effectiveness. The main means and resources are:

5.1 Human resources

Unit/Function	Tasks related to anti-fraud issues		
	DG REGIO	DG EMPL	DG MARE
External audit units	<p>C.1: Coordination of REGIO's relations with OLAF and EUSF audits. Transmission of information on suspected fraud to OLAF.</p> <p>C2, C3 and C4: ERDF and CF audits. Transmission of information on suspected fraud to OLAF.</p>	<p>G.1: Coordination of EMPL's relations with OLAF. Transmission of information on suspected fraud to OLAF. EGF audits.</p> <p>G.2, G.3: ESF and FEAD audits; transmission of information on suspected fraud to OLAF.</p>	<p>F.1: audits of EFF/EMFF, transmission of information on suspected fraud to OLAF.</p>
	<p>Details on the resource implications per audit type (e.g. review of designation packages, including designation fact-finding missions and early preventive system audits) can be found in Annex 4 of the Single Audit Strategy (updated on a yearly basis)⁵⁵.</p>		
Geographical Units	<p>Geographical Directorates D, E, F, G and H. Follow-up of individual fraud cases. Transmission of information on suspected fraud to OLAF.</p> <p>Implementation of OLAF's financial and administrative recommendations; recoveries of irregular amounts.</p>	<p>Directorates B, C, D, E and F: Follow-up of individual fraud cases. Transmission of information on suspected fraud to OLAF. Implementation of OLAF's financial and administrative recommendations; recoveries of irregular amounts.</p>	<p>C.3, D.3, E.3: Transmission of information on suspected fraud to OLAF. Implementation of OLAF's financial and administrative recommendations; recoveries of irregular amounts.</p>
Anti-fraud correspondent	<p>C.1: Relations with OLAF including the JAFS and methodological issues. Monitoring of follow-up of individual fraud</p>	<p>G.1: relations with OLAF including the JAFS and methodological issues. Advice on and monitoring of follow-up of individual fraud cases;</p>	<p>F.1: relations with OLAF; follow-up of individual fraud cases; horizontal anti-fraud activities; provision of</p>

⁵⁵ See the Single Audit Strategy: Ref. Ares(2015)2600683 – 22/6/2015.

	cases. Horizontal anti-fraud activities. Provision of training	horizontal anti-fraud activities; provision of training	training
	DG REGIO	DG EMPL	DG MARE
Competence Centre for Administrative Capacity Building (CCACB) in REGIO.E.1	E.1: The CCACB was established in 2013. It supports responsible MS authorities to improve their capacity to efficiently and effectively plan, implement and evaluate high-quality investments programmes. It has launched a series of actions in the field of good governance and anti-corruption (see in particular section 3.2). The CCACB has 1.2 FTEs in the field of anti-fraud and anti-corruption .	EMPL associated	MARE associated
Legal unit/sector	B.4: advice on follow-up recommendations contained in OLAF's final case reports. B4: Handling of complaints (complaints are registered in the CHAP database). C1 is informed by B4 whenever there is a fraud suspicion linked to the complaint and which should therefore has been transmitted to OLAF for selection (=assessment).	G.1, F.1: advice on follow-up actions based on OLAF's final reports; assuring fraud-proofing of legislation.	F.4: advice on follow-up actions based on OLAF's final reports; assuring fraud-proofing of legislation.

	DG REGIO	DG EMPL	DG MARE
Competence Centre Operational Efficiency (REGIO.F.1)	F1: Via the ISFCC Committee (the REGIO committee for interruptions and suspensions and financial corrections) reviews and approves the follow-up letters to Member States drafted by the geographical units and the linked decisions on corrective measures, interruptions and suspensions triggered by individual OLAF final case reports. The manual with OLAF contains the procedure.	G.1: ISFC Committee to be informed of follow-up letters to Member States on individual OLAF final case reports and to approve related decisions on interruptions and suspensions, if any.	
Financial unit(s)	A.3: Reporting/coordination of financial corrections.	F.2: Reporting/coordination of financial corrections.	F.1: Reporting/coordination of financial corrections.
Trade and markets (DG MARE)	NA	NA	B.2: Consultation on cases related to the financial support of Common Market Organisation-CMO related measures (i.e. based on Article 66, 67, and 68 of the EMFF).
Internal control coordinator	DGA1.01: Coordination of the identification of internal fraud risks within the annual DG level risk exercise.	Dir. R: Coordination of the identification of fraud risks within the annual DG level risk exercise.	F.1: Coordination of the identification of fraud risks within the annual DG level risk exercise.

