**Question:**

We are preparing a notification for an amendment of an existing GBER regional urban development scheme. We will very much appreciate the assistance of the services of the European Commission regarding the rule in GBER art. 16(2) b) which requires that the projects shall be co-financed by the European Structural and Investment Funds.

The regional urban development scheme (SA.49462) has been notified in 2017 and is co-financed by ESI Funds. In 2020 the scheme has been prolonged until 31.12.2023 (SA.59696). We would like to prolong the scheme until the end of 2026 in line with art. 59 of GBER.

According to art. 45 of Regulation (EU) No 1303/2013 (CPR 1303) “Re-use of resources after the end of the eligibility period” Member States are obliged to ensure that the resources paid back to the financial instrument during a period of at least eight years after the end of the eligibility period (31.12.2023), which are attributable to the support from the ESI Funds to financial instruments [...] are re-used in accordance with the aims of the programme […] either within the same financial instrument or, following the exit of those resources from the financial instrument, in other financial instruments.

In line with the stated requirement of the CPR 1303, we intend to re-use the resources paid back to the regional urban development scheme, which are attributable to the support from the ESI Funds, within the same financial instrument to finance projects under the same regional urban development scheme under art. 16 of GBER after 31.12.2023 until 31.12.2026. The re-use of the resources has been foreseen in the initial agreements signed with the managers of the Urban Development Funds, chosen following a competitive procedure in line with the requirement of art.16(8) a) of GBER.

The Bulgarian authorities consider that the prolongation of the active regional urban development scheme (SA.49462) until the end of 2026 meets the condition of art. 16(2) b) of GBER, as far as the scheme has been co-financed with ESI Funds from the 2014-2020 programme period until the end of 2023 and will be financed by re-used resources from the same scheme, which can be attributed to the support from the ESI Funds to financial instruments, and will be used within the same financial instrument afterwards in order to fulfil the requirement of art. 45 of CPR 1303, until the end of 2026.

Can you confirm this understanding?

**Reply:**

“Article 16(2)(b) GBER aims to ensure the ESIF eligibility of the respective project. ESIF eligibility is assessed by the Commission at fund or scheme level, not at individual project level. The fund manager is responsible to confirm that individual investments follow the eligibility rules agreed in the programs, regulations, funding agreements or national specific rules.

It is the objective of Articles 44 and 45  of the CPR 1303/2013 to have Member States reinvesting paid back resources into the same or other financial instruments of ESIF programs. The resources paid back are in general subject to the same rules if they are kept in the same FI in order to comply with Art. 45 CPR.

To the extent that resources paid back are redeployed in a financial instrument confirmed as ESIF eligible by the Commission and any individual project under that instrument is hence ESIF-eligible, as assessed by the fund manager, Article 16(2)(b) GBER should not be interpreted to require fresh ESIF funding. This would inflate ESIF spending and counteract the objectives of Articles 44 and 45 CPR 1303/2013 to redeploy former ESIF funds that have been paid back. Instead, in those cases, the redeployed amounts should continue to be considered ESIF co-investments for the purposes of Article 16(2)(b) GBER.”

*Disclaimer: This reply does not represent a formal and definite position of the European Commission but is only an informal guidance provided by the services of DG Competition to facilitate the application of the GBER. It is therefore not binding and cannot create legal certainty or legitimate expectations.*