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**COMMISSION REGULATION (EU) .../...**

**of 14.12.2022**

**declaring certain categories of aid to undertakings active in the production, processing and marketing of fishery and aquaculture products compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union**

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# COMMISSION REGULATION (EU) .../...

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THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 108(4) thereof,

Having regard to Council Regulation (EU) 2015/1588 of 13 July 2015 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to certain categories of horizontal State aid<sup>1</sup> ('Regulation (EU) 2015/1588'), and in particular Article 1(1), points (a) (i),(ii), (vi), (vii) and (x) thereof,

Having published a draft of this Regulation<sup>2</sup>,

After consulting the Advisory Committee on State Aid,

Whereas:

- (1) State funding meeting the criteria laid down in Article 107(1) of the Treaty on the functioning of the European Union ('TFEU') constitutes State aid and requires notification to the Commission by virtue of Article 108(3) thereof. However, pursuant to Article 109 TFEU, the Council may determine categories of aid that are exempted from this notification requirement. In accordance with Article 108(4) TFEU, the Commission may adopt regulations relating to those categories of aid.
- (2) Regulation (EU) 2015/1588 empowers the Commission to declare, in accordance with Article 109 TFEU, that certain categories of aid may, under certain conditions, be exempted from the notification requirement. The Commission has applied Articles 107 and 108 TFEU to undertakings active in the production, processing and marketing of fishery and aquaculture products in numerous decisions. It has also stated its policy in guidelines specific to that sector. In the light of the Commission's experience in applying those provisions, it is appropriate for the Commission to continue making use of the powers conferred by Regulation (EU) 2015/1588. Therefore, under certain conditions, aid to micro, small and medium-sized enterprises ('SMEs') active in the production, processing and marketing of fishery and aquaculture products, as well as aid granted to undertakings active in those fields independently of the size of the beneficiary undertaking to make good the damage caused by natural disasters, aid to make good the damage caused by adverse climatic event which can be assimilated to a natural disaster, aid for innovation and aid for conservation of marine and freshwater biological resources should be declared compatible with the internal market and not

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<sup>1</sup> OJ L 248, 24.9.2015, p. 1.

<sup>2</sup> OJ C 185, 6.5.2022, p. 1.

subject to the notification requirement of Article 108(3) TFEU. The exemption from the notification requirement should also apply to aid to make good the damage caused by behaviour of the protected animals independently of the size of the beneficiary of the aid as a conservation of marine and freshwater biological resources measure. Regulation (EU) 2015/1588 does not empower the Commission to declare, in accordance with Article 109 TFEU, that State aid to public law bodies, public authorities or public or semi-public organisations would be exempted from the notification requirement.

- (3) It is appropriate to continue making use of the powers conferred by Regulation (EU) 2015/1588 in order to exempt aid to make good the damage caused by natural disasters which is granted to undertakings independently of the size of the beneficiary.
- (4) Regulation (EU) 2015/1588 empowers the Commission to exempt aid to make good the damage caused by certain adverse weather conditions in fisheries from the notification requirement of Article 108(3) TFEU. Based on that empowerment, this Regulation sets clear compatibility conditions for this category of aid and defines its scope as to include aid which is granted to undertakings independently of the size of the beneficiary.
- (5) The compatibility of State aid in the fishery and aquaculture sector is assessed by the Commission on the basis of the objectives of the Common Fisheries Policy ('CFP'), as laid down by Regulation (EU) No 1380/2013 of the European Parliament and of the Council<sup>3</sup>. In the interest of coherence with Union-financed support measures, the maximum intensity of public aid allowed under this Regulation should be equal to that fixed for the same kind of aid in Article 41 of Regulation (EU) No 2021/1139 of the European Parliament and of the Council<sup>4</sup>.
- (6) It is essential that no aid is granted in circumstances where Union law, and in particular rules of Regulation (EU) No 1380/2013, are not complied with. An aid may therefore only be granted by a Member State in the fishery and aquaculture sector, if the measures financed and their effects comply with Union law.
- (7) This Regulation should allow for better prioritisation of State aid enforcement activities and greater simplification and should enhance transparency, effective evaluation and the control of compliance with the State aid rules at national and Union levels, while preserving the institutional competences of the Commission and the Member States. In accordance with the principle of proportionality, this Regulation does not go beyond what is necessary in order to achieve those objectives.
- (8) The general conditions for the application of this Regulation should be defined on the basis of a set of common principles that ensure that the aid facilitates the development of an economic activity, has a clear incentive effect, is necessary, appropriate and proportionate, is granted in full transparency and subject to a control mechanism and regular evaluation and does not adversely affect trading conditions to an extent that is contrary to the common interest.

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<sup>3</sup> Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy, amending Council Regulations (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002 and (EC) No 639/2004 and Council Decision 2004/585/EC (OJ L 354, 28.12.2013, p. 22).

<sup>4</sup> Regulation (EU) 2021/1139 of the European Parliament and of the Council of 7 July 2021 establishing the European Maritime, Fisheries and Aquaculture Fund and amending Regulation (EU) 2017/1004 (OJ L 247, 13.7.2021, p. 1).

- (9) Aid that fulfils all the conditions laid down in this Regulation both general and specific to the relevant categories of aid should be considered compatible with the internal market and exempted from the notification requirement laid down in Article 108(3) TFEU.
- (10) State aid within the meaning of Article 107(1) TFEU not covered by this Regulation or by other Regulations adopted pursuant to Article 1 of Regulation (EU) 2015/1588 remains subject to the notification requirement of Article 108(3) TFEU. This Regulation should be without prejudice to the right of Member States to notify aid potentially covered by this Regulation. Such aid should be assessed in the light of the Guidelines for the examination of State aid in the fishery and aquaculture sector<sup>5</sup>.
- (11) This Regulation should not apply to aid contingent upon the use of domestic products over imported ones or aid to export-related activities. In particular, it should not apply to aid financing the establishment and operation of a distribution network in other Member States or third countries. Aid towards the cost of participating in trade fairs or of studies or consultancy services needed for the launch of a new or existing product on a new market in another Member State or third country should not normally constitute aid to export-related activities.
- (12) The Commission should ensure that authorised aid does not adversely affect trading conditions to an extent that is contrary to the common interest. Therefore, aid in favour of an undertaking which is subject to an outstanding recovery order following a previous Commission Decision declaring aid illegal and incompatible with the internal market should be excluded from the scope of this Regulation, with the exception of aid schemes to make good damages caused by natural disasters or by adverse climatic events which can be assimilated to a natural disaster. Moreover, given that it would cause undue administrative burden to identify individual beneficiaries participating in community-led local development projects ('CLLD'), such exception should also apply to aid of a limited amount for SMEs participating in CLLD projects.
- (13) Aid granted to undertakings in difficulty should in principle be excluded from the scope of this Regulation, since such aid should be assessed under the Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty<sup>6</sup>. However, it is necessary to establish where appropriate certain exceptions from this rule. By way of exception, such aid can be granted under this Regulation in order to compensate for the costs of prevention, control and eradication of animal diseases, make good the damage caused by natural disasters or by certain climatic events which can be assimilated to a natural disaster. In addition, this Regulation should apply to undertakings in difficulty in cases of aid to SMEs participating in or benefitting from CLLD projects, where it is difficult to identify individual beneficiary undertakings of such schemes. In order to provide legal certainty, it is appropriate to establish clear criteria to determine whether an undertaking is considered to be in difficulty for the purposes of this Regulation.
- (14) State aid enforcement is highly dependent on the cooperation of Member States. Therefore, Member States should take all necessary measures to ensure compliance with this Regulation, including compliance of individual aid granted under this Regulation.

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<sup>5</sup> OJ C 217, 2.7.2015, p. 1.

<sup>6</sup> Communication from the Commission — Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty (OJ C 249, 31.7.2014, p. 1).

- (15) In view of the need to strike the appropriate balance between minimising distortions of competition in the aided sector and the objectives of this Regulation, this Regulation should not exempt individual aid which exceeds a fixed maximum amount, whether or not made under an aid scheme exempted by this Regulation.
- (16) For the purpose of transparency, equal treatment and effective monitoring, this Regulation should apply only to aid in respect of which it is possible to calculate precisely the gross grant equivalent *ex ante* without the need to undertake a risk assessment ('transparent aid').
- (17) This Regulation should define the conditions under which certain specific aid instruments, such as loans, guarantees, tax measures, and, in particular, repayable advances may be considered transparent. Aid comprised in guarantees should be considered as transparent, if the gross grant equivalent has been calculated on the basis of safe-harbour premiums laid down for the respective type of undertaking. In the case of SMEs, the Commission Notice on the application of Articles 87 and 88 of the EC Treaty to State aid in the form of guarantees<sup>7</sup> indicates levels of annual premium above which a State guarantee would be deemed not to constitute aid. For the purposes of this Regulation, capital injections and risk capital measures should not be considered transparent aid.
- (18) In order to ensure that the aid is necessary and acts as an incentive to further develop activities or projects, this Regulation should not apply to aid for activities in which the beneficiary undertaking would in any case engage even in the absence of the aid. Aid should only be exempted from notification requirement of Article 108(3) TFEU in accordance with this Regulation, where the activity or the work on the aided project starts after the beneficiary undertaking has submitted a written application for the aid.
- (19) As regards any ad hoc aid covered by this Regulation granted to a beneficiary which is a large enterprise, the Member State should, in addition to the conditions on the incentive effect applicable to SMEs, also ensure that the beneficiary has analysed, in an internal document, the viability of the aided project or activity with aid and without aid. The Member State should verify that this internal document confirms a material increase in the scope of the project or activity, a material increase in the total amount spent by the beneficiary on the aided project or activity or a material increase in the speed of completion of the project or activity concerned. It should also be possible to establish the incentive effect on the basis of the fact that the investment project or the activity would not have been carried out as such in the rural area concerned in the absence of the aid.
- (20) Automatic aid schemes in the form of tax advantages should continue to be subject to a specific condition concerning the incentive effect, due to the fact that this kind of aid is granted under different procedures than other categories of aid. Such schemes should be adopted before work on the aided project or activity started. However, this condition should not apply in the case of fiscal successor schemes provided the activity was already covered by the previous fiscal schemes in the form of tax advantages. For the assessment of the incentive effect of such schemes, the crucial moment is the moment when the tax measure was set out for the first time in the original scheme, which is then replaced by the successor scheme.

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<sup>7</sup> OJ C 155, 20.6.2008, p. 10.

- (21) For the calculation of aid intensity, only eligible costs should be included. This Regulation should not exempt aid which exceeds the relevant aid intensity as a result of including ineligible costs. The identification of eligible costs should be supported by clear, specific and up-to date documentary evidence. All figures used should be taken before any deduction of tax or other charges. Aid payable in several instalments should be discounted to its value on the date of granting the aid. The eligible costs should also be discounted to their value on the date of granting. The interest rate to be used for discounting purposes and for calculating the amount of aid in the case of aid which does not take the form of a grant should be respectively the discount rate and the reference rate applicable at the time of the grant, as laid down in the Commission Communication on the revision of the method for setting the reference and discount rates<sup>8</sup>. Where aid is granted by means of tax advantages, aid tranches should be discounted on the basis of the discount rates applicable on the various dates when the tax advantages become effective. The use of aid in the form of repayable advances should be promoted, since such risk-sharing instruments are conducive to strengthened incentive effect of aid. It is therefore appropriate to establish that where aid is granted in the form of repayable advances the applicable aid intensities referred to in this Regulation may be increased.
- (22) In the case of tax advantages on future taxes, the applicable discount rate and the exact amount of the aid tranches may not be known in advance. In such cases, Member States should set in advance a cap on the discounted value of the aid respecting the applicable aid intensity. Subsequently, when the amount of the aid tranche at a given date becomes known, discounting can take place on the basis of the discount rate applicable at that time. The discounted value of each aid tranche should be deducted from the overall amount of the capped amount.
- (23) To determine whether the notification thresholds and the maximum aid intensities referred to in this Regulation are respected, the total amount of State aid for the aided activity or project should be taken into account. Moreover, this Regulation should specify the circumstances under which different categories of aid may be cumulated. Aid exempted under this Regulation and any other compatible aid exempted under other regulations or approved by the Commission may be cumulated as long as those measures concern different identifiable eligible costs. Where different sources of aid are related to the same – partly or fully overlapping – identifiable eligible costs, cumulation should be allowed up to the highest aid intensity or aid amount applicable to that aid under this Regulation. This Regulation should also set out special rules for cumulation of aid measures with *de minimis* aid. *De minimis* aid is often not granted for or attributable to specific identifiable eligible costs. In such a case, it should be possible to freely cumulate *de minimis* aid with State aid exempted under this Regulation. Where, however, *de minimis* aid is granted for the same identifiable eligible costs as State aid exempted under this Regulation, cumulation should only be allowed up to the maximum aid intensity as referred to in Chapter III of this Regulation.
- (24) Given that State aid within the meaning of Article 107(1) TFEU is, in principle, prohibited, it is important to be able to check whether aid is granted in compliance with the applicable rules. Transparency of State aid is, therefore, essential for the correct application of the provisions of the TFEU and leads to better compliance,

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<sup>8</sup> OJ C 14, 19.1.2008, p. 6.

greater accountability, peer review and ultimately more effective public spending. To ensure transparency, Member States should be required to establish comprehensive State aid websites, at regional or national level, setting out summary information about each aid measure exempted under this Regulation. That obligation should be a condition for the compatibility of the individual aid with the internal market. Following the standard practice regarding publication of information in Directive (EU) 2019/1024 of the European Parliament and the Council<sup>9</sup>, a standard format should be used which allows the information to be searched, downloaded and easily published on the Internet. The links to the State aid websites of all the Member States should be published on the Commission's website. In accordance with Article 3 of Regulation (EU) 2015/1588, summary information on each measure exempted under this Regulation should be published on the website of the Commission.

- (25) To ensure effective monitoring of aid measures in accordance with Regulation (EU) 2015/1588, it is appropriate to establish requirements regarding the reporting by the Member States of aid measures which have been exempted pursuant to this Regulation. Moreover, it is appropriate to establish rules concerning the records that Member States should keep regarding the aid exempted by this Regulation, in light of the limitation period established in Article 17 of Council Regulation (EU) 2015/1589<sup>10</sup>. Finally, each individual aid should contain an express reference to this Regulation.
- (26) To enforce the effectiveness of compatibility conditions set out in this Regulation, it should be possible for the Commission to withdraw the benefit of the block exemption for future aid measures in the event of failure to comply with these requirements. The Commission should be able to restrict the withdrawal of the benefit of the block exemption to certain types of aid, certain beneficiary undertakings or aid measures adopted by certain authorities, where non-compliance with this Regulation affects only a limited group of measures or certain authorities. Such a targeted withdrawal should provide a proportionate remedy directly linked to the identified non-compliance with this Regulation.
- (27) To eliminate differences that might give rise to distortions of competition and to facilitate coordination between different Union and national initiatives concerning SMEs, as well as for reasons of administrative and legal certainty, the definition of SMEs used for the purpose of this Regulation should be based on the definition in Commission Recommendation 2003/361/EC<sup>11</sup>.
- (28) This Regulation should cover types of aid granted in the fishery and aquaculture sector which have been systematically approved by the Commission in the past. This aid should not require a case-by-case assessment of its compatibility with the internal market from the Commission, provided that it complies with the conditions laid down in Regulations (EU) No 1380/2013 and (EU) 2021/1139 where applicable.
- (29) In accordance with Article 107(2), point (b), TFEU, aid to make good the damage caused by natural disasters or exceptional occurrences is compatible with the internal

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<sup>9</sup> Directive (EU) 2019/1024 of the European Parliament and of the Council of 20 June 2019 on open data and the re-use of public sector information (OJ L 172, 26.6.2019, p. 56).

<sup>10</sup> Council Regulation (EU) 2015/1589 of 13 July 2015 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union (OJ L 248, 24.9.2015, p. 9).

<sup>11</sup> Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium sized enterprises (OJ L 124, 20.5.2003, p. 36).

market. In order to provide legal certainty, it is necessary to define the type of the events that may constitute a natural disaster exempted by this Regulation.