5.2 (Anti-fraud) IT tools

Application	Function/units involved		
	DG REGIO	DG EMPL	DG MARE
IMS (Irregularity Management System)	<p>C.1: consultation of IMS for reporting purposes and for closure related issues. Assistance on IMS in the DG.</p> <p>All geographical units: in the lead for the follow-up/closure of irregularities (in line with programming period-specific arrangements).</p>	<p>G.1: consultation of IMS for reporting purposes and for closure related issues. Assistance on IMS in the DG.</p> <p>G.2, G3: consultation of IMS before audit.</p> <p>All geographical units: follow-up/closure of irregularities (in line with programming period-specific arrangements).</p>	<p>A.3: consultation of IMS for reporting purposes and for closure related issues.</p> <p>All geographical units: follow-up/closure of irregularities (in line with programming period-specific arrangements).</p>
MAPAR, phase 1 (specific to REGIO and EMPL)	<p>C.1: introduce audit missions.</p> <p>C.2, C.3, C.4: encode information from audit planning until final audit report.</p>	<p>G.2, G.3: encode all from audit planning until final audit report.</p>	NA
AREP/MAPAR phase 2 (specific to EMPL)	<p>n/a (REGIO uses an Excel-based tool for the purpose of monitoring of fraud suspicions, on-going OLAF cases and cases in follow-up)</p>	<p>G.1 encoding of OLAF's financial recommendations, closure.</p> <p>G.2, G.3: Follow-up (closure) of ESF/FEAD audits recommendations.</p> <p>Geographical units: encode follow-up actions; propose closure.</p>	NA
GESCOMAF (specific to EMPL)	n/a	<p>G1: encoding of all cases subject to communications between OLAF and EMPL.</p>	n/a

	DG REGIO	DG EMPL	DG MARE
ARACHNE	C2, C3 and C4: checking of beneficiaries, contractors, projects, Operational Programmes, as necessary	G.2, G.3: checking of beneficiaries, contractors, projects, Operational Programmes	NA

The Directors-General of REGIO and EMPL have decided to promote Member States' use of smart IT data-mining tools in the fight against fraud. One such tool is the ARACHNE tool, which has been developed by EMPL and REGIO and which is being implemented by some Member States on a voluntary basis⁵⁶. This software is based on Member States' implementation data (internal data), i.e. data held by beneficiaries at the level of the Managing Authorities and/or their Intermediary Bodies and on external data, i.e. (i) the Orbis database containing the annual accounts of approximately 120 million companies and (ii) data provided by World Compliance including the so-called PEP (Politically Exposed Persons) list, Sanction lists, Enforcement lists and adverse media lists. The processing of the latter data, i.e. the data originating from World Compliance, are data falling under Article 10(5) of Regulation 45/2001. The processing of data under ARACHNE will be carried out exclusively with a view of identifying risks of fraud and irregularities at the level of beneficiaries, contractors, contracts and projects, both at project approval as well as at project implementation phase. Under no circumstances will the data be used for anything other than the fraud/irregularity indicators' identification in the framework of the implementation of projects. The data quality shall be ensured (i) by implementing the feedback loop with which the users of the system can make corrections in case of "false positives"⁵⁷, (ii) regular meetings with LexisNexis (owner of the World Compliance database) in order to seek assurance as to the manner in which data is included in the various lists. The data will be stored in line with the regulatory provisions of the Regulations governing the implementation of the Funds, i.e. three years after the final payment for the 2007-2013 programming period, and three years after the year in which the annual accounts of an Operational Programme have been approved by the Commission for the 2014-2020 programming period. A document setting out the rights and obligations of Member States and the Commission (including access to data by the European Court of Auditors) will be shared with member States using Arachne.

⁵⁶ As of 7 October 2015, 21 Member States were involved at different stages of testing Arachne at least for one 2007-2013 programme per country.

⁵⁷ By false positives is meant a result which wrongly indicates that a particular condition or attribute is present, in this case an indication of irregularity or a fraud suspicion.

