



The CRII and CRII Plus legislation and other regulatory initiatives

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Crisis response regulatory measures and guidance

- Coronavirus Response Investment Initiative (**CRII**) and Coronavirus Response Investment Initiative Plus (**CRII Plus**) - **amendments to CPR and ERDF regulation**
- **Temporary Framework for State aid measures** to support the economy in the current COVID-19 outbreak
- **Guidance** from the European Commission **on using the public procurement framework in the emergency situation related to the COVID-19 crisis**

Changes in CRII and CRII Plus:

- In Article 37(2)(g) it is added that “by way of derogation from Article 37(2)(g), no review or update of the ex-ante assessments is required where changes in financial instruments are necessary to provide an effective response to the COVID-19 outbreak.”

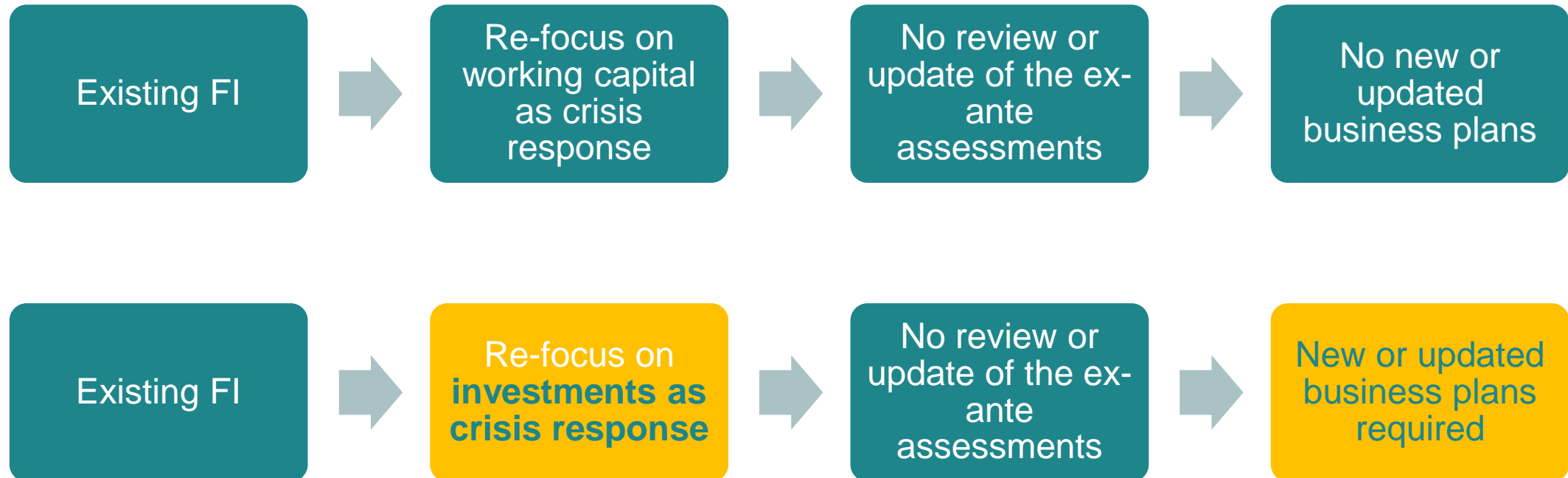
=> No review or update of the ex-ante assessments where changes in financial instruments are necessary to allow existing financial instruments to be **more quickly adapted** to provide an effective response to a public health crisis

Changes in CRII and CRII Plus:

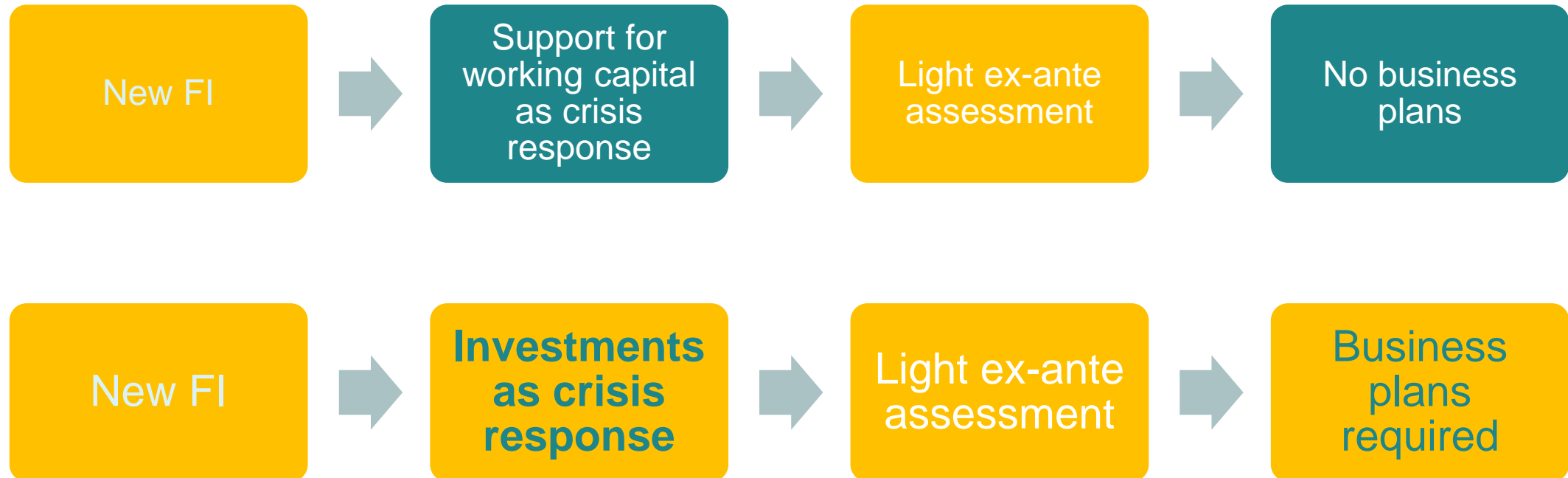
- In Article 37 (4) on financial instruments, it is added that “financial instruments may **also** provide support in the form of **working capital to SMEs** if necessary as a temporary measure **to provide an effective response to a public health crisis.**”
- In Article 37 (4) it is added that “where financial instruments provide support in the form of working capital to SMEs pursuant to the second subparagraph of Article 37(4) (Regulation (EU) 2020/460), new or updated business plans or equivalent documents and evidence allowing verification that the support provided through the financial instruments was **used for its intended purpose** as part of the supporting documents shall **not be required.**”