- (30) Fishery and aquaculture are sectors, which are specifically exposed to adverse climatic events which can be assimilated to a natural disaster and to animal diseases. Experience shows that these sectors are hit extraordinarily by such events and that fishers suffer considerable damage from them. Measures to adequately insure and compensate such damage are considered to be a suitable tool to help undertakings recover from such damage and, thus, to remain in business and in that way to ensure the development of economic activities in those sectors.
- (31) Damage caused by adverse climatic events which can be assimilated to a natural disaster, such as storms, frost, hail, ice, rainfall or severe droughts, which occur on a more regular basis, should not be considered a natural disaster within the meaning of Article 107(2), point (b), TFEU. Nevertheless, to the extent that their impact on the economic activity is such that they can be assimilated to a natural disaster, aid to make good damage caused by adverse climatic events should be considered as compatible with the internal market pursuant to Article 107(3), point (c), TFEU.
- (32) In order to ensure that the exemption covers aid granted to make good the damage caused by natural disasters and adverse climatic events that can be assimilated to a natural disaster, this Regulation should lay down, following established practice, the conditions under which such aid may benefit from that block exemption. Those conditions should relate, in particular, to the formal recognition by the competent Member States' authorities of the character of the event as a natural disaster or adverse climatic event that can be assimilated to a natural disaster and to a direct causal link between the natural disaster or adverse climatic event and the damages suffered by the beneficiary undertaking, which may include undertakings in difficulty, and should ensure that overcompensation is avoided. The compensation should not exceed what is necessary to enable the beneficiary undertaking to return to the situation prevailing before the event occurred.
- (33) Fishery and aquaculture are sectors where there is insufficient incentive for individual action to occur, despite the fact that the result of individual action combined would correspond to the common good of all users. For this reason aid to protect and restore marine biodiversity and ecosystems and compensation regimes in the framework of sustainable fishing activities, including waste collection from the sea, should be considered as compatible with the internal market pursuant to Article 107(3), point (c), TFEU.
- (34) This Regulation takes into account the specific situation of the Union outermost regions as recognised in Article 349 TFEU, which provides for specific measures.
- (35) Aid granted to SME's participating in CLLD projects, has little impact on competition, in particular, in view of the positive role the aid plays for sharing knowledge, especially for local communities, as well as the often collective nature of the aid, and its relatively small scale. The nature of those projects is integrated, multi-actor and multi-sector, which can lead to certain difficulties for their classification under State aid rules. Municipalities, by their very nature, fall outside the scope of the SME

definition.<sup>12</sup> They, however, often play a vital role in the organisation and realisation of CLLD projects. Where a CLLD project is carried out in favour of one of the objectives foreseen in Article 1 of Council Regulation (EU) 2015/1588, it should therefore be possible to block-exempt also aid to municipalities in the context of such project. Given the local nature of CLLD projects, selected on the basis of a multi-annual local development strategy determined and implemented by public-private partnership and their orientation to community, social, environmental and climate interest, this Regulation should address certain difficulties faced by CLLD projects in order to facilitate their compliance with State aid rules. This should also apply to municipalities benefiting directly or indirectly from CLLD projects, which pursue one of the objectives foreseen in Article 1 of Regulation (EU) 2015/1588.

- (36) Pursuant to Article 15(1)(f) and Article 15(3) of Council Directive 2003/96/EC (1)<sup>13</sup>, Member States may introduce tax exemptions or reductions applicable to inland fishing and piscicultural works. It is therefore appropriate to continue exempting those measures from the notification requirement of Article 108(3) of the Treaty where the conditions provided under that Directive are fulfilled. Tax exemptions applicable to fishing within EU waters which Member States are to introduce pursuant to Article 14 (1)(c) of that Directive are not imputable to the State and therefore should not constitute State aid.
- (37) In the light of the Commission's experience in this area, State aid rules should periodically be revised. The period of application of this Regulation should therefore be limited and transitional provisions should be laid down. Having regard to the fact that the conditions for granting aid under this Regulation are closely linked with the conditions established for the application of Regulation (EU) No 2021/1139 which establishes the European Maritime, Fisheries and Aquaculture Fund (EMFAF) for the period between 1 January 2021 and 31 December 2027, it is appropriate to align the period of application of this Regulation with that of the EMFAF. To ensure continuity and legal certainty during a transitional phase, it is appropriate that this Regulation applies until 31 December 2029.
- (38) Should this Regulation expire without being extended, aid schemes already exempted under this Regulation should continue to be exempted for six months in order to ensure continuity and legal certainty.

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<sup>12</sup> According to the SME definition, reproduced in Annex I of this Regulation, an enterprise cannot be considered an SME if 25 % or more of the capital or voting rights are directly or indirectly controlled, jointly or individually, by one or more public bodies (cf. Article 3(4) of that Annex).

<sup>13</sup> Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity (OJ L 283, 31.10.2003, p. 51).

HAS ADOPTED THIS REGULATION:

## **CHAPTER I**

### **COMMON PROVISIONS**

#### *Article 1* *Scope*

1. This Regulation shall apply to aid granted to
  - (a) micro, small and medium-sized enterprises (SMEs) active in the production, processing or marketing of fishery and aquaculture products;
  - (b) municipalities under Article 54 and 55; and
  - (c) fishing ports, landing sites, auction halls and shelters under Article 29
2. This Regulation shall also apply to aid granted to any undertaking active in the production, processing or marketing of fishery and aquaculture products for any of the following purposes and independently of the size of the undertaking benefitting from the aid:
  - (a) to make good the damage caused by natural disasters;
  - (b) to make good the damage caused by adverse climatic event which can be assimilated to a natural disaster;
  - (c) to make good the damage caused by protected animals; and
  - (d) for innovation in fisheries and aquaculture.
3. This Regulation shall not apply to:
  - (a) aid the amount of which is fixed on the basis of price or quantity of products put on the market;
  - (b) aid to export-related activities towards third countries or Member States, namely aid directly linked to the quantities exported, to the establishment and operation of a distribution network or to other current costs linked to the export activity;
  - (c) aid contingent upon the use of domestic over imported goods;
  - (d) *ad hoc* aid in favour of an undertaking as referred to in paragraph 5 of this Article;
  - (e) aid granted to operations or expenditure
    - (i) that increase the fishing capacity of a fishing vessel;
    - (ii) for the acquisition of equipment that increases the ability of a fishing vessel to find fish;
    - (iii) for the construction, acquisition or importation of fishing vessels, unless otherwise provided for in Article 20;

- (iv) for the transfer or reflagging of fishing vessels to third countries, including through the creation of joint ventures with partners of third countries;
  - (v) for the temporary or permanent cessation of fishing activities;
  - (vi) for exploratory fishing;
  - (vii) the transfer of ownership of a business unless otherwise provided for in Article 20;
  - (viii) for the direct restocking, except if experimental;
  - (ix) for the construction of new ports or new auction halls;
  - (x) for market intervention mechanisms aiming to temporarily or permanently withdraw fishery or aquaculture products from the market with a view to reducing supply in order to prevent price decline or to drive prices up;
  - (xi) for investments on board fishing vessels necessary to comply with the requirements under Union law in force at the time of submission of the application for aid, including requirements under the Union's obligations in the context of regional fisheries management organisations (RFMOs);
  - (xii) for investments on board fishing vessels that have carried out fishing activities for less than 60 days in the two calendar years preceding the year of submission of the application for aid;
  - (xiii) for the replacement or modernisation of a main or ancillary engine of a fishing vessel.
- (f) aid granted to an undertaking that
- (i) has committed a serious infringement under Article 42 of Council Regulation (EC) No 1005/2008<sup>14</sup> or Article 90 of Regulation (EC) No 1224/2009<sup>15</sup>;
  - (ii) has been involved in the operation, management or ownership of a fishing vessel included in the Union Illegal, unreported and unregulated fishing vessel list as set out in Article 40, point (3), of Regulation (EC) No 1005/2008, or of a vessel flying the flag of countries identified as non-cooperating third countries as set out in Article 33 of that Regulation; or
  - (iii) has committed any of the environmental offences set out in Articles 3 and 4 of Directive 2008/99/EC of the European Parliament and of the Council<sup>16</sup>, where the application for support is submitted under Article 32 to 39 of this Regulation.

<sup>14</sup> Council Regulation (EC) No 1005/2008 of 29 September 2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing, amending Regulations (EEC) No 2847/93, (EC) No 1936/2001 and (EC) No 601/2004 and repealing Regulations (EC) No 1093/94 and (EC) No 1447/1999. (OJ L 286, 29.10.2008, p. 1).

<sup>15</sup> Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy, amending Regulations (EC) No 847/96, (EC) No 2371/2002, (EC) No 811/2004, (EC) No 768/2005, (EC) No 2115/2005, (EC) No 2166/2005, (EC) No 388/2006, (EC) No 509/2007, (EC) No 676/2007, (EC) No 1098/2007, (EC) No 1300/2008, (EC) No 1342/2008 and repealing Regulations (EEC) No 2847/93, (EC) No 1627/94 and (EC) No 1966/2006. (OJ L 343, 22.12.2009, p. 1).

<sup>16</sup> Directive 2008/99/EC of the European Parliament and of the Council of 19 November 2008 on the protection of the environment through criminal law (OJ L 328, 6.12.2008, p. 28).

4. This Regulation shall not apply to aid to undertakings in difficulty, with the exception of aid granted:
  - (a) to undertakings participating in or benefitting from CLLD projects;
  - (b) to compensate for the costs of prevention, control and eradication of animal diseases;
  - (c) to aid schemes to make good the damage caused by natural disasters; or
  - (d) in the following cases, provided that the undertaking became an undertaking in difficulty due to losses or damages caused by the event in question:
    - (i) to make good the damage caused by adverse climatic events which can be assimilated to a natural disaster; or
    - (ii) to make good the damage caused by protected animals.
5. This Regulation shall not apply to aid schemes which do not explicitly exclude the payment of individual aid in favour of an undertaking which is subject to an outstanding recovery order following a previous Commission Decision declaring an aid illegal and incompatible with the internal market, with the exception of one of the following:
  - (a) aid schemes to make good the damage caused by natural disasters or by adverse climatic events which can be assimilated to a natural disaster; or
  - (b) aid schemes for costs incurred by SMEs participating in CLLD projects and aid to undertakings participating in, or benefitting from, CLLD in accordance with Articles 54 and 55 .
6. This Regulation shall not apply to State aid measures, which entail, by themselves, by the conditions attached to them or by their financing method a non-severable violation of Union law, in particular:
  - (a) aid where the grant of aid is subject to the obligation for the beneficiary undertaking to have its headquarters in the relevant Member State or to be predominantly established in that Member State. However, the requirement to have an establishment or branch in the aid granting Member State at the moment of payment of the aid is allowed;
  - (b) aid where the grant of aid is subject to the obligation for the beneficiary undertaking to use nationally produced goods or national services; or
  - (c) aid restricting the possibility for the beneficiary undertaking to exploit the research, development and innovation results in other Member States;
  - (d) the Habitats Directive, Birds Directive, Ship Source Pollution Directive and provisions concerning waste management.
7. This Regulation shall not apply to:
  - (a) aid provided for in State aid schemes under Articles 20, 21, 24, 26 to 30, 33, 43, 46, 48, 50 and 52, if it fulfils the conditions of Article 12, from [six months after the entry into force];
  - (b) any alterations of schemes referred to in point (a) other than modifications which cannot affect the compatibility of the aid scheme under this Regulation or cannot significantly affect the content of the approved evaluation plan.

The Commission may decide that this Regulation shall continue to apply for a longer period to any of the aid types referred to in point (a) of this paragraph after having assessed the relevant evaluation plan notified by the Member State to the Commission.

## *Article 2*

### ***Definitions***

1. For the purpose of this Regulation the following definitions shall apply:
  - (1) ‘*ad hoc aid*’ means aid not granted on the basis of an aid scheme;
  - (2) ‘adverse climatic event which can be assimilated to a natural disaster’ means unfavourable weather conditions such as frost, storms and hail, ice, heavy or persistent rainfall or severe droughts, which reduce by more than 30 % the average of the production calculated on the basis of one of the following methods:
    - (a) the preceding three-year period;
    - (b) a three year average based on the preceding five-year period, excluding the highest and the lowest entry;
  - (3) ‘aid’ means any measure fulfilling all the criteria laid down in Article 107(1) TFEU;
  - (4) ‘aid intensity’ means the gross aid amount expressed as a percentage of the eligible costs, before any deduction of tax or other charge;
  - (5) ‘aid scheme’ means any act on the basis of which, without further implementing measures being required, individual aid awards may be made to undertakings defined within the act in a general and abstract manner and any act on the basis of which aid which is not linked to a specific project may be granted to one or several undertakings for an indefinite period of time and/or for an indefinite amount;
  - (6) ‘biosecurity’ means management and physical measures designed to reduce the risk of introduction, development and spread of diseases to, from and within: (a) an animal population, or (b) an establishment, zone, compartment, means of transport or any other facilities, premises or location;
  - (7) ‘control and eradication measures’ means measures regarding animal diseases for which a competent authority has formally recognised an outbreak, or regarding plant pests or invasive alien species for which a competent authority has formally acknowledged their presence;
  - (8) ‘date of granting the aid’ means the date when the legal right to receive the aid is conferred on the beneficiary undertaking under the applicable national legal regime;
  - (9) ‘depredation’ means preying on fish caught in nets or kept in ponds by protected animals such as seals, sea otters and sea birds;
  - (10) ‘evaluation plan’ means a document covering one or more aid schemes and containing at least the following minimum aspects: the objectives to be evaluated, the evaluation questions, the result indicators, the envisaged method to conduct the evaluation, the data collection requirements, the proposed timing of the evaluation including the date of submission of the interim and the final evaluation reports, the description of the independent body that will carry out the evaluation or the criteria that will be used for its selection and the modalities for making the evaluation publicly available;

- (11) 'fiscal successor scheme' means a scheme in the form of tax advantages which constitutes an amended version of a previously existing scheme in the form of tax advantages and which replaces it;
- (12) 'fisher' means any natural person engaging in commercial fishing activities, as recognised by the Member State concerned;
- (13) 'fishery and aquaculture products' means the products listed in Annex I to Regulation (EU) No 1379/2013 of the European Parliament and of the Council<sup>17</sup>;
- (14) 'fishery and aquaculture sector' means the sector of the economy which comprises all activities of production, processing, and marketing of fishery or aquaculture products;
- (15) 'fishing capacity' means a vessel's tonnage in GT (Gross Tonnage) and its power in kW (Kilowatt) as defined in Articles 4 and 5 of Regulation (EU) 2017/1130<sup>18</sup>;
- (16) 'fishing port' means a maritime or inland area of land and water which is officially recognised by a Member State and made up of such infrastructure and equipment so as to permit, mainly, the reception of fishing vessels, loading and unloading their catches, the storage, receipt and delivery of those catches and the embarkation and disembarkation of fishers;
- (17) 'gross grant equivalent' means the amount of the aid if it had been provided in the form of a grant to the beneficiary undertaking, before any deduction of tax or other charges;
- (18) 'individual aid' means *ad hoc* aid and awards of aid to individual beneficiaries on the basis of an aid scheme;
- (19) 'inland fishing' means fishing activities carried out for commercial purposes in inland waters by vessels or other devices, including those used for ice fishing;
- (20) 'invasive alien species' means invasive alien species of Union concern and invasive alien species of Member State concern as defined in Article 3(3) and 3(4) of Regulation (EU) No 1143/2014 of the European Parliament and of the Council ('Regulation (EU) No 1143/2014');
- (21) 'natural disasters' means earthquakes, avalanches, landslides, floods, tornadoes, hurricanes, volcanic eruptions and wild fires of natural origin;
- (22) 'outermost regions' means the regions referred to in Article 349 TFEU;
- (23) 'protected animal' means any animal other than fish protected either by Union or by national legislation;
- (24) 'repayable advance' means a loan for a project which is paid in one or more instalments and the conditions for the reimbursement of which depend on the outcome of the project;

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<sup>17</sup> Regulation (EU) No 1379/2013 of the European Parliament and of the Council of 11 December 2013 on the common organisation of the markets in fishery and aquaculture products, amending Council Regulations (EC) No 1184/2006 and (EC) No 1224/2009 and repealing Council Regulation (EC) No 104/2000 (OJ L 354, 28.12.2013, p. 1).

<sup>18</sup> Regulation (EU) 2017/1130 of the European Parliament and of the Council of 14 June 2017 defining characteristics for fishing vessels. (OJ L 169, 30.6.2017, p. 1–7).