5.3 Specific procedures, anti-fraud networks

Network	Tasks/units involved		
	DG REGIO	DG EMPL	DG MARE
COCOLAF and sub-groups	C.1: representation of the DG; active contributions	G.1: representation of the DG; active contributions	F.1: representation of the DG; active contributions
Commission's Fraud Prevention and Detection (FDP)-Net	C.1; representation of the DG; active contribution	G.1; representation of the DG; active contribution	F.1: representation of the DG; active contributions
DG's Manual on relations with OLAF	C.1: elaboration/up-dates.	G.1: elaboration/up-dates	F.1: elaboration/up-dates
Ad hoc technical meetings with audit authorities	Ad hoc issues	Ad hoc issues	Ad hoc issues
Annual audit coordination meetings with AAs	C.1: information and awareness raising	G.1: information and awareness raising	F.1: information and awareness raising

6. STRATEGY AND ACTION PLAN

Action plan implementing the JAFS:

Taking into account the fraud risk assessment elements set out above under section 4, the DGs have decided to concentrate their efforts in the years 2015 to 2017 on achieving **two priority objectives** (axis 1 and 2):

- 1) Analysis of Member States' fraud risk assessment 2014-2020 for the purpose of underpinning a revised JAFS action plan, as necessary (a first revision will take place by 2017);
- 2) Increasing the effective use by Member States of the ARACHNE tool to detect potential fraud (REGIO and EMPL).

The actions aiming at achieving these two priority objectives of JAFS 2015-2020 will be reviewed in 2017 and adapted taking into account the results of the analysis of risk assessment performed by Member States (see section 4 above).

In addition, nine other objectives under Axis 3 to 5 below will be pursued (see the timeline for their implementation below). These nine actions, apart from the action related to enhanced collaboration with academics, are carried over from the previous strategy and are necessary to ensure an adequate degree of anti-fraud measures in the DGs. Their continuity throughout 2015 has ensured that the EU

Moreover, the audit workforce in DG REGIO, EMPL and MARE⁵⁸ will deal with anti-fraud issues in the context of their annual audit plan, among other standard legality- regularity audits or thematic audits. If the current available resources are not sufficient to implement the 2015-2020 JAFS, the additional tasks will be outsourced under the close supervision of DGs' auditors.

Finally, it is not foreseen to increase resources in the geographical desks to implement the JAFS 2015-2020.

1 -2. AXIS: PRIORITY OBJECTIVES

The first and second axis (corresponding to priority objectives 1 and 2), relate to REGIO's, EMPL's and MARE's qualitative analysis of Member States' fraud risk assessments 2014-2020 and to increasing the use by Member States of IT tools to detect potential fraud, respectively. These are the key priorities for 2015-2016.

Priority Objective 1: Qualitative analysis of Member States' fraud risk assessments 2014-2020 (compliance with Article 125.4 c) of the CPR)			
Action(s)	<p>The three DGs will carry out verification in 2015-2016 of the compliance of the managing authorities with Article 125.4 c) of the CPR.</p> <p>The three DGs will verify to what extent</p> <ul style="list-style-type: none"> • the managing authorities' fraud risk assessments under point c) of Article 125(4) of the CPR are reliable, complete and effective; • sufficient mitigating measures have been taken by the managing authorities to address the identified residual risks. <p>The output will be a global fraud risk assessment which will be the basis for the revision of the JAFS end 2016.</p>		
DG	REGIO	EMPL	MARE
Unit responsible	REGIO.C.1, C.2, C.3 and C.4	EMPL.G.1, G.2 and G.3	MARE.F.1
Target date	31.12.2016	31.12.2016	31.12.2016
Indicator	As part of the review of the designation package (on a sample basis) 51 OPs' fraud risk assessments analysed before the target date.	Analysis of a minimum of 15 Member State fraud risk assessments carried out before the target date	Analysis of a minimum of 8 Member State fraud risk assessments carried out before the target date

⁵⁸ The audit workforce as of May 2015 is 52 FTEs for REGIO, 31 for EMPL and 8 for MARE according to the Single Audit Strategy: Ref. Ares(2015)2600683 – 22/6/2015.

	Further OPs may be covered through fact-finding missions and early preventive system audits.		
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Priority Objective 2: Increasing the use by Member States of IT tools to detect potential fraud (REGIO and EMPL)

Action(s)	<p>DG REGIO and DG EMPL will develop and implement the voluntary use of ARACHNE software in Member States. See details above under section 5.</p> <p>The Commission invites Member States to use ARACHNE or similar tools capable of increasing the management and control systems' capacity to detect fraud and corruption.</p> <p>At the end of 2017, a review of the use of ARACHNE (and its potential for effectively helping Member States to detect potential fraud) will be performed. This review will be necessary in order to prepare the contractual conditions for a continued support of MS on the use of the Arachne tool.</p> <p>If needed, it could be proposed in 2017 to work with Member States on how to improve the effectiveness of the tool in the context of preparing the anti-fraud part of the Commission's legislative proposal for the next programming period by taking stock of the expertise gathered on the ground.</p>		
DG	REGIO	EMPL	MARE
Unit responsible	REGIO.C.1	EMPL.G.1, G.2 and G3	N/A
Target date	31.12.2016	31.12.2016	N/A
Indicator	Critical mass of Member states actively using the Arachne tool: either 16-20 Member States actively using the Arachne tool in production for 2014-2020 programmes, or 50% of ERDF and ESF allocation covered by Arachne.		N/A

