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COMMISSION OF THE EUROPEAN COMMUNITIES

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2008/0245 (COD)

Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**amending Regulation (EC) No 1080/2006 on the European Regional Development Fund  
as regards the eligibility of energy efficiency and renewable energy investments in  
housing**

## **EXPLANATORY MEMORANDUM**

### **1. CONTEXT OF THE PROPOSAL**

- **Grounds for and objectives of the proposal**

In dealing with the financial crisis, the Commission took the initiative to propose to the Member States a framework aiming to stimulate the real economy<sup>1</sup>. This initiative endorsed by the Member States has subsequently been substantiated by the European Economic Recovery Plan<sup>2</sup> which, among other, suggests the adoption of actions in the priority areas of the Lisbon Strategy. As for the energy, special attention is given to the improvement of energy efficiency in buildings. Member States are, therefore, encouraged to re-programme their Structural Funds Operational Programmes in order to devote a greater share to energy-efficiency investments, including where they fund social housing. To make this happen, an amendment to the current regulatory framework is needed.

- **General context**

Speeding up energy investment in buildings contributes to enhance Europe's sustainable growth potential, to promote EU competitiveness, to improve know how in the field of energy efficiency and renewable energies and to promote the European Energy Strategy objectives. Moreover, public investment in favour of low-income households confirms solidarity and ensures social cohesion in this period.

Although there is no EU competence, different EU policies have an impact on housing. The decision to support energy investment in buildings, including social housing, lies within the competence of the Member States. Recently, the Housing Ministers on their informal meeting held in Marseille on 24 November 2008 stressed the importance and the need for such support.

In the current situation, at first stage, it is important to make possible the use of the EU financial support for this type of investments by providing all Member States with the appropriate legal instrument and, subsequently, to ensure the appropriate use of this facility by the Member States. Moreover, EU co-financed public support should be limited only to those households which are most in need.

The envisaged proposal promotes investment in the fields of energy efficiency and renewable energies which constitutes one of the core elements of the EU Energy and Climate Change Strategy and both constitute priority interventions under the ERDF.

- **Existing provisions in the area of the proposal**

Under the current regulatory framework, ERDF supported interventions in the housing sector, including energy efficiency, are reserved only for Member States that acceded to the European Union on or after 1 May 2004, and under the conditions set out in

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<sup>1</sup> COM(2008) 706.

<sup>2</sup> COM(2008) 800.

Article 7(2) of Regulation (EC) No 1080/2006.

- **Consistency with the other policies and objectives of the Union**

The proposal is fully consistent with the EU policy objectives in the fields of environment, energy efficiency and renewable energies and promotes the objectives of Directive 2002/91/EC on energy performance of buildings<sup>3</sup>, of Directive 2006/32/EC on energy end-use efficiency and energy services and repealing Council Directive 93/76/EEC<sup>4</sup> and of Proposal for a directive of the European Parliament and of the Council on the promotion of the use of energy from renewable sources<sup>5</sup>.

## 2. CONSULTATION OF INTERESTED PARTIES AND IMPACT ASSESSMENT

- **Consultation of interested parties**

*Consultation methods, main sectors targeted and general profile of respondents*

Two meetings of the Coordination Committee of the Funds on 24 September 2008 and 21 October 2008 provided opportunities to examine the extent of the flexibility permitted under the text of the Regulation via a guidance note on eligibility of energy efficiency and renewable energies in buildings (COCOF note No 08/0034/02).

*Summary of responses and how they have been taken into account*

The outcome of all these consultations was that the Member States felt that solutions based on the interpretation of Regulation No 1080/2006 were not adequate.

- **Collection and use of expertise**

There was no need for external expertise.

- **Impact assessment**

The present proposal completes a series of non-regulatory adjustments which have sought to ensure that all Member States can fully exploit the existing co-financing possibilities under the ERDF and the Cohesion Fund (COCOF note No 08/0034/02).

It broadens the scope of eligibility of expenditure on housing, in order to permit and facilitate further investments which could not be possible without modification of the existing regulatory framework.

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<sup>3</sup> OJ L 1, 4.1.2003, p. 65.

<sup>4</sup> OJ L 114, 27.4.2006, p. 64.

<sup>5</sup> COM(2008) 19, 23.1.2008.