- (25) ‘SME’ or ‘micro, small and medium-sized enterprises’ means undertakings fulfilling the criteria laid down in Annex I;
- (26) ‘small-scale coastal fishing’ means fishing activities carried out by: (a) marine and inland fishing vessels of an overall length of less than 12 metres and not using towed gear as defined in point (1) of Article 2 of Council Regulation (EC) No 1967/2006<sup>19</sup>; or (b) fishers on foot, including shellfish gatherers;
- (27) ‘start of works’ means the earlier of either the start of construction works relating to the investment, or the first legally binding commitment to order equipment or any other commitment that makes the investment irreversible. Buying land and preparatory works such as obtaining permits and conducting feasibility studies are not considered start of works. For take-overs, ‘start of works’ means the moment of acquiring assets directly linked to the acquired establishment;
- (28) ‘subsidised services’ means a form of aid, where the aid is granted to the final beneficiary undertaking indirectly, in kind, and is paid to the provider of the service or activity in question;
- (29) ‘undertaking in difficulty’ means an undertaking fulfilling the criteria laid down in Article 2, point (18), of Commission Regulation (EU) No 651/2014<sup>20</sup>;
- 2. In addition to the definitions listed in paragraph 1, the definitions provided for in Article 4 of Regulation (EU) No 1380/2013, Article 2 of Regulation (EU) 2021/1139 and Article 5 of Regulation (EU) 1379/2013 shall apply.

### *Article 3* ***Notification threshold***

- 1. This Regulation shall not apply to individual aid for any project with eligible costs in excess of EUR 2.5 million, or where the gross grant equivalent of the aid exceeds EUR 1.25 million per undertaking per year.
- 2. The thresholds set out in paragraph 1 shall not be circumvented by artificially splitting up the aid schemes or aid projects.

### *Article 4* ***Conditions for exemption***

- 1. Aid schemes, individual aid granted under aid schemes and ad hoc aid shall be compatible with the internal market within the meaning of Article 107(2) or (3) TFEU and shall be exempted from the notification requirement of Article 108(3) TFEU provided that such aids fulfil the conditions laid down in Chapter I of this Regulation, as well as the specific conditions for the relevant category of aid laid down in Chapter III of this Regulation.
- 2. Aid measures shall only be exempted under this Regulation as far as they explicitly provide that, during the grant period, the beneficiaries of the aid shall comply with

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<sup>19</sup> Council Regulation (EC) No 1967/2006 of 21 December 2006 concerning management measures for the sustainable exploitation of fishery resources in the Mediterranean Sea, amending Regulation (EEC) No 2847/93 and repealing Regulation (EC) No 1626/94 (OJ L 409, 30.12.2006, p. 11).

<sup>20</sup> Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty ( OJ L 187, 26.6.2014, p. 1).

the rules of the Common Fisheries Policy and that, if during that period it is found that the beneficiary does not comply with rules of the Common Fisheries Policy, the aid shall be reimbursed in proportion to the gravity of the infringement.

#### *Article 5* ***Transparency of aid***

1. This Regulation shall apply only to aid in respect of which it is possible to calculate precisely the gross grant equivalent of the aid ex ante without any need to undertake a risk assessment ('transparent aid').
2. The following categories of aid shall be considered to be transparent:
  - (a) aid comprised in grants, interest rate subsidies and subsidised services;
  - (b) aid comprised in loans where the gross grant equivalent has been calculated on the basis of the reference rate prevailing at the time of the grant;
  - (c) aid comprised in guarantees:
    - (i) where the gross grant equivalent has been calculated on the basis of safe-harbour premiums laid down in a Commission notice; or
    - (ii) where before the implementation of the measure, the methodology to calculate the gross grant equivalent of the guarantee has been accepted on the basis of the Commission Notice on the application of Articles 87 and 88 of the EC Treaty to State aid in the form of guarantees, or any successor notice, following notification of that methodology to the Commission under any regulation adopted by the Commission in the State aid area applicable at the time, and the approved methodology explicitly addresses the type of guarantee and the type of underlying transaction at stake in the context of the application of this Regulation;
  - (d) aid in the form of tax advantages, where the measure provides for a cap ensuring that the applicable threshold is not exceeded;
  - (e) aid in the form of repayable advances, if the total nominal amount of the repayable advance does not exceed the thresholds applicable under this Regulation or if, before implementation of the measure, the methodology to calculate the gross grant equivalent of the repayable advance has been accepted following its notification to the Commission.
3. For the purposes of this Regulation, the following categories of aid shall not be considered to be transparent aid:
  - (a) aid comprised in capital injections;
  - (b) aid comprised in risk finance measures.

#### *Article 6* ***Incentive effect***

1. This Regulation shall apply only to aid which has an incentive effect.
2. Aid shall be considered to have an incentive effect, if the beneficiary undertaking has submitted a written application for the aid to the Member State concerned before work on the project or activity starts. The application for the aid shall contain at least the following information:

- (a) undertaking's name and size;
  - (b) description of the project or activity, including its start and end dates;
  - (c) location of the project or activity;
  - (d) list of eligible costs; and
  - (e) type of aid (grant, loan, guarantee, repayable advance or other) and amount of public funding needed for the project or activity.
3. Ad hoc aid granted to large enterprises shall be considered to have an incentive effect if, in addition to ensuring that the condition laid down in paragraph 2 is fulfilled, the Member State has verified, before granting the ad hoc aid concerned, that documentation prepared by the beneficiary undertaking establishes that the aid will result in one or more of the following:
- (a) a material increase in the scope of the project or activity due to the aid;
  - (b) a material increase in the total amount spent by the beneficiary undertaking on the project or activity due to the aid;
  - (c) a material increase in the speed of completion of the project or activity concerned;
  - (d) in the case of investment ad hoc aid, that the project or activity would not have been carried out as such in the area concerned or would not have been sufficiently profitable for the beneficiary undertaking in the area concerned in the absence of the aid.
4. Measures in the form of tax advantages shall be deemed to have an incentive effect, if the following conditions are fulfilled:
- (a) the measure establishes a right to aid in accordance with objective criteria and without further exercise of discretion by the Member State; and
  - (b) the measure has been adopted and is in force before work on the aided project or activity has started. This requirement shall not apply in the case of fiscal successor schemes, provided the activity was already covered by the previous schemes in the form of tax advantages.
5. By way of derogation from paragraphs 1 and 2 of this Article, the following categories of aid are not required to have or shall be deemed to have an incentive effect
- (a) aid to compensate for the costs of the prevention, control and eradication of animal diseases, if the conditions laid down in Articles 42, 49, 51 and 53 are fulfilled;
  - (b) aid to make good the damage caused by natural disasters, if the conditions laid down in Articles 42, 49, 51 and 53 are fulfilled;
  - (c) aid to make good the damage caused by adverse climatic events which can be assimilated to a natural disaster;
  - (d) aid to make good the damage caused by protected animals, if the conditions laid down in Articles 42, 49, 51 and 53 are fulfilled;
  - (e) aid in the form of tax exemptions or reductions adopted by the Member States pursuant to Article 15(1) point (f), and Article 15(3) of Council Directive

2003/96/EC<sup>21</sup>, if the conditions laid down in Article 56 of this Regulation are fulfilled;

- (f) aid for SMEs participating in or benefitting from CLLD projects, if the relevant conditions in Articles 54 and 55 are fulfilled;
- (g) aid for marketing measures referred to in Article 45(1)(b)(vii) if the relevant conditions in Articles 45 are fulfilled;
- (h) aid for partnership between scientists and fishers if the relevant conditions in Articles 17 are fulfilled;
- (i) aid to promote human capital, job creation and social dialogue if the relevant conditions in Articles 18 are fulfilled.

#### *Article 7*

##### *Aid intensity and eligible costs*

1. For the purpose of calculating aid intensity and eligible costs, all figures used shall be taken before any deduction of tax or other charge. The eligible costs shall be supported by documentary evidence which shall be clear, specific and contemporary. Value added tax (VAT) shall not be eligible for aid, except where it is non-recoverable under national legislation.
2. Where aid is granted in a form other than a grant, the aid amount shall be the gross grant equivalent of the aid.
3. Aid payable in several instalments shall be discounted to its value on the date of granting the aid. The eligible costs shall be discounted to their value on the date of granting the aid. The interest rate to be used for discounting purposes shall be the discount rate applicable on the date of granting the aid.
4. Where aid is granted by means of tax advantages discounting of aid tranches shall take place on the basis of the discount rates applicable on the various dates when the tax advantage takes effect.
5. Where aid is granted to make good the damage or income foregone it shall be reduced by any costs not directly incurred due to the event.
6. Where aid is granted in the form of repayable advances which, in the absence of an accepted methodology to calculate their gross grant equivalent, are expressed as a percentage of the eligible costs and the measure provides that in case of a successful outcome of the project, as defined on the basis of a reasonable and prudent hypothesis, the advances will be repaid with an interest rate at least equal to the discount rate applicable on the date of granting the aid, the maximum aid intensities laid down in Chapter III may be increased by 10 percentage points without exceeding a maximum aid intensity rate of 100 % of the eligible costs.
7. The eligible costs shall comply with the requirements of Articles 53 to 57 of Regulation (EU) 2021/1060 of the European Parliament and of the Council<sup>22</sup>.

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<sup>21</sup> Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity (OJ L 283, 31.10.2003).

<sup>22</sup> Regulation (EU) 2021/1060 of the European Parliament and of the Council of 24 June 2021 laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime, Fisheries and

*Article 8*  
**Cumulation**

1. In determining whether the notification thresholds laid down in Article 3 and the maximum aid intensities laid down in Chapter III are respected, the total amount of aid for the activity or project or undertaking shall be taken into account, regardless of whether that aid is financed from local, regional, national or Union sources.
2. Aid exempted by this Regulation may be cumulated with one of the following:
  - (a) any other aid, as long as those measures concern different identifiable eligible costs;
  - (b) any other aid, in relation to the same eligible costs, partly or fully overlapping, only if such cumulation does not result in exceeding the highest aid intensity or aid amount applicable to this aid under this Regulation.
3. Aid exempted under this Regulation shall not be cumulated with any *de minimis* aid in respect of the same eligible costs, if such cumulation would result in an aid intensity exceeding those referred to in Chapter III.

*Article 9*  
**Publication and information**

1. The Member State concerned shall ensure the publication on the Commission's transparency award module or a comprehensive State aid website, at national or regional level of:
  - (a) the summary information referred to in Article 11 in the standardised format laid down in Annex II or a link providing access to it;
  - (b) the full text of each aid measure as referred to in Article 11 or a link providing access to the full text;
  - (c) the information on each individual aid award exceeding EUR 10 000.The information referred to in points (a), (b) and (c) shall be published in accordance with Annex III.
2. For schemes in the form of tax advantages, the conditions set out in paragraph 1, point (c), shall be considered fulfilled, if Member States publish the required information on individual aid amounts in the following ranges (in EUR million):
  - (a) 0,01-0,2;
  - (b) 0,2-0,4;
  - (c) 0,4-0,6;
  - (d) 0,6-0,8;
  - (e) 0,8-1.
3. The information referred to in paragraph 1, point (c), shall be organised and accessible in a standardised manner, as set out in Annex III, and shall allow for

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Aquaculture Fund and financial rules for those and for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy (OJ L 231, 30.6.2021, p. 159).

effective search and download functions. The information referred to in paragraph 1 shall be published within six months from the date the aid was granted, or for aid in the form of tax advantage, within one year from the date the tax declaration is due, and shall be available for at least 10 years from the date on which the aid was granted.

4. Each aid scheme and individual aid shall contain an explicit reference to this Regulation, by citing its title and publication reference in the *Official Journal of the European Union*, and to the specific provisions of Chapter III relating to that aid, or where applicable, to the national law which ensures that the relevant provisions of this Regulation are complied with. It shall be accompanied by its implementing provisions and its amendments.
5. The publication obligations laid down in paragraph 1 of this Article shall not apply to aid granted to CLLD projects under Articles 54 and 55.
6. The Commission shall publish on its website:
  - (a) the links to the State aid websites, referred to in paragraph 1 of this Article;
  - (b) the summary information referred to in Article 11(2).

## **CHAPTER II**

### **PROCEDURAL REQUIREMENTS**

#### *Article 10*

#### ***Withdrawal of the benefit of the block exemption***

Where a Member State grants aid allegedly exempted from the notification requirement under this Regulation without fulfilling the conditions set out in Chapters I, II and III thereof, the Commission may, after having provided the Member State concerned with the possibility to make its views known, adopt a decision stating that all or some of the future aid measures adopted by the Member State concerned which would otherwise fulfil the requirements of this Regulation, are to be notified to the Commission in accordance with Article 108(3) TFEU. The measures to be notified may be limited to measures granting certain types of aid, in favour of certain beneficiaries or adopted by certain authorities of the Member State concerned.

#### *Article 11*

#### ***Reporting***

1. Member States shall transmit to the Commission in electronic form an annual report, referred to in Chapter III of Commission Regulation (EC) No 794/2004<sup>23</sup>, on the application of this Regulation in respect of each whole year or each part of the year during which this Regulation applies.
2. Member States shall also transmit to the Commission, via the Commission's electronic notification system, the summary information about each aid measure exempted under this Regulation in the standardised format laid down in Annex II,

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<sup>23</sup> Commission Regulation (EC) No 794/2004 of 21 April 2004 implementing Council Regulation (EU) 2015/1589 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union (OJ L 140, 30.4.2004, p. 1).

together with a link providing access to the full text of the aid measure, including its amendments, within 20 working days following its entry into force.

3. Paragraph 1 of this Article shall not apply to aid granted to CLLD projects as referred to in Articles 54 and 55.

## *Article 12*

### ***Evaluation***

1. Aid schemes are subject to an *ex post* evaluation if they have a State aid budget or accounted expenditures over EUR 150 million in any given year or EUR 750 million over their total duration, i.e. the combined duration of the aid scheme and any predecessor aid scheme covering a similar objective and geographical area, starting from 1 January 2023. *Ex post* evaluations are only required for aid schemes the total duration of which exceeds three years, starting from 1 January 2023.
2. The *ex post* evaluation requirement may be waived for aid schemes that are an immediate successor of a scheme covering a similar objective and geographical area that has been subject to an evaluation, delivered a final evaluation report in compliance with the evaluation plan approved by the Commission and has not generated any negative findings. Where the final evaluation report of an aid scheme is not in compliance with the approved evaluation plan, that scheme shall be suspended with immediate effect. Any successor of such suspended aid scheme shall not be block exempted.
3. The aim of the evaluation shall be to verify whether the assumptions and conditions underlying the compatibility of the aid scheme have been achieved, in particular the necessity and the effectiveness of the aid measure in the light of its general and specific objectives. It shall also assess the impact of the scheme on competition and trade.
4. For aid schemes subject to the evaluation requirement pursuant to paragraph 1, Member States shall notify to the Commission a draft evaluation plan as follows:
  - (a) within 20 working days from the aid scheme's entry into force, if the budget of the aid scheme exceeds EUR 150 million in any given year or EUR 750 million over its total duration;
  - (b) within 30 working days following a significant change that increases the budget of the aid scheme to over EUR 150 million in any given year or EUR 750 million over the total duration of the aid scheme;
  - (c) within 30 working days following the recording in official accounts of expenditure under the aid scheme in excess of EUR 150 million in any year.
5. The draft evaluation plan shall be in line with the common methodological principles provided by the Commission<sup>24</sup>. Member States shall publish the evaluation plan approved by the Commission.
6. The *ex post* evaluation shall be carried out by an expert independent from the aid granting authority on the basis of the evaluation plan. Each evaluation shall include

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<sup>24</sup> Commission staff working document, Common methodology for State aid evaluation (28.5.2014, SWD(2014) 179 final).

at least one interim and one final evaluation report. Member States shall publish both reports.

7. The final evaluation report shall be submitted to the Commission at the latest nine months before the expiry of the exempted aid scheme. That period may be reduced for aid schemes triggering the evaluation requirement in the last two years of implementation of the aid scheme. The precise scope and arrangements for each evaluation shall be set out in the Commission Decision approving the evaluation plan. The notification of any subsequent aid measure with a similar objective shall indicate how the results of the evaluation have been taken into account.

### *Article 13*

#### ***Monitoring***

Member States shall maintain detailed records with the information and supporting documentation necessary to establish that all the conditions laid down in this Regulation are fulfilled. Such records shall be kept for 10 years from the date on which the *ad hoc* aid was granted or the last aid was granted under the scheme. The Member State concerned shall provide the Commission within a period of 20 working days or such longer period as may be fixed in the request, with all the information and supporting documentation which the Commission considers necessary to monitor the application of this Regulation.