3. AXIS: FRAUD PREVENTION AND DETECTION OBJECTIVES INTERNAL TO THE DGs

The third axis, objectives 3.1 to 3.5, relate to fraud prevention and detection objectives internal to the DGs.

Objective 3.1: Enhanced collaboration with academics			
Action(s)	<p>Under this objective two strands will be implemented:</p> <p>1) First, the DGs will increase their cooperation with academics with the objective of improving the effectiveness of fraud prevention and detection measures, the knowledge of the magnitude of fraud and related modus operandi. One of the underlying purposes is to obtain a parallel qualitative analysis of the magnitude of fraud to the statistical analysis based on data provided by Member States through the Irregularities Management System (IMS).</p> <p>2) The DGs will increase their cooperation with academics with the objective of improving their knowledge of corruption and fraud in public procurement with a particular view to identifying measures to help tackle illicit influence of politicians/administrations/businesses in the public procurement process. Such undue influence may relate to the decision-making process of the contracting entity. It may also involve obtaining confidential information giving some parties an undue advantage in the procurement procedure.</p> <p>For this purpose, REGIO plans to contract private companies/academics using the following financial means: the Competitive Multiple Framework Contract on studies which covers all Member States and Candidate Countries which are beneficiaries of the ESI Funds⁵⁹ and the DGs' Technical Assistance funds.</p>		
DG	REGIO	EMPL	MARE
Unit responsible	REGIO.C.1 and REGIO.E.1	EMPL.G.1	MARE.F.1
Target date	Continuous	Continuous	Continuous
Indicator	Completed studies	(only first strand)	N/A

⁵⁹ Task 3 of this framework contract covers analysis of the effectiveness of fraud prevention and detection measures used by the Commission and/or EU regions and Member States in relation to Cohesion Policy and the ESI Funds.

Objective 3.2: Improved dissemination of anti-fraud information			
Action(s)	<p>The DGs will continue to regularly update their intranet sites as regards their anti-fraud activities in order to ensure they cover all relevant information that desk officers and auditors may need in the area of fight against fraud.</p> <p>The DGs are committed to provide information/updates of information on their anti-fraud activities at their own initiative and at OLAF's request to be published on the dedicated Commission's anti-fraud website developed by OLAF.</p>		
DG	REGIO	EMPL	MARE
Unit responsible	REGIO.C.1	EMPL.G.1	MARE.F.1
Target date	Continuous	Continuous	Continuous
Indicator	Anti-fraud websites updated timely		

Objective 3.3: Provision of instructions to staff of the DGs regarding all OLAF-related procedures			
Action(s)	The DGs will continue to regularly update their internal manuals on relations with OLAF.		
DG	REGIO	EMPL	MARE
Unit responsible	REGIO.C.1	EMPL.G.1	MARE.F.1
Target date	Continuous	Continuous	Continuous
Indicator	Up-to-date manuals on relations with OLAF		

Objective 3.4: Ensuring that auditors and desk officers are vigilant regarding prevention and detection of fraud.			
Action(s)	The DGs will provide training to desk officers and auditors on anti-fraud issues. Presentations will be organised in the DGs (the contents will e.g. include the manual on relations with OLAF, the JAFS 2015-2020 and results from collaboration with academics).		
DG	REGIO	EMPL	MARE
Unit	REGIO.C.1	EMPL.G.1	MARE.F.1

responsible			
Target date	Continuous	Continuous	Continuous
Indicator	2 internal training sessions in the DG annually	2 internal training sessions in the DG annually	2 internal training actions in the DG annually
	Desk officers and auditors alert to possible fraud cases		