By way of derogation from Regulation (EU) No 1305/2013, such support may also be provided by the EAFRD under measures referred to in Regulation (EU) No 1305/2013 and relevant to the implementation of financial instruments. Such eligible expenditure shall not exceed EUR 200 000.”

Implementation options



Implementation options



Implementation options

- Expenditure for operations fostering crisis response capacities is eligible from 1 February 2020
- **However**, in case of ESIF financial instruments expenditure is eligible **from the date the adequate amendments (if needed) are introduced in the funding agreement(s)**:
 - extend scope to include a new form of support, e.g. working capital,
 - include a new product, e.g., interest rate subsidy combined with a loan in a single FI operation (Article 37(7) CPR)
- **Programme amendments may be adopted later**, without delaying deployment of measures

Public Procurement

- A need to take into account the **public procurement provisions applicable to the related contractual arrangements, i.e. funding agreements:**
 - between the managing authority and the fund of funds/financial intermediary, and/or
 - between the fund of funds and the financial intermediaries
- **Communication** from the Commission on using the PP framework in the emergency situation:
 - **outlines tools** available to public procurers to respond to the COVID-19 crisis;
 - **provides guidance** as to the interpretation of the **exceptions already provided in the Directive**

Public Procurement

- Public procurers must determine:
 - whether this can be done by a **modification of an existing funding agreement**, in accordance with **Article 72 of the Directive**, or
 - through a **new procedure** using the flexibilities highlighted in the Communication
 - Managing authorities also have the possibility to **directly award contracts** to a body implementing financial instruments supported through the ESI Funds if:
 - such body is either the **EIB/EIF/IFI** (and thus falls outside public procurement rules), or
 - based on the **exceptions of the Directive** (Article 12), or
 - such body is **NPI based on the clarifications in Article 38(4) of the Omnibus Regulation**.
- => Under direct award of contract, the increase of the existing contract value can be made according to the conditions of the contract and no further restrictions would apply.

State aid

- **Temporary Framework** adopted to enable Member States to use the full flexibility foreseen under State aid rules
- **The aid under the Temporary Framework can be cumulated notably with de minimis aid**
- **This means that, for example, the EUR 800 000 direct grant may be cumulated with the EUR 200 000 de minimis support, to provide a total of EUR 1 million of support per undertaking, provided that the State aid rules are respected**
- **The cumulation of aid applies for a limited period since the Temporary Framework is only in place until the end of 2020 (to be reviewed later in the year)**

Undertakings in difficulty

- Point (d) of Article 3(3) Regulation (EU) No 1301/2013 is replaced by the following:
 - *“Undertakings in difficulty as defined in Union State aid rules; undertakings receiving support complying with the State aid Temporary Framework or Commission Regulations (EU) No 1407/2013 , (EU) No 1408/2013 and (EU) No 717/2014 shall not be regarded as undertakings in difficulty for the purposes of this point.”*
- De-minimis regulations continue to apply, and opening in ERDF regulation allows MS being able to finance through ERDF-funded FI also undertaking in difficulty under de-minimis provided Article 4(3) and 4(6) is complied with.
- Undertakings in difficulty are eligible to aid granted under the Temporary Framework, as long as they were not in difficulty on 31 December 2019.

Re-financing

- As a result of the combined reading of the amendments in paragraph (10) and (6) of Article 65 CPR, introduced by the CRII and CRII+ respectively, refinancing is possible under the following conditions to be cumulatively fulfilled:
 - the FIs are set up under the TF or *de minimis* Regulations,
 - the initial loan was not supported by EU as it would constitute double financing,
 - the **ESIF-financed guarantee is provided to an underlying (modified existing or new) loan, as a necessary temporary measure** to provide an effective response to a public health crisis,
 - the guarantee contract allowing for refinancing has to be signed starting with 1 February 2020. The date of signature of such guarantee contract is the starting date for the calculation of the eligibility of expenditure for guarantee contracts in line with Article 42(1)(b) CPR and Article 8 CDR,
- FI operation for which FA is signed between 1 February and 24 April can be selected for the programme support starting with 24 April as a result of Article 25a(7) CRII Plus amendment.