## **CHAPTER III**

### **SPECIFIC PROVISIONS FOR DIFFERENT CATEGORIES OF AID**

#### **SECTION 1**

#### **FOSTERING SUSTAINABLE FISHERIES AND THE RESTORATION AND CONSERVATION OF AQUATIC BIOLOGICAL RESOURCES**

### *Article 14*

#### ***General conditions***

The aid under this Section shall fulfil all the following general conditions:

- (a) where aid is granted in respect of a Union fishing vessel, that vessel shall not be transferred or reflagged outside the Union during at least the five years from the final payment for the supported operation. If a vessel is transferred or reflagged within that time-frame, sums unduly paid in respect of the operation shall be recovered by the Member State, in an amount proportionate to the period during which the condition set out in the first sentence of this point has not been fulfilled;
- (b) operating costs shall not be eligible unless expressly otherwise provided for in this Section.

### *Article 15*

#### ***Aid for innovation in fisheries***

1. Aid for innovation in fisheries fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of

Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that the aid aims to develop or introduce new or substantially improved products and equipment, new or improved processes and techniques, and new or improved management and organization systems, including at the level of processing and marketing.

2. Subsidised services financed by the aid shall be carried out by, or in collaboration with, a scientific or technical body, recognized by the Member State or the Union. That scientific or technical body shall validate the results of such operations. The aid shall be paid directly to the research and/or knowledge-dissemination organisation.
3. The results of operations receiving support shall be adequately publicised by the Member State.
4. The eligible costs may be the following:
  - (a) direct personnel costs related to researchers, technicians and other supporting staff to the extent employed on the project;
  - (b) costs of instruments and equipment to the extent and for the period used for the operations; where such instruments and equipment are not used for their full life for the operations, only the depreciation costs corresponding to the life of the operations, as calculated on the basis of generally accepted accounting principles are considered as eligible;
  - (c) costs of buildings and land, to the extent and for the duration period used for the operations and under the following conditions:
    - (i) with regard to buildings, only the depreciation costs corresponding to the life of the operation, as calculated on the basis of generally accepted accounting principles, are considered as eligible;
    - (ii) with regard to land, costs of commercial transfer or actually incurred capital costs are eligible;
  - (d) costs of contractual research, knowledge and patents bought or licensed from outside sources at arm's length conditions, as well as costs of consultancy and equivalent services used exclusively for the operations; or
  - (e) additional overheads and other operating expenses, including costs of materials, supplies and similar products, incurred directly as a result of the operations.
5. The amount of the aid under this Article shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 50 % of the eligible costs. Specific maximum aid intensity rates shall be as set out in Annex IV. Where one operation falls under several of the rows 1 to 11 of Annex IV, the highest maximum aid intensity rate shall apply.

#### *Article 16* ***Aid for advisory services***

1. Aid for advisory services fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that:

- (a) the aid improves the overall performance and competitiveness of undertakings and promotes sustainable fisheries;
  - (b) the aid shall be accessible to all eligible undertakings in the area concerned, based on objectively defined conditions; and
  - (c) the advisory service takes on one of the following forms:
    - (i) feasibility studies and advisory services that assess the viability of measures potentially eligible for support under of Title II, Chapter II of Regulation (EU) 2021/1139;
    - (ii) the provision of professional advice on environmental sustainability, with a focus on limiting and, where possible, eliminating the negative impact of fishing activities on marine, coastal, terrestrial and freshwater ecosystems;
    - (iii) the provision of professional advice on business and marketing strategies.
2. The feasibility studies, advisory services and advice referred to in paragraph 1, point (b), shall be provided by scientific, academic, professional or technical bodies, or entities providing economic advice that have the competence required under national law.
  3. The aid shall take the form of a subsidised service or direct grant.
  4. The amount of the aid granted under this Article shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 50 % of the eligible costs. Specific maximum aid intensity rates shall be as set out in Annex IV. Where one operation falls under several of the rows 1 to 11 of Annex IV, the highest maximum aid intensity rate shall apply.

#### *Article 17*

#### ***Aid for partnership between scientists and fishers***

1. Aid for partnership between scientists and fishers fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that:
  - (a) the aid aims to foster the transfer of knowledge between scientists and fishers;
  - (b) the aid supports the following:
    - (i) the creation of networks, partnership agreements or associations between one or more independent scientific bodies and fishers, or one or more organisations of fishers, in which technical bodies may participate;
    - (ii) the activities carried out in the framework of the networks, partnership agreements, or associations referred to in point (i). These activities may cover data collection and management activities, studies, pilot projects, dissemination of knowledge and research results, seminars and best practices.
2. The aid shall take the form of a subsidised service or direct grant.
3. The aid may only cover the following eligible costs incurred directly as a result of the supported project:

- (a) direct salary costs
  - (a) participation fees;
  - (b) travel costs;
  - (c) costs of publications;
  - (d) purchased data collection services, studies, pilot projects;
  - (e) the rent of exhibition premises and stands and the costs of their installation and dismantling;
  - (f) costs for the dissemination of scientific knowledge and factual information.
4. The amount of the aid granted under this Article shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 50 % of the eligible costs. Specific maximum aid intensity rates shall be as set out in Annex IV. Where one operation falls under several of the rows 1 to 11 of Annex IV, the highest maximum aid intensity rate shall apply.

### *Article 18*

#### ***Aid to promote human capital and social dialogue***

1. Aid to promote human capital and social dialogue fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that the aid concerned supports the following:
  - (a) professional training, lifelong learning, joint projects, the dissemination of knowledge of an economic, technical, regulatory or scientific nature and of innovative practices, and the acquisition of new professional skills, in particular linked to the sustainable management of marine ecosystems, hygiene, health, safety, activities in the maritime sector, innovation and entrepreneurship;
  - (b) networking and exchange of experiences and best practices between stakeholders, including among organisations promoting equal opportunities between men and women, promoting the role of women in fishing communities and promoting under-represented groups involved in small-scale coastal fishing or in on-foot fishing; or
  - (c) social dialogue at Union, national, regional or local level involving fishers, social partners and other relevant stakeholders.
2. The aid to support activities listed in paragraph 1 may also be granted to spouses of self-employed fishers or, where and in so far as recognised by national law, the life partners of self-employed fishers, not being employees or business partners, where they habitually, under the conditions laid down by national law, participate in the activities of the self-employed fisher and perform the same or ancillary tasks.
3. The amount of aid granted under this Article shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 50 % of the eligible costs, except in the case of professional navigation training and safety training where the maximum aid intensity rate of 100 % applies. Specific maximum aid intensity rates shall be as set out in Annex IV. Where one operation falls under several of the rows 1 to 11 of Annex IV, the highest maximum aid intensity rate shall apply.

## *Article 19*

### *Aid to facilitate diversification and new forms of income*

1. Aid to facilitate diversification and new forms of income fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that:
  - (a) the aid aims to support investments contributing to the diversification of the income of fishers through the development of complementary activities, including investments on board, angling tourism, restaurants, environmental services related to fishing and educational activities concerning fishing;
  - (b) the aid supports fishers who:
    - (i) submit a business plan for the development of their new activities; and
    - (ii) possess adequate professional skills or acquire it through operations which may be financed under Article 18(1), point (a).
2. The aid referred to in paragraph 1, point (a), shall only be granted if the complementary activities relate to the fisher's core fishing business.
3. The amount of the aid granted under this Article shall not exceed 50 % of the budget foreseen in the business plan for each operation, and shall not exceed a maximum amount of EUR 75 000 for each beneficiary undertaking.

## *Article 20*

### *Aid to first acquisition of a fishing vessel*

1. Aid to the first acquisition of a fishing vessel or the first acquisition of partial ownership fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that:
  - (a) the aid contributes to strengthening economically, socially and environmentally sustainable fishing activities and the beneficiary undertaking has provided verifiable information and a business plan that attests to this; and
  - (b) the aid supports first acquisition of a fishing vessel by a natural person who is no more than 40 years of age at the date of submission of the application for aid and has worked at least five years as a fisher or has acquired adequate qualifications.
2. Aid under paragraph 1 may also be granted to legal entities wholly owned by one or more natural persons who each fulfil the conditions set out in paragraph 1.
3. Aid under this Article may be granted for the joint first acquisition of a fishing vessel by several natural persons who each fulfil the conditions set out in paragraph 1.
4. Support under this Article may also be granted for the first acquisition of partial ownership of a fishing vessel by a natural person who fulfils the conditions set out in paragraph 1 and who shall be deemed to have controlling rights on that vessel through ownership of at least of 33 % of the fishing vessel or of the shares in the fishing vessel or by a legal entity which fulfils the conditions set out in paragraph 2 and which shall be deemed to have controlling rights on that vessel through

ownership of at least of 33 % of the fishing vessel or of the shares in the fishing vessel.

5. Aid shall be granted only in respect of a fishing vessel which complies with all the following requirements:
  - (a) belongs to a fleet segment for which the latest report on fishing capacity, referred to in Article 22(2) of Regulation (EU) No 1380/2013, has shown a balance with the fishing opportunities available to that segment;
  - (b) is equipped for fishing activities;
  - (c) is not longer than 24 metres in overall length;
  - (d) has been registered in the Union fleet register for at least three calendar years preceding the year of submission of the application for aid in the case of a small-scale coastal fishing vessel, and for at least five calendar years in the case of another type of vessel; and
  - (e) has been registered in the Union fleet register for a maximum of 30 calendar years preceding the year of submission of the application for aid.
6. The amount of the aid granted under this Article shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 40 % of the eligible costs and shall in any event not be higher than EUR 75 000 per fisher and fishing vessel.

#### *Article 21*

##### ***Aid to improve health, safety and working conditions for fishers***

1. Aid to improve health, safety and working conditions for fishers fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that:
  - (a) the aid is granted only in respect of investments on board or in individual equipment and those go beyond the requirements under Union or national law; and
  - (b) the aid does not support operations that increase the gross tonnage of a fishing vessel.
2. For operations that are aimed at improving safety for fishers, the purchase and, if applicable, the installation of the following items are eligible for support:
  - (a) life rafts;
  - (b) hydrostatic release units for life-rafts;
  - (c) personal locator beacons such as Emergency Position Indicating Radio Beacon ('EPIRB') devices, which may be integrated into lifejackets and working clothes of fishers;
  - (d) Personal Flotation Devices ('PFD'), in particular immersion or survival suits, life buoys and jackets;
  - (e) distress flares;
  - (f) line throwing appliances;
  - (g) man-overboard ('MOB') recovery systems;

- (h) fire-fighting apparatus, such as fire extinguishers, fire blankets, fire and smoke detectors, breathing apparatus;
  - (i) fire protection doors;
  - (j) fuel tank shut-off valves;
  - (k) gas detectors and gas alarm systems;
  - (l) bilge pumps and alarms;
  - (m) equipment for radio and satellite communications;
  - (n) watertight hatches and doors;
  - (o) guards on machinery, such as winches or net drums;
  - (p) gangways and access ladders;
  - (q) search, deck or emergency lighting;
  - (r) safety release mechanism for cases where fishing gear catches an underwater obstruction;
  - (s) safety cameras and monitors;
  - (t) equipment and elements necessary to improve deck safety.
3. For operations or the provision of equipment that are aimed at the improvement of the health conditions for fishers, the following actions are eligible for support:
- (a) the purchase and installation of first aid kits;
  - (b) the purchase of medicines and devices for urgent treatment;
  - (c) the provision of telemedicine including e-technologies, equipment and medical imagery applied to distance consultation from the vessels;
  - (d) the provision of guides and manuals to improve health;
  - (e) information campaigns to improve health.
4. For operations or the provision of equipment that are aimed at the improvement of hygiene conditions for fishers, the purchase and, if applicable, the installation of the following items are eligible for support:
- (a) sanitary facilities, such as toilet and washing facilities;
  - (b) kitchen facilities and equipment for food supplies storage;
  - (c) water purification devices for potable water;
  - (d) ventilation, cleaning or disinfection equipment or systems to maintain on board adequate sanitary conditions;
  - (e) guides and manuals on the improvement of hygiene on board, including software tools.
5. For operations or the provision of equipment that are aimed at the improvement of working conditions on board fishing vessels, the purchase and, if applicable, the installation of the following items are eligible for support:
- (a) deck railings;

- (b) shelter deck structures and the modernisation of cabins with a view to providing protection from adverse climatic events which can be assimilated to a natural disaster;
  - (c) items relating to the improvement of cabin safety and to the provision of common areas for the crew;
  - (d) equipment to reduce heavy manual lifting, excluding machines directly related to the fishing operations such as winches;
  - (e) anti-slipping paint and rubber mats;
  - (f) insulation equipment against noise, heat or cold, and equipment to improve ventilation;
  - (g) working clothes and safety equipment such as waterproof safety boots, eyes and breathing protection, protective gloves and helmets, or protective equipment against falls;
  - (h) emergency and safety warning signs;
  - (i) risk analysis and assessments to identify the risks for fishers both in port or in navigation in order to take measures to prevent or reduce risks;
  - (j) guides and manuals on the improvement of working conditions on board;
  - (k) collective vehicles for transport from shellfish zones to first sale places;
  - (l) on-shore facilities for fishermen on foot that improve working conditions, such as changing rooms, bathrooms, and other sanitary facilities, in particular those that encourage and promote women's entry into the labour market.
6. The aid shall be granted to fishers, including when applicable fisher on foot, or owners of fishing vessels.
  7. Where the operation consists of an investment on board, the aid shall not be granted more than once during the period between 1 January 2023 and 31 December 2029 for the same type of investment and for the same fishing vessel. Where the operation consists of an investment in individual equipment, the aid shall not be granted more than once during the period between 1 January 2023 and 31 December 2029 for the same type of equipment and for the same beneficiary undertaking.
  8. The amount of the aid granted under this Article shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 50 % of the eligible costs. Specific maximum aid intensity rates shall be as set out in Annex IV. Where one operation falls under several of the rows 1 to 11 of Annex IV, the highest maximum aid intensity rate shall apply.

## *Article 22*

### ***Aid for the payment of insurance premiums and for financial contributions to mutual funds***

1. Aid for the payment of insurance premiums and for financial contributions to mutual funds fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that:

- (a) the aid aims to contribute to premiums for insurances or mutual funds or which pay financial compensation to fishers for economic losses caused by behaviour of the protected animals, public health crises, adverse climatic events which can be assimilated to a natural disaster or by environmental incidents or for the rescue costs for fishers or fishing vessels in the case of accidents at sea during their fishing activities;
  - (b) the combination of financial compensation paid by mutual funds under this Article with other Union or national instruments or insurance schemes does not lead to overcompensation exceeding the economic loss incurred;
  - (c) the insurance does not require or specify the type or quantity of future production and the aid is not limited to insurance provided by a specific insurance company or group of companies; and
  - (d) the mutual fund is accredited by the competent authority of a Member State in accordance with national laws.
2. For the purposes of this Article:
- (a) public health crises, adverse climatic events which can be assimilated to a natural disaster, environmental incidents or accidents at sea referred to in paragraph 1, point (a), shall be those that are formally recognized by the competent authority of the Member State as having occurred;
  - (b) the term ‘mutual fund’ means a scheme accredited by the Member State, in accordance with its national law, which enables affiliated fishers to insure themselves, whereby compensation payments are made to affiliated fishers for economic losses caused by the events listed in paragraph 1, point (a). The mutual fund shall have a transparent policy towards payments into and withdrawals from the fund and have clear rules attributing responsibilities for any debts incurred.
3. The maximum aid intensity shall be limited to:
- (a) 50 % of the amounts paid by the mutual fund as financial compensation to fishers;
  - (b) 100 % of the administrative costs of setting up the mutual fund;
  - (c) 70 % of the costs of the insurance premium;
  - (d) 50 % of the initial capitalization of the fund.
4. The contributions referred to in paragraph 1, point (a), shall only be granted to cover losses caused by public health crises, adverse climatic events which can be assimilated to a natural disaster, environmental incidents or accidents at sea.

### *Article 23*

#### ***Aid to support systems of allocation of fishing opportunities***

1. Aid to support systems of allocation of fishing opportunities fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that:
- (a) the aid aims to support the design, development, monitoring, evaluation and management of the systems for allocating the fishing opportunities between

Member States, in accordance with Article 16(8) of Regulation (EU) No 1380/2013, in order to adapt the fishing activities to the fishing opportunities; and

- (b) the aid shall be granted to legal or natural persons or organisations of fishers recognized by the Member State, including recognized producer organisations involved in the collective management of the systems allocating the fishing opportunities.
- 2. The aid shall take the form of a subsidised service or direct grant.
  - 3. The aid may only cover the following eligible costs:
    - (a) direct salary costs
    - (b) purchase or lease of tangible or intangible assets up to the market value of the asset
    - (c) costs of publications; or
    - (d) purchase of design and development services or studies.
  - 4. The amount of the aid granted under this Article shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 100 % of the eligible costs.