Objective 3.5: Staying up-to-date with the development of anti-fraud measures at EC level and exchanging best practices			
Action(s)	<p>The DGs will participate in the meetings of the FDPNet and make use of the expertise and best practice identified through the network.</p> <p>The DGs and OLAF will have regular meetings to discuss fraud prevention and detection issues and form a subgroup for structural actions of the FDPNet.</p>		
DG	REGIO	EMPL	MARE
Unit responsible	REGIO.C.1	EMPL.G.1	MARE.F.1
Target date	According to the frequency of FDPNet meetings	According to the frequency of FDPNet meetings	According to the frequency of FDPNet meetings
Indicator	Active participation in FDPNet meetings and feedback to the audit directorate	Active participation in FDPNet meetings and feedback to relevant EMPL units	Active participation in FDPNet meetings

4. AXIS: FRAUD PREVENTION AND DETECTION OBJECTIVES IN RELATION TO MEMBER STATES' RESPONSIBLE AUTHORITIES

The fourth axis, objectives 4.1 to 4.3 relate to fraud prevention and detection objectives in relation to Member States' authorities.

Objective 4.1: Ensuring that Member States obtain appropriate guidance on fraud risk assessment and anti-fraud measures			
Action(s)	The DGs will continue to provide to Member States information/training on <ul style="list-style-type: none"> • the fraud risk assessment guidance (ref. EGESIF_14-0021-00 16/6/2014) • the ARACHNE tool developed by the Commission 		
DG	REGIO	EMPL	MARE
Unit responsible	REGIO.C.1	EMPL.G.1/G.2	MARE.F.1
Target date	Continuous	Continuous	Continuous
Indicator	3 external training sessions for MS annually	3 external training sessions for MS (annually)	N/A

Objective 4.2: Develop the exchange with Member States on anti-fraud policy			
Action(s)	<p>The three DGs and OLAF will systematically invite each other to COCOLAF, EGESIF, monitoring committee meetings and annual coordination meetings with audit authorities, which are appropriate fora to raise anti-fraud issues with Member States. Issues such as fraud patterns, trends, risk indicators and methodologies shall be presented and discussed in such fora.</p> <p>The participants will diffuse relevant information in their respective DGs for awareness-raising purposes.</p>		
DG	REGIO	EMPL	MARE
Unit responsible	REGIO.C.1	EMPL.G.1and G2/G3	MARE.F.1
Target date	Continuous	Continuous	Continuous
Indicator	Active participation in COCOLAF meetings and feedback to the audit directorate and REGIO units.	Active participation in COCOLAF meetings and feedback to the relevant EMPL units.	Active participation in COCOLAF meetings and feedback to the relevant MARE units.

Objective 4.3: Providing up-to-date information on anti-fraud measures to Member States and supporting them in their anti-fraud efforts			
Action(s)	The DGs will continue to make information on anti-fraud issues available on the dedicated anti-fraud platform on SFC2014 (part of the electronic tool for exchange of SF data between the Commission and the Member States) and on InfoRegio on the Europa website.		
DG	REGIO	EMPL	MARE
Unit responsible	REGIO.C.1	EMPL.G.1	MARE.F.1
Target date	Continuous	Continuous	Continuous
Indicator	Up-to-date information on SFC2014 and InfoRegio accessible to MS staff.	An up-to-date platform on SFC2014 accessible to MS staff.	

5. AXIS: EFFICIENT AND TIMELY FOLLOW-UP AND REPORTING ON FOLLOW-UP OF OLAF'S FINAL CASE REPORTS

The fifth axis, objective 5, relates to efficient and timely follow-up and reporting on follow-up of OLAF's final case reports.

OLAF is the EU body competent to carry out administrative investigations for the purpose of fighting fraud, corruption and any other illegal activity affecting the financial interests of the Union⁶⁰. Following the receipt of an OLAF final case report with regard to fraud and corruption, REGIO, EMPL and MARE as Authorising Officers for the related expenditure, will implement OLAF's (non-binding) recommendations (financial or other). They will swiftly recover unduly spent funds from the Member States, as necessary.

⁶⁰ Article 1(4) of Regulation (EU) No 888/2013 of the European Parliament and of the Council concerning investigations conducted by the European Anti-Fraud Office (OLAF).