### **3. LEGAL ELEMENTS OF THE PROPOSAL**

- **Summary of the proposed action**

The proposed modification to Regulation (EC) No 1080/2006 on the European Regional Development Fund seeks to permit and facilitate energy efficiency and renewable energies interventions in the housing sector in all Member States. In order to achieve substantial economic results, it is important to undertake this type of investment not in a fragmentary and isolated way but in the framework of a scheme set up by the national public authorities at the appropriate level. This scheme can be for instance a State Aid scheme or a public works programme at large scale. It is also essential, in the framework of interventions under the cohesion policy, to concentrate the efforts where the public intervention is needed, in the case at issue to the benefit of the low-income households. As there is no EU definition of the latter, Member States have to apply a national definition based on national provisions in force.

- **Legal basis**

European Parliament and Council Regulation (EC) No 1080/2006 on the European Regional Development Fund and repealing Regulation (EC) No 1783/1999 in its Article 7 defines the eligibility rules applicable to the housing sector.

- **Subsidiarity principle**

The proposal complies with the subsidiarity principle to the extent that it seeks to provide support to the Member States through changes that strengthen their role within the framework of shared management of the Funds. Moreover, the envisaged proposal permits the Member States to frame the public support in the way they consider more appropriate and, for the definition of the low income households, to use national definitions.

- **Proportionality principle**

The proposal complies with the proportionality principle for the following reason(s).

The proposal conforms to the proportionality principle since it is limited to provide for the eligibility in all Member States under the ERDF of energy investments in the housing sector for the low-income households without fixing additional conditions.

The proposal offers an additional possibility for investment activity in the Member States for the benefit only of those who need the public support.

- **Choice of instruments**

Proposed instruments: regulation.

Other means would not be adequate for the following reason(s).

The Commission has already explored the limits offered by the current legislation. Even with the most flexible interpretation, the current rules setting a limited eligibility

do not permit important investments in the housing sector in all Member States.

**4. BUDGETARY IMPLICATION**

The proposal has no implication for the Community budget.

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THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 162 thereof,

Having regard to the proposal from the Commission<sup>6</sup>,

Having regard to the opinion of the European Economic and Social Committee<sup>7</sup>,

Having regard to the opinion of the Committee of the Regions<sup>8</sup>,

Acting in accordance with the procedure laid down in Article 251 of the treaty,

Whereas:

- (1) With the view to enhance Europe's longer-term sustainable growth potential, the Commission has adopted a Communication on a European Economic Recovery Plan<sup>9</sup> which considers the importance of undertaking investments improving energy efficiency of the buildings, including the housing sector.
- (2) The European Regional Development Fund supports interventions in the housing sector, including energy efficiency, only in favour of Member States that acceded to the European Union on or after 1 May 2004, where the conditions set out in Article 7(2) of Regulation (EC) No 1080/2006 of the European Parliament and of the Council of 5 July 2006 on the European Regional Development Fund and repealing Regulation (EC) No 1783/1999<sup>10</sup> are met. Such support for energy efficiency and renewable energy investment in the housing sector should be made available for all Member States.
- (3) Support should be provided to those investments which take place in the framework of public schemes in line with the objectives of the Directive 2006/32/EC of the

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<sup>6</sup> OJ C [...], [...], p. [...].

<sup>7</sup> OJ C [...], [...], p. [...].

<sup>8</sup> OJ C [...], [...], p. [...].

<sup>9</sup> COM(2008) 800, 26.11.2008.

<sup>10</sup> OJ L 210, 31.7.2006, p. 1.

European Parliament and of the Council on energy end-use efficiency and energy services and repealing Council Directive 93/76/EEC<sup>11</sup>.

- (4) In order to ensure that the objectives of economic and social cohesion as set out in Article 158 of the EC Treaty are met, interventions should target low-income households, as defined by the national legislation in force.
- (5) Regulation (EC) No 1080/2006 should therefore be amended accordingly.

HAS ADOPTED THIS REGULATION:

#### *Article 1*

Article 7 of Regulation (EC) No 1080/2006 is amended as follows:

1. The following paragraph 1a. is inserted after paragraph 1:

"1.a. Expenditure on energy efficiency improvement and on the use of renewable energy in existing housing in favour of low-income households shall be eligible for all Member States."

2. The introductory phrase of paragraph 2 is replaced by the following:

"Expenditure on housing, except for energy efficiency and the use of renewable energy as set out in paragraph 1a, shall be eligible only for those Member States that acceded to the European Union on or after 1 May 2004, where the following conditions are met:"

#### *Article 2*

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

*For the European Parliament*  
*The President*

*For the Council*  
*The President*

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<sup>11</sup> OJ L 114, 27.4.2006, p. 64.