#### *Article 24*

#### ***Aid to limit the impact of fishing on the environment and adapt fishing to the protection of species***

- 1. Aid to limit the impact of fishing on the environment and adapt fishing to the protection of species fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that: the aid aims to reduce the impact of fishing on the marine environment, at fostering the gradual elimination of discards and at facilitating the transition to a sustainable exploitation of living marine biological resources in accordance with Article 2(2) of Regulation (EU) No 1380/2013.
- 2. The aid shall support the following:
  - (a) investments in equipment improving size selectivity or species selectivity of fishing gear;
  - (b) investments on board or in equipment that eliminates discards by avoiding and reducing unwanted catches of commercial stocks, or that deals with unwanted catches to be landed in accordance with Article 15 of Regulation (EU) No 1380/2013;
  - (c) investments in equipment that limits and, where possible, eliminates the physical and biological impacts of fishing on the ecosystem or the sea bed; or
  - (d) investments in equipment that protects fishing gear and catches from mammals and birds protected by Council Directive 92/43/EEC<sup>25</sup> or Directive

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<sup>25</sup> Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ L 206, 22.7.1992, p. 7).

2009/147/EC of the European Parliament and of the Council<sup>26</sup>, provided that it does not undermine the selectivity of the fishing gear and that all appropriate measures are introduced to avoid physical damage to the predators.

3. The aid shall not be granted more than once during the period between 1 January 2023 and 31 December 2029 for the same type of equipment on the same Union fishing vessel.
4. The aid shall only be granted where the fishing gear or other equipment referred to in paragraph 2 of this Article has a demonstrably better size-selection or a demonstrably lower impact on the ecosystem and on non-target species than the standard gear or other equipment permitted under Union law, or under relevant national law adopted in the context of regionalization as provided for in Regulation (EU) No 1380/2013.
5. The aid shall be granted to:
  - (a) owners of Union fishing vessels which are registered as active vessels and which have carried out fishing activities at sea of at least 60 days during the two calendar years preceding the date of submission of the application for aid;
  - (b) fishers who own the gear to be replaced and who have worked on board of a Union fishing vessel for at least 60 days during the two calendar years preceding the date of submission of the application for aid;
  - (c) organisations of fishers recognised by the Member State.
6. The amount of the aid granted under this Article shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 100 % of the eligible costs.

#### *Article 25*

##### ***Aid for innovation linked to the conservation of marine biological resources***

1. Aid for innovation linked to the conservation of marine biological resources fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that:
  - (a) the aid aims to contribute to the gradual elimination of discards and by-catches and to facilitate the transition to exploitation of living marine biological resources in accordance with Article 2(2) of Regulation (EU) No 1380/2013 and to reduce the impact of fishing on the marine environment and protected animals;
  - (b) the aid supports operations aimed at developing or introducing new technical or organizational knowledge that reduces the impact of fishing activities on the environment, including improved fishing techniques and gear selectivity, or aimed at achieving a more sustainable use of marine biological resources and coexistence with protected animals;
  - (c) the supported operations shall be carried out by, or in collaboration with, a scientific or technical body, recognized by the Member State, which shall validate the results of such operations; and

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<sup>26</sup> Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (OJ L 20, 26.1.2010, p. 7).

- (d) the results of supported operations are adequately publicised by the Member State.
- 2. The aid shall take the form of subsidised services.
- 3. Fishing vessels involved in projects financed under this Article shall not exceed 5 % of the number of fishing vessels of the national fleet or 5 % of the national fleet tonnage in gross tonnage, calculated at the time of adoption of the support instrument.
- 4. The eligible costs may only be the following:
  - (a) direct personnel costs related to researchers, technicians and other supporting staff to the extent employed on the project;
  - (b) costs of instruments and equipment to the extent and for the period used for the project; where such instruments and equipment are not used for their full life for the project, only the depreciation costs corresponding to the life of the project, as calculated on the basis of generally accepted accounting principles are considered as eligible;
  - (c) costs of buildings and land, to the extent and for the duration period used for the project and under the following conditions:
    - (i) with regard to buildings, only the depreciation costs corresponding to the life of the project, as calculated on the basis of generally accepted accounting principles, are considered as eligible;
    - (ii) with regard to land, only costs of commercial transfer or actually incurred capital costs are eligible;
  - (d) costs of contractual research, knowledge and patents bought or licensed from outside sources at arm's length conditions, as well as costs of consultancy and equivalent services used exclusively for the project; or
  - (e) additional overheads and other operating expenses, including costs of materials, supplies and similar products, incurred directly as a result of the project.
- 5. The amount of the aid granted under this Article shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 50 % of the eligible costs. Specific maximum aid intensity rates shall be as set out in Annex IV. Where one operation falls under several of the rows 1 to 11 of Annex IV, the highest maximum aid intensity rate shall apply.

#### *Article 26*

#### ***Aid for the protection and restoration of marine biodiversity and ecosystems and regimes in the framework of sustainable fishing activities***

- 1. Aid for the protection and restoration of marine biodiversity and ecosystems and regimes in the framework of sustainable fishing activities fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof.
- 2. The aid under this Article shall support the following operations:

- (a) the collection of waste by the fisher from the sea such as the passive collection of lost fishing gear and marine litter; only the following actions are eligible for support:
  - (i) the removal of lost fishing gear from the sea, in particular in order to combat ghost fishing;
  - (ii) the purchase and, if applicable, the installation of equipment on board for the collection and storage of litter;
  - (iii) the creation of schemes of waste collection for participating fishers, including financial incentives;
  - (iv) the purchase and, if applicable, the installation of equipment based in fishing port facilities for the storage and recycling of litter;
  - (v) communication, information, awareness raising campaigns, to encourage fishers and other stakeholders to participate in projects to remove lost fishing gear; or
  - (vi) training for fishers and port agents.
- (b) the construction, installation or modernization of static or movable facilities intended to protect and enhance marine fauna and flora, including their scientific preparation and evaluation; only the following actions are eligible for support:
  - (i) the purchase and, if applicable, the installation of facilities to protect marine areas from trawling;
  - (ii) the purchase and, if applicable, the installation of facilities to restore degraded marine ecosystems; or
  - (iii) costs relating to preliminary work such as prospecting, scientific studies or evaluations.

Acquisition of a vessel to be submerged and used as an artificial reef shall not be eligible.

- (c) contributions to a better management or conservation of marine biological resources by installing the following items or taking the following actions and projects:
  - (i) circular hooks;
  - (ii) acoustic deterrent devices;
  - (iii) turtle excluder devices ('TEDs');
  - (iv) streamer lines;
  - (v) other tools or devices proven efficient in preventing accidental catches of protected animals;
  - (vi) training for fishers on better management or conservation of marine biological resources;
  - (vii) projects focussing on coastal habitats of importance for fish, birds and other organisms;
  - (viii) projects focusing on areas of importance for fish reproduction, such as coastal wetlands; or

- (ix) replacement of existing fishing gear with low impact fishing gear, costs related to fish pots and traps, jigging and hand-lining;
- (d) the participation in other actions aimed at maintaining and enhancing biodiversity and ecosystem services, such as the restoration of specific marine and coastal habitats in support of sustainable fish stocks, including their scientific preparation and evaluation; costs related to the following actions are eligible for support:
  - (i) schemes to test novel monitoring techniques, and in particular:
    - remote electronic monitoring systems, such as closed-circuit television ('CCTV') or video-control systems, for the monitoring and recording of incidental catches of protected animals;
    - the recording of oceanographic data such as temperature, salinity, plankton, algae blooms or turbidity;
    - the mapping of invasive alien species ('IAS');
    - actions, including studies, to prevent and control the expansion of IAS;
  - (ii) financial incentives for the installation on board of automatic recording devices for monitoring and recording oceanographic data such as temperature, salinity, plankton, algae blooms or turbidity;
  - (iii) measures reducing physical and chemical pollution;
  - (iv) measures reducing other physical pressures, including anthropogenic underwater noise that negatively affect biodiversity;
  - (v) positive conservation measures to protect and conserve flora and fauna, including the reintroduction of or stocking with native species, and applying Green Infrastructure principles referred to in the Commission Communication on Green Infrastructure<sup>27</sup>; or
  - (vi) measures to prevent, control or eliminate IAS.
- 3. Support under paragraph 2, point (d), shall be subject to the formal recognition of such schemes or measures by the competent authorities of the Member States. Member States shall also ensure that no overcompensation occurs as a result of the combination of Union, national and private schemes.
- 4. The amount of the aid granted under this Article shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 100 % of the eligible costs.

#### *Article 27*

#### ***Aid to improve energy efficiency and to mitigate the effects of climate change***

- 1. Aid to improve energy efficiency and to mitigate the effects of climate change, with the exception of aid to replace or modernize engines, fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market

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<sup>27</sup> Commission Communication, Green Infrastructure (GI) — Enhancing Europe's Natural Capital, COM(2013) 249 final, 6.5.2013.

within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof.

2. The aid granted under this Article may only cover the following measures:
  - (a) investments in equipment or on board aimed at reducing the emission of pollutants or greenhouse gases and increasing the energy efficiency of fishing vessels. Investments in fishing gear are also eligible provided that they do not undermine the selectivity of that fishing gear;
  - (b) energy efficiency audits and schemes; or
  - (c) studies to assess the contribution of alternative propulsion systems and hull designs to the energy efficiency of fishing vessels.
3. Aid under paragraph 2 shall only be granted to owners of fishing vessels and shall not be granted more than once for the same type of investment during the period between 1 January 2023 and 31 December 2029 for the same fishing vessel.
4. The eligible costs are the direct additional costs incurred as a result of operations concerned. For the purposes of point (a) in paragraph 2, eligible costs related to:
  - (i) measures that are aimed at improving the hydrodynamics of the hull of the vessel may only cover:
    - investments on stability mechanisms such as bilge keels and bulbous bows that contribute to improving sea-keeping and stability;
    - costs related to the use of non-toxic antifouling such as copper coating in order to reduce friction;
    - costs relative to the steering gear, such as steering gear control systems and multiple rudders to reduce rudder activity depending on weather and sea-state conditions; or
    - tank testing in order to provide a basis for improving hydrodynamics;
  - (ii) measures that are aimed at improving the propulsion system of the vessel may only cover costs related to the purchase and, if necessary, the installation of the following items:
    - energy efficient propellers including drive shafts;
    - catalysers;
    - energy efficient generators such as those using hydrogen, or natural gas;
    - renewable energy propulsion elements such as sails, kites, windmills, turbines, or solar panels;
    - bow thrusters;
    - econometers, fuel management systems and monitoring systems; or
    - investments in nozzles that improve the propulsion system;
  - (iii) investments in fishing gear and fishing equipment may only cover costs relating to the following measures:

- change from towed gear to alternative gear;
  - towed gear modifications; or
  - investments in towed gear monitoring equipment;
- (iv) investments that are aimed at the reduction of electricity or thermal energy may only cover:
- investments to improve the refrigeration, freezing, or insulation systems for vessels; or
  - investments to encourage the recycling of heat within the vessel involving the heat being recovered and reused for other auxiliary operations within the vessel.

Costs relating to basic hull maintenance shall not be eligible for aid under point (a) in paragraph 2.

5. The amount of the aid granted under this Article shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 50 % of the eligible costs. Specific maximum aid intensity rates shall be as set out in Annex IV. Where one operation falls under several of the rows 1 to 11 of Annex IV, the highest maximum aid intensity rate shall apply.

#### *Article 28*

##### ***Aid for added value, product quality and use of unwanted catches***

1. Aid for added value, product quality and use of unwanted catches, fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that:
  - (a) the aid aims to improve the added value or quality of the fish caught;
  - (b) the aid covers only the following eligible costs:
    - (i) investments that add value to fishery products, in particular by allowing fishers to carry out the processing, marketing and direct sale of their own catches; or
    - (ii) innovative investments on board that improve the quality of the fishery products.
2. The aid referred to in paragraph 1, point (b)(ii), shall be conditional on the use of selective gears to minimize unwanted catches and shall only be granted to owners of Union fishing vessels that have carried out a fishing activity at sea for at least 60 days during the two calendar years preceding the date of submission of the application for aid.
3. The amount of the aid granted under this Article shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 50 % of the eligible costs. Specific maximum aid intensity rates shall be as set out in Annex IV. Where one operation falls under several of the rows 1 to 11 of Annex IV, the highest maximum aid intensity rate shall apply.

## *Article 29*

### ***Aid for fishing ports, landing sites, auction halls and shelters***

1. Aid for fishing ports, landing sites, auction halls and shelters fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that:
  - (a) the aid aims to increase the quality, control and traceability of the products landed, increasing energy efficiency, contributing to environmental protection and improving safety and working conditions;
  - (b) the aid covers the following eligible investment costs that:
    - (i) improve the infrastructure of fishing ports, auction halls, landing sites and shelters, including investments in adequate reception facilities for lost fishing gears and marine litter collected from the sea;
    - (ii) facilitate compliance with the obligation to land all catches in accordance with Article 15 of Regulation (EU) No 1380/2013 and Article 8(2), point (b), of Regulation (EU) No 1379/2013 or add value to under-used components of the catch; or
    - (iii) improve the safety of fishers by way of construction or modernization of shelters.
2. The amount of the aid granted under this Article shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 50 % of the eligible costs. Specific maximum aid intensity rates shall be as set out in Annex IV. Where one operation falls under several of the rows 1 to 11 of Annex IV, the highest maximum aid intensity rate shall apply.

## *Article 30*

### ***Aid for inland fishing and inland aquatic fauna and flora***

1. Aid for inland fishing and inland aquatic fauna and flora fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that the aid aims
  - (a) to reduce the impact of inland fishing on the environment;
  - (b) to increase energy efficiency;
  - (c) to increase the value or quality of fish landed; or
  - (d) to improve health, safety, working conditions, human capital and training.
2. The aid under this Article may only support the following eligible costs:
  - (a) investments in the promotion of human capital, job creation and social dialogue referred to in Article 18 and under the conditions set out in that Article;
  - (b) investments on board or in individual equipment as referred to in Article 21 and under the conditions set out in that Article;
  - (c) investments in equipment referred to in Article 24 and under the conditions set out in that Article;

- (d) investments in the improvement of energy efficiency and the mitigation of the effects of climate change referred to in Article 27 and under the conditions set out in that Article;
  - (e) investments in the improvement of the added value or quality of the fish caught referred to in Article 28 and under the conditions set out in that Article;
  - (f) investments fishing ports, shelters and landing sites referred to in Article 29 and under the conditions set out in that Article; or
  - (g) investments in nets or other fishing gear subjected to increased wear and tear due to damage caused by animals other than fish including invasive species and in related equipment.
3. The aid may provide support for the innovation in accordance with Article 15, for the advisory services in accordance with Article 16 and for partnerships between scientists and fishers in accordance with Article 17.
  4. In order to promote diversification by inland fishers, the aid may support the diversification of inland fishing activities to complementary activities under the conditions laid down in Article 19.
  5. For the purpose of paragraph 2 of this Article:
    - (a) references made in Articles 21, 24, 27 and 28 to fishing vessels shall be understood as references to vessels operating exclusively in inland waters;
    - (b) references made in Article 24 to the marine environment shall be understood as reference to the environment in which the inland fishing vessel operates;
    - (c) conditions set out in Articles 21, 24 and 27 that are specific to marine fishing vessels shall not be extended to inland fishing
  6. In order to protect and develop aquatic fauna and flora, the aid may only support:
    - (a) the management, restoration and monitoring of NATURA 2000 sites which are affected by fishing activities, and the rehabilitation of inland waters in accordance with Directive 2000/60/EC of the European Parliament and the Council<sup>28</sup>, including spawning grounds and migration routes for migratory species, without prejudice to Article 26(2), point (d), of this Regulation and, where relevant, with the participation of inland fishers;
    - (b) the construction, modernization or installation of static or movable facilities intended to protect and enhance aquatic fauna and flora, including their scientific preparation, monitoring and evaluation.
  7. Member States shall ensure that fishing vessels receiving support under this Article continue to operate exclusively in inland waters.
  8. The amount of the aid granted under this Article shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 50 % of the eligible costs, with the exception of the measure in paragraph 2, point (g), for which an aid intensity of 40 % shall apply. Specific maximum aid intensity rates shall be as set out in Annex IV. Where one operation falls under several of the rows 1 to 11 of Annex IV, the highest maximum aid intensity rate shall apply.