Objective 5: Monitoring of recommendations in final case reports issued by OLAF to the DGs

<p>Action(s)</p>	<p>Follow-up to individual case reports:</p> <p>Appropriate follow-up to OLAF's final case reports by the geographical directorates will be swift.</p> <p>The three DGs seek to ensure that OLAF is informed about the follow-up given to individual OLAF's final case reports within the deadline set by OLAF (as a rule 12 months).</p> <p>OLAF has indicated it would seek to increasingly consult the DGs prior to the issuance of final case reports, in particular where the case is complex and/or the recommendations involve a significant financial impact. This is likely to further facilitate and speed up the follow-up.</p> <p>Annual reporting on follow-up:</p> <p>The DGs will annually inform OLAF and BUDG by end of January year N+1, following the official request from OLAF, regarding the follow-up actions undertaken in year N in relation to all financial recommendations set out in all of OLAF's Final Case Reports for which recommendations have been received.</p>		
<p>DG</p>	<p>REGIO</p>	<p>EMPL</p>	<p>MARE</p>
<p>Unit responsible</p>	<p>All geographical units (individual follow-up of cases)</p> <p>REGIO.C.1 + A.3 (annual reporting). F.1 via the ISFCC Committee (the REGIO committee for interruptions and suspensions and financial corrections) reviews and approves the follow-up letters to Member States drafted by the geographical units and the linked decisions on corrective measures, interruptions and suspensions triggered by individual OLAF final case reports. The manual with OLAF</p>		

	contains the procedure.		
Target date	<p style="text-align: center;">Individual follow-up: within OLAF's deadline</p> <p style="text-align: center;">Annual reporting: continuous and timely feedback to OLAF, in particular in January year N+1</p>		
Indicator	<p>The OLAF contact point in REGIO monitors the geographical units' intermediate reports on the state of play of follow-up contained in their Unit Management Plans and reports in January N+1 to OLAF via unit A3.</p>	<p>The OLAF contact point in EMPL collects from geographical units the information on the state of play of the follow-up of OLAF recommendations and reports timely by January N+1 to OLAF.</p>	<p>The OLAF contact point in MARE collects from geographical units the information on the state of play of the follow-up of OLAF recommendations and reports timely by January N+1 to OLAF.</p>

ANNEX 1: ANTI-FRAUD STRATEGY FOR THE FUND FOR EUROPEAN AID TO THE MOST DEPRIVED (FEAD)

The Fund for European Aid to the most Deprived (FEAD), set up by Regulation (EU) No 223/2014 of the European Parliament and of the Council of 11 March 2014⁶¹, constitutes a new fund⁶² with the specific objective to contribute to alleviating the worst forms of poverty in the Union.

The fund's scope⁶³ includes the possibility for Member States to use their allocation to provide food aid and/or basic material assistance (e.g. clothing, hygiene goods, school material), but also social inclusion measures for the EU's most deprived citizens.

The FEAD works in a very similar way as the ESI Funds. Based on a shared management approach, the Commission approves seven-year operational programmes put forward by the Member States, who choose how FEAD funding will support food, basic material assistance or social inclusion, and which partner organisations will be used.

To some extent the FEAD programme authorities are the same as those responsible for the implementation of the ESF.

The provisions of the FEAD regulations relating to the protection of the EU's financial interests through anti-fraud measures correspond to those applying to the other funds:

FEAD Regulation (EU) No 223/2014	Common Provision Regulation
<p>Article 28 (h)</p> <p>"Management and control systems shall, in accordance with Article 5(7), provide for: [...]</p> <p>(h)the prevention, detection and correction of irregularities, including fraud, and the recovery of amounts unduly paid, together with any interest on late payments.</p>	<p>Article 72</p>
<p>Article 30.2</p> <p>"Member States shall prevent, detect and correct irregularities and shall recover amounts unduly paid, together with any interest on late payments. They shall notify the Commission of irregularities that exceed EUR 10 000 in contribution from the Fund and shall keep it informed of significant</p>	<p>Article 122</p>

⁶¹ OJ L 72 of 12.3.2014, p.1

⁶² The FEAD was set up as the successor to the EU's Food Distribution Programme for the Most Deprived People (MDP), which has been running since 1987, relying on Common Agricultural Policy funds. However, the FEAD is not a simple extension of the MDP.

⁶³ See also above under 1.3.2.

<p>progress in related administrative and legal proceedings."</p>	
<p>Article 32.4(c) "As regards the financial management and control of the operational programme, the managing authority shall: (c)put in place effective and proportionate anti-fraud measures taking into account the risks identified; "</p>	<p>Article 125.4(c)</p>
<p>Article 35.2 " The designations referred to in paragraph 1 shall be based on a report and an opinion of an independent audit body that assesses the fulfilment by the authorities of the criteria relating to the internal control environment, risk management, management and control activities, and monitoring set out in Annex IV." Annex IV Designation Criteria for the managing authority and the certifying authority Managing authority (vi)procedures for putting in place effective and proportionate anti-fraud measures;</p>	<p>Article 124 Annex XIII</p>
<p>Commission Delegated Regulation (EU) No 532/2014</p>	<p>Commission Delegated Regulation (EU) No 480/2014</p>
<p>Article 8.1 "The Commission shall base its assessment of the effective functioning of management and control systems on the results of all available systems audits, including tests of controls, and of audits of operations. The assessment shall cover the internal control environment of the programme, the management and control activities of the managing and certifying authorities, monitoring by the managing and certifying authority, and the control activities of the audit authority and shall be based on verification of compliance with the key requirements set out in Table 1 of Annex II. The fulfilment of these key requirements</p>	<p>Article 30.1</p>

shall be assessed on the basis of the categories set out in Table 2 of Annex II.	
– Table 1 of Annex II) Key requirements	- Table 1 of annex IV Key requirements
Key requirement 7: Effective implementation of proportionate anti-fraud measures.	

As implementation of the FEAD has just started⁶⁴, no specific information on (potential) fraud risks is available yet. No fraud allegations have been communicated to the Commission. Therefore, any fraud risk assessment considerations concerning the FEAD at this moment in time can only be of a general nature taking into account *mutatis mutandis* the knowledge about fraud risks in the other funds (see above sections 4.1 and 4.2) and, at the same time, recognizing that certain elements - such as the number of organisations/operations/beneficiaries involved in the implementation of the fund, the diversity of the supported operations, as well as the amounts of funding provided - are lower, when comparing the FEAD to the context of the other funds.

In the light of the above, the strategy and action plan set out in the JAFS 2015 – 2020 under section 6, in particular the objectives to be pursued, will also apply to the FEAD having regard to the following specificities:

- Priority objective 1: The relevant legal provision to be referred to under this objective is article 32.4(c) FEAD Regulation.
- Objective 3: The need for collaboration with academics on fraud matters specifically with regard to the FEAD will be assessed by DG EMPL at a later stage of programme implementation.
- Objective 8: Member States' FEAD authorities are further encouraged to use the existing fraud risk assessment guidance; the guidance (including the related tool) will be adapted for the FEAD.
- Objective 9: The exchange with Member States on anti-fraud policy will also be ensured in the context of the FEAD Expert Group.

⁶⁴ At the end of March 2015, the Commission had approved a total of 28 operational programmes put together by the Member States in line with their individual allocations set out in the FEAD Regulation. 24 Member States opted for food and/or basic material assistance operational programmes. Out of these, 14 programmes combine food and basic material assistance while others focus on food aid. Several countries have included measures for funding school materials and equipment for children in need. 4 Member States will implement social inclusion operational programmes. On 31/08/2015 the first interim payment request was received by the Commission (FEAD OP Latvia).

ANNEX 2: LEGISLATIVE AND REGULATORY FRAMEWORK RELEVANT TO THE PROTECTION OF THE FINANCIAL INTERESTS OF THE EUROPEAN UNION UNDER SHARED MANAGEMENT AND IN PARTICULAR FOR THE FUNDS COVERED BY THE STRATEGY

Main and secondary legislation:

- **Articles 310, 317 and 325 TFEU**

Article 310(6) TFEU: *"The Union and the Member States, in accordance with Article 325, shall counter fraud and any other illegal activities affecting the financial interests of the Union."*

Article 317 TFEU: *"The Commission shall implement the budget in cooperation with the Member States, [...] on its own responsibility and within the limits of the appropriations, having regard to the principles of sound financial management. Member States shall cooperate with the Commission to ensure that the appropriations are used in accordance with the principles of sound financial management."*

Article 325 TFEU:

(1) *"The Union and the Member States shall counter fraud and any other illegal activities affecting the financial interests of the Union [...]."*

(2) *"Member States shall take the same measures to counter fraud affecting the financial interests of the Union as they take to counter fraud affecting their own financial interests."*

- **Article 59(2) b of the FR⁶⁵**

"2. When executing tasks relating to the implementation of the budget, Member States shall take all the necessary measures, including legislative, regulatory and administrative measures, to protect the Union's financial interests, namely by:

[...]

(b) preventing, detecting and correcting irregularities and fraud."

- **Articles 72, 122, 124 - Annex XIII , 125 of the CPR**

Article 72 CPR: *"Management and control systems shall, [...], provide for: [...]*

(h) the prevention, detection and correction of irregularities, including fraud, and the recovery of amounts unduly paid, together with any interest on late payments."