<sup>28</sup> Directive 60/2000/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy (OJ L 327, 22.12.2000, p. 1).

## **SECTION 2**

### **FOSTERING SUSTAINABLE AQUACULTURE ACTIVITIES**

#### *Article 31*

##### ***General conditions***

1. Aid granted under this Section shall fulfil the following general conditions:
  - (a) it shall be limited to aquaculture undertakings, unless otherwise stated in this Regulation;
  - (b) where operations consist of investments in equipment or infrastructure ensuring compliance with future requirements relating to the environment, human or animal health, hygiene or animal welfare under Union law, support may be granted until the date on which such requirements become mandatory for the undertakings;
  - (c) it shall not be granted to the farming of genetically modified organisms;
  - (d) it shall not be granted to aquaculture operations in marine protected areas, if it has been determined by the competent authority of the Member State, on the basis of an environmental impact assessment, that the operation would generate significant negative environmental impact that cannot be adequately mitigated.
2. Aid under this Section for investments that aim at exploiting new markets shall be granted only where the beneficiary undertaking provides documentation that good and sustainable market prospects exist for the project.
3. For investment requiring an environmental impact assessment under Directive 2011/92/EU of the European Parliament and of the Council<sup>29</sup> the aid shall be subject to the condition that such assessment has been carried out and the development consent has been granted for the investment project concerned before the date of granting the individual aid.

#### *Article 32*

##### ***Aid for innovation in aquaculture***

1. Aid for innovation in aquaculture fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that:
  - (a) the aid stimulates innovation in aquaculture;
  - (b) the aid aims to achieve the following:
    - (i) develop technical, scientific or organisational knowledge in aquaculture farms, which, in particular, reduces the impact on the environment, reduces dependence on fish meal and oil, fosters a sustainable use of resources in aquaculture, improves animal welfare or facilitates new sustainable production methods;

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<sup>29</sup> Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment Text with EEA relevance (OJ L 26, 28.1.2012, p. 1).

- (ii) develop or introduce on the market new aquaculture species with market potential, new or substantially improved products, new or improved processes, or new or improved management and organisation systems;
  - (iii) explore the technical or economic feasibility of innovative products or processes.
- 2. Subsidised services under this Article shall be carried out by, or in collaboration with, public or private scientific or technical bodies, recognised by the Member State, which shall validate the results of subsidised services.
- 3. The results of projects receiving support shall be adequately publicised by the Member State.
- 4. The eligible costs may be the following:
  - (a) direct personnel costs related to researchers, technicians and other supporting staff to the extent employed on the project;
  - (b) costs of instruments and equipment to the extent and for the period used for the project;
  - (c) costs of buildings, to the extent and for the duration period used for the project and under the following conditions:
    - (i) with regard to buildings, only the depreciation costs corresponding to the life of the project, as calculated on the basis of generally accepted accounting principles, are considered as eligible;
    - (ii) with regard to land, costs of commercial transfer or actually incurred capital costs are eligible;
  - (d) costs of contractual research, knowledge and patents bought or licensed from outside sources at arm's length conditions, as well as costs of consultancy and equivalent services used exclusively for the project; or
  - (e) additional overheads and other operating expenses, including costs of materials, supplies and similar products, incurred directly as a result of the project.

For the purposes of point (b), where those instruments and equipment are not used for their full life for the project, only the depreciation costs corresponding to the life of the project, as calculated on the basis of generally accepted accounting principles, are considered as eligible.
- 5. The amount of the aid granted under this Article shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 50 % of the eligible costs. Specific maximum aid intensity rates shall be as set out in Annex IV. Where one operation falls under several of the rows 1 to 11 of Annex IV, the highest maximum aid intensity rate shall apply.

### *Article 33*

#### ***Aid for investments increasing productivity or positively impacting the environment in aquaculture***

1. Aid for investments increasing productivity or positively impacting the environment in aquaculture fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point

(c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that the aid supports:

- (a) productive investments in aquaculture;
- (b) diversification of aquaculture production and species cultured;
- (c) modernisation of aquaculture units, including the improvement in working and safety conditions of aquaculture workers;
- (d) improvements and modernisation related to animal health and welfare, including the purchase of equipment aiming at protecting the farms from wild predators;
- (e) investments reducing the negative impact or enhancing the positive effects on the environment and increasing resource efficiency;
- (f) investments in enhancing the quality of, or in adding value to, aquaculture products;
- (g) the restoration of existing aquaculture ponds or lagoons through the removal of silt, or investments aimed at the prevention of silt deposits;
- (h) the diversification of the income of aquaculture undertakings through the development of complementary activities;
- (i) investments resulting in a substantial reduction in the impact of aquaculture undertakings on water usage and quality, in particular through reducing the amount of water or chemicals, antibiotics and other medicines used, or through improving the output water quality, including through the deployment of multi-trophic aquaculture systems;
- (j) the promotion of closed aquaculture systems where aquaculture products are farmed in closed recirculation systems, thereby minimising water use; or
- (k) investments increasing energy efficiency and promoting the conversion of aquaculture undertakings to renewable sources of energy.

2. Aid referred to in paragraph 1, point (h), shall only be granted to aquaculture undertakings if the complementary activities relate to the core aquaculture business of the undertakings, including angling tourism, environmental services related to aquaculture or educational activities concerning aquaculture.
3. Aid referred to in paragraph 1 of this Article may be granted for investments that increase production and/ or modernisation of existing aquaculture undertakings, or for the construction of new production capacity, provided that the development is consistent with the plan for the development of aquaculture referred to in Article 34 of Regulation (EU) No 1380/2013.
4. Investments referred to in paragraph (1), point (e), include those related to the use of more sustainable feed, the reduction and management of nutrient release and effluents, the reduction of escapees, the use of chemicals and medicines with lower impact on the environment, the adoption of a circular approach in the management of waste, the disposal of aquaculture gear or the use of biodegradable aquaculture gear to avoid marine litter, the management of predators, and those that make a measurable contribution on the restoration of biodiversity or ecological continuity.
5. The amount of the aid granted under this Article shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 50 % of the eligible costs. Specific

maximum aid intensity rates shall be as set out in Annex IV. Where one operation falls under several of the rows 1 to 11 of Annex IV, the highest maximum aid intensity rate shall apply. For operations positively impacting the environment the maximum aid intensity rate shall be 80 % unless a higher aid intensity rate would be applicable with regard to Annex IV.

#### *Article 34*

##### ***Aid for the management, relief and advisory services for aquaculture farms***

1. Aid for the management, relief and advisory services for aquaculture farms fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that:
  - (a) the aid improves the overall performance and competitiveness of aquaculture farms;
  - (b) the aid reduces the negative environmental impact of aquaculture farms; and
  - (c) the aid supports the purchase of farm advisory services of a technical, scientific, legal, environmental or economic nature.;

For purposes of point (c), the aid shall only be granted to aquaculture SMEs or aquaculture organisations, including aquaculture producer organisations and associations of aquaculture producer organisations.
2. Advisory services referred to in paragraph 1, point (c), shall cover:
  - (a) the management needs to enable aquaculture farms to comply with Union and national environmental legislation, as well as with maritime spatial planning requirements;
  - (b) environmental impact assessment as referred to in Directive 2011/92/EU and Directive 92/43/EEC;
  - (c) the management needs to enable aquaculture farms to comply with Union and national aquatic animal health and welfare or public health legislation;
  - (d) standards based on Union and national legislation;
  - (e) marketing and business strategies; or
  - (f) feasibility studies and advisory services that assess the viability of measures potentially eligible for support under Title II, Chapter III of Regulation (EU) 2021/1139.
3. Advisory services referred to in paragraph 1 shall be provided by scientific or technical bodies, as well as by entities providing legal or economic advice with the required competences as recognised by the Member State. The aid shall take the form of a subsidised service or direct grant.
4. Beneficiary undertakings shall not receive aid more than once per year for each category of advisory service listed in paragraph 2.
5. The amount of the aid granted under this Article shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 50 % of the eligible costs. Specific maximum aid intensity rates shall be as set out in Annex IV. Where one operation falls under several of the rows 1 to 11 of Annex IV, the highest maximum aid intensity rate shall apply.

## *Article 35*

### ***Aid to promote human capital and networking in aquaculture***

1. Aid to promote human capital and networking in aquaculture fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that the aid supports the following:
  - (a) professional training, lifelong learning, the dissemination of scientific and technical knowledge and innovative practices, the acquisition of new professional skills in aquaculture and with regard to the reduction of the environment impact of aquaculture operations;
  - (b) the improvement of working conditions and the promotion of occupational safety; and
  - (c) networking and exchange of experiences and best practices among aquaculture undertakings or professional organisations and other stakeholders, including scientific and technical bodies or those promoting equal opportunities between men and women.
2. The aid shall take the form of a subsidised service or direct grant.
3. The aid may only cover the following eligible costs incurred directly as a result of the supported project:
  - (a) direct salary costs
  - (b) participation fees;
  - (c) travel costs;
  - (d) costs of publications;
  - (e) purchased data collection services, studies, pilot projects;
  - (f) the rent of exhibition premises and stands and the costs of their installation and dismantling; or
  - (g) costs for the dissemination of scientific knowledge and factual information.
4. The amount of the aid granted under this Article shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 50 % of the eligible costs. Specific maximum aid intensity rates shall be as set out in Annex IV. Where one operation falls under several of the rows 1 to 11 of Annex IV, the highest maximum aid intensity rate shall apply.

## *Article 36*

### ***Aid to increase the potential of aquaculture sites***

1. Aid to increase the potential of aquaculture sites in aquaculture fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that:
  - (a) the aid contributes positively to development of the aquaculture sites and infrastructures and reduces the negative environmental impact of the operations;

- (b) the aid supports the following:
  - (i) the identification and mapping of the most suitable areas for developing aquaculture, taking into account, where applicable, spatial planning processes, and the identification and mapping of areas where aquaculture should be excluded in order to maintain the role of such areas in the functioning of the ecosystem;
  - (ii) the improvement and development of support facilities and infrastructures required to increase the potential of aquaculture sites and to reduce the negative environmental impact of aquaculture, including investments in land consolidation, energy supply or water management;
  - (iii) action taken and implemented by competent authorities under Article 9(1) of Directive 2009/147/EC or Article 16(1) of Directive 92/43/EEC, with the aim of preventing serious damage to aquaculture; or
  - (iv) action taken and implemented by competent authorities following the detection of increased mortalities or diseases as provided for in Regulation (EU) 2016/429 of the European Parliament and of the Council<sup>30</sup> and Commission Delegated Regulation (EU) 2020/689<sup>31</sup>.

For purposes of point (b)(iv), aid shall only be granted to cover the adoption of shellfish action plans aimed at the protection, restoration and management, including support to shellfish producers for the maintenance, of natural shellfish banks and catchment areas.

2. The eligible costs may be the following incurred directly as a result of the project:
  - (a) the costs of investment in tangible and intangible assets;
  - (b) direct salary costs; or
  - (c) the costs of consultancy, contractual research, and support services provided by external consultants.
3. Beneficiary undertakings under this Article shall only be those undertakings who have been entrusted by the Member State with the tasks referred to in paragraph 1, point (b).
4. The amount of the aid granted under this Article shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 50 % of the eligible costs. Specific maximum aid intensity rates shall be as set out in Annex IV. Where one operation falls under several of the rows 1 to 11 of Annex IV, the highest maximum aid intensity rate shall apply.

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<sup>30</sup> Regulation (EU) 2016/429 of the European Parliament and of the Council of 9 March 2016 on transmissible animal diseases and amending and repealing certain acts in the area of animal health ('Animal Health Law') (OJ L 84, 31.3.2016, p. 1).

<sup>31</sup> Commission Delegated Regulation (EU) 2020/689 of 17 December 2019 supplementing Regulation (EU) 2016/429 of the European Parliament and of the Council as regards rules for surveillance, eradication programmes, and disease-free status for certain listed and emerging diseases (OJ L 174, 3.6.2020, p. 211).

#### *Article 37*

##### ***Aid to encourage new aquaculture entrepreneurs practising sustainable aquaculture***

1. Aid to encourage new aquaculture entrepreneurs practising sustainable aquaculture fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that
  - (a) the aid fosters entrepreneurship in aquaculture; and
  - (b) the aid supports the setting-up of sustainable aquaculture undertakings by new entrepreneurs.
2. The aid shall be granted to aquaculture entrepreneurs entering the sector provided that they:
  - (a) possess adequate professional skills and competence;
  - (b) set up for the first time an aquaculture SMEs, as managers of that undertaking; and
  - (c) submit a business plan for the development of their aquaculture activities.
3. In order to acquire adequate professional skills, aquaculture entrepreneurs entering the sector may benefit from aid referred in Article 35(1).
4. The eligible costs may be the following incurred directly as a result of the project:
  - (a) salary costs;
  - (b) additional overheads and other costs, including costs of materials, supplies;
  - (c) costs of equipment; or
  - (d) the investment costs in tangible and intangible assets.
5. The amount of the aid under this Article shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 50 % of the eligible costs. Specific maximum aid intensity rates shall be as set out in Annex IV. Where one operation falls under several of the rows 1 to 11 of Annex IV, the highest maximum aid intensity rate shall apply.

#### *Article 38*

##### ***Aid for the conversion to eco-management and audit schemes and organic aquaculture***

1. Aid for the conversion to eco-management and audit schemes and organic aquaculture fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that
  - (a) the aid promotes the development of organic or energy-efficient aquaculture;
  - (b) the aid supports one of the following:

- (i) the conversion of conventional aquaculture production methods into organic aquaculture within the meaning Regulation (EU) 2018/848<sup>32</sup> and in accordance with Commission Implementing Regulation (EU) 2021/1165<sup>33</sup>;
  - (ii) the participation in the Union eco-management and audit schemes (EMAS) in accordance with Regulation (EC) No 1221/2009 of the European Parliament and of the Council<sup>34</sup>.
- 2. The aid shall only be granted with regard to the conversion of beneficiary undertakings who commit themselves to participate in the EMAS for a minimum of three years or to comply with the requirements of organic production for a minimum of five years. A revision clause shall be provided in commitments undertaken pursuant to this paragraph in order to ensure their adjustment in the case of amendments of the relevant mandatory requirements, standards and conditions referred to in this Article.
- 3. Aid shall take the form of compensation for a maximum of three years during the period of the conversion of the undertaking to organic production, or during the preparation for participation in the EMAS. Member States shall calculate that compensation on the basis of one of the following:
  - (a) the loss of revenue or additional costs incurred during the period of transition from conventional into organic production for operations eligible under paragraph 1, point (b)(i);
  - (b) the additional costs resulting from the application and preparation of the participation in EMAS for operations eligible under paragraph 1, point (b)(ii).
- 4. If the beneficiary undertaking is not able comply with the commitments under paragraph 2 due to exceptional and external circumstances the aid amount calculated under paragraph 3 shall be deducted and recovered proportionally based on the duration of the initial commitment and time that the commitments were not complied with.
- 5. The amount of the aid granted under this Article shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 50 % of the eligible costs. Specific maximum aid intensity rates shall be as set out in Annex IV. Where one operation falls under several of the rows 1 to 11 of Annex IV, the highest maximum aid intensity rate shall apply.

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<sup>32</sup> Regulation (EU) 2018/848 of the European Parliament and of the Council of 30 May 2018 on organic production and labelling of organic products and repealing Council Regulation (EC) No 834/2007 (OJ L 150, 14.6.2018, p. 1).

<sup>33</sup> Commission Implementing Regulation (EU) 2021/1165 of 15 July 2021 authorising certain products and substances for use in organic production and establishing their lists (OJ L 253, 16.7.2021, p. 13).

<sup>34</sup> Regulation (EC) No 1221/2009 of the European Parliament and of the Council of 25 November 2009 on the voluntary participation by organisations in a Community eco-management and audit scheme (EMAS), repealing Regulation (EC) No 761/2001 and Commission Decisions 2001/681/EC and 2006/193/EC (OJ L 342, 22.12.2009, p. 1).

*Article 39*  
***Aid for environmental services***

1. Aid to undertakings active in the aquaculture sector that provide environmental services fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that:
  - (a) the aid fosters the development of the aquaculture sector providing environmental services; and
  - (b) the aid supports one of the following measures:
    - (i) aquaculture methods compatible with specific environmental needs and subject to specific management requirements resulting from the designation of NATURA 2000 areas in accordance with Directives 92/43/EEC and 2009/147/EC;
    - (ii) participation, in terms of costs directly related thereto, in *ex-situ* conservation and reproduction of aquatic animals, within the framework of conservation and biodiversity restoration programmes developed by public authorities, or under their supervision;
    - (iii) aquaculture operations which include conservation and improvement of the environment and of biodiversity, and management of the landscape and traditional features of aquaculture zones.
2. Aid referred to in paragraph 1, point (b)(i), of this Article shall take the form of annual compensation. The eligible costs are the additional costs incurred and/or income foregone as a result of management requirements in the areas concerned, related to the implementation of Directives 92/43/EEC or 2009/147/EC.
3. For the purposes of point (b)(ii) in paragraph 1, the eligible costs are the direct additional costs incurred as a result of operations concerned.
4. Aid referred to in paragraph 1, point (b)(iii), shall be granted only to beneficiary undertakings who commit themselves for a minimum period of five years to aqua-environmental requirements that go beyond the mere application of Union and national law. The environmental benefits of the operation shall be demonstrated by a prior assessment conducted by competent bodies designated by the Member State, unless the environmental benefits of that operation are already recognised.
5. Aid referred to in paragraph 1, point (b)(iii), shall take the form of annual compensation. The eligible costs are the direct additional costs incurred and/or income foregone.
6. The results of operations receiving aid under this Article shall be adequately publicised by the Member State.
7. For commitments undertaken pursuant to this Article, a revision clause shall be provided in order to ensure their adjustment in the case of amendments of the relevant mandatory requirements, standards and conditions referred to in this Article.
8. The amount of the aid granted under this Article shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 100 % of the eligible costs.

*Article 40*  
***Aid for public health measures***

1. Aid for public health measures fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that the aid supports a compensation scheme which compensates mollusc farmers for the temporary suspension of the harvesting of farmed molluscs, where such suspension occurs exclusively for reasons of public health.
2. Aid referred to in paragraph 1 may only be granted where the closing of the classified production or relaying area, in accordance with Article 62 of Commission Implementing Regulation (EU) 2019/627<sup>35</sup> is due to the proliferation of toxin-producing plankton or to the presence of plankton containing biotoxins exceeding the limits established in Annex III, Section VII, Chapter V of Regulation (EC) No 853/2004 of the European Parliament and of the Council<sup>36</sup>, and provided that:
  - (a) the contamination lasts for more than four consecutive months; or
  - (b) the loss, resulting from the suspension of the harvest, amounts to more than 25 % of the annual turnover of the business concerned, calculated on the basis of the average turnover of that business over the three calendar years preceding the year in which the harvest was suspended;

For the purposes of point (b) of the first subparagraph, Member States may establish special calculation rules in respect of companies with less than three years of activity.
3. The duration for which compensation may be granted shall be a maximum of 12 months between 1 January 2023 and 31 December 2029. In duly justified cases, it may be extended once for a maximum of an additional 12 months up to a combined maximum of 24 months.
4. The eligible costs are the direct additional costs incurred and/or income foregone as a result of the measures concerned. The compensation calculated shall be reduced by any costs not directly incurred due to the event which would otherwise have been incurred by the beneficiary.
5. The aid and any other payments received to compensate the damage, including payments under insurance policies, shall be limited to 100 % of the eligible costs.

*Article 41*  
***Aid for animal health and welfare measures***

1. Aid for animal health and welfare in aquaculture undertakings fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the

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<sup>35</sup> Commission Implementing Regulation (EU) 2019/627 laying down uniform practical arrangements for the performance of official controls on products of animal origin intended for human consumption in accordance with Regulation (EU) 2017/625 of the European Parliament and of the Council and amending Commission Regulation (EC) No 2074/2005 as regards official controls (OJ L 131, 17.5.2019, p. 51).

<sup>36</sup> Regulation (EC) No 853/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific hygiene rules for food of animal origin (OJ L 139, 30.4.2004, p. 55).

internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that:

- (a) the aid aims to foster animal health and welfare in aquaculture undertakings, inter alia, in terms of prevention and bio-security; and
- (b) the aid may only cover one of the following measures:
  - (i) the development of general and species-specific best practices or codes of conduct on bio-security or on animal health and animal welfare needs in aquaculture;
  - (ii) initiatives aimed at reducing the dependence of aquaculture on veterinary medicine;
  - (iii) veterinary or pharmaceutical studies and dissemination and exchange of information and best practices regarding veterinary diseases in aquaculture, with the aim of promoting an appropriate use of veterinary medicine;
  - (iv) the establishment and operation of health protection groups in the aquaculture sector as recognised by Member States; or
  - (v) compensation to mollusc farmers for the temporary suspension of their activities due to exceptional mass mortality, if the yearly mortality rate exceeds 20 %, or if the loss resulting from the suspension of the activity amounts to more than 30 % of the annual turnover of the business concerned, calculated on the basis of the average turnover of that business over the three calendar years preceding the year in which the activities were suspended.

For the purposes of point (b), Member States may establish special calculation rules in respect of companies with less than three years of activity.

The aid referred in point (b)(iii) shall not cover the purchase of veterinary medicines.

The results of the studies financed under point (b)(iii), shall be adequately reported and publicised by the Member State.

- 2. The aid shall take the form of a subsidised service or direct grant.
- 3. For the purposes of point (b)(i) to (iv) in paragraph 1, the eligible costs are the direct additional costs incurred as a result of measures concerned. For the purposes of point (b)(v) in paragraph 1, the eligible costs are the direct additional costs incurred and/or income foregone as a result of measures concerned.
- 4. The amount of the aid granted under this Article shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 100 % of the eligible costs.

#### *Article 42*

#### ***Aid for prevention, control and eradication of diseases***

- 1. Aid for prevention, control and eradication of diseases in aquaculture undertakings fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that the aid supports the costs of prevention, control and eradication of:

- (a) diseases in aquaculture listed in Article 5(1) of Regulation (EU) 2016/429, or included in the list of animal diseases of the Aquatic Animal Health Code of the World Organisation for Animal Health, including the operational costs necessary to fulfil the obligations in an eradication plan;
  - (b) emerging diseases that meet the criteria laid down in Article 6(2) of Regulation (EU) 2016/429;
  - (c) zoonoses of aquatic animals listed in Annex III, point 2, to Regulation (EU) 2021/690 of the European Parliament and of the Council<sup>37</sup>; or
  - (d) diseases other than a listed disease referred to in Article 9(1), point (d), of Regulation (EU) 2016/429 that meet the criteria laid down in Article 226 of that Regulation.
2. The aid shall be paid only in relation to diseases of aquatic animals for which Union or national rules exist, whether laid down by law, regulation or administrative action.
  3. The aid may only cover the following eligible costs for preventive, control and eradication purposes:
    - (a) health checks, analyses, tests, and other screening measures;
    - (b) the improvement of biosecurity measures;
    - (c) the purchase, storage, administration or distribution of vaccines, medicines, and substances for the treatment of animals;
    - (d) the slaughtering, culling, and destruction of animals;
    - (e) the destruction of animal products and of products linked to them;
    - (f) the cleaning, disinfection or disinfestation of the holding and equipment; or
    - (g) the damage incurred due to the slaughtering, culling or destruction of animals, animal products, and products linked to them.
  4. The aid shall not relate to measures the cost of which Union legislation requires to be borne by the beneficiary, unless the cost of such measures is entirely offset by compulsory charges on the beneficiaries.
  5. Aid schemes related to an animal disease shall be introduced within three years and the aid paid out within four years from the date of the occurrence of the cost or damage caused by the animal disease.
  6. The amount of the aid granted under this Article shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 100 % of the eligible costs.

#### *Article 43*

#### ***Aid for investment to prevent and mitigate the damage caused by animal disease***

1. Aid for investment to prevent and mitigate the damage caused by animal diseases in aquaculture fulfilling the conditions laid down in Chapter I of this Regulation shall

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<sup>37</sup> Regulation (EU) 2021/690 of the European Parliament and of the Council of 28 April 2021 establishing a programme for the internal market, competitiveness of enterprises, including small and medium-sized enterprises, the area of plants, animals, food and feed, and European statistics (Single Market Programme) and repealing Regulations (EU) No 99/2013, (EU) No 1287/2013, (EU) No 254/2014 and (EU) No 652/2014 (OJ L 153, 3.5.2021, p. 1).

be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that the investment primarily pursues the aim of preventing or mitigating of damage caused by animal diseases under Article 42 (1), point (a), of this Regulation.

2. The aid may only cover the eligible costs that are direct and specific for preventive measures. The costs may only include the costs:
  - (a) for the construction, acquisition, including leasing, or improvement of immovable property; or
  - (b) the purchase or lease purchase of machinery and equipment up to the market value of the asset.
3. The amount of the aid granted under this Article shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 65 % of the eligible costs. Specific maximum aid intensity rates shall be as set out in Annex IV. Where one operation falls under several of the rows 1 to 11 of Annex IV, the highest maximum aid intensity rate shall apply.

#### *Article 44*

#### ***Aid for aquaculture stock insurance***

1. Aid for aquaculture stock insurance fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that:
  - (a) the aid promotes to safeguard the income of aquaculture producers; and
  - (b) the aid contributes to an aquaculture stock insurance covering economic losses due to at least one of the following:
    - (i) natural disasters;
    - (ii) adverse climatic events;
    - (iii) sudden water quality and quantity changes for which the operator is not responsible;
    - (iv) diseases in aquaculture, failure or destruction of production facilities for which the operator is not responsible;
    - (v) public health crises;
    - (vi) loss of production due to attack by protected or predatory animals;
    - (vii) the insurance shall not require or specify the type or quantity of future production and the aid is not limited to insurance provided by a specific insurance company or group of companies.
2. The occurrence of the circumstances referred to in paragraph 1, points (b)(i), (ii) and (v), in aquaculture shall be formally recognised as such by the Member State concerned.
3. Member States may, where appropriate, establish criteria in advance on the basis of which the formal recognition referred to in paragraph 2 shall be deemed to be granted.

4. The contributions referred to in paragraph 1, point (b), shall relate to the covering the costs for up to 70% of a premium for a contract covering up to 100% of the potential economic loss.

### **SECTION 3**

#### **MARKETING AND PROCESSING RELATED MEASURES**

##### *Article 45*

##### *Aid for marketing measures*

1. Aid for marketing measures fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that:
- (a) the aid promotes marketing measures for fishery and aquaculture products; and
  - (b) the aid aims to:
    - (i) create producer organisations, associations of producer organisations or inter-branch organisations to be recognised in accordance with Chapter II, Section II, of Regulation (EU) No 1379/2013;
    - (ii) find new markets and improving the conditions for the placing on the market of fishery and aquaculture products, including:
      - species with marketing potential;
      - unwanted catches landed from commercial stocks in accordance with technical measures, Article 15 of Regulation (EU) No 1380/2013 and Article 8(2), point (b), of Regulation (EU) No 1379/2013;
      - fishery and aquaculture products obtained using methods with low impact on the environment, or organic aquaculture products within the meaning of Regulation (EU) 2018/848;
    - (iii) promote the quality and the value added by facilitating:
      - the application for registration of a given product and the adaptation of concerned operators to the relevant compliance and certification requirements in accordance with Regulation (EU) No 1151/2012 of the European Parliament and of the Council<sup>38</sup>;
      - the certification and the promotion of sustainable fishery and aquaculture products, including products from small-scale coastal fishing, and of environmentally-friendly processing methods;
      - the direct marketing of fishery products by small-scale coastal fishermen, migratory fishers, inland fishermen, on-foot fishers or aquaculture producers;
      - the presentation and packaging of products;

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<sup>38</sup> Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs (OJ L 343, 14.12.2012, p. 1).

- (iv) contribute to the transparency of production and the markets and conducting market surveys and studies on the Union's dependence on imports;
  - (v) contribute to the traceability of fishery or aquaculture products and, where relevant, the development of a Union-wide ecolabel for fishery and aquaculture products referred to in Regulation (EU) No 1379/2013;
  - (vi) draw up standard contracts for SMEs that are compatible with Union law;
  - (vii) conduct regional, national or transnational communication and promotional campaigns to raise public awareness of sustainable fishery and aquaculture products.
2. The aid shall take the form of a subsidised service or direct grant.
  3. The aid may only cover the following eligible costs:
    - (a) direct salary costs
    - (b) participation fees;
    - (c) travel costs;
    - (d) costs of publications;
    - (e) purchased studies;
    - (f) the rent of exhibition premises and stands and the costs of their installation and dismantling; or
    - (g) costs for the dissemination of scientific knowledge and factual information on generic fishery products and their nutritional benefits and suggested uses for them.
  4. The operations referred to in paragraph 1, point (b), may include the production, processing and marketing activities along the supply chain. The operations referred to in paragraph 1, point (b)(vii), shall not refer to any particular undertaking, brand name or origin.
  5. The amount of the aid granted under this Article shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 50 % of the eligible costs. Specific maximum aid intensity rates shall be as set out in Annex IV. Where one operation falls under several of the rows 1 to 11 of Annex IV, the highest maximum aid intensity rate shall apply.

#### *Article 46*

#### ***Aid for the processing of fishery and aquaculture products***

1. Aid for processing of fishery and aquaculture products fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that the aid supports investments in the processing of fishery and aquaculture products and the aid aims to support measures that:
  - (a) contribute to energy saving or reducing the impact on the environment, including waste treatment;
  - (b) improve safety, hygiene, health and working conditions;

- (c) support the processing of catches of commercial fish that cannot be destined for human consumption;
  - (d) relate to the processing of by-products resulting from main processing activities;
  - (e) relate to the processing of organic aquaculture products pursuant to Articles 7 and 8 of Regulation (EU) No 2018/848;
  - (f) lead to new or improved products, new or improved processes, or new or improved management and organisation systems;
  - (g) comply with the conditions for the costs of prevention, control and eradication of the diseases referred to in Article 42(1), point (a); or
  - (h) comply with the conditions of the preventing and mitigating investments under the condition of Article 43.
2. The amount of the aid granted under this Article shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 50 % of the eligible costs. The amount of the aid granted for prevention, control and eradication of the diseases under paragraph 1, point (g), of this Article shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 100 % of the eligible costs. Aid for investment to prevent and mitigate the damage under paragraph 1, point (h), of this Article shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 65 % of the eligible costs. Specific maximum aid intensity rates shall be as set out in Annex IV. Where one operation falls under several of the rows 1 to 11 of Annex IV, the highest maximum aid intensity rate shall apply.

## SECTION 4

### OTHER CATEGORIES OF AID

#### *Article 47*

#### ***Aid for collection, management, use and processing of data in the fisheries sector***

1. Aid for collection, management, use and processing of biological, environmental, technical and socio-economic data in the fisheries sector fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that the aid supports the collection, management and use of data, as provided for in Article 25(1) and (2) of Regulation (EU) No 1380/2013 and further specified in Regulation (EC) No 2017/1004 of the European Parliament and of the Council<sup>39</sup>.
2. The aid may only cover the following measures:
  - (a) the collection, management and use of data for the purpose of scientific analysis and implementation of the CFP;
  - (b) national, transnational and subnational multiannual sampling programmes, provided that they relate to stocks covered by the CFP;

<sup>39</sup> Regulation (EU) 2017/1004 of the European Parliament and of the Council of 17 May 2017 on the establishment of a Union framework for the collection, management and use of data in the fisheries sector and support for scientific advice regarding the common fisheries policy and repealing Council Regulation (EC) No 199/2008 (OJ L 157, 20.6.2017, p. 1).

- (c) at-sea monitoring of commercial and recreational fisheries, including monitoring of by-catch of marine organisms such as marine mammals and birds;
  - (d) research surveys at sea; or
  - (e) the improvement of data collection and data management systems and the implementation of pilot studies to improve existing data collection and data management systems.
3. The aid may only cover the following eligible costs incurred directly as a result of the supported measures.
- (a) direct salary costs
  - (b) participation fees;
  - (c) travel costs;
  - (d) costs of publications;
  - (e) investments in data collection and data management systems;
  - (f) purchased data collection services.
4. The amount of the aid granted under this Article shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 100 % of the eligible costs.

#### *Article 48*

##### ***Aid to prevent and mitigate the damage caused by natural disasters***

1. Aid to prevent and mitigate the damage caused by natural disasters fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that the investment primarily pursues the aim of preventing or mitigating damage caused by natural disasters.
2. For investment requiring an environmental impact assessment under Directive 2011/92/EU the aid shall be subject to the condition that such assessment has been carried out and the development consent has been granted for the investment project concerned before the date of granting the individual aid.
3. The aid may only cover the eligible costs that are direct and specific for preventive measures. The costs may only include the following costs:
  - (a) for the construction, acquisition, including leasing, or improvement of immovable property;
  - (b) the purchase or lease purchase of machinery and equipment up to the market value of the asset.
4. The amount of the aid granted shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 65 % of the eligible costs. Specific maximum aid intensity rates shall be as set out in Annex IV. Where one operation falls under several of the rows 1 to 11 of Annex IV, the highest maximum aid intensity rate shall apply.

## Article 49

### *Aid to make good the damage caused by natural disasters*

1. Aid to make good the damage caused by natural disasters fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(2), point (b), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that:
  - (a) the competent authority of the Member State has formally recognized the character of the event as a natural disaster; and
  - (b) there is a direct causal link between the natural disaster and the damage suffered by the undertaking.
2. Member States may, where appropriate, establish criteria in advance on the basis of which the formal recognition referred to in paragraph (2), point (a) of this Article is deemed to be granted.
3. Aid shall be paid directly to the undertaking concerned or to a producer group or organisation of which that undertaking is a member. Where the aid is paid to a producer group and organisation, the amount of aid shall not exceed the amount of aid to which that undertaking is eligible.
4. Aid schemes related to a specific natural disaster shall be established within three years from the date of the occurrence of the natural disaster. The aid shall be paid out within four years from that date.
5. The eligible costs may be the damage incurred as a direct consequence of the natural disaster, as assessed either by a competent public authority, by an independent expert recognized by the granting authority or by an insurance undertaking. That damage may include the following:
  - (a) material damage to assets such as buildings, equipment, machinery, stocks and means of production; or
  - (b) loss of income due to the full or partial destruction of fishery or aquaculture production or the means of such production not exceeding six months from the occurrence of the disaster.
6. The calculation of the material damage shall be based on the repair cost or economic value of the affected asset before the disaster. It shall not exceed the repair cost or the decrease in fair market value caused by the natural disaster, namely the difference between the asset's value immediately before and immediately after the disaster.
7. The loss of income shall be calculated by subtracting:
  - (a) the result of multiplying the quantity of the fishery and aquaculture products produced in the year of the natural disaster, or in each following year affected by the full or partial destruction of the means of production, by the average selling price obtained during that year; from
  - (b) the result of multiplying the average annual quantity of fishery and aquaculture products produced in the three-year period preceding the natural disaster, or a three year average based on the five-year period preceding the natural disaster, excluding the highest and lowest entry, by the average selling price obtained..
8. The damage shall be calculated at the level of the individual undertaking. Where an SME was set up less than three years from the date of the occurrence of the event,

the reference to the three-year periods in paragraph 7, point (b), shall be understood as referring to the turnover generated or quantity of fishery and aquaculture products produced and sold by an average undertaking of the same size as the applicant, namely a micro enterprise or a small enterprise or a medium enterprise, respectively, in the national or regional sector affected by the adverse climatic event which can be assimilated to a natural disaster.

9. The aid granted and any other payments received to compensate the damage, including payments under insurance policies, shall be limited to 100 % of the eligible costs.

#### *Article 50*

##### ***Aid to prevent and mitigate the damage caused by adverse climatic events which can be assimilated to a natural disaster***

1. Aid for investments to prevent and mitigate the damage caused by adverse climatic events which can be assimilated to natural disasters, fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that it fulfils the conditions laid down in this Article..
2. For investment requiring an environmental impact assessment under Directive 2011/92/EU the aid shall be subject to the condition that such assessment has been carried out and the development consent has been granted for the investment project concerned before the date of granting the individual aid.
3. The aid may only cover the eligible costs that are direct and specific for preventive measures. The costs may include the costs for one of the following:
  - (a) for the construction, acquisition, including leasing, or improvement of immovable property;
  - (b) the purchase or lease purchase of machinery and equipment up to the market value of the asset.
4. The amount of the aid granted under this Article shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 65 % of the eligible costs. Specific maximum aid intensity rates shall be as set out in Annex IV. Where one operation falls under several of the rows 1 to 11 of Annex IV, the highest maximum aid intensity rate shall apply.

#### *Article 51*

##### ***Aid to make good the damage caused by adverse climatic events which can be assimilated to a natural disaster***

1. Aid to make good the damage caused by adverse climatic events which can be assimilated to a natural disaster fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that it fulfils the conditions laid down in this Article..
2. Aid fulfils the following conditions:

- (a) the competent authority of the Member State has formally recognized the character of the adverse climatic event which can be assimilated to a natural disaster; and
  - (b) there is a direct causal link between the adverse climatic event which can be assimilated to a natural disaster and the damage suffered by the undertaking.
- 3. Member States may, where appropriate, establish in advance criteria on the basis of which the formal recognition referred to in paragraph (2)(a) of this Article is deemed to be granted.
- 4. The aid shall be paid directly to the undertaking concerned.
- 5. Aid schemes shall be established within three years from the date of the occurrence of the adverse climatic event which can be assimilated to a natural disaster. The aid shall be paid out within four years from that date.
- 6. The eligible costs may be the damage incurred as a direct consequence of the adverse climatic event which can be assimilated to a natural disaster, as assessed either by a public authority, by an independent expert recognised by the granting authority or by an insurance undertaking. That damage may include the following:
  - (a) material damage to assets such as buildings, equipment, machinery, stocks and means of production; or
  - (b) loss of income due to the full or partial destruction of fishery or aquaculture production or the means of such production for a period not exceeding six months from the occurrence of the adverse climatic event which can be assimilated to a natural disaster.
- 7. The calculation of the material damage shall be based on the repair cost or economic value of the affected asset before the adverse climatic event which can be assimilated to a natural disaster. It shall not exceed the repair cost or the decrease in fair market value caused by the adverse climatic event which can be assimilated to a natural disaster, namely the difference between the asset's value immediately before and immediately after the adverse climatic event which can be assimilated to a natural disaster.
- 8. The loss of income shall be calculated by subtracting:
  - (a) the result of multiplying the quantity of the fishery and aquaculture products produced in the year of the adverse climatic event which can be assimilated to a natural disaster, or in each following year affected by the full or partial destruction of the means of production, by the average selling price obtained during that year; from
  - (b) the result of multiplying the average annual quantity of fishery and aquaculture products produced in the three-year period preceding the adverse climatic events condition which can be assimilated to a natural disaster, or a three year average based on the five-year period preceding the adverse climatic events which can be assimilated to a natural disaster, excluding the highest and lowest entry, by the average selling price obtained.
- 9. The damage shall be calculated at the level of the individual undertaking. Where an SME was set up less than three years from the date of the occurrence of the event, the reference to the three-year periods in paragraph 7, point (b), shall be understood as referring to the turnover generated or quantity of fishery and aquaculture products

produced and sold by an average undertaking of the same size as the applicant, namely a micro enterprise or a small enterprise or a medium enterprise, respectively, in the national or regional sector affected by the adverse climatic event which can be assimilated to a natural disaster.

10. The aid granted and any other payments received to compensate the damage, including payments under insurance policies, shall be limited to 100 % of the eligible costs.

#### *Article 52*

##### ***Aid to prevent and mitigate the damage caused by protected animals***

1. Aid for investments to prevent and mitigate the damage caused by behaviour of the protected animals in fishery and aquaculture sector, fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that:
  - (a) the investment primarily pursues the aim of preventing or mitigating damage caused by behaviour of the protected animals;
  - (b) concerning fisheries, the objective of the investment is to prevent and mitigate depredation or to prevent and mitigate damage to fishing gear or other operating material caused by the behaviour of a protected animal.
2. For investment requiring an environmental impact assessment under Directive 2011/92/EU the aid shall be subject to the condition that such assessment has been carried out and the development consent has been granted for the investment project concerned before the date of granting the individual aid.
3. The aid may only cover the eligible costs that are direct and specific for preventive measures. The costs may include one of the following costs:
  - (a) for the construction, acquisition, including leasing, or improvement of immovable property;
  - (b) the purchase or lease purchase of machinery and equipment up to the market value of the asset.
4. The amount of the aid granted under this Article shall not exceed, in gross grant equivalent, a maximum aid intensity rate of 100 % of the eligible costs. Specific maximum aid intensity rates shall be as set out in Annex IV. Where one operation falls under several of the rows 1 to 11 of Annex IV, the highest maximum aid intensity rate shall apply.

#### *Article 53*

##### ***Aid to make good the damage caused by protected animals***

1. Aid to make good the damage caused by protected animals in fishery and aquaculture sector fulfilling the conditions laid down in Chapter I of this Regulation shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) thereof provided that:
  - (a) there is a direct causal link between the damage suffered and the behaviour of the protected animals;

- (b) the eligible costs shall be the costs of the damage incurred as a direct consequence of the event that caused the damage, as assessed either by a public authority, by an independent expert recognized by the granting authority or by an insurance undertaking; and
  - (c) for fisheries, aid with regard to damage for animals is limited to damage to catches.
- 2. The damage to be made good may include the following:
  - (a) damage for animals in aquaculture: the eligible costs are based on the market value of the animal damaged or killed by the protected animals;
  - (b) damage to catches in fishery sector caused by protected animals; or
  - (c) the material damage to the following assets: equipment, machinery, property.
- 3. The market value referred to in paragraph 2 of this Article shall be established on the basis of the value of the animals immediately before the damage caused by the behaviour of the protected animals occurred, and as if they had not been affected by the behaviour of the protected animals.
- 4. The calculation of the material damage shall be based on the repair cost or economic value of the affected asset before the damage occurred. It must not exceed the repair cost or the decrease in fair market value caused by the protected animals, that is to say the difference between the asset's value immediately before and immediately after the damage occurred.
- 5. The damage to be made good may be increased by other costs incurred by the beneficiary undertaking due to the behaviour of the protected animals, and it shall be reduced by any costs not directly incurred due to the behaviour of the protected animals which would otherwise have been incurred by the beneficiary undertaking, and by any revenue made by the sale of products linked to the animals damaged or killed.
- 6. Save for first attacks by protected animals, a reasonable effort from the beneficiary undertaking is required to mitigate the risk of distortions of competition and to provide an incentive for minimising the risk. This effort shall take the form of preventive measures, such as safety fences, which are proportionate to the risk of damage caused by behaviour of the protected animals in the area concerned, unless such measures are not reasonably possible.
- 7. Aid shall be paid directly to the undertaking concerned or to a producer group or organisation of which that undertaking is a member. Where the aid is paid to a producer group or organisation, the amount of aid shall not exceed the amount of aid to which that undertaking is eligible.
- 8. The aid scheme shall be established within a period of three years from the date of the occurrence of the damaging event. The aid shall be paid out within four years from that date.
- 9. The aid granted and any other payments received to compensate the damage, including payments under insurance policies, shall be limited to 100 % of the eligible costs.

*Article 54*  
*Aid for CLLD projects*

1. Aid for costs incurred by SMEs participating in CLLD projects under the Regulation (EU) 2021/1139, shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) TFEU, provided that it fulfils the conditions laid down in this Article and in Chapter I of this Regulation.
2. Aid for costs incurred by municipalities participating in CLLD projects, referred to in Article 31 of Regulation (EU) 2021/1060 and designated as LEADER local development under the European Maritime, Fisheries and Aquaculture Fund in favour of projects referred to in paragraph 3 of this Article, shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) TFEU, provided the conditions laid down in this Article and in Chapter I of this Regulation are fulfilled.
3. The following costs shall be eligible for CLLD projects:
  - (a) the costs of preparatory support, capacity building, training and networking with a view of preparing and implementing a CLLD strategy referred in Article 33 of Regulation (EU) 1303/2013 of the European Parliament and of the Council<sup>40</sup>;
  - (a) implementation of approved operations;
  - (b) preparation and implementation of the group's cooperation activities;
  - (c) running costs linked to the management of the implementation of the CLLD strategy; or
  - (d) animation of the CLLD strategy in order to facilitate exchange between stakeholders to provide information and to promote the strategy and the projects, and to support potential beneficiaries with a view of developing operations and preparing applications.
4. The costs incurred by municipalities participating in CLLD projects, referred to in paragraph 1, may only be eligible for aid under this Article provided that they are pursued in one of the following areas:
  - (a) research, development and innovation;
  - (a) environment;
  - (b) employment and training;
  - (c) culture and heritage conservation;
  - (d) conservation of marine and freshwater biological resources;
  - (e) promotion of food products not listed in Annex I to the TFEU;
  - (f) sports.

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<sup>40</sup> Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 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 laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006 (OJ L 347, 20.12.2013, p. 320).

5. The aid intensity shall not exceed the maximum support rates provided for each type of operation in Regulation (EU) 2021/1139.

#### *Article 55*

##### *Limited amounts of aid for CLLD projects*

1. Aid to undertakings participating in, or benefitting from, CLLD projects as referred to in Article 54(1) of this Regulation, shall be compatible with the internal market within the meaning of Article 107(3), point (c), TFEU and shall be exempted from the notification requirement of Article 108(3) TFEU, provided the conditions laid down in this Article and in Chapter I of this Regulation are fulfilled.
2. Aid to municipalities participating in, or benefitting from CLLD projects as referred to in Article 54(1) of this Regulation, shall be compatible with the internal market within the meaning of Article 107(3), point (c), of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, provided the conditions laid down in this Article and in Chapter I are fulfilled.
3. The costs incurred by municipalities participating in CLLD projects, referred to in paragraph 1 of this Article, may only be eligible for aid under this Article provided that they are pursued in one of the following areas:
  - (a) research, development and innovation;
  - (a) environment;
  - (b) employment and training;
  - (c) culture and heritage conservation;
  - (d) conservation of marine and freshwater biological resources;
  - (e) promotion of food products not listed in Annex I to the TFEU;
  - (f) sports.
4. The total amount of aid under this Article granted per project shall not exceed EUR 200 000.

#### *Article 56*

##### *Tax exemptions and reductions in accordance with Directive 2003/96/EC.*

1. Aid in the form of tax exemptions or reductions adopted by Member States pursuant to Article 15(1), point (f) and Article 15(3) of Directive 2003/96/EC shall be compatible with the internal market within the meaning of Article 107(3), point (c) and exempt from the notification requirement of Article 108(3) of TFEU, provided that the conditions laid down in Directive 2003/96/EC and in Chapter I of this Regulation are fulfilled.
2. The beneficiary undertaking of the tax exemptions or reductions shall be selected on the basis of transparent and objective criteria. Where applicable, they shall pay at least the respective minimum level of taxation set by Directive 2003/96/EC.

## CHAPTER IV

### TRANSITIONAL AND FINAL PROVISIONS

#### *Article 57*

#### *Continued application of Regulation (EC) No 1388/2014*

Article 47 of Regulation (EC) 1388/2014<sup>41</sup> states that that regulation shall apply until 31 December 2022. The present Regulation will replace Regulation (EC) No 1388/2014 upon its expiry.

#### *Article 58*

#### ***Transitional provisions***

1. This Regulation shall apply to individual aid granted before its entry into force, if the aid fulfils all the conditions laid down in this Regulation, with the exception of Article 9.
2. Any aid not exempted from the notification requirement of Article 108(3) TFEU under this Regulation or other regulations adopted pursuant to Article 1 of Regulation (EU) 2015/1588 previously in force shall be assessed by the Commission in accordance with the relevant frameworks, guidelines, communications and notices.
3. Any individual aid granted before 1 January 2023 under any regulation adopted pursuant to Article 1 of Regulation (EU) 2015/1588 previously in force at the time of granting the aid shall be compatible with the internal market and exempted from the notification requirement of Article 108(3) TFEU.
4. At the end of the period of validity of this Regulation, any aid schemes exempted under this Regulation shall remain exempted during an adjustment period of six months.

#### *Article 59*

#### ***Entry into force and applicability***

This Regulation shall enter into force on 1 January 2023.

It shall apply from 1 January 2023 to 31 December 2029.

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<sup>41</sup> Commission Regulation (EU) 1388/2014 of 16 December 2014 declaring certain categories of aid to undertakings active in the production, processing and marketing of fishery and aquaculture products compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union (OJ L 369 24.12.2014, p. 37).

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

Done at Brussels, 14.12.2022

*For the Commission*  
*The President*  
*Ursula VON DER LEYEN*