Article 122(2) CPR: *"Member States shall prevent, detect and correct irregularities and shall recover amounts unduly paid, together with any interest on late payments. They shall notify the Commission of irregularities that exceed EUR 10 000 in contribution from the Funds and shall keep it informed of significant progress in related administrative and legal proceedings. [...]"*

Article 124(2) CPR: *"The designations referred to above [of the managing and certifying authority] shall be based on a report and an opinion of an independent audit body that assesses the fulfilment by*

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the authorities of the criteria relating to the internal control environment, risk management, management and control activities, and monitoring set out in Annex XIII."

Annex XIII of the CPR:

"Designation criteria for the managing authority and the certifying authority

[...]

A. Managing authority

[...]

(vi) Procedures for putting in place effective and proportionate anti-fraud measures. [...]"

Article 125.4 CPR: *"As regards the financial management and control of the operational programme, the managing authority shall: [...]*

(c) put in place effective and proportionate anti-fraud measures taking into account the risks identified;

[...]"

- **Article 30 - Annex IV, table 1 of Commission Delegated Regulation (EU) No 480/2014**

Article 30: *"1.The Commission shall base its assessment of the effective functioning of management and control systems on the results of all available systems audits, including tests of controls, and of audits of operations.*

The assessment shall cover the internal control environment of the programme, the management and control activities of the managing and certifying authorities, monitoring by the managing and certifying authority, and the control activities of the audit authority and shall be based on verification of compliance with the key requirements set out in Table 1 of Annex IV. [...]"

Annex IV, Table 1:

"ANNEX IV

Key requirements of management and control systems and their classification with regard to their effective functioning referred to in Article 30

Table 1

Key requirements[...]

7 Effective implementation of proportionate anti-fraud measures

[...]"

ANNEX 3: DEFINITIONS RELEVANT TO THE PROTECTION OF THE FINANCIAL INTERESTS OF THE EUROPEAN UNION UNDER SHARED MANAGEMENT

Irregularity (Article 2(36) of CPR Regulation (EU) No 1303/2013 and Article 2 (16) of FEAD regulation):

"irregularity' means any breach of Union law, or of national law relating to its application, resulting from an act or omission by an economic operator involved in the implementation of the ESI Funds, which has, or would have, the effect of prejudicing the budget of the Union by charging an unjustified item of expenditure to the budget of the Union."

Systemic irregularity (Article 2(38) of CPR Regulation (EU) No 1303/2013 and Article 2 (18) of FEAD regulation):

"systemic irregularity' means any irregularity, which may be of a recurring nature, with a high probability of occurrence in similar types of operations, which results from a serious deficiency in the effective functioning of a management and control system, including a failure to establish appropriate procedures in accordance with this Regulation and the Fund-specific rules;"

Fraud (Convention drawn up on the basis of Article K.3 of the Treaty on European Union, on the protection of the European Communities' financial interests⁶⁶):

"fraud" affecting the European Communities' financial interests shall consist of, in respect of expenditure, as any intentional act or omission relating to:

- *the use or presentation of false, incorrect or incomplete statements or documents, which has as its effect the misappropriation or wrongful retention of funds from the general budget of the European Communities or budgets managed by, or on behalf of, the European Communities;*
- *non-disclosure of information in violation of a specific obligation, with the same effect;*
- *the misapplication of such funds for purposes other than those for which they were originally granted."*

Suspected fraud (Article 27 of Regulation (EC) No 1828/2006⁶⁷)

"Suspected fraud' means an irregularity that gives rise to the initiation of administrative or judicial proceedings at national level in order to establish the presence of intentional behaviour, in particular fraud, as referred to in Article 1(1)(a) of the Convention drawn up on the basis of Article K.3 of the Treaty on European Union, on the protection of the European Communities' financial interests."

⁶⁶ OJ C 316 of 27.11.1995, p. 49. See also Proposal for a directive of the European parliament and of the Council on the fight against fraud to the Union's financial interests by means of criminal law (COM(2012)363).

⁶⁷ OJ L 371 of 27.12.2006, p. 1. The proposed (but not yet adopted) Commission Delegated Regulations on specific provisions on the reporting of irregularities concerning the funds have taken over the same definition of suspected fraud.

Corruption : Communication from the Commission to the Council, the European Parliament and the European Economic and Social Committee - On a comprehensive EU policy against corruption [COM(2003) 317 final - Not published in the Official Journal]⁶⁸

This communication adopts the definition of corruption used by the United Nations' Global Programme against Corruption, meaning "abuse of position for personal gain"

⁶⁸ <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:l33